

BROWN COUNTY INDIANA

ZONING ORDINANCE

**AN ORDINANCE FOR THE DEVELOPMENT THROUGH ZONING OF
UNINCORPORATED AREAS OF BROWN COUNTY INDIANA.**

Be it ordained by the Board of County commissioners of Brown County, Indiana, under the authority of Chapter 174, as amended, General Assembly of the State of Indiana:

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CHAPTER 1 – TERMINOLOGY

1.1 SHORT TITLE AND PURPOSE

- A. This ordinance may be cited as the "Brown County Zoning Ordinance".
- B. These regulations have been adopted in order to:
 - 1. promote the orderly, responsible and beneficial development and use of land within the County Jurisdictional Area;

2. promote the public health, safety, comfort, convenience and general welfare of the residents and guests of the County;
3. protect the character and stability of residential, business and natural areas; and,
4. provide alternative accommodations for tourists in residential areas that have a limited impact on residential neighborhoods.

1.2 DEFINITIONS

Intent

For the purpose of this Section of the Ordinance, certain terms or words used herein shall be interpreted according to the rules and definitions of this Section, except when the context clearly indicates otherwise. Whenever any words and phrases used herein are not defined but are defined in the State laws regulating the creation and function of various planning agencies, any such definition therein shall be deemed to apply to such words and phrases used herein except when the context otherwise requires. All other words not herein defined, shall be defined according to any recent edition of a dictionary of the American language.

Rules

- A.** Words used in the present tense include the future tense; words used in the future tense include the present tense; words used in the singular include the plural; and words used in the plural include words used in the singular.
- B.** The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any legal entity.
- C.** Words used in the masculine include the feminine; words used in the feminine include the masculine.
- D.** The word "shall" is mandatory; the word "may" is permissive, and the word "should" is a preferred requirement.
- E.** The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- F.** The word lot includes the words plot or parcel.

DEFINITIONS

A

Abandonment

To intentionally stop the use or development of a property for a continuous period of time.

Abandon

To intentionally, permanently, and completely, cease all business activity associated with a wireless support structure.

Abutting

Having a common border, including being separated from such a common border by a right-of-way, street, alley, easement, body of water, or other feature. In some cases, where specified by this Ordinance, abutting also includes lots or other features within a specific vicinity.

Access Point

A driveway or other means of physical connection for the movement of vehicles or persons between a property and an adjacent property or street.

Accessory Use

A use which is secondary to a primary use in area, extent, and/or purpose; contributes to the comfort, convenience, or necessity of occupants of the primary use; does not alter or change the character of the property; and is located on the same lot as the primary use.

Accessory equipment

Any equipment serving or being used in conjunction with a wireless communications wireless support structure or facility. Accessory equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, guy wires, equipment buildings, cabinets and storage sheds, shelters or other structures.

Accessory dwelling unit (see *Dwelling, Accessory*)**Acre**

A land area equal to 43,560 square feet.

Acre, Gross

The total area within a parcel of land.

Acre, Net

The usable or cultivatable portion of an acre of land; a remaining area expressed in acres after the dedication of land for: public rights-of-way; the reservation of common areas such as tennis courts, swimming pools, clubhouses, etc; or the preservation of open space, on which housing or commercial structures may be built.

Addition

Any construction that increases the size of a structure in terms of site coverage, floor area, volume, and/or height.

Address

The number or other designation assigned to a housing unit, business establishment, other structure, or lot for the purposes of mail delivery, emergency services, and general identification.

Adjacent

Lying near, close, or contiguous. Having a common endpoint or border.

Adjoining

Being in contact at some point or line; located next to another; bordering; contiguous.

Administrator

The officer appointed by and/or delegated the responsibility for the administration of these regulations by the planning commission. The Planning and Zoning Administrator is hereby designated as the Director for the purposes of implementing this ordinance and is the officer referred to herein wherever the term Director appears.

Administrative/Professional Office

An office establishment primarily engaged in overall management and general supervisory functions, such as executive, personnel, finance, legal, and sales activities.

Administrative Approval

The zoning approval that the Director or the Director's designee is authorized to grant after Administrative Review.

Administrative Review

The non-discretionary evaluation of an application by the Director or designee, without a public hearing.

Advertising Sign or Billboard

A sign which directs attention to a business, commodity, service, organization, or entertainment conducted, sold, or offered elsewhere than upon the premises where such

sign is located or to which it is affixed. This includes billboards and other outdoor advertising, and directional signs located on private property.

Agricultural Industry, CAFO

The term concentrated animal feeding operation (CAFO) as defined by the National Pollutant Discharge Elimination System (NPDES) under the USEPA Clean Water Act (CWA) and administered by the Indiana Department of Environmental Management (IDEM) as sources of point sources of pollution and subject to permit requirements under 327 IAC 15-15, as amended from time to time.

Agricultural Industry, CFO

The term confined feeding operation (CFO) shall be as defined in IC 13-11-2-40, as amended from time to time.

Agriculture

Farming, including dairying, pasturage, apiculture, aquaculture, agriculture, horticulture, floriculture, viticulture, forestry and animal and poultry husbandry, and the necessary incidental uses, all of which are directly related to the production of food. The operation of any incidental uses shall be secondary to that of normal agricultural activities. Agriculture shall not include stock yards, the commercial feeding of garbage or offal to swine or other animals, or the raising of animals for medical tests or other experiments.

Airport

Any area which is used or intended to be used for the taking off or landing of aircraft including helicopters, and any adjacent areas which are used or intended to be used for airport buildings or facilities, including open spaces, taxiways and tie down areas.

Aircraft

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

Alley

A public right-of-way, whether improved or not, other than a street, road, crosswalk, or easement, that provides secondary access for the abutting property.

Alteration

Any change, addition, or modification in construction or use of an existing structure or property.

Amend or Amendment

Any repeal, modification, or addition to a regulation; or any new regulation.

Amusement/Entertainment Facilities

A principal commercial land use providing amusement or entertainment services in an indoor or outdoor facility for the purpose of some leisure activity, including, but not limited to, arcade, computer arcade, escape rooms, laser tag, miniature golf, skating rink, tennis club, virtual reality rooms and similar uses.

Animal

Any live vertebrate creature, domestic or wild, excluding human beings.

Animal, Grooming Facility

An establishment primarily engaged in providing pet care services, such as grooming and training, but does not include veterinary care or overnight boarding.

Animal, Kennel (see Kennel)

Animal, Shelter

A facility used to care for and house lost, stray, homeless, abandoned, or unwanted animals; including those found running at-large or otherwise subject to impoundment

consistent with applicable laws. The phrase "animal shelter" includes facilities for adoption, emergency medical treatment, and cremation.

Animal, Stables

The use of any structure with stalls or compartments and/or land where animals, excluding dogs and cats, are sheltered and fed.

Animal, Domestic

Any animal that has been adopted by human beings to live and breed in tame conditions. A domestic animal differs from a wild animal in that a wild animal means any animal not actually confined or cultivated by humans.

Animal, Exotic

Any animal not customarily confined or cultivated by man for domestic or commercial purposes but rather kept as a pet for display.

Animal, Farm

Animals commonly used for transportation, food, skins, and other by-products. Farm animals include, but are not limited to, horses, cattle, pigs, sheep, goats, mules, donkeys, miniature horses, miniature donkeys, camels, emu, ostrich, llamas, alpacas, rabbits, mink, fox, buffalo, chickens, turkeys, quail, pheasants, and other animals or fowl of similar characteristics.

Animal, Pet Store

A retail sales facility primarily involved in the sale of domestic animals, such as cats, dogs, fish, birds, and reptiles as well as domestic pet accessories. For the purpose of administering and enforcing this Ordinance, the phrase "pet shop" shall not include the retail sale of exotic or farm animals, nor the sale of animals for laboratory or other commercial purposes.

Animal, Riding Stable (see *Riding Stable*)

Animal, Veterinary

An establishment for the treatment, care, observation or treatment of large animals by a licensed veterinarian. A veterinary facility may include indoor and outdoor areas.

Antenna

Any system of wires, poles, rods, reflecting discs, or similar devices used for the purpose of receiving and or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional or omni-directional antennas, panels, and microwave or satellite dishes external to or attached to the exterior of any building.

Antenna Array

One or more whips, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (whip), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the Support Structure as defined in this chapter.

Antique Shop

A retail store specializing in the sale of antiques.

Apartment

A dwelling unit in a structure, arranged, intended, designed, or occupied on a rental basis for the housing of a single family, an individual, group of individuals, or other single housekeeping unit.

Apparel

A business specializing in the custom creation, alteration, and/or tailoring of apparel intended for human use on a custom order basis for individuals or businesses.

Applicant

The owner, owners, or legal representative of real estate who makes application for action affecting the property.

Application

The completed form or forms, together with any other required materials, exhibits, and fees required of an applicant consistent with the procedures established by this Ordinance.

Appurtenance

A minor element of a larger structure, such as a bay window, stairs, light post, etc.

Aquaculture

Aquaculture means those activities which include the purchase, monitoring, bottom preparation, planting, sale, possession, harvest, production, breeding, transportation, and processing of shellfish in State waters on or in an area used for aquatic animal cultivation.

Aquaponics

A system of aquaculture in which the waste produced by farmed fish or other aquatic animals supplies nutrients for plants grown hydroponically, which in turn purify the water.

Arcade

A type of indoor commercial amusement/recreation establishment which the primary purpose are amusement machines which are available to the public.

Art Gallery (Gallery, Art or Photo)

A facility used primarily for the exhibition and sale of art, usually visual art, painting, sculpturing, jewelry making, weaving or other similar function defined as a fine art.

Artisan

A craftsperson who produces a finished product, especially one that involves making things by hand that may include, but not limited to an artist, a sculptor, a potter, a weaver, a seamstress and a knitter and similar.

Artisan Workshop

A space for small-scale artisans that produce little to no vibration, noise, fumes, or other nuisances, meaning they can fit within a wide variety of industrial, commercial, and even residential districts.

Archery Range

A facility designed and/or used for target practice with bows and arrows.

Arterial Road (see Street, Arterial)

Arterial Street (see Street, Arterial)

Assisted Living Facility

A residential facility where assistance with daily activities, such as dispensing medication, dressing, grooming, and bathing are provided for the aged or infirm, or any other reasonably independent person in need of nursing care; and which does not contain equipment for surgical care or for treatment of disease or injury and is not primarily designed for patients being treated for mental illness or alcohol or drug addiction.

ATM Machine

An ATM, which stands for automated teller machine, is a specialized computer that makes it convenient to manage a bank account holder's funds.

ATV

Any motorized, off-road recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain, including but not limited to, a multi-track, multi-wheel or low pressure-tire vehicle, or related two-wheel, three-wheel, four-wheel or belt-driven vehicle, or an amphibious machine. The definition of ATV includes golf carts and snowmobiles. ATV does not include construction machines, utility vehicles used for business operations, agriculture, yard work, landscaping, snow removal or otherwise being used for their intended purpose.

Athletic Field

A wide stretch of open land used for outdoor games, but not limited to baseball, basketball, football, or soccer.

Auction Facility

A building or property used for the storage of goods and materials that are to be sold on the premises by public auction, and for the sale of the said goods and materials by public action on an occasional basis only.

Auditorium

A public or commercial facility where an audience sits and enjoys a performance. Auditoriums are generally smaller than theaters and used for live performances. For the purposes of administering and enforcing this Ordinance, the term "auditorium" does not include the term "amphitheater".

Automobile Repair

The use of a structure or property for the repair of motor vehicles, including noncommercial trucks, motorcycles, recreational vehicles and boats; including, but not limited to, the sale installation and servicing of equipment and parts. Automobile repair includes muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage.

Automotive or Trailer Sales Area, Open (Automotive Recreational Vehicle Sales or Service)

Any principle use of a premise for one or more of the following purposes: (a) sale or lease of new recreational vehicles; (b) purchase and sale of second hand recreational vehicles; (c) buying of second hand recreational vehicles for the purpose of remodeling, taking apart or rebuilding or selling the same, or the buying selling of parts of second hand recreational vehicles or tires, or the assembling of second hand recreational vehicles parts; or (d) repair

and servicing of recreational vehicles provided said repair and servicing is conducted as an accessory use secondary to the principle use. For the purposes of administering and enforcing this Ordinance, the phrase "automotive recreational vehicle sales and service" shall not include "salvage yards" or the outside storage of inoperable vehicles.

Automotive Sales Room (Automotive Sales or Lease)

Any principal use of a premise for one or more of the following purposes: (a) sale or lease of new motor vehicles; (b) purchase and sale of second hand motor vehicles; (c) buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding or selling the same, or the buying selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicles parts; or (d) repair and servicing of motor vehicles provided said repair and servicing is conducted as an accessory use secondary to the principal use. For the purposes of administering and enforcing this Ordinance, the phrase "automotive sales or lease" shall not include "salvage yards" or the outside storage of inoperable vehicles.

Attached Wireless Communications Facility (attached WCF)

An antenna array that is attached or affixed to an existing building or structure (including but not limited to a utility pole, sign or water tower), along with an transmission cables and accompanying pose or device that attaches or affixes the antenna array to the existing building or structure.

B

Bait Sales

An establishment engaging in the business of selling or bartering live minnows or crayfish for bait.

Bakery, Commercial

A principle use for one or more of the following purposes: (a) preparation of large quantities of baked goods for sale or distribution; or (b) on-site storage of delivery vehicles with or without a loading dock(s), in which the baked goods are intended for off-site distribution and consumption.

Bakery, Retail

An establishment primarily engaged in the retail sale of baked products for consumption on- or off-site, wherein the products are prepared either on- or off-site.

Bank

A facility for the custody, loan, or exchange of products, typically money. Also included is the extension of credit and facilitating the transmission of funds.

Bar (see Tavern)

Barber Shop

Any establishment or place of business within which the practice of cutting hair is engaged in or carried on by one or more employees. The term "barber shop" may include a facility where apprentices are trained under regulations of the Board of Health.

Basement

The portion of a building located below the first level, a majority of the height of which is located below the average finished grade of the building perimeter.

Base Station

A station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.

Beauty Shop

Any commercial establishment or place of business wherein cosmetology is offered or practiced, for compensation, on a regular basis. The term "beauty shop" may include a facility where apprentices are trained under regulations of the Board of Health.

Bed and Breakfast Establishment

An operator occupied residence, which provides up to seven (7) guest rooms to the public for a fee, and as part of the fee provides breakfast and sleeping accommodations on a temporary basis (i.e., no more than thirty (30) consecutive days to a particular guest). The term does not include hotels, motels, boarding houses, or food service establishments.

Berm

A man-made mound of earth of definite height and width used for landscaping and screening purposes.

Billiard Room

A business establishment containing more than six billiard tables for use by patrons.

Block

Property abutting one side of a street and lying between the two nearest intersecting streets (either crossing or terminating), railroad right-of-way, lake, river, stream, or other physical boundary.

Board

The Brown County Board of Zoning Appeals

Board of Zoning Appeals

The Brown County Board of Zoning Appeals established consistent with the 900 Series of IC 36-7-4.

Boarding House

A building or part of a building not available to transients, in which meals are regularly provided for compensation for at least 3 but not more than 30 persons. Boarding houses do not include bed and breakfasts, multi-family dwellings, hotels, motels, or tourist homes.

Boat Sales, Service, Storage (Boat or Boat Trailer Sales, Service and Storage)

A principal use of a premise for one or both of the following purposes: (a) purchase and sale of new and used boats and boat trailers; or (b) on-site repair of boats or boat trailers; (c) a structure or area designed for the indoor or outdoor storage of watercraft or marine equipment.

Bottle Gas Storage and Distribution

The storage and distribution of bottle gases including propane, carbon dioxide, helium, oxygen and other commercially used gases.

Bottling Facility

An industrial enterprise whose output is the bottling of beverages, alcoholic or non-alcoholic, for distribution.

Bowling Alley

An establishment that devotes a majority of its gross floor area to bowling lanes, equipment, and playing areas. A bowling alley may include other incidental uses, such as a pro shop, other recreation activities, a restaurant, or a bar.

Buffer

A strip of land, a fence, and/or area of landscaping between one use and another designed and intended to separate and screen those uses.

Buffer Landscaping

Any trees, shrubs, walls, fences, berms, or related landscaping features required under this ordinance to be placed on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent properties, for aesthetic purposes, and/or for creating sound barriers and/or visual privacy.

Buffer Yards

An area adjacent to front, side and/or rear property lines, measured perpendicularly from adjacent property lines and/or right-of-way lines, intended to screen incompatible uses from each other. Buffers yards are also used to help maintain existing trees or natural vegetation; to block or reduce noise, glare or other emissions; and to maintain privacy. Buffer yards are in addition to (separate from) front, rear, or side yard setbacks.

Building Area

The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two feet.

Building Code

The locally adopted Indiana Building Code establishing and controlling the standards for constructing mechanical equipment, all forms of permanent structures, and related matters.

Building Height

The vertical distance measured from adjacent ground level to the highest point of the roof.

Building Line

The lines that establish the minimum permitted distance on a lot between the front line of a building and the street right-of-way.

Building Official

The person or persons responsible for the enforcement of the Building Code.

Building Permit

An official certification issued by the Building Official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or other structure.

Building Supply Store

A large warehouse-style establishment that offers retail and wholesale site development, building, and hardware supplies, including various basic hardware lines, such as tools, builder's hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, and garden supplies and cutlery. A lumberyard may be included as an incidental use to the building supply retail sales.

Building, Attached

A building that is structurally connected to another building by a foundation, wall, or roof line.

Building, Detached

A building which is surrounded by open space and located on the same lot as another building.

Build-to-Line

A line parallel to the front property line indicating the distance from the front property line at which primary structures must be built. A built-to line is neither a minimum nor a maximum, but rather a specific requirement.

Business

Refers to the purchase, sale, or exchange of goods or services, or the maintenance for profit of offices or recreational or amusement enterprises.

Business District

A geographic area used for commerce and the operation of a business or businesses, refers to AB and GB districts.

Business/Financial Services Office

Any office where the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, and investment companies.

BZA (see *Board of Zoning Appeals*)

C

Carport

A permanent structure, which includes a roof and roof-supports but not enclosed by walls, which is used as an accessory to a dwelling unit for the purpose of providing shelter to one or more vehicles.

Carrier on Wheels or Cell on Wheels (“COW”) or Mobile Stations

A portable self-contained wireless communications facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle mounted and contains a telescoping boom as the antenna wireless support structure.

Cemetery

Land used or dedicated to the burial which includes any columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

Certificate of Occupancy

A certificate issued by the Director or Building Commissioner certifying that a newly constructed or modified structure and/or property is completed in its entirety and is in complete compliance with all applicable regulations and therefore may be occupied. This certificate issued by the Director and/or Building Official states that the occupancy and use of land, building or structure referred to, therein, complies with the provisions of this ordinance.

Change of Use Permit (see *Improvement Location Permit*)**Child Care Center**

As defined by IC 12-7-2-28.4, as amended from time to time; child care center means a non-residential building where at least one (1) child receives child care from a provider: (a) while unattended by a parent, legal guardian, or custodian; (b) for regular compensation; and (c) 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.

Child Care Home

As defined by IC 12-7-2-28.6, as amended from time to time, child care home means a residential structure in which at least six (6) children (not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative or any child who is at least fourteen (14) year of age and does not require child care) at any time receive child care from a provider: (a) while unattended by a parent, legal guardian, or custodian; (b) for regular compensation; and (c) 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. Consistent with IC, the phrase "childcare home" shall include Class I childcare homes and Class II child care homes.

Church (see *Religious, Place of Worship*)**Circus or Carnival**

A temporary outdoor amusement center, bazaar, or fair, either involving use of special purpose equipment or conducted by professional operators, or both, and where activities include such things as rides, exhibitions, food service, sales, or small-scale games.

Clinic

Any facility in which human patients are admitted for medical, psychiatric, surgical, or dental study or treatment on an out-patient only basis, and in which the services of at least two physicians or dentists are provided.

Club

Public or private facilities owned or operated by a person or group of people for social, educational, or recreational purposes, but not primarily for profit nor to render a service which is customarily carried on as a business. The term "club" shall include the term "lodge."

Cluster Housing

Developments in which dwelling units are clustered close to their access streets or drives in order to permit aggregation of yard space into larger common recreational spaces.

Collector Road (see Street, Collector)

Collector Street (see Street, Collector)

College (see University)

Co-location or Collocation

The placement or installation of wireless facilities on existing structures that include a wireless facility or wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

Commercial Campground

Any public or private site, lot, field, or tract of land designed with facilities for short term and/or seasonal occupancy by recreational vehicles and other camping equipment, but not including mobile homes.

Commercial District (see Business District)

Commercial Facility for Breeding and Raising Non-farm Fowl or Animals

A parcel, lot, or facility: operated as a business for the purpose of boarding, housing, grooming, breeding, selling (more than three litters per year), or training non-farm fowl or animals; or, operated as a non-municipal animal shelter or sanctuary. For purposes of this ordinance, kennel shall not include a parcel, lot, or facility in, adjoining, or surrounding a private residence where non-farm fowl or animals are kept as pets by the residents and used by the residents for companionship, hunting, practice tracking, exhibiting in shows or field or obedience trials, or for the guarding or protecting of the property or residents.

Commercial Greenhouse (Greenhouse, Commercial)

A building used for the growing of plants, all or some of which are sold at retail or wholesale either on or off-site.

Commercial Recreational Uses

An occupation, employment, or enterprise that is carried on providing recreational services for profit by an owner, lessee, or licensee.

Commission

The Brown County Area Plan Commission.

Compatible

Having harmony and consistency in design, function, and/or appearance.

Comprehensive Plan

A document, consistent with the requirements of the Indiana Code, that is a compilation of policy statements, goals and objectives, standards, maps, and statistical data for the physical, social, and economic development of the community.

Concealed Wireless Communications Facility

Any wireless communications facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed so that the purpose of the facility or wireless support structure for providing wireless services is not readily apparent to a casual observer.

Concrete/Asphalt Production Facility

A facility where raw materials are processed into concrete or asphalt for sale and/or immediate use. Facilities typically include all necessary equipment for both transport and application of the finished product.

Condominium

Real estate lawfully subject to the IC 32-25 series, the Horizontal Property Law, by the recording of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

Contiguous (see *Abutting*)

Contractor, Commercial

A facility used primarily as an office, showroom and storage facility for a person who executes the construction or improving of buildings; a person or company that performs specific tasks such as electrical or plumbing work in construction projects; or a person or company hired to maintain existing facilities like air conditioning systems or grounds keeping.

Corner Lot

A lot at the junction of and abutting two intersecting or intercepting streets.

Country Club

A facility functioning as a private club, having set membership fees. This facility may offer a variety of recreational sports and fitness facilities and is typically an incidental use to a golf course. This facility may or may not be located in conjunction with a housing development.

County

Brown County, Indiana.

Critical Facilities

Facilities and infrastructure that are critical to the health and welfare of the population and that are especially important following hazard events. Critical facilities include, but are not limited to shelters, police and fire stations, and hospitals.

D

Dairy or Creamery

Branch of agriculture that encompasses the breeding, raising, and utilization of dairy animals, primarily cows, for the production of milk and the various dairy products processed from it.

Dancing Academy

A facility for performing arts education and productions such as music, dance, aerobics, and Pilates.

Day Nursery (see *Child Care Center and Child Care Home*)

Delicatessen

An establishment where food is sold for consumption either on or off premises, excluding groceries and supermarkets.

Department Store

A large retail establishment with an extensive assortment of goods and services and which is organized into separate departments for the purposes of buying, promotion, customer service, and control; A store which sells products at prices lower than those asked by department stores and other traditional retail outlets; or establishments that specialize in such merchandise as jewelry, electronic equipment, or electrical appliances. The phrase "department store" includes the phrase "discount store."

Design

A planned arrangement of forms, shapes, massing, colors, and materials intended to serve a useful purpose or be decorative or artistic. The essence of a design resides not in the elements individually, nor in their method of arrangement, but in the ensemble that awakens sensation in the observer's mind.

Detached Structure

A building that has no structural connection with the primary structure.

Development

Any man-made change to improved or unimproved real estate including but not limited to: (1) construction, reconstruction, or placement of a structure or any addition to a structure; (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days; (3) installing utilities, erection of walls and fences, construction of roads, or similar projects; (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.; (5) mining, dredging, filling, grading, excavation, or drilling operations; (6) construction and/or reconstruction of bridges or culverts; (7) storage of materials; or (8) any other activity that might change the direction, height, or velocity of flood or surface waters.

Development Plan

Dimensioned plans showing the entire on-site distribution of all elements for a proposed construction project, which would normally include architectural, engineering, landscape architectural, lighting and signage plans.

Development Standards

Regulations provided by this Ordinance that provide specific conditions for the development and use of buildings and property.

Director

The Director of the Brown County Area Plan Commission.

Directional Sign

A sign containing information limited to the name or the business, the nature of the business, the business logo, if any, and the distance and direction to the use being advertised. Any on-premises sign that includes information assisting in the flow of pedestrian or vehicular traffic, such as "enter", "exit", and "one-way".

District

An area with common social, physical, economic, or land use characteristics.

Dormitory

A structure specifically designed to provide sleeping and living quarters for long-term stay by students of a college, university, or other institution. A common kitchen and common gathering rooms may also be provided.

Dressmaking Shop (see Apparel)**Drive, Private (see Street, Private)****Drive-in Restaurant**

A small-scale establishment developed so that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, rather than within a building or structure.

Drive-in Facility/Drive-thru Service

An opening or openings in the wall of a building or structure designed and intended to be used to provide for sale or serving of food, refreshments, beverages or services in automobiles, including those establishments where customers may serve themselves and may carry out or consume the above on or off the premises.

Driveway

A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

Driveway, Common

An access shared by adjacent property owners.

Drug Store

A place where drugs and medicines are prepared and dispensed. Pharmacy also includes the incidental retail sale of medical accessories and convenience goods and services.

Driving Range

An area equipped with distance markers, clubs, balls, and tees for practicing golf drives and putting, which may or may not include a snack-bar and pro-shop but does exclude golf courses and miniature golf courses.

Dry Cleaning Establishment

An establishment that allows individuals to walk-in and drop off/pick up clothing fabrics, textiles, wearing apparel, or other items that have been cleaned at some other location.

Dumpster

A receptacle container that has a hooking mechanism that allows it to be raised and dumped into a sanitation truck, including dumpsters for trash, compacted materials, and recycling.

Duplex (see Dwelling, Two-Family)**Dwelling**

A structure or portion thereof, conforming to all requirements applicable to the district in which it is located, all Building Codes, and that is used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multiple-family dwelling units, but excluding hotels, motels, lodging house, tourist home and boarding houses.

Dwelling Site

A site within a manufactured home park and/or mobile home park with required improvements and utilities that is leased for the long-term placement of manufactured homes and/or mobile homes.

Dwelling Unit

A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, and including eating, lawful cooking, sleeping space and sanitary facilities reserved solely for the occupants thereof. The phrase "dwelling unit" includes "mobile dwellings", "modular dwellings" and "manufactured dwellings" but does not include vehicles or "recreational vehicles".

Dwelling, Accessory

A separate and complete secondary dwelling unit established in conjunction with and clearly subordinate to another dwelling which serves as the primary use and/or structure on the property.

Dwelling, Detached

A dwelling unit which does not share a common wall with any other dwelling.

Dwelling, Farm

A single-family dwelling that is located on and used in connection with farm operations.

Dwelling, Manufactured Home (includes Single Wide and Double Wide)

A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 (U.S.C. 5401 et seq.), and which also complies with the following specifications:

1. Shall have been constructed after January 1, 1981 and must exceed nine hundred fifty (950) square feet of occupied space per LC. 36-7-4(d);
2. Is attached to a permanent foundation of masonry construction and has a permanent perimeter enclosure;
3. Has

wheels, axles and towing chassis removed; **4.** Has a pitched roof with a minimum rise of 4/12; and **5.** Consists of two (2) or more sections which, when joined, have a minimum dimension of 20' x 47.5' in length or width enclosing occupied space.

Dwelling, Mobile Home

A structure without motive power designated by the manufacturer or maker with hitch and undercarriage to permit attachment of axles and wheels, and so designed to permit its being used as a conveyance upon public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a single-family dwelling and not qualifying under the definition of manufactured home.

Dwelling, Multi-Family

A structure designed for and occupied by three (3) or more families or other single units of housekeeping, with the number of families and housekeeping units in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family

A structure designed for and occupancy by one (1) family or other single unit of housekeeping and therefore including no more than one (1) dwelling unit.

Dwelling, Two-Family

A structure designed for occupancy by two (2) families or other single units of housekeeping and therefore including no more than two (2) dwelling units; a dwelling comprised of two attached units situated side-by-side or on two separate floors.

E

Easement

A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of providing services or access to the property.

Educational Institution (see School)

Electrical Appliance Sales & Service (Appliance Repair Shop)

A business specializing in the retail sale and repair of home appliances and related accessories.

Electrical Transmission Tower

A structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

Elevation

One of the faces, for example the front, side, or rear, of a building.

Equipment Compound

The area that surrounds or is near the base of a wireless support structure and encloses wireless communication facilities.

Equipment Facility

Any accessory structure used to contain ancillary equipment for WCF, which may include cabinets, small shelters, pedestals, or other similar structures.

Equipment, Mechanical

Equipment installed for a use appurtenant to the primary use. Such equipment may include heating and air conditioning equipment, solar collectors, parabolic antennas, and power generating devices.

Equipment, Sales and Rental

Establishments primarily engaged in the sale or rental of tools, trucks, construction equipment, agricultural implements, and similar industrial equipment.

Equipment Storage

Applies to a (one) building the purpose of which is limited to the storage and maintenance only of equipment and materials to be used in a business, which business is owned in part or entirely, by the person or organization which owns the property on which said building is located, and which business is carried on entirely off of said property; provided that this building is not used for the sale, trade, barter, or lease of the equipment stored therein. This definition shall not apply to any building used as a "shop" for a business in which materials are assembled or dismantled, or which serves as the "office" for the business involved. If such building is used in this manner, then "business" zoning must be obtained.

Erosion

The detachment, movement, and wearing away of soil and rock fragments by flowing surface or subsurface water or by wind.

Event Venue

Any commercial property, the primary purpose of which is for the display, presentation or performance of musicals, concerts or other live stage entertainment.

A special event facility is a facility where special events are permitted to occur subject to a use agreement between a private group or individual and the facility owner,

A *special event* is defined as a celebration, ceremony, wedding, reception, corporate function, or similar activity for the benefit of someone other than the property owner that takes place on a periodic basis, involving the gathering of individuals assembled for the common purpose of attending a special event.

Existing Manufactured Home Park, PUD or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.

Expansion of an Existing Manufactured Home Park, PUD or Subdivision

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

Fall Zone

The area within which the wireless support structure is designed to collapse.

Family

One or more persons occupying a dwelling unit as a single housekeeping unit and therefore using common facilities for cooking, sanitation, and gathering. A family does not include any society, club, fraternity, sorority; or group living in a boarding house, hotel, motel, bed and breakfast facility, lodging house, rooming house, or club; any group of individuals whose association with each other is seasonal or any individuals who are in a group living arrangement as a result of criminal activity.

Farm Dwelling (see *Dwelling, Farm*)

Farm, General

An area used primarily for agricultural operations, including but not limited to truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry.

Farm, Commercial

Farming for a profit, where food is produced by advanced technological means for sale in the market. Often very few workers are employed.

Farm Equipment Sales and Service (Agricultural Products Sales, Distribution, and Storage)

A primary use engaged in the sale or rental of farm tools and equipment, grain, tack, animal care products, and farm supplies. This excludes the sale of large farm implements, such as tractor and combines, but does include food sales and farm machinery repair services that are incidental to the primary use. An establishment that services farm implements, as well as offers for sale new and used farm implements.

Farmer's Market

A periodic market held in an open area or under a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from vehicles or temporary stands located on-site.

Fast Food Restaurant (see *Restaurant, Fast Food*)

FBFM

Flood boundary and floodway map; an official map delineating the floodway, floodway fringe, 100-year floodplain, and 500-year floodplain which is prepared in conjunction with a flood insurance study.

FEMA

Federal Emergency Management Agency.

Feeder Street

Is a street planned to facilitate the collection of traffic from local streets, and to provide circulation within neighborhood areas and convenient ways for traffic to reach major streets.

Fence

Any structure, solid or otherwise, which is a barrier and is used as a boundary or means of protection, confinement, or concealment.

Fence, Barbed-Wire

One or more strands of wire or other material having intermittent sharp points of wire or metal that may puncture, cut, tear, or snag persons, clothing, or animals.

Fence, Stockade

A fence constructed of vertical wood strips, with no intervening spaces, providing a complete visual barrier.

FHBM

Flood Hazard Boundary Map.

Festival

A periodic celebration or program of events or entertainment having a specified focus.

Festival Area

The performance, staging, parking, and pathway venues and other areas in which the festival activities will primarily be taking place.

Filling or Service Station (Gas Station)

Any building, structure, or area of land used for the retail sale of automobile fuels, charging stations, oils, and accessories.

Finished Floor Area (see *Floor Area, Finished*)

FIRM

Flood insurance rate map; the official map on which FEMA has delineated both the areas of special flood hazard and risk premium zones.

Flat Roof

The silhouette formed by a roof line. While the name infers a roof with no pitch, the actual roof structure is required to have a slope for drainage purposes. The roof line can be stepped or flat in appearance by using architectural elements such as cornices, mansards, and parapets.

Flea Market

Any flea market, swap shop or meet, or similar activity, by whatever name, or those uses which involve the setting up of two or more booths, tables, platforms, racks or similar display areas for the purpose of selling or buying merchandise, goods, materials, products, or other items offered for sale outside a fully enclosed building. A "flea market" as defined herein shall not be intended to include a garage sale or bake sale, fruit and produce stands, booths in a fully enclosed building or art festivals or any similar activity or sales done by local civic groups or by local non-profit organizations.

Flea Market Vendor

Any individual, family, corporation, partnership, firm, organization, or any group that acts as a unit, which rents, buys, or occupies display area space in a flea market for the purpose of selling merchandise, goods, materials, products, or other items.

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.

Flood Hazard Area

Those flood plains which have not been adequately protected from flooding caused by the regulatory flood and are shown on the zoning map and/or on the Flood Hazard or Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Natural Resources Commission.

Floodplain

The relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by the regulatory flood. The flood plain includes the channel, floodway, and floodway fringe. Floodplain boundaries are to be determined by using the Federal Insurance Administration/Federal Emergency Management Administration (FEMA).

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 any river or stream. Areas making up a floodway may be identified by formal action of the Natural Resources Commission or established by the Department of Natural Resources on a case-to-case basis.

Floodway Fringe

Those portions of the flood hazard areas lying outside the floodways.

Flood Proofed Buildings

A commercial or industrial building designed to exclude floodwaters from the interior of the building. All such flood-proofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

Flood Protection Grade

The elevation of the lowest floor of a building or structure. If a basement is included, the basement floor is considered the lowest floor.

Exception: If a commercial or industrial building is flood-proofed as hereinafter defined, the term "flood protection grade" applies to the water surface elevation for which the building is protected.

Floor Area

The total number of square feet of usable floor space within the exterior walls of a building exclusive of vent shafts and courts. The floor area of a building not provided with surrounding exterior walls shall be the usable area under the horizontal protection of the roof or floor above. The floor area of a building shall exclude exterior open balconies and open porches.

Floor Area, Finished

That portion of floor area constructed, completed, and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, working, entertainment, common space linking rooms, areas for personal hygiene, or combination thereof. Floor area or portion thereof used only for storage purposes and not equipped for the facilities mentioned above shall not be considered Finished Floor Area. The Finished Floor Area of a primary structure does not include a garage, carport, deck, unfinished storage, patio, or open porch.

Floor Area, Ground

That portion of Finished Floor Area located on the first (or nearest ground level) floor of the dwelling unit exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

Flower Shop (Florist, Retail)

An indoor facility whose primary purpose is to offer for sale fresh or artificial flowers and related products and services directly to consumers. Retail florists may include greenhouse operations, and incidental sales of small gardening equipment and accessories.

Florist, Wholesaler

A facility offering for sale bulk flowers and related supplies to professionals in the trade. See also greenhouse, commercial.

Food Truck

A large, wheeled vehicle from which food is sold that typically contains cooking facilities where the food is prepared per IC 410-7-24-113.

Foundation

The supporting member of a wall or structure.

Fraternity, Sorority and Student Co-ops (Fraternity, Educational)

A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of the institution.

Fraternity, Social

A private club of individuals organized around a civic, social, or intellectual goal or pursuit. See also Private Club.

Front Line

With respect to a building, the foundation line that is nearest the front lot line.

Front Lot Line

1. for an interior or through lot, means the line marking the boundary between the lot and the abutting street; and 2. for a corner lot, means the line marking the boundary between the lot and each abutting street.

Front Yard

A yard that is bounded by the front line of the principal buildings, by the adjacent street right of-way, and by the segments of the side lot lines that they intercept.

Frontage (see *Lot Frontage*)

G

Garage, Private

A detached accessory building or a portion of a main building on the same lot as a dwelling to house motor vehicles for the accommodation of related dwelling units or related business establishments housing of vehicles of the occupants of the dwelling, including carports.

Garage Public

Any garage other than a private garage, for the parking of vehicles.

Garage or Yard Sale

A public or private sale conducted by the owner or occupier of a premise, and conducted within a residence, garage, other accessory buildings or outside thereof, which sale of personal property owned or in the possession of the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

General Industrial Use

Any manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which some operations, other than transportation, are performed in open areas.

Gift Shop (Novelty, Gift or Souvenir Store)

An establishment that primarily sells novelty items, gifts and/or souvenirs to the general public.

Glamping

A shorthand term for glamourous camping. Glamping shall be used to describe permanent structures located in areas that offer outdoor camping experiences with amenities such as beds, electricity, heat and indoor plumbing usually not used when camping traditionally.

Glampground

An area consisting of more than one glamping unit.

Golf Course

An area of terrain on which the game of golf is played. A golf course typically includes greens, fairways, and natural areas. A golf course may also include a driving range when integrated with the golf course operations and hours. A golf course may also include a country club as an incidental use.

Grade

The finished surface of the ground adjacent to the exterior walls of a building.

Grade, Existing

The vertical elevation of the ground prior to any excavation, filling, or other construction activity.

Grade, Finished

The final elevation of the ground surface after man-made alterations have been completed.

Granny Flat (see *Dwelling, Accessory*)

Grazing and Pasture Land

A fenced area used for the feeding and upkeep of livestock.

Greenhouse

A building or structure constructed primarily of translucent materials which is devoted to the protection or cultivation of flowers and other tender plants.

Grocery Store

Large-scale retailers offering for sale food and other household goods and services. Grocery stores typically house flower shops, pharmacies, bakeries, branch banks, and other complementary and incidental uses. For the purposes of administering and enforcing this Ordinance, the phrase "grocery store" shall not include "grocery departments" that are typically found in "department stores" or "discount stores".

Gross Density

Density determined by dividing that total acreage within the site by the total number of dwelling units.

Ground Floor Area (see *Floor Area, Ground*)

Guest Room

Any room in a tourist home or in a bed and breakfast establishment that is equipped and /or intended for use as a bedroom, including rooms equipped with sleeper sofas.

H

Hard Surface (see *Paved Surface*)

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

Hardware Store

A small or medium-scale facility primarily engaged in the retail sale of various basic hardware lines, such as tools, builder's hardware, plumbing and electrical supplies, paint

and glass, housewares and household appliances, and garden supplies and cutlery. A lumberyard may be included as an incidental use to the hardware retail sales.

Hazardous Material

Any substances or materials that by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such material or substance, IC 13-11-2-96.

Hazardous Material Storage/Processing Facility

All structures, other appurtenances, and any improvement to the land used for treating, storing, processing, or disposing of hazardous materials.

Hedge

A row of closely planted shrubs, bushes, or any other kind of plant used as a compact, dense, living barrier that protects, shields, separates, or demarcates an area.

Height

The vertical distance to the highest point of any roof for structures which have roofs, and the vertical distance to the highest point of all other structures, measured from adjacent grade level.

Height, WCF

The vertical distance of a WCF or support structure, as measured from the ground elevation at the base of the WCF or support structure to the top of the structure, including antenna array(s).

Heliport

An area used for the landing and take-off of helicopters, including any structures, buildings, and equipment associated with that use.

Historic Site

All structures and other features identified as contributing, notable, or outstanding by the Indiana Historic Sites and Structures Inventory - Brown County Interim Report or listed in the National Register of Historic Places or the Indiana Register of Historic Sites & Structures, as well as any subsequent amendments and/or additions to any of these publications.

Home Electronics/Appliance Store

An establishment that primarily sells home appliances, electronics, and related accessories.

Home Occupation

An accessory use of a dwelling unit for a business, profession, trade, or vocation conducted within an enclosed dwelling, which is clearly incidental and secondary to residential occupancy and does not change the residential character thereof.

Home Stay

A single-family residence that is occupied by the owner and that is used to provide up to two (2) guest rooms to the public for a fee.

Hospital

An institution where sick or injured persons are given medical care and, during the course of that treatment, are housed overnight, fed, and provided nursing and related services. Related services include diagnostic facilities, laboratories, hospices, outpatient facilities, treatment facilities, and training facilities. Hospitals does include institutions operating for the treatment of mental health persons and persons suffering addictions, but does not include nursing homes, retirement facilities, shelters, or boarding houses.

Hotel

A building in which temporary lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel furnishes customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the upkeep of furniture. As such, it is open to the public. Compensation is usually assessed on a day-to-day basis.

Hotel, Extended Stay

A building in which lodgings are provided and offered, for compensation, to the public for periods greater than seven (7) consecutive days, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. An extended stay hotel may furnish customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the upkeep of furniture. This type of facility caters to the longer term stays which may be incurred in business travel. Special accommodation such as kitchenettes may be provided. In this instance, compensation is typically assessed on a contractual basis.

Hydroponics

A type of horticulture and a subset of hydroculture which involves growing plants, usually crops, without soil, by using water-based mineral nutrient solutions in aqueous solvents.

I

Improvement

Any building, structure, bridge, work of art, area, parking facility, public facility, fence, gate, wall, landscaping, or other object constituting a physical addition to real property.

Improvement Location Permit

A permit signed by the Director stating that a proposed improvement complies with the provisions of this ordinance and such other ordinances as may be applicable.

Incidental

A minor occurrence or condition that is customarily associated with a permitted use and is likely to ensue from normal operations.

Incidental Sales (see Sales, *Incidental*)

Industrial Park

A collection of small-scale manufacturing, construction, production, and assembly uses, as well as other light industrial uses. This district is specifically intended to provide appropriate setbacks and standards for small-scale businesses, entrepreneurial operations, start-up businesses, and similar operations.

Industrial District

The use of a property or area for the manufacture, fabrication, processing, reduction, or destruction of any Section, substance, or commodity, including related storage facilities and warehouses.

Industrial, Light

Any manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed.

Light production, assembly, warehousing, research & development facilities, and similar land uses. This district is intended to accommodate only industrial uses that are completely contained within structures and do not involve the outdoor storage of materials or the release of potential environmental pollutants.

Interested Parties

Those parties who are owners of properties adjoining or adjacent to the property for which a zoning change is being sought.

Interior lot

A lot other than a corner lot or a through lot.

J**Jewelry Store**

An establishment that primarily sells new jewelry and may offer for sale used or consignment merchandise.

Junk

Scrap or waste material of any kind.

Junk Yard

A place, usually outdoors, where waste or discarded used property other than organic matter is accumulated and is or may be salvaged for re-use or resale.

Jurisdiction

Any area over which a unit of government exercises power and authority.

K**Kennel**

A parcel, lot, or facility: operated as a business for the purpose of boarding, housing, grooming, breeding, selling (more than three litters per year), or training, dogs or cats, or both; or, operated as a non-municipal animal shelter or sanctuary. For purposes of this ordinance, kennel shall not include a parcel, lot, or facility in, adjoining, or surrounding a private residence where dogs or cats are kept as pets by the residents and used by the residents for companionship, hunting, practice tracking, exhibiting in shows or field or obedience trials, or for the guarding or protecting of the property or residents.

L

Land Use

The occupation or use of land for any human activity or purpose.

Land Use Petition

A rezoning petition, variance petition, special exception petition, or any other petition permitted by rules of procedure adoption by the Plan Commission.

Landscape Buffer (see *Buffer*)

Landscaping

The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, berms, fountains and other similar natural and man-made objects.

Laundry Agency (Laundromat)

An establishment that allows individuals to walk-in and drop off/pick up clothing fabrics, textiles, wearing apparel, or other items that have been cleaned at some other location.

Letter of Map Amendment (LOMA)

An amendment to the currently effective FEMA map that establishes that a property, area, and/or structure is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR)

An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Library

A public facility for the use, but not sale, of literary, musical, artistic, or reference materials, with the exception of a not-for-profit group selling outdated or donated books.

Light Industrial Processing and Distribution

Processing and distribution of materials and products from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of processing such as smoke, noise, odor, etc.

Light Industrial Use (see *Industrial, Light*)

Limited Access Highway

A highway to which abutting properties are denied access.

Liquid Fertilizer Storage and Distribution (Fertilizer Sales, Distribution, and Storage)

An establishment that stores, distributes, and sells fertilizers primarily for agricultural crop production use.

Loading Berth

A space within a building or on the premises providing for the loading and unloading of merchandise and materials.

Local Manager

A person who is responsible for responding to any complaints regarding the property subject to the permit and/or approval, and whose primary place of business is within a reasonable thirty minute drive from the property subject to the permit and/or approval.

Local Street

A street used primarily for access to abutting properties, usually residential. Certain local streets may be Marginal Access Streets parallel to Limited Access Major Streets. State Feeder Highways, or State Arterial Highways, thereby providing access from properties abutting such Marginal Access Streets to access points on such Limited Access Streets or Highways.

Lodge

A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities.

Lodging House

A building, not available to transients, in which lodgings are regularly provided for compensation for at least 3 but not more than 30 people.

Logging Operation

The harvesting and/or removal of logs from a forest over a county highway, by a logging or trucking operator.

LOMA or Letter Of Map Amendment

For purposes of flood plain management shall have the meaning set forth in Chapter 10, Section 2 of the Brown County Zoning Ordinance.

LOMR or Letter Of Map Revision

For purposes of flood plain management shall have the meaning set forth in Chapter 10, Section 2 of the Brown County Zoning Ordinance.

Lot

A contiguous area of land separated from other areas of land by a separate description (including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds) for purpose of sale, lease, transfer of ownership, or separate use.

Lot Area

The horizontal area within the exterior lines of a lot, including any easements, but excluding any rights-of way or other similar dedications to the public.

Lot Coverage

The percentage of the lot area that is represented by the building area.

Lot Depth

The horizontal distance between the front and rear lot lines.

Lot Frontage

The horizontal distance between side lot lines where a property abuts a street.

Lot Ground Level

1. For a building having walls abutting (that is, generally parallel to and not more than five feet from) one street only, means the elevation of the sidewalk at the center of the wall abutting the street;
2. For a building having walls abutting more than one street, means the average of the elevations of the sidewalk at the centers of all walls that face streets; and
3. For a building having no wall abutting a street, means the average level of the ground adjacent to the exterior walls of the building.

Lot Line

The property lines which define the lot.

Lot of Record

A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder, or a parcel of land, the deed to which has been recorded in the office of the County Recorder which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

Lot Width

The horizontal distance between side lot lines measured at the required minimum front setback line or built-line line affecting the property.

Lot, Buildable

Any lot upon which improvements are permitted to be constructed, or which is otherwise allowed to be occupied and used consistent with all applicable requirements of this Ordinance.

Lot, Corner (see *Corner Lot*)**Lot, Developed**

A lot upon which improvements have been made or is otherwise being used for human purposes.

Lot, Double Frontage

A lot having frontage on two or more non-intersecting streets.

Lot, Improved (see *Lot, Developed*)**Lot, Interior (see *Interior Lot*)****Lot, Legal Nonconforming (see *Legal Nonconforming Lot*)****Lot, Recorded (see *Lot of Record*)****Lot, Through**

A lot fronting on two parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

Lot, Undeveloped

A lot of record upon which no improvements exist.

Lowest Floor

The lowest of the following: (1) the top of the basement floor; (2) the top of the garage floor, if the garage is the lowest level of the building; (3) the top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or (4) the top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless: the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one square inch for every one square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade; such enclosed space shall be usable for the parking of vehicles and building access.

M**Major Street**

A street designated for large volumes of traffic movement. Certain major streets may be classed as limited access streets to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

Manufactured Home (see *Dwelling, Manufactured Home*)**Manufactured Home Park**

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured Home Sales

The sale and incidental storage of single-family detached housing that includes mobile homes and manufactured homes.

Manufactured Home Site

The area of land in a manufactured home park for the placement of one manufactured home.

Manufacturing, Storage or Use of Explosives (Explosive Manufacturing and Storage)

The manufacture and storage of any chemical compound, mixture, or device of which the primary and common purpose is to function by explosion with substantially simultaneous release of gas and heat, the resulting pressure being capable of producing destructive effects.

Meat Market

A market that primarily offers retail and/or wholesale meats but may also sell related incidental products.

Mechanical Equipment (see *Equipment, Mechanical*)

Millinery Shop (see Apparel)

Mining or Excavation

The (1) mining or quarrying, and (2) removal of earth materials.

Minor Modification

Any improvement to existing structures that do not qualify as substantial modifications, do not result in an increase to the fall zone to an extent that would result in a violation of the setback requirement and that is eligible for administrative review and approval.

Mobile Home (see Dwelling, Mobile Home)

Mobile Home Park

An area of land on which 2 or more mobile homes are regularly accommodated with or without charge, including any building or other structure, fixture, or equipment that is used or intended to be used in providing that accommodation.

Mobile Home Tie Downs (Schedule A)

Any sufficient anchorage to resist flotation, collapse or lateral movement of any mobile home, at a minimum, such anchorage shall consist of: (1) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only one additional tie per side; (2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, and with mobile homes less than 50 feet long requiring only four additional ties per side; (3) all components of the anchoring system capable of carrying a force of 4,000 pounds and (4) any additions to the mobile home be similarly anchored.

Modular Home

A factory-fabricated transportable building designed to be used alone or to be incorporated with similar units at a building site and designed and constructed with a perimeter frame to become a permanent structure on a site, with all outside walls supported by a permanent foundation. A modular home is a single-family dwelling for the purposes of this Ordinance.

Monopole

A single, freestanding pole-type structure supporting one or more Antenna. For purposes of this Ordinance, a Monopole is not a Tower.

Mortuary

An establishment under the care and control of a funeral director as licensed pursuant to M.G.L. Chap. 114, Sec. 49 with facilities for the preparation of the dead for burial or cremation, with reposing rooms for the viewing of the body, and for funerals, and where final disposition of the body to be elsewhere in accordance with Indiana State Law and where the funeral home director(s) are licensed by the State of Indiana. The term "mortuary" includes the phrase "funeral home." A mortuary may also offer for sale, as an incidental use, accessory funeral items.

Motel

An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single lot, and designed for

use by transient automobile tourists. A motel furnishes customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the use and upkeep of furniture.

Motor Home (see *Recreational Vehicle*)

Motor Vehicle

Any passenger vehicle, truck, tractor, tractor, tractor, tractor-trailer, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

Multi-Family Dwelling (see *Dwelling, Multi-Family*)

Municipal or Government Building (Government Facility)

A building, group of buildings, and/or piece of property operated or occupied by a governmental agency to provide a governmental service to the public. Government facilities may include the storage and service of government vehicles, equipment, and supplies. The term "government" in this instance is the appropriate municipal authority, officer or body charged with the care, custody and control of the land on which the facility is located.

Museum

A building having public significance by reason of its architecture or former use or occupancy, or a building housing a specific collection of natural, scientific, or literary materials, objects of interest, or works of art, and designed to be used by the public with or without an admission charge. It may include as an accessory use the sale of goods to the public.

N

Natural Resources

The Indiana Natural Resources Commission.

News Dealer (Newspaper or Magazine Stand)

An establishment that primarily offers for sale newspapers, magazines, and other periodicals.

Night Club

A commercial establishment operated as a place of entertainment featuring live, recorded, or televised musical, comedy, or magic performances; dancing; and/or the serving of alcoholic beverages and/or food.

Nonconforming Lot

A lot that does not comply with the regulations of the zoning district in which it is located.

Nonconforming Structure

A building or other structure that does not comply to the regulations of the zoning district in which it is located.

Nonconforming Use

A use of land or structures that exists at the time a provision of this ordinance is passed but does not comply with it.

Nursing Home

A facility licensed by the State Board of Health, which provides nursing services amounting to 24-hour per day care on a continuing basis; admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; provides for licensed physicians services or supervision; and maintains medical records. Such facilities may also provide other similar medical or health services, including physical therapy services with equipment used in an on-going basis for patient rehabilitation. This facility shall not contain equipment for surgical care or for treatment of disease or injury and is not primarily designed for mental patients or alcoholics. Examples of nursing home facilities that provide health services typically include nursing homes, convalescent homes, maternity homes, rest homes, homes for the aged, and the like.

Nuisance

An interference with the enjoyment and use of property as defined by nuisance ordinances or codes.

O

Objectionable Odor

Odors that are nauseating, noxious, or generally recognized as unpleasant.

Occupancy

The use of any land or structure.

Office Use

Administrative, executive, professional, research, or similar organizations, and laboratories having only limited contact with the public, with no merchandise or merchandising services sold on the premises.

Office, Professional (see *Professional Offices*)

Open Space

An area of land not covered by structures or accessory uses except for those related to recreation. Open space may include nature areas; streams and flood plains; meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, bicycle paths, etc. Open space does not include street rights-of-way, platted lot area, private yards, patio areas, or land scheduled for future development.

Open Use

The use of a lot without a building, or a use for which a building with a floor area no larger than 5 per cent of the lot area is only incidental.

Ordinary Maintenance

Ensuring that communications facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing wireless communications

facility and relocating the antennas of approved communications facilities to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include minor and substantial modifications.

Outdoor Storage

The keeping of items for sale, the products of manufacturing, materials used in production, vehicles, and other similar materials and/or equipment in an area outside of any building.

Outdoor Storage, Seasonal

The outdoor storage of items for retail sale that are, by their nature, sold during a peak season, such as fruits and vegetables, Christmas trees, lawn accessories, and bedding plants.

Outdoor Festival

Outdoor Festival is an outdoor celebration or gathering that includes entertainment, amusement rides, dancing, music, dramatic productions, art exhibitions, other exhibits or displays, selling of merchandise or services, sale of food and or alcohol or any combination of the components listed.

Outdoor Event means an event held at a location generally without a permanent structure and may include organized sports games, home tours, auctions, picnics, concerts, art shows, fairs, or any similar, infrequent, short-term event.

Owner

Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to, or sufficient proprietary interest in the land, or their legal representative.

P

Parcel (see *Lot*)

Park

Any public or private land and related structures, including athletic facilities, shelter houses, and maintenance facilities that are designed to provide recreational, educational, cultural, or aesthetic use to the community.

Parking Facility

A public or private area or parcel of land located outside of the public right-of-way and used for the storage of motor vehicles for limited periods of time. A parking facility includes all parking spaces, interior drives, and maneuvering areas, and may be an open parking lot or parking structure.

Parking Space

An open space within a public or private parking area exclusive of maneuvering aisle and driveway for the parking of a motor vehicle.

Parking, Off-Street

A storage space for a motor vehicle located outside of a street right-of-way.

Parking, On-Street

A storage space for a motor vehicle that is located within the right-of-way of a street.

Parking, Shared

A parking space or lot used jointly by two or more uses or structures.

Paved Surface

A durable surface for parking, driving, riding or similar activities that utilizes asphalt, Portland cement, concrete, brick, paving blocks, or other dust proof surfaces.

Penal Institution

Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. The phrase "penal institution" shall include the phrase "correctional institution."

Permanent Foundation

A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

Permit Authority

The Brown County board, commission, or employee that, or who, makes legislative, quasi-judicial, or administrative decisions concerning the construction, installation, modification, or siting of wireless facilities or wireless support structures.

Person

A person, corporation, firm, partnership, association, trust, organization, unit of government, or any other entity that acts as a unit, including all members of any group.

Personal Services

An establishment or place of business primarily engaged in the provision of frequent and recurrent services of a personal nature, such as a beauty or barber shop, shoe repair shop, or tanning salon.

Petitioner (see *Applicant*)**Petroleum Tank Farm (Petroleum Processing and Storage)**

An establishment that processes and/or stores petroleum and its raw ingredients.

Pharmacy (see *Drug Store*)**Photographic Studio**

A facility engaged in onsite photography, processing, and development, including limited retail sale, lease and service of photography equipment and supplies.

Place of Worship (see *Religious, Place of Worship*)**Plan (see *Comprehensive Plan*)****Plan Commission**

A planning commission serving a local government jurisdiction established as defined under the IC 36-7-1-2 (1983) as amended. The Brown County Plan Commission is an Area Plan Commission.

Planned Unit Development

A type of land regulation which permits large scale, unified land development in a configuration and possibly in a mix of uses not otherwise permitted "as of right" under the Brown County Zoning Ordinance but requiring under that Ordinance a special review and approval process. A Planned Unit Development may be established for predominantly Residential (Planned Residential Development), Commercial (Planned Commercial Development) or Industrial (Planned Industrial Development) purposes.

Plant Nursery (Nursery)

Any land used to grow fruits, vegetables, trees, shrubs, flowers, and other plants for sale.

Plat

A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.

Plat, Primary

The primary plat, pursuant to IC 36-7-4-700 series, is the plat and plans upon which the primary approval of a proposed subdivision is based.

Plat, Secondary

The secondary plat, pursuant to IC 36-7-4-700 series, is the plat document of a subdivision meeting all of the requirements of the subdivision control ordinance prepared in a recordable form.

Porch

A covered, but otherwise unenclosed structure projecting out from the wall or walls of a main structure.

Postal Station (Post Office)

A facility operated by the United States Postal Service that houses service windows for mailing packages and letters, post office boxes, offices, and which also sorts and distributes the mail. A post office may include on-site storage of delivery vehicles.

Primary Plat (see *Plat, Primary*)

Principal Building

A building in which the principal use of the lot on which it is located is conducted, including a building that is attached to such a building in a substantial way, such as by a roof (with respect to residential uses, it means the main dwelling).

Primary or Principal Use (see *Use, Primary*)

Private Club

A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage

professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities.

Private Garage (see *Garage, Private*)

Private Recreational Development

The provision of recreation-related products or services by private enterprise for a fee, with the long-term intent of being profitable, including but not limited to wedding venues.

Private Recreational Facility

A recreational facility for use by residents and guests of a particular residential development, church, private primary or secondary educational facility, or limited residential neighborhood, including both indoor and outdoor facilities and privately-owned golf courses open to the public.

Private Street (see *Street, Private*)

Private Swimming Pool

Any structure located either at, above, or below grade which is designed and/or used to hold water which exceeds two feet in depth at any point for the purpose of recreation and entertainment of adults and children.

Processing Plant

A building or an enclosed space used for the collection and processing of material. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

Professional Office

A building or establishment for the provision of professional services. Professional services are typically provided by, but are not limited to doctors, lawyers, architects, financial advisors, stockbrokers, and engineers.

Property Owner

The person(s) identified as the property owner on the most recent list prepared and maintained by the County Auditor's Office. (**see also Owner**)

Public or Commercial Sanitary Fill, Refuse Dump, or Garbage Disposal Plant

A facility designated to receive and hold municipal solid waste and other waste matters. Waste at a refuse dump is not compacted or covered as it is in a sanitary landfill.

Public or Commercial Water Supply or Sewage Disposal Plant

Any facility designed for the treatment of water or sewage that serves an entire community, region, or specific geographic area.

Public Art

Any visual work of art that is accessible to public view and located on public or private property.

Public Camp (see *Commercial Campground*)

Public Garage (see Garage, Public)

Public/Employee Parking Area (see Parking Facility)

Public Hearing

A formal meeting, announced and advertised in advance consistent with the requirements of this Ordinance, which is open to the public, and at which members of the public have an opportunity to participate. IC 5-3-1-2

Public Street (see Street, Public)

R

Racetrack

Any measured venue for the sport of racing where animals or machines are entered in competition against one another or against time. A racetrack may or may not have areas for spectators. Racetrack includes, but is not limited to, oval track racing, drag racing, motocross, tractor pulling, go-cart racing, remote control airplane flying, and similar uses.

Radio-TV Service and Sales (Electronics Store)

An establishment that has for sale goods relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. For the purposes of administering and enforcing this Ordinance the phrases "department store" and "discount store" are exclusive of the phrase "electronics store," meaning that they are not intended to be one and the same.

Radio or TV Station

A facility primarily engaged in the production and broadcasting of television or radio programs. The size of this facility varies based on scale of operation. Broadcasting and transmission facilities are subject to municipal and FCC codes.

Radio or Television Tower (see Tower)

Railway Station or Motor Bus Station (see Transportation Facility)

Rear Lot Line

For an interior or corner lot means the lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly shaped lot it means the line 10 feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the front lot line.

Rear Yard

A yard that extends across the full width of a lot and is bounded on the rear by the rear lot line, and the depth of which is the least distance between the rear lot line and the rear of the nearest foundation or building.

Record

The written documentation of the actions and expressions of a public body, such as the Plan Commission or Board of Zoning Appeals.

Record Shop

An establishment that primarily deals with new and used audio recordings in an array of media formats. Some shops also include the sales of new and used video recordings as well.

Recreation

The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating or swimming, or individual or team sports, or may be passive, such as enjoying the natural beauty of the shoreline or its wildlife.

Recreation Facility, Indoor

A public or private indoor facility designed to provide opportunities for recreation. The term "indoor recreation facility" typically includes structures for active and passive recreation similar to but separate from "fitness centers" and "community centers". Indoor recreational facilities typically include indoor tracks, indoor soccer facilities, paint-ball facilities, and facilities that house similar activities. This facility may include an accessory recreational area, provided as part of a development that is owned and maintained by the owners' association or property owner primarily for the use of the residents or employees of the development, and which may also be made accessible for use by the general public through associate membership subscription or user fees.

Recreation Facility, Outdoor

A public or private outdoor facility designed to provide opportunities for recreation. The term includes active and passive recreational structures such as: swimming pools, skating rinks, tennis courts, basketball courts, pavilions, picnic areas, and the like. This facility may include an accessory recreational area, provided as part of a development that is owned and maintained by the owners' association or property owner primarily for the use of the residents or employees of the development, and which may also be made accessible for use by the general public through associate membership subscription or user fees.

Recreational Use, Large Scale (see *Seasonal Hunting or Fishing Lodge*)

Recreational Use

Recreational uses that tend to serve a community-wide area which include establishments such as bowling alleys, theaters, assembly halls, miniature golf courses, indoor shooting ranges, swimming pools, and skating rinks. Recreational uses tend to serve a local area and include establishments such as billiard rooms, arcades, nightclubs, brewpubs, and bars.

Recreational Vehicle

Any building, structure, or vehicle designed and/or used for living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place (either under its own power or towed by another vehicle). Recreational vehicles are built on a single chassis. Recreational vehicles include automobiles when used for living or sleeping purposes, pick-up truck coaches, motorized homes, boats, jet skis, wave runners and other aquatic vehicles, travel trailers, snow mobiles, and camping trailers not meeting the definition of a manufactured or mobile home.

Recreational Vehicle Storage, Outdoor

A secure outdoor facility for the storage of recreational vehicles.

Recyclable Materials

Any materials that are designated as accepted by the Brown County Solid Waste District and are acceptable for recycling as defined in the Indiana Code.

Recycling

A process by which materials that would otherwise become solid waste are collected, separated for processing, and converted into materials or products for reuse or sale.

Recycling Facility

A facility where recyclable materials are transferred from a vehicle or a container to another vehicle or container for transportation. The term does not include the following: (1) a stand-alone roll-off recycling collection box; (2) a stand-alone recycling trailer; (3) a stand-alone dumpster designated for recyclable materials.

Registered Architect

An architect properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Land Surveyor

A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Landscape Architect

A landscape architect properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Professional Engineer

An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Regulatory Flood

For purposes of flood plain management shall have the meaning set forth in Chapter 10, Section 2 of the Brown County Zoning Ordinance.

Regulatory Floodway

For purposes of flood plain management shall have the meaning set forth in Chapter 10, Section 2 of the Brown County Zoning Ordinance.

Regulatory Flood Profile

For purposes of flood plain management shall have the meaning set forth in Chapter 10, Section 2 of the Brown County Zoning Ordinance.

Religious, Place of Worship

The use of a building or property, or some combination thereof, by a non-profit group for the purpose of religious worship together with all incidental uses commonly associated with

such a facility, such as a day care center or school. The phrase "religious place of worship" includes synagogue, temple, mosque or any other like facility used for worship and religious activities.

Repair Services

Establishments that provide repair services to individuals and households, rather than businesses, not including automotive and equipment repair. Typically, such services include the repair of appliances, watches, jewelry, and musical instruments.

Replacement

Removing the pre-existing wireless support structure and constructing a new wireless support structure of proportions and of equal height or such other height that would not constitute a substantial modification to a pre-existing wireless support structure in order to support a wireless communications facility or to accommodate collocation.

Residence (see *Dwelling*)

Residential District

An area used primarily for dwellings and refers to R1, R2, FR, and LR Districts in this Ordinance.

Resort

Properties which provide only seasonal, transient, recreational accommodation and maintain a single year-round on-site owners' residential dwelling. An area privately owned and devoted primarily to outdoor recreational uses conducted for profit such as swimming, boating, fishing, hunting, camping, picnicking, winter sports and similar uses.

Restaurant

A building or structure in which food and drinks are prepared primarily for sale and consumption including incidental take-out service.

Restaurant, Drive-in

A facility and its adjacent parking area wherein the primary function is to offer for sale food to the public by order from and service to passengers in vehicles parked outside of the structure. Drive-in restaurants may also provide seating within the restaurant and on the premises.

Restaurant, Eat-In

A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales typically constitute more than fifty percent of the gross sales receipts.

Restaurant, Fast Food

A commercial establishment where customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or which are able to be taken to a table or counter to be consumed.

Retail Business Not Otherwise Covered (Retail Uses)

Commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the business.

Retreat Center

A facility used for professional, educational, or religious meetings, conferences, or seminars which provides meals, housing, and recreation for participants during the period of the retreat or program.

Riding Stable

An establishment that shelters and offers upkeep to horses for use by patrons and private owners. Stables generally include grazing pastures and land designated for horseback riding.

Right-of-Way

Property occupied or intended to be occupied by a street, trail, utility transmission line, or other public utility or facility.

Right-of-Way Line

The limit of publicly owned land encompassing a public facility, such as a street or an alley as measured in the county highway office thoroughfare maps.

Road (see Street)**Roadside Sales Stand – Agricultural Products**

A stand or kiosk located along the side of a road where a farmer or other agricultural vendor sells agricultural and/or other agricultural products that they have grown, raised, or produced, directly to consumers.

S**Sales Barn for Livestock Resale (Livestock Raising and Breeding)**

The production and upkeep of livestock for the purposes of sale, including the feeding, sheltering, grazing, and shipping of livestock, including the storage of all necessary materials and equipment.

Satellite Dish/Antenna

An apparatus capable of receiving communications from a transmitter relay located in a planetary orbit or broadcasted signals from transmitting towers.

School, Commercial (Trade or Business)

A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as technology, cosmetology, accounting, data processing, and computer programming and repair. The terms commercial, trade or business schools are intended to include vocational schools and career centers.

School, Pre-K through 12

A public, private, or parochial institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the State of Indiana school laws and/or regulations, including pre-school, kindergarten, elementary school, and junior and senior high schools.

School, University or College (see University or college)

Seasonal Hunting or Fishing Lodge

Recreational uses that tend to serve a regional area and include establishments such as riding stables, seasonal hunting and fishing facilities, and outdoor shooting ranges.

Self Service Laundry

A business with vending machine type washing, drying, dry-cleaning, and ironing equipment for use by customers on site.

Setback

The horizontal distance between a structure and a lot line or right-of-way line.

Sexually Oriented Business

(Refer to Town of Nashville definition Section 118.02)

Shade Tree (see *Tree, Shade*)**Shoe Repair Shop**

An establishment that primarily repairs shoes, with incidental sales of shoe related items.

Shopping Mall

A shopping center where numerous stores front on a pedestrian way that may be enclosed or open.

Shrub, Ornamental

A shrub planted primarily for its ornamental and screening value, not to be confused with a perennial.

Side Lot Line

A lot boundary line other than a front or rear lot line, typically those which are perpendicular to, and intersect with the front and rear lot lines.

Side Yard

A yard, between the principal building and the adjacent side lot line, that extends from the front yard, or street right-of-way where there is no front yard, to the rear yard, and the width of which is the least distance between the side lot line and the adjacent side of the building.

Sight Visibility Triangle

Triangular shaped areas on each corner of an intersection that are looked through by drivers approaching or departing an intersection to view oncoming traffic on crossing streets and roadways.

Sign

Any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct or attract attention to an object, idea, opinion, position, proposition or plan of action, person, institution, organization, business, product, service, event, or location by any means, including, without limitation, words, letters, figures, design, symbols, fixtures, colors, illumination, projected images, or movement.

Sign Permit

A permit issued by the Director on behalf of the Plan Commission must be obtained before temporary and permanent signs are erected.

Sign Setback

The distance between any property line or right-of-way and the nearest portion of any sign at or above grade level.

Sign, Animated

Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an electronic sign, an animated sign produces the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through using the characteristics of one (1) or both of the following classifications: 1) flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds; 2) patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.

Sign, Area

The entire face of a sign including the message surface and any framing or trim but excluding any poles or other supports. Sign area is measured as the maximum vertical dimension of the face area multiplied by the maximum horizontal dimension of the face area, each at its largest point.

Sign, Billboard (see *Advertising Sign or Billboard*)

Sign, Directional (see *Directional Sign*)

Sign, Electronic

Any sign or portion of a sign that uses changing lights or form a sign message or messages in text or picture form, wherein the sequences of messages and the rate of change is electronically programmed and can be modified by electronic processes.

Sign, Face

The area or display surface used for the message.

Sign, Height

The highest point measured from adjacent street grade level to the highest point of the sign, including any structure, frame, light fixture, or other element of the sign.

Sign, Illuminated

A sign lighted by or exposed to artificial lighting either by internal or external illumination.

Sign, Temporary

An on-premise sign not fixed to a permanent foundation and displayed for a fixed period of time, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

Sign, Vehicle

A sign that is attached to or painted on a parked vehicle for the purpose of drawing attention to the product, business, or property which is indicated on the sign that is affixed to a motor vehicle or trailer.

Site Development Plan

The plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, vegetative cover, landscaping and screening within a site proposed for development which is to be submitted for approval prior to the release of Improvement Location Permits on the site consistent with the requirements of the IC 36-7-4-1400 series.

Site Improvement

The erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing, or remodeling of any new or existing structure or any part thereof and any activity for which an improvement location permit is required.

Slaughterhouse (Animal Products Processing)

The processing or treatment of animals and animal material as a raw resource for refinement as food and non-edible products.

Small Cell Facility

(1) a personal wireless service facility (as defined by the Federal Telecommunications Act of 1996, as in effect on July 1, 2015); or, (2) a wireless service facility that satisfies the following requirements: (A) each antenna, including exposed elements, has a volume of three (3) cubic feet or less; (B) all antennas, including exposed elements, have a total volume of six (6) cubic feet or less; (C) the primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less. For purposes of part (2)(C) of this definition, the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure: electric meters; concealment equipment; telecommunications demarcation boxes; ground based enclosures; backup power systems; grounding equipment; power transfer switches; and cut-off switches.

Small Cell Network

A collection of interrelated small cell facilities designed to deliver wireless service.

Solid Waste

Is defined for the purposes of this ordinance, as it is defined in the Indiana Code.

Solid Waste Convenience Station Facility

A facility where household solid waste, transported to the facility by the generating household, is transferred from a vehicle to a collection container. The term does not include the following: (1) a facility accepting commercially generated and/or collected solid waste; (2) a recycling facility.

Solid Waste Transfer Station Facility

A facility where solid waste is transferred from a vehicle or a container to another vehicle or container for transportation. The term does not include the following: (1) a facility where the solid waste that is transferred has been generated by the facility; (2) a solid waste convenience station facility; (3) a recycling facility.

Sorority, Educational (see *Fraternity, Sorority and Student Co-ops*)

A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of the institution.

Sorority, Social

A private club of individuals organized around a civic, social, or intellectual goal or pursuit. See also Private Club.

Special Exception

The authorization of a use that is designated as such by Section 3.1 as being permitted in the district concerned if it meets special conditions and, upon application, is specifically authorized by the Board under Section 3.3.

Stadium or coliseum (Amphitheater)

An open-air venue for spectator sports, concerts, rallies, and theatrical performances.

State

The State of Indiana.

State Arterial Highway

A state highway primarily for heavy through traffic, capable of handling high traffic volumes.

State Feeder Highway

A state highway primarily for medium through traffic, capable of handling medium traffic volumes.

Stationer (Stationery Shop)

An establishment that primarily sells stationery, paper, cards, writing utensils, and various related items.

Stealth Design

Shall include those design and construction techniques used to disguise WCF and support structures and /or conceal an antenna array. Examples include, but are not limited to, rooftops, flagpoles, light poles, bell and clock towers, signs, water towers, silos, steeples, and chimneys.

Stop-Work Order

A written document issued by an enforcement official which requires the cessation of an activity.

Storage, Outdoor (see *Outdoor Storage*)**Story**

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling above it.

Stream Bank

The usual boundaries, not the flood boundaries, of a stream channel.

Street

A partially or fully improved public thoroughfare, including a road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords vehicular access to abutting property.

Street Frontage

The distance along which a property line of a lot abuts the right-of-way of an adjacent street.

Street Intersecting

Any street that joins another street at an angle, whether or not it crosses the other street.

Street Intersection

The point of crossing or meeting of two or more streets.

Street Orientation

The direction of the architectural front façade of a building in relation to the street.

Street Vista

A view framed by buildings at the termination of the axis of a thoroughfare.

Street, Arterial (see *Major Street*)**Street, Collector**

A street designed and used to carry moderate volumes of traffic from local streets to arterial streets. Collector streets are identified on the Thoroughfare Plan within the Comprehensive Plan.

Street, Cul-de-sac

A street with a single common ingress and egress and with a turn-around at the end.

Street, Local (see *Local Street*)**Street, Non-Residential**

Any street where the primary land use of the lots which the street provides access to, as well as the lots on either side of the street is not residential.

Street, Private

Any street which is privately owned and maintained that is used to provide vehicular access to more than one property or dwelling unit.

Street, Public

A street constructed and maintained by a unit of government within an officially deeded and accepted public right-of-way.

Street, Residential

Any street where the primary land use of the lots which the street provides access to, as well as the lots on either side of the street is residential.

Structural Alterations

Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams or girders, or any substantial change in the footprint or increasing size of living space.

Structure

Anything constructed or erected that requires location on or in the ground or attachment to something having a location on or in the ground.

Structure Height (see *Building Height*)

Studio, Art/Artist

An establishment for the conducting of one or more of the following activities: painting, sculpturing, jewelry making, weaving or other similar functions defined as a fine art.

Studio, Performing Arts (see *Dancing Academy*)

Subdivision

The division of any lot, tract or parcel of land into two or more lots, parcels, sites or other divisions for the purpose, whether immediate or future, of sale, transfer, gift, or lease which results in one or more new building sites.

Substantial Modification

Any alteration, repair, enlargement or extension of an existing building. Such substantial modification is considered to occur when the first alteration of any wall, ceiling, floor or other structural element of the building commences. This term does not, however, include either (1) any project for improvement of a structure to comply with existing health, sanitary or safety code specifications or (2) any alterations of a structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects.

Substantial Modification Wireless

A wireless support structure means the replacement of a wireless support structure and/or the mounting of a wireless facility on a wireless support structure in a manner that: (1) increases the height of the wireless support structure by the greater of: (A) ten percent (10%) of the original height of the wireless support structure; or, (B) twenty (20) feet; (2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of: (A) twenty (20) feet; or, (B) the width of the wireless support structure at the location of the appurtenance; (3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet; or, (4) any improvement that results in a structure which fails to meet the General Standards and Design Requirements for Wireless Communications Facilities set forth in Chapter 12 of this Ordinance. The term does not include the following: (1) Increasing the height of a wireless support structure to avoid interfering with an existing antenna; (2) Increasing the diameter or area of a wireless support structure to: (A) shelter an antenna from inclement weather; or, (B) connect antenna to the wireless support structure by cable.

Supermarket (see *Grocery Store*)

Support Structure

Any structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device used to attach an attached WCF to an existing building or structure shall be excluded from this definition.

Swimming Pool (see *Private Swimming Pool*)

I

Tailor and Pressing Shop (Tailor Shop)

An establishment that alters and repairs clothing for patrons.

Tavern

A building or part thereof where, in consideration for payment therefore, liquor, beer, wine or any combination thereof are served primarily for consumption on the premises, with or without food. The term "bar" includes the term "tavern," but shall not be interpreted to include the phrase "package liquor store."

Telecommunications

The transmission of information between or among geographic points without change in the form or content of the information as sent or received.

Telecommunications Antenna

Any structure or device, including all appurtenances, used for the purpose of collecting or radiating electromagnetic waves, including those used to transmit cellular telephone service, data, radio and television signals, and any other information.

Telecommunications Tower

A mast, pole, monopole, guyed, or freestanding framework, or other vertical structure that acts as an antenna or to which an antenna is affixed or attached.

Telephone Exchange or Public Utility Substation (see *Utility Facility*)

Temporary Use (see *Use, Temporary*)

Temporary WCF

Any portable antenna array or attached WCF that is designed for temporary placement and does not require the construction of a support structure.

Theater, Indoor

An indoor facility for audio and visual productions and performing arts.

Theater, Outdoor

A type of theatre located outdoors consisting of a large outdoor screen, a projection booth, a concession stand and a large parking area for automobiles. Also known as a Drive-In Theater.

Through Lot (see *Lot, Through*)

Topography

The configuration of the earth's surface, including the relative relief, elevations, and position of land features.

Tourist Home

A building in which not more than 5 guest rooms are used to provide or offer overnight accommodation to transient guests for compensation.

Tourist Home Building

A building in which a tourist home is operated.

Tower

A ground pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, a meteorological device, or other similar apparatus above ground.

Transmission Line for Gas, Oil, Electricity, or Other Utilities (Public Utility Structure)

Electric and telephone substations and distribution centers, filtration plants, pumping stations and water reservoirs; public or package sewer treatment plants, telephone exchanges; radio and television transmitting or relay stations; antenna towers and other similar public utility service structures.

Transportation Facility

Any existing or new highway, road, bridge, tunnel, toll road, overpass, ferry, mass transit facility, vehicle parking facility, rail facility, intermodal facility, or similar facility open to the public and used for the transportation of persons or goods, together with any buildings, structures, parking areas, appurtenances, or other property needed to operate such facility.

Travel Trailer Park

An area of land on which 2 or more travel trailers are regularly accommodated with or without charge, including any building or other structure, fixture, or equipment that is used or intended to be used in connection with providing that accommodation.

Tree

A woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

Tree, Deciduous

Trees and shrubs that shed their leaves annually.

Tree, Evergreen

Trees and shrubs that do not shed their leaves annually.

Truck Freight Terminal

An area and building where trucks and cargo are stored, where loading and unloading is carried on regularly, and where minor truck maintenance is performed.

U**University or College**

An institution, public or private, for post-secondary education offering courses in general, technical, or religious education. This use typically operates in buildings owned or leased by the institution for administrative and faculty offices, student and faculty housing, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, community rooms and facilities, athletic facilities, fraternities, or sororities. A university may include for-profit businesses and facilities that are incidental to the educational, cultural, and athletic functions and which lease space from the institution.

Use

The purpose for which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

Use Classification

A group of similar use types that are associated with each other to such an extent that they are grouped together for the purpose of identifying land uses by this Ordinance, such as retail uses, office uses, personal service uses, and general industrial production.

Use, Change of

The discontinuation of the specific primary use of a lot or structure and the replacement of that use with a different specific use.

Use, Existing

The use of a lot or structure present at the effective date of this Ordinance.

Use, Illegal

Any use that is neither legal nonconforming or permitted by right or special exception in the zoning district in which it is located as defined by this Ordinance.

Use, Permitted

Any use listed as a permitted use in this Ordinance, or which is an accessory or temporary use associated with a permitted use for the zoning district in which it is located.

Use, Primary

The main use of land or structures as distinguished from an accessory use. A primary use may be either a permitted use or a special exception use.

Use, Temporary

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

Utility Facility (see *Public or Commercial Water Supply or Sewage Disposal Plant*)

Utility Pole

A structure that is owned or operated by public utility, communications service provider, municipality, electric membership corporation, or rural electric cooperative and that is designed and used to carry lines, cables, or wires for telephony, cable television, or electrical transmission, or to provide lighting. The term does not include a wireless support structure or an electrical transmission tower.

Utility Substation

A building or structure used for the distribution or transmission of utilities such as water, gas, electricity, or sewer.

Utility Structure

Any structure owned and/or operated by a public utility regulated by the Utilities Regulatory Commission (URC), excepting all WCF and/or support structures.

V**Vacation**

The termination or termination of interest in a plat, an easement, or a right-of-way or other public dedication.

Variance

A special authorization granted under Section 3.4, to deviate from what the ordinance otherwise prescribes.

Variety Store

A retail establishment that sells a multitude of consumer goods.

Vehicle

A device used as a mode of transportation of persons and/or goods including but not limited to automobiles, semi-tractor trailers, all types of trailers, snowmobiles, recreational vehicles, motorcycles, and like devices.

Veterinary Hospital for Small Animals (Animal, Clinic or Hospital)

An establishment for the treatment, care, observation or treatment of small domestic animals. This facility may have indoor or outdoor kennels.

Vineyard or Orchard

A facility in which fruit is grown and grapes processed for retail and commercial sales or to be made into wine. The development may include incidental uses such as a retail shop, standard restaurant, bar or live entertainment.

W**Warehouse**

An enclosed or unenclosed facility for the storage, wholesale, and distribution of manufactured products, supplies, and equipment.

Warehousing, Petroleum Products

An enclosed facility for the secure storage, wholesale, and distribution of petroleum products, supplies, and equipment in order to minimize risk of fire and/or explosion.

Waste, Hazardous (see *Hazardous Waste*)**Water Park**

An amusement park that features water play areas such as swimming pools, water slides, splash pads, water playgrounds, and lazy rivers, as well as areas for floating, bathing,

swimming, and other barefoot environments. Modern water parks may also be equipped with some type of artificial surfing or bodyboarding environment, such as a wave pool or flow rider.

Water Tower

A tower or standpipe that functions as a reservoir providing water to the community.

Wetland

Areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support vegetation typically adapted for life in saturated soil conditions as identified by the National Wetlands Institute and certified by an individual with a U.S. Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification.

Wholesale Business or Wholesale Produce Terminal (Wholesale Facility)

An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers.

Wireless Communications Facility or Wireless Facility

The set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

Wireless Communications

Any wireless services as defined in the Federal Telecommunications Act, which includes FCC licensed commercial wireless telecommunications services (PCS, specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and other similar services that currently exist or that may in the future be developed.

Wireless Communications Facility or Wireless Facility

The set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

Y

Yard

A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this ordinance.

Yard Sale (see Garage Sale)

Yard, Front (see Front Yard)

Yard, Rear (see Rear Yard)

Yard, Side (see Side Yard)

Z

Zipline

An inclined cable or rope with a suspended harness, pulley, or handle, down which a person slides for amusement.

Zoning District

A section of land for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces around buildings, are established by this Ordinance.

Zoning Inspector

Person responsible for the enforcement of the Zoning Code hired by the Director.

Zoning Map

A map of Brown County, Indiana that legally denotes the boundaries of zoning districts as they apply to the properties within the Area Plan Commission's jurisdiction.

CHAPTER 2 – DISTRICTS

2.1 KINDS OF DISTRICTS: ESTABLISHMENT

A. The unincorporated areas of the county are divided into the following districts:

1. **FLOOD PLAIN DISTRICT (FP)** is designed to guide development in those areas identified as approximate 100 year flood boundaries by the Flood Boundary and Floodway Maps for Brown County, Indiana, by the Indiana Department of Natural Resources, by the Federal Emergency Management Agency, or as Zone A on the Flood Insurance Rate Maps for Brown County, Indiana. The FP district may stand by itself or it may be combined with any other district.
2. **FLOOD-WAY DISTRICT (FW)** is designed to guide development in areas identified as a floodway by the Flood Boundary and Floodway Maps for Brown County, Indiana, by the Department of Natural Resources, or by the Federal Emergency Management Agency based on a detailed flood hazard area assessment. The FW district may stand by itself or it may be combined with any other district.
3. **FLOOD-WAY FRINGE DISTRICT (FF)** is designed to guide development in areas identified as a floodway fringe by the Flood Boundary and Floodway Maps for Brown County, Indiana, by the Indiana Department of Natural Resources, or by the Federal Emergency Management Agency, based on detailed flood hazard area assessment. The FF district may stand by itself or it may be combined with any other district.
4. **FOREST RESERVE DISTRICTS (FR)** are established to include land that is for the most part rough terrain and where there is extensive public ownership of forest lands.
5. **PRIMARY RESIDENCE DISTRICTS (RI)** are established to include areas that can be served by water or sewage utility systems, principally along State Highways and at present urban centers.
6. **SECONDARY RESIDENCE DISTRICTS (R2)** are established to include areas that have been subject to urbanization on a scattered pattern, principally along County Highways.
7. **LAKE RESIDENCE DISTRICTS (LR)** are established to include areas that adjoin extensive bodies of water in the county and are suitable for seasonal or permanent residences.
8. **GENERAL BUSINESS DISTRICTS (GB)** are established to include areas that are appropriate to all kinds of business and services.
9. **ACCOMMODATION BUSINESS DISTRICTS (AB)** are established to include areas that are close to LR Districts and appropriate to the limited shopping and service needs of those districts.

10. **INDUSTRIAL DISTRICTS (I)** are established to include most of the existing industrial facilities and areas best suited for future industrial use because of location, accessibility, and other conditions.

B. In the "FP", "FW" and "FF" Districts established herein, the degree of flood protection established in this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations.

Large floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes such as ice or debris jams. This ordinance does not imply that areas outside flood hazard districts as defined here-in, will be free of flooding or flood damage. This ordinance does not create any liability on the part of the County of Brown, Indiana, the Plan Commission, the Department of Natural Resources, the State of Indiana, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

C. All three districts, FP, FW, FF are subject to flooding by the regulatory flood. The "Flood-Way and "Flood-Way Fringe" districts are always to be used together. The "Flood plain" district is used by itself and does not overlap either of the other districts.

D. If a high quality assessment of flood hazard areas has been made, the use of the "flood-way" - "flood-way fringe" combination can be used. Use of these two districts requires a definition of the area flooded by the one hundred year flood, the breakdown of this area into the two districts and a profile of that flood. If flood prone areas have been identified (with or without flood profiles) and floodway data is unavailable, the "flood plain district" should be used.

E. If a FIA Flood Insurance Study has been completed for a community, the flood plain, flood-way or flood-way fringe district delineations should reflect at a minimum the delineations published in the Flood Insurance Study.

2.2 BOUNDARIES IN GENERAL

A. The boundaries of the districts established by Section 2.1 are as shown on the zone maps, which are a part of this ordinance. Except as provided by Section 2.3, Section 2.4 and Section 2.5 such boundaries may be changed only by amending this ordinance.

B. When the exact boundaries of a district are uncertain, they shall be determined by use of the scale in the zone maps or, in the case of a flood plain, by the Indiana State Department of Natural Resources-Division of Water, The Corps of Engineers, The U.S. Geological Survey or other reliable sources.

C. When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated.

D. If the boundary line of a district divides a lot having frontage on a street so that the front

part of the lot lies in one district and part of the lot lies in another, a restriction that applies to the front part of the lot applies to the entire lot.

2.3 BOUNDARIES: FLOOD DISTRICTS

The flood plain districts (areas subject to inundation by the regulatory flood) as identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Brown County, Indiana" dated January 3, 1986, with the accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps along with any subsequent revisions to text or maps are hereby adopted by reference and declared to be a part of this ordinance. The zone maps of this ordinance are hereby amended to conform to the boundaries of the Flood Plain (FP) District, the Floodway Fringe (FF) District, and the Floodway (FW) District as defined in Section 2.1 (a), and as delineated on the Flood Insurance Rate Map and the Flood Boundary and Floodway Map.

1. Where land was formerly designated as a FP District only, but is no longer included as a FP District by this amendment, and where said land is bounded on all sides by the same zone as determined by the zone map, then said land shall be zoned the same as the surrounding land.
2. Where said land is bounded by a State or County Highway and is bounded on all other sides by one zone as determined by the zone map, said land shall be zoned pursuant to the terms of Section 2.5 of this Ordinance as to that portion of the land to which Section 2.5 applies, the balance of said land shall be zoned to conform with the zoning of the surrounding area as shown on the zone map.
3. Where said land is bounded by land which is zoned according to the zone map by two or more different zones, then said land shall be rezoned by further amendment to this ordinance by the proper legislative body.

2.4 BOUNDARIES: FOREST RESERVE DISTRICTS

The boundary of an FR District will be subject to change as the boundaries of R1, R2, and LR Districts are adjusted as provided in Section 2.5.

2.5 BOUNDARIES: RESIDENTIAL DISTRICTS

- A. The boundaries of R1 and R2 Districts, other than those specifically shown on the Zone Map, are intended to be parallel, or approximately parallel, to the existing state and county highways and include lands adjacent to those highways for a distance of 300 feet on each side of the highway centerlines, the R1 District adjoining the state highways and the R2 District adjoining the county highways; however, any parcel of land fronting on a public high-way and having a lot width of at least 100 feet, to be improved for one principal building, or as a subdivision for which a plat is to be recorded, is included within the R1 District, if adjoining a state highway, or the R2 District, if adjoining a county highway, irrespective of the distance between the highway centerline and the rear lot line.

B. The boundary of an LR District, other than specifically shown on the Zone Map, shall include residential lands adjoining a newly established reservoir at a site approximately as shown in the county comprehensive plan upon the approval of a Development Plan by the Commission in accordance with Title III of this ordinance.

CHAPTER 3 - AUTHORIZED USES

3.1 PRIMARY USES

Primary uses are authorized in the districts established by or under Section 2.1, as shown in the following table, where the district designation is marked with an **asterisk**, the use is permitted in that district only if a special exception has been granted under Section 3.4. Where it is marked by a **double asterisk**, the use is permitted in that district only if it has been approved by the Commission as necessary to the convenience of employees and effective operation of an Industrial use.

3.2 ACCESSORY USES

A. Accessory uses such as the following are authorized in all districts:

- Bird baths and bird houses
- Buildings (such as garages, studios and tool sheds)
- Curbs
- Driveways
- Fences and hedges
- Lamp posts
- Mail boxes
- Name plates
- Parking spaces
- Public utility installations (such as utility wire poles, hydrants, and telephone booths)
- Retaining walls
- Trees, shrubs, plants, and flowers
- Walks

B. For any primary use for which a special exception is prescribed by Section 3.1, an outdoor sign that advertises that use is authorized as an accessory use, if the sign is located on the same property as the use and the sign is approved by the Board. Directional signs may be allowed if approved by the Board.

C. Accessory buildings may not be used or designed for human occupancy, and accessory uses involving human occupancy may not be established, except as permitted in this Part of Section 3.2. In all Zoning Districts, one accessory dwelling unit may be established on a lot. The minimum total floor area shall be 400 square feet. The maximum total floor area shall be the lesser area of 1300 square feet or 75% of the primary building's total floor area. The accessory dwelling unit shall be served by a community sewage disposal system or by an individual sewage disposal system. The accessory dwelling unit may be served by the primary use's individual sewage disposal system if the system is appropriately sized and found to be in compliance with the Brown County Septic Ordinance. The height and setback standards of Chapter 4 of the Zoning Ordinance apply to the accessory dwelling unit. The accessory dwelling unit must remain accessory to the primary use and shall not be sold separately, or otherwise divided, from the primary use. Accessory dwelling units may not be used as tourist homes or for other short-term rental purposes. Accessory dwelling units may be rented for minimum rental periods or terms of 31 days.

3.3 FLOOD PLAIN (FP), FLOODWAY (FW), AND FLOOD FRINGE (FF) USES

A. In Floodway (FW) Districts and Flood Plain (FP) Districts, the following uses are authorized, provided they do not involve the erection of any structure or obstruction, the opening of any excavation or the disposition of any material or substance, and comply with other provisions of this ordinance.

1. Agriculture uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.
2. Forestry, wildlife areas, and nature preserves.
3. Parks and recreational uses, such as golf courses, driving ranges, and play areas.

<u>PRIMARY USE</u>	<u>DISTRICTS IN WHICH PERMITTED</u>							
	FP	FR	R1	R2	LR	GB	AB	I
<u>RESIDENTIAL USES</u>								
Boarding or lodging house						GB	AB	
Dwelling, single family		FR	R1	R2	LR	GB	AB	
Dwelling, two-family		FR	R1	R2		GB	AB	
Dwelling, multi-family			R1*	R2*		GB	AB	
Equipment storage	FP*	FR*	R1*	R2*		GB	AB	I
Farm seasonal worker housing		FR	R1	R2	LR	GB		I
Fraternity, sorority, or student cooperative		FR	R1	R2	LR	GB		
Home for the aged		FR		R2	LR	GB		
Nursing home		FR		R2	LR	GB		
Private swimming pool	FP	FR	R1	R2	LR	GB		I*
<u>AGRICULTURAL USES</u>								
Artificial lake of 3 or more acres	FP*	FR*	R1*	R2*	LR*	GB*		I*
Commercial greenhouse	FP*	FR*		R2*	LR*	GB		I*
Farm	FP	FR	R1	R2	LR	GB	AB	I
Plant nursery	FP	FR	R1	R2	LR	GB	AB	I
<u>INDUSTRIAL USES</u>								
Bottled gas storage & distribution		FR*						I*
Industrial Park								I*
Industry, general		FR*						I*
Industry, light	FP*	FR*					GB	I
Junk yard		FR*						I*
Liquid fertilizer storage and distribution		FR*						I*
Manufacturing, storage or I**	FP**	FR**						
use of explosives								
Mineral extraction		FR*						I
Mineral extraction, borrow pit, topsoil removal, storage areas	FP*	FR*						I*
Petroleum tank farm		FR*						I*
Radio & Television Tower	FP*	FR*	R1*	R2*	LR*	GB*	AB*	I*
Slaughterhouse		FR*					GB*	I*
Truck freight terminal						GB*		I*

<u>PRIMARY USE</u>	<u>DISTRICTS IN WHICH PERMITTED</u>							
	FP	FR	R1	R2	LR	GB	AB	I
PUBLIC FACILITIES								
Airport or heliport		FR*	R1*	R2*	LR*			I*
Church or temple		FR	R1	R2	LR	GB	AB	
Kindergarten or day nursery	FP	FR	R1	R2	LR	GB	AB	I
Municipal or government building		FR	R1	R2	LR	GB	AB	I
Penal or correctional institution		FR*		R2*				I*
Police station or fire station		FR*	R1*	R2*	LR*	GB*		I*
Public art gallery, library or museum		FR	R1	R2	LR	GB	AB	
Public park or recreational facility - boat docks	FP	FR	R1	R2	LR	GB	AB	I
Public or commercial sanitary fill, refuse dump, or garbage disposal plant		FR*			R2*			I*
Public or commercial water supply or sewage disposal plant	FP*	FR*	R1*	R2*	LR*	GB*	AB*	I*
Public/Employee parking area	FP*	FR*	R1*	R2*	LR*	GB*	AB*	I*
Railroad right-of-way and necessary uses	FP*	FR*	R1*	R2*	LR*	GB*	AB*	I*
Recycling Facility	FP*	FR*	R1*	R2*	LR*	GB*	AB*	I*
School, public or parochial		FR	R1	R2	LR		AB	
Solid waste convenience station	FP*	FR*	R1*	R2*		GB*	AB*	I*
Solid waste transfer station		FR*			R2*			I*
Telephone exchange or public utility substation	FP*	FR*	R1*	R2*	LR*	GB*	AB*	I*
Trade or business school						GB		I
Transmission line for gas, oil, electricity, or other utilities	FP*	FR*	R1*	R2*	LR*	GB*	AB*	I*
University or college		FR	R1	R2	LR	GB	AB	
Wireless Communication Facilities (9)	FP*	FR*	R1*	R2*	LR*	GB*	AB*	I*
BUSINESS USES: APPLIANCES								
Electrical appliance sales & service						GB		
I**								
Radio-TV service and sales						GB		
I**								
Other similar uses						GB		
I**								

<u>PRIMARY USE</u>	<u>DISTRICTS IN WHICH PERMITTED</u>						
	FP	FR	R1	R2	LR	GB	AB

BUSINESS USES: AUTOMOTIVE SALES

Automobile sales room						GB	
I**							
Automobile or trailer sales area, open						GB	
I**							
Automobile repair (all indoors)						GB	
I**							
Filling or service station						GB	AB
I**							
Public garage						GB	
I**							
Public parking area						GB	AB
I**							
Other similar uses						GB	
I**							

BUSINESS USES: CLOTHING SERVICES

Dressmaking shop						GB	
I**							
Dry cleaning establishment (1)						GB	
I**							
Laundry agency						GB	AB
I**							
Millinery shop						GB	
I**							
Self-service laundry						GB	AB
I**							
Shoe repair shop						GB	AB
I**							
Tailor and pressing shop						GB	
I**							
Other similar uses						GB	
I**							

BUSINESS USES: FOOD SALES AND SERVICES

Bakery						GB	
I**							
Dairy						GB	
I**							
Delicatessen						GB	AB
I**							

Grocery		GB	AB
**			
Locker, cold storage, for individual use		GB	
**			
Meat market		GB	AB
**			
Restaurant		GB	AB
**			
Roadside sales stand –	FP	FR	R1
**			
agricultural products			
Supermarket		GB	
**			
Wholesale produce terminal		GB*	I*
Other similar uses		GB*	
**			

BUSINESS USES: GENERAL BUSINESS

Bank GB
|**
Business or professional office GB AB
|**

PRIMARY USE

DISTRICTS IN WHICH PERMITTED

BUSINESS USES: PERSONAL SERVICES

Barber shop		GB	AB
**			
Beauty shop		GB	AB
**			
One operator barber or beauty shop	R1*	R2*	
Reducing salon			GB
**			
Other similar uses			GB
**			

BUSINESS USES: RECREATION

Billiard room (3)						GB	
I**							
Bowling alley (3)						GB	
I**							
Country club or golf course	FP*	FR*	R1*	R2*	LR*		I*
Dancing academy (3)						GB	
I**							
Lodge or private club		FR		R2	LR	GB	
I**							
Night club (3)						GB	
I**							
Private recreational development	FP*	FR*	R1*	R2*	LR*	GB*	AB*
Public camp		FR*		R2*	LR*		
Riding stable		FR*		R2*	LR*	GB*	AB*
Seasonal hunting or fishing lodge	FP*	FR*	R1*	R2*	LR*	GB*	I*
Stadium or coliseum		FR*	R1*	R2*		GB	
Tavern (3)						GB	I*
I**							
Theatre, indoor (3)						GB	
I**							
Theatre, outdoor		FR*		R2*		GB*	I*
Other business uses similar to those footnoted (3)						GB	

BUSINESS USES: RETAIL SALES

Apparel			GB	
I**				
Department store			GB	
I**				
Drugstore			GB	AB
I**				
Flower shop (2)			GB	AB
I**				
Gift Shop			GB	AB
I**				
Hardware store			GB	
I**				
Jewelry store			GB	
I**				

<u>PRIMARY USE</u>	<u>DISTRICTS IN WHICH PERMITTED</u>							
	FP	FR	R1	R2	LR	GB	AB	I
News Dealer I**						GB	AB	
Record shop I**						GB		
Retail showroom I**						GB		
Stationer I**						GB		
Variety store I**						GB		
Other similar uses I**						GB		
<u>BUSINESS USES: MISCELLANEOUS</u>								
Advertising sign or billboard I**						GB	AB	
Art gallery	FR	R1	R2	LR	GB	AB		
Bait sales	FP*	FR*	R1*	R2*	LR*	GB	AB	
Bed and Breakfast (8)	FR*	R1*	R2*	LR*	GB	AB		
Boat sales, service and storage I**					GB	AB		
Cemetery or crematory	FR*	R1*	R2*	LR*				
Clinic	FR*	R1*	R2*	LR*	GB	AB	I*	
Commercial facility for breeding and raising non-farm fowl or animals	FR*				GB*			
Farm equipment, sales and service I**					GB			
Flea market (see section 5.1)	FP*				GB*			
Home occupation (5)	FP	FR	R1	R2	GB*	AB	I	
Home Stay (6)	FR	R1	R2	LR	GB	AB		
Hospital	FR*	R1*	R2*	LR*	GB*			
Hotel or Motel I**	FR*	R1*			GB	AB		
Kennel I**	FR*				GB			
Mobile home park	FR*	R1*	R2*		GB*			
Mortuary		R1*	R2		GB			
Noncommercial signs	FP	FR	R1	R2	LR	GB	AB	I
On-premise commercial message signs	FP	FR	R1	R2	LR	GB	AB	I
Photographic studio I**					GB			
Planned unit development (4)	FP	FR	R1	R2	LR	GB	AB	I
Professional office		FR*	R1*	R2*				

Railway station or motor bus station					GB	
**						
Retail business not otherwise covered					GB	
**						
Sales barn for livestock resale			R2*		GB	I
Tourist home	FR*	R1*	R2*	LR*	GB	AB
Travel trailer park	FR*			LR*	GB*	
Veterinary hospital for small animals					GB	I*
Warehouse	FR*	R1*	R2*		GB	
Wholesale business					GB	I
**						

Footnotes

- 1 Only if it contains not more than 2 clothes-cleaning units, neither of which has a rated capacity of more than 40 pounds, and only if it uses non-explosive and non-flammable cleaning fluid.
2. Including greenhouse not larger than 1000 square feet in area.
3. Only if conducted in noise-proof building.
4. Only if Planned Unit Development procedures are followed as outlined in the Brown County Subdivision Ordinance.
5. Special Exception may or may not be required. See CHAPTER 5 - SPECIAL PROVISIONS Section 5.2 Home Occupations.
6. Home stay uses are subject to the home occupation regulations set forth in Chapter 5, section 2 of the Ordinance.
7. Regardless of zone, tourist homes shall comply with all relevant life, health and safety codes as a condition of improvement location permit issuance.
6. Home stay uses are subject to the home occupation regulations set forth in Chapter 5, section 2 of the Ordinance.
7. Regardless of zone, tourist homes shall comply with all relevant life, health and safety codes as a condition of improvement location permit issuance.
8. In addition to other reasonable conditions, the approval of a bed and breakfast establishment special exception shall be conditioned on continuing compliance with all relevant state health (I.C. Title 16, Article 41) and building code provisions. Regardless of zone, bed and breakfast establishments shall comply with all relevant life, health and safety codes as a condition of improvement location permit issuance.

9. Unless exempted from the special exception use permit requirement by Chapter 12.
- B. In Floodway Fringe (FF) Districts, the following uses are authorized. All facilities, structures, uses and buildings consistent with other provisions of this ordinance may be constructed in this district provided that the flood protection grade for all buildings shall be at least two feet above the regulatory flood profile.

3.4 SPECIAL EXCEPTIONS

- A. The Board may grant a special exception for a use in a district, if after a hearing under Section 7.2 it finds that:
 1. Section 3.1 authorizes a special exception for that use in that district;
 2. the requirements for special exceptions prescribed by this ordinance will be met; and,
 3. granting the exception will not subvert the general purposes served by this ordinance and will not materially and permanently injure other property or uses in the same district and vicinity.

In order to inform the public and to promote consistency and fairness, the Board may adopt standard guidelines and conditions for its use in determining whether a proposed special exception will subvert the general purposes served by this ordinance or will materially and permanently injure other property or uses in the same district and vicinity. A violation of a condition of special exception approval shall constitute a violation of the Ordinance which may be remedied in any manner authorized by this Ordinance or by statute.

- B. The granting of a special exception under subsection (a) is unnecessary for a use authorized by Section 3.1, if the use exists on the date this ordinance is passed. However, this subsection does not extend to the expansion of such a use, if it involves the enlargement of a building, structure or land area.
- C. To be eligible for the granting of a special exception under this section, a person must apply for an improvement location permit under Section 6.1. The Planning Coordinator shall send each such application to the Board of Zoning Appeals for action under item (a) above. If the Board grants the special exception, it shall direct the Planning Coordinator to issue the improvement location permit for the special exception.
- D. Construction of improvements shall begin within one year of the date of approval and completed within one year of the date construction began. However, the Commission may extend the completion date for one year provided the petitioner has made timely application to the Board for such an extension and that good cause is shown why it should be granted.
- E. Upon abandonment of a development authorized (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the terms of the

special exception approval for twelve consecutive months) or upon the expiration of an extension granted by the Board, the permission previously conferred for the development shall be deemed withdrawn and of no force or effect whatever.

3.5 FLOOD PLAIN (FP) AND FLOODWAY (FW) USES-BY SPECIAL EXCEPTION

A. In Flood Plain (FP) Districts the following uses may be permitted by special exception but only after a proper permit or letter of recommendation for same has been granted by Natural Resources. All terms and conditions imposed by Natural Resources shall be incorporated in any permit issued by the Planning Coordinator. However, the Board of Zoning Appeals may impose greater restrictions than those issued by Natural Resources. All buildings or additions to existing buildings shall have flood protection grades at least two feet above the regulatory flood profile.

1. Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawall, floodwalls, weirs, and irrigation facilities,
2. Transportation facilities, such as streets, bridges, roadways, fords, airports, pipelines, railroads, and utility transmission facilities.
3. Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands, and transient amusement facility sites.
4. Water-related urban uses, such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities, and water treatment facilities.
5. Other flood tolerant or open space urban uses, such as flood proofed buildings, racetracks, tennis courts, park buildings, outdoor theater, fills, truck freight terminals, radio or TV towers, parking lots, and mineral extractions.
6. Mobile homes (temporary or permanent) having pads (concrete or stands of compacted fill) at or above the regulatory flood elevation and ground anchors meeting Mobile Home Tie Downs; Schedule A. (Permitted in FF Districts only).
7. Residential structures (only in Flood Fringe areas).

B. In Flood Way (FW) Districts, the following special exception uses may be permitted only after a permit for construction in a floodway has been granted by Natural Resources. All terms and conditions imposed by Natural Resources shall be incorporated in any permit issued by the Planning Coordinator. However, the Board of Zoning Appeals may impose greater restrictions than those issued by the Natural Resources. All buildings or additions to existing buildings shall have flood protection grades at least two feet above the regulatory flood profile.

1. Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs and irrigation facilities.

2. Transportation facilities, such as streets, bridges, roadways, fords, airports, pipelines, railroads and utility transmission facilities.
3. Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands and transient, amusement facility sites.
4. Water related urban areas, such as wastewater treatment facilities, storm sewers, electrical generating and transmission facilities and water treatment facilities,
5. Other flood tolerant or open space urban uses, such as flood proofed industrial and commercial buildings, race tracks, tennis courts, park buildings, outdoor theaters, fills, truck freight terminals, radio or TV towers, parking lots and mineral extraction.

3.6 VARIANCES

- A. The Board may grant a variance with respect to specific property, if after a hearing under Section 7.2 of the Brown County Zoning Ordinance, it finds that:
 1. There are special circumstances relating to the property that do not generally affect other property or other uses of the same kind in the same district and vicinity.
 2. The special circumstances create hardship in that, if the variance is not granted, a substantial property right that is enjoyed by other properties in that district and vicinity cannot be enjoyed.
 3. The granting of the variance will not be materially detrimental to the public welfare or materially injurious to other property or uses in that district and vicinity.
- B. Variances issued for Floodway (FW), Flood Fringe (FF) or Flood Plain (FP) Districts shall be subject to the following additional restrictions:
 1. No variance for a residential use in a Floodway (FW) District shall be granted.
 2. No variance for a Floodway (FW) District shall be granted until a permit has been obtained from Natural Resources,
 3. Variances to the flood protection grade requirements in a Floodway Fringe (FF) District may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation.
 4. No variance for a Flood Plain (FP) District shall be granted until permit or letter of recommendation is issued by Natural Resources. If a letter of recommendation is issued by Natural Resources, the Board may apply the standards in (b).(3) of this section.
 5. A variance may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places of the Indiana State Survey of

Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects.

6. Variances shall give only the minimum relief necessary and only upon a showing of good and sufficient cause by the applicant.
7. The Board shall issue a notice to the recipient that the proposed land use change may be subject to increased risk of property loss and could require exceedingly high flood insurance premiums.

Placement of mobile homes in a floodway is prohibited except in the case of an existing mobile home park or subdivision.

- C. Any construction made possible by the granting of the variance must be completed within one year of the date of approval. However, the Board may extend the completion date for one year provided the petitioner has made timely application to the Board for such an extension and that good cause is shown why it should be granted. The approval of the variance by the Board for any construction which has not been completed within one year (two years if an extension is granted) shall be deemed withdrawn and of no force or effect whatever.

3.7 NON-CONFORMING USES

- A. A use that exists on the date on which this ordinance or an amendment to it is passed may, if otherwise lawful, be continued, and a more restricted use may be substituted for it, even though that use or the more restricted use does not conform to the ordinance or amendment. Such a use may be extended to other parts of the same building, if the extension involves no structural changes other than those required by law.
- B. A use otherwise covered by subsection (a) may not be carried on in a building that is erected after the use becomes a non-conforming use. However, a use designated for a building for which a building permit is issued before this ordinance or an amendment to it is passed may, if otherwise lawful, be carried on even though it does not conform to the ordinance or amendment, but only if:
 1. Construction is diligently carried on before the expiration of 90 days after the date of the permit; and
 2. The building is completed according to the filed plans before the expiration of 3 years after the date the ordinance or amendment, as the case may be, is passed.
- C. A use covered by subsection (a) or (b) ceases to be authorized if:
 1. It is discontinued for a 6-month period during which it is succeeded by no other non-conforming use; or
 2. It is an open use and 5 years have elapsed since the date the ordinance or amendment, as the case may be, was passed.

D. A use otherwise covered by subsection (a) or (b) may not be carried on in a building that is damaged, by more than one and one-half times its current assessed value, by fire, explosion, act of God, or the public enemy.

3.8 NON-CONFORMING USES: FLOOD PLAIN (FP), FLOOD WAY (FW), AND FLOOD FRINGE (FF)

Any building, structure or other use in a FP, FW or FF District, which is not in accordance with this ordinance constitutes a non-conforming use.

1. In a Floodway (FW) District, no non-conforming use may be expanded or enlarged nor can a building undergo substantial modification without a permit for construction in a floodway from Natural Resources.
2. A non-conforming use in a Floodway Fringe (FF) or Flood Plain (FP) District may be altered, enlarged, or extended on a one-time-only basis, provided the procedures set forth in this ordinance with respect to new construction in such Districts are followed and further provided such alterations, enlargements, or extensions do not increase the value of the building or other use (excluding the value of land) by more than forty (40) percent of its pre-improvement market value, unless such building, structure or use is permanently changed to a conforming use.
3. Any non-conforming use in the FP, FW and FF Districts, which is damaged by flood, fire, explosion, Act of God, or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings, excluding the value of the land by more than forty (40) percent of its pre-damage value.

3.9 ADDITIONAL RESIDENTIAL STRUCTURE FOR MEDICAL NECESSITY

A. A person may, with a special exception, and under the following circumstances, locate on the same lot or parcel where one residential structure currently exists, without the necessity of the subdivision of said lot or parcel, a mobile home for the purpose of caring for a sick or disabled family member of the applicant, whether or not such person currently resides in the existing structure, or intends to occupy the added structure, provided that the applicant present to the Area Plan Commission and the Board of Zoning Appeals a physician's statement specifically setting forth the nature of the disability or sickness, the probable duration thereof, and the physician's opinion that full-time care is necessary to assure the health and safety of the person alleged to be sick or disabled, and provided further that:

1. The mobile home so located is incidental or secondary to the currently existing residential structure (hereinafter referred to as "primary structure").
2. The "family member" and the person or persons to be caring for said family member are related and no further removed than a parent, child, grandparent, great-grandparent, aunt, uncle, brother, or sister.
3. There are no residential structures other than the primary structure existing on the lot or parcel.

4. The primary structure is a single-family dwelling.
5. The mobile home so located remains temporary, and no permanent or immobile structures are attached to it.
6. The addition of the mobile home on the lot or parcel will not create or add to unsanitary conditions.
7. The allowing of the mobile home shall not materially change the character of the zoning district and vicinity, materially lower the market value of adjacent property, or materially increase congestion in the streets.

B. Once an Improvement Location Permit has been issued under this Section, the mobile home and the person or persons to be occupying said mobile home must be moved in no later than 60 days from the date of the issuance of said Permit, or said Permit shall automatically expire.

C. An Improvement Location Permit issued under this Section shall be valid for one year from the date of issuance. The Permit may be renewed annually for an additional one year, provided that the holder thereof presents to the Plan Director an up-to-date physician's statement addressed to and satisfying the requirement set forth in Paragraph A above

D. An Improvement Location Permit issued pursuant to this Section, if renewed, may be renewed annually for two years only; should a third renewal be desired, the applicant must again appear before the Area Plan Commission and the Board of Zoning Appeals and show his entitlement thereto in the same manner as if this was an initial request. Before appearing, the applicant must again publish notice in the newspaper and circulate certified letters in the same manner as is required by this Ordinance for special exceptions.

E. If at anytime prior to the expiration of the term of the Permit the situation regarding the sick or disabled family member should change to the point that full-time care is no longer necessary, the applicant shall report that fact immediately to the Plan Director, and the Permit previously issued shall be withdrawn, and the mobile home shall be removed no later than 60 days thereafter. Should the applicant fail or refuse to either report such a change as aforesaid, or remove the mobile home within the allotted time, the Plan Commission may, in addition to all other remedies available to it, assess a fine in the sum of \$15.00 per day, and may also forever bar the applicant from again receiving an Improvement Location Permit under this Section of the Ordinance.

That Chapter 3 of said Zoning Ordinance be amended to reflect that additional residential structures for medical necessity shall be allowed by special exception only, and in any zoning district except FP.

CHAPTER 4 – USE REQUIREMENTS

4.1 HEIGHT OF STRUCTURES

- A. Except as otherwise provided by this section, no structure may be erected or changed so as to make its height greater than 25 feet if it is in an LR District, 35 feet if it is in an FR, R1, R2, GB, or AB District, or 75 feet if it is in an I District.
- B. A clinic that is authorized as a special exception under Section 3.3 may be erected or changed to a height not greater than 45 feet or the height prescribed for the district by subsection (a), whichever is the greater. A hospital that is authorized as a special exception under Section 3.3 may be erected or changed to a height not greater than 70 feet or the height prescribed for the district by subsection (a), whichever is the greater.
- C. In a GB District, a light industrial structure may be erected or changed to a height not greater than 75 feet. In an I District, an industrial structure may be erected or changed to any height.
- D. An agricultural structure may be erected or changed to any height necessary for its operation.
- E. In an FR, R1, or LR District, a multi-family structure may be erected or changed to a height not greater than 25 feet. However, up to a maximum of 35 feet, its height may exceed 25 feet by 1 foot for each foot that the side yards exceed those prescribed by this ordinance.
- F. The height of a business structure may exceed the height otherwise prescribed for it by this ordinance by 2 feet for each foot that the front and rear setbacks exceed the setbacks prescribed by this ordinance.
- G. Spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, penthouses, stacks, tanks, water towers, transmission towers, and necessary mechanical appurtenances may be erected or changed to any height that is not otherwise prohibited.

4.2 MAXIMUM LOT COVERAGE: RESIDENTIAL USES

The residential buildings on a lot may not exceed in coverage the following percentages of total lot area:

DISTRICT

	FR	R1	R2	LR	GB	AB
Percentage of Coverage	10	30	30	30	25	25

4.3 MINIMUM FLOOR AREA: RESIDENTIAL USES

No dwelling may be erected or changed so that its ground floor size, in square feet, is less than that prescribed by the following table:

<u>Kind of Dwelling:</u>	<u>DISTRICT</u>					
	FR	R1	R2	LR	GB	AB
A. One-Story Dwellings:						
1. Single-Family	240	900	500	500	600	600
2. Two-family			1000		1200	1200
3. Multi-Family (Same as two-family plus 400 sq. ft. per dwelling unit)						
B. More than One-Story Dwellings:						
1. Single-Family	240	800	500	500	600	600
2. Two-Family			1000		1000	1000
3. Multi-Family (Same as two-family plus 400 sq. ft. per dwelling unit)						

4.4 MINIMUM LOT SIZES: RESIDENTIAL USES

A. A lot on which a dwelling is erected or changed may not be smaller in area, in square feet per dwelling unit, exclusive of any portion of the lot which is under a body of water - using the high water mark to delineate its outer edge, than that prescribed for it by the following table:

<u>KIND OF DWELLING:</u>	<u>ACREAGE PER DWELLING UNIT DISTRICT</u>					
	FR	R1	R2	LR	GB	AB
Single-Family with Community Sewage disposal System	2	1	1	.16	.16	.16
Single-Family with Individual Sewage Disposal System	3	3*	3*	.50	.50	.50
Two-Family with Community Sewage Disposal System	1	.50	.50		.10	.10
Two-Family with Individual Sewage disposal System	3	1	1		.25	.25
Multi-Family with Community Sewage disposal System		.50	.50		.10	.10
Multi-family with Individual Sewage disposal System		1	1		.25	.25

* Minor Subdivided Lots 1.5 acre minimum/Major Subdivided Lots 1 acre minimum

B. A lot on which a dwelling is erected or changed may not be smaller in width, in linear feet, than prescribed for it by the following table:

<u>KIND OF DWELLING:</u>	<u>DISTRICT</u>					
	FR	R1	R2	LR	GB	AB
Single-Family	100	80	100	60*	60	60
Two-family	100	100	100		70	70
Multi-Family		120	150		80	80

* 100 feet, if an individual sewage disposal is used.

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

4.5 MINIMUM LOT SIZE: USES REQUIRING SPECIAL EXCEPTIONS

A lot on which one of the following uses is located may not be smaller in area than the area prescribed for that use opposite it in the following table:

<u>USE</u>	<u>MINIMUM LOT AREA</u>
Airport	80 acres
Cemetery or crematory	10 acres
Clinic	15,000 sq. ft.
Commercial facilities for raising and breeding non-farm fowl and animals	5 acres
Commercial greenhouse	25,000 sq. ft.
Heliport	1 acre
Home Occupation	*
Hospital	5 acres
Industry, light (FP)	4 acres with 200 feet lot width
Industrial Park	15 acres
Junk yard	10 acres
Kindergarten or day nursery	110 sq. ft per child
Mobile home park, or travel trailer park	5 acres (Minimum area per unit: 2500 sq. ft.)
Penal or correctional institution	320 acres
Police station or fire station	20,000 sq. ft.
Public camp	5 acres
Public or commercial dump, or garbage disposal plant	5 acres
Public or commercial sanitary fill,	

refuse dump	10 acres
Public or employee parking lot	1,500 sq. ft.
Recycling facility	.75 acre
<u>USE</u>	<u>MINIMUM LOT AREA</u>
Riding stable	20,000 sq ft. plus 5,000 sq. ft., for every horse over four
Seasonal fishing or hunting lodge	*
Solid waste convenience station	.75 acre
Solid waste transfer station	5 acre for FR and 2 acres for R2
Stadium or coliseum	5 acres
Tourist home	*
Wholesale produce terminal	15 acres

* The requirements of the district in which the use is located apply to the use.

4.6 STANDARD SETBACKS

A. The minimum distance between the front line of a building and the centerline of:

State Road 46 is 110 feet.

State Road 135 and State Road 45 is 75 feet.

All other roads, including private roads, is 50 feet.

However, if in a residence or business district 25 per cent of the lots in a block are occupied by buildings, the minimum setback for the block is the average setbacks of those buildings. A through lot has a setback on each abutting street.

B. The minimum depth of rear yard for a residential use is 15 feet in a GB, or AB District and 25 feet in any other district in which the use is permitted. The minimum depth of rear yard for a business or industrial use is 15 feet, except for service to water areas by business uses permitted in an AB District. One half of an alley abutting the rear of a lot may be counted as part of the rear yard.

C. The minimum side yard for a residential use is 5 feet in a GB, or AB District and 10 feet in any other district in which the use is permitted. The minimum aggregate width of both side yards for a residential use is 15 feet in a GB, or AB District and 25 feet in any other district in which the use is permitted.

D. Except where a business district adjoins a residence district, there is no minimum side yard for a business use. Where a business district is separated from an adjoining residence district by a street, the minimum side yard is 5 feet. Where the two districts adjoin within the same block, the minimum side yard is 10 feet.

E. Except where an industrial use adjoins a residence district, a side yard need not be provided for an industrial use. However, if a side yard is provided, it must be at least 6 feet. Where the use adjoins a residence district, the minimum side yard is 30 feet.

4.7 STANDARD SETBACKS

- A. In a residential district, an accessory building may be located no closer to a side lot line than 3 feet and no closer than the minimum front setback requirement allowed in 4.6 (a).
- B. If an interior lot abuts a corner lot or an alley separating them and the front yards of the two lots are perpendicular to each other, an accessory building on the rear lot line of the corner lot may be located no closer to the street abutting the interior lot than the principal building on the interior lot. However, for each foot that the accessory building is located away from the rear lot line of the corner lot the accessory building may be 4 inches closer to the street, but no closer than 5 feet.

4.8 SETBACKS: VISION CLEARANCE AT INTERSECTIONS

At the intersection corner of each corner lot, the triangular space determined by the two lot lines at that corner and by a diagonal line connecting the two points on those lot lines that are 15 feet respectively from the corner shall be kept free of any obstruction to vision between the heights of 2-1/2 and 13 feet above the elevation of the traveled area.

4.9 SETBACKS: USES REQUIRING SPECIAL EXCEPTIONS

- A. The following uses are subject to the special setbacks prescribed, in feet, by the following table. If no figure appears for a front yard setback, the standard setback prescribed by Section 4.6(a) applies.

<u>USE</u>	<u>FRONT</u>	<u>SIDE</u>	<u>REAR</u>
Bottled gas storage and distribution	300	300	300
Cemetery or crematory		50	50
Clinic		10	30
Commercial greenhouse	100	40	40
Commercial facilities for raising, and breeding non-farm fowl and animals	100	100	100
Hospital	100	40	40
Industrial park	100	75 (abutting residential use)	
Kindergarten or day nursery		20	15
Liquid fertilizer storage and distribution	300	300	300
Mineral extraction, borrow pit, or topsoil removal, and their storage areas	150	150	150
Mobile home park or travel trailer park	100	40	40
Outdoor theatre	100	40	40
Penal or correctional institution	100	100	100
Petroleum tank farm	300	300	300
Private recreation development		40	40
Public camp	100	40	40
Public or commercial sanitary fill, refuse, dump, or garbage disposal plant	300	300	300
Public or commercial sewage disposal plant	300	300	300
Recycling facility	standard setback	standard setback	standard setback

Riding stable	100	100	100
Sales barn for livestock resale	300	300	300
Slaughterhouse	200	200	200
USE	FRONT	SIDE	REAR
Solid waste convenience station	standard setback	standard setback	standard setback
Solid waste transfer station	300	300	300
Stadium or coliseum		50	50
Wholesale produce terminal	100	75 (abutting residential use) 35 (abutting other use)	
Wireless Communications Facility or Support Structure	Certified fall zone + 50 ft.	Certified fall zone +50 ft.	Certified Fall zone +50 ft.

B. Buildings associated with the following uses may be located no closer to interior roads than the distances, in feet, respectively prescribed by the following tables.

USE	SETBACK
Country club or golf course	85
Industrial park	85
Mobile home park	50
Public camp	40
Wholesale produce terminal	85

4.10 BUFFERING: MINIMUM DISTANCES FROM RESIDENTIAL DISTRICT OR USE

A. Mineral extraction area, borrow pit, or topsoil removal area (including storage area), penal or correctional institution, public or commercial sewage disposal plant, sales barn for livestock resale, truck freight terminal, or wholesale produce terminal may not be located closer to an R1, R2, or LR District than 300 feet. A junk yard may not be located closer to such a district or a state highway than 1320 feet.

B. A parking area or loading berth for any of the following uses may not be located closer to a residential use than the distance, in feet, listed opposite it in the following table:

<u>Use</u>	<u>Parking Area</u>	<u>Loading Berth</u>
Airport or heliport	25	100
Clinic	10	
Commercial facilities for raising and breeding non-farm fowl and animals	25	100
Commercial greenhouse		50
Country club or golf course	10	
Hospital	25	50
Industrial park	25	100
Junk yard	1320	1320
Mineral extraction, borrow pit, or topsoil		

removal, and their storage areas	300
Mobile home park , or travel trailer park	25
Penal or correctional institution	300
Police station or fire station	10
Private recreational development	25

<u>USE</u>	<u>PARKING AREA</u>	<u>LOADING BERTH</u>
Public camp	25	
Sales barn for livestock resale	50	100
Shopping center	25	50
Slaughterhouse	25	100
Stadium or coliseum	25	50
Truck freight terminal	100	100
Wholesale produce terminal	100	100

4.11 ENTRANCES

A. This subsection limits the number of entrances to an arterial street or numbered highway. However, it does not apply to entrances for emergency use only.

B. Each of the following uses, for which special exceptions are prescribed by Section 3.1 may be limited to 1 entrance:

Airport or heliport
 Artificial lake of 3 or more acres
 Cemetery or crematory
 Clinic
 Commercial facility for raising and breeding non-farm fowl and animals
 Commercial greenhouse
 Country club or golf course
 Industrial park
 Junk yard
 Kindergarten or day nursery
 Mineral extraction, borrow pit, topsoil removal, and their storage areas
 Mobile home park or travel trailer park
 Outdoor theatre
 Penal or correctional institution
 Private recreational development
 Public camp
 Public or commercial sanitary fill or refuse dump or garbage disposal plant
 Public or commercial sewage disposal plant
 Public or employee parking area
 Radio or television tower
 Railroad right-of-way and uses essential to railroad operation
 Riding stable
 Sales barn for livestock resale
 Telephone exchange or public utility substation
 Tourist home

Truck freight terminal
Wholesale produce terminal

C. The following use, for which a special exception is prescribed by Section 3.1, is limited to 2 entrances:

Recycling facility
Solid waste convenience station
Solid waste transfer station
Stadium or Coliseum

D. As used in this section, the term "entrance means a passageway from premises to thoroughfare by which vehicles enter or leave.

4.12 PARKING

A. To reduce traffic problems and hazards by eliminating unnecessary on-street parking, every use of land must include on-premises parking sufficient for the needs normally generated by the use, as provided by this section. Parking spaces or bays contiguous to the street, required by subdivision or other ordinances, are in addition to and not in place of the spaces so required.

B. As used in this section, the term:

parking space - means an area, not including any part of a street or an alley, designed or used for the temporary parking of a motor vehicle;

parking area - means a group of parking spaces, or an open area not including any part of a street or an alley, designed or used for the temporary parking of motor vehicles.

C. Parking spaces shall be provided as follows:

<u>Use</u>	<u>Required Parking Spaces</u>
Airport or heliport seats	1 per 2 employees plus 1 per 4 public
Artificial lake of 3 acres or more	1 per 2 users
Automobile or trailer sales area	1 per 1,000 sq. ft. used for retailing
Automobile sales and repair (indoor)	1 per 200 sq. ft. floor area
Banks, business offices, professional offices, similar business uses, postal stations, telegraph offices, and similar service uses	1 per 500 sq. ft. floor area
Boarding or lodging house or	

fraternity, sorority, or student cooperative house	1 per 3 occupants
Bowling alley	3 per lane, plus 1 per 6 spectator seats
Business uses in AB Districts with (see Section 3.1)	As determined by the Board to be in line comparable uses.
Business uses not otherwise listed	As determined by the Board
Cemetery or crematory seats	1 per 2 employees, plus 1 per 4 public
Church or temple	1 per 4 seats in main auditorium
<u>USE</u>	<u>Required Parking Spaces</u>
Clinic	1 per 2 employees, plus 3 per doctor or dentist
College, university, or trade or business school	1 per 3 students or staff members
Country club or golf course	1 per 2 employees, plus 3 per golf hole
Dancing academy	1 per 200 sq. ft. of floor area
Department store, retail showrooms, apparel shop, flower shop, drugstore, hardware store, stationer, news-dealer, record shop, photo studio, barber shop, beauty shop, reducing salon, restaurant, delicatessen, bakery, grocery, meat market, supermarket, cold-storage locker service (individual),	1 per 125 sq. ft. of sales floor area
roadside sales stand, electrical appliance shop, radio-TV shop, dressmaker, millinery, tailor and pressing shop, shoe repair, dry cleaning shop, self-service laundry, laundry agency, billiard room, tavern, night club, and similar business uses	
Fishing or hunting lodge (seasonal)	1
Greenhouse (commercial), facilities for raising or breeding non-farm fowl or animals, (commercial), sales barn for livestock	1 per 3 employees plus 1 per 125 sq. ft. of sales area
Home occupation	1 in addition to residence requirement
Home professional office	2 in addition to residence requirement
Hospital	1 per 4 beds, plus 1 per doctor, plus 1 per 3 employees, plus 1 per hospital vehicle
Hotel	1 per 3 employees, plus 1 per 2 sleeping rooms
Industrial park	1 per 2 employees on largest shift
Industrial uses generally	1 per 3 employees
Junk yard	1 per 2 employees
Kindergarten or day nursery	1 per 2 employees, plus 1 per 5 children
Mobile home park or travel trailer park	1 per 2 employees plus 1 per mobile home stand

Mortuary	1 per 6 seats in main auditorium
Motel	1 per sleeping room
Nursing home or home for aged	1 per 7 persons
Penal or correctional institution	1 per 3 employees, plus 1 per 10 inmates (capacity)
Police station or fire station	1 per 3 employees on shift
Private club or lodge	1 per 6 active members
Private recreational development	1 per 2 customers or members
Public camp	1 per camp site plus 1 per cabin
Public library, art gallery, museum, or municipal or governmental building buildings	1 per 125 sq. ft. ground floor area of

USE Required Parking Space

Public or commercial sewage disposal plant	1 per employee per shift
Radio or TV tower	1 per employee per shift
Railway right-of-way, railroad operational use	1 per 2 employees where headquartered
Railway station or motor bus station	1 per 10 seats in waiting room, plus 1 per 2 employees of connected retail use
Recycling facility	1 per employee per shift plus 3 public
Residential use, including farm tenant housing and farm seasonal worker housing	1½ per dwelling unit
Riding stable	1 per 5,000 sq ft.
School - elementary	1 per staff member
School - high	1 per 3 staff members, plus 1 per 6 auditorium seats
Solid waste convenience station	1 per employee per shift plus 3 public
Solid waste transfer station	1 per employee per shift plus 3 public
Stadium or coliseum	3 per 4 employees plus 1 per 4 seats
Telephone exchange or public utility substation	1 per employee
Theatre (indoor)	1 per 6 seats
Theatre (outdoor)	1 per 2 employees
Tourist home	1 per employee, plus 1 per sleeping accommodation
Truck freight terminal	1 per 2 employees plus 4 for customers
Veterinary hospital for small animals or kennel	1 per 3 animal spaces (cages or pens)
Wholesale produce terminal	1 per 2 employees

D. Each of the parking spaces required by this section must be at least 9 feet wide and 20 feet long, exclusive of passageways.

E. The parking spaces prescribed by this section for a business or an industrial use must be located on the premises or on a site, approved by the Board, at least part of which is within 300 feet of the premises. However, parking spaces may not be located in the required front yard, except in GB and I Districts.

- F. Some parking areas must conform to the location requirements prescribed in Section 4.10. In addition, a parking area for a business use must, if in the open, be paved with a hard or dustproof surface.
- G. A group of business or industrial uses may provide a joint parking area if the number of spaces in the area at least equals the aggregate of the spaces required for the several uses.
- H. A church or temple that requires a parking area at times when nearby uses do not need their parking facilities may, by agreement approved by the Board, use those facilities instead of providing its own.
- I. Parking requirements may be waived by the Board for uses in a block in which 50 per cent or more of the area is occupied, at the time this ordinance is passed, by business or industrial structures.

4.13 LOADING

- A. Business uses, except those that do not receive or transport goods in quantity by truck delivery, shall be provided with loading berths (which, if open, shall be paved with a hard or dustproof surface), as shown in the following table:

<u>Use</u>	<u>Gross floor area</u>	<u>Berths</u>
Retail stores, department stores, wholesale establishments	3,000 or more but not more than 15,000;	1
Storage uses, and other business uses	each 25,000, or fraction thereof, more than 15,000;	1 additional
Office buildings	10,000 or less;	1
	More than 10,000, but not more than 336,000;	2
	Each 200,000 or fraction thereof, more than 335,000;	1 additional

- B. (1) Each of the following uses for which special exceptions are provided by Section 3.1, and

shopping centers shall be provided with loading berths as shown in the following table. Loading berths must not face on the bordering highway and must be at least as far from the nearest residential use as the number of feet shown.

<u>Use</u>	<u>Berths</u>	<u>Distance from Nearest Residential Use (feet)</u>
Commercial facilities for raising and breeding non-farm fowl and animals	1	100
Commercial greenhouse		

(15,000 sq. ft. or less)	1	50
Commercial greenhouse		
(over 15,000 sq. ft.)	2	50
Hospital (200 beds or less)	1	50
Hospital (more than 200 beds but not more than 500 beds)	2	50
Hospital (more than 500 beds)	3	50
Industrial park	Same as subsection (c)	100
Junk yard	2	300
Recycling facility	1	100
Riding stable	1	-
Solid waste convenience station	1	100
Solid waste transfer station	2	300
Stadium or coliseum	2	50
Wholesale produce terminal	Per development plan	100

(2) For the following uses, loading berths, if any, must be at least as far from the nearest residential use as the number of feet respectively shown by the following table:

<u>Use</u>	<u>Distance from Nearest Residential Use (feet)</u>
Airport or heliport	100
Mineral extraction, borrow pit, topsoil removal, and their storage areas	300
Outdoor commercial recreational enterprise	50
Penal or correctional institution	300
Sales barn for livestock resale	100
Truck freight terminal	100

C. Industrial uses shall be provided with loading berths, as shown in the following table:

<u>Gross Floor Area of Industrial Use (Sq. Ft.)</u>	<u>Berths</u>
15,000 or less	1
More than 15,000 but not more than 40,000	2
More than 40,000 but not more than 100,000	3
Each 40,000 or fraction thereof, more than 100,000	1 additional

D. Each loading berth prescribed by this section must provide at least a 12-foot by 45-foot loading space, with a 14-foot height clearance.

F. As used in this section, the term "loading berth" means an off-street, off alley area designed or used to load goods on, or unload goods from, vehicles.

4.14 MISCELLANEOUS RESIDENTIAL RESTRICTIONS

In an R1, R2 or LR District:

1. An accessory building may not be erected before the principal building, except on a farm, and;
2. In the case of a through lot, the area at each end of the lot between the setback line and the middle of the street shall be treated as if it were part of the front yard.

4.15 MISCELLANEOUS SIGN PROVISIONS

Basic Prohibitions

There shall be no animated, electronic, internally lit, edge lighted, neon or other gas-filled, revolving or rotating, strings of light, beams, beacons or flashing signs, except as expressly allowed in this section.

Purpose and Intent

The purpose and intent of this section is to promote public health, safety, and welfare through a comprehensive system of reasonable, effective, consistent, content and viewpoint-neutral, and nondiscretionary sign standards and requirements, including the following purposes and objectives:

1. providing guidelines for the placing, number, size and general characteristics of all signs throughout the unincorporated areas of Brown County;
2. encouraging the effective use of signs as a means of communication within the County;
3. maintaining and enhancing the aesthetic environment and the County's ability to continue to attract tourism and other sources of economic development and growth;
4. improving pedestrian and traffic movement and safety (e.g., maintaining appropriate sight distances at intersections and reducing distractions);
5. minimizing the possible adverse effect of signs on nearby public and private property (e.g., the adverse effect of obstructing natural scenic vistas);
6. enabling and promoting the fair and consistent enforcement of these sign restrictions;
7. promoting the general purposes set forth in the Zoning Ordinance and the land use planning goals set forth in the Comprehensive Plan;
8. establishing an efficient permit system to expeditiously approve the location and design of signs, subject to the standards and permit procedures of this section;
9. allowing certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;
10. prohibiting all signs not expressly permitted by this ordinance;

11. restricting the continued existence of abandoned or nonconforming signs unless in compliance with the terms of this article and to eliminate, over time, all nonconforming signs;
12. encouraging signs that are well-designed and compatible with their surroundings and with the buildings to which they are appurtenant, and encourage signs that are integrated with and harmonious to the buildings and sites they occupy; and,
13. recognizing that the size of signs that provide adequate identification in residential and in pedestrian oriented business areas differ from those that are necessary in vehicular-oriented areas where traffic is heavy, travel speeds are greater, and required setbacks are greater than in residential and pedestrian area.

Applicability and Message Substitution

A sign may be erected, placed, established, painted, created, or maintained in the unincorporated areas of Brown County only in conformance with the standards, procedures, exemptions, and other requirements of this section and with other Brown County ordinances and resolutions.

A non-commercial message of any type may be substituted, in whole or in part, for any commercial message or any other noncommercial message, subject to the same regulations that apply to such signs. Substitution of message may be made without any additional approval or permitting.

Severability

The provisions of this ordinance are separable. If any part or provision of this ordinance or the application thereof to any persons or circumstances is adjudged invalid by a court of competent jurisdiction on procedural or any other grounds, the judgment shall be confined in its operation to the part, provision, procedure or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances. The Board of Commissioners of the County of Brown, Indiana, hereby declares that it would have enacted the remainder of this ordinance even without any such part, provision, procedure or application.

I. Definitions:

- A. Sign means any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct or attract attention to an object, idea, opinion, position, proposition or plan of action, person, institution, organization, business, product, service, event, or location by any means, including, without limitation, words, letters, figures, design, symbols, fixtures, colors, illumination, projected images, or movement.
- B. Animated sign means any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an

electronic sign, an animated sign produces the illusion of movement by means of electronic, electrical , or electromechanical input and/or illumination capable of simulating movement through using the characteristics of one (1) or both of the following classifications: 1) flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds; 2) patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.

- C. Lot means any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record that is recognized and intended as a unit for the purpose of transfer of ownership.
- D. Electronic sign means any sign or portion of a sign that uses changing lights or form a sign message or messages in text or picture form, wherein the sequences of messages and the rate of change is electronically programmed and can be modified by electronic processes.
- E. Vehicle sign means a sign that is affixed to a motor vehicle or trailer.
- F. County Road means those roads within Brown County, Indiana, that have been accepted into the State of Indiana Department of Transportation criteria for assigning credit such that Brown County, Indiana, does, in fact, receive credit or State payments for those roads.

II. Permitted Signs

Signs are allowed in all districts, but only if they comply with all relevant provisions of the Brown County Zoning Ordinance(e.g., sign area, height, performance standards, etc.).

III. Sign Area, Sign Height, and Setback Regulations

- A. In FP, FR, R1, R2 and LR districts, the maximum total sign area per lot is twenty-four (24) square feet and the maximum total sign area of any sign located on the lot is twelve (12) square feet.
- B. In GB, AB and I districts, the maximum total sign area per lot is one hundred forty-four (144) square feet, and the maximum total sign area of any sign located on the lot is one hundred (100) square feet.
- C. In FP, FR, R1, R2 and LR districts, the maximum sign height is eight (8') feet.
- D. In GB, AB and I districts, the maximum sign height is twenty (20') feet.
- E. In all districts, signs shall be set back, from road and highway right-of-way and from lot boundary lines, a distance that is equal to the height of the sign.
- F. In all districts, signs may not be placed within the sight triangle (see section D -2 of this Chapter).

IV. Computation of Sign Area and Height

The following principals shall control the computation of sign area and sign height:

- A. The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall (when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself).
- B. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back-to-back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty-four (24) inches apart, the sign area shall be computed by the measurement of the larger of the faces.
- C. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be constructed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined or on a steeply sloping terrain, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

V. Performance Standards

All signs shall conform to the following regulations:

- A. Illumination
 1. The source of light for any sign may not be directed into any residential area or toward any oncoming traffic. The source of illumination by whatever means shall not reflect directly on residential property.
 2. In no instance shall any illuminated sign be located closer than twenty-five (25') feet to any residence.

B. Maintenance

All signs must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety.

C. Placement

No sign shall be placed so as to pose a traffic hazard, and the county highway superintendent shall be vested with authority to rescind any sign permit under this section if he deems that sign placement would cause a traffic hazard, subject only to review by the County Commissioners, if requested within thirty days of written notice of any such decision.

VI. Permits

- A. Unless exempted below, no sign may be erected until the Executive Director of the Brown County Area Plan Commission has issued a permit therefore. (See Chapter 8 for appropriate permit fee).
- B. Prior to the issuance of a sign permit the Director shall be furnished written proof of permission from the landowner upon whose land the sign is to be located, on a form prescribed by the Commission, and a scale drawing of the proposed sign or the sign itself. Sign applications that are complete and that propose signs which comply with the provisions of this Chapter, shall be approved by the Director within seven (7) business days of receipt. Sign applications that are incomplete or that do not propose signs which comply with the provision of this Chapter, shall be denied by the Director within seven (7) business days of receipt.
- C. Following the erection of a sign, the Zoning Inspector shall inspect the same, and issue a certificate of compliance in the event the sign complies with that for which the permit was issued. In the event that it does not, the Inspector shall promptly notify the permittee in writing of the lack of compliance and reason (s) therefore. Failure by the permittee to correct any non-compliance within ten (10) days from the date of written notice shall result in revocation of the sign permit, as well as other remedies under this ordinance. Notice sent to the address on the sign permit application shall be deemed sufficient.
- D. Signs that have a total sign area of four (4) square feet or less are exempt from the permit requirement.

VII. Signs in the Public Right-of-Way

No signs shall be allowed in the public right-of-way, except:

- A. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
- B. Bus stop signs erected by a public transit company;
- C. Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and,

D. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way shall be allowed in the public right-of-way.

Any sign installed or placed in the public right-of-way (state or county), except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation by the Plan Commission staff. In the event of confiscation, the Plan Commission staff shall: store the sign in a County building; make a reasonable attempt to notify the owner of the sign of the confiscation; provide owner with ten (10) days to recover the sign after notification. After such ten day period, the Plan Commission staff may dispose of the sign. In addition to other remedies, hereunder, the Commission shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

VIII.Signs Exempt from Regulation under this Chapter

The following signs shall be exempt from regulation under this chapter:

- A. Any government notice or warning required or authorized by a valid and applicable federal, state, or local law, regulation, or ordinance shall be exempt from regulation under this chapter.
- B. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three (3) feet beyond the lot line of the lot or parcel on which such sign is located shall be exempt from regulation under this chapter.
- C. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets Department of Transportation standards, which contain no commercial message of any sort, and which do not exceed three (3) square feet in area, or which are flush with the roadway pavement, are exempt from regulation under this chapter.
- D. Signs incorporated on vending machines (including fuel pump housings) shall be exempt from regulation under this chapter, except that the signs must comply with the performance standards of Part VIII above.
- E. Neon or gas-filled signs that are two square feet or less in sign area per lot.

Section 2. The terms and provisions of this ordinance are separable. If any part or provision of this ordinance or the application thereof to any persons or circumstances is adjudged invalid by a court of competent jurisdiction on procedural grounds, or on any other grounds, such judgment shall be confined in its operation to the part, provision, procedure or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the applications thereof to other persons or circumstances. The Board of Commissioners hereby declares that it would have enacted the remainder of this ordinance even without any such part, provision, procedure or application.

Section 3. This ordinance shall take effect upon adoption.

4.16 WATER POLLUTION

No authorization of a use under this ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under the Stream Pollution Control Law (Acts 1943, Chapter 214, as amended). Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the Stream Pollution Control

Control Board and the State Board of Health.

4.17 INDUSTRIAL RESTRICTIONS

Light industrial and general industrial uses as defined shall conform to the following performance standards:

- A. Smoke - Any use located within 300 feet of a residence or residence zone district shall be prohibited from using solid fuels for heat or energy.
- B. Particulate matter
 - 1. Any use producing emission of dust, fly ash, sparks, dirt or similar matter, which can cause any damage to health, vegetation or property, or in such quantities as to constitute a nuisance, shall be prohibited.
 - 2. Sources of particulate matter borne by the wind including, but not limited to, storage, refuse, service roads and yard areas, shall be maintained or improved so as not to create a hazard or nuisance.
- C. Odor - Any use producing emission of odorous, noxious, or toxic matter, in such quantity as to be pernicious or offensive and readily detectable at any point along or beyond the property lines of the use area shall be prohibited.
- D. Heat or glare
 - 1. Any use producing excessive heat or glare including, but not limited to combustion and welding, must be performed so as not to be perceptible beyond the property lines of the use area.
 - 2. Outdoor lighting, including but not limited to the illumination of parking lots, signs and storage areas shall be installed and maintain so as to direct light away from adjoining property.
- E. Vibration - Any use that creates intense earth-shaking vibrations, excluding vehicular or other means of transportation, which are discernible to the human sense of feel at or beyond the property lines of the use area, shall be prohibited.
- F. Noise - Any use producing noise levels above those produced by a motor vehicle entering or leaving the use area shall be prohibited.
- G. Fire Hazards

1. Any use located within 300 feet of any other zoning district or within 500 feet of any place of institutional or public assembly, which includes, but is not limited to schools, hospitals, churches and athletic fields; necessitating storage (over 85 gallon) above ground or the manufacturing of fluids that produce flammable or explosive vapors or gases under ordinary weather conditions shall be prohibited.
2. Any use located less than 300 feet from a residence district or less than 40 feet from any property line, that manufactures or uses, during the process of manufacturing materials, classified or corrosive liquids, oxidizing materials, radioactive materials, flammable solids, potentially explosive chemicals, or highly toxic materials or poisonous gases as defined in Article 18, Section 1802, of the Fire Prevention Code, 1956 edition, as recommended by the National Board of Fire Underwriters, shall be prohibited.
3. Any use that stores, or manufactures materials classified as combustible, readily ignitable, free burning, or flammable as defined in the Fire Prevention Code, 1956 edition, must be performed or maintained within an enclosed building constructed of incombustible materials.
4. Any use that stores or manufactures any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion including, but not limited to dynamite, black blasting powder, pellet powder, initiating explosives, or igniters, must conform to Table 11.06 of Article II, entitled, "American Table of Distances for Storage of Explosives", in the Fire Prevention Code, 1956 edition, as recommended by the National Board of Fire Underwriters.

4.18 FLOOD PLAIN (FP), FLOODWAY (FW) OR FLOODWAY FRINGE (FF) REQUIREMENTS

A. In a Floodway Fringe (FF) or Flood Plain (FP) :

1. All residential buildings or additions to existing residential buildings shall have flood protection grades at least two feet above the regulatory flood profile. Commercial buildings may be flood proofed to an elevation of two feet above the regulatory flood if the plans and specifications are properly certified by a Registered Professional Engineer or Architect and conform to the definition of flood proofed as set forth in this ordinance.
2. All mobile homes must have pads (either concrete or stands of compacted fill) at or above the elevation of the regulatory flood. Further, all mobile homes shall be provided with ground anchors meeting Mobile Home Tie Downs, Schedule A.
3. On site waste disposal systems must be located so as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
4. All structures shall be built so as to minimize obstruction to the flow of floodwaters.

B. In a Floodway (FW) District:

1. No residential buildings shall be permitted.

2. Flood proofing of non-residential structures is permitted but must conform to the definition of a flood proofed building as set forth in this ordinance and must be a certified by a registered Professional Engineer or registered Architect licensed to practice in Indiana.
3. Any structure permitted in a floodway shall be constructed on the site so as to minimize obstruction to the flow of floodwater.

CHAPTER 5 - SPECIAL PROVISIONS

5.1 FLEA MARKETS

A. Definitions

CAMPING - means, for purposes of this section only, staying overnight anywhere other than in a permanent dwelling.

FLEA MARKET - means flea market, swap shop or meet, or similar activity, by whatever name, or those uses which involve the setting up of two (2) or more booths, tables, platforms, racks or similar display areas for the purpose of selling or buying merchandise, goods, materials, products, or other items offered for sale outside a fully enclosed building. A "flea market" as defined herein shall not be intended to include a garage sale or bake sale, which occurs no more often than every 2 months for a period of not more than 7 days, fruit or produce stands, booths in a fully enclosed building or art festivals or any similar activity or sales done by local civic groups or by local non-profit organizations.

FLEA MARKET VENDOR - means any individual, family, corporation, partnership, firm, organization, or any other group that acts as a unit, which rents, buys, or occupies display area space in a flea market for the purpose of selling merchandise, goods, materials, products, or other items.

B. Sanitation, Appearance, Hours of Operation, and Noises

1. At no time shall there be empty tables or booths on the flea market site.
2. Flea markets may only be operated from 9:00 a.m. until 9:00 p.m.
3. Each flea market shall maintain functional restroom facilities as required by the Brown County Board of Health.
4. The flea market site shall be kept clean of all debris, litter and trash.
5. Noise must be limited to such a level as not to disturb neighbors.
6. There shall be no camping allowed on the flea market site.
7. Within fifteen (15) days of the expiration date of the permit, the flea market site must be cleared, and all temporary structures removed.
8. There shall be no camping ("overnight stay") allowed on the flea market site, except for occasional overnight stays by vendors when their goods are present on the site.
 - a. Vendors may stay overnight on Friday and Saturday nights and also on Sunday night during an official three day weekend.

- b. Vendors shall stay in self contained RV's if dump stations, water and electrical hookups are not available. A self contained RV is one that provides its own electricity, water and sanitary facilities.
- c. Approval for overnight stays must be granted to the flea market through a Special Exception from the Board of Zoning Appeals.

C. Parking Requirements

- 1. For each one hundred (100) square feet of sales space there shall be three parking spaces either on site or adjacent to the flea market.
- 2. Each parking space must be no less than ten (10) feet wide by twenty (20) feet long.
- 3. There shall be no parking along the highway shoulder or right-of-way.
- 4. The owner/operator of the flea market shall see to it that the parking requirements as set forth above are adhered to, and that appropriate signs and markings are established and maintained in such a manner as to notify those persons attending the flea market of these requirements.

D. Licensing Permits for Vendors

- 1. It shall be the responsibility of the owner/operator of the flea market to determine that each vendor have and display all necessary licensing permit (s) to conduct retail sales of this nature, and to wholly refrain from granting sales space to any vendor unable to produce said permit(s).

E. Setback Requirements

- 1. The minimum distance between the front of the flea market operation and the centerline of a State Highway is one hundred ten (110) feet. County Road is ninety (90) feet.
- 2. The minimum distance between the back of the flea market operation and the back lot line is forty (40) feet.
- 3. The minimum distance between each side of the flea market operation and the side lot line is forty (40) feet.

F. Permits

- 1. No person shall operate a flea market without having first obtained from the Area Planning Director a Permit authorizing him to do so. Any Permit so issued shall be valid only for the calendar year in which it was issued, and allows the holder thereof to operate a flea market only from March 1 to November 30 of that particular year.
- 2. There is no fee to obtain a Permit, from the Area Planning Commission.

3. Prior to the issuance of a permit, the person applying therefore must furnish the Area Planning Director the following:
 - a. A commitment statement indicating proposed hours of operation and lighting to be used.
 - b. A detailed plot plan drawn to scale of not less than 1" = 50' showing:
 - (1). Location and dimensions of perimeter of property lines (length, width, and acres).
 - (2). Location and names of public roads adjacent to the property.
 - (3). Location and dimension of building(s) to be housing the flea market.
 - (4). Dimensions of parking area identifying parking spaces 10' x 20', width of driving lanes (25') in parking lot, and flow of traffic.
 - (5). Distance of setback from center of road and from side and rear property lines for sales area, parking lot, and any existing or proposed structures.
 - (6). Location of driveway.
 - c. Septic permit from County Sanitarian or State Board of Health.
 - d. Driveway Permit from State Highway Commission or County Highway Garage body, whichever has jurisdiction of the road.

4. Permits so issued shall not be sold, assigned, transferred, or in any manner conveyed.

G. Violations

1. Revocation of Permit

- a. Failure to comply with any of the requirements set forth in paragraphs B through and including H above shall result in the revocation of the violator's Permit, in accordance with the following procedures:
 - (1) Upon receipt of a verified report of a violation of this section, the Area Planning Director shall notify the Permit holder thereof, and allow him 30 days in which to correct said violation.
 - (2) In the event the person accused of the violation neither corrects said violation or convinces the Director of his compliance without need of correction, the matter of the violation shall be placed before the (Area Plan Commission / Board of Zoning Appeals) at the next regularly scheduled meeting, and the accused violator shall be notified of the date, time, and place of said meeting by certified or registered mail.

- (3) At the hearing before the (Commission/Board), the accused violator shall be given an opportunity to present his position and to question those who are alleging the violation. A decision shall then be made upon vote of those members present, and a vote of a majority of the Commission/Board) membership shall be necessary before a permit may be revoked.
- (4) Any adverse decision may be appealed by writ of Certiorari to the Brown Circuit Court for review.
 - b. Permit which has been revoked may not be reissued for a period of two (2) years thereafter.
 - c. In the event of a revocation of a Permit, the fee previously paid therefore shall be deemed to be forfeited.

2. Penalty

Any person failing to comply with any of the requirements set forth in paragraphs B through and including F above shall be subject to a fine of ten thousand dollars (\$10,000) per day.

- a. Separate violations - Each day a violation occurs shall be deemed a separate violation.
- b. Enforcing officer -The Area Planning Director, her deputy, or duly appointed agent are hereby authorized to enforce the provisions of this ordinance.

3. Legal Action

Action on the violation of any of the aforementioned requirements of this section and the right of injunction shall be as provided in Section 141 et sequ of Public Law 178, Acts of 1979 of the Indiana General Assembly.

5.2 HOME OCCUPATIONS

A. Definition

Home Occupation means an accessory use of a dwelling unit for a business, profession, trade or vocation conducted within an enclosed dwelling, which is clearly incidental and secondary to residential occupancy and does not change the residential character thereof.

B. Use Limitation

In addition to the use limitations applicable in the zoning district in which located, all home occupations shall be subject to the following use limitations:

1. A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.

2. Except for articles produced on the premises, no stock in trade shall be displayed or sold on the premises.
3. No alteration to the exterior of the principal residential building shall be made which changes the character thereof as a dwelling.
4. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
5. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure of the fire district in which the structure is located.
6. No use shall create noise, dust, vibration, smell, and smoke glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

C. Zoning Districts Where Allowed

Home Occupations may be conducted in any residential zoning district subject to these regulations.

D. Permit Required

Home Occupations where the public is invited to view and or purchase goods or services require a Home Occupation permit with an annual renewal as the use continues.

E. Uses Permitted Only with Special Exception

The following uses are permitted and may be carried on as home occupations only after the practitioner has applied for and been granted a Special Exception as provided for in Chapter 3, Section 3.3 of the Brown County Zoning Ordinance, and applied for and received an annually renewable permit from the Area Planning Director:

1. Beauty shop or beauty parlor, owner operated.
2. Auto repair, minor or major, or the painting of vehicles, trailers, or boats provided that no more than four (4) licensed vehicles other than the owner's own vehicles and no unlicensed vehicles are stored on the property.
3. Instruction to two (2) or more students at a time.
4. Photo developing or studios.
5. Antique shops.
6. Private schools with organized classes.
7. Any home occupation to be conducted in a two-family or multi-family dwelling.

8. Indoor small-scale manufacturing e.g. furniture making, screen printing, 3D printing without limitation to include such examples as above.

No special exception shall be granted under this subsection unless the Board of Zoning Appeals finds that, in addition to the requisite findings set forth in Chapter 3, Section 3.3, the proposed use is in full compliance with the terms of this section that the proposed use will not alter the nature of the neighborhood in which it is to be located, and that the proposed use will not expand or enlarge to the point where it will exceed the limits permitted for home occupations.

F. Procedures

1. Powers and Duties of Plan Director

It shall be the duty of the Area Planning Director (hereinafter referred to as "Director") to investigate complaints that a home occupation is being carried on within the area of jurisdiction (i.e. Brown County, Indiana) in violation of the terms of this ordinance.

2. Time Limitations

- a. Any permit issued shall be valid for one (1) year only from the date of issuance.
- b. The holder of the permit may seek renewal of same annually, by making written request therefore, and certifying in that request that the use has not expanded beyond that for which the permit was initially granted. Said request shall be made no later than thirty (30) days prior to expiration and shall be accompanied by a renewal fee of \$20.00. (See Chapter 8:3 for revised filing fees)
- c. The request for renewal shall be reviewed and an inspection of the property made by the Director and/or authorized personnel to verify continued compliance with the necessary criteria and conditions established with the initial approval. If, in the judgment of the Director, the applicant has not complied with said criteria and conditions, the applicant shall be so informed and the Director shall take appropriate corrective measures, all as set forth in Subsection F.1. above.

3. Appeals

- a. In the event an applicant for a Home Occupation permit whose application is denied by the Director desires to appeal the Director's decision, said appeal may be initiated by filing a Notice of Appeal with the Area Planning Office, on a form to be provided by that office, no later than ten (10) days from the date that the applicant is informed of the Director's decision.
- b. Upon receipt by the Director of a Notice of Appeal, the matter complained of shall be placed on the agenda of the Board of Zoning Appeals as soon as time allows.
- c. Notice of appeal shall be published in a newspaper of general circulation published in the county no later than ten (10) days prior to the date of the meeting at which the appeal is to be considered.

CHAPTER 6 - IMPROVEMENT LOCATION PERMITS

6.1 APPLICABILITY

- A. An Improvement Location Permit shall be obtained prior to:
 1. implementing a special exception granted under Section 3.4;
 2. constructing, reconstructing, locating, moving, enlarging, demolishing and structure that requires a building permit for construction, or structurally altering any building or other structure;
 3. remodeling a building or structure that includes additional plumbing, wiring, or heating/cooling facilities;
 4. making any significant land alterations;
 5. any construction in a flood plain.
- B. An Improvement Location Permit shall not be required for:
 1. maintenance or repair of existing structures not involving any change of use, additional lot coverage, or increase in structure size;
 2. minor lot and yard improvements such as driveways, patios, fences, retaining walls, landscaping, boat docks, etc.;
 3. accessory structures that contain less than 120 square feet of floor area and are not on permanent foundations.
- C. The Director may withhold issuing a permit pending submission of relevant local, state and federal permits.
- D. Improvement Location Permits shall be valid for one year from the date on which they are issued. If the change in use is not completed within one year, upon application the Permit will be extended for an additional year with no additional fee charged. If the work is not completed at the end of that period, a new Improvement Location Permit must be obtained for the project.
- E. If the application for an Improvement Location Permit is not approved or denied within 30 calendar days, the application shall be deemed denied. Any appeal of the decision shall be subject to the Rules of Procedure for the Board of Zoning Appeals. When filing the appeal, the applicant shall not bear the cost of filing fees or of the required legal notification.

6.2 CERTIFICATE OF OCCUPANCY

- A. After the Improvement Location Permit has been issued, the land or structure that is the subject of the permit cannot be used for that purpose until the change has been completed and a Certificate of Occupancy is issued.
- B. Within 10 calendar days of being notified by the applicant that the change has been made, the Director or authorized representative shall inspect the premises and determine if the change conforms to the ordinance and the conditions of the Improvement Location Permit. If the change is in conformance, the Director or representative shall issue a Certificate of Occupancy.

6.3 PLANS

- A. A person who applies for an Improvement Location Permit under Section 6.1 must furnish the Planning Office with plans showing:
 1. the location of land concerned; the location and size of all existing buildings, structures, ponds, and septic systems on the site; the location of the proposed use; the location and size of all entrances to and exits from the site; and all adjacent streets and highways. If critical to the proposed use, the Director may also request the locations of any easements, power lines, gas lines or other information determined to be necessary;
 2. front and side elevations of any proposed structure.
- B. Plans furnished shall be kept by the Plan Commission as permanent records.
- C. A site plan review will be required for an airport, a heliport, a hospital, an industrial park, a mobile home park or travel trailer park, a penal or correctional institution, a private recreational development, a public utility substation or exchange, PUD, a shopping center, a wireless communication facility and/or support structure, and a commercial or industrial development.
- D. As a condition of issuing a permit, that applicant may be required to relocate a structure or an entrance or exit, or include an entrance or exit not shown on the plan, if the requirement is necessary in the interests of the public welfare or to an appropriate balancing of the interests of persons in the district and vicinity concerned.
- E. The Plan Director shall review all applications for compliance with the floodplain management regulations of Chapter 10 of Brown County Zoning Ordinance.

6.4 COORDINATION WITH OTHER AGENCIES AND BOARDS

- A. No Improvement Location Permit shall be issued prior to the Plan Director's review of all permits required from any federal, state or local agency.
- B. Selected examples of agencies from which permits may be required include the Indiana Department of Fire and Building Services for buildings that require its approval (must furnish copy of plans stamped approved by the Department of Fire and Building Services); Brown County Health Department or State Board of Health for sewage disposal systems; Department of Natural Resources for any construction in a floodway;

County Highway Department of Indiana Department of Transportation for driveways onto public roads. This is not meant to be a complete listing.

- C. Prior to the issuance of an Improvement Location Permit, the applicant must first obtain a driveway permit from the County Highway Department or, where applicable, the Indiana Department of Transportation.
- D. A driveway permit onto a county road shall be subject to the requirements of the current county ordinance that sets standards for private driveways.
- E. An Improvement Location Permit for a special exception may not be issued until the Board of Zoning Appeals approves the special exception.

6.5 RECORDS

The Plan Office shall keep a record of each Improvement Location Permit and each certificate of occupancy issued.

6.8 FILING FEES

See Chapter 8

CHAPTER 7 - ADMINISTRATION, ENFORCEMENT, AND APPEALS

7.1 BOARD OF ZONING APPEALS: ESTABLISHMENT AND ORGANIZATION

- A. A Board of Zoning Appeals is established, with membership as provided by State law.
- B. At the first meeting in each calendar year, the Board shall elect from among its members a Chairman and a Vice-Chairman. Consistently with State law, it may appoint and fix the compensation of a secretary and such employees as it considers necessary to discharging its duties.
- C. The Board shall prescribe such regulations as it considers necessary to carry out this ordinance.
- D. Meetings of the board shall be open to the public.
- E. The Board shall keep minutes of its meetings, keep records of all examinations and other official actions, make all findings in writing, and record the vote of each member on each question. Minutes and records shall be filed in the office of the Board and made available to the public.

7.2 BOARD OF ZONING APPEALS: HEARINGS

Upon application for a special exception or variance, and upon appeal from a decision of the Planning Coordinator, the Board shall hold a public hearing. Public notice setting forth the time and place shall be given at least 10 days before the date of the hearing in a newspaper of general circulation published in the County. Interested parties shall be notified as provided by the Board. The cost of such notices shall be borne by the person applying or appealing. For filing fees see Chapter 8, Section 8.2.

7.3 COUNTY PLANNING COORDINATOR

The Office of County Planning Coordinator is established. The County Planning Coordinator has the principal responsibility for enforcing this ordinance.

7.4 VIOLATIONS, PENALTIES AND ENFORCEMENT

- A. The erection, demolition, conversion, construction, enlargement, moving or maintenance of any structure, or the use of any land, structure or premises, which is contrary to any of the provisions of this ordinance, is hereby declared to be a common nuisance and an unlawful violation of this ordinance.
- B. The erection, demolition, conversion, construction, enlargement, moving or maintenance of any structure, or the use of any land, structure, or premises, which is contrary to any requirement, condition or commitment imposed or made by the Board, Commission, Administrator or applicant under the provisions of this ordinance, is hereby declared to be a common nuisance and an unlawful violation of this ordinance.

- C. Any person, whether as principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, acts contrary to any provision of this ordinance or a condition or commitment made thereunder, shall be liable for maintaining a common nuisance and shall be in violation of this ordinance.
- D. The County Attorney or the Plan Commission Attorney shall immediately upon any such violation having been called to his/her attention by the Plan Coordinator, institute injunction, abatement or any other appropriate action in his discretion to prevent, enjoin, abate or remove such violation.
- E. Any person who violates this ordinance shall be subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each such violation. Each day that any violation is committed or permitted to continue constitutes a separate ordinance violation.
- F. Upon a reasonable belief that a person is violating a provision of this ordinance or a condition, requirement or commitment imposed or made thereunder, the Plan Coordinator may seek, with the assistance of the County Attorney or the Plan Commission Attorney, the following civil remedies:
 1. a civil penalty for ordinance violation;
 2. a temporary restraining order, preliminary injunction or permanent injunction to restrain a person from violating the ordinance or a condition, requirement or commitment imposed or made thereunder; and,
 3. a mandatory injunction directing a person to perform a condition, requirement or condition imposed or made under the ordinance or to remove a structure erected in violation of the ordinance.

The foregoing remedies may be sought by any property owner specially damaged by any such violation of the ordinance.

- G. In the event the Plan Coordinator finds that a violation of the terms and provisions of an approval, certificate or permit granted pursuant to these regulations has occurred, the Plan Coordinator may use the following administrative remedies:
 1. suspend and withhold other approvals, certificates and/or permits relevant to the development or use of the site on which the violation has occurred (e.g., if a structure which is subject to a Commission-approved development plan is occupied prior to the issuance of a land use certificate therefore, and such land use certificate cannot be issued because all improvements serving such structure (as shown on the approved development plan, including sewage disposal systems) have not been properly installed or have not become operational, the Administrator shall not issue any additional improvement location permits for structures within the development plan until all previously approved improvements serving such structure are properly installed and operational, and such structure otherwise qualifies for the issuance of a land use certificate); and/or,
 2. issue a stop work order and instruct the Building Permit Official to suspend and withhold all building code inspections relevant to the development or use of the site

on which the violation has occurred (e.g., if the terms and provisions of an erosion control/grading plan have been violated, the Building Permit Official shall, at the Plan Coordinator's request, suspend and withhold all subsequent building code inspections at the site of the violation, until the violation has been corrected, as determined by the Plan Commissioner)(The Building Permit Official shall comply with the Plan Coordinator's instructions in this regard); and/or,

3. draw on an applicable letter of credit, or other financial guaranty, as necessary to affect any remedial actions required to abate the violation; and/or,
4. revoke the permits, certificates and/or approvals that have been violated.

The purpose of each of the foregoing administrative remedies is to encourage compliance with the terms and provisions of the approval, certificate and/or permit without having to resort to litigation. If used, the Plan Coordinator shall apply the foregoing remedies in a measured and reasonable fashion to achieve their recognized purpose (e.g., withholding or revoking only those permits that relate directly to the violation, such as improvement location permits for the structures that would be primarily served by the unfinished street).

- H. The remedies provided for in these regulations shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

7.5 APPEALS

- A. A decision of the Planning Coordinator enforcing this ordinance may be appealed to the Board by any person who is adversely affected by the decision. For filing fees, see Chapter 8, Section 8.2
- B. On an appeal under subsection (a), the Board may make any decision that the Planning Coordinator might have made.
- C. A decision of the Board is subject to review by certiorari.

7.6 PERMIT REVOCATION

- A. Any permit, certificate or approval issued or granted under this ordinance may be revoked by the Plan Coordinator, in accordance with the provisions of this chapter, if the Plan Coordinator finds that the recipient of the permit, certificate or approval ("recipient") fails to use, develop or maintain the subject property in accordance with the plans submitted, the requirements and standards of this ordinance, any additional requirements or conditions imposed by the County, Board, Commission or Plan Coordinator, or any commitments or self-imposed conditions made by the recipient.
- B. No person may continue to improve or make use of the subject property in the manner authorized by a permit, certificate or approval, after the permit, certificate or approval has been revoked.

- C. The County, Board, Commission, or Plan Coordinator may not issue any additional permits, certificates or approvals directly affecting or relative to the subject property until the basis for the revocation has been removed by the applicant or the matter otherwise resolved by the County, Board, Commission, Plan Coordinator or recipient.
- D. If the Plan Coordinator finds that sufficient grounds exist for the revocation of a permit, certificate or approval, the Plan Coordinator shall send the recipient a ten (10) day written notice of intent to revoke by certified mail, return receipt requested, shall inform the recipient of the specific basis found to justify revocation, and shall specify the actions necessary to avoid revocation. The ten (10) day notice period commences on the date the notice is delivered or on the date the notice is returned to the Plan Coordinator, marked refused or undelivered. Upon request, within five (5) days, the Plan Coordinator shall review the basis of the intended revocation with the recipient. The recipient shall implement the actions specified by the Plan Coordinator within ten (10) days of the date of notice or within such other reasonable time as may be determined by the Plan Coordinator. If the Plan Coordinator revokes a permit, certificate or approval, the Plan Coordinator shall send the recipient with a written notice of revocation which specifies the specific basis of the revocation and which informs the recipient of his right to appeal the Plan Coordinator's action.
- E. The revocation of any permit, certificate or approval may be appealed to the Board by any person claiming to be adversely affected by the revocation. Every appeal shall be filed within fourteen (14) days from the date of the order, requirement, decision or determination. Notice of hearing on the appeal shall be given ten (10) days prior to the Board's hearing date and may be made a part of the Notice of Hearing by the Plan Coordinator. The Board's hearing on the Plan Coordinator's action shall be de novo, in the same manner as though the application was originally filed with the Board. The decision of the Board with respect to revocation shall be the final administrative decision on the subject. Any further appeal would be to the courts through writ of certiorari.

CHAPTER 8 - FILING FEES

8.1. THE BROWN COUNTY AREA PLAN COMMISION SHALL SET APPROPRIATE FEES FOR THE FOLLOWING CATEGORIES

A. Improvement Location Permits for

1. residences (single family, two family and multifamily), additions and residential remodeling;
2. accessory structures including agricultural structures, sheds over 120 square feet, below-ground and above-ground swimming pools.
3. electrical service up grades;
4. commercial structures.

Note: If more than five (5) inspections are required for a residential use, an additional fee as established by the Area Plan Commission will be assessed.

B. Hearings for

1. variances;
2. special exceptions;
3. appeals of a decision;
4. property divisions including major subdivision, minor subdivisions, planned unit developments, vacations of plats
5. amendments of the zoning ordinance or zoning districts.

C. Permits for

1. home occupations;
2. on-premise signs and off-premise signs.

8.2 Filing Fees: Non Returnable

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

8.3 Filing Fees: Approval

Filing fees established by the Plan Commission shall be presented to the Board of County Commissioners for approval by a Resolution.

See New Fees effective January 1, 2022

BROWN COUNTY AREA PLAN COMMISSION
FILING FEES
Effective beginning January 1, 2022

IMPROVEMENT LOCATION PERMITS:

<u>Residences</u>	<u>\$125 + \$.07 per sq ft.</u>
<u>Duplexes</u>	<u>\$250 + \$.07 per sq ft.</u>
<u>Additions, Remodeling</u>	<u>\$65 + \$.07 per sq ft.</u>
<u>Accessory Structures</u>	<u>\$50</u>
<u>Swimming Pools</u>	<u>\$65 above ground</u>
<u>Swimming Pools</u>	<u>\$125 in ground</u>
<u>Electric Upgrade</u>	<u>\$35</u>

COMMERCIAL:

<u>New Structures</u>	<u>\$250 + \$.07 per sq ft.</u>
<u>Remodeling, Addition Public Buildings</u>	<u>\$125 + .07 per sq ft.</u>
<u>Wireless Comm. Fac. (without a Special Exception)</u>	<u>\$190</u>
<u>Other Structure (water, radio tower, underground storage tank, etc)</u>	<u>\$190</u>

HEARINGS:

<u>Variance</u>	<u>\$125</u>
<u>Special Exception</u>	<u>\$125</u>
<u>Appeal</u>	<u>\$125</u>
<u>Major Subdivision- primary</u>	<u>\$250 plus \$25 per lot</u>
<u>Major subdivision-secondary</u>	<u>\$375</u>
<u>Minor Subdivision</u>	<u>\$125</u>
<u>Planned Unit Development (Outline plan)</u>	<u>\$375</u>
<u>Planned Unit Development (Development plan)</u>	<u>\$250</u>
<u>Replat</u>	<u>\$125</u>
<u>Vacation of Plat</u>	<u>\$125</u>
<u>Amendments and Rezoning</u>	<u>\$315</u>
<u>Wireless Communication Facilities-Special Exception</u>	<u>\$250</u>

MISC. FEE'S:

<u>Contractor listing (annual)</u>	<u>\$35</u>
<u>Contractor electrical test</u>	<u>\$45</u>
<u>Home Occupation permits (annual)</u>	<u>\$20</u>
<u>County sign permit</u>	<u>\$20</u>
<u>Signs for Town of Nashville</u>	<u>\$35</u>
<u>Photocopies (per page)</u>	<u>.15</u>

****Brown County Ordinance Chapter 8:2 states: *No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner.*

CHAPTER 9 – MISCELLANEOUS

9.1 SEVERABILITY

If a part of this ordinance is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this ordinance is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

9.2 EFFECTIVE DATE

This ordinance takes effect upon its passage and approval by the Board of County Commissioners.

FLOOD DAMAGE PREVENTION ORDINANCE

Article 1. Statutory Authorization, Findings of Fact, Purpose, and Methods

Section A. Statutory Authorization

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the Board of Commissioners of Brown County does hereby adopt the following floodplain management regulations.

Section B. Findings of Fact

The flood hazard areas of Brown County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

Section C. Statement of Purpose

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

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight area;

- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

Section D. Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

Article 2. Definitions

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

Accessory Structure means a structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

- (1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- (2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.
- (3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
 - a. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;
 - b. Structures used by the public, such as a place of employment or entertainment; and,
 - c. Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled)

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

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard, or change the direction and/or velocity of the flow of water during conditions of the base flood.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Area of special flood hazard is the land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.

Base flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

Base Flood Elevation (BFE) means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

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

Best Available Flood Layer (BAFL) means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

Building - See "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

Development means, for floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home,

or installing a recreational vehicle on a site for more than 180 days;

- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;
- (6) construction and/or reconstruction of boat lifts, docks, piers, and seawalls;
- (7) construction and/or reconstruction of, bridges or culverts;
- (8) storage of materials; or
- (9) any other activity that might change the direction, height, or velocity of flood or surface waters.

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

Elevation Certificate means a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

Enclosed area (enclosure) is an area of a structure enclosed by walls on all sides.

Enclosure below the lowest floor. See "Lowest Floor" and "Enclosed Area."

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

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

FEMA means the Federal Emergency Management Agency.

Fill for floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

Flood hazard area means areas subject to the one percent (1%) annual chance flood. (See "Special Flood Hazard Area")

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

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

Flood prone area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Floodplain")

Flood Protection Grade (FPG) is the BFE plus two (2) feet at any given location in the SFHA. (See "Freeboard")

Floodplain or flood prone area means any land area susceptible to being inundated by water from any source. (See "Flood")

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

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPO.

Floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

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

Fringe or Flood Fringe is the portion of the floodplain lying outside the floodway.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

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

Historic structure means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

Hydrologic and hydraulic engineering analysis means analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

International Code Council-Evaluation Service (ICC-ES) Report means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

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

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

- (1) **Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
- (2) **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- (3) **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- (4) **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
- (5) **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(6) **Letter of Map Revision Based on Fill (LOMR-F) Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

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

Lowest floor means, for floodplain management purposes, the lowest elevation described among the following:

(1) The lowest floor of a building.

(2) The basement floor.

(3) The garage floor if the garage is connected to the building.

(4) The first floor of a structure elevated on pilings or pillars.

(5) The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:

a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.

b. At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.

(6) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.

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

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

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

Natural grade for floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

New construction for floodplain management purposes means any structure for which the "start of construction" commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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

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

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

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See "Regulatory Flood".

Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of

structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Prefabricated Building is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is:

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

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3, B of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area (SFHA), synonymous with "areas of special flood hazard" and floodplain, means those lands within the jurisdiction of the County subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, AI-30, A99. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Variance is a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.

Violation means the failure of a structure or other development to be fully compliant with this ordinance.

Walled and roofed means a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

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

Article 3. General Provisions

Section A. Lands to Which This Ordinance Applies

This ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of Brown County, Indiana as identified in Article 3, Section B, including any additional areas of special flood hazard annexed by Brown County, Indiana.

Section B. Basis for Establishing the Areas of Special Flood Hazard

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Brown County, delineated as an "AE Zone" on the Brown County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 8, 2016 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of Brown County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated December 8, 2016 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone", the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Brown County, delineated as an "A Zone" on the Brown County, Indiana and Incorporated Areas Flood Insurance Rate Map, dated December 8, 2016, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better

data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

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

Section C. Establishment of Floodplain Development Permit

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

Section D. Compliance

- (1) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations.
- (2) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

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

Section F. Discrepancy between Mapped Floodplain and Actual Ground Elevations

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR- FW is not subsequently superseded or invalidated.

Section G. Interpretation

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

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

Section H. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Brown County, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance, or any administrative decision made lawfully thereunder.

Section I. Penalties for Violation

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Brown County.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Brown County Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Article 4. Administration.

Section A. Designation of Administrator

The Board of Commissioners of Brown County hereby appoints the Executive Director of the Brown County Area Plan Commission to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

Section B. Floodplain Development Permit and Certification Requirements

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Application Stage.
 - a. A description of the proposed development;
 - b. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
 - c. A legal description of the property site;
 - d. For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre- improved or pre-damaged) structure;
 - e. A site development plan showing existing and proposed development locations and existing and proposed land grades;
 - f. Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
 - g. Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AE. Elevation should be in NAVD 88;
 - h. Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed;
 - i. Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;

- I. Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88;
- m. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. (See Article 4, Section C (8) and Article 4, Section E for additional information.)
- n. Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(2) Finished Construction.

- a. Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the "as-built" lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.
- b. Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
- c. Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

Section C. Duties and Responsibilities of the Floodplain Administrator

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

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

- (1) Enforce the provisions of this ordinance.
- (2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
- (3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (4) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- (5) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- (7) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:

- a. Verify and document the market value of the pre-damaged or pre-improved structure;
- b. Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;
- c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage; and
- d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in Article 5 of this ordinance are required.

- (8) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
- (9) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section A (1), Section A (3) (a) and Section A (4) of this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- (10) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if Article 4, Section C (9) is applicable.
- (11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B.

- (13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.
- (14) Make on-site inspections of projects in accordance with Article 4, Section D.
- (15) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
- (16) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- (17) Provide information, testimony, or other evidence as needed during variance hearings.
- (18) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Article 4, Section D.
- (19) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance in accordance with Section Article 4, Section D.
- (20) Coordinate map maintenance activities and associated FEMA follow-up in accordance with Article 4, Section E.
- (21) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (22) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

Section D. Administrative Procedures

- (1) Inspections of Work in Progress. As the work pursuant to a permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(2) Stop Work Orders.

- a. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
- b. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(3) Revocation of Permits.

- a. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- b. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

(4) Floodplain Management Records.

- a. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
- b. These records shall be available for public inspection at The Plan Commission office located at 201 Locust Lane Nashville, Indiana 47448.

(5) Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

Section E. Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that Brown County flood maps, studies and other data identified in Article 3, Section B accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

- (I) Requirement to Submit New Technical Data
 - a. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
 - b. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

- c. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
- d. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(2) Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the County Commissioner President of Brown County and may be submitted to FEMA at any time.

(3) Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the Brown County have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Brown County, Indiana and Incorporated Areas Flood Insurance Rate Map accurately represent the Brown County boundaries, include within such notification a copy of a map of Brown County suitable for reproduction, clearly showing the new corporate limits or the new area for which Brown County has assumed or relinquished floodplain management regulatory authority.

Section F. Variance Procedures

- (1) The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.
- (2) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Brown County Circuit Court.

(3) In considering such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- a. the danger to life and property due to flooding or erosion damage;
- b. the danger that materials may be swept onto other lands to the injury of others;
- c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. the importance of the services provided by the proposed facility to the community;
- e. the necessity to the facility of a waterfront location, where applicable;
- f. the compatibility of the proposed use with existing and anticipated development;
- g. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- h. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- i. the expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
- J. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) A written report addressing each of the above factors shall be submitted with the application for a variance.

(5) Variances from the provisions of this ordinance shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:

- a. A showing of good and sufficient cause.
- b. A determination that failure to grant the variance would result in exceptional hardship as defined in Article 2.
- c. A determination that the granting of a variance will not result in increased flood

heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

- (6) No variance for a residential use within a floodway subject to Article 5, Section A (1), Section A (3) (a) or Section A (4) of this ordinance may be granted.
- (7) Any variance granted in a floodway subject to Article 5, Section A (1), Section A (3) (a) or Section A (4) will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (8) Variances to the Provisions for Flood Hazard Reduction of Article 5 may be granted only when a new structure is to be located on a lot of one- half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (9) Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.
- (10) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- (11) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (12) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (13) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor.
- (14) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

Article 5. Provisions for Flood Hazard Reduction

Section A. Floodplain Status Standards

(1) **Floodways (Riverine)**

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (IC 14-28-1) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

If the site is in a regulatory floodway as established in Article 3, Section B, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).

- a. No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.
- b. The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.
- c. In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of Article 4, Section E (1). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should

not be permitted.

- d. In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
- e. For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(2) Fringe (Riverine)

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.

(3) SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)

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

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one- percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

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

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.

(4) SFHAs not Identified on a Map

- a. If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- b. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one- percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

- c. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.

Section B. General Standards

In all areas of special flood hazard, the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPO;
- (3) New construction and substantial improvements must incorporate methods and practices that minimize flood damage;
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPO for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPO or designed so as to prevent water from entering or accumulating within the components below the FPO for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPO;
- (5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (8) Any alteration, repair, reconstruction, or improvements to a structure that is in

compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance;

- (9) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres;
- (10) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (11) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.

Section C. Specific Standards

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in Article 3, Section B, the following provisions are required:

- (1) **Building Protection Requirement.** In addition to the general standards described in Article 5, Section B, structures to be located in the SFHA shall be protected from flood damage below the FPO. This building protection requirement applies to the following situations:
 - a. Construction or placement of a residential structure;
 - b. Construction or placement of a non-residential structure;
 - c. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes;
 - d. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding *the* value of *the* land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost);

- e. Installing a manufactured home on a new site or a new manufactured home on an existing site;
- f. Installing a travel trailer or recreational vehicle on a site for more than 180 days;

(2) Residential Construction.

- a. New construction or substantial improvement of any residential structures shall meet provisions described in Article 5, Section A and applicable general standards described in Article 5, Section B.
- b. In **Zone A and Zone AE**, new construction or substantial improvement of any residential structure shall have *the* lowest floor; including basement, at or above the FPO. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section C
 - (2) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C (2) (d) must be met.
- c. **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must *be* designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - A. Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including *the* requirement for flood openings in exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);
 - B. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
 - C. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - D. If the floor of the enclosure is at or above the BFE, but below the FPO, the

openings must be located wholly below the FPO;

- E. Doors and windows do not qualify as openings;
- F. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
- ii. The floor of such enclosed area must be at or above grade on at least one side.

d. A residential structure may be constructed on a fill in accordance with the following

- i. Fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;
- ii. Fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE;
- iii. Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;
- iv. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties;

e. A residential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(3) Non-Residential Construction.

- a. New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in Article 5, Section A and applicable general standards described in Article 5, Section B.
- b. In **Zone A and Zone AE**, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement and, elevated to or above the FPO or be floodproofed to or above the FPO. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section C (3) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C

(3) (d) must be met.

- c. **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - A. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);
 - B. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
 - C. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - D. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.

- E. Doors and windows do not qualify as openings;
- F. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;

ii. The floor of such enclosed area must be at or above grade on at least one side.

d. A nonresidential structure may be constructed on **fill** in accordance with the following:

- i. Shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;
- ii. Shall extend 10 feet beyond the foundation of the structure before sloping below the BFE;
- iii. Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;

1v. Shall not adversely affect the flow of surface drainage from or onto neighboring properties;

e. A nonresidential structure may be **floodproofed** in accordance with the following:

- i. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.
- ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

f. A nonresidential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(4) Manufactured Homes and Recreational Vehicles.

- a. These requirements apply to all manufactured homes to be placed on a site in the SFHA:
 - i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section C (2) (c).
- g. Recreational vehicles placed on a site in the SFHA shall either:
 - i. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
 - ii. Meet the requirements for "manufactured homes" as stated earlier in this section.

(4) Accessory Structures

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- a. Shall have a floor area of 400 square feet or less;
- b. Use shall be limited to parking of vehicles and limited storage;
- c. Shall not be used for human habitation;
- d. Shall be constructed of flood resistant materials;
- e. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;

- f. Shall be firmly anchored to prevent flotation;
- g. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG;
- h. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section C (3) (c) and,
- i. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

(5) Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- a. Shall have open sides (having not more than one rigid wall);
- b. Shall be anchored to prevent flotation or lateral movement;
- c. Shall be constructed of flood resistant materials below the FPG;
- d. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG;
- e. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

(6) Above Ground Gas or Liquid Storage Tanks.

Within SFHAs, all newly placed aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in Article 5, Section C (3).

Section D. Standards for Subdivision and Other New Developments

(1) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.

- (2) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

Article 6. Legal Status
Provisions

Section A. Severability.

If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

Section B. Effective Date.

This ordinance shall be in full force and effect upon adoption.

Passed by the Board of Commissioners of Brown County, Indiana on the 6th day of November 2023.

Board of Commissioners
Brown County, Indiana

CHAPTER 11 - AREA PLAN COMMISSION

11.1 Purpose

The purpose of this chapter is to improve the health, safety, convenience, and welfare of the citizens of Brown County, Indiana, and the participating municipalities within Brown County, Indiana, and to plan for the future of Brown County, Indiana, and the participating municipalities within Brown County, Indiana, to the end that:

- A. residential areas provide healthful surroundings for family life in keeping with the Brown County rural tradition of preservation of its quiet country atmosphere and scenic beauty;
- B. new communities grow only with adequate public way, utilities, health, educational, and recreational facilities in keeping with the Brown County rural tradition of preservation of its quiet country atmosphere and scenic beauty;
- C. the needs of residents, agriculture, industry, and business be recognized in future growth;
- D. the growth of the County and of the participating municipalities are carefully controlled and managed and is commensurate with and promotive of the efficient and economical use of public funds; and
- E. highway systems within Brown County, Indiana, and the participating municipalities within Brown County, Indiana be carefully planned.

11.2 Establishment

The Brown County Area Plan Commission ("Plan Commission") is hereby re-established in accordance with the Area planning law set forth in Indiana Code Chapter 36-7-4.

11.3 Membership

The Plan Commission shall consist of seven (7) members, as follows:

- A. Two (2) members, appointed by the Board of County Commissioners, who may be a member of the Board of County Commissioners;
- B. One (1) member, appointed by the County Council, who may be a member of the County Council;
- C. One (1) member, appointed by the Nashville Town Council, who may be a member of the Town Council;
- D. One (1) member, appointed by the Brown County School Board who shall be the Superintendent of Schools, the Assistant Superintendent of Schools, an administrative official of the School Corporation, or a member of the Brown County School Board;
- E. The Brown County Surveyor or an individual appointed by the Brown County Surveyor; and
- F. The County Agricultural Extension Educator.

11.4 Qualifications of Members

Each member shall be appointed because of: the member's knowledge and experience in the community affairs in Brown County or elsewhere; the member's awareness of the social, economic, agricultural, and industrial problems of the area; and the member's interest in the stewardship of the area. A member may not hold other elective or appointive office in municipal, county, or state government except in the case of a membership on the school board, the Park board, the Board of Zoning Appeals, the board of directors for the public utilities, or the board of trustees for utilities created under I.C 8-1-11.1, or as otherwise authorized by law (e.g., I.C. 36-7-4-208). Excepting the members established by Sections 3(D) and (F) above, a member must be a resident of Brown County, Indiana. A member shall be knowledgeable in the area from which the member is appointed.

11.5 Terms of Office

A. The term of the member appointed pursuant to Subsection 3(A) shall expire on January 1, 1998. The term of the member appointed pursuant to Subsection 3(B) shall expire on January 1, 1995. The term of the member appointed pursuant to Subsection 3(C) shall expire on January 1, 1996. All subsequent appointments made pursuant to Subsections (A), (B), and (C) shall be for a term of four (4) years which term expires on the first Monday of January of the fourth year following the member's appointment. The member appointed pursuant to Subsection 3(D) shall serve until removed by the Brown County School Corporation. However, the School Corporation may adopt a term limitation for its appointee of not less than four (4) years. The term of the member appointed pursuant to Subsection 3(F) shall be coextensive with the appointee's status as the County Agricultural Extension Educator for Brown County, Indiana. The member appointed pursuant to Subsection 3(E) shall be coextensive with the appointing Surveyor's term of office.

B. A member serves until his successor is appointed and qualified. A member may be reappointed.

11.6 Removal of Member

The appointing authority may remove a member from the Plan Commission for cause. The appointing authority must mail notice of the removal along with written reasons for the removal to the member at his residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the Brown Circuit Court. The Circuit Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

11.7 Vacated Membership

If a vacancy occurs among the Plan Commission membership, then the appointing authority shall appoint a member for the unexpired term of the vacating member.

11.8 Expenses

IF the Plan Commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Plan Commission may pay the applicable membership fees and all actual expenses of the members or employees, subject to County Council appropriation of funds.

11.9 Mileage and Compensation

I.C. 36-2-7-2 notwithstanding, all members of the Plan Commission are entitled to receive the following: a sum for mileage, for each mile necessarily traveled while performing the member's duties, in an amount that is equal to the amount paid to state employees for mileage and a sum for compensation for services as a Plan Commission member in an amount that the County Council may determine for attendance at Plan Commission meetings.

11.10 Conflict of Interest

A Plan Commission member may not participate as a Plan Commission member in a hearing or decision of the Plan Commission concerning a matter in which the member has a direct or indirect financial interest. The Plan Commission shall enter in its records the fact that member has such a disqualification. A Plan Commission member shall not directly or personally represent another person in a hearing before the Plan Commission, the Board of Commissioners, the Nashville Town Council or the legislative body of any other participating municipality concerning a zoning matter or any other matter related to zoning including, but not limited to, annexation. A Plan Commission member may not receive mileage or compensation under Section 9 above for attendance at a meeting at which the member is disqualified from participation, during any part of the meeting, for having a direct or indirect financial interest in a matter before the Plan Commission.

11.11 Official Action

An action of the Plan Commission is not official unless it is authorized, at a regular or special meeting, by a majority of the entire Plan Commission membership or by a majority of the Executive Committee pursuant to Section 18 of this chapter.

11.12 President and Vice President

At its first regular meeting in each year, Plan Commission shall elect from its membership a president and a vice president. The vice president may act as president of the Plan Commission during the absence, disability or recusal of the president.

11.13 Secretary

The Plan Commission may appoint and fix the duties of a secretary, who is not required to be a member of the Plan Commission.

11.14 Meetings and Records

- A. The Plan Commission shall fix the time for holding regular meetings each month or as necessary. Special meetings of the Plan Commission may be called by the president or by two (2) members of the Plan Commission upon written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if: (1) the date, time and place of a special meeting are fixed in a regular meeting; and, (2) all members of the Plan Commission are present at that regular meeting. All regular and special meetings of the Plan Commission shall be open to the public, except that the Plan Commission may schedule executive session meetings pursuant to I.C. 5-14-1.5-1 et seq.
- B. The Plan Commission shall keep minutes of its proceedings, keep records of its examinations and other official actions; prepare written findings of fact in support of each of its decisions; and record the vote, disqualification, abstention, or failure to vote of each member upon each question. All

Plan Commission minutes and records shall be filed in the office of the Plan Commission and shall be public records to the extent required by I.C. 5-14-3-1 et seq.

11.15 Staff and Services

- A. When there is a vacancy in the position of executive director of the planning department, the Plan Commission shall recommend to the Commissioners a candidate for the position.
- B. The Plan Commission shall prescribe the qualifications of, appoint, remove, and, with the consent of the executive director, fix the compensation of the employees of the Plan Commission, which compensation must conform to the salaries and compensations fixed before that time by the County Council. The salaries and compensation shall be consistent with the Brown County salary study. The Plan Commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the commission is necessary.
- C. The Plan Commission may contract for special or temporary services and any professional counsel.
- D. The Plan Commission may designate a hearing examiner or a committee of the Plan Commission to conduct any public hearing required to be held by the Plan Commission. Such a hearing must be held upon the same notice and under the same rules as a hearing before the entire Plan Commission. The examiner or committee shall report findings of fact and recommendations for decision to the Plan Commission. The Plan Commission shall, by rule, provide reasonable opportunity for interested persons to file exceptions to the findings and accordance with those rules (or is filed, in any event, if the Plan Commission has not promulgated rules), the Plan Commission may render its decision without further hearing.

11.16 General Powers and Duties

The Plan Commission shall

- A. Supervise, and make rules for, the administration of the affairs of the Plan Commission;
- B. Prescribe uniform rules pertaining to investigations and hearings;
- C. Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission;
- D. Prepare, publish, and distribute reports, ordinances and other material relating to activities authorized under this chapter;
- E. Adopt a seal;
- F. Certify to all official acts;
- G. Supervise the fiscal affairs of the Plan Commission;
- H. Prepare and submit an annual budget in the same manner as other County departments and be limited in all expenditure to the provisions made for the expenditures by the County Council;

- I. Sue and be sued collectively by its legal name "Brown County Area Plan Commission" with service of process on the President of the Plan Commission;
- J. Make recommendations to the Board of Commissioners or to the legislative body of any participating municipality concerning:
 - 1. the adoption of the comprehensive plan, ordinance and amendments; and
 - 2. any other matter, within the jurisdiction of the Plan omission, authorized by the area planning law;
- K. Render decisions concerning and approve:
 - 1. plats or replats of subdivisions;
 - 2. development plans for residential, commercial, and industrial uses;
 - 3. waivers of subdivision standards;
- L. Assign street numbers to lots and structures and renumber lots and structures, and notify the Circuit Court Clerk or Board of Registration, the administrator of the County's enhanced emergency telephone system, and United States Postal Service of the numbering or renumbering no later than the last day of the month following the month in which the action is taken; and
- M. Make recommendations to the Board of Commissioners or the legislative body of any participating municipality, as appropriate, concerning the naming and renaming of streets and road, in accordance with guidelines set forth in Section 23 of this Chapter, and notify the Circuit Court Clerk or Board of Registration, the administrator of the County's enhanced emergency telephone system, and the United State Postal Service of the naming or renaming no later than the last day of the month following the month in which the Commissioners' or Council's action is taken; and
- N. Establish a schedule of reasonable fees to defray the administrative costs connected with: processing and hearing administrative appeals and petitions for rezoning, special exceptions, conditional uses, temporary uses and variances; issuing permits; and, other official actions taken under the Zoning Ordinance.

11.17 Citizen Committees

By resolution, the Plan Commission may establish advisory committees of citizens interested in problems of planning and zoning. In its resolution establishing such a committee, the Plan Commission shall specify the terms of its members, its purposes, and whether the committee is of perpetual or limited duration. Each advisory committee shall:

- A. study the subject and problems specified by the Plan Commission and make recommendations to the Commission regarding the subject and problems specified and recommend additional problems in need of study;

- B. advise the Plan Commission concerning how the subject and problems relate particularly to different areas and groups in the community; and
- C. if invited by the Plan Commission to do so, sit with and participate, without the right to vote, in the deliberations of the Commission, when subjects of mutual concern are discussed.

A citizen committee shall report only to the Plan Commission and shall make inquiries and reports only on the subject and problems specified by the Plan Commission's resolution establishing the committee.

11.18 Executive Committee

- A. The Plan Commission may establish an executive committee of not less than three (3) nor more than six (6) persons appointed by the Plan Commission from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its operation requires a two-thirds (2/3) majority vote of the entire membership of the Plan Commission.
- B. A majority of the executive committee may act in the name of the Plan Commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the Plan Commission.

11.19 Gifts and Grants

The Plan Commission as a whole may accept gifts, donations, and grants from private or governmental sources for advisory planning purposes. Any money so accepted shall be deposited with the Brown County Treasurer, in a special nonreverting Plan Commission fund to be available for expenditures by the Plan Commission for the purposes designated by the source. The Brown County Auditor shall draw warrants against the special nonreverting fund only on vouchers signed by the president and secretary of the Plan Commission

11.20 Alternate Procedure

- A. The Plan Commission may appoint a hearing officer and may establish an alternate procedure under which the hearing officer may approve or deny variances from the design standards of the Zoning Ordinance, special uses, conditional uses, and special exceptions from the terms of the Zoning Ordinance. With respect to such matters, the hearing officer shall have the power of the Board of Zoning Appeals. The hearing officer may be a Board of Zoning Appeals member, a Plan Commission staff member, or any other person. The Plan Commission may appoint more than one hearing officer. A hearing officer serves at the pleasure of the Plan Commission and may be removed by the Plan Commission at any time, without cause.
- B. With respect to an alternate procedure, the Plan Commission may adopt rules:
 1. limiting the kinds of variance, special use, contingent use, conditional use, or special exception petitions that may be filed under the alternate procedure;
 2. permitting the hearing officer, in appropriate circumstances, to transfer a petition filed under the alternate procedure to the Board of Zoning Appeals;

3. requiring the creation of minutes and records of the proceedings before the hearing officer and the filing of the minutes and records as public records; and
4. regulating conflicts of interest and communications with the hearing officer, so as to require the same level of conduct required of the Board of Zoning Appeals in the conduct of its business.

C. The Plan Commission staff may file a written objection to a petition for a variance, exception, or use if:

1. it would be injurious to the public health, safety, morals, and general welfare of the community; or
2. the use or value of the area adjacent to the property included would be affected in a substantially adverse manner.

D. If a written objection is filed by the Plan Commission staff, the petition shall:

1. be considered withdrawn or
2. be transferred to the Board of Zoning Appeals if requested by the petitioner.

E. The Plan Commission staff may indicate that it does not object to the approval of the petition if specified conditions are attached. If the applicant does not accept these conditions, the petition shall:

1. be considered withdrawn or
2. be transferred to the Board of Zoning Appeals if requested by the petitioner.

F. The hearing officer may impose conditions and 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 same manner that the Board of Zoning Appeals may impose conditions or require written commitments. If the applicant for the variance, exception, or use does not accept these conditions or make the commitment, the petition shall:

1. be considered withdrawn or
2. be transferred to the Board of Zoning Appeals if requested by the petitioner.

G. The hearing officer may not modify or terminate any commitment made to the hearing officer or to the Board of Zoning Appeals.

H. A decision of a hearing officer under the alternate procedure may not be a basis for judicial review, but it may be appealed to the Board of Zoning Appeals. An interested person who wishes to appeal a decision of a hearing officer under the alternate procedure must file the appeal with the Board of Zoning Appeals within fourteen (14) days after the decision is made.

11.21 Review of Zoning Ordinance

The Plan Commission shall periodically review both the text of the Zoning Ordinance and the Zoning Maps. Such review shall be performed on a regular schedule established by the Plan Commission, but not less frequently than once every two years. Upon review of the text and maps, the Plan

Commission shall recommend all appropriate changes to the County Commissioners or to the legislative body of any participating municipality as proposed amendments to the Zoning Ordinance.

11.22 Plat Committee

The Plan Commission may appoint a plat committee to hold hearings on and approve plats and replats, on behalf of the Plan Commission, under the circumstances prescribed in the Subdivision Control Ordinance. The plat committee consists of three (3) or five (5) persons, with at least one (1) of the members being a member of the Plan Commission. Each appointment of a member of the plat committee is for a term of one (1) year, but the Plan Commission may remove a member from the plat committee at any time, with or without cause. The Plan Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise. The plat committee may take action only by a majority vote.

11.23 Naming and Renaming Streets

In making proposals to the Board of Commissioners or the legislative body of any participating municipality regarding the naming and renaming streets, the Plan Commission shall be guided by the following policies:

- A. Duplicate street names and names that sound alike shall not be allowed;
- B. Directional or relative names should not be used (e.g., North Drive, Spearsville Road);
- C. A continuous street should not change names when the direction of the street changes;
- D. Predominately north-south streets shall have an "N" prefix if north of the center line and an "S" prefix if south of the center line;
- E. Predominately east-west streets shall have an "E" prefix if east of the center line and a "W" prefix if west of the center line;
- F. Dead-end streets or courts that have no possibility of extension to another road should have a name that is based on the name of the street they connect to (e.g., E. Poplar Grove Lane, N. Poplar Grove Court, N. Poplar Grove Circle) ;
- G. The Postmaster who serves the area in which the named or renamed street will be or is located should be given the opportunity to review and comment on proposed names before the Plan Commission approves a proposal; and
- H. The Brown County Highway Superintendent or the official responsible for street or road maintenance for a participating municipality, as appropriate, must be given the opportunity to review and comment on proposed names before the Plan Commission approves a proposal.

CHAPTER 12 – WIRELESS COMMUNICATIONS FACILITIES

12.1 Purpose

The purpose of this chapter is to:

1. regulate the design, construction, placement, modification, and removal of wireless communications facilities;
2. allow the providers of wireless communications services to provide for adequate coverage and capacity while minimizing the overall impact of additional towers and protecting the fundamental characteristics of the various zoning districts;
3. encourage co-location, the use of attached facilities, concealed facilities, and the use of appropriate public and semi-public properties whenever feasible;
4. require designs and parameters compatible with adjacent land uses, and to conserve the scenic, historic, aesthetic and environmental quality of Brown County and the tourism industry based thereon from the adverse impacts of wireless communications facilities development;
5. promote long-range planning and cooperation between the citizens and property owners of Brown County, the Brown County Area Plan Commission, the Board of Zoning Appeals, the County Commissioners, and the wireless communications services providers;
6. protect the public health, safety and general welfare of the community; and,
7. give due regard to the policies of Brown County's Comprehensive Plan when evaluating proposals for wireless communications facilities.

12.2 Permitted Uses

A. Permitted Uses without a Special Exception

1. Co-location or collocation means the placement of installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.
2. Attached wireless communication facility. An antenna array may be integrated with/within another existing structure (e.g., a building façade or water tower) as long as the attachment would not constitute a substantial modification.

3. Replacement or expansion of a legal, existing WCF that would constitute a substantial modification. This replacement is subject to the application procedures, general requirements and abandonment provisions of this Chapter.

B. Permitted Uses with a Special Exception:

In addition to the requirements of this Chapter, all new WCFs not included in 12-2(A) above, must receive a Special Exception from the Brown County Area Board of Zoning Appeals and shall be subject to the requirements of Chapter 3 (Special Exceptions), Sections 1, 4, 5, Chapter 4, Sections 11, 12, and Chapter 6, Section 3. Special Exception approval shall be required for placement of a new WCF in all zoning districts.

C. Exemptions:

The following wireless communications facilities are exempt from the provisions of this Chapter: police, fire, ambulance and other emergency dispatch; amateur (HAM) radio; antennas used solely for residential household television and radio reception and satellite dishes measuring 2 meters or less in diameter.

D. Prohibitions:

Any WCF not expressly permitted under Subsection (A) Permitted Uses, Subsection (B), Permitted Uses with Special Exception, or not exempted under Subsection (C), Exemptions, are prohibited. Speculative construction of towers for future leasing (i.e., without specific for antennas at the time the application for the tower is submitted) is specifically prohibited.

E. Conditions of Approval:

The following conditions apply to all permitted uses:

1. Applicants and/or petitioners agree to make a good faith effort on terms consistent with any applicable national agreement or on terms common to the region, to accommodate requests for co-location that originate from a provider, from the WCF owner, or from the Area Plan Commission;
2. Property owners and/or agents shall accept and accommodate the provisions for co-location prescribed by this ordinance, and shall agree to the renting or leasing of space on a support structure of WCF, for co-location, at fair market prices and terms without discrimination;
3. Upon completion of the support structure or WCF, owners and/or operators of the support structure or WCF agree to make a good faith effort to accommodate co-location (placement of additional antenna arrays) in a timely manner, including those WCF or antenna arrays proposed by other service providers.
4. No approval for a WCF or support structure shall become valid until written approval of a written statement of no objection from all relevant federal, state, or local agencies with regulatory authority has been submitted to the Director of the Area Plan Commission.

12.3 General Requirements

The following requirements apply to all WCFs that are erected or placed within the County jurisdictional area after the effective date of this chapter:

- A. For each application under Chapter 12, section 2 (A) and (B), the property owners, WCF owners, and wireless communications service provider(s) shall be considered co-applicants and shall be jointly and severally subject to the provisions of this ordinance.
- B. Each application for a permit to add to an existing WCF or for a Special Exception for placement of new WCF shall be accompanied by the following:
 1. Application Form: A completed application form, that:
 - a. identifies the names, business addresses, and points of contact for the applicants;
 - b. states the location of the proposed or affected wireless support structures or wireless facilities;
 - c. includes original signatures from all applicants including the property owners, WCF owners, and wireless communications service providers.
 2. Construction Plan: A construction plan that describes the locations of the proposed co-location, attachment, replacement, substantial modification, or wireless support structure (by property address, latitude/longitude coordinates, and township, range, section, $\frac{1}{4}$ section, shown on a plat map obtained from the Auditor's office), and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment, means of access, proposed site improvements, and compliance with the Building Code. The construction plan shall also include, to the extent applicable: the total height and width of the wireless facility and/or wireless support structure, including cross section and elevation, footing, foundation and wind speed details; a structural analysis indicating the capacity for future and existing antennas, including a geotechnical report and calculations for the foundation's capacity; the identity and qualifications of each person directly responsible for the design and construction; and signed and sealed documentation from a professional engineer that shows the proposed location of the wireless facility and wireless support structure, the area within which the wireless support structure is designed to collapse, and all easements, roadways, and existing structures within a distance of the wireless support structure that is equal to the height of the structure, and all other information necessary to demonstrate compliance with this Chapter.
 3. For new wireless support structures, evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because co-location:
 - a. would not result in the same wireless service functionality, coverage, and capacity;

- b. is technically infeasible; or,
- c. is an economic burden to the applicant.

4. For new wireless support structures, evidence showing that the application complies with the Special Exception criteria set forth in the ordinance.
5. For new wireless support structures that also require variance approval, evidence showing that the application complies with the variance criteria set forth in the ordinance.

C. If an applicant submits the information required by this Section, the application shall be deemed to be complete.

D. Information that the applicant deems to be confidential shall be submitted on green colored paper and shall be treated as confidential, and not available to the public, to the extent authorized by Ind. Code 5-14-3, *et seq.*

E. An applicant shall pay the application fee established by the Brown County Area Plan Commission. An applicant may submit a single application and pay a single application fee, to co-locate multiple wireless facilities or to establish multiple small cell facilities as part of a single small cell network.

12.4 Application Review Procedure

- A. Determination of Completion/Defects. Within ten (10) days of receipt of an application, the permit authority shall review an application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application.
- B. Cure. An applicant for approval under 12.2(A)(3) of this Chapter that receives a written notice of incompleteness may cure the defects and resubmit the application within thirty (days) of receiving the notice. An applicant for approval under 12.2(A)(1) or (2) of this Chapter that receives a written notice of incompleteness may cure the defects and resubmit the application within fifteen (15) days of receiving notice. If the applicant is unable to cure the defects within the relevant cure period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.
- C. Decision by Permit Authority. With respect to an application for approval under 12.2(A)(3) of this Chapter, not more than ninety (90) days after the permit authority makes an initial determination of completeness, the permit authority shall: (1) review the application to determine if it complies with applicable laws and ordinances governing land use and zoning; and (2) notify the applicant in writing whether the application is approved or denied. However, if the applicant requested additional time to cure defects in the application, the ninety (90) day decision period shall be extended for a corresponding time. With respect to an application for approval under 12.2(A)(1) or (2) of this Chapter, not more than forty-five (45) days after the permit authority makes an initial determination of completeness, the permit authority shall: (1) review the application to determine if it complies with applicable laws and ordinances governing land use and zoning; and (2) notify the applicant in writing whether the application is approved or denied. However, if the

applicant requested additional time to cure defects in the application, the forty-five (45) day decision period shall be extended for a corresponding time.

- D. Variances/Decision. With respect to an application for approval under 12.2(A)(3), if the application for the proposed wireless support structure requires a variance from the terms of the Ordinance, the permit authority shall have an additional thirty (30) days to comply with the relevant decision periods of Subsection C above.
- E. Written Decisions. A written decision shall state clearly the basis for the decision to approve or deny an application. If the permit authority denies an application, the written notice must include substantial evidence in support of the denial. A notice is considered written if it is included in the minutes of a public meeting of the permit authority.
- F. Administrative Approval. Approvals sought under 12.2(A)(1) and (2) may be granted by the Planning Director without public hearing.

12. 5 Performance Standards

- A. Security. For all WCF excepting Attached WCF, a perimeter fence at least eight (8) feet high shall be installed to circumscribe and contain the WCF, along with all accessory structures and/or facilities. Use of razor wire is prohibited.
- B. Lighting.
 - 1. Security lighting is not required. However, if security lighting is installed it shall be confined to accessory structure(s), directed downward to minimized glare or intrusion into adjoining properties.
 - 2. Any WCF, support structure, or antenna array that requires illumination shall meet FAA requirements. When there is a choice between red and white strobe lights on the tower, red lights with maximum intervals between flashes shall be required. All lighting shall be shielded underneath or on the bottom of the bulb, so as to reduce glare on adjoining and nearby uses.
 - 3. Other illumination is prohibited.
- C. Landscaping.
 - 1. The following planting requirements shall be applied to all applications or petitions for construction of WCF and/or support structures:
 - a. A double staggered row of evergreen trees, planted at seven (7) ft. in height (measured from grade) and at no more than fifteen (15) ft. intervals along the perimeter of the fence to screen the facilities from adjoining properties; or,
 - b. A mix of deciduous shade trees (2.5"caliper) and large deciduous shrubs (at least 48" in height) of sufficient density along the perimeter of the fence to adequately screen the facilities from adjoining properties.

- c. Existing vegetation within twenty feet (20) of the security fence that is preserved shall be credited towards planting requirements.
- 2. The provisions of this section may be waived, in whole or in part, by the Area Plan Commission upon a determination that: site conditions would not be adequate to support landscape plantings; or, that architectural camouflage ("stealth" design) will insure compatibility with adjoining land uses and eliminate the need for screening.
- 3. All landscape plantings shall be properly maintained or replaced as necessary to ensure their good health and viability for the life of the WCF and/or support structure.

D. Signage. Identification signage, no more than three (3) square feet in total area, shall be required for each WCF/support structure, and/or accessory facility. Identification signage shall include the name(s) of the facility owner(s) or operator(s) and a 24-hour emergency telephone number, and shall be affixed to a perimeter fence or entrance where possible. Signage shall be decided by the Board for each application. Advertising signage is prohibited.

E. Attached WCF. Attached WCF shall be appropriately integrated with, or within, existing structures with due consideration given to sitting/placement, color, camouflage, size and type of construction. Attached WCF shall be designed to minimize visual impact and antenna arrays shall not exceed the height of the existing structure by more than twenty (20) feet.

F. Noise.

- 1. Noise-producing equipment shall be sited and/or insulated to guarantee that no increase in noise above ambient levels measured at the property line occur.
- 2. Backup Generations, if used, shall only be operated during power outages and for testing and maintenance purposes. Routine testing and maintenance, if conducted, shall only be conducted between the hours of 8:00 a.m. and 5:00 p.m. Monday through Saturday.

G. Color and Camouflage.

- 1. All WCF, support structures, accessory buildings, poles, antennas and other external facilities shall be painted upon installation and thereafter repainted as necessary with a "flat" paint. Except where dictated by the FAA, paint color shall, at the discretion of the Planning Director or Plan Commission, be designed to minimize visibility & blend with the surrounding environment.
- 2. Accessory buildings and/or structures shall be designed to be architecturally similar and compatible with each other, and shall not exceed twelve (12) feet in height and 750 square feet in area. Accessory buildings and/or structures shall be used only for the housing of equipment needed to service the WCF and/or antenna array(s) located on the premises. Where possible, accessory buildings and/or structures shall be attached or clustered so as to appear as one building. Exterior facades shall incorporate materials, textures and colors that blend with the surroundings to minimize visual impact.

3. The Director of the Area Plan Commission and/or Area Plan Commission shall reserve the right to require architectural camouflage, or "stealth design," if a proposed site is deemed sensitive for any of the following reasons:
 - a. the prospective site is located in, or within 300 feet of, property officially designated as "Historic" by the State of Indiana, Brown County or the village of Nashville, listed with the Indiana Historic Site and Structures Inventory, or located within property listed with the National Register of Historic Places.
 - b. the prospective site lies in, or within 300 feet of a right-of-way classified as a scenic corridor by the Brown County Comprehensive Plan or the State of Indiana.

H. Materials. Excepting Attached WCF, all support structures shall be constructed of galvanized metal. The provisions of this section may be waived by the Director of the Area Plan Commission upon a determination that architectural camouflage ("stealth" design) will satisfy the intent of this section.

I. Health and Safety.

1. All WCF and/or support structures shall be constructed, operated, maintained and monitored in compliance with all applicable federal (i.e., FCC and FAA) and state standards and requirements.
2. WCF and/or support structures that would be classified as a hazard to air navigation, as defined by the Federal Aviation Administration, shall not be permitted.

12.6 Temporary WCF

- A. Temporary WCF or antennas shall be permitted for test purposes, emergency communications or in the event of equipment failure for a maximum period of two (2) weeks, subject to the requirements of Section 12.3 (B) (1) through (5) and (7) through (10).
- B. If the application is investigating co-location opportunities for a proposed antenna array, and demonstrates with written documentation that good faith co-location negotiations are in process, a temporary WCF may be approved by the Director of the Area Plan Commission for a period not to exceed six months subject to the requirements of Section 12.3 (B) (1) through (5) and (7) through (10).
- C. An improvement location permit shall be required for each Temporary WCF.

12.7 Abandonment

- A. Any WCF or support structure that is no longer needed or used for its intended purpose shall be considered abandoned and shall be reported immediately by the service provider to the Director of the Area Plan Commission. All abandoned WCF and/or support structures shall be completely removed by, and at the expense of, the service provider and/or owner within six (6) months from the date of abandonment and the surface of the site shall be restored to a condition suitable for development.

B. The County may remove any discontinued WCF or support structure that is not completely removed within six (6) months from the date of abandonment. Costs associated with the dismantling and removal of an abandoned WCF or support structure and site restoration shall be paid by the service provider and/or owner as bound by the terms of the maintenance and facility removal agreement described in Section 12.3 (B)(6).

TABLE 12.1

Performance Standard	All WCF, support structures
Maximum Permitted Height Without Variance	199 feet
Front Yard Setback (minimum)	Certified fall zone of tower plus 50 feet
Side Yard Setback (minimum)	Certified fall zone of tower plus 50 feet
Rear Yard Setback (minimum)	Certified fall zone of tower plus 50 feet

