



# LaGrange County, Indiana

UNIFIED DEVELOPMENT ORDINANCE

**DRAFT | Module 4**

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*(to be replaced with a fancy cover at the end of the process)*

# CONTENTS

- Article 1 General Provisions..... 1**
  - Title and Authority.....1*
  - General Purpose.....1*
  - Scope.....1*
  - Interpretation.....1*
  - Validity.....1*
  - Severability.....1*
  - Transition Rules.....2*
  - Graphics, Illustrations, Figures, and Cross-References.....2*
  - Alignment with LaGrange County Together Comprehensive Plan.....2*
  - How to Use the UDO.....2*
  
- Article 2 Zoning Districts .....3**
  - Purpose .....3*
  - Districts Established .....3*
  - Zoning Districts and Map.....3*
  - Conformance Requirements .....4*
  - Agricultural Districts.....4*
  - Residential Districts .....4*
  - Business Districts .....5*
  - Industrial Districts.....6*
  
- Use Regulations .....7**
  - Purpose .....7*
  - Use Provisions.....7*
  - Use Table.....7*
  - Agricultural Use Standards .....11*
  - Residential Use Standards .....13*
  - Commercial Use Standards .....15*
  - Institutional/Public Use Standards .....19*
  - Industrial Use Standards.....19*
  - Accessory Use Standards.....19*
  - Temporary Use Standards.....25*

<b>Article 3 Special Uses .....</b>	<b>28</b>
<i>Commercial Solar Facilities.....</i>	28
<i>Small Wind Energy Conversion Systems (SWECS).....</i>	34
<i>Towers and Similar Structures.....</i>	35
<b>Article 4 Special Districts.....</b>	<b>37</b>
<i>Wind Energy Conversion Systems (WECS).....</i>	37
<i>Planned Unit Development (PUD) District.....</i>	46
<b>Article 5 Dimensional and Design Standards.....</b>	<b>53</b>
<i>Purpose.....</i>	53
<i>Agricultural District Dimensional Standards.....</i>	53
<i>Residential District Dimensional Standards.....</i>	54
<i>Business District Dimensional Standards.....</i>	57
<i>Industrial District Dimensional Standards.....</i>	58
<i>Measurements, Computations, and Exceptions.....</i>	58
<b>Article 6 Parking and Loading.....</b>	<b>63</b>
<i>Purpose.....</i>	63
<i>Applicability.....</i>	63
<i>Parking Requirements.....</i>	63
<i>Parking Facility Design.....</i>	68
<i>Off-Street Stacking Requirements.....</i>	70
<i>Off-Street Loading Requirements.....</i>	71
<i>Maintenance.....</i>	72
<b>Article 7 Landscaping and Buffering.....</b>	<b>73</b>
<i>Purpose.....</i>	73
<i>Applicability.....</i>	73
<i>Landscape Plan Required.....</i>	73
<i>Parking Lot Landscaping.....</i>	74
<i>Screening and Buffering Requirements.....</i>	74
<i>Maintenance.....</i>	74
<i>Modifications.....</i>	75
<b>Article 8 Fences.....</b>	<b>76</b>
<i>Purpose.....</i>	76
<i>Applicability.....</i>	76

<i>General Fence Requirements</i> .....	76
<i>Specific District Requirements</i> .....	76
<i>Lot Requirements</i> .....	77
<i>Measurement Standards</i> .....	78
<i>Maintenance</i> .....	78
<b>Article 9 Lighting</b> .....	<b>79</b>
<i>Purpose</i> .....	79
<i>Applicability</i> .....	79
<i>Exemptions</i> .....	79
<i>Prohibited Lights</i> .....	79
<i>Lighting Regulations</i> .....	79
<b>Article 10 Sign Regulations</b> .....	<b>81</b>
<i>Purpose</i> .....	81
<i>Applicability</i> .....	81
<i>General Regulations</i> .....	81
<i>Signs Requiring Permits</i> .....	81
<i>Sign Permits</i> .....	82
<i>Sign Development Plans</i> .....	82
<i>Exempted Signs From Permitting</i> .....	83
<i>Prohibited Permanent and Temporary Signs</i> .....	83
<i>Permanent Sign Regulations</i> .....	84
<i>Temporary Sign Regulations</i> .....	91
<i>Sign Measurement Regulations</i> .....	96
<i>Sign Landscaping Requirements</i> .....	97
<i>Sign Lighting Requirements</i> .....	97
<i>Sign Construction Requirements</i> .....	97
<i>Nonconforming Signs</i> .....	97
<i>Sign Maintenance</i> .....	98
<i>Penalty</i> .....	98
<b>Article 11 Subdivision Regulations</b> .....	<b>99</b>
<i>Purpose</i> .....	99
<i>General Provisions</i> .....	99
<i>Types of Subdivisions</i> .....	101
<i>Subdivision Administration</i> .....	101

<i>Modifications, Extensions, and Phasing</i> .....	105
<i>Financial Guarantees</i> .....	106
<i>Subdivision Development and Design Standards</i> .....	107
<b>Article 12 Floodplain Regulations</b> .....	<b>117</b>
<i>Statement of Purpose</i> .....	117
<i>Statutory Authorization</i> .....	117
<i>Findings of Fact</i> .....	117
<i>Methods of Reducing Flood Loss</i> .....	117
<i>General Provisions</i> .....	118
<i>Administration</i> .....	120
<i>Provisions for Flood Hazard Reduction</i> .....	128
<i>Standards for Subdivision and Other New Developments</i> .....	136
<i>Standards for Critical Facilities</i> .....	137
<b>Article 13 Administration and Procedures</b> .....	<b>138</b>
<i>Purpose</i> .....	138
<i>Summary Table of Procedures</i> .....	138
<i>Common Review Requirements</i> .....	138
<i>Specific Procedures</i> .....	139
<i>Pre-Existing Development and Nonconformities</i> .....	150
<i>Review and Decision Making Bodies</i> .....	152
<i>Enforcement and Penalties</i> .....	156
<b>Article 14 Definitions</b> .....	<b>160</b>
<i>Rules and Interpretations</i> .....	160
<i>Definitions</i> .....	160

# Article 1 General Provisions

## Title and Authority

This Unified Development Ordinance shall be known as, referred to, and cited as the “Unified Development Ordinance of LaGrange County, Indiana,” and is hereinafter referred to as “UDO” or “ordinance”. This UDO is adopted under the authority granted by the 600 Series of IC §36P7P4 of the Indiana Code and amendments thereto. The provisions of this UDO shall apply to all structures, lands, water, and air within the unincorporated portions of LaGrange County and the incorporated towns of Topeka, LaGrange, Shipshewana, and Wolcottville, including land owned by local, county, state, or federal agencies, to the extent allowed by law.

## General Purpose

The purpose of this UDO is as follows:

- Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- Lessening or avoiding congestion in public ways;
- Promoting the public health, safety, comfort, morals, convenience, and general welfare;
- Implementing the Comprehensive Plan; and
- Otherwise accomplishing the purposes of IC §36P7P4.

## Scope

Nothing in this UDO is construed to limit LaGrange County’s Commissioners in the exercise of all of the powers to zone or redistrict now or hereafter as authorized by the Indiana Code and amendments thereto.

## Interpretation

- The provisions of this UDO shall be held to be minimum requirements necessary for the promotion of the public health, safety, and general welfare, and shall be liberally construed in favor of the County and shall not be construed to be a limitation or repeal of any other power now possessed by LaGrange County.
- When the provisions of this UDO are inconsistent with one another, or when the provisions of this UDO conflict with provisions found in other ordinances, codes, or regulations adopted by LaGrange County, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

## Validity

The sections and subsections of this UDO, and the several parts, provisions, and regulations thereof are hereby declared to be independent sections, subsections, parts, provisions, and regulations, and the holding of any such section subsection, part, provision, or regulation thereof to be unconstitutional, void, or ineffective for any cause shall not affect or render invalid any other such section, subsection, provision, or regulation thereof.

## Severability

If any Court of competent jurisdiction rules any provision of this UDO invalid, that ruling shall not affect any provision not specifically included in the judgment. If any Court of competent jurisdiction rules invalid the application of any provision of this UDO to a particular property,

building, or other structure, or use, that ruling shall not affect the application of the UDO provisions to any property, building, other structure, or use not specifically included in the judgment.

### Transition Rules

- **Effective Date.** This UDO shall take effect after publication of the notice of adoption as provided by IC 36P7P4P610.
- **Violations.** Any violation under previous ordinances repealed by this UDO shall continue to be a violation under this UDO and be subject to penalties and enforcement under XXXX, unless the use, development, construction, or other activity complies with the provisions of this UDO.
- **Nonconformities.** Any legal nonconformity under any previous ordinances repealed by this UDO is also a legal nonconformity under this UDO, as long as the situation that resulted in the nonconforming status under the previous ordinances continues to exist. If a nonconformity under the previous ordinances becomes conforming because of the adoption of this UDO, then the situation will no longer be a nonconformity.

### Graphics, Illustrations, Figures, and Cross-References

- Graphics, illustrations, and figures are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and the graphic, illustration, or figure, the text shall control.
- In some instances, cross-references between sections and subsections are provided that include the section or subsection number along with the name of the reference. Where a conflict may occur between the given cross reference number and name, the name shall control.

### Alignment with LaGrange County’s Comprehensive Plan

The County’s currently adopted comprehensive plan establishes a guide for future development within the County. The County’s UDO is the primary implementing document of the comprehensive plan. Together, these documents establish guidelines and regulations for land use within the County. When considering development proposals, amendments, Planned Unit Developments, conditional use applications, and other similar requests, the County’s elected and appointed officials shall pay reasonable regard to the recommendations of the plan.

### How to Use the UDO

The structure of the text of this UDO is as follows: **INSERT TEXT**

# Article 2 Zoning Districts

## Purpose

The purpose of this article is to:

- To realize the general purposes set forth in this UDO through the establishment of zoning districts;
- Provide for the orderly growth and development of LaGrange County; and
- Promote development that is in accordance with the LaGrange County Together Comprehensive Plan.

## Districts Established

The following zoning districts are hereby established for the County:

Abbreviation	District Name	Section
A-1	General Agricultural	XXXX
A-2	Rural Business and Industrial	XXXX
P-1	Parks and Natural Lands	XXXX
S-1	Suburban Residential	XXXX
U-1	Urban Residential	XXXX
L-1	Lake Residential	XXXX
B-1	General Business	XXXX
B-2	Neighborhood Business	XXXX
B-3	Highway Business	XXXX
B-4	Central Business	XXXX
I-1	Light Industrial	XXXX
I-2	Heavy Industrial	XXXX
Overlay Districts		
PUD	Planned Unit Development	XXXX
WECS	Wind Energy Conversion System Overlay	XXXX

## Zoning Districts and Map

- **Interpretation of District Boundaries.** The boundaries of the zoning districts, designated on the LaGrange County Zoning Map, generally follow the center line of streets, recorded lot lines, fixed points, or areas around bodies of water.
- **Boundary Disputes.** The Plan Commission shall resolve all questions and disputes concerning the exact location of zoning district boundaries.
- **Incorporation of the Zoning Map.** The zoning districts established within this Article are shown upon the official LaGrange County Zoning Map, which together with all accompanying notations, references, rules, and designations, is hereby adopted and made a part of this UDO. The zoning map, with all its future additions, amendments, changes, and supplements, designates the areas assigned to the respective use districts that their boundaries.

## Conformance Requirements

Except as regulated in section XXXX(nonconforming), no land, building, structure, or premises, shall be hereafter used, and no building or part thereof, or other structure shall be altered, enlarged, erected, extended, moved, or reconstructed unless it conforms with the provisions of this UDO and all other applicable local, county, and state regulations.

## Agricultural Districts

**Applicability.** The agricultural zoning districts within this UDO include the A-1 General Agricultural, A-2 Rural Business and Industrial, ~~R-1 Rural Residential~~, and P-1 Parks and Natural Lands Districts.

**Purpose.** Agricultural districts are established in LaGrange County to promote and protect agricultural activity and agricultural business in appropriately located areas consistent with the Comprehensive Plan.

### Districts

- **A-1 General Agricultural.** The purpose of this district is to provide for and protect substantial areas for a broad variety of agricultural uses where little or no urbanization has occurred or is planned to occur.
- **A-2 Rural Business and Industrial.** The purpose of this district is to provide areas for agricultural uses, processing, and confined feeding operations.
- **P-1 Parks and Natural Lands.** The purpose of this district is to identify and protect large, forested areas where development is to be very limited in nature.

## Residential Districts

**Applicability.** The residential zoning districts within this UDO include the S-1 Suburban Residential, U-1 Urban Residential, and L-1 Lake Residential Districts.

**Purpose.** Residential districts are established in LaGrange County for the following purposes:

- To provide appropriately located areas for a variety of types of residential development that are consistent with the Comprehensive Plan and with standards of public health and safety established by this UDO and any other appropriate governmental body;
- To ensure adequate light, air, privacy, and open space for each dwelling;
- To insulate residents from the harmful effects of excessive noise, population density, traffic congestion, and other significant adverse environmental effects;
- To protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;
- To provide sites for public and semipublic land uses needed to complement residential development or requiring a residential environment;
- To ensure the provision of public services and facilities needed to accommodate planned population densities; and
- To provide residential areas that do not contain livestock.

## Districts

- **S-1 Suburban Residential.** The purpose of this district is to accommodate residential subdivisions served by approved infrastructure and sewage disposal. Generally, these subdivisions are located near or adjacent to villages and towns.
- **U-1 Urban Residential.** The purpose of this district is to encourage development of new and infill housing in the existing villages and incorporated towns in LaGrange County in the form of high-density housing where sewers are available.
- **L-1 Lake Residential.** The purpose of this district is to provide for responsible residential development in the lake areas of LaGrange County and to provide desirable residential neighborhoods while protecting the county's lake resources.

## Business Districts

**Applicability.** The business zoning districts within this UDO include the B-1 General Business, B-2 Neighborhood Business, B-3 Highway Business, and B-4 Central Business Districts.

**Purpose.** Business districts are established in LaGrange County for the following purposes:

- To provide appropriately located areas for a full range of office and commercial uses for LaGrange residents, visitors, businesses, and workers;
- To strengthen LaGrange County's economic base, and to provide employment opportunities;
- To create suitable environments for various types of commercial uses, and protect them from the adverse effects of incompatible uses;
- To minimize the impact of commercial development on abutting residential districts;
- To ensure that the appearance and effects of commercial buildings and uses are harmonious with the character of the area in which they are located; and
- To ensure the provision of adequate off-street parking and loading facilities.

## Districts

- **B-1 General Business.** The purpose of this district is to provide appropriate locations for offering a broad range of goods and services to residents, visitors, and workers in LaGrange County.
- **B-2 Neighborhood Business.** The purpose of this district is to provide appropriate locations convenient to neighborhoods for professional office uses, personal service uses, and retail services uses, which dispense convenience goods and services directly to consumers on the premises. Businesses in this district are conducted primarily indoors and area of a scale appropriate to residential areas.
- **B-3 Highway Business.** The purpose of this district is to provide for highway oriented business uses offering accommodations, supplies, and services to the general public, and ordinarily are located along highways designed as major arterials.
- **B-4 Central Business.** The purpose of this district is to serve as the primary business district of the community in which it is located, where a full range of goods and services are offered and where the land use intensity is greatest. This district is the focal point for community identification, highly accessible to the entire trade area, and designed for pedestrian oriented services.

## Industrial Districts

**Applicability.** The industrial zoning districts within this UDO include the I-1 Light Industrial and the I-2 Heavy Industrial Districts.

**Purpose.** Industrial districts are established in LaGrange County for the following purposes:

- To provide appropriately located areas consistent with the LaGrange County Comprehensive Plan for a variety of industrial uses;
- To strengthen the County's economic base, and provide employment opportunities close to home for residents of the County and surrounding communities;
- To create suitable environments for various types of and industrial uses, and protect them from the adverse effects of incompatible use;
- To minimize the impact of office and industrial development on abutting districts;
- To help ensure that the appearance and effects of industrial buildings and uses are harmonious with the character of the area in which they are located; and
- To ensure the provision of adequate off-street parking and loading facilities.

### Districts

- **I-1 Light Industrial.** The purpose of this district is to encourage industrial activity with limited effects on surrounding land uses. These uses are to be conducted entirely within enclosed buildings and produce a minimum of noise, air, or water pollution.
- **I-2 Heavy Industrial.** The purpose of this district is to provide appropriate locations for those industrial uses that require outside storage or activity. Often these industries have objectionable factors such as noise that are difficult to eliminate. These industries are buffered by sufficient area to minimize any adverse effects, and wherever practical, this district is removed as far as possible from residential areas and buffered by intervening lighter industrial and business districts.

# Use Regulations

## Purpose

The purpose of this article is to classify, regulate, and restrict the location of commercial establishments, industries, residents, recreation, and other land uses in order to assure the compatibility of uses and practices within districts with the goal of protecting the property rights of all individuals.

## Use Provisions

- **Permitted Uses.** A “P” in a cell indicates that a use is allowed by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this code.
- **Permitted Uses with Standards.** A “PS” in a cell indicates that a use is allowed by-right in the respective zoning district if it meets the additional standards that are identified in the last column of Table XXXX: Use Table. Permitted uses with standards are subject to all other applicable regulations of the code.
- **Conditional Uses.** A “C” in a cell indicates that a use may be permitted if approved through the conditional use process as established in section XXXX. Conditional uses are subject to all other applicable regulations of the code, including the conditional use review standards set forth in section XXXX.
- **Conditional Uses with Standards.** A “CS” in a cell indicates that a use may be permitted if approved through the conditional use process as established in section XXXX and are subject to use-specific standards that are identified in the last column of Table XXXX: Use Table. Conditional uses are subject to all other applicable regulations of the code, including the conditional use review standards set forth in section XXXX.
- **Prohibited Uses.** A blank cell in Table XXXX: Use Table indicates a use is prohibited in the respective zoning district. If a use is not listed on Table XXXX: Use Table, then it shall also be considered prohibited, unless approved by the Zoning Administrator through the similar use determination as established in section XXXX.
- **Section Reference.** The section references contained in the “Section” column on Table are references to additional standards and requirements within this UDO that apply to the use listed in the respective row. Standards referenced in the table apply to all the zoning districts in which the use is permitted or conditionally permitted, unless otherwise expressly stated.

## Use Table

The following table lists the uses that are permitted, permitted with standards, conditionally permitted, and prohibited within the designated zoning districts of LaGrange County.

**Table XXX: Permitted Use Table**

USE	A-1	A-2	P-1	S-1	U-1	L-1	B-1	B-2	B-3	B-4	I-1	I-2	REF
<b>Agricultural Uses</b>													
Agribusiness	P	P					P	P	P	P	P	P	
Agricultural Building	P	P											
Agricultural Use	P	P											
Animal Feeding Operation (AFO)	PS	PS											XXXX
Concentrated Feeding Operation (CFO)	PS	PS											XXXX
Confined Animal Feeding Operation (CAFO)	PS	PS											XXXX
Crop Production/Row Crops	P	P	P										
Farm Market	P	P					P	P	P	P			
Grain Elevator	P	P									P	P	
Meat Processing	C	P									P	P	
Pasturing	P	P											
Raising of Exotic Animals	P	P											
Raising of Livestock	P	P											
Sawmill/Timber Processing	C	P											
<b>Residential Uses</b>													
Dwelling, Multi-Family					PS		PS	PS	C	C			XXXX
Dwelling, Single Family	PS	PS		PS	PS	PS		PS		PS			XXXX
Dwelling, Townhomes				PS	PS								XXXX
Dwelling, Two Family	PS	PS			PS			PS		PS			XXXX
Farm Worker Housing	PS	PS											XXXX
Manufactured Home, Park				C	PS	C							XXXX
Residential Living Facility	PS	PS		PS	PS	PS		PS		PS			XXXX
Short Term Rentals	CS	CS		CS	CS	CS							XXXX
<b>Commercial Uses</b>													
Adult Entertainment Establishment												C	XXXX
Alcohol Production (Winery/Brewery/Distillery/Cidery), Large Scale	CS	CS									PS	PS	XXXX
Alcohol Production (Winery/Brewery/Distillery/Cidery), Small Scale	CS	CS					PS	PS	PS	PS	PS	PS	XXXX
Animal Boarding of Pets	PS	PS					PS	PS	PS				XXXX
Animal Breeding of Pets	PS	PS											XXXX
Auction House	P	P					PS		PS				XXXX
Bed and Breakfast	PS	PS	PS	CS	PS	CS							XXXX
Business Service							P	P	P	P			
Campground and RV Park	CS		CS				XXXX						
Car Wash							P	P	P	P			
Cider Mill	P	P											
Clinic, Medical							P	P	P	P			
Commercial Recreation (Indoor and Outdoor)	C	C					P	C	P	P			
Convenience Store							P	P	P	P			
Event Center		C					C	C	C	C			
Funeral Home							P	P					
Gas Station/Charging Station							PS	PS	PS	PS			XXXX

**Table XXX: Permitted Use Table**

USE	A-1	A-2	P-1	S-1	U-1	L-1	B-1	B-2	B-3	B-4	I-1	I-2	REF
Garden Center/Greenhouse, Commercial	P	P					P	P	P	P			
Hospital							P		P	P			
Hotel/Motel			C				P	P	P				
Marina				C	C	C			P				
Mini-Warehouse, Indoor Storage							PS		PS		PS	PS	XXXX
Nursery School/Daycare	C	C					P	P	P	P			
Personal Care		C					P	P	P	P			
Personal Services		C					P	P	P	P			
Plant Nursery	P	P		P									
Professional Offices							P	P	P	P			
Restaurant		C				C	P	P	P	P			
Retail, Artisan		P					P	P	P	P			
Retail, Big Box							P		P				
Retail, Food and Beverage		P					P	P	P	P			
Retail, General		PS					P		P	P			XXXX
Retail, Micromobility		P					P	P	P	P			
Retail Services		C					P	P	P	P			
Shopping Center							P	P	P	P			
Shooting Range (indoor or outdoor)	C	C	C										
Stable, Commercial	P	P											
Vehicle Service and Repair, Minor							PS		PS				XXXX
Vehicle Service and Repair, Major									CS		PS	PS	XXXX
Vehicle Sales/Rental							PS		PS				XXXX
Vehicle Storage, Outdoor		C										C	
Veterinary Clinic	C	P					P	P	P	P			
<b>Institutional/Public Uses</b>	<b>A-1</b>	<b>A-2</b>	<b>P-1</b>	<b>S-1</b>	<b>U-1</b>	<b>L-1</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>B-4</b>	<b>I-1</b>	<b>I-2</b>	<b>REF</b>
Cemetery	P	P	P	P	P	P	C	C	C	C			
Educational Institution, Public	P	P	P	P	P	P	C	P	C	P			
Educational Institution, Private	P	P	P	C	C	C	C	C	C	C			
Essential Services	PS	XXXX											
Other Institutional Use	C	C	C	C	C	C					C	C	
Park or Recreational Facility, Public	PS	XXXX											
Park or Recreational Facility, Private	CS	CS	CS	CS	CS	CS	PS	PS	PS	PS	PS	PS	XXXX
Prison		C											
Public Building/Use							P	P	P	P			
Religious Facility/Place of Assembly	PS	XXXX											
Waste Disposal Facility		C											
<b>Industrial Uses</b>	<b>A-1</b>	<b>A-2</b>	<b>P-1</b>	<b>S-1</b>	<b>U-1</b>	<b>L-1</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>B-4</b>	<b>I-1</b>	<b>I-2</b>	<b>REF</b>
Freight Services or Truck Terminals											C	P	

**Table XXX: Permitted Use Table**

USE	A-1	A-2	P-1	S-1	U-1	L-1	B-1	B-2	B-3	B-4	I-1	I-2	REF
Industrial Processing											C	P	
Junkyard												C	XXXX
Laboratory											P	P	
Lumber/Storage Yard	C	P						C	P		C	P	
Manufacturing/Production, Artisan	P	P									P	P	XXXX
Manufacturing		PS									P	P	
Warehousing/Distribution Center											P	P	
Wholesaling											C	P	
<b>Accessory Uses</b>	<b>A-1</b>	<b>A-2</b>	<b>P-1</b>	<b>S-1</b>	<b>U-1</b>	<b>L-1</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>B-4</b>	<b>I-1</b>	<b>I-2</b>	<b>REF</b>
Accessory Use	P	P	P	P	P	P	P	P	P	P	P	P	XXXX
Amateur Radio Antenna	P	P		P	P	P							XXXX
Caretaker Dwelling							P		P		P	P	
Drive-Through Window/ Pick-Up Window/Drive-In							PS	PS	PS	C			XXXX
Dumpster Enclosure	PS	XXXX											
Dwelling Unit, Secondary	PS	PS		PS	PS	PS		C		C			XXXX
Event Center	C	C					PS	PS	PS	PS			XXXX
Farm Equipment Repair	P	P											
Garage, Carport	PS	PS	PS	PS	PS	PS							XXXX
Greenhouse	PS	PS	PS	PS	PS	PS							XXXX
Home-Based Business, Class I	PS	PS	PS	PS	PS	PS		PS		PS			XXXX
Home-Based Business, Class II	PS	PS	PS	PS	PS	PS		PS		PS			XXXX
Keeping of Small Animals				PS	PS								XXXX
Office	P	P	P								P	P	
Outdoor Display and Retail							PS	PS	PS	PS	PS	PS	XXXX
Recreational and Commercial Vehicle Parking	PS	PS	PS	PS	PS	PS							XXXX
Signs	PS	XXXX											
Solar Panels	PS	XXXX											
Sport Court	P	P		P	P	P							
Stable, Commercial	P	P											
Start-Up Business	PS	PS		C	C	C		C		C			XXXX
Storage, Enclosed							P	P	P	P	P	P	
Storage, Outdoor		PS					C		C		C	P	XXXX
Swimming Pool	PS			XXXX									
<b>Temporary Uses</b>	<b>A-1</b>	<b>A-2</b>	<b>P-1</b>	<b>S-1</b>	<b>U-1</b>	<b>L-1</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>B-4</b>	<b>I-1</b>	<b>I-2</b>	<b>REF</b>
Construction Trailer and Material Storage	PS	XXXX											
Festivals and Carnivals	PS	PS	PS				PS	PS	PS	PS			XXXX
Food Truck/Mobile Vendor	PS	PS					PS	PS	PS	PS	PS	PS	XXXX
Manufactured Home	PS	PS		PS	PS	PS		PS		PS			XXXX
Noncommercial Concrete Batching Plant	PS	XXXX											
Recreational Vehicle Parking	PS	PS		PS	PS	PS							XXXX
Residential Outdoor Sale	PS	PS		PS			XXXX						

**Table XXX: Permitted Use Table**

USE	A-1	A-2	P-1	S-1	U-1	L-1	B-1	B-2	B-3	B-4	I-1	I-2	REF
Seasonal Sales	PS	PS		PS			XXXX						
Temporary Structure	PS	XXXX											
Special Uses	A-1	A-2	P-1	S-1	U-1	L-1	B-1	B-2	B-3	B-4	I-1	I-2	REF
Commercial Solar Facilities	PS	PS											XXXX
Small Wind Energy Conversion System (SWECS)	PS	XXXX											
Towers and Similar Structures	PS	XXXX											

## Agricultural Use Standards

### General Regulations

- Multiple Uses and Structures.** In the A-1 and A-2 zoning districts multiple principally permitted uses are allowed within a single building or on a single lot per the following:
  - All structures that include a principally permitted use shall meet the setbacks for a principal structure per Section XXXX.
  - All applicable development standards for the principally permitted uses shall be required including, but not limited to, parking, landscaping, buffering, lighting, and fencing.

### Animal Feeding Operations, Concentrated Feeding Operation and Confined Animal Feeding Operation.

AFO's, CFO's and CAFO's are subject to the following:

- Compliance.** New and expanding animal feeding operations, concentrated feeding operations, and confined animal feeding operations shall comply with all state and county health and environmental regulations, as well as all federal laws governing such uses.
- Applicability.** AFO's, CFO's, and CAFO's are partially defined by the number of animals that are present on a property. The animal quantities are identified in the following table. The complete definitions for each can be found in Section XXX(Definitions).

Table XXX: AFO/CFO/CAFO Animal Units			
	Animal Feeding Operation (AFO)	Concentrated Feeding Operation (CFO)	Confined Animal Feeding Operation (CAFO)
Mature dairy cows, whether milked or dry	25-299	300-699 <sup>1</sup>	700 and up
Veal calves or bottle calves	100-299	300-999 <sup>1</sup>	1,000 and up
Weaned calves	50-299	300-999 <sup>1</sup>	1,000 and up
Cattle other than mature dairy cows or veal calves (includes heifers, steers, bulls, and sow/calf pairs)	30-299	300-999 <sup>1</sup>	1,000 and up
Swine weighing 55 pounds or more	100-599	600-2,499 <sup>2</sup>	2,500 and up
Swine weighing less than 55 pounds		600-9,999 <sup>2</sup>	10,000 and up
Draft horses	15-499	500 and up	500 and up
Buggy horses/Horses in confinement	30-499	500 and up	500 and up
Sheep or lambs	300-2,999	3,000-9,999	10,000 and up
Turkeys	1,500-29,999	30,000-54,999	55,000 and up
Chickens (other than laying hens) with a solid manure handling system	6,000-37,499	37,500-124,999	125,000 and up
Laying Hens with a solid manure handling system	7,500-24,999	25,000-81,999	82,000 and up

<b>Table XXX: AFO/CFO/CAFO Animal Units</b>			
	<b>Animal Feeding Operation (AFO)</b>	<b>Concentrated Feeding Operation (CFO)</b>	<b>Confined Animal Feeding Operation (CAFO)</b>
Ducks	5,000-29,999	30,000 and up	30,000 and up
<sup>1</sup> IDEM identifies a CFO by a combined count of 300 or more cows, calves, heifers, and cattle			
<sup>2</sup> IDEM identifies a CFO by a combined count of 600 or more swine, regardless of weight and age			

- Setback Regulations.** The following table identifies the minimum setback requirements for AFO's, CFO's, and CAFO's.

<b>Table XXX: AFO/CFO/CAFO Setbacks</b>			
	<b>Animal Feeding Operation (AFO)</b>	<b>Concentrated Feeding Operation (CFO)</b>	<b>Confined Animal Feeding Operation (CAFO)</b>
Minimum Lot Area	N/A	15 acres	40 acres
Minimum Front Yard Setback	100 feet	200 feet	250 feet
Minimum Rear Yard Setback	100 feet	200 feet	250 feet
Minimum Setback to a Residential, Commercial, Educational Institutional, or Religious Facility <sup>1</sup>	500 feet	1,000 feet	1,500 feet
Minimum Setback to Shoreline or Water Line of a Lake	1,320 feet (1/4 mile)	2,640 feet (1/2 mile)	2,640 feet (1/2 mile)
Minimum Setback from any Public Freshwater Lake, Impaired Major Drainageway, Impaired Minor Drainageway, or Wetlands	200 feet	200 feet	200 feet
<sup>1</sup> The setback may be reduced if the adjacent property owner(s) agree to a lesser distance and record a copy of the agreement in the Office of the LaGrange County Recorder.			

- Site Plan Submission.** CFO's and CAFO's shall also submit a site plan to the LaGrange County Planning and Zoning Department for review and determination (this includes AFO's that are expanding to a CFO or CAFO, and CFO's expanding to a CAFO). The following submissions shall be included in the site plan:
  - A scaled drawing representing the dimensions and the shape of the lot to be built upon, the size and location of existing buildings, and the location and dimensions of the proposed building or alteration;
  - The boundaries of the property;
  - The general topography of the region;
  - The location of all residential dwellings, businesses, public buildings, and recreational areas within 2,640 feet radius of the livestock facilities;
  - An odor control plan that addresses confinement buildings, manure storage, dust, and particulate matter;
  - A mortality plan;
  - Evidence of compliance with the requirements of Article 3, Section (C)(1)(e) herein;
  - Any and all other information deemed necessary by the LaGrange County Plan Commission for the administration and enforcement of this ordinance, including but not limited to, existing or proposed uses of the building and land; compliance

with county health department and drainage board regulations; and status of county highway department approval.

- **Animal Feeding Operations (AFO).** An AFO shall not be expanded to a CFO until it has been in operation for at least 3 years unless such operation meets all CFO requirements.
- **Manure Management Plans.** All existing livestock operations must comply with all applicable local, state, and federal laws. Specifically, the Office of the Indiana State Chemist (OISC) Fertilizer Use, Distribution, and Record Keeping Rule 355 IAC 8.

## Residential Use Standards

### General Regulations

- Any new residential subdivisions shall have access to sanitary sewer.

**Boarding or Rooming House.** Boarding or rooming house uses are subject to the following:

- No separate structures, garages, or outbuildings shall be used as boarding rooms.
- Bathroom(s) and kitchen shall be accessible without exiting the dwelling and reentering through another door.
- Parking shall comply with Article X, Section XXXX (Parking).

**Dwelling, Townhomes.** Townhomes and other similar attached dwelling units are not subject to side yard setbacks, as long as 10 feet is maintained between each separated group of dwelling units.

**Dwelling, Multi-Family.** Multi-family dwelling projects that include multiple buildings are permitted on one lot if approved by the Plan Commission as part of the Development Plan.

**Farm Worker Housing.** Farm worker housing is subject to the following:

- Farm worker housing is permitted only on lots or parcels that contain at least 25 acres.
- Farm worker housing shall be used exclusively as seasonal living quarters for farm laborers.
- All private living quarters constructed, renovated, or used for sleeping purposes in migrant labor camps and residential migrant housing shall provide a minimum of 50 square feet for each occupant. In a room where workers cook, live, and sleep a minimum of 100 square feet per person shall be provided.
- Farm worker housing that is not used for 3 consecutive years shall be removed.

**Manufactured Home Parks.** Manufactured home parks are subject to the following:

Manufactured Home Parks shall be in accordance with Indiana Code 16-41-2-1 et seq., Rule 410 IAC 6-6 and subsequent amendments, the State Board of Health Regulations, and all applicable requirements of this UDO. In addition, the following development standards shall apply:

- The park shall contain at least five acres at a maximum density of eight units per acre.
- The minimum site size shall be 3,500 square feet and the minimum site width shall be 40 feet.
- The units within the park shall have a minimum separation distance of 20 feet.
- The maximum allowable lot coverage within the park shall be 50 percent.
- The park shall have a 20-foot minimum front yard setback, a ~~five~~ 10-foot minimum side yard setback, and a 10-foot minimum rear yard setback.

- At least 10 percent of the gross land area in the park shall be maintained as usable open space or recreation areas.
- No more than 20 percent of the area of any individual home site shall be devoted to accessory structures.
- Each manufactured home shall have a storage building that contains at least 100 square feet or a garage.
- Uses other than dwellings shall be subordinate to the residential character of the park.
- Uses shall be located, designed, and intended to serve only the needs of persons living in the park.
- Each manufactured home must be tied down and have perimeter skirting manufactured for that purpose.
- There shall be at least two parking spaces per dwelling unit adjacent to, or conveniently near, each manufactured home site. Guest parking spaces or overflow parking spaces shall be provided as regulated in Rule 410 IAC 6-6 and its subsequent amendments shall be distributed evenly throughout the park.
- The minimum street pavement width shall be 20 feet.
- Manufactured home parks shall be served by an approved sanitary sewer system and shall have a water supply sufficient for fire suppression.

**Manufactured Housing.** Manufactured housing is subject to the following:

- **Single Family Dwellings.** For purposes of this UDO, any manufactured home meeting the criteria in Article X, Section XXXX (Residential Uses – Dwelling Units) shall be considered to be a single-family dwelling and shall be permitted in the same manner as any other single-family dwelling.
- **Other Manufactured Homes.** Any manufactured home that does not comply with the criteria in Article X, Section XXXX (Residential Uses – Dwelling Units) shall be permitted only in manufactured home parks or manufactured home subdivisions as specified in this section. Structures designed as manufactured homes shall not be used as commercial structures unless they are located within manufactured home parks or manufactured home subdivisions.

**Residential Living Facilities.** Residential living facilities are subject to the following:

- Residential living facilities are subject to the requirement of dwelling units in Section XXXX.
- A residential living facility that houses up to six individuals at any one time does not require any additional standards.
- A residential living facility that houses six or more individuals shall be located a minimum of 500 feet from any other residential living facility.

**Short Term Rentals.** Short term rentals are conditionally permitted subject to the following:

- The approval of a conditional use permit is required to run a short term rental within LaGrange County. As part of the permit application, the applicant shall provide primary and secondary emergency contact information for the owner of the property, including mailing address, phone number and email address. If the owner is a corporation or partnership, the applicant shall provide the owner's state of incorporation or organization; names, residence addresses, and telephone numbers of the owner's principal officers or

partners. If a property manager is proposed to be used for the property, the property manager's name, street address, mailing address, electronic mail address (if applicable), and telephone number shall also be provided.<sup>1</sup>

- For short term rentals of individual rooms, the principal dwelling shall remain occupied by the owner of the property. This does not apply to short term rentals of the entire structure.
- Adequate access and off-street parking shall be provided, and the use shall not interfere with traffic movement on adjacent streets. To meet adequate parking criteria, one parking space must be available for each bedroom as listed on the short-term rental platform.
- The parking area for a short term rental shall consist of gravel, asphalt, concrete, permeable pavers, or other similar materials.
- Short term rentals shall not be operated outdoors, in a tent, in an accessory structure (unless it is an approved secondary dwelling unit), in a mobile home, or in a recreational vehicle. All short term rental services shall be provided within the principal structure or a secondary dwelling unit.
- If any short term rental receives three zoning citations within one calendar year, the county shall revoke the conditional use permit for a period of one calendar year from the date of revocation. After that one year timeframe, the short term rental can re-apply for a short term rental conditional use permit that addresses the basis of the complaints. Zoning citations shall include complaints on excessive noise, parking in non-approved areas, any violation of this subsection, and other similar provisions.

## Commercial Use Standards

### General Regulations

- **Multiple Uses and Structures.** In the B-1, B-2, B-3, and B-4 zoning districts multiple principally permitted uses are allowed within a single building or on a single lot per the following:
  - All structures that include a principally permitted use shall meet the setbacks for a principal structure per Section XXXX.
  - All applicable development standards for the principally permitted uses shall be required including, but not limited to, parking, landscaping, buffering, lighting, and fencing.

**Adult Entertainment Establishment.** Adult entertainment establishment are subject to the following:

- No adult entertainment business shall be established within 1,000 feet of any religious facility, school, day care facility, park, or recreational use.
- No adult entertainment business shall be established within 1,000 feet of any parcel in LaGrange County zoned for agriculture or residential.
- No adult entertainment business shall be located within 1,000 feet of any other adult entertainment business.
- No adult entertainment business shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to Specified Sexual Activities

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<sup>1</sup> We recommend that the county establish a new application for short term rentals that asks for all of this information.

or Specified Anatomical Areas as defined in this UDO by display, decorations, sign, show window or other opening from any public right-of-way.

### **Alcohol Production**

- Each use shall manufacture and sell alcoholic beverages in accordance with the provisions of the Indiana Division of Liquor Control and shall maintain current licenses as required by that agency.
- No outdoor storage is permitted.
- All production shall be within completely enclosed structures.
- For macro-scale production operations, all structures or areas associated with production or public use (including, but not limited to, outdoor dining or activity areas, tap rooms, production/bottling facilities, etc.) shall be setback a minimum of 200 feet from any side or rear property line.
- Such businesses may include a taproom or tasting room for the public, which may or may not serve food.
- Exterior storage structures that hold materials or products associated with the brewing, distilling, or storing process must be located in the side or rear yard. Such facilities shall be subject to the maximum height restrictions of the zoning district where they are located. No signage or identification may be located on such structures unless approved by the Plan Commission as part of the Development Plan.

### **Animal Boarding of Pets**

- Animal boarding facilities that include outdoor runs or are not within an enclosed building shall be set back at least 200 feet from each property line abutting a residential district or an institutional use, and at least 50 feet from any other property line.
- Animals shall be kept indoors.
- Outdoor exercise areas shall only be used between the hours of 8:00 a.m. and 6:00 p.m.
- Outdoor exercise areas, play yards, and storage areas shall not be visible from streets and/or adjoining properties. All outdoor areas shall be screened by a six-foot opaque wall or fence.
- Rooms which contain animals shall be insulated, or otherwise soundproofed and vented so that animal noises are not audible anywhere beyond the lot.

### **Animal Breeding of Pets.** Animal breeding facilities are subject to the following:

- Animal breeding facilities that include outdoor runs or are not within an enclosed building shall be set back at least 200 feet from each property line abutting a residential district or an institutional use, and at least 50 feet from any other property line.
- Animals shall be kept indoors.
- Outdoor exercise areas shall only be used between the hours of 8:00 a.m. and 6:00 p.m.
- Outdoor exercise areas, play yards, and storage areas shall not be visible from streets and/or adjoining properties. All outdoor areas shall be screened by a six-foot opaque wall or fence plus a continuous row of evergreen trees to be planted at a minimum once every 20 feet.
- Rooms which contain animals shall be insulated, or otherwise soundproofed and vented so that animal noises are not audible anywhere beyond the lot.

**Auction House.** Auction houses are subject to the following:

- All activities, including storage of materials to be auctioned shall be held indoors for auction houses located in the B-1 and B-3 zoning districts.

**Bed and Breakfast.** Bed and breakfasts are subject to the following:

- There shall be a maximum of five guest rooms in a bed and breakfast use.
- In the A districts, there shall be one off-street parking space for each guest room plus two off-street parking spaces for the owners or operators of the bed and breakfast use.
- Breakfast shall be served only to guests staying on the premises, not to the general public.
- Bed and breakfast uses may offer occasional special events only if the BZA grants a conditional use permit for such uses. The permit shall state the limitations and requirements relating to the use.

**Campground and RV Park.** Campground and RV Parks are subject to the following:

- Campground or RV Parks shall have a minimum area of five acres with a front yard setback of 75 feet and a side and rear yard setback of 25 feet. The minimum lot width shall be 100 feet.
- RV or Cabin Campsites shall have a minimum area of 1,500 square feet with a six-foot minimum separation between RV's and/or cabins. The minimum lot width shall be 35 feet.
- Other campsites shall have a minimum area of 800 square feet with a six-foot minimum separation between RV's and/or cabins. The minimum lot width shall be 25 feet.
- All campground and RV parks shall meet all state and local standards and shall have adequate sewage disposal, rubbish disposal, and water supply. The health and safety standards contained in Sec. 410 of the Indiana Administrative Code and subsequent amendments apply to all campgrounds in LaGrange County, regardless of size.
- At least 10 percent of the gross land area in the park shall be maintained as usable open space or recreation areas.
- The park shall have perimeter landscaping in accordance with Article X, Section X (landscaping requirements).

**Event Center.** Event centers are subject to the following:

- **Access Standards**
  - Access to an event center shall comply with county, state, and local fire safe standards as determined by the county and the serving fire agency.
  - Direct access to a publicly maintained roadway is required.
- **Dimensional Standards**
  - An event center shall be located and is required to hold all outdoor activities associated with the event center (with the exception of parking) a minimum of 200 feet from side and rear property lines.
  - Parking shall meet the required setbacks for the principal building on the site where it is located.
- **Size and Frequency of Events.** As part of the conditional use approval, the Board of Zoning Appeals may place upon an event center a maximum number of events per year, a

maximum number of guests, increased setback or buffering standards based on proximity of residential uses or other reasons as determined by the Board of Zoning Appeals.

- Accessory event centers shall comply with the specific standards contained within this subsection.

#### **Gas Station/Charging Station**

- All structures on the property, including the fuel pumps, shall be located at least 200 feet from any residential zoning district or use.
- Fuel canopies, gas pumps, charging stations, air compressors, and similar equipment may be located in any yard of the property.
- Accessory car washes and drive-through lanes/pick-up windows may be located in the side or rear yard of the property.
- No vehicle repair or service work shall be conducted on site.
- Fuel price displays shall be subject to the standards in Section XXXX.
- The spaces at each pump may be counted toward the required number of parking spaces per Section XXXX.

#### **Mini Warehouse, Indoor Storage**

- All storage units within the facility shall gain access from the interior of the building or sites. No unit doors shall face an exterior property line.
- All buildings on the site shall be setback a minimum of 200 feet from a residential zoning district or use.
- No activities other than rental of mini warehouses shall be permitted on the premises other than the sale of moving materials such as boxes and packing tape. Examples of activities that are not permitted include ~~auctions~~, commercial or wholesale sales, repair services, manufacturing or maker space, and recreational uses.
- Auctions are permitted twice a year.
- Outdoor storage is not permitted, which includes the storage of vehicles.

#### **Vehicle Service and Repair, Major**

- A principal building is required to be located on the lot.
- All repair and service work shall be conducted within a building.
- No outdoor storage of parts, wrecked cars, or other such items shall be permitted on site unless located in the rear of the property and fully screened from view from all adjacent properties and rights-of-way.

#### **Vehicle Service and Repair, Minor**

- A principal building is required to be located on the lot.
- No outdoor storage of parts, wrecked cars, or other such items shall be permitted on site unless located in the rear of the property and fully screened from view from all adjacent properties and rights-of-way.

#### **Vehicle Sales**

- A principal building is required to be located on the lot.
- An opaque, solid wall, fence, or hedge that is at least six feet in height shall be located along all property boundaries that abut a residential zoning district or use.
- No auctions shall be permitted on the lot.

- No outdoor speaker systems shall be permitted for uses that are located less than 200 feet from a residential zoning district or use.
- Vehicle service and repair must be performed inside of an enclosed building.
- All sales and circulation areas must be paved. There shall be no vehicle storage on unpaved lots or permeable surfaces.

## Institutional/Public Use Standards

### General Regulations

- **Multiple Uses and Structures.** In the I-1, and I-2 zoning districts multiple principally permitted uses are allowed within a single building or on a single lot per the following:
  - All structures that include a principally permitted use shall meet the setbacks for a principal structure per Section XXXX.
  - All applicable development standards for the principally permitted uses shall be required including, but not limited to, parking, landscaping, buffering, lighting, and fencing.

**Essential Services.** Essential services shall be allowed in any district insofar as permitted, authorized, or regulated by law or other ordinance. The Zoning Administrator may permit buildings required in conjunction with an essential service. In granting such permission, the Zoning Administrator shall take into consideration the location, size, use, and effect such building will have on adjacent land and buildings. The decision of the Zoning Administrator may be appealed to the Plan Commission.

**Park or Recreational Facility, Public and Private.** A public or private recreational facility that is approved as part of a subdivision plat does not require Board of Zoning Appeals approval but instead is subject to any conditions imposed by the Plan Commission as part of the subdivision approval.

**Religious Facility/Place of Assembly.** A dwelling unit may be used on an occasional or regular basis as a religious facility.

## Industrial Use Standards

**Junkyards.** Junkyards are subject to the following:

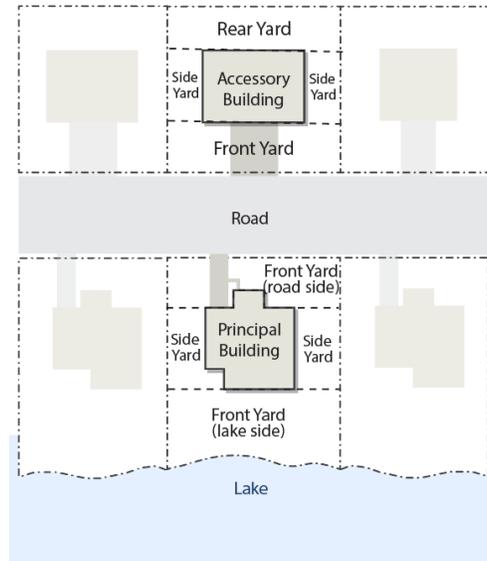
- Junkyards shall be screened from view from all streets and all neighboring properties with an opaque fence that is at least six feet and not more than nine feet in height.
- No materials or objects shall be displayed or stored outside of the fence, and no materials or objects shall extend above the fence.

## Accessory Use Standards

### General Standards

- These regulations apply to all accessory structures except where specified elsewhere in this code for specific uses such as fences and swimming pools.
- Accessory structures may be constructed prior to the principal use as long as a building permit has been issued for the principal use. The maximum time the accessory structure may be used prior to the issuance of a certificate of occupancy for the principal use is six months. An applicant can ask for an additional six month extension, which can be approved by the Zoning Administrator.
- No accessory structure shall be located in a platted easement.

- No accessory structure shall be located in the front yard, unless specifically permitted. See specific district regulations below.
- Accessory structures that are less than 200 sq. ft. shall be set back a minimum of three feet from all property lines, unless specifically permitted. Accessory structures that are 200 sq. ft. or greater shall be set back a minimum of six feet from all property lines, unless specifically permitted.
- The measurement of accessory structure height shall be consistent with the measurement requirement requirements of Section XXXX (Structure Height).
- **In the A-1, A-2, and P-1 zoning districts:**
  - The number and coverage of accessory structures is limited to a cumulative maximum of 10 percent of the lot size. Agricultural buildings, greenhouses, swimming pools, playsets, and other similar uses as stipulated herein are not included in this coverage requirement.
  - The maximum height of accessory structures is 25 feet except for agricultural buildings which are subject to the principal structure building height regulations.
  - Accessory structures shall be setback a minimum of 15 feet from all property boundaries.
- **In the S-1 and U-1 zoning districts:**
  - The number and coverage of accessory structures is limited to a cumulative 35 percent of the rear yard.
  - The maximum height of accessory structures is 25 feet.
  - Accessory structures shall be setback a minimum of three feet from all property boundaries.
- **In the L-1 zoning districts:**
  - Accessory structures are permitted in any yard in the L-1 zoning district subject to the regulations contained herein.
  - **Lots with a Principal Building**
    - A maximum of two accessory structures are permitted per lot that has a principal building on it.
    - The cumulative size of the accessory structures is limited to 50 percent of the square footage of the footprint of the principal building.
    - The maximum height of accessory structures is 25 feet.
    - Accessory structures shall be set back a minimum of 10 feet from the front property line that is adjacent to the road.
    - Accessory structures are not permitted between the lake and the principal building unless the height of the accessory structure is lower than the first floor elevation of the principal structure.
  - **Lots without a Principal Building**
    - A maximum of two accessory structures are permitted on a lot that is separated from the lot that has the principal building on it, is under common ownership, and is typically located across the street per the following:
      - Accessory structures shall not exceed 50 percent of the total area of the parcel.
      - Accessory structures shall be set back a minimum of 20 feet from the front property line.
      - The maximum height of the accessory structure is 35 feet.



- **In the B-1, B-2, B-3, B-4, I-1, and I-2 zoning districts:**
  - The number and coverage of accessory structures is limited to a cumulative 50 percent of the size of the principal building.
  - The maximum height of accessory structures is 25 feet.
  - Accessory structures shall be setback a minimum of 10 feet from all property boundaries.

**Amateur Radio Antennae.** Amateur radio antennae, including masts, shall not exceed 100 feet in height measured from finished lot grade.

**Apartment Management Office and Facilities.** Apartment management offices and other facilities normally associated with tenants' convenience shall be only for the use of residents of the building in which they are located. There shall be no exterior displays, and the facilities shall not be available to the general public.

**Drive-Through Windows.** Drive-through windows are permitted in business districts only if the drive-through arrangement is approved as part of the Development Plan required under Article X, Section X.

**Dumpster Enclosures.** Dumpsters and dumpster enclosures are subject to the following:

- **District Requirements**
  - In the A-1 and A-2 districts, dumpsters may be located in any yard, are permitted on permeable surfaces, and are not required to be enclosed.
  - In the I-1, and I-2 districts, dumpsters shall be located in an enclosure when the dumpster is located in a location that is visible from the public street.
  - In the S-1, U-1, and L-1 districts, dumpsters shall be located in an enclosure for all non-residential uses and multi-family uses.
  - In the P-1, B-1, B-2, B-3, and B-4 districts, dumpsters shall be located in an enclosure.
  - Any development located within a PUD that includes non-residential or multi-family uses shall locate all dumpsters within an enclosure.

- Dumpster enclosures may be located in the side or rear yard. Dumpsters and dumpster enclosures are prohibited in the front yard.
- Dumpsters shall be located on a concrete or asphalt pad and be enclosed by a three-sided structure constructed of concrete block, brick, stone, or other similar masonry product, wood, or vinyl opaque fence, or chain link with slats sufficient to provide complete visual screening of the dumpsters. The fourth side of the structure shall be a gate that provides opaque screening. The height of the enclosure and associated gate shall be a minimum of 12 inches above the top of the dumpster but shall not exceed eight feet in height.
- The dumpster and the doors of the enclosure shall be closed at all times, except when the dumpster is actively being emptied.

### **Dwelling Unit, Secondary**

- A secondary dwelling unit is subject to the setback requirements of the principal building.
- A secondary dwelling unit may be located in the side or rear yard.
- A separate driveway is permitted for a secondary dwelling unit if it is at least 150 feet away from the primary dwelling's driveway and shall conform to the highway manual for LaGrange County.
- A recreational vehicle or mobile home is not permitted as a secondary dwelling unit.
- Secondary dwelling units may be located within the principal building or in a separate structure.
- A secondary dwelling unit shall have one off-street parking space in addition to the existing parking spaces.

### **Garages and Carports.** Garages and carports are subject to the following:

- Garages and carports in residential districts shall be used only for the storage of vehicles and equipment that area clearly incidental and subordinate to the residential use. In these districts, open off-street motor vehicle parking and loading areas are permitted, provided that no more than one space shall be provided for a commercial vehicle of more than three tons.
- Garages and carports facing alleys shall be set back a minimum of 20 feet from the midpoint of the alley.

### **Home-Based Business.** Home-based businesses are subject to the following:

- **Class I Home-Based Business.** Home-based businesses meeting the criteria below are permitted in any residential dwelling and do not require a permit or zoning compliance certificate.
  - The primary use of the property is residential, and the operator of the home-based business resides in the dwelling unit.
  - The operator of the home-based business does not employ for the business anyone not residing on the premises.
  - There are no structural additions, enlargements, or exterior alterations to accommodate the home-based business, or which change the residential appearance to a business appearance.
  - The business is conducted entirely within the residence and not in any accessory building.

- There is no additional and separate entrance incongruent with the residential structural design for the purpose of conducting the home-based business.
- There is no display of goods, signs, or other external evidence of the home occupation.
- There are no clients or customers who come to the premises for the purpose of patronizing the home-based business.
- **Class II Home-Based Business.** Home-based businesses meeting the criteria below are permitted but require a zoning compliance certificate. Examples of such businesses include but are not limited to music instruction, tax preparation, hair salons, financial planning, insurance sales, sewing and tailoring, small animal grooming, and repairs of small items.
  - There shall be no more than one non-resident person engaged on the premises in the operation of the business at any one time.
  - There shall be no more than four clients, customers, or students at the premises at any one time for a purpose associated with the home-based business.
  - An accessory structure may be used for the home-based business as long as there is no external evidence of the home-based business.
  - The business shall be conducted entirely within enclosed buildings, with the exception of seasonal outdoor instruction such as tennis or swimming lessons for no more than four students at any one time.
- **Home-Based Vendors.** Home-based vendors are permitted as a home-based business subject to regulations set forth in IC 16-42-5.3 and subsequent amendments.

**Keeping of Small Animals.** The keeping of small animals is permitted in the S-1 and U-1 zoning districts subject to the following:

- A maximum of six female chickens, ducks, and rabbits are permitted. No roosters allowed.
- All small animals shall be kept outside of the residential dwelling unit in an enclosed structure which shall include a covered pen and enclosed run.
- The enclosure shall be secure to prevent entry of predators. Rodent control is mandatory for protection of surrounding property owners.
- The enclosure shall only be permitted in the rear yard and shall be set back a minimum of 20 feet from the rear property line.
- The enclosure shall be a maximum of eight feet in height, with a minimum size of two square feet per small animal.
- Breeding and/or slaughtering of small animals is prohibited.
- A signed affidavit of neighboring property owners within 200 feet of the property boundary is required.

**Outdoor Display and Retail.** Outdoor display and retail are subject to the following:

- Outdoor display and retail are permitted in the B-1 and B-3 Districts provided that the display and sales area is approved as part of the Development Plan required under Article X, Section X.
- Outdoor display and retail are permitted in the B-2 and B-4 Districts provided that such display does not block sidewalks and does not occupy an area greater than 5 percent of the floor area of the building.

- Outdoor display and retail are permitted in the I-1 and I-2, ~~and I-3~~ Districts provided that the display and sales area is approved as part of the Development Plan required under Article X, Section X.

**Outdoor Storage.** Outdoor storage is permitted in the B-1, B-3, I-1, and I-2 subject to the following:

- Storage of any materials outdoors shall be completely screened from all rights-of-way and all residential zoning districts or use.
- All outdoor storage shall be screened from view from adjacent properties and rights-of-way with an opaque, solid wall, fence, or hedge that is at least six feet in height.

**Recreational and Commercial Vehicle Parking.** Recreational and commercial vehicle parking is subject to the following:

- Recreational vehicles include, but are not limited to truck trailers, truck campers, pop-up tents, boats, jet skis, personal watercraft, snowmobiles, camping trailers, and self-propelled campers.
- One parking space is permitted in ~~agricultural and~~ residential districts for a commercial vehicle of more than three tons.
- In all districts, no more than two recreational vehicles may be stored in the open.
- In districts allowing residences, recreational vehicles stored in the open must be placed in a side or rear yard.
- Parking of a recreational vehicle for short term occupancy in non-residential districts is prohibited.

**Signs.** All signage shall comply with the requirements of Article X, Section X.

**Solar Panels, Accessory ~~Array~~**

- Solar panels shall not be placed and arranged in a manner that reflects glare onto adjacent buildings, properties, or roadways.
- Ground-mounted solar panels are permitted in the side and rear yard.
- Roof-mounted solar panels may be flush to the roof or tilted and are limited in height to the maximum height of the district in which they are located.
- Ground-mounted solar panels shall be setback a minimum of 20 feet from all property boundaries.
- Ground-mounted solar panels shall not exceed the maximum height for accessory structures in the district in which they are located.
- Solar panels mounted on accessory or agricultural structures shall not count toward the total square footage requirement contained in Section XXXX (below).
- Surface area of ground-mounted solar panels shall not exceed 1,500 square feet or 30 percent of the rear yard, whichever is less.

**Start-Up Business.** A start-up business requires a zoning compliance certificate. Examples include contractors, catering, blacksmithing, cabinet making, small wood product maker, or service shop.

- Such businesses shall occur completely within a principal building or an accessory building. Accessory structures that are used as a part of the start-up business shall meet the setbacks of the principal structure.

- A start-up business may have one, non-illuminated, wall or ground sign no larger than nine square feet. The sign must meet all other requirements for a wall or ground sign, including setbacks, height, and projection.
- Outdoor storage or activities may occur if specifically approved as part of the conditional use permit.
- Off-street parking spaces, loading spaces, and circulation areas shall be provided to accommodate the anticipated number of customers and deliveries. The Zoning Administrator may request documentation to demonstrate compliance with the regulations contained herein.
- The Zoning Administrator, at their discretion, may require the submittal of a site plan for review and approval.
- Start-up businesses shall be limited to a maximum timeframe of 24 months. After such time has elapsed, the business will be required to install all the required facilities and amenities as required by this UDO.

### **Swimming Pools**

- Swimming pools shall comply with all Indiana safety regulations for fencing, barriers, and other similar requirements.
- Noncommercial swimming pools shall comply with the following:
  - All hot tubs and personal spas shall be located within the buildable area. If the hot tub or spa is greater than 150 sq. ft. in size, then the regulations for a swimming pool shall apply.
  - Swimming pools must be located in the rear yard and shall be set back from the side and rear property lines at least 20 feet.
- The location and design of commercial swimming pools shall be approved by the Plan Commission as part of the Development Plan.

### **Temporary Use Standards**

**Construction Trailers and Material Storage.** Construction trailers and material storage are subject to the following:

- Construction trailers are permitted as temporary offices during the period of construction and development.
- The storing of construction materials and equipment, both incidental and necessary for construction, is permitted during the period of construction and development for a maximum of 18 months.

**Festivals and Carnivals.** Festivals and carnivals are subject to the following:

- Festivals and circuses, which are sponsored by a governmental entity, are exempt from the requirements of this section.
- The operator, if not the owner of the property, shall provide a written agreement from the property owner to LaGrange County stating the owner's permission for the proposed use of the property.
- Festivals, carnivals, and other similar special events are permitted for a maximum of 30 days.
- Any signage for festivals and carnivals shall comply with the zoning district in which it is located and Article X of this UDO.
- No activities shall take place in the public right-of-way.

**Food Truck/Mobile Vendors.** Food trucks/mobile vendors are subject to the following:

- **Location Requirements**
  - Food trucks shall be located on private property and with the permission of the property owner.
  - Food trucks are not permitted on public property or at public events without the approval of LaGrange County.
  - Food trucks are not permitted on a property that does not contain a principal use and structure unless approved through the conditional use process.
  - The overnight parking of food trucks is prohibited unless the food truck operator has the permission of the private property owner.
- **Licensing Requirements**
  - The vehicle shall have all permits and licenses required by the State of Indiana and the LaGrange County Health Department to operate. A current copy of the permits and licenses shall be kept in the vehicles and be immediately made available on request.
  - The operator of the food truck/mobile vendor shall comply with all requirements under state and county law.
- **Nuisance.** Noise generated by the vehicle and use shall not become a nuisance. No vehicle shall use or maintain any outside sound amplifying equipment, televisions, or similar visual entertainment devices, or noisemakers.

**Manufactured Homes.** Manufactured homes are subject to the following:

- Manufactured homes are permitted as a temporary residence to house a person in need of care on the same lot as another dwelling.
- The manufactured home must be located in the side or rear yard, and it must be used either as a residence for a person acting as a care provider for someone living in the other dwelling unit, or by a person who is being cared for by someone living in the other dwelling unit on the parcel.
- At least one of the occupants must be over the age of 65, in ill health, or at a level of dependency where onsite care is necessary, as certified by a physician.
- After a two-year period, the petitioner must update documentation of the continuing medical condition to the Zoning Administrator.
- The manufactured home must be removed as soon as it is no longer needed for the care arrangement. Such manufactured home shall have an approved sewage disposal system and be provided with perimeter skirting manufactured for the specific use.
- Manufactured homes, including single wide homes, are permitted without neighbor notification for a maximum of two years as temporary housing if a permanent dwelling is being constructed, reconstructed, or undergoing a major renovation.

**Noncommercial Concrete Batching Plant.** Noncommercial concrete batching plants that are incidental and necessary for construction shall be permitted on the same property for a maximum of 18 months.

**Recreational and Commercial Vehicle Parking.** Recreational and commercial vehicle parking is subject to the following:

- A recreational or commercial vehicle that does not comply with Section XXXX is permitted to park in an agricultural or residential district for a maximum of 10 days per calendar month.
- Parking of such vehicles for short term occupancy in non-residential and non-agricultural districts is prohibited.
- Recreational and commercial vehicles shall be parked in the rear yard.

**Residential Outdoor Sale.** A residential outdoor sale or similar temporary use shall be permitted for a maximum of 10 days in any calendar year on the same property.

**Seasonal Sales.** The sale of items pertaining to a holiday, event, or season such as the sale of Christmas trees or pumpkins is subject to the following:

- Seasonal sales, which are sponsored by a governmental entity, are exempt from the requirements of this section.
- The operator, if not the owner of the property, shall provide a written agreement from the property owner to LaGrange County stating the owner's permission for the proposed use of the property.
- Any signage for seasonal sales shall comply with the zoning district in which it is located and Article X of this UDO.
- A seasonal sale is limited to a maximum of 60 cumulative days per calendar year.

**Temporary Structures.** Temporary structures such as offices, model homes or model apartments, and incidental signs thereof, both incidental and necessary for the sale, rental, or lease of real property in a zoning district are permitted for a maximum of 18 months.

## Article 3 Special Uses

### Commercial Solar Facilities

The standards in this section shall apply to all development of Commercial Solar Facilities. The general district zoning regulations shall apply; however, where conflicts exist between the general district regulations and regulations contained in this section, this section shall control.

**Scope.** This section only applies to a Commercial Solar Facility.

**Definitions.** Whenever the following terms are used in this section, they shall have such meanings herein ascribed to them unless the context clearly indicates or requires a different meaning<sup>2</sup>.

- “*Applicant*” means the person who signs and submits an application for a Permit on behalf of an owner.
- “*Bond*” includes a performance bond, surety bond, irrevocable letter of credit, or other form of financial assurance in an amount that is sufficient to meet owner’s financial responsibilities under the permit.
- “*Facility*” when capitalized, refers to a commercial solar facility.
- “*Owner*” means each person who owns a respective facility. The term also includes, as applicable, owner’s legal representatives, successors, and assigns. If a provision of this UDO imposes a duty on an “owner,” the duty is satisfied when the duty is performed by an agent of the owner.
- “*Permit*” means a commercial solar facility improvement location permit.
- “*Site Development Plan*” means the series of plans, as may be further described in this UDO, that are used by applicant and owner to obtain a Permit.

**Prohibition.** No facility shall be constructed or operated unless within a zone designated as A-1, and then only if in conformity with this section.

**Required Information.** A prospective owner may apply for the facility by obtaining a permit from the Plan Commission prior to on-site construction of any facility components. Applicant shall provide the following information to the Plan Commission on a Site Development Plan, which may be in narrative form:

- Number, location, and spacing of solar panels/arrays.
- Planned location of underground or overhead electric lines.
- Project development timeline.
- Operation and maintenance plan.
- Vegetation management and landscaping plan, including grading.
- Decommissioning plan.

#### Application Requirements

- **Agency.** An applicant who is acting in an agency capacity must show authorization to apply on behalf of the owner.
- **Landowner Authorization.** The applicant must provide a list of landowners who authorized placement of solar facilities on their properties.

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<sup>2</sup> We recommend moving all definitions to one section

- **Application for Site Development Review.** The fee applicable to the application for Site Development Review shall be payable at the time of submission of the application, and such fee shall be \$15,000.00. The application fee shall be used to defray the costs associated with the application, including professional fees and expenses. This fee is nonrefundable and is exclusive of the review costs of other County Departments.
- **Application for an Improvement Location Permit.** Each facility shall require an Improvement Location Permit. The fee applicable for the Improvement Location Permit shall be payable at the time of submission of the application, and such fee shall be \$15,000.00. The Improvement Location Permit fee shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of Permits / Zoning Compliance Certificates. This fee is nonrefundable and is exclusive of the review costs of other County Departments.

### Site and Structure Requirements

- **Setbacks.** Setbacks for all structures (including solar arrays) must adhere to the minimum principal setback standards for the A-1 zoning district. Additionally, solar panels shall be installed at least 100 feet from any non-participating property line. Except with respect to applicable provisions of Section XXXX of Article XXXX (“Towers and Similar Structures”), a facility shall be exempt from zoning district bulk and height requirements.
- **Screening.** Applicant shall submit a landscaping plan outlining proposed screening for the project, including existing vegetation, as may be suitable. Emphasis will be placed on screening adjacent residences.
- **Utility Connections.** All medium voltage cables between inverter locations and project substations shall be located and maintained underground without interfering with or causing damage to existing infrastructure. Other solar infrastructure, such as module-to-module collection cables, CAB cables, transmission lines, substations, junction boxes, and other typical aboveground infrastructure may be located and maintained aboveground.
- **Glare Minimization.** All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard. In appropriate cases, the Plan Commission may require anti-reflective coatings.
- **Compliance with Local, State, and Federal Regulations.** Each facility must comply with applicable local, state, and federal laws and regulations.
- **Signage.** A sign shall be posted on each entry fence gate of the facility that includes owner name, facility name, emergency contact phone number, physical street address, company spokesperson, or point of contact phone number. All hazardous materials, public hazards, and potential hazards must be marked with signage.
- **Contact Information.** The facility owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name on all entry signs of the facility. The facility owner and/or operator shall make all reasonable efforts to respond to the public’s inquiries and complaints.
- **Fencing/Security.** A security fence must be installed along all exterior sides of the facility and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates, and warning signs must be maintained in good condition until the utility scale solar installation is dismantled and removed from the site.

The fence must be a minimum of six feet tall. The use of a deer fence to secure the panels will be encouraged.

- **Site Access/Emergency Response.** Access to the site for emergency responders shall be provided on the Site Development Plan, detailing response guidance and disconnection locations as may be necessary. Owner's contact information shall be conspicuously posted on site at the primary access point.
- **Concentrating Solar Power Facilities.** Concentrating solar power facilities are prohibited.

**Operation and Maintenance Plan.** Applicant shall submit a plan for the operation and maintenance of the facility, which shall include measures for maintaining safe access to the facility, stormwater, and erosion controls, as well as general procedures for operation and maintenance of the installation.

- **Soil and Erosion and Sediment Control Considerations.** The owner shall conduct all roadwork and other site development work in compliance with a NPDES Permit as may be required by the Indiana Department of Natural Resources and comply with requirements as detailed by local jurisdictional authorities during the plan submittal. The Plan Commission may refer the Site Development Plan to the LaGrange County Soil & Water Conservation District for review and potentially further development of a sediment control plan.
- **Ground Cover and Buffer Areas.** The ground around and under solar arrays and in project site buffer areas shall be planted and maintained in perennial vegetated ground cover, and meet the following standards:
  - Topsoil shall not be removed during development unless it is part of a remediation effort.
  - Perennial vegetation shall be planted and maintained in a density sufficient to prevent erosion, manage runoff, and build soil. Seeds should include a mix of grasses and forbs when feasible native to the region of the project site. Invasive species and noxious weeds must be controlled.
  - Maintenance practices shall be consistent with recommendations made by qualified natural resource professionals such as those from the Indiana Department of Natural Resources, the County Soil and Water Conservation District, or the USDA Natural Resource Conservation Service.
- **Maintenance, Repair, and/or Replacement of Facility.** The owner shall maintain the facility in accord with the Site Plan, Permit, and the UDO. Maintenance shall include, but not be limited to, painting, structural repairs, vegetation management, and integrity of security measures including fencing. Any retrofit, replacement, or refurbishment of equipment shall adhere to all local, state, and federal requirements. No damaged, broken, or non-working parts or equipment for the facility operation shall be stored on site and any such damage, broken, or non-working parts or equipment must be removed from the facility site. The facility shall keep entrance, access lanes, and panels free of all debris, snow, and ice at all times in the event first responders need access to the site.

#### **Decommissioning and Site Reclamation Plan**

- **Plan – Generally.** Applicant shall provide a decommissioning plan to the Plan Commission that describes the anticipated life of the facility; the anticipated manner in which the project will be decommissioned; the anticipated site restoration actions; and the estimated decommissioning costs in current dollars.

- In the event, after written notice, the owner should fail to submit, execute, and abide by a decommissioning plan (including a restoration agreement) for the facility, in accord with the UDO, the owner, landowner, and/or operator shall pay all reasonable costs, including reasonable attorney fees, incurred by the County to remove and/or decommission the facility. The County shall be entitled to apply the salvage value of the facility to the costs of removal.
- The County may institute proceedings to recover assets.
- **Plan – Financial Requirements.** The decommissioning plan shall describe the mechanism for posting a satisfactory bond. The decommissioning plan and bond shall be updated by the owner every five years and adjusted as necessary to ensure sufficient funds are available to decommission the project.
- **Plan – Restoration Activities.** Restoration or reclamation activities shall include, but not be limited to, the following:
  - Restoration of the pre-construction surface grade and soil profile after removal of structures, equipment, graveled areas, and access roads.
  - Re-vegetation of restored soil areas with native crops, seed mixes, and/or plant species suitable to the area.
  - For any part of the facility on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates, or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land to the extent such structures comply with this UDO. Any use of remaining structures must be in conformance with the regulations in effect at that time, including any grandfathered allowances for such structures.
  - All solar panels, structures, foundations, roads, gravel areas, cables, and all products, materials, or other items associated with the facility project shall be removed. A final inspection of the facility property by the Plan Commission and Commissioners shall allow for any and all bonds to be released upon written approval of the full decommissioning.
- **Decommissioning/Abandonment**
  - A facility is considered abandoned six months after the date on which the facility last generated electricity, unless a rehabilitation plan developed by the owner is submitted to, and approved by, the County Commissioners outlining the necessary procedures and time schedule for commencing or returning the facility to energy production. Failure by the owner to commence energy production at such facility or return such facility to energy production within the time schedule provided in the rehabilitation plan shall be considered abandonment and/or a public nuisance.
  - A temporary facility production stoppage due to a flood, tornado, or any other natural disaster including an act of God, war, civil strife, a terrorist attack, or similar unforeseen event under which the project operator has no control shall not constitute abandonment as provided herein.
  - When an owner abandons or intends to close a facility, the owner must submit a letter of intent for decommission in writing to the Plan Commission, no later than 60 days before the planned decommission of the property.
  - Once a facility is considered abandoned, decommissioning must follow immediately. Decommissioning shall be completed in accordance with the approved decommissioning plan. The owner shall notify the Plan Commission in writing when decommissioning is complete.

- Decommissioning must be complete within one year, with the allowance of no more than one six-month extension by the Plan Commission. If necessary and as allowed by applicable law, the Zoning Administrator, Plan Commission, County Surveyor, County Commissioners, and/or other County agencies may engage with qualified contractors to:
  - Enter the site;
  - Remove facility project assets;
  - Sell assets removed; and/or
  - Remediate the site.

**Change in Facility Operator or Owner.** With respect to any transfer of ownership of a facility, the new owner shall agree to any and all provisions of any and all prior owner duties, including the delivery of a satisfactory bond to the Zoning Administrator. The prior owner shall remain liable for its bond until its formal release by the Plan Commission. Release of liability by the prior owner by the Plan Commission shall only be approved when the new owner provides a new bond satisfactory to the Plan Commission.

**Bond**

- Upon approval of the Site Plan, and before the facility is in operation, the owner shall provide a bond that complies with the Site Plan and Permit. The bond shall either automatically renew each year or, if possible, have no expiration; otherwise, the owner shall provide proof of bond renewal at the end of the bond’s scheduled term. The other terms of the bond shall be satisfactory to the Zoning Administrator. The bond shall be returned upon satisfactory decommissioning of the facility; provided, however, that the County shall be entitled to recuperate from the bond the costs that it incurs to the extent the County takes part in decommissioning the facility.
- Except as limited by applicable law, the owner must submit a bond equal to 125 percent of the decommissioning costs included in the Site Development Plan, as calculated by a third-party licensed or registered engineer or professional with suitable experience in the decommissioning of commercial solar facilities, as agreed upon by the owner, Zoning Administrator, & County Commissioners. The amount of the bond shall be recalculated every five years to ensure sufficient funds are available to decommission the facility. The bond must allow the County to recuperate from the bond the costs that the County may incur in the decommissioning of the facility. The bond adjustment must be submitted to the Zoning Administrator.

**Liability Insurance.** The applicant shall obtain liability insurance in the amount of \$2,000,000 per occurrence and \$500,000 per property damage occurrence, naming LaGrange County, Indiana, a municipal body politic by and through its Board of County Commissioners as an additional insured, and pay premiums on such insurance policies as they become due and provide the Zoning Administrator with written proof of such insurance coverage annually and as the Zoning Administrator may reasonably request, and such policies of insurance shall be carried with a company or companies approved by the Zoning Administrator and legally authorized by the State of Indiana to engage in such business, and shall provide that the insurer may not cancel or materially change coverage without at least 30 days’ prior written notice to the Zoning Administrator. The project operator or owner shall not enter into any settlement of any insurance

claim covered under the foregoing insurance policy or policies without the written consent of the Zoning Administrator to ensure that LaGrange County is protected.

**Solar Storage Batteries.** When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure and installed, maintained, and disposed of as required by applicable law, recycling as much material as possible.

#### **Damage**

- Any damage to waterways, public/regulated drains or ditches, private or mutual drains, county tiles, or any other item to regulate drainage caused by the construction, installation, maintenance, and/or decommissioning and restoration of a facility must be completely repaired by the facility owner to the original functioning condition so as to not impede the natural flow of water. All repairs must be compliant and approved by the Drainage Board.
- Any damage to streets, county roads, or highway infrastructure and/or public utilities caused by the construction, installation, maintenance, and/or decommissioning and restoration must be completely repaired by the owner to the near original condition. All repairs must be compliant and approved, as applicable, by the Highway Superintendent, Indiana Department of Transportation, County Engineer, and County Commissioners.
- Any damaged agriculture wells, tiles, drains, underground wiring, or irrigation pipe caused by the construction, installation, maintenance, and/or decommissioning and restoration of a facility must be completely repaired by the facility owner to the original functioning condition. All repairs must be compliant and approved by the landowner and/or adjoining landowner affected by damages.

**As-Built Drawings.** The facility owners shall submit as-built drawings upon completion of construction of all developments on the site to the satisfaction of the Zoning Administrator.

**Interference with Reception.** A facility shall be constructed and operated so it does not interfere with television, internet, telecommunications, microwave, GPS, agriculture guidance systems, military defense radar, navigational, Federal Aviation Administration, or radio reception to neighboring areas.

**Illumination.** A facility shall comply with the lighting standards of this UDO. However, no light shall cross the adjacent nonparticipating property line.

## Small Wind Energy Conversion Systems (SWECS)

The following standards in this section apply to all Small Wind Energy Conversion Systems (SWEC) development.

**Minimum Lot Size, Maximum Height.** The minimum lot size, the maximum number of SWEC's on a lot or parcel, and the maximum height of a SWECS shall be as specified in Table XXXX below.

Zoning District	Minimum Lot/Parcel Size	Maximum Number of SWECS	Maximum Height
A-1, A-2, P-1	1 acre	1	140'
	5 acres	2	140'
	10 acres	3	140'
S-1, U-1, L-1	1 acre	1	100'
	10 acres	2	100'
B-1, B-2, B-3, B-4, I-1, I-2	1 acre	1	140'
	5 acres	2	140'

**Height.** The height of SWECS shall be measured from one foot above ground level to the highest extension of the blade, rotor, or vane. The minimum distance between the ground and the blade, rotor, or vanes shall be 10 feet, as measured at the lowest point of the arc of the blade, rotor, or vane.

**Noise.** SWECS shall not exceed 60 decibels (db), as measured at the closet property line. However, the 60 db standard may be exceeded during short-term events such as utility outages and/or severe windstorms.

**Survival Speed.** SWECS shall be rated by the manufacturer as having a minimum survival wind speed of 100 miles per hour.

**Setback.** The minimum setback of a SWECS shall meet the following, measured from the edge of the support tower:

- 1.1 times the height of the tower from public parks, public open spaces, public greenways, historic preservation districts, streams, and rivers, measured from the nearest property lines, district lines, and/or the top of any stream or riverbank.
- 1.1 times the height of the tower from the nearest occupied off-site structure.
- Ten feet from any side or rear property line. The front yard setback shall be equal to the setback requirements in the zoning district in which the property is located.

**Abandonment.** A SWEC that is out of service for a continuous 24-month period will be deemed to have been abandoned and shall be removed. Maintenance events which require extended periods of time beyond a 24-month period shall be brought to the attention of the Building Department.

**Complaints.** If, after construction, the owner or operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication on microwave transmissions, the owner or operator shall promptly resolve the complaint.

## **Towers and Similar Structures**

Towers and similar structures, other than Small Wind Energy Conversion Systems (SWECS) and Wind Energy Conversion Systems (WECS) towers and structures, shall be regulated as set forth below. These standards shall be interpreted and enforced in a manner consistent with the Telecommunications Act of 1996. Towers installed by a unit of government are exempt from the provisions of this Section.

### **Location**

- Self-supporting towers (without guy wires) more than 100 feet and less than 180 feet tall shall be situated on the site to self-contain all debris resulting from tower failure. In all cases, the tower shall be located no closer to the lot line than 25 percent of the tower height or the setback requirement in Article X, whichever is greater. In the event that the self-supporting tower is located contiguous to a residential parcel, the tower shall be set back from the lot line a distance equal to the height of the tower.
- All guy mast towers and self-supporting towers greater than 180 feet shall be situated on the site to self-contain all debris resulting from tower failure. In all cases, the tower shall be located no closer to the lot line than 66 percent of the tower height plus 25 feet. Guy wire anchors shall be located a minimum of 25 feet from the lot line or the prevailing yard requirement, whichever is greater.
- To protect from falling ice or parts, guyed towers shall be located a minimum of 1.25 feet for every foot of height from any public road right-of-way, residentially used parcel or home, occupied building, recreational field, or playground. The Plan Commission may apply the criteria in this subsection to other structures or land if determined necessary to safeguard human life.
- Towers greater than 180 feet in height shall be located at a minimum distance of 1,500 feet from any residential subdivision.
- The height of tower apparatus shall not be utilized in determining the setbacks required by this section. All tower apparatus shall be securely fastened to minimize noise emissions or damage from falling. Towers of 180 feet or less shall not exceed a total height of 200 feet, including attached tower apparatus.

### **Maintenance**

- All towers and sites shall be properly maintained and shall be kept in a condition so as not to become a public nuisance or eyesore. Proper maintenance shall include but not be limited to regular lawn and landscaping care, painting of an accessory building, fences, and tower. Additionally, the site shall be kept free of junk and trash.
- Any tower declared to be a public nuisance due to poor maintenance, noise emissions, or other situation shall be a violation of this UDO.

### **Collocation, Use, and Documentation**

- An application for a permit to erect a tower must include documentation showing that there is a need for tower space in the area of the proposed tower. New towers shall not be constructed except upon a showing of significant need.
- The applicant shall have the burden of proving significant need by a preponderance of the evidence showing that the following criteria are met:

- The proposed tower will replace an existing similar (i.e., height and other characteristics) tower in the County that has been or will be removed;
- The proposed additional antennas cannot be placed on existing towers;
- Existing towers in LaGrange County cannot be re-engineered to accommodate additional antennas;
- Existing towers cannot be extended to accommodate additional antennas;
- Another communication technology in lieu of towers with antennas is not available;
- A site containing an existing tower cannot accommodate an additional tower;
- A new tower application shall demonstrate need for a minimum of two antenna arrays, which shall be included in the tower application; and
- An applicant for a new tower shall provide space for use by any unit of government at no cost.

## Article 4 Special Districts

### Wind Energy Conversion Systems (WECS)

The standards in this section apply to all Wind Energy Conversion Systems (WECS) developments. The underlying district zoning regulations apply, however, where conflicts exist between the underlying district regulations and those contained in this section, this section shall apply.

**Re-Zoning Application.** An application for re-zoning to a WECS Overlay District must be submitted to the Advisory Plan Commission and may be a combined application provided all property owners where the WECS facilities are to be located are co-applicants. The application shall include the following items:

- A general description of the project including its approximate nameplate generating capacity, the potential equipment manufacturer, the type of WECS, the number of WECS Towers, the nameplate generating capacity of each WECS Tower, the maximum height of WECS Towers, the maximum diameter of the WECS rotors, the general means of interconnecting with the electrical grid and the general location of the project;
- A description of the applicant, owner, and operator, including their respective business structures;
- A description of substations, maintenance structures, storage yards, permanent meteorological towers and equipment, and other buildings that are a direct functional part of the WECS. These structures, within the proposed overlay district, shall be considered accessory uses;
- The names, addresses and phone numbers of the applicants, owners and operators, and all co-applicants;
- A topographic map of the project site and surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than 10 feet intervals.

**Development Plan Application.** Following the of a WECS Overlay District, an applicant and property owner that desires to construct, install, operate, repair, and maintain WECS shall first file or submit to the Advisory Plan Commission a Development Plan as specified in Article XXXX of this UDO. The Development Plan shall specifically include the following:

- A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and a typical individual tower site at not greater than 1 inch equals 20 feet) the proposed location of the Wind Energy Conversion System Facility (including locations of each WECS Tower, guy lines and anchor bases (if any); WECS access roads; substations; maintenance structures; storage yards; permanent Meteorological Towers; electrical cabling; ancillary equipment; and any other structures that are a direct functional part of the WECS. Each tower and/or structure should be assigned a unique identification number on the site plan. In addition, the site plan shall show; primary structures within one quarter mile of a WECS; property lines, including identification of adjoining properties; setback lines; public roads; County regulated drains, open ditches, or tiles; location of all above-ground utility lines within a distance of two times the WECS Tower Height of any WECS Tower; location of all existing underground utility lines associated with the WECS site; recognized historic or heritage sites as noted by the Indiana Department of Natural Resources; floodplains;

and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines. This site plan must also be distributed to the Emergency Management Agency, any Fire Departments serving any part of the site, and to the County Sheriff.

- A Transportation Plan (as defined) recommended by the Highway Superintendent and approved by the LaGrange County Commissioners.
- A Drainage Plan approved by the LaGrange County Drainage Board. The Transportation Plan and/or the Drainage Plan shall establish that the proposed WECS, including access roads, shall not impede the flow of water and will comply with the County Drainage Ordinance. At the discretion of the Advisory Plan Commission, approval of the Drainage Plan by the LaGrange County Drainage Board may be a condition of Development Plan Approval, which condition must be satisfied prior to application for an Improvement Location Permit.
- Projected Sound Emissions Study (as defined) for the proposed WECS.
- The applicant shall solicit input from the Indiana Department of Natural Resources on bird and bat migration, nesting, and habitat studies and shall follow any required protocols established, adopted, or promulgated, by the Department. The Applicant shall submit any response received from the Department of Natural Resources to the Advisory Plan Commission.
- A Decommissioning Plan formulated by the applicant, owner and/or operator and accepted by the Advisory Plan Commission designed to ensure that the WECS Project is properly decommissioned. The Decommissioning Plan must be updated and approved by the Advisory Plan Commission every five (5) years after the approval of the initial Decommissioning Plan, in the same manner as the initial plan. The Decommissioning Plan shall include assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. The Applicants' obligations with the Plan shall include:
  - Removal of all physical material (with the exception of Subsurface Collectors (as defined)), pertaining to the project improvements to a depth of not less than 48" beneath the soil surface;
  - Restoration of the area occupied by the project improvements such that the area is suitable for an equivalent land use to what existed immediately before construction of such improvements;
  - A cost estimate for demolition and removal of the WECS facility prepared by a reputable and licensed professional engineer approved by the Advisory Plan Commission. Financial assurance of decommission shall be provided as required by Section K, Paragraph 10, "post-construction and continued maintenance requirements".
- A Security and Safety Plan that must include adequate provisions for site security and safety during pre-construction, construction, and post-construction. If the plan includes using County Services, then it should include signatures indicating those parties are aware of their role and capable of performing it.
- Adequate assurance of the completion and continued operation of the WECS project from the date of the commencement of construction through the 10th year of operation of the WECS. The owner/applicant/operator shall demonstrate such adequate assurance of completion and continued operation of the WECS project by providing evidence of the following:

- Adequate funding of 100 percent of the estimated cost of construction of the WECS;
- Performance and payment bonds or other sureties from the owner applicant/operator and/or major equipment suppliers and contractors;
- The existence of written warranties from contractors and/or major equipment suppliers and contractors;
- The existence of written warranties from contractors and/or manufacturers which have demonstrated financial ability to repair and/or replace defective work, materials, and equipment; and
- Adequate casualty, builders' risk, business interruption, and liability insurance for the replacement of the WECS and the individual components thereof, and the funding of an ongoing basis, and the payment of all liabilities occurring during, arising from, or related to a casualty loss.
- The applicant/owner/operator may provide such cost estimates, bids, contracts, warranties, feasibility studies, engineering studies and reports, insurance certificates, loan, and other financing commitments at the discretion of the Advisory Plan Commission.
- An Economic Development Agreement (as defined) approved by the LaGrange County Commissioners. This agreement must be developed in conjunction with the LaGrange County Economic Development Corporation and LaGrange County Council. At the discretion of the Advisory Plan Commission, the approval of the Economic Development Plan by the LaGrange County Commissioners may be a condition of Development Plan Approval, which condition must be satisfied prior to application for an Improvement Location Permit.
- Any and all other information deemed necessary by the LaGrange County Plan Commission for the administration and enforcement of this Ordinance.

**Improvement Location Permit.** After the Development Plan approval is obtained, but before any construction commences or Improvement Location Permits may be acquired, all applicable state and federal permits, approvals and licenses must be obtained, and all state and federal statutes and regulations must be compiled with, and the following requirements satisfied:

- The owner or operator of the WECS shall have obtained and maintained during construction and operation of the WECS facility a current general liability policy covering bodily injury and property damage that names the property owner(s) and LaGrange County as additional insured parties with limits of at least \$2 million per occurrence and \$5 million in the aggregate, with a deductible of no more than \$20,000.
- The applicant/owner/operator shall establish a 24-hour toll-free phone number for the registering of complaints and concerns during construction only. This number shall be posted at every road intersection throughout the project area before Improvement Location Permits are issued and before any construction or earth moving can commence. If legitimate complaints are not remedied within 48 hours the county may address these complaints with any expenses incurred to be reimbursed by the WECS Applicant according to the fee rate established by the Advisory Plan Commission.
- The applicant/owner/operator must attend a pre-construction meeting between the Advisory Plan Commission Executive Director, Advisory Plan Commission President, LaGrange County Building Inspector, and any other public officer or official whose input is deemed appropriate and WECS Applicant to verify that all requirements in the Zoning Ordinance have been met. This meeting shall take place as the final step before

construction and all other requirements have been met, whereby if all of the Zoning Ordinance requirements have been met, whereby if all of the Zoning Ordinance requirements have been met, then the WECS Applicant may proceed to obtain Improvement Location Permits. If any requirements have not been met, then further preconstruction meetings will be held until it can be verified that the identified issues have been resolved.

- Improvement Location permit fees must be paid for any proposed construction element of the WECS project before the applicable Improvement Location Permits will be issued.

**Application Review Fees.** The Re-zoning Application, Development Plan (including but not limited to Decommissioning Plan and each update thereof and the assurance of completion and continued operations), and Improvement Location Permit applications shall be reviewed by Advisory Plan Commission staff, counsel, an independent professional engineer, and any other professionals deemed necessary as selected or approved by the Advisory Plan Commission. Within 30 days of submission, the owner/applicant/operator shall reimburse the Advisory Plan Commission for all costs and expenses associated with the initial or any subsequent review of the Development Plan including but not limited to the employment of a professional engineer, financial consultant, or other professional advisors consulted by the Advisory Plan Commission. A professional Engineer shall also certify, as part of the Improvement Location Permit application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

**Construction Responsibilities.** Prior to and during construction the applicant/owner/operator shall be responsible for the following:

- Implementing reasonable dust control measures during construction.
- Complying with existing septic and well regulation as required by the LaGrange County Health Department and the Indiana Department of Public Health.
- Repairing all damages to non-co-applicant or County regulated waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS. Damage must be completely repaired to its original or better condition, and so as not to impede the flow of water. All repairs must be completed in a timely manner and the WECS Owner, Operator and/or Applicant shall be responsible for loss or damage resulting from its impairment of such drainage structures. All repairs to county regulated drainage structures must be completed within ten (10) days unless a waiver is obtained from the County Drainage Board.
- Using concrete armoring techniques at each and every location where County regulated drains and subsurface power transmission lines of any type of cross. Unopened bags of premixed concrete shall be laid on top of the transmission lines to cover six inches on both sides of the line and eight feet to each side of the County regulated drain the line is crossing. Open drain and transmission line intersections where the line is below the invert of the open drain shall be armored using the same technique. Red warning tape (printed with “warning electrical line below” or similar language) shall be buried no closer than 12 inches above the actual power line at all crossing locations. The Surveyor or agent designated by the Surveyor shall inspect every such crossing before backfilling. Concrete armoring techniques will not be required in cases where directional boring is used.
- Installing permanent, visible markers where directional boring is used. Markers shall be placed within the line of sight indicating directional changes and borings.

- Submitting a daily plan of work detailing where construction and transportation activities will occur to the Advisory Plan Commission, County Highway Superintendent, County Sheriff, County Surveyor, Soil and Water Conservation District, the Superintendent(s) of the School District(s) in areas in which construction is occurring and to the Emergency Services with jurisdiction over the areas in which construction is occurring. This shall include notification of any oversize or overweight loads entering or exiting the project each day as well as any work, roads, drainage, or access roads.
- The LaGrange County Highway Superintendent shall conduct a preconstruction baseline survey to determine existing road conditions for assessing potential future damage. The LaGrange County Highway Superintendent may choose to require remediation of road damage during or upon completion of the project and is authorized to collect fees for oversized load permits. If the Applicant does not make repairs in a timely manner, the Superintendent is authorized to make repairs and charge the Applicant a fee to cover the costs of repair. Such fees shall be established at the start date of construction and may be revised at three-month intervals. Further, a corporate surety bond shall be required by the LaGrange County Highway Superintendent to insure the County that future repairs are completed to the satisfaction of the County. The cost of bonding is to be paid by the Applicant. A \$1,000 fine shall be assessed for each occurrence where WECS oversize or overweight construction and maintenance equipment utilizes any routes in violation of the approved Transportation Plan. If the owner/applicant/operator or its contractors require material changes from the approved Transportation Plan or if post completion repairs, improvements, or expansions require oversize and overweight loads or involve new routes, an Amended Transportation Plan must be approved in the same manner as the initial plan. When all road repairs are completed to his satisfaction the LaGrange County Highway Superintendent will issue a County Highway Remediation Release Form.
- Adhering to the approved Development Plan, any non-material proposed changes, modifications, or amendments to the Development Plan must be approved by the Executive Director of the Advisory Plan Commission. All material changes to the Plan must be approved by the Advisory Plan Commission. The Executive Director shall have the authority and discretion, considering all relevant factors, to determine whether the proposed Development Plan change is material.

**Design and Installation Responsibilities.** The design and installation shall conform with the following:

- WECS Towers shall conform to applicable industry standards. Applicant shall submit certificates of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Geranishcher Lloyd Wind Energie, or an equivalent third party.
- All WECS Towers shall be installed with a tubular, monopole type tower. Meteorological towers may be guyed. All structures shall be uniform in design and appearance.
- All WECS Towers shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
- All electrical components and Collectors (as defined) of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards. All WECS Collectors between WECS towers shall be located underground.

Said electrical components and Collectors between each WECS and/or on-site substations may be located above ground where burial presents a technical or practical difficulty, such as a deep ravine or significant waterway. Once the technical or practical difficulty is traversed, burial shall be required per the standards noted above.

- Towers and blades shall be painted with non-reflective white color. The Applicant shall comply with all applicable Federal Aviation Administration color requirements. No advertising or signage shall be allowed on a WECS Tower, except for manufacturers name on the nacelle.
- A visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- All WECS Tower designs must include features to deter climbing or be protected by anti-climbing devices such as: 1) fences with locking portals at least eight feet high, 2) anti-climbing devices 15 feet vertically from the base of the WECS Tower, and/or 3) locked WECS Tower doors.
- Red strobe lights are preferred during the night to reduce impacts on migrating birds and red pulsating incandescent lights and white lights should be avoided, if possible. All lighting shall also follow applicable Federal Aviation Administration regulations and further lighting requirements contained within this Ordinance. All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the wind farm facilities.

**Noise Limitations.** At any non-co-Applicant residentially used structure or residentially zoned lot, public school, or public library, for a period of more than 10 percent out of every hour, the audible A-weighted sound pressure levels as a result of the sound emitted by the WECS shall not exceed either, the greater of 45 decibels or, 5 decibels above the Ambient Baseline Sound Pressure Level of the wind farm project area at Critical Wind Speeds. At any non-co-Applicant residence on Industrial, or Business zoned land, for a period of more than 10 percent out of every hour, the audible A-weighted sound pressure levels as a result of the sound emitted by the WECS shall not exceed either the greater of 51 decibels or, 5 decibels above the Ambient Baseline Sound Pressure Level, if used, shall be determined by a baseline acoustic emissions study conducted by the LaGrange County Advisory Plan Commission and funded by the Applicant. All methods for measuring precision described in the International Electrotechnical Commission IEC 61400-11 Standard; *Wind turbine generator systems – Part 11: acoustic noise measurement techniques*. Noise and vibration levels shall also follow all other applicable County, State and Federal regulations.

**Minimum Clearance Distance.** The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be 50 feet, as measured at the lowest point of arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where oversized vehicles might travel.

**Setbacks.** Setbacks shall be as follows:

- No WECS shall be constructed in any setback, dedicated public easement, or dedicated public right-of-way without prior written authorization from the County.
- Except as provided herein, installation of any WECS may not be nearer than 1.1 times the height of the WECS including the blade at its highest point, to any non-co-Applicant property lines, dedicated roadway, co-Applicant residences, railroad right-of-way or overhead electrical transmissions or distribution lines. Also, the minimum setback

distances for all turbines, substations, maintenance structures, storage yards, permanent Meteorological Towers, and other buildings that are a direct functional part of the WECS shall not be less than 1000 feet from any non-co-Applicant residence or public building. Distance shall be measured at the time of application for Improvement Location Permit from the center of the foundation at the base of the tower. New structures built adjacent to wind power facilities shall maintain the same minimum setback requirements. The setback distance will be followed except in specific instances allowed by the Board of Zoning Appeals in a Variance Hearing.

- The WECS Tower shall not be nearer than 1.1 times the height of the WECS Tower including the blade at its highest point from any other WECS Tower.

**Maintenance Requirements.** Post construction and continued maintenance requirements are as follows:

- Commencing on January 1st of the first calendar year after the tenth (10th) year of operation of the WECS, the owner/applicant/operator shall secure and provide to the Advisory Plan Commission a performance bond, surety bond, letter of credit, or other form of financial assurance that is acceptable to the Advisory Plan Commission (the “Decommissioning Security”) equal to the estimated cost of decommissioning the WECS pursuant to the Decommission Plan. The Decommissioning Security, in computing the estimated cost of decommissioning, shall consider and deduct the Net Salvage Value (as defined) of the WECS. The amount of the Decommissioning Security shall be adjusted annually by January 31 by an amount equal to the increase in the CPI index. “CPI Index” shall mean the Consumer Price Index for “All Urban Consumers, U.S. City Average, All items, “issued by the Bureau of Labor Statistics of the United States Department of Labor, or, if discontinued or no longer published, such other governmental index that most closely matches the manner in which inflation had been previously tracked as selected by the Advisory Plan Commission. All owner/applicant/operator shall provide and updated Decommissioning Plan every five years commencing with the operation of the WECS which updated Decommissioning Plan shall be reviewed and approved by a licensed engineer approved by the Advisory Plan Commission and qualified to provide an estimate of the cost of decommissioning of the WECS and the Net Salvage Value of the WECS (the “Decommissioning Engineer”). A new Decommissioning Security in an amount equal to the cost of the estimated cost of decommissioning after deducting the Net Salvage Value of the WECS shall be provided within 60 days of the approval of the updated Decommissioning Plan.
- All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state, and federal rules and regulations.
- The following operation, maintenance and inspection standards shall be met:
  - Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than like-kind replacement), the owner/applicant/operator shall

confer with the Building Inspector to determine whether the physical modification requires re-certification;

- The LaGrange County Building Inspector, approved designees, along with licensed 3rd party engineers/professionals retained by the County for the specific purpose of conducting inspections of the WECS shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or Operator, or his agent, on the premises where a WECS has been constructed, to inspect all parts of said WECS installation and to require that repairs or alterations be made. The owner/applicant/operator of a WECS may retain a licensed 3rd party professional engineer familiar with WECS systems to prepare and submit to the LaGrange County Building Inspector a written report which addresses the repairs or alterations requested, and which suggest alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within 30 days after receiving notice from the LaGrange County Building Inspector that repairs or alterations are requested, or within a longer period of time mutually acceptable to both parties. The LaGrange County Building Inspector will consider any such written report and determine whether the repairs or alterations should be made as originally requested or as suggested in the written report. In the event of a dispute between the LaGrange County Building Inspector and the owner/applicant/operator, or a 3rd party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the Building Inspector shall be final;
  - If, after construction, the owner/applicant/operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the owner/applicant/operator shall promptly resolve the complaint;
  - The WECS owner/applicant/operator shall submit to all providers of emergency services serving the WECS Project area a copy of the as-built site map. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations;
  - On completion of construction the WECS owner/applicant/operator shall submit to the County Surveyor a site map detailing all ground disturbed through construction activity, surface/subsurface structure/infrastructure and all routes over which trucks and equipment traveled. The scale and format of the submitted map shall conform to the County Surveyor's specifications;
  - For the period of three years following the completion of construction the WECS owner/applicant/operator shall be liable to the county for all costs or repair, as determined by the County Surveyor, to county for all costs of repair, as determined by the County Surveyor, to county drain tiles, regulated drains and ditches and other county regulated surface and subsurface structures and private tiles located in the public right of way within fifty feet of the routes and disturbed ground, unless it can be reasonably demonstrated that such damage to said tiles, drains, ditches, and/or structures was not caused by activities associated with the WECS construction and/or operation.
- A WECS or any individual wind turbine constituting a portion of the WECS is presumed to be at the end of its useful life and/or abandoned if the WECS or the individual turbine

generates no electricity for a continuing period of 12 months. This presumption may be rebutted by submitting to the Advisory Plan Commission for approval and within 90 days of submission obtaining approval thereof of a plan outlining the steps and schedules for returning the WECS or the individual wind turbine to service. Any WECS or individual turbine which pursuant to the terms hereof has either reached the end of its useful life and/or is abandoned pursuant to the terms hereof shall be subject to removal pursuant to the Decommissioning Plan.

- Any WECS, WECS Tower, or structure thereof declared to be unsafe by the LaGrange County Building Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment is hereby declared to be a public nuisance and shall be abated by repair or rehabilitation within 12 months or be deemed abandoned and at the end of its useful life as provided in this Section.
- Any post-construction proposed non-material modifications, alterations, expansion, or changes of any type or size to the Development Plan must be approved by the Executive Director of the Advisory Plan Commission and all material post construction proposed changes must apply in the same way as a new WECS following the process set forth herein. The Executive Director shall have the authority and discretion, considering all relevant factors, to determine whether the proposed post-construction change is material.
- Nothing in this section of this Ordinance is intended to preempt other applicable state and federal laws and regulations.

**New Building Lots and Dwellings.** All new building lots and new dwellings approved in the Wind Energy Conversion System Overlay district shall submit and record a signed agreement in the office of the County Recorder. Such written agreement shall recognize that the current owner and all subsequent owners of such building site (lot) shall not object to, nor file suit against any Wind Energy Conversion System so long as it follows industry accepted wind farming operation, construction, and maintenance standards. Such agreement language shall be approved by the Board Attorney and shall be comparable to the following: “In accepting this deed, grantees do hereby acknowledge that the surrounding land is designated for a Commercial Wind Energy System and subject to intense wind farming practices; and grantees, and their heirs, assigns, and successors in interest, are precluded from complaining, seeking damages and/or attempting to enjoin the use of the property (land) for Wind Energy Conversion Systems as long as industry accepted wind farming operation, construction and maintenance standards are followed. It is further recognized that Wind Energy Conversion Systems may include disruptive noise/traffic throughout the year. This condition and agreement shall run with the land.

## Planned Unit Development (PUD) District

**Purpose.** This district is designed to promote the mixture of land uses in a creative, economical, environmentally friendly, and aesthetically pleasing manner consistent with the requirements of IC 36-7-4, the 1500 Series.

**Authority.** In accordance with IC 36-7-4, the 1500 Series, LaGrange County is hereby authorized to approve or disapprove Planned Unit Development proposals.

### Types of Planned Unit Developments

- **Residential.** The purpose of the residential PUD is to allow for large residential developments with varied housing types and lot sizes and to ensure that such developments have adequate facilities and services.
- **Business.** The purpose of the business PUD is to encourage the development of appropriately located commercial centers and office parks and to ensure that these developments have adequate facilities and services.
- **Industrial.** The purpose of the industrial PUD is to encourage the development of appropriately located industrial parks and uses and to ensure that these developments have adequate facilities and services.
- **Mixed Use.** The purpose of the mixed use PUD is to encourage development that contains a mixture of uses, and which may include, but is not limited to a variety of housing types, convenient business services, recreational uses, and employment opportunities.

**Permitted Uses.** Planned Unit Development Districts may have any uses or combination of uses permitted under the ordinance establishing the PUD. PUDs shall be classified as residential, business, industrial, or mixed use, depending upon the uses to be permitted in the development. Only those uses shown on the approved PUD plan shall be permitted; all other uses are prohibited.

**Minimum Development Area.** Planned Unit Developments shall be subject to the following dimensional and intensity standards. The Advisory Plan Commission may approve a PUD that is smaller in size or frontage than what is required if it is determined that the request is necessary to accommodate unique geographical features, topography challenges, site conditions, or other similar reason.

Type	Minimum Acreage	Minimum Frontage
Residential	10 acres	50 feet
Business	5 acres	100 feet on a collector road or higher
Industrial	50 acres	100 feet on a collector road or higher
Mixed Use	10 acres	100 feet on a collector road or higher

**Multiple Buildings and Uses on a Lot.** More than one building and more than one use is permitted on a lot within a PUD.

**Setbacks.** Peripheral and internal setbacks shall be defined on the PUD plan.

**Open Space.** PUDs shall reflect creativity in design and sensitivity to the natural conditions of the site. At least 20 percent of the land area in a PUD shall be devoted to open space or recreation.

These features include golf courses, lakes, streams or rivers, orchards, nature preserves, or other similar amenities.

**Comprehensive Plan Consistency.** In making its recommendation to the County Commissioners on a Planned Unit Development proposal, the Plan Commission shall evaluate the consistency of the proposal with the Comprehensive Plan. The County Commissioners shall approve a PUD ordinance only after finding that the proposal is consistent with the Comprehensive Plan.

**Modifications.** The Plan Commission or County Commissioners may modify any development standard of this UDO for a PUD, provided that the Plan Commission and/or County Commissioners find(s) that such modification promotes the purposes of this Ordinance and is consistent with the spirit and intent of this ordinance. The Commission and County Commissioners shall make specific findings to support each permitted deviation from the ordinance standards. It is the responsibility of the applicant to provide justification for modification of any development standard. PUD modifications are not subject to Board of Zoning Appeals review.

### **PUD Review and Approval Process**

- **Initiation.** A petition to rezone property to PUD or to modify an approved PUD may be filed by any of the following:
  - The owners of all lots or parcels within the area proposed for rezoning; or
  - In the case of a single lot or parcel with multiple owners, all those having ownership interest in the lot or parcel.
  - An agent representing the owner(s) of the property.
- **Preliminary PUD Plan and Zoning Map Amendment Request**
  - The owner or agent shall apply for a Preliminary PUD Development Plan and Zoning Map Amendment to the Zoning Administrator in accordance with the provisions of this Section.
  - The Zoning Administrator shall determine if the application is complete or if additional information is needed. Upon determination that the application is complete, it shall be referred to the Plan Commission for review.
  - The Plan Commission shall hold a public hearing and make a recommendation to the County Commissioners on the Preliminary PUD Plan and Zoning Map Amendment. The Plan Commission may recommend approval or disapproval of the rezoning request. The Commission may impose conditions on the recommendation.
  - Following the Plan Commission meeting, the County Commissioners shall hold a meeting and shall review and act on the application. The County Commissioners may impose conditions as part of the approval.
  - Approval of the Preliminary PUD Plan and Zoning Map Amendment by the County Commissioners constitutes final approval of the Preliminary PUD Plan.
- **Final PUD Plan**
  - The owner or agent shall apply for a Final PUD Plan to the Zoning Administrator in accordance with the provisions of this Section.
  - The Zoning Administrator shall determine if the application is complete or if additional information is needed. Upon determination that the application is complete, it shall be referred to the Plan Commission for review.

- The Plan Commission shall hold a public hearing on the Final PUD Plan and shall act on the Final Plan based on the Plan’s consistency with the Preliminary PUD Plan and the requirements for the Final PUD Plan. The Plan Commission may approve or disapprove the request, and the Commission may impose conditions as part of the approval.
- Approval of the Final PUD plan shall be granted only upon a finding by the Commission that the plan is consistent with the approved Preliminary PUD Plan.
- If a subdivision plat is filed in conjunction with the Final PUD plan, appropriate plans and details that are required as part of the Final PUD submittal may be included on the subdivision plat rather than on the PUD plan. The detailed PUD plan or subdivision plat shall include such information and materials as are required by the Plan Commission Rules of Procedure. The approval process of the subdivision plan shall be in accordance with its regular procedures established in Section XXXX.
- The Approved Final PUD Plan shall be marked, "Approved Final Planned Unit Development," be signed by the president and secretary of the Commission and bear the Commission’s seal. One copy shall be permanently retained in the offices of the Plan Commission, which may be an electronic or paper copy. No permits shall be issued until the Final Plan and all accompanying documents have been recorded in the Office of the LaGrange County Recorder.
- **PUD Plan Appeals**
  - Any decision of the Plan Commission to approve or deny a Final PUD plan is a final decision that may be appealed to the County Commissioners, provided that any refusal by the Commission to approve a Final PUD plan shall not limit the right of the petitioner to continue to seek approval, nor shall it impair the right of the petitioner to request an extension of time for approval if no appeal is filed.
- **Phasing.** The Plan Commission may allow the petitioner to develop the property involved in phases. If such phasing is permitted, the petitioner shall submit Final PUD plans that correspond to the phases involved, and the phases shall be developed in the order approved by the Commission. Such Final PUD plans for phases, when approved, shall be treated in the same manner as the approved Final PUD Plan for an entire PUD.
- **Combined Preliminary and Final PUD Plans.** The owner or agent may request to combine the applications for Preliminary and Final PUD Plans. The Zoning Administrator may approve or deny this request based on the type of application, completeness of plans, and timing requirements of the project. All requirements of both the Preliminary and Final Plans shall be met for a combined plan submittal. If approved by the Zoning Administrator, the owner or agent shall submit the PUD Zoning Map Amendment with the Final PUD Plan and any additional information that is required for the Preliminary PUD Plan. The application shall follow the process established for the Preliminary PUD Plan.
- **Modifications**
  - **Major Modifications.** An owner or agent may submit a request to modify any approved Preliminary PUD or Final PUD to allow for a change in circumstances or conditions unforeseen at the time of the original approval. The process to approve a major modification to an approved PUD Plan is consistent with the Final PUD Plan approval process - a public hearing and decision by the Plan Commission. A major departure shall include any of the following:
    - An alteration of the basic relationship of the proposed development to adjacent properties.

- A change in the uses that are permitted.
- An increase or decrease, as applicable, of more than 15 percent (this total is cumulative for all modifications to the PUD) of any of the following:
  - The maximum density;
  - The maximum floor area;
  - The maximum building height;
  - A decrease in the amount of off-street parking to an amount not adequate for the use. In determining the amount of parking that is adequate, the amount required by this UDO, the information available from the Institute of Traffic Engineers and empirical studies of the parking needs for the use;
  - A reduction in the approved yard or setbacks;
  - An alteration to the ingress or egress in any way or the creation of a substantial change to on-site circulation, as determined by the appropriate engineering or highway department.
- A modification to any conditional or commitment allowed or required by the County Commissioners.
- **Minor Modifications.** If a proposed modification to an approved PUD Plan is minor in nature and does not meet any of the criteria for a major modification, the modification may be reviewed and approved by the Zoning Administrator. Upon receiving a request for a minor modification, the Zoning Administrator shall have 10 working days to respond to the petitioner, by either approving or rejecting the request. An applicant may appeal against the decision of the Zoning Administrator to the Plan Commission.

### Submittal Requirements

- **Preliminary PUD Plan and Zoning Map Amendment.** The owner or agent shall submit or incorporate the following materials with an application for a Preliminary PUD Plan and Zoning Map Amendment:
  - The rezoning application and materials per Section XXXX.
  - A written narrative describing the proposed development.
  - A vicinity map, north arrow, and scale bar.
  - A phasing plan and project timeline.
  - Proposed land uses and percentages for each, including the location for dedicated open space.
  - Intentions regarding water and sewer disposal.
  - A listing of all deviations from the development standards of the underlying zoning district.
  - Residential density, if applicable, based on # of proposed lots per acre of development.
  - Surrounding land uses and zoning districts.
  - Other reports as needed including:
    - Soil report;
    - Municipal sewer and water report;
    - Traffic projection and thoroughfare report;
    - Site improvement report; and
    - Storm water drainage report.

- **Final PUD Plan.** The owner or agent shall submit or incorporate the following materials with an application for a Final PUD Plan:
  - A subdivision application and materials per Section XXXX, if applicable.
  - The proposed size, location, use, and arrangement of buildings, parking areas, entrance and exit driveways, and their relation to existing and proposed streets, proposed landscaping, signage, and other significant features.
  - Building elevations that indicate proposed architectural character and materials.
  - Design and location of all existing landscaping to be preserved and all proposed landscaping areas, open space, buffering plans, retention areas, and yards.
  - Existing and proposed utilities.
  - Lighting, including fixture type, size, and a photometric plan.
  - Trash facilities, including dumpster pad and enclosure details.
  - Notation of any rights-of-way that need to be dedicated for the widening or extension of any major streets.
  - Sign plan indicating locations, sizes, and designs for all proposed signs.
  - Covenants and maintenance agreements for the property.
  - Additional information as requested by the Zoning Administrator.

### **Abandonment or Expiration**

- **Preliminary PUD Expiration.** The County Commissioners' approval of the Preliminary PUD Plan shall be valid for two years after the date the County Commissioners adopts the PUD ordinance. Within this two-year period the PUD shall receive approval of the Final PUD plan for the first section or the entire development. Should the planned development not receive approval of the Final PUD plan for at least one section or the entire development within the two years, the County Commissioners, Plan Commission, or property owner may initiate a rezoning of the property. The Plan Commission may extend the approval period, not to exceed five successive periods of no more than two years each. The approval of the Final PUD plan for each section of the Preliminary PUD Plan shall extend the approval length of the Preliminary PUD Plan for two years.
- **Final PUD Expiration.** Commission approval of a Final PUD plan shall expire if the plan is not recorded within six months after the approval date. Commission approval of a Final PUD plan shall expire after a period of five years from the approval of a Final PUD unless the development in any phase has been substantially begun and pursued with due diligence. The Commission may grant extensions of time not to exceed five successive periods of no more than two years each. If the Final PUD plan expires as provided in this section, the Commission may require the plan to be resubmitted for approval, and it shall conduct a secondary review as if the plan were a new filing. Alternatively, the Commission may opt to initiate a rezoning of the property to a classification other than PUD.
- **Abandonment.** A development approved under this Ordinance shall be deemed to be abandoned or discontinued if it has expired under this Section or when no improvements have been made pursuant to the detailed PUD plan for a period of 24 consecutive months. When a PUD has been abandoned or discontinued, the detailed PUD plan shall no longer be valid, and no development shall be permitted until the plan is re-approved, and/or the property is rezoned.

### **Permits and Enforcement**

- The Zoning Administrator shall not issue any permit for development or improvements in a PUD District unless all recording required by this Ordinance has been effected. No certificate of completion or occupancy shall be issued for a PUD District unless the development complies with the approved Final PUD Plan.
- All development shall be in conformity with the approved Final PUD. In the exercise of its continuing jurisdiction, the Plan Commission shall take cognizance of any material deviations from the approved Final PUD and take appropriate enforcement action. Only those uses shown on the Approved Final PUD Plan shall be permitted; all other uses are prohibited.

**Covenants and Maintenance; Financial Guarantees**

- Covenants may be required by the Commission as an ingredient for stability and longevity of the PUD. If submitted, the covenants shall set forth in detail provisions for the ownership, administration, and maintenance of facilities held in common so as to ensure their continuity and conservation. Such covenant provisions shall include specific remedies in the event facilities held in common are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the County, and in such event the County, may take those remedial steps provided for such provision. The covenants shall be recorded with the Final PUD plan.
- The Commission may require the recording of covenants for any reasonable public or semipublic purpose, including but not limited to the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other public and semipublic purposes wherever necessary in conformity with the land use plan of current adoption. Such covenants may provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within the specified period of time, the applicable elements of the covenants shall automatically terminate. If such termination occurs, the petitioner shall then submit for approval by the Commission a modified detailed PUD plan for such land consistent with the approved Preliminary PUD Plan. Such modified detailed PUD plans, when approved, shall be treated in the same manner as Approved Final PUD Plans for an entire PUD.
- The Commission may require the recording of covenants for any other reasonable purpose, including but not limited to imposing standards for development of property in a PUD. Such development standards may include, but are not limited to, requirements as to the following:
  - Lot area.
  - Floor area.
  - Ratios of floor space to land area.
  - Buildable area or the area in which structures may be built.
  - Open space
  - Setback lines and minimum yards.
  - Building separations.
  - Height of structures.
  - Signs.
  - Off-street parking and loading space.
  - Design standards.
  - Phasing of development.

- Enforcement of the covenants shall be the responsibility of the property owners, unless the county, a city, or a town is, with its consent, specifically made a party to one or more covenants. Public enforcement shall apply only to those covenants to which a public entity is a party.
- The petitioner shall provide financial assurance for the satisfactory installation of all public facilities in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the Subdivision Regulations per Section XXXX.
- Adequate provision shall be made for a private organization with direct responsibility to and control by the property owners involved to provide for the operation and maintenance of all common facilities, including private streets. Assurances or guarantees satisfactory to the Plan Commission shall be provided to demonstrate that the private organization is self-perpetuating and adequately funded to accomplish its purposes.
- Common facilities that are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge to the beneficiaries thereof. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.
- All private streets shall be maintained by the responsible private organization in such a manner that adequate access is provided at all times to vehicular traffic, so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that such vehicles will have adequate maneuvering area. Such private streets shall be developed in accordance with the Subdivision Control Ordinance.
- As a condition of approval, the Plan Commission and/or County Commissioners shall require any appropriate financial guarantees to insure the timely completion of any improvement related to the PUD as required by the subdivision control ordinance.

# Article 5 Dimensional and Design Standards

## Purpose

The purpose of this article is to establish dimensional and design standards for lots within LaGrange County. Every new development and redevelopment project shall adhere to the applicable regulations within this section.

## Agricultural District Dimensional Standards

**Dimensional Standards.** The dimensional standards table in this section identifies the specific dimensional standards that apply to each agricultural zoning district. Specific uses may have increased setback requirements, which may be identified in Section XXXX.

**Table XXX: Agricultural District Dimensional Standards**

	A-1 General Agricultural	A-2 Rural Business and Industrial	P-1 Parks and Natural Land
<b>Minimum</b> Lot Area	2 <sup>1</sup> /10 <sup>2</sup> acres	2 acres	N/A
<b>Minimum</b> Lot Frontage	150 feet	150 feet	N/A
<b>Minimum</b> Front Yard Setback	Commercial – 100 feet Residential – 50 feet	Commercial – 100 feet Residential – 50 feet	100 feet
<b>Minimum</b> Side Yard Setback	15 feet	25 feet	15 feet
<b>Minimum</b> Rear Yard Setback	15 feet	25 feet	20 feet
<b>Minimum</b> Parking Lot/Driveway Setback <sup>3</sup>	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L
<b>Maximum</b> Height <sup>4</sup>	35 feet	35 feet	35 feet
<b>Maximum</b> Accessory Height	25 feet	25 feet	25 feet
<b>Maximum</b> Impervious Coverage <sup>4</sup>	30%	40%	25%

*Terminology: sq.ft. = square feet, n/a = not applicable, P/L = property line*

<sup>1</sup> The minimum lot size for residential, commercial, or public/institutional uses shall be 2 acres.

<sup>2</sup> The minimum lot size for agricultural and industrial uses shall be 10 acres.

<sup>3</sup> The side yard setback for driveways shall not apply when there is a shared driveway that is located on or adjacent to the property line and serves multiple properties, uses, or structures. The setback from the front property line does not apply to access drives/driveways.

<sup>4</sup> Agricultural buildings and uses are exempt from the height and impervious coverage regulations contained in this table.

## Residential District Dimensional Standards

- Dimensional Standards.** The dimensional standards table in this section identifies the specific dimensional standards that apply to each residential zoning district. Specific uses may have increased setback requirements, which may be identified in Section XXXX.

**Table XXX: Residential District Dimensional Standards**

	S-1 Suburban Residential	U-1 Urban Residential	L-1 Lake Residential	Multi-Family and Non-Residential Uses in a Residential District
<b>Minimum</b> Lot Area <sup>1</sup>	15,000 sq.ft.	5,000 sq.ft.	6,000 sq.ft.	20,000 sq.ft.
<b>Minimum</b> Lot Frontage	100 feet	60 feet	60 feet	100 feet
<b>Minimum</b> Front Yard Setback	30 feet	10 feet	20 feet <sup>7</sup>	25 feet
<b>Minimum</b> Side Yard Setback	15 feet	5 feet	6 feet	10/25 feet <sup>2,3</sup>
<b>Minimum</b> Rear Yard Setback <sup>5</sup>	10 feet	15 feet	20 feet	10/50 feet <sup>4</sup>
<b>Minimum</b> Parking Lot/Driveway Setback <sup>6</sup>	3' from side property lines	3' from side property lines	3' from side property lines	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L
<b>Maximum</b> Height	35 feet	35 feet	35 feet	45 feet
<b>Maximum</b> Accessory Height	25 feet	25 feet	25 feet	25 feet
<b>Maximum</b> Impervious Coverage	40%	70%	50%	70%

*Terminology: sq.ft. = square feet, n/a = not applicable, P/L = property line*

<sup>1</sup>Properties that are on septic systems shall have a minimum lot size of 1 acre.

<sup>2</sup>25 feet for properties with frontage on the lake.

<sup>3</sup>The minimum side setback for a non-residential use in a residential district shall be 25 feet when adjoining a residential use.

<sup>4</sup>The minimum rear setback for a non-residential use in a residential district shall be 50 feet when adjoining a residential use.

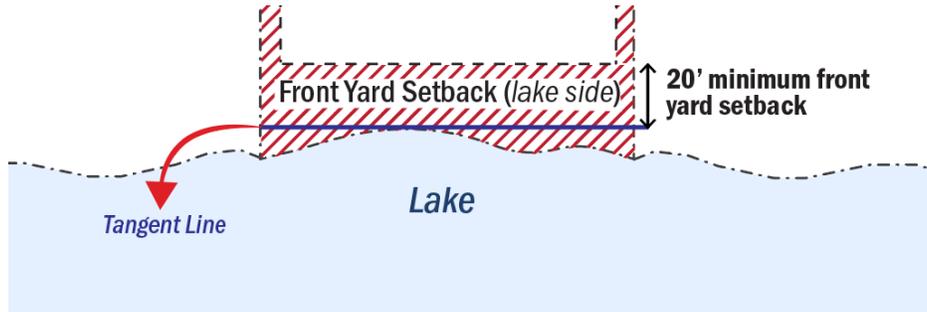
<sup>5</sup> The minimum rear yard setback for residential uses abutting an alley shall be measured from the midpoint of the alley.

<sup>6</sup>The side yard setback for driveways shall not apply when there is a shared driveway that is located on or adjacent to the property line and serves multiple properties, uses, or structures. The setback from the front property line does not apply to access drives/driveways.

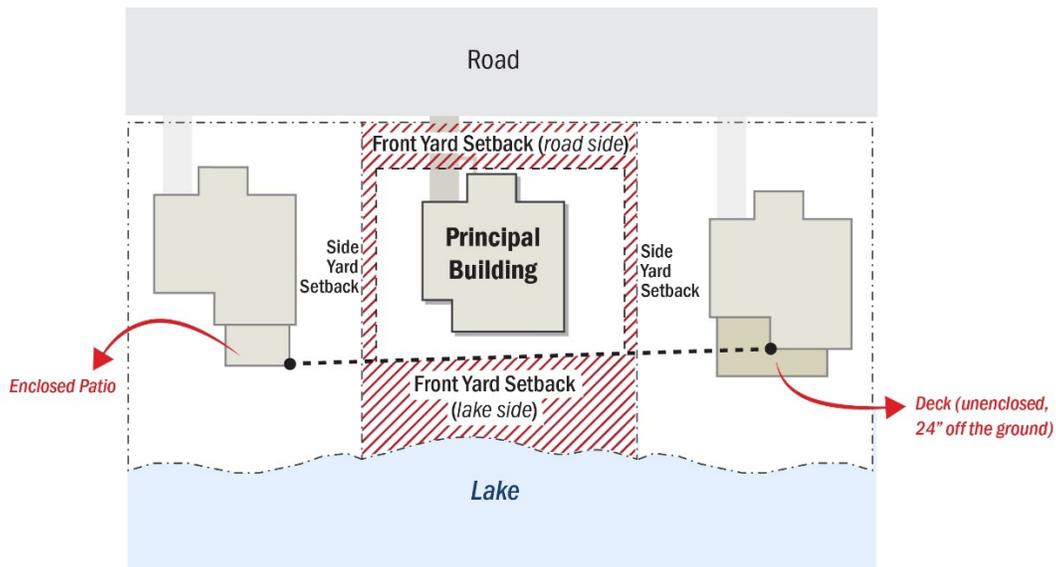
<sup>7</sup>The front yard setback applies to both the lake side and the road side property lines. Additional setback regulations apply to the lake side as stipulated below.

- **Supplementary L-1 Setback Regulations**

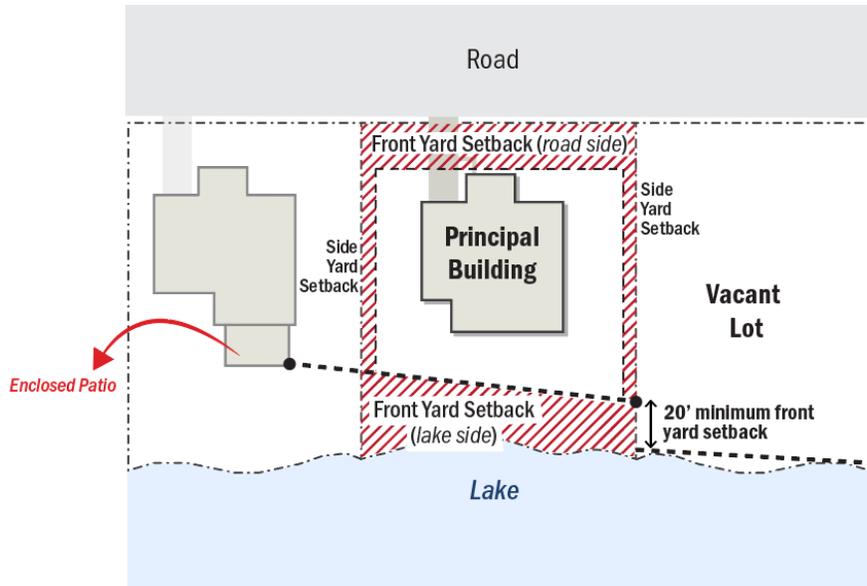
- **Measurement.** Setbacks from the lake shall be measured from a line tangent to the water line of the lake.



- **Applicable Structures.** New principal buildings, building additions, bay windows, enclosed sunrooms, decks that are over 30 inches in height, pergolas, roof extensions, and other similar attached structures that may obstruct or obscure the view of the lake from adjacent principal buildings.
- **Lake Side Setback Requirements.** Applicable structure, as listed herein, may not extend past the setback line created by connecting the nearest corners of the applicable structures on the two adjacent properties on the same side of the road, that are closest to the shared property line and the lake.



- **Adjacent Vacant Lot Setbacks.** If there is a vacant lot on either side, then the setback line is created by connecting the point where the lake side front yard setback intersects with the shared property line as illustrated below.



## Business District Dimensional Standards

**Dimensional Standards.** The dimensional standards table in this section identifies the specific dimensional standards that apply to each business zoning district. Specific uses may have increased setback requirements, which may be identified in Section XXXX.

**Table XXX: Business District Dimensional Standards**

	B-1 General Business	B-2 Neighborhood Business	B-3 Highway Business	B-4 Central Business
<b>Minimum</b> Lot Area	5,000 sq.ft.	5,000 sq.ft.	10,000 sq.ft.	N/A
<b>Minimum</b> Lot Frontage	75 feet	75 feet	100 feet	N/A
<b>Minimum</b> Front Yard Setback	45 feet	40 feet	50 feet	0 feet
<b>Minimum</b> Side Yard Setback	10 feet	10 feet	20 feet	0 feet
<b>Minimum</b> Rear Yard Setback	10 feet	10 feet	10 feet	0 feet
<b>Minimum</b> Parking Lot/Driveway Setback <sup>1</sup>	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L	<del>20 feet – Front P/L</del> <del>10 feet – Side P/L</del> <del>10 feet – Rear P/L</del> 0 feet
<b>Maximum</b> Height <sup>2</sup>	45 feet	35 feet	45 feet	45 feet
<b>Maximum</b> Accessory Height <sup>2</sup>	25 feet	25 feet	25 feet	25 feet
<b>Maximum</b> Impervious Coverage	60%	65%	70%	100%

**Terminology:** sq.ft. = square feet, N/A = not applicable, P/L = property line

<sup>1</sup>The side yard setback for driveways shall not apply when there is a shared driveway that is located on or adjacent to the property line and serves multiple properties, uses, or structures. The setback from the front property line does not apply to access drives/driveways.

<sup>2</sup>Structures greater than 12 feet in height must meet all required setbacks.

## Industrial District Dimensional Standards

**Dimensional Standards.** The dimensional standards table in this section identifies the specific dimensional standards that apply to each industrial zoning district. Specific uses may have increased setback requirements, which may be identified in Section XXXX.

Table XX: Industrial District Dimensional Standards

	I-1 Light Industrial	I-2 Heavy Industrial
<b>Minimum</b> Lot Area	1 acre	2 acres
<b>Minimum</b> Lot Frontage	100 feet	150 feet
<b>Minimum</b> Front Yard Setback	50 feet	50 feet
<b>Minimum</b> Side Yard Setback	15/50 feet <sup>1</sup>	20/50 feet <sup>2</sup>
<b>Minimum</b> Rear Yard Setback	15/50 feet <sup>1</sup>	20/50 feet <sup>2</sup>
<b>Minimum</b> Parking Lot/Driveway Setback <sup>3</sup>	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L	20 feet – Front P/L 10 feet – Side P/L 10 feet – Rear P/L
<b>Maximum</b> Height	45 feet	45 feet
<b>Maximum</b> Accessory Height	25 feet	25 feet
<b>Maximum</b> Impervious Coverage	75%	75%

<sup>1</sup>The minimum setback shall be 15 feet when adjoining another property located in the I-1 or I-2. If adjoining any other zoning district, the setback shall be 50 feet.

<sup>2</sup>The minimum setback shall be 20 feet when adjoining another property located in the I-1 or I-2. If adjoining any other zoning district, the setback shall be 50 feet.

<sup>3</sup>The side yard setback for driveways shall not apply when there is a shared driveway that is located on or adjacent to the property line and serves multiple properties, uses, or structures. The setback from the front property line does not apply to access drives/driveways.

## Measurements, Computations, and Exceptions

**Percentages and Fractions.** When a measurement results in a fractional number or percentage, any fraction or percentage of less than 0.5 shall be rounded down to the next lower whole number, and any fraction equal to or more than 0.5 shall be rounded up to the next higher whole number.

### Distances

- When a minimum distance between buildings or uses is specified, such distance shall be measured in a straight line without regard to intervening structures or object, between the two closest lot lines of the properties in question.
- The distance between signs is measured between signs along the centerline of the road to which the sign is oriented.

**Structure Height.** The height of a structure is the vertical distance from the average finished grade of the structure to the:

- Highest points of the roof surface for flat roofs;
- The deck line of a mansard roof; or
- The average height level between eaves and ridge for a gable, hip, or gambrel roof.

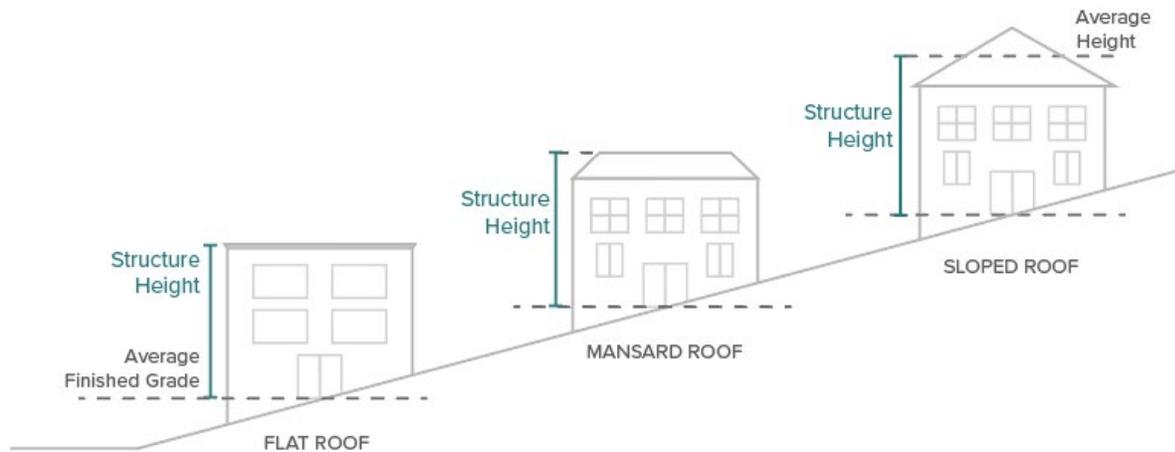
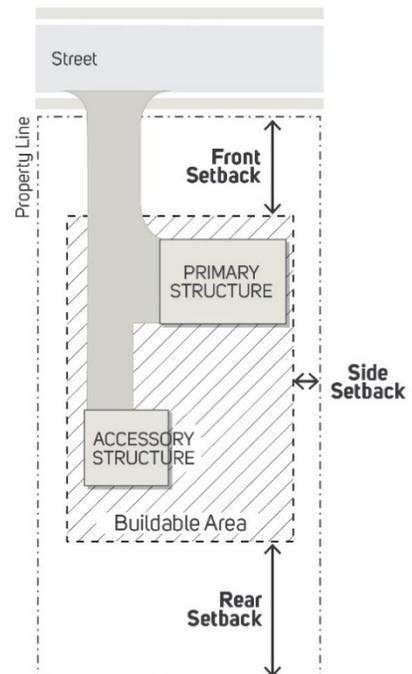


Figure XX: Illustration of how to measure building height

## Setbacks and Yards

- **Measurements**
  - Building setbacks shall be measured from a line drawn parallel to a lot line, at a distance equal to the depth of the required yard setback. The distance shall be measured along a straight line drawn perpendicular to the lot line and the setback line. The buildable area is the area within the setback requirements for a lot where the primary structure may be built. Building setbacks for lots that extend into the public right-of-way shall add 10 feet to the front yard setback requirement.
- **Setback Projections.** The following are permitted obstructions that may project into the required setbacks and are so located that natural light and ventilation are not materially obstructed from the principal building or any adjoining property.
  - **Architectural Features, Awnings, Chimneys, Eaves, Gutters, Downspouts, Stairs, and Canopies.** Such features may extend into the required yard a maximum of 1/5<sup>th</sup> of the



required setback up to a maximum of three feet.

- **Heating/Cooling Equipment and Generators.** Heating and cooling equipment and generators shall not extend more than two feet into a required setback.
- **Incidental Features.** Including but not limited to birdbaths, lawn balls, and yard sculptures. Doghouses are permitted in the side or rear yard only.
- **ADA Accessible Devices.** Devices that aid in the mobility of persons with disabilities including but not limited to ramps and lifts may extend into the required yard a maximum of 1/5<sup>th</sup> of the required setback up to a maximum of 10 feet.

**Height Exceptions.** The following uses and structures are exempt from the height limitations of this Ordinance.

- **Architectural projections.** Including but not limited to spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys.
- **Special Structures and Farm Buildings.** Including but not limited to silos, windmills, elevator penthouses, gas tanks, grain elevators, scenery lofts, heating and air conditioning equipment and necessary mechanical appurtenances, and smokestacks.
- **Towers and Utility Structures.** Including but not limited to cooling towers, fire towers, observation towers, ornamental towers, water towers, electrical power and communication transmission lines, and substations.

### Lot Requirements

- **Interior Lot**
  - The required minimum front yard setback shall be measured from the property line.
  - The rear yard setback shall be measured from line located directly behind the structure and the rear lot line.
  - Setback requirements may be determined by using average dimensions for lots in which:
    - The front property line and rear lot line are not parallel; or
    - The front property line and the side lot lines are not perpendicular.

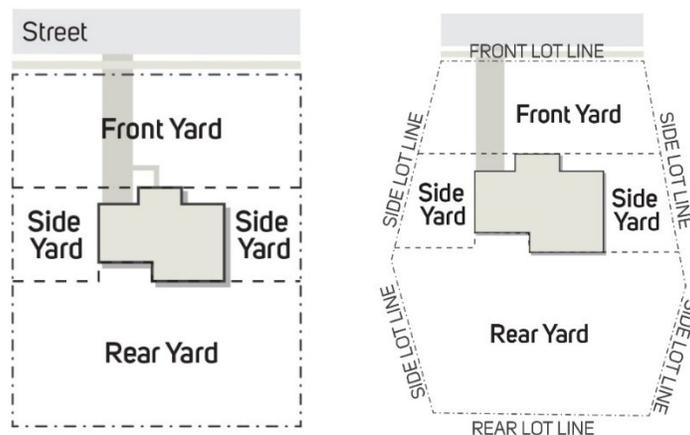


Figure XX: Illustration of Interior Lots

- **Corner Lot**

- The required minimum front yard setback shall apply for each side of the lot that has frontage on intersecting streets.



Figure XX: Illustration of a corner lot

- **Through Lot**

- The required minimum front yard setback shall apply for each side of the lot that has frontage on a street.
- The remaining lot lines shall be considered side lot lines and the side yard setback shall be applied to those lot lines.

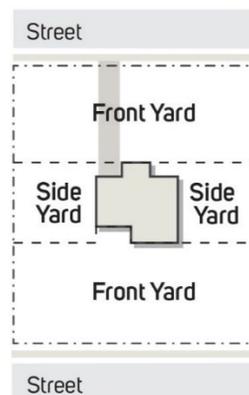


Figure XX: Illustration of a through lot

- **Cul-de-sacs or Curved Lot**

- For a cul-de-sac lot or a lot abutting a curved street, the front yard setback shall follow the curve of the front property line.
- Lots on a cul-de-sac shall be required to have a minimum lot width of 40 feet measured at the front property line.

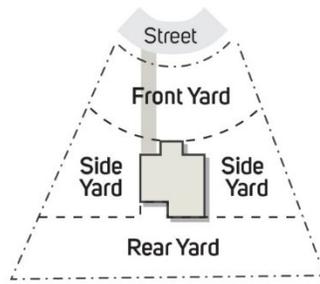


Figure XX: Illustration of a cul-de-sac or curved lot

- **Flag Lot**

- A flag lot, also known as a stem lot or panhandle lot, shall have a minimum width of 50 feet.

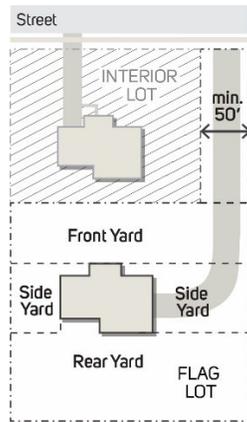


Figure XX: Illustration of a cul-de-sac or curved lot

## Article 6 Parking and Loading

### Purpose

The purpose of this article is to alleviate or prevent congestion of the public streets by establishing minimum requirements for parking motor vehicles in accordance with the use to which the property is occupied.

### Applicability

All off-street parking spaces, loading spaces, driveways, and access roads shall be provided in conformance with the provisions of this article prior to occupying buildings, structures, land, or portions thereof consistent with the following:

**New Uses and Buildings.** The requirements of this article shall apply to all buildings or uses constructed or established after the effective date of this ordinance.

### Existing Uses and Buildings

- No use lawfully established prior to the effective date of this ordinance shall be required to provide and maintain the parking and loading requirements of this ordinance.
- Any nonconforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, reestablished, or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation; provided, that in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this ordinance for equivalent new uses.
- When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity, or other unit of measurement, parking and loading facilities as required in this ordinance shall be provided for such increase in the intensity of use.
- Whenever the existing use of a building, structure, or premises shall hereafter be changed or converted to a new use permitted by this ordinance, parking and loading facilities shall be provided as required for such new use.
- Accessory off-street parking or loading facilities in existence on the effective date of this ordinance shall not hereafter be reduced below the requirements for a similar new use under the sections of this ordinance.

### Parking Requirements

**Location Requirements.** The location of off-street parking spaces shall be regulated by the following:

- Accessory off-street parking and loading spaces shall be provided on the same lot as the use served, except as otherwise provided in this ordinance or if specifically approved by the Plan Commission.
- **Residential Uses**
  - Front Yards
    - Parking for single-family residential uses shall be prohibited within the setback between the street and the building except on a single driveway not exceeding the width of an attached garage facing the street or 22 feet

in width where there is no attached garage facing the street. Parking on any other portion of the setback between the street and the building or on a lawn shall be prohibited. Parking shall not be permitted in driveways serving parking lots.

- Parking for multifamily residential uses shall not be permitted in driveways serving parking lots. Parking shall be prohibited on lawns.
  - Side and Rear Yards
    - Parking areas for single-family uses may occupy a maximum of 50 percent of the area extending from the rear of the principal structure to the rear lot line between side lot lines.
    - The side and rear parking setback requirement for multifamily uses shall be half the building setback for the district or five feet, whichever is greater.
- **Accessory Uses**
  - Accessory off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such use; provided, that all regulations governing location of accessory parking spaces, in relation to the use served, are adhered to; provided further, that no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Board.
  - Accessory off-street parking facilities required in this Section shall be utilized solely for the parking of passenger automobiles or light trucks of less than one-ton capacity of patrons, occupants, or employees of specified uses. Such parking facilities shall not be used for the storage, display, sales, repair, dismantling or wrecking of any vehicle, equipment, or material.

**Required Number of Parking Spaces.** The required number of off-street parking spaces for each facility or use shall be determined per Table XX: Required Number of Parking Spaces.

**TABLE XX: Required Number of Parking Spaces**

Principal Building or Use	Minimum Spaces Required (Unless specified otherwise)
<b>Agricultural Uses</b>	
Agribusiness	1 space per employee on the largest shift plus 1 space per 10 employees
Agricultural Building	1 space per employee on the largest shift plus 1 space per 10 employees
Animal Feeding Operation (AFO)	1 space per employee on the largest shift plus 1 space per 10 employees
Concentrated Feeding Operation (CFO)	1 space per employee on the largest shift plus 1 space per 10 employees
Confined Animal Feeding Operation (CAFO)	1 space per employee on the largest shift plus 1 space per 10 employees
Crop Production/Row Crop	1 space per employee on the largest shift plus 1 space per 10 employees
Farm Market	1 space per employee on the largest shift plus 1 space per 500 square feet of floor area or 1 space per 2,000 square feet of outdoor area, whichever is greater

**TABLE XX: Required Number of Parking Spaces**

<b>Principal Building or Use</b>	<b>Minimum Spaces Required (Unless specified otherwise)</b>
Grain Elevator	1 space per employee on the largest shift
Meat Processing	1 space per employee on the largest shift plus 1 space per 10 employees
Raising of Exotic Animals	1 space per employee
Raising of Livestock	1 space per employee
Pasturing	1 space per employee
Sawmill/Timber Processing	1 space per employee on the largest shift plus 1 space per 10 employees
<b>Residential Uses</b>	
Dwelling, Single Family	2 spaces per dwelling
Dwelling, Townhomes	2 spaces per dwelling
Dwelling, Two Family	2 spaces per dwelling
Dwelling, Multi-Family	1 space per dwelling plus 1 space per every 10 dwelling units
Farm Worker Housing	2 spaces per dwelling
Manufactured Home, Park	2 spaces per home plus 1 space per every 5 homes
Residential Living Facility	1 space per every 2 beds plus one space per 100 square feet of assembly or common area
Short Term Rentals	1 space dedicated each bedroom as indicated on the short term rental platform
<b>Commercial Uses</b>	
Adult Entertainment Establishment	1 space per 500 square feet of floor area
Alcohol Production (Winery/Brewery/Distillery/Cidery)	1 space per employee on the largest shift plus 1 space per 3 seats for any restaurant/taproom
Animal Boarding of Pets	1 space per employee on the largest shift plus 2 spaces
Animal Breeding of Pets	1 space per employee plus 1 space
Bed and Breakfast	1 space per bedroom plus 2 spaces for the owner of the dwelling
Business Service	1 space per 250 square feet of floor area
Campground and RV Park	1 space per designated campsite
Cider Mill	1 space per 100 square feet of floor area plus 1 space per employee on the largest shift
Clinic, Medical	1 space per bed
Commercial Recreation, Indoor	1 space per 250 square feet of floor area
Commercial Recreation, Outdoor	As determined by the Plan Commission based on the proposed use
Convenience Store	1 space per 200 sq. ft. of floor area
Event Center	1 space per every 3 guests plus 1 space per employee on the largest shift
Garden Center	1 space per 500 square feet of land area used for display plus 1 parking space per employee

**TABLE XX: Required Number of Parking Spaces**

<b>Principal Building or Use</b>	<b>Minimum Spaces Required (Unless specified otherwise)</b>
Gas Station/Charging Station	1 space per 400 square feet of floor area plus 1 space per employee on the largest shift
Greenhouse, Commercial	1 space per 500 square feet of land area used for display plus 1 parking space per employee
Hospital	1 space per each 4 beds
Hotel/Motel	1 space per each bedroom
Marina	1 space per each boat slip
Mini-Warehouse, Indoor Storage	2 spaces per employee on the largest shift
Mixed Use	The parking regulations for the uses contained within the mixed use development shall be dictated by this table
Nursery School/Daycare	1 space per every 5 children
Personal Care	1 space per 200 square feet of floor area
Personal Services	1 space per 200 square feet of floor area
Plant Nursery	1 space per 500 square feet of land area used for display plus 1 parking space per employee
Professional Offices	1 space per 300 square feet of floor area
Restaurant	1 space per 150 square feet of floor area
Retail, Artisan	1 space per 250 square feet of floor area
Retail, Big Box	1 space per 500 square feet of floor area
Retail, Food and Beverage	1 space per 500 square feet of floor area
Retail, General	1 space per 500 square feet of floor area
Retail, Micromobility	1 space per 250 square feet of floor area
Retail, Outdoor	1 space per 500 square feet of floor area
Retail Services	1 space per 250 square feet of floor area
Shopping Center	1 space per 200 square feet of floor area
Shooting Range, Indoor	1 space per station
Shooting Range, Outdoor	2 spaces per target
Stable, Commercial	1 space per stall
Vehicle Service and Repair, Minor	2.5 spaces for each service bay
Vehicle Service and Repair, Major	2.5 spaces for each service bay
Vehicle Sales/Rental	1 space per 500 square feet of floor area plus 1 space per 2,000 square feet of outdoor area
Vehicle Storage, Outdoor	2 spaces per employee on the largest shift
Veterinary Clinic	1 space per treatment room plus 1 space per employee on the largest shift
<b>Institutional/Public Uses</b>	
Cemetery	N/A

**TABLE XX: Required Number of Parking Spaces**

Principal Building or Use	Minimum Spaces Required (Unless specified otherwise)
Educational Institution, Public or Private	1 space per 2 faculty and staff members, plus 1 space for each 10 students at the high school or college level
Park or Recreational Facility, Public or Private	1 space per acre; 20 spaces per sport court or field; and 1 space per 75 square feet of water surface of pools
Prison	1 space per employee on the largest shift plus 1 space per 5 cells
Public Building/Use	1 space per 500 square feet of floor area
Religious Facility/Place of Assembly	1 space per 5 seats or 100 square feet of floor space in the auditorium/sanctuary; whichever is greater
Waste Disposal Facility	1 space per employee on the largest shift
<b>Industrial Uses</b>	
All Industrial Uses	1 space per employee on the largest shift plus 1 space per 10 employees

**Uses Not Listed.** For uses not listed in this section or in such instance when the requirement for an adequate number of spaces is unclear, the number of parking spaces shall be determined by the Zoning Administrator on the basis of similar requirements, the number of persons served or employed, and the capability of adequately serving the visiting public. Such a determination may be reviewed by the Plan Commission or appealed to the Board of Zoning Appeals.

**Units of Measurement.** For the purposes of this section, the following unit’s measurement shall apply:

- Fractional units shall be rounded up to the next whole number for calculating required parking spaces.
- For parking requirements that use floor area as the standard, floor area shall:
  - Include the gross floor area used or intended to be used by tenants or for service to the public as customers, clients, patients, or patrons, including areas occupied by fixtures and equipment, used for the display or sale of merchandise.
  - Not include areas used principally for non-public purposes such as storage, incidental repair, processing or packing of merchandise, show windows, offices incidental to the management or maintenance of stores or buildings, toilet or restrooms, utilities, dressing rooms, or alteration rooms.
- In places of public assembly in which patrons occupy benches, pews, or other similar seating facilities, each 20 inches of such seating shall be counted as one seat for the purpose of determining the parking requirements.
- If open floor areas are used for temporary seating purposes, an area of 16 square feet usable for seating shall be counted as one seat for the purpose of determining the parking requirements.
- For mixed use developments, the parking requirement shall be the sum of the parking requirements for each use considered separately. The Plan Commission may consider modifying the required number of spaces on an individual basis as enumerated in section XX (Modification of requirements).

**Modification of Requirements.** The Zoning Administrator may modify the requirements based on a reduction in the number of required parking spaces may be approved if it is deemed appropriate based on the parking demand of the proposed use, number of typical patrons or employees, shared parking, off-street parking, alternative transportation, presence of hitching posts or other similar reasons. As part of the approval for a reduction in the number of required parking spaces, the approving body may require the applicant to reserve land on the subject property to be reserved for a future parking area.

- **Administrative Approvals.** The Zoning Administrator may approve a reduction in the number of required parking spaces, up to 50 percent for the reasons listed above.
- **Board of Zoning Appeals Approvals.** If an applicant requests a reduction of more than 50 percent of the required number of parking spaces, that request will be subject to the decision of the Board of Zoning Appeals per Section XXXX.

### Parking Facility Design

**Off-Site Parking Facilities.** Required off-street parking facilities shall be provided on site, except as provided in this section.

- The Plan Commission is authorized to grant an off-site or shared parking facility as a conditional use per Section XXXX.
- A site development plan for an off-site parking facility shall be filed with the Plan Commission as a required exhibit accompanying the conditional use petition and shall be made part of the conditions of any approval, therefore. Such site development plan shall demonstrate compliance with all applicable standards of this ordinance and shall indicate:
  - Adjacent streets, alleys, and lots;
  - All individual primary uses to be served, including the location, use, and number of parking spaces for each use;
  - A layout drawn to scale of aisles and driveways, entrances, exits, and turnoff lanes, parking spaces, setbacks, drainage facilities, and landscaping;
- In the B-4 District any or all of the parking may be off-site, provided that there are public parking lots available within 900 feet of the use to be served. On-street parking may be counted toward the parking requirement in this district.

**Parking Space and Aisle Size Requirements.** The minimum width for each open or enclosed off-street parking space and circulation aisles shall conform with the following regulations:

Table XXX: Parking Space and Aisle Dimensions

Parking Orientation	One-Way Aisle Width	Two-Way Aisle Width	Space Width	Length of Space
Parallel Space	12 feet	20 feet	9 feet	23 feet
45 Degrees	14 feet	20 feet	9 feet	19 feet
60 Degrees	18 feet	22 feet	9 feet	19 feet
90 Degrees	22 feet	24 feet	9 feet	19 feet

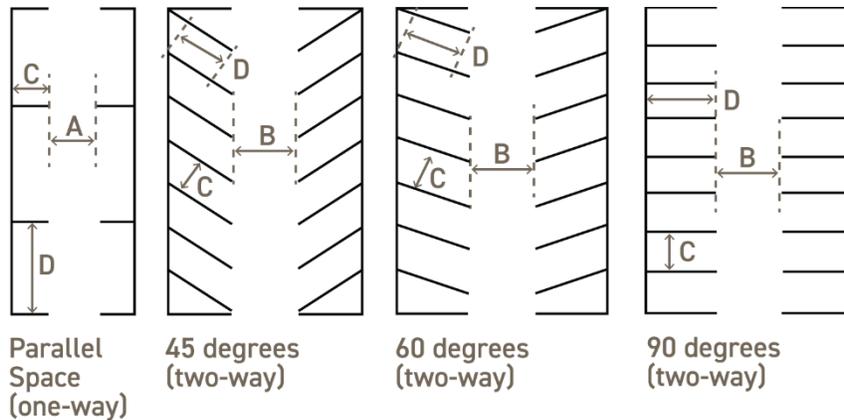


Figure X: Illustration of parking space and aisle dimensions

**Applicability.** All off-street parking and loading areas for four or more vehicles shall be developed in accordance with the standards of this section.

### Surfacing

- **For the A-1, A-2, R-R, P-1, S-1, U-1, and L-1 Zoning Districts:**
  - All off-street parking areas that contain 15 or more parking spaces shall be surfaced with a surface that is firm, stable, and slip-resistant such as asphalt, concrete, permeable pavement, or limestone.
  - ADA accessible parking spaces shall be surfaced with a firm, stable, and slip-resistant surface as required by all applicable state and federal laws.
  - Off-street parking areas that contain less than 15 parking spaces may be improved with a durable dust-free gravel surface which shall be maintained in good condition, free of potholes, weeds, dirt, trash, and debris.
  - Driveways and access drives may be improved with a durable dust-free gravel surface per #2, but an asphalt or concrete transition is required at all intersections with public roads that is a minimum of six feet long.
  - When gravel is used, the property owner is required to maintain gravel areas and must remove any gravel spread from adjacent non-gravel driveways or roads.
- **For the B-1, B-2, B-3, B-4, I-1, and I-2 Zoning Districts and Planned Unit Developments:**
  - All off-street parking areas, driveways, access drives, and loading areas shall be surfaced with asphalt or concrete, unless specifically approved by the Plan Commission as part of the site plan review.

**Markings.** Off-street parking spaces shall be designed, arranged, and regulated to have individual spaces marked, unobstructed, and accessible to an aisle or driveway so that any vehicle may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway. Space markings are not required for parking areas improved with a gravel surface.

**Driveways.** Driveway entrances or exits shall be regulated by the paving setbacks in Section XXXX. Driveways shall be designed in such a manner as to least interfere with traffic movement. No driveway across public property at the right-of-way line shall exceed a width of 30 feet; provided, that two driveways not exceeding 30 feet in width each may constitute a single

entrance-exit divider designed driveway; provided further, that such driveways shall conform to the requirements of engineering departments having jurisdiction thereof.

**Lighting.** Parking lot lighting shall conform with the lighting regulations set forth in Article XX.

**Drainage.** Parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto either adjacent property or public sidewalks.

**Curbing.** Off-street parking facilities shall be improved with a poured concrete curb, precast concrete barriers, or other barrier to define the limits of the parking area, except at the points of entrance and exit, unless otherwise approved by the Plan Commission. Curbing can be designed with breaks or slopes to allow for proper drainage and stormwater management.

**Parking Structures.** In any instance when a building is constructed or used by parking facilities on the lot, the building shall be treated as a major structure and subject to all requirements thereof.

**Accessible Parking Space Requirements.** All off-street parking lots shall provide accessible parking spaces as required by IC 5-16-9-1 and subsequent amendments and shall include all necessary markings, striping, and signage.

**Electric Vehicles Charging Stations.** Electric vehicle (EV) charging stations are subject to the following:

- Level 1 and Level 2 EV charging stations are allowed as an accessory use to any permitted principal use in any district. Level 3 EV charging stations are allowed as an accessory use to any multi-family residential use or any non-residential use.
- The location of such spaces shall be approved on a site plan or by the Zoning Administrator when a site plan is not required.
- EV charging station spaces shall be reserved and designated for the charging of electric vehicles only. Information regarding amperage and voltage levels, time limits, cost, tow-away provisions, and contact information must be posted at the spaces.
- EV charging stations may be located in any yard.
- EV charging stations shall not interfere with vehicle, bicycle, or pedestrian access and circulation, or with required landscaping.

### Off-Street Stacking Requirements

**Applicability.** Establishments which by their nature create lines of customers waiting to be served within automobiles shall provide stacking spaces that are located on the same lot as the principal use, in addition to the number of required parking spaces per Table XX: Required Number of Parking Spaces. Required stacking spaces shall not extend into or be within the public right-of-way, access drives, or circulation areas. Stacking spaces shall meet the following requirements:

**Table XXXX: Off-Street Stacking Requirements**

Activity	Minimum Number of Required Stacking Spaces	Measured From
Car Wash, Automatic	6 per lane	Entrance
Car Wash, Self-Service	3 per lane	Entrance
Financial Institutions or ATM	4	Teller, window, or ATM
Food and beverage use with drive-through or pick-up window	6	Pick-up window
Gasoline Pump	2 per fuel pump	Pump Island
Other	Minimum of 2 per window	

**Dimensions.** Each stacking space shall have an area not less than 160 square feet (measured 8 feet by 20 feet) exclusive of access drives and parking aisles.

**Location.** Stacking spaces may not impede on-site or off-site traffic movements or movements into or out of off-street parking spaces. Stacking spaces shall also provide for safe pedestrian crossings to and from parking spaces and the building.

**Modifications.** The Plan Commission may require additional stacking spaces beyond the enumerated requirement for uses that have extremely high-demand use periods that cause long waiting lines, such as fast food restaurants or drive-through coffee shops. In such cases, the Zoning Administrator shall work with the applicant to ensure that the site plan can accommodate the anticipated intensity of demand and forward a recommendation to the Plan Commission.

### Off-Street Loading Requirements

**Number of Required Loading Spaces.** Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, or any other use similarly involving the receipt or distribution by vehicles of materials or merchandise, shall provide and maintain on the same premises loading spaces in accordance with the following table.

**Table XXXX: Off-Street Loading Requirements**

Gross Floor Area of Principal Building	Number of Required Loading Spaces
0 – 5,000 square feet	0
5,000 – 25,000 square feet	1
25,001 – 60,000 square feet	2
60,001 – 100,000 square feet	3
Each additional 100,000 square feet	1

**Dimensions.** Each loading space shall be at least 10 feet wide and 25 feet in length and shall have a height clearance of 14 feet.

**Location.** Loading spaces may not obstruct the free movement of pedestrians and vehicles over a sidewalk, street, or alley. Loading spaces shall be located in the side or rear yard, unless otherwise approved by the Plan Commission.

**Modifications.** The Plan Commission may waive or modify the loading requirements if the applicant can justify that the required loading spaces are not required based on the proposed use of the structure, or if based on the lot size and orientation they are not feasible, or other similar reason.

## **Maintenance**

Off-street parking spaces, loading spaces, driveways, access roads, maneuvering areas, waiting areas, and parking and loading facilities shall be maintained in accordance with the following standards and specifications.

- Parking lots, parking structures, and all internal and adjacent sidewalks shall be kept as free as practical from dust, paper, debris, and other loose particles. Snow and ice shall be removed promptly by the operator.
- All signs, markers, or any other method used for the direction of traffic movement and location of parking spaces shall be kept in neat and legible condition.
- The surface of the parking lot or structure as well as any landscaping shall be maintained in good condition.
- It shall be the duty of the property owner to provide and maintain all parking, loading, or other vehicular use areas where these areas are required.

## Article 7 Landscaping and Buffering

### Purpose

The purpose of this Article is to establish regulations to protect and promote the public interest and welfare by requiring buffering between uses of different intensities, screening vehicle headlights from adjacent roads, and providing attractive views from rights-of-ways and adjacent properties.

### Applicability

- This article shall apply to all new property development, redevelopment, and substantial expansions of existing parking areas, except for single-family dwellings, two-family dwellings, agricultural uses, and development in the B-4 Zoning District.
- Parking lots and parking lot expansions of less than 20 spaces are exempt from the requirements of this Article.
- Substantial expansion of existing parking areas shall be defined as an addition of 20 or more off-street parking spaces. The landscaping regulations contained within this article shall apply to the expansion area only. The existing site and parking area will not be required to meet the regulations contained herein.
- Parking lot areas and parking spaces contained entirely within a parking garage shall not be subject to the landscaping regulations of this chapter.

### Landscape Plan Required

Any development that requires landscaping, per the previous applicability subsection, shall submit a landscape plan as part of a site plan application. Landscape plans shall be drawn to scale and shall include the following information:

- North arrow and scale bar;
- Name of applicant, owner, and preparer;
- Date the plans are submitted and revised;
- Existing and proposed improvements including buildings, structures, roads, parking areas, sidewalks, and other similar permanent improvements;
- Existing plant material to be removed or retained;
- Property lines and easements;
- A table showing the following:
  - The square footage of the internal parking and vehicular use area, the square footage of the landscape islands, the number of parking spaces provided; and
  - The number and types of landscaping materials with their planting height or size provided;
- Plan for the location of all landscaping materials;
- Typical planting details and notes;
- Irrigation plan, if applicable; and
- Any other information as requested by the Zoning Administrator.

## Parking Lot Landscaping

**Perimeter Requirements.** When any off-street parking lot for any multi-family dwelling use, non-residential use, or mixed-use development is proposed to abut a public street, single-family, or two-family dwelling, a minimum buffer shall be provided that consists of the following:

- A minimum width of ten feet shall be placed adjacent to the parking lot.
- One deciduous tree located every 40 feet (a minimum of one tree is required); and
- Shrubs planted every five lineal feet.

**Interior Requirements.** All parking areas greater than 20 spaces shall adhere to the following landscaping requirements:

- All parking lots shall contain a landscaped area equal to five percent of the entire parking lot. Each area shall contain shrubs, flowers, trees, and/or grass.
- Trees shall be provided at a rate of one tree per 20 parking spaces. Any fractional number shall be rounded up to the next whole number.
- Landscape areas shall be distributed throughout the parking area. Rows of parking spaces shall be interrupted at a minimum every 20 spaces by a planting island that is a minimum of eight feet wide and 20 feet in length.
- In the case where landscaping requirements will interfere with the parking requirements of Article XXXX, flexibility in the landscaping requirement and/or parking requirement may be permitted by the Plan Commission.

## Screening and Buffering Requirements

The following table identifies the buffering requirements required between land uses of varying intensities.

**Table XXXX: Buffering Requirements**

When...	Is proposed to Abut...	A minimum Buffering of...
Any multifamily dwelling use, non-residential use (including industrial), or mixed use developments	A single-family dwelling or two-family use	10-foot-wide side or rear yard that consists of one of the following;
		(1) 1 deciduous tree planted every 30 lineal feet + a continuous row of minimum 6-foot high evergreen plantings;
Any industrial use	Commercial, public, or institutional use	(2) 6-foot wall or opaque fence + 1 deciduous tree planted every 30 lineal feet;
		(3) A double row, staggered planting of minimum 6 foot height evergreen trees planted every 15 lineal feet; or
		(4) A 40-foot wide, 6-foot tall earthen berm with deciduous trees planted every 30 lineal feet

## Maintenance

All landscaping shall be properly maintained. Dead plant materials shall be replaced in a timely manner, and landscaped areas shall be kept free of weeds and debris. Failure to maintain landscaping properly shall constitute a violation of this Ordinance.

## **Modifications**

Modifications may be granted from the policies and requirements of these standards by the Plan Commission if there is an undue hardship or special circumstance that makes the modification request necessary. Such requests shall be submitted in writing to the Zoning Administrator and shall include justification for the modification that addresses what unusual or extraordinary circumstance exists that necessitates the request, if the modification still meets the intent of the policies and requirements of this article, and that the request will not adversely affect or impact other properties in the vicinity. The Plan Commission may approve the modification if they deem it justified based on the written request.

## Article 8 Fences

### Purpose

The purpose of this article is to establish regulations for fences and enclosures for lots within LaGrange County.

### Applicability

This article applies to all new and replacement fencing and enclosures in all zoning districts within LaGrange County. This article does not apply to retaining walls.

### General Fence Requirements

The following standards shall apply to all fences and walls, regardless of zoning district, unless otherwise stated in this Article.

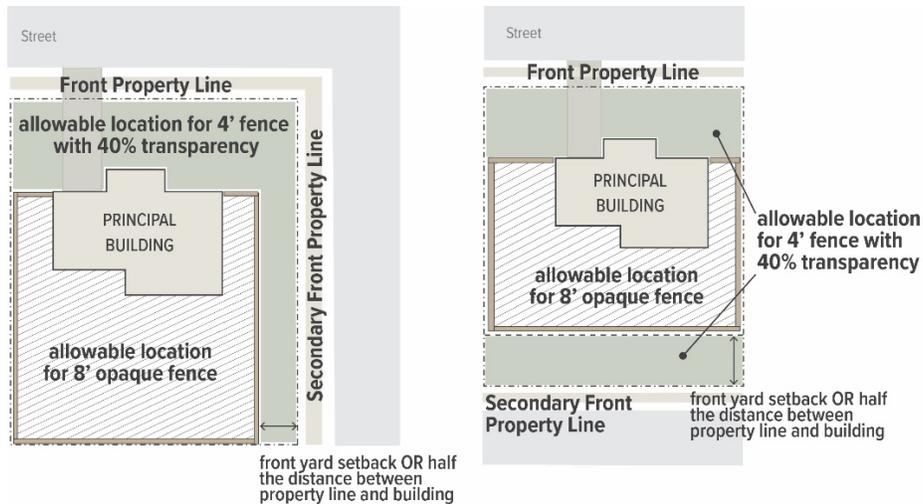
- All fences or walls must be made of wood, stone, brick, metal, natural plants, or synthetic materials.
- All fences shall display the finished side of the fence to adjacent properties and the public right-of-way. Fence posts shall not face adjacent properties or the public right-of-way.
- The use of scrap or salvage materials, barbed wire, razor wire, or electrical above ground fences shall be prohibited unless otherwise permitted herein.
- A fence or wall may be installed up to, but not on the lot line.
- No fence, wall, or lineal planting shall be installed to create a visual obstruction of the right-of-way.
- Fencing for agricultural buildings and uses is exempt from the fencing regulations contained herein.

### Specific District Requirements

- **Fences in the Agricultural Districts.** Fences and walls in the agricultural districts shall comply with the following specific requirements:
  - Electrical above ground fences shall be permitted in the A-1 and A-2 Districts when screening or enclosing a farm field, feeding operation, or intensive agricultural use as determined by the Zoning Administrator.
  - Fences for agricultural uses that are permitted and/or required by state law shall be permitted.
- **Fences in the Residential Districts.** Fences and walls in the residential districts shall comply with the following specific requirements:
  - All fences and walls located in the L-1 shall be a maximum of four feet in height and contain a minimum of 40 percent transparency.
  - A dense lineal planting of evergreen or other natural vegetation that creates a year-round opaque barrier shall be considered a fence in the L-1, subject to the regulations of this article.

## Lot Requirements

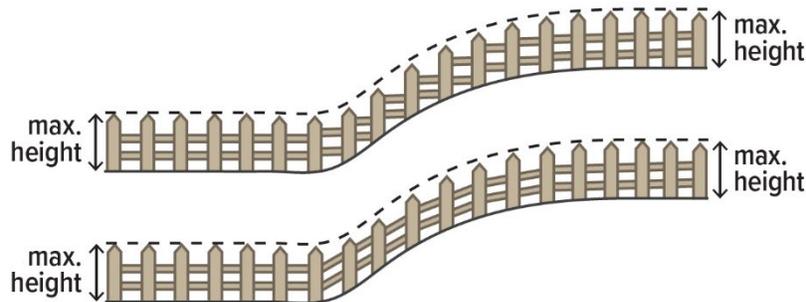
- **Interior Lots.** Fences and walls on interior lots are treated as follows:
  - **Front Yards**
    - Fences and walls located in any front yard shall be a maximum height of four feet and contain a minimum of 40 percent transparency, unless specifically authorized herein.
    - A non-residential property may be permitted to have a fence or wall in the front yard that is opaque and a maximum height of six feet in height for the purpose of satisfying a buffering requirement per Section XXXX, if approved by the Plan Commission.
  - **Side and Rear Yards**
    - A fence or wall may be located in a rear or side yard if the fence does not exceed, at any point, eight feet in height.
- **Corner Lots and Through Lots.** For corner lots and through lots, there are two or more sides of the property that are adjacent to a street or right-of-way. Fences and walls on such lots shall be treated as follows:
  - For the purposes of this section, the frontage that is aligned with the primary entrance to the structure, as determined by the Zoning Administrator, shall be considered the front yard. The other yard(s) that front a street or right-of-way, but do not include the primary entrance shall be considered secondary frontages.
  - For corner lots, fences located in the secondary front yard (between the secondary front property line and the side building line of the structure) may be up to eight feet in height and opaque if the fence is set back from the secondary front property line a minimum distance that is equal to the required front yard setback or one-half the distance between the secondary front property line and the side building line, whichever is less.
  - For through lots, fences in the secondary front yard (between the secondary front property line and the rear building line of the structure) may be up to eight feet in height and opaque if the fence is set back from the secondary front property line a minimum distance that is equal to the required front yard setback or one-half the distance between the secondary front property line and the rear building line, whichever is less.
  - Fences located between the front property line and the primary entrance of the house are subject to the regulations in Section XXXX(fences in a front yard). Additionally, Fences in the secondary front yard that are located between secondary front property line and the halfway point between the property line and the building line are subject to the regulations in Section XXXX(fences in a front yard).



Graphic illustration of allowable fence locations for corner lots (left) and through lots (right)

### Measurement Standards

Fences and walls shall be measured from the surface of the ground to the highest point of the fence or wall. If a fence is located on a hill or slope, the maximum height of the fence shall remain compliant with the maximum fence height permitted for the district in which it is located for its entire length. This can be done through the installation of a stepped fence or a contour fence.



Graphic illustration of a stepped fence or a contour fence

### Maintenance

All fences and walls shall be constructed of durable, weather resistant materials. All fences and walls in LaGrange County shall be maintained in a reasonable condition and shall not be allowed to become and remain in a condition of disrepair. Damaged fence or wall material shall be replaced in a timely manner. Failure to maintain a fence or wall shall constitute a violation of this Ordinance.

## Article 9 Lighting

### Purpose

The purpose of this article is to regulate placement, orientation, and fixture types of outdoor lighting to prevent the spillover of light and glare on operators of motor vehicles, pedestrians, and uses of land in the vicinity of the light source.

### Applicability

This article applies to all new and replacement outdoor lighting fixtures located on non-residential properties in LaGrange County. Outdoor lighting fixtures placed in the public right-of-way by LaGrange County are exempt from the regulations of this article.

### Exemptions

The following lighting scenarios are exempt from the regulations contained herein:

- Holiday lighting of a temporary nature;
- All lighting for an agricultural building or use located in the A-1 or A-2 Districts;
- All temporary emergency lighting needed by police, fire, medical, or other emergency service vehicles, and public service vehicles. This includes vehicular lights, which are exempt from the requirements of this article including flashing or blinking lights;
- Street and traffic lights; and
- All lighting required by the Federal Aviation Agency (FAA) or any other federal regulatory agency.

### Prohibited Lights

The following types of lights are prohibited in LaGrange County:

- Search lights;
- Beacons;
- Any high-intensity or flashing light not associated with emergency services or public safety; and
- LED, neon tubing, or string lights that are being used as building accent lighting or window trimming on non-residential properties.

### Lighting Regulations

**Lighting Plan.** A lighting plan is required for the B-1, B-2, B-3, B-4, I-1, and I-2 Districts unless otherwise stated herein. The lighting plan shall be reviewed and approved by the Zoning Administrator and shall provide the following information:

- The locations of all site lighting, including wall-mounted, security, flood, parking lot lighting, and other lights that may be proposed.
- The minimum and maximum intensity or illumination for the site.
- Details of all proposed lighting fixtures, indicating the manufacturer, model, and style of fixture.
- A photometric plan showing the proposed intensity levels of lighting that extends as far as any proposed lighting will reach or up to 30 feet into the adjacent properties, whichever is

greater. The photometric plan shall include all lighting, existing and proposed, that is over 25 watts.

A lighting plan is not required in the I-1 or I-2 Districts unless the subject property is within 100 feet of a residential district or use. Lighting in the I-1 and I-2 Districts shall still comply with the requirements of this article.

### **Height**

- All lighting fixtures attached to an exterior of a structure shall not exceed the height of the structure.
- All freestanding lights with cut-off fixtures shall not exceed a maximum height of 30 feet above grade.
- All freestanding lights without cut-off fixtures (decorative) shall not exceed 18 feet.

### **Lighting Styles and Design**

- All exterior lighting (not including decorative fixtures) shall utilize cutoff fixtures that are recessed sufficiently such that the light source is not visible from off site. Such lighting shall also be installed so the fixtures point down and away from the property line.
- Wall-mounted lights shall be screened by the building's architectural features or contain a cutoff shield, to direct light onto the building and immediate vicinity and not into adjacent lots.

### **Illumination Levels**

- Lighting shall not exceed one-half (0.5) footcandles at a residential property line.
- Light shall not exceed (2.5) footcandle at a non-residential line, except along the street frontage.

# Article 10 Sign Regulations

## Purpose

It is the purpose of these sign regulations to:

- Maintain and enhance the visual quality (aesthetics) of the community;
- Improve pedestrian and motorist safety by minimizing distractions and obstacles to clear views of the road and of directional or warning signs;
- Protect and enhance economic viability by assuring that LaGrange County will be a visually pleasant place to visit or live;
- Protect property values and public/private investments in property;
- Protect views of the natural landscape and sky;
- Avoid personal injury and property damage from structurally unsafe signs;
- Provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention; and
- Allow for expression by signage subject to reasonable regulations.

## Applicability

This article applies to all new and replacement signs in all zoning districts within LaGrange County.

## General Regulations

The following regulations shall apply to all permitted signs in the County:

- Signs must be constructed in compliance with any applicable regulations of the County's Building Code.
- No sign shall obstruct or interfere with traffic or traffic visibility or resemble or imitate signs or signals erected by the County or other governmental agency for the regulation of traffic or parking.
- No sign shall be permitted as the principal use on a premises. Signs shall only be permitted as an accessory use.
- No sign, with the exception of signs for a political jurisdiction, shall be placed in the public right-of-way unless otherwise stated herein.
- No sign may project over any public street, sidewalk, or other public right-of-way, except as expressly permitted in this article.
- No sign shall be permitted which is attached to, supported by, or part of a structure which is designed to be moved on wheels, skids, or other similar devices; or transported, pushed, or pulled by a motor vehicle.
- Signs that are externally illuminated, internally illuminated, backlit, or illuminated through downlighting shall meet the lighting requirements of Article 10: Lighting.

## Signs Requiring Permits

No sign shall be constructed in LaGrange County without a permit issued by the Plan Commission, except for those signs which are identified as authorized without a permit in Section XXXX.

## Sign Permits

**Application Submittal.** Applications for a sign permit shall be made upon a form provided by the Plan Commission for this purpose and shall contain the following information:

- Name, address, phone number, and email address of the applicant and property owner;
- Location of the sign including the parcel, and if applicable, building or structure on which the sign will be attached;
- Position of the proposed sign in relation to nearby buildings, structures, property lines, existing or proposed rights-of-way, ordinary high-water marks or waterways;
- The zoning district the sign is located in and any applicable setbacks;
- Two copies of the plans and specifications. The method of construction and/or attachment to a building or in the ground shall be explained in the plans and specifications;
- Copy of stress sheets and calculations, if deemed necessary by the Plan Commission, showing the structure as designed for dead load and wind pressure;
- A statement that: “Any change in the information in this application, such as change of address, shall be submitted to the Plan Commission within seven days after the change;
- The seal or certificate of a registered structural or civil engineer, when required by the Plan Commission; and
- Any other information the Plan Commission may require illustrating compliance with this Ordinance and any other applicable laws.

**Permit Fees.** A fee established by the Plan Commission shall be submitted with the sign application. The permit fee shall relate to the cost of issuing the permit and may vary based on the size, type, and height of the sign.

**Review and Approval.** A decision shall be delivered to the application within 15 days after a complete sign permit application has been submitted to the Plan Commission. Signs are subject to the review and approval of the Plan Commission.

## Sign Development Plans

- In any zone district there may be area with special or unusual development problems or needs for compatibility, an owner of property may request that the Plan Commission approve a sign development plan for a particular use, property, or area.
- The Plan Commission shall approve Sign Development Plans, even if they deviate from the requirements of this Ordinance, if the plans comply with the following developmental standards:
  - The number, sizes, materials and designs or the signs are properly related to the type and location of the use, the land area of the site, and the sizes, styles and locations of the buildings and other structures on the site.
  - The number, sizes, materials, and designs of the signs effectively communicate the uses to the motorist and/or pedestrian.
  - The signs are consistent with the purposes of this Ordinance, are appropriate to the development or the architectural character of the building in which the use is located and are compatible with existing adjacent uses.
  - The signs are consistent with the intent and purposes of this Ordinance.
- A development plan for signs shall contain a visual representation of and/or criteria for design, area, height, placement, and location of the signs proposed for display.

- A use for which the Plan Commission has approved a Sign Development Plan may display only signs that comply with the approved plan.
- The Zoning Administrator may approve minor modifications to the approved sign development plans. Minor modifications include only changes that do not:
  - Increase the area of the signs by more than 5 percent;
  - Alter the relationship of the signs to neighboring property; or
  - Change the locations of the signs in such a manner s to increase nonconformity with setback requirements, interfere with pedestrian or vehicular traffic, interrupt architectural details, or otherwise significantly deviate from the plan approved by the Plan Commission.

### Exempted Signs From Permitting

The following types of signs do not require a permit from the Plan Commission but must comply with the height, area, and location requirements contained herein.

- Temporary signs;
- Small signs such as traffic pedestrian control and warning signs, including but not limited to “No Trespass” or “Beware of Dog” signs;
- Flags of any country, state, unit of local government, institutions of higher learning, or similar institutional flags;
- Warning signs devoted to warning the public of dangerous condition and unusual hazards such as drop offs, high voltage, fire danger and explosives; and
- Signs erected by or for any political jurisdiction; and
- Signs that exclusively denote a recognized historical, cultural, or natural site.

### Prohibited Permanent and Temporary Signs

The following types of permanent and temporary signs are prohibited within the County:

- Any sign that has not been issued a permit and which is not expressly permitted under Section XXXX;
- Any sign which is prohibited by State or Federal Law;
- Roof signs;
- Any sign, with the exception of signs for a political jurisdiction, which is placed on publicly owned property, a public right-of-way, or a proposed public right-of-way;
- Signs that are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device, or which hide from view any traffic or street sign or signal;
- Signs that contain strings of light bulbs not permanently mounted on a rigid background;
- Revolving signs;
- A sign, other than a traffic sign installed by a political jurisdiction, shall not simulate or imitate the size, lettering, or design of any traffic sign in such manner as to interfere, mislead, or confuse the public;
- Any sign on a motor vehicle, trailer, farm implement, or other mobile equipment, which is parked in a position which is visible to traffic on a public road, waterway, or parking area for a period longer than six days in a 60-day period for the primary purpose of advertising or conveying announcement;
- Signs which obstruct the visibility of pedestrian and motorists at intersections and driveways;

- Signs which obstruct free access or egress from any building, including those that obstruct any fire escape, required exit way window, or door opening or that prevent free access to the roof by firefighters;
- Signs generating noise, smoke, vapor, or odors;
- Inflatable signs, not including residential lawn ornaments;
- Bench signs;
- Snipe signs;
- Abandoned signs; and
- Obscene signs.

### Permanent Sign Regulations

- **Permitted Types of Permanent Signs.** Table XXXX identifies the types of permanent signs that are permitted for each use category. An “X” in the table indicates signs that are permitted and a blank space indicates signs that are prohibited.

**Table XXXX: Permitted Types of Permanent Signs for Each Use Category**

	Agricultural Uses	Residential, Single and Two-Family	Residential, Multi-family	Public or Institutional Use	Commercial Uses	Industrial Uses
Awning or Canopy Sign				X	X	X
Directional or Informational Sign	X		X	X	X	X
Electronic Message Centers				X	X	X
Ground Mounted Sign	X			X	X	X
Neighborhood Identification Sign		X	X			
Projecting Sign					X	X
Wall Sign	X			X	X	X
Window Sign				X	X	X

- **General Permanent Sign Regulations**
  - The total square footage of all signs for a parcel dedicated to a non-residential use shall not exceed 150 square feet of total area. Such total area shall include signs that are authorized without a permit unless otherwise stated herein.
  - Non-residential signs erected and maintained by LaGrange County shall be exempt from the sign regulations contained herein.

- **Awning or Canopy Signs.** Awning or canopy signs shall be permitted on any public or institutional, commercial, or industrial use subject to the following regulations:
  - Canopy signs shall not exceed the maximum height of the principal structure when mounted on top of a canopy.

**Table XXXX: Awning or Canopy Sign Regulations**

Regulation	Requirement
Quantity	No limit
Maximum Area	The area of all awning and/or canopy signs shall be included in the overall calculation of allowable wall signage
Illumination	Awning signs: External illumination only Canopy signs: Internal or external illumination



Figure X: Example of an awning sign



Figure X: Example of a canopy sign

- **Directional or Informational Signs.** Directional or informational signs for directing and guiding traffic on private property are permitted on any multi-family, public or institutional, commercial, or industrial use subject to the following regulations:
  - Directional or informational signs do not contain any advertising or commercial message.

**Table XXXX: Directional or Informational Sign Regulations**

Regulation	Requirement
Quantity	No limit
Maximum Area	9 square feet
Maximum Height	5 feet
Setback from Right-of-Way	10 feet
Setback from Side Lot Lines	5 feet
Illumination	Prohibited



Figure X: Example of a directional or informational sign

- **Electronic Message Centers.** Electronic message centers are permitted on any public or institutional, commercial, or industrial use subject to the following regulations:
  - Electronic message centers shall be located a minimum of 250 feet from any agricultural or residential use.
  - Electronic message centers shall only be permitted on ground mounted signs and shall not exceed 50 percent of the size of the total sign to ensure that the electronic component is subordinate to the principal sign face in size.
  - One electronic message center is permitted per parcel or development.
  - Each message on an electronic message center shall be displayed for no less than seven seconds before transitioning.
  - Electronic message centers shall not stream full-motion video, strobe, flash on or off, change in intensity of illumination, or illustrate movement.
  - Electronic message centers shall be equipped with automatic dimmer controls to produce a distinct illumination change from a higher illumination level to a lower illumination level between one-half hour before sunset (dusk) and one-half hour after sunrise (dawn).
  - Electronic message centers shall not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from a sign face at maximum brightness. The applicant shall provide a certificate of maximum illumination before a sign permit application is approved.



Figure X: Example of an Electronic Message Center

- **Ground Mounted Signs.** Ground mounted signs are permitted on any agricultural, public, or institutional, commercial, or industrial use subject to the following regulations:
  - Ground mounted signs must be located on the same parcel to which they are an accessory use. Off-premise advertising is not permitted on ground mounted signs.

**Table XXXX: Ground Mounted Sign Regulations**

Regulation	Requirement
Quantity	1 per right-of-way frontage
Maximum Area	150 square feet
Maximum Height	15 feet
Setback from Right-of-Way	15 feet
Setback from Side Lot Lines	15 feet
Illumination	Agricultural Use: Prohibited Public or Institutional, Commercial, or Industrial Use: Internal or external illumination



Figure X: Example of a ground mounted sign

- **Menu Board Signs.** Menu board signs are permitted on commercial uses subject to the following regulations:
  - Menu board signs are only permitted on properties with an approved drive-through use.

**Table XXXX: Menu Board Sign Regulations**

Regulation	Requirement
Quantity	2 per drive-through lane
Maximum Area	40 square feet
Maximum Height	6 feet
Illumination	Internal or external illumination



Figure X: Example of a menu board sign

- Neighborhood Identification Signs.** Neighborhood identification signs are permitted at the main entrance(s) of single-family subdivisions or multi-family housing developments subject to the following regulations:

**Table XXXX: Neighborhood Identification Sign Regulations**

Regulation	Requirement
Quantity	1 per primary entrance
Maximum Area	32 square feet
Maximum Height	5 feet
Illumination	External illumination only



Figure X: Example of a neighborhood identification sign

- **Projecting Signs.** Projecting signs are permitted on commercial and industrial uses subject to the following regulations:

**Table XXXX: Projecting Sign Regulations**

Regulation	Requirement
Quantity	1 per parcel
Maximum Projection	4 feet
Maximum Area	8 square feet
Required Clearance	8 feet above pedestrian ways 15 feet above vehicular ways
Illumination	External illumination only



Figure X: Example of a projecting sign

- **Wall Signs.** Wall signs shall be permitted on any agricultural, public or institutional, commercial, or industrial use subject to the following regulations:

**Table XXXX: Wall Sign Regulations**

Regulation	Requirement
Quantity	No limit as long as the cumulative square footage of all wall signs meets the maximum area requirements
Maximum Projection	12 inches
Maximum Area	20% of the building face or 200 square feet, whichever is less, for each building face that abuts a frontage
Illumination	Internally or external illumination



Figure X: Example of a wall sign

- **Window Signs.** Window signs shall be permitted on any agricultural, public or institutional, commercial, or industrial use subject to the following regulations:
  - Window signs shall only be permitted on the first floor of any building or structure.

**Table XXXX: Window Sign Regulations**

Regulation	Requirement
Quantity	No limit as long as the cumulative total meets the maximum area requirement.
Maximum Area	The cumulative maximum area of all window signs shall be included in the overall calculation of allowable wall signage. A maximum of 25% of each window may be covered by window signs. Political jurisdictions and education facilities are exempted from this maximum area.
Illumination	Illumination is not permitted



Figure X: Example of a window sign

## Temporary Sign Regulations

- Permitted Types of Temporary Signs.** Table XXXX identifies the types of temporary signs that are permitted for each use category. An “X” in the table indicates signs that are permitted and a blank space indicates signs that are prohibited for that specific use typ.

**Table XXXX: Temporary Signs for Each Use Category**

	Agricultural Uses	Residential, Single and Two-Family	Residential, Multi-family	Public or Institutional Use	Commercial Uses	Industrial Uses
Temporary Commercial Sign	X			X	X	X
Temporary Construction Sign	X	X	X	X	X	X
Temporary Non-Commercial Sign	X			X	X	X
Temporary Portable Sandwich Sign	X			X	X	
Temporary Residential Sign		X	X			
Temporary Special Event/Auction Signs	X			X	X	
Temporary Banner Sign	X			X	X	X

- Temporary Commercial Signs.** Temporary commercial signs are permitted on any agricultural, public, or institutional, commercial, or industrial use subject to the following regulations:
  - Temporary commercial signs shall be professionally manufactured with digitally printed, machine cut, or vinyl press on letters. Lettering on temporary commercial signs is not permitted to be hand painted.
  - Temporary commercial signs shall not be reflective.

**Table XXXX: Temporary Commercial Sign Regulations**

Regulation	Requirement
Quantity	1 per parcel or development
Maximum Area	9 square feet
Maximum Height	5 feet
Maximum Timeframe	30 days with a 60-day lapse between posting
Illumination	Illumination is not permitted



Figure X: Example of a temporary commercial sign

- **Temporary Construction Signs.** Temporary construction signs are permitted on any use subject to the following regulations:
  - Temporary construction signs shall not be permitted on site until an improvement location permit has been issued for the construction of the primary use or addition.
  - The sign shall be removed from the premises within 30 days after issuance of the occupancy permit or temporary occupancy permit.

**Table XXXX: Temporary Construction Sign Regulations**

Regulation	Requirement
Quantity	No limit
Maximum Area	75 square feet
Maximum Height	15 feet
Maximum Timeframe	Permitted during active construction
Illumination	Illumination is not permitted



Figure X: Example of a temporary construction sign

- **Temporary Non-Commercial Signs.** Temporary non-commercial signs are permitted on any public or institutional, commercial, or industrial use subject to the following regulations:
  - Temporary non-commercial signs shall not be reflective.

**Table XXXX: Temporary Non-Commercial Sign Regulations**

Regulation	Requirement
Quantity	No limit
Maximum Area	12 square feet
Maximum Height	5 feet
Maximum Timeframe	None
Illumination	Illumination is not permitted



Figure X: Example of a temporary non-commercial sign

- **Temporary Portable Sandwich Signs.** Temporary portable sandwich signs are permitted on any public or institutional or commercial use subject to the following regulations:
  - The portable sandwich sign shall be located in front of the business it represents during hours of operation only. Portable sandwich signs shall be taken inside during non-business hours.
  - Portable sandwich signs shall be removed during high wind conditions in order to prevent a safety hazard.

**Table XXXX: Temporary Portable Sandwich Sign Regulations**

Regulation	Requirement
Quantity	No limit
Maximum Area	8 square feet per street frontage
Maximum Height	4 feet
Maximum Timeframe	None
Minimum Setback	None – must be located on private property and not in the right-of-way
Illumination	Illumination is not permitted



Figure X: Example of a portable sandwich sign

- **Temporary Residential Signs.** Temporary residential signs are permitted on any single family, two-family, or multi-family residential use subject to the following regulations:

**Table XXXX: Temporary Residential Sign Regulations**

Regulation	Requirement
Quantity	No limit
Maximum Area	16 square feet cumulative
Maximum Height	5 feet
Maximum Timeframe	None
Illumination	Illumination is not permitted



Figure X: Example of a temporary residential sign

- **Temporary Special Event/Auction Signs.** Temporary special event and auction signs are permitted on any agricultural, public, or institutional, or commercial use subject to the following regulations:
  - Special event/auction signs shall be installed up to 30 days prior to events and removed within seven days following the special event.

**Table XXXX: Temporary Special Event/Auction Sign Regulations**

Regulation	Requirement
Quantity	No limit
Maximum Area	75 square feet
Maximum Height	15 feet
Maximum Timeframe	None
Illumination	Illumination is not permitted



Figure X: Example of a temporary special event/auction sign

- **Temporary Banner Signs.** Banner signs shall be permitted on any agricultural, public or institutional, commercial, or industrial use subject to the following regulations:
  - Banners must be stretched, taut, and secured against buildings, canopies, canopy supports, or sign supports.

**Table XXXX: Banner Sign Regulations**

Regulation	Requirement
Quantity	1 per parcel
Maximum Area	75 square feet
Illumination	Illumination is not permitted
Maximum Timeframe	None



Figure X: Example of a banner sign

## Sign Measurement Regulations

### Sign Area

- The area of a sign face, which includes wall signs, shall be computed by the following:
  - The smallest square, circle, rectangle, triangle, or combination thereof that shall encompass the extreme limits of the writing, representation, emblem, or other display, together with any representation, emblem, or other display; and
  - Any material or color that is an integral part of the background of the display or used to differentiate the sign from backdrop or structure against which it is placed.
- The sign area shall exclude the supportive structure if the structure does not form or include a part of the advertisement of the sign.
- 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 one point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty-four inches apart, the sign area shall be computed by the measurement of one of the faces.

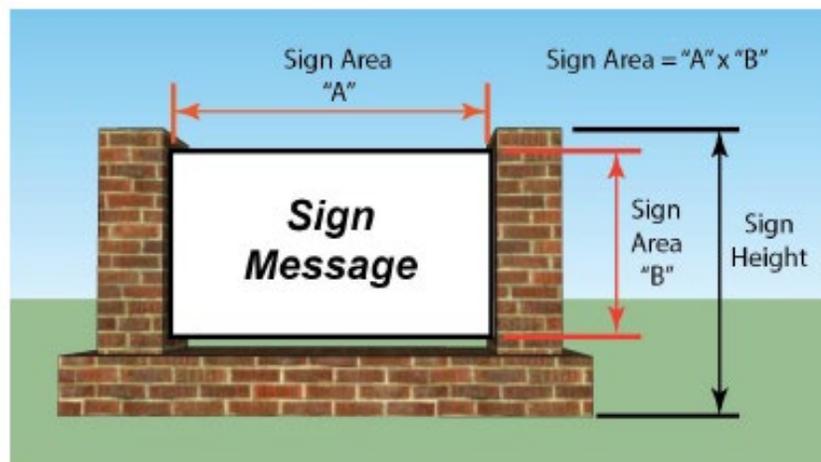


Figure X: Example of sign area calculation

### Sign Height

- The height of a sign shall be measured in a vertical plane from grade at the edge of pavement, of the public right-of-way closest to the sign, to the highest point of the sign or sign structure, whichever is taller.

## Sign Landscaping Requirements

**Landscaping Requirements for Ground Mounted Signs.** All permanent ground mounted signs shall be required to have landscaping beneath and around the sign in accordance with the following regulations:

- The minimum landscaped area required shall be equal to the area of the sign face.
- The landscaped area shall include living plantings such as shrubs and grasses. The use of concrete, asphalt, or other paved surfaces inside the required landscaped area beneath the sign is prohibited.

## Sign Lighting Requirements

- Signs identified in this article are permitted to be internally or externally illuminated unless otherwise provided for in this article.
- Signs that are externally illuminated shall employ illumination that is constant, stationary, and shielded. Illumination shall be directed only on the sign.
- Sign illumination is subject to the lighting regulations in Article 10.
- Sign illumination shall not create a distraction for motorists or a hazard for traffic.
- The intensity of illumination resulting from all internal and external sign lighting shall not exceed one-half foot candles at a height of five feet when measured at any point on property in a residential zoning district or at any point on any public right-of-way.

## Sign Construction Requirements

- **Material.** Signs must be constructed of wind and weather resistant material. All signs shall have a neat, professional appearance.
- **Codes.** All signs shall conform to the latest edition of the applicable building and electrical code requirements.
- **Fastening.** All signs must remain safe and secure during the period of use. All parts of the signs, including bolts and cables, shall remain painted, and free of corrosion.
- **Fire Escapes.** Signs shall not obstruct a fire escape.
- **Identification.** All signs for which a permit is required shall identify the name and operating telephone number of the person or entity responsible for the sign.
- **Proximity to Electrical Conductors.** Signs and all supporting structures shall be no closer to electrical utilities than is permitted by applicable codes. No sign, including cables and supports, shall, in any event, be within six feet of any electrical conductor, electrical light pole, electric streetlamp, traffic light, or other public utility pole.

## Nonconforming Signs

- **Intent.** This Ordinance is intended to encourage the eventual elimination of Signs which do not comply with the Ordinance. However, it is also the intent of this Ordinance to avoid unreasonable invasion of property rights while accomplishing removal of non-conforming Signs.
- **Continuance.** A nonconforming sign may be continued if it is maintained in good condition. It shall not, however, be replaced by another nonconforming sign.

- **Nuisance.** Any sign constituting an immediate hazard to health or safety, including signs placed in public rights-of-way, attached to utility poles, or affixed to trees, shall be deemed a public nuisance and may be immediately removed by the department. An unsafe sign or abandoned sign shall be deemed a public nuisance, which shall be abated by the Owner within thirty (30) days of receiving notice from the Plan Commission. After sixty (60) days the Sign may be removed by the Plan Commission.

### Sign Maintenance

- Signs shall be maintained in a safe and good condition at all times by the owner of the sign. Regular maintenance includes the repair and replacement of damaged or malfunctioning parts, repainting, cleaning, and other acts required to keep the sign in good condition.
- Property surrounding any ground mounted sign shall be maintained in a clean and sanitary condition, it shall be free from weeds, rubbish, and flammable material.

### Penalty

- Any person violating any provision of this Ordinance shall be issued a citation with a forfeiture of not less than \$25.00 and not more than \$500.00 for each day's violation. Each day, subsequent to the 30-day period allowed for corrective action, shall constitute a separate violation.
- In addition, the Plan Commission, through its attorney, is authorized to adjudicate the offense with a summons and complaint and to take any other action available to the Plan Commission through the enforcement provisions of this Ordinance, including legal, injunctive, and equitable, to assure compliance with this Ordinance.

# Article 11 Subdivision Regulations

## Purpose

These subdivision regulations are adopted for the following purposes:

- To promote the public health, safety, and general welfare of the County;
- To guide the future growth and development of the County in accordance with the Comprehensive Plan;
- To ensure that necessary facilities are available concurrent with development, in an amount and size commensurate with the size of the subdivision and the land uses to which the land will be allocated;
- To ensure that the community will bear no more than its fair share of the cost of providing facilities and services by requiring the developer to pay fees, furnish land, provide infrastructure, and establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development;
- To provide pedestrian and vehicular connectivity among subdivisions;
- To secure suitable sites for building purposes and protect the property values thereof;
- To provide assurance that future plats, subdivisions, and dedications will be improved in accordance with an established public policy;
- To provide for open spaces through the most efficient design and layout of the subdivision;
- To preserve the natural beauty and topography of the County and to ensure appropriate development with regard to these features;
- To prevent the pollution of air and water, safeguard surface and groundwater, conserve the stabilize topsoil, and to otherwise encourage the wise use of resources throughout the County; and
- To supply proper land records for the convenience of the public and for appropriate identification and permanent location of real estate boundaries.

## General Provisions

### Authority

- These subdivision regulations are adopted under the authority granted by the 700 Series of Section 36-7-4 of the Indiana Code and all subsequent amendments.
- Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the State of Indiana to LaGrange County. The developer has the duty of compliance with reasonable conditions laid down by the Plan Commission for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the County and to the health, safety, and general welfare of the future lot owners in the subdivision and the community at large.

### Policy

- It is declared that it is the policy of LaGrange County to consider the subdivision of land and subsequent development of the land as subject to control of the County pursuant to

the Comprehensive Plan for the orderly, planned, efficient, and economically development of the County.

- Land to be subdivided shall not endanger the public health or safety and shall include or guarantee adequate infrastructure and services in accordance with Section XXXX (Improvement and Guarantees) and meet the requirements of Section XXXX (Development and Design Standards).
- All modifications to the existing and proposed improvements shall conform with and be properly related to the Comprehensive Plan and the standards contained in other applicable ordinances and regulations.

### **Applicability and Jurisdiction**

- The provisions of these subdivision regulations shall apply to all lands within the unincorporated portions of LaGrange County and the incorporated Towns of LaGrange, Topeka, Shipshewana, and Wolcottville, including land owned by local, county, state, or federal agencies, to the extent allowed by law.
- Lots that straddle jurisdictional boundaries shall be avoided wherever possible. If a subdivision is located in more than one jurisdiction, approval is required from each plan commission having jurisdiction, unless a valid interlocal agreement provides otherwise. If access to a subdivision is required across land in another jurisdiction, the applicant shall provide evidence that such access is legally established. The Commission shall permit such access only if it finds that the access complies with the standards of these subdivision regulations.

### **Conflict or Consistency with other Laws, Covenants, or Deed Restrictions**

- When the provisions of these subdivision regulations are inconsistent with one another, or when the provisions of these subdivision regulations conflict with provisions found in other ordinances, codes, or regulations adopted by LaGrange County, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.
- It shall be the developer's or applicant's responsibility to determine and comply with all other applicable county, state, or federal codes or regulations governing development and land use activities.

### **Relationship with Private-Party Easements, Covenants, or Agreements**

- These subdivision regulations are not intended to interfere with or abrogate any easements, covenants, or agreements between parties, provided that wherever these subdivision regulations propose a greater restriction upon the use of buildings or land, upon the location or height of buildings or structures, or upon requirements for open areas than those that are imposed or required by such easements, covenants, or agreements between parties, the provisions of these subdivision regulations shall govern.

### **Compliance**

- No lot other than a legal lot of record shall be sold nor advertised for sale; no permit to erect any building upon land in a subdivision shall be issued; and no building shall be erected in a subdivision, unless and until a final major subdivision plat or minor plat has been approved and recorded.

- For subdivisions recorded after a financial guarantee is posted for the improvements, no occupancy permit shall be issued for any building unless in addition to all requirements of the building code, the following improvements are in place to provide for safe access to the building(s) for the occupants and for emergency vehicles:
  - Streets having a compacted subgrade and a binder course
  - Traffic control signs and street name signs
- **Minimum requirements.** The provisions of these subdivision regulations shall be held to be minimum requirements necessary for the promotion of the public health, safety, and general welfare, and shall be liberally construed in favor of the County and shall not be construed to be a limitation or repeal and other power now possessed by LaGrange County.

## Types of Subdivisions

### Minor Subdivisions

- **Purpose and Applicability**
  - The purpose of a minor subdivision is to provide a simplified review and approval procedure for changes in lot lines that do not create new lots, replats, and divisions of land or resubdivisions that result in the creation of five or less lots and:
    - Meet the requirements of these subdivision regulations;
    - Do not substantially affect the Comprehensive Plan;
    - Do not involve construction of new streets and do not require extensions of existing streets or utilities; and
    - Have a minimal impact on the development pattern of LaGrange County.
  - Minor Subdivisions shall follow the approval procedures set forth in Section XXXX (minor subdivision approval procedures).

### Major Subdivisions

- **Purpose and Intent.** The purpose of the major subdivision procedure is to ensure that new development is consistent with the Comprehensive Plan and with the standards of these subdivision regulations, to ensure that new developments will have adequate streets, utilities, and other infrastructure elements, and to ensure satisfactory completion of all required improvements. Major subdivisions require a public hearing, and primary and secondary approval in accordance with the procedures set forth in Section XXXX (major subdivision approval process).
- **Applicability.** The provisions of this section apply to subdivisions that result in the creation of six or more lots and those which do not meet the stipulations of a minor subdivision.

## Subdivision Administration

**Summary Table of Subdivision Procedures.** The following table summarizes the review and decision-making responsibilities of the entities that have roles in the subdivision regulatory procedures.

**Table XXXX: Summary Table of Subdivision Procedures**

Procedure	Section Reference	Zoning Administrator	Plan Commission	County Commissioners
Minor Subdivision Approval	XXXX	S/D	A	
Major Subdivision Primary Approval	XXXX	S/R	D	
Major Subdivision Secondary Approval	XXXX	D	A	
Modifications	XXXX	S/R	D	
Interpretation	XXXX	D	A	
<p><b>S = Zoning Administrator Review R = Review and Recommendation D = Final Decision A = Appeal</b></p>				

**Specific Procedures**

- **Major Subdivisions**
  - **Process Flow Chart.** Applications for a major subdivision shall follow the specific procedure outlines in subsection XXXX, which is summarized in the flow chart below.
  - **Primary Approval.** The following is the primary approval process for a preliminary plat.
    - **Submit Completed Application**
      - The property owner or the owner’s representative shall apply for primary approval of the preliminary plat to the Zoning Administrator on a form provided by LaGrange County and include any and all information requested.
      - The Zoning Administrator shall determine whether the application is complete. If it is not complete, the applicant shall be notified of the additional materials or information that are needed.
    - **Plan Commission Hearing**
      - When the application is deemed complete, public notice of the hearing shall be provided in the following ways:
        - Notice shall be given by the petitioner, either in person, or by certified mail, return receipt requested, first class U.S. mail, on forms prescribed by the Commission. Said notices shall be given at least 10 days prior to the date of the public hearing.
        - Legal notice of the hearing shall appear in a newspaper of general circulation within the area involved at least 10 days preceding the hearing.
    - **Plan Commission Review and Decision.** After the Plan Commission hearing on the major subdivision, the Plan Commission shall grant primary approval, primary approval with conditions, or reject the preliminary plat.

As a condition of primary approval of a plat, the Plan Commission may specify:

- The manner in which public ways shall be laid out, graded, and improved;
  - A provision for water, sewage, and other utility services;
  - A provision for lot size, number, and location;
  - A provision for drainage design; and
  - A provision for other services as specified in these Subdivision Regulations.
- **Effective Period of Primary Approval.** The applicant shall have ~~18~~ 36<sup>3</sup> months from the date of primary approval to apply for secondary approval of a major subdivision. In the event that the applicant does not apply for secondary approval within the required timeframe, the primary approval shall be null and void.
- **Improvement Plans**
    - **Submit Improvement Plans**
      - Following the primary approval and before the submission of an application for secondary approval of the final plat, the applicant shall submit construction plans to the Zoning Administrator prior to starting work on any improvements.
      - All improvements required by the Plan Commission shall be shown on the improvement plans.
    - **Review and Approval of Improvement Plans.** The Zoning Administrator, in their review, shall transmit the plans to the appropriate county representatives for review. Once these representatives indicate their approval of the improvement plans, the Zoning Administrator shall approve the improvement plans.
    - **Inspections**
      - **Preconstruction.** Before beginning any work within the subdivision, the developer shall meet on the site with appropriate representatives of the county. These representatives may include but are not limited to the county surveyor, the county engineer the county health officer, and the county extension educator.
      - **Construction.** The appropriate county representatives shall inspect and require that the installation of all improvements take place in accordance with plans approved by the Commission. The county representative shall have authority over the schedule of construction, materials used, methods of construction, and workmanship to ensure compliance with the approved plans and terms of the agreement.
    - **Completion of Improvements.** All improvements required by the Plan Commission must be completed within two years from the date of approval.
    - **Guarantee Requirements**

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<sup>3</sup> Proposing to increase this timeframe of approval as the applicant receives primary plan approval, then submits improvement plans, then constructs the improvements, then submits the secondary plan approval. The code allows 2 years to construct the improvements, so 18 months contradicts that timeframe.

- To guarantee the construction of required improvements prior to the secondary approval of the final plat, the applicant shall be required to provide a performance guarantee per Section XXXX.
    - To guarantee the maintenance of the required improvements prior to the secondary approval of the final plat, the applicant shall be required to provide a maintenance guarantee per Section XXXX.
  - **Secondary Approval.** The following is the secondary approval process for a major subdivision.
    - **Submit Completed Application**
      - The property owner or the owner’s representative shall apply for secondary approval of the final plat to the Zoning Administrator on a form provided by LaGrange County and include any and all information requested.
      - The Zoning Administrator shall determine whether the application is complete. If it is not complete, the applicant shall be notified of the additional materials or information that are needed.
    - **Zoning Administrator Review and Decision.** After ensuring that the application for secondary approval of the final plat is complete, the Zoning Administrator shall grant secondary approval upon the determination that all of the conditions of primary approval imposed by the Plan Commission have been met.
    - **Recording of the Final Plat.** The approved drawing of the final plat must be recorded in the Office of the LaGrange County Recorder within 18 months from the date of secondary approval.
    - **Invalidation of the Final Plat.** In the event that the applicant does not record the final plat within the required timeframe in Section XXXX, the secondary approval shall be null and void.
- **Minor Subdivision**
  - **Process Flow Chart.** Applications for a minor subdivision shall follow the specific procedure outlines in subsection XXXX, which is summarized in the flow chart below.
  - **Primary Approval.** The following is the approval process for a minor subdivision.
    - **Submit Complete Application**
      - The property owner or the owner’s representative shall apply for approval of the minor subdivision plat to the Zoning Administrator on a form provided by LaGrange County and include any and all information requested.
      - The Zoning Administrator shall determine whether the application is complete. If it is not complete, the applicant shall be notified of the additional materials or information that are needed.
    - **Review and Decision by the Zoning Administrator**
      - After ensuring that the application for the minor subdivision is complete, the Zoning Administrator shall grant approval upon the determination that the minor subdivision meets all requirements set forth in these regulations.

- **Recording of the Minor Plat.** The approved drawing of the minor plat must be recorded in the Office of the LaGrange County Recorder within 12<sup>4</sup> months from the date of approval.
- **Invalidation of the Minor Plat.** In the event that the applicant does not record the minor plat within the required timeframe in Section XXXX, the secondary approval shall be null and void.

## Modifications, Extensions, and Phasing

### Modifications

- **General**
  - The Commission may grant modifications to the requirements and standards of these subdivision regulations when an applicant can fully demonstrate the presence of extraordinary conditions which would result in practical difficulties or misuse of property, and which comply with the following:
    - The modification will not be detrimental to the public health, safety, or general welfare;
    - The modification will not adversely affect adjacent property;
    - The modification is justified because of exceptional topographic or other physical conditions unique to the property involved and is not to correct mere inconvenience or financial disadvantage;
    - The conditions upon which the modification requested is based are unique to the property for which the relief is sought and area not applicable generally to other property;
    - The modification is consistent with the intent and purposes of this ordinance and with the Comprehensive Plan;
    - The condition necessitating the modification was not created by the owner or applicant; and
    - The relief sought will not in any manner vary the provisions of this UDO.
  - It is the intent of these regulations that this authority will be used sparingly and only when the applicant has clearly demonstrated that all criteria in Section XXXX (first bullet) have been met. The burden of proof is on the applicant.
  - In granting modifications, the Commission may require such conditions as will, in its judgment, secure substantially the purposes of these regulations.
  - A request for a modification from the terms of these regulations shall be submitted in writing at the time when the subdivision is filed with the Commission for consideration for primary approval. The request shall state fully the grounds for the application and all facts relied upon by the applicant.

### Extensions

- **General.** The Commission may grant extensions of time if the applicant demonstrates to the Commission's satisfaction that there are extenuating circumstances that necessitate or justify the extensions. The applicant must request such an extension before the expiration of the approval period.

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<sup>4</sup> The existing code stipulates three months. That seems like a very short time frame to get the plat recorded. I would recommend either 6 or 12 months.

- **Completion of Improvements.** All improvements required by the Commission shall be completed within two years from the date of approval, with the following exceptions:
  - If sidewalks are to be installed as lots are developed, the Commission may approve time extensions for sidewalk completion with the submission of an appropriate financial guarantee. Each extension shall be for a maximum of two years, and no more than three such extensions may be granted. In deciding whether to grant the extension, the Commission shall consider the degree of completion of construction in the subdivision, the effect of the extension on property owners in the subdivision, and weather or other conditions affecting construction.
  - The County Highway Engineer may approve a time extension for installing the final paving course (surface coat) on the roadway with the submission of an appropriate financial guarantee. The time extensions shall be for a maximum of two years, and only one such extension may be granted. In deciding whether to grant the extension, the engineer shall consider the degree of the completion of the subdivision, the effect of the extension on property owners in the subdivision, and weather or other conditions affecting the construction. The engineer's decision to deny an extension may be appealed to the Commission.
  - Other extensions of time may be approved by the Commission with the submission of an appropriate financial guarantee if unusual conditions exist that impede timely completion. In deciding whether to grant the extension, the Commission shall consider the degree of the completion of the subdivision, the effect of the extension on property owners in the subdivision, and weather or other conditions affecting the construction.

**Phasing.** The Commission may allow a subdivision to be developed in phasis. The applicant shall request phasing and provide a phasing schedule at the time of filing for primary approval. If the Commission approves the development to be completed in phases, secondary approval of each phase shall automatically extend the deadline for secondary approval of subsequent phases for an additional 18 months.

## Financial Guarantees

**General Requirements.** To guarantee the construction and/or maintenance of required improvements prior to the approval and recording of the final plat, the applicant shall be required to provide a financial guarantee in accordance with the following:

- Performance and maintenance bonds shall be approved by the County Attorney. The applicant shall post a bond, by a surety company, in accordance with the terms as noted herein. Under no circumstances shall the required performance bond be tied to, or be considered a portion of, the applicant's financing for the development. Any refinancing, restricting, expiration, sale, or transfer of a developer's debt or obligations related to these performance guarantees must be approved in advance by the County Attorney.
- The applicant may make a deposit with the county, with an escrow agent, or a trust company approved by the County Attorney.
- Any and all performance guarantee measures detailed herein shall be in the favor of the county and the county may utilize these guarantees for the construction and maintenance of the improvements as well as the ongoing removal of ice and snow from the dedicated roadways according to the approved improvement plans.

## Performance Bonds

- **Submittal of the Performance Bond.** All improvements must be completed according to the approved improvement plan within two years of approval. Secondary approval of a major subdivision shall not be given until one of the following has been accomplished:
  - The County Commissioners have accepted for perpetual maintenance of required public improvements and all improvements have been satisfactorily completed in accordance with the approved plans.
  - The applicant has posted a performance bond in an amount equal to 125 percent of the cost of the improvements. The form and length of the bond must be acceptable to the County Attorney. If time extensions are granted under Section XXXX (Completion of Improvements Exemption), the cost estimate must be reviewed, and the amount of the guarantee increased if necessary.
- **Release of the Performance Bond**
  - After completion of all improvements and prior to the release of the performance bonds on the improvements, the applicant shall provide drawings showing the actual location of all installed street improvements, sanitary and storm sewer improvements, water mains, fire hydrants, improvements, valves and stubs, monuments and markers, drainage facilities, and other installed permanent improvements. This map shall be certified by a registered engineer or land surveyor. One copy of these plans shall be submitted to the County Highway Engineer and one copy shall be submitted to the Zoning Administrator.
  - The Commissioners may grant a partial release from a performance bond for portions of the improvements which are complete and accepted by such Commissioners, provided that the maintenance bond as specified in Section XXXX is posted for such portion of the improvements.

## Maintenance Bonds

- **Submittal of the Maintenance Bond.** After the completion of construction, the applicant shall submit a maintenance bond to the County Commissioners ensuring the maintenance of the improvements in good repair. The maintenance bond shall be in an amount equal to 125 percent of the estimated cost of all improvements and be in effect for a period of one year.
- **Release of the Maintenance Bond**
  - At the termination of the one year maintenance period, the subdivision shall be inspected by the county, any issues that are identified will be forwarded to the applicant for correction.
  - Upon the conclusion of the one-year maintenance period and the correction of all defects found during the inspection, the applicant shall request for the release of the maintenance bond to the County Commissioners.

## Subdivision Development and Design Standards

### Minor Subdivisions

- **Lots**
  - All lots shall have suitable building sites, properly related to topography and other natural or man-made features. A suitable building site is an area not containing wetlands, floodway areas, soils with severe limitations for foundations,

environmental hazards, or other similar conditions that are adverse to construction, and is large enough to accommodate the principal structure, on-site sewage disposal system (if applicable), and customary accessory structures such as garages, decks, and patios.

- Lot sizes and dimensions shall comply with the minimum standards of the UDO.
- Whenever possible, residential lots shall be designed to have access from subdivision streets, not from streets of higher classification. Where access must be gained from a street of higher classification, the County Engineer or County Surveyor may require that multiple lots be served by a single jointly used access drive in order to limit the points of traffic conflict on the street. When such a combined drive is required, the plat shall include an easement for joint use and maintenance.

- **Streets and Access**

- **Access.** All parcels in the subdivision and adjacent land shall have adequate ingress and egress without the construction of any new street or substantial improvement to existing streets.
  - All lots shall have legal access to a platted private access easement or to a public street. Such public street shall have a hard surface, suitable for vehicular traffic, that is at least 20 feet in width, is in good repair, and has a geometry suitable for the traffic that it will carry after the proposed subdivision.
  - Frontage on limited access streets on which driveways cannot open shall not constitute legal access.
  - If by reason of topography, natural or man-made features, or other conditions relating to the property requested for subdivision, better access can be provided through construction of a new street, the petition shall be considered as a major subdivision.
  - All lots shall have driveway locations that will provide adequate sight distance and will be properly spaced according to County Engineer.
  - One driveway/access is permitted per lot unless approved for a second residence on the same lot. Any additional driveway is subject to review by the County Engineer and shall meet the minimum required distance between driveways.
- **Landlocked Properties.** Land adjacent to the property involved in the subdivision shall have adequate access according to the criteria contained in this section. New subdivisions shall not be permitted to landlock nor to continue the landlocking of adjacent property.
- **Access Easement.** Access easements shall comply with the following criteria:
  - Easements providing legal access to land shall be at least 30 feet in width.
  - Access easements shall be so located as to be suitable as future public streets meeting the standards of this UDO.
  - No more than three lots, parcels, or tracts shall gain access from an access easement. If four or more lots, parcels, or tracts require access to an easement, then a public street shall be created.
  - When such easements are permitted, the plat shall contain a notation clearly stating that the easement is private and that the County will provide no maintenance or services relating to such easement.

- **Water Supply**
  - When a public water supply is available within 300 feet of any point on the boundary of the property to be subdivided, the subdivider shall extend such system to serve the lots in the minor subdivision. For purposes of this section, an available system is one with sufficient capacity that can be utilized via existing rights-of-way or easements.
  - When a public water supply is not available, the Commission may approve the use of individual wells. Wells and cisterns shall be located and/or constructed in accordance with the regulations of the Indiana State Department of Health (ISDH). Any well serving an individual lot shall be located on such lot.
- **Sewage Disposal**
  - When a sanitary sewer system approved by the state is available within 300 feet of any point on the boundary of the property proposed for subdivision, the subdivider shall extend such sewer system to serve the lots in the minor subdivision. Such system shall meet the standards of the state. If the service provider imposes a higher standard, the higher standard shall apply. For purposes of this section, an available system is one with sufficient capacity that can be utilized via existing rights-of-way or easements.
  - When a public sewer system is not available as specified in Subsection XXXX (ABOVE), private sanitary waste systems may be used. Such system shall be designed and installed in accordance with the regulations of the Health Department. Any septic system serving only an individual lot shall be entirely located on such lot unless an approved shared sanitary waste system is permitted by the Health Department. Two filter field locations approved by the Health Department shall be required. The septic system and both filter fields shall be protected from damage during construction.

## Major Subdivisions

- **Lots**
  - All lots shall have satisfactory building sites properly related to topography and other features.
  - All lots shall be capable of containing driveways having a sight distance that complies with the standards set forth in the County standards.
  - Lot sizes and dimensions shall comply with the minimum standards of the UDO.
  - Each lot shall have the full required frontage on a public street. To the fullest extent practical, residential lots shall front on residential subdivision streets in such a manner as to provide neighborhood cohesiveness. Lots laid out in lines along and with direct access to arterial or collector streets shall not be permitted.
  - Residential double-frontage lots shall be permitted only where necessary to provide separation of residential development from street traffic or due to conditions peculiar to the property. Non-residential double-frontage lots are acceptable; however, the Commission shall require a landscaping buffer along any frontage that constitutes a rear or side yard. Such buffer shall be at least 10 feet in depth along the lot frontage.
  - Residential lots shall be designed to have access from subdivision streets, not from streets of higher classification. Where no alternative exists to access from a street other than a subdivision or marginal access street. The Commission may

require that multiple lots be served by a single jointly used access drive in order to limit the points of traffic conflict on the street. When such a combined drive is required, the plat shall include an easement providing for joint use and maintenance.

- Driveway separations shall be provided in accordance with the *LaGrange County Highway Standards Manual*.
- **Lot Owners Associations**
  - If the major subdivision is to have a lot owners association that is responsible for ongoing compliance of the development with this ordinance, the association shall meet the following requirements:
    - Membership shall be automatic for all owners of lots in the subdivision.
    - The association shall be incorporated.
    - The association shall be organized by the developer and shall be financed by the developer until a sufficient number of lots have been sold to enable the association to be financially solvent without a subsidy from the developer.
  - Major subdivisions may be accompanied by covenants. When necessary to ensure compliance with a provision of this ordinance or a condition of subdivision approval imposed by the Commission, the Commission may require that the County be a party to or have enforcement authority over specified covenants or restrictions. The covenants must be filed in the Office of the LaGrange County Recorder.
  - All materials and construction procedures required by these Subdivision Regulations shall conform to the most recent editions of the *Indiana Department of Transportation Standard Specifications*; and the following AASHTO publications: *Road Design Manual*, *Bridge Design Manual*, *A Policy on Geometric Design of Highways and Streets*.
- **Streets**
  - **General**
    - The Commission shall not approve any major subdivision unless the area to be subdivided has access to an existing public street. Such access shall be wide enough to permit the construction of new intersecting streets meeting the minimum standards of this UDO. If the Commission finds that existing streets that will provide access to the subdivision are not adequate to provide safe ingress and egress for the increased traffic resulting from the subdivision, the Commission shall deny the subdivision. Streets that by reason of pavement condition, topography, sight distance, width, or other conditions are not suitable for the increased traffic shall be considered inadequate, and the subdivision shall be permitted only if the developer formulates methods acceptable to the Commission of mitigating the unsuitable conditions.
    - The owners of property to be subdivided on existing streets shall deed to the County any additional right-of-way needed to comply with the minimum right-of-way widths for those streets as indicated in the Thoroughfare Plan. Where topography or design features necessitate additional right-of-way or easements to permit construction of a street to the established pavement width for such street, the Commission shall

require the owner to dedicate to the County such additional right-of-way or provide such easement.

- The subdivision plat shall indicate proposed street names. The Commission shall recommend the street names for the County Commissioner's approval only if the street names are appropriate, do not duplicate existing street names, and will not be confusing to emergency personnel or others needing to locate addresses.
  - Streets shall be laid out with due regard to topography, soil conditions, natural features, function, clarity of movement, and economy of street length. All streets shall be properly integrated with existing and proposed streets.
  - New streets shall be extended to the boundary lines of the tract to be subdivided, unless topography or other physical conditions preclude such extension. Whenever practicable, the Commission shall require that streets be designed to provide connections to existing and future subdivisions.
  - Subdivision streets shall be designed to discourage use by through traffic. Traffic calming measures shall be utilized within subdivisions. Such measures include but are not limited to traffic circles, frequent intersections, traffic control signs and markings, and medians.
  - Permanent dead-end streets shall not be permitted. Temporary dead-end streets shall be permitted only when such streets are to be extended as part of a street pattern approved by the Commission. Where temporary dead-end streets extend along more than one lot, a temporary turn-around with a minimum radius of 50 feet and a minimum six-inch stone surface shall be provided.
  - Private streets and half-streets shall not be permitted.
  - The Commission shall not approve any subdivision street intersecting with a state highway unless the developer provides written approval from the Indiana Department of Transportation (INDOT) for such an intersection.
  - Streets shall conform to the *LaGrange County Highway Standards Manual*.
  - Minimum sight distances for vehicles from access points on driveways or at intersections onto adjacent roads shall be consistent with the requirements of the *County Standards*.
  - All traffic control devices required by this ordinance shall comply with the *Indiana Manual on Uniform Traffic Control Devices*.
  - One driveway/access is permitted per lot unless approved for a second residence on the same lot. Any additional driveway is subject to review by the County Engineer and shall meet the minimum required distance between driveways.
- **Other Installations.** The developer shall be responsible for installing street name signs, traffic control devices, subdivision identification signs, and any other similar features shown on the subdivision plat.
  - **Landscaping.** When a subdivision is designed so that rear lot lines abut a street, a landscape screen shall be provided along such street frontage. A landscape easement, at least 10 feet in width shall be included on the plat.
  - **Easements**
    - Each subdivision shall include appropriate easements for drainage and utilities, in accordance with the drainage plan. When located along streets,

such easements shall have a minimum width of 10 feet. When located along side or rear property lines or interior to any lot, such easements shall have a minimum width of 15 feet or seven and a half (7 ½) feet on each side of the lot line. The Commission shall require larger easements when necessary for carrying out the purposes of these Subdivision Regulations.

- Easements shall have multiple functions wherever possible.
- Easements shall provide reasonable continuity from block to block.
- The Commission shall require easements for the maintenance of dams or other features when such easements are necessary to provide access for personnel and/or equipment to perform such maintenance.

○ **Intersections**

- Streets shall be laid out so as to intersect as nearly as possible at right angles. In no case shall two new streets intersect at an angle less than 75 degrees. An oblique street shall be curved approaching an intersection and shall be approximately at right angles for at least 100 feet therefrom. No more than two streets (four approaches) shall intersect at any one point.
- Proposed new intersections with an existing street shall, whenever practicable, coincide with any existing intersections on the side of such street. Centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drive lanes with no median breaks at either intersection. Where new streets intersect collector or arterial streets, their alignment shall be continuous.
- Intersections shall be designed with a flat grade wherever practical. For intersections in areas with steep slopes, the subdivider shall provide a leveling area having a rate no greater than two percent at a distance of 60 feet measured from the nearest right-of-way line of the intersecting street.
- Intersections shall be separated in accordance with the *LaGrange County Highway Standards Manual*.

● **Drainage and Stormwater**

- Natural drainage patterns and natural stream channels shall be maintained wherever possible. Stream channels subject to the jurisdiction of the Indiana Department of Natural Resources (IDNR) shall not be altered without IDNR approval.
- The subdivider shall design and construct a drainage system to hand surface water from the entire subdivision and the drainage area of which it is a part. The system shall meet the minimum standards contained in this section.
- The subdivider shall prepare a drainage report addressing the existing and proposed drainage conditions and shall evaluate the ability of the proposed watercourse, channels, drainage tiles, farm tiles, storm sewers, culverts, and other improvements to handle the runoff. A registered professional engineer or land surveyor shall prepare this report, which shall contain the following:
  - Estimates of the water entering the subdivision. Estimates shall assume that the upper watershed will be fully developed according to the current UDO.
  - Conditions of the watershed that may affect runoff, such as subsoil type, positive drainage channels, or obstructions.
  - Quantities of flow at each pickup point or culvert.

- Description of major and minor drainage systems. The minor drainage system will usually consist of but not be limited to storm sewers, drainage ditches, drainage swales, storm inlets, or infiltration structures. The minor system shall be designed to handle a 10-year storm. The major system will usually consist of but not be limited to roadways, culverts, bridges, or overflow drainageways. The major system shall be designed to handle a 50-year storm.
  - The location of existing subsurface drainage tiles and a plan to preserve or relocate the tiles.
  - Proposed facilities which may include holding lagoons, stormwater ponds, or infiltration facilities shall be prepared by a registered professional engineer and shall include data coordinating field tests with design assumptions and estimates of expected annual maintenance costs.
- The storm drainage system shall be separate and independent of any sanitary sewer systems. The storm water drainage system shall be designed by the Rational Method or other method approved by the county surveyor, and a copy of the design computations shall be submitted with the plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in a gutter, or when the encroachment of stormwater into the street disrupts traffic. When calculations indicate that the curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and catch basins or inlets shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each lot and block.
- Drainage systems shall be designed so that there is no increase in the rate of runoff leaving the property in the subdivision after development. The County Surveyor shall review the proposed drainage facilities and provide the Commission an evaluation as to whether the system is of sufficient size, based upon the provisions of the required construction standards and specifications, assuming conditions of maximum potential watershed development permitted by the UDO.
- The developer shall provide information regarding the effect of each proposed subdivision on existing drainage facilities outside the subdivision. Where it is anticipated that the additional runoff related to the development of the subdivision will overload an existing downstream drainage facility, the Commission shall not approve the subdivision until provision has been made for mitigating the drainage problem.
- The Commission may approve for subdivision areas that are not in designated floodway or floodway fringe areas but contain soils that are subject to flooding only if the subdivider fills the affected areas to an elevation sufficient to place building sites and streets two feet above ponding levels.
- Each block shall be adequately drained, whether through the streets or by use of a ditch, culvert, or other approved method.
- All roads abutting or included within property to be subdivided shall be provided with drainage systems in accordance with the standards contained in this UDO.
- Any disturbed or graded areas shall be protected from erosion.
- The Commission may require retention ponds to regulate the flow at the outfall.
- Off-road drainage shall be extended to a watercourse or ditch of adequate size to receive the stormwater.

- Connection to a state drainage system is allowed only with written approval from INDOT. Connection to a county regulated drain is allowed only with written approval in accordance with the Indiana Code requirements for such drains. Connection to a county road ditch is allowed only with written approval from the County Surveyor.
- The Commission shall not approve any subdivision for which there is not adequate provision for maintenance of drainage systems. Such provision may include but is not limited to acceptance of the system by the County Drainage Board or establishment of a lot owners association with responsibility to set and collect fees for drainage system maintenance. Roadside ditches shall not be filled without written approval of the County Surveyor.
- **Water Supply**
  - Where a public water system is available within 300 feet of any point on the boundary of the proposed subdivision, the developer shall install a public water system to serve the project. The system shall comply with the Great Lakes Upper Mississippi River Board of State Public Health and *Environmental Managers Recommended Standards for Water Works*.
  - The subdivider shall install fire hydrants with a maximum spacing of 500 feet from any residence and a maximum separation of 1,000 feet throughout the subdivision.
  - The location of all fire hydrants and all water supply improvements shall be shown on the improvement plans, and all such improvements shall be installed at the cost of the developer.
- **Sewage Disposal**
  - When a sanitary sewer system approved by the state is available within 300 feet of any point on the boundary of the property proposed for subdivision, the developer shall extend such sewer system to serve the entire subdivision. Such system shall meet the standards of the state. If the service provider imposes a higher standard, the higher standard shall apply. For purposes of this section, an available system is one with sufficient capacity that can be utilized via existing rights-of-way or easements and employing gravity flow or lift stations.
  - The location of all sewer system improvements shall be shown on the improvement plans, and all such improvements shall be installed at the cost of the developer.
  - When a sanitary sewer system is not available as specified in Subsection XXXX (ABOVE), the Commission may approve the use of private sanitary waste disposal systems. Such system shall be designed and installed in accordance with the regulations of the ISDH. Any septic system serving only an individual lot shall be entirely located on such lot. Two filter field locations approved by the Health Department shall be required. The septic system and both filter fields shall be protected from damage during construction.
  - Developers proposing to use private sanitary waste disposal systems shall provide a map showing the soil types within the subdivision.
  - Alternative systems such as drip systems and constructed wetlands are permitted with proper approval from ISDH and are permitted only where an approved public sanitary sewer system is not available. Mixed systems are not permitted. When alternative systems are used, the subdivider shall include in the covenants a

requirement that the lot owners association maintain the system. Such covenant shall be substantially similar to that contained in the Sewage System Covenant.

- The Commission shall approve a cluster or package system only in cases where no other sanitary sewer system is available and only after making a specific finding that a management arrangement is in place to ensure the continued effective operation and maintenance of the system. The developer shall provide to the Commission the following:
  - Assurance that fees will be collected sufficient to cover the cost of operating and maintaining the system.
  - Assurance that a person or firm of suitable qualifications will be employed to ensure continued proper operation of the system.
  - Assurance that there will be continuous operation of the system in the event of a power outage or natural disaster.
  - Assurance that all inspections and reports required by the ISDH or IDEM will be completed and that copies of all such reports will be provided to the Zoning Administrator.
  - Provisions authorizing the County to collect fees and levy fines against the property owners singly and collectively in the event that the management arrangement is not strictly adhered to.
- **Pedestrian Systems**
  - For any subdivision with a density of three lots per acre or higher, the developer shall provide sidewalks on both sides of all new subdivision streets.
  - When proposed subdivisions, as provided in Subsection XXXX (ABOVE), abut existing streets that do not have sidewalks, the subdivider shall install such sidewalks. If the property to be subdivided abuts only one side of the existing street, the developer shall be responsible for sidewalks only on that side.
  - Sidewalks shall be separated from the curb by a grassed or landscaped area at least four feet in width.
  - The sidewalks shall be constructed of Portland cement concrete pavement in accordance with the requirements of the Americans with Disabilities Act and the Indiana Accessibility Code.
  - The Commission may permit alternative locations for sidewalks where such alternative design is justified because of topography, to preserve existing trees, or other similar conditions.
- **Monument and Markers.** The developer shall install monuments and markers in accordance with the standards of the County Surveyor. The locations and types of monuments and markers shall be shown on the improvement plans. Such monuments and markers shall be maintained in the required locations during the development of the subdivision. Financial guarantees for such monuments and markers shall not be released until all other subdivision improvements have been completed and accepted by the County and shall be released only if the monuments and markers are in place at that time.
- **Construction Practices**
  - All lots and other land included within a subdivision shall be graded in accordance with the approved construction plans. Except for land covered by buildings, including streets, or where the grade has not been changed and natural vegetation not seriously disturbed, the land shall be covered with topsoil having an average finish depth of at least four inches. If the existing topsoil does not meet this depth requirement, the developer shall add a sufficient amount of topsoil to

meet that standard. Topsoil shall not be removed from residential lots nor used as spoil but shall be redistributed so as to provide at least four inches of cover between sidewalks and curbs and between shoulders and right-of-way lines and shall be stabilized by seeding or planting.

- Seeding and planting shall be completed in accordance with standard nursery practices.
- When necessary to protect existing development, the Commission shall designate a construction entrance for the new subdivision. Construction signs and barricades shall comply with the *Indiana Department of Transportation Standard Specifications*.
- The developer shall employ best management practices as identified by the IDNR Rule 5 and shall adhere to the erosion control plan during construction and shall protect installations within the subdivision, such as catch basins and other drainage structures, from damage during construction.
- **Maintenance and Ownership of Common Facilities and Open Space**
  - Any common facilities or open space areas designated in subdivisions shall remain undivided. Ownership of open space may be by an undivided interest of each lot owner, by the lot owners association, or by a recognized land trust or conservancy, such as but not limited to the Nature Conservancy or the Trust for Public Land. If ownership is by a lot owners association, a conservation or open space easement in favor of the County or an established land trust or conservancy shall be established. Open space or recreation areas may be dedicated to the County only if the affected County agency agrees to accept such dedication. Common recreational facilities such as a clubhouse, swimming pool, or tennis courts shall be owned by the lot owners association.
  - Any lot owners association that will have ownership of common facilities or open space shall meet the following criteria:
    - The association shall be responsible for insurance and taxes on the facilities or open space. The association shall have the authority to place liens on the property of any of its members who fail to pay their association dues in a timely manner.
    - The association shall have adequate staff to manage the common facilities, maintain its property in good condition, and handle the financial and business affairs of the association.
    - The association shall prepare an annual report and provide a copy of the report together with a list of association offers to the Zoning Administrator.
    - Any land trust owning such property shall be an incorporated non-profit organization having as a primary purpose the conservation of open space, natural areas, and/or agricultural land.
- **Survey and Plat Preparation Standards**
  - All surveys shall be conducted and plats prepared in accordance with the Indiana Survey Standards adopted by the Indiana Society of Professional Land Surveyors and amendments thereto. In the event of any difference between those standards and these Subdivision Regulations, the stricter requirement shall apply.
  - All plats shall be neat, legible, reproducible, and reducible.
  - All plats shall contain a legend using standard symbols.

# Article 12 Floodplain Regulations

## 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:

- Protect human life and health.
- Minimize expenditure of public money for costly flood control projects.
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- Minimize prolonged business interruptions.
- Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- 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 areas.
- Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- Minimize the impact of development on adjacent properties within and near flood prone areas.
- Ensure that the flood storage and conveyance functions of the floodplain are maintained.
- Minimize the impact of development on the natural, beneficial values of the floodplain.
- Prevent floodplain uses that are either hazardous or environmentally incompatible.
- Meet community participation requirements of the National Flood Insurance Program.

## Statutory Authorization

Pursuant to IC § 36-7-4-601(d), the Board of Commissioners of the County of LaGrange may establish restrictions on development in areas prone to flooding. Therefore, the Board of County Commissioners does hereby adopt the following floodplain management regulations.

## Findings of Fact

The flood hazard areas of the towns of LaGrange, Shipshewana, Topeka, Wolcottville, and LaGrange County herein after referred to as “LaGrange 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 flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

## Methods of Reducing Flood Loss

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

- 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.

- Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction.
- Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.
- Controlling filling, grading, dredging, excavating, and other development which may increase flood damage.
- Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

## General Provisions

- **Lands to Which This Ordinance Applies.** This ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of LaGrange County, Indiana as identified in Division 3, Subsection B, including any additional areas of special flood hazard annexed by LaGrange County, Indiana.
- **Basis for Establishing the Areas of Special Flood Hazard**
  - The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of LaGrange County, delineated as an “AE Zone” on the LaGrange County, Indiana and Incorporated Areas Flood Insurance Rate Map dated November 20, 2013 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of LaGrange County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated November 20, 2013 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.
  - The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of LaGrange County, delineated as an "A Zone" on the LaGrange County, Indiana and Incorporated Areas Flood Insurance Rate Map, dated November 20, 2013, 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, 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.
  - The regulatory flood elevation for each SFHA of a public freshwater water lake within the jurisdiction of **LaGrange County** delineated as an “Zone AE” on the LaGrange County, Indiana and Incorporated Areas FIRM shall be in the stillwater elevation tables in the Flood Insurance Study of LaGrange County, Indiana and Incorporated Areas dated November 20, 2013 and any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. A listing of Indiana public freshwater lakes can be found in Natural Resources Commission Information Bulletin #61.

- The regulatory flood elevation for each SFHA of a public freshwater water lake within the jurisdiction of LaGrange County delineated as an “Zone A” on the LaGrange County, Indiana and Incorporated Areas dated November 20, 2013 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 as 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. A listing of Indiana public freshwater lakes is maintained in Natural Resources Commission Information Bulletin #61.
- 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.
- 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.
- **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.
- **Compliance**
  - No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this Section and other applicable regulations.
  - 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.
  - No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.
- **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.
- **Discrepancy between Mapped Floodplain and Actual Ground Elevations**
  - 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.

- 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.
- 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.
- **Interpretation.** In the interpretation and application of these regulations, all provisions shall be:
  - Considered as minimum requirements.
  - Liberally construed in favor of the governing body.
  - Deemed neither to limit nor repeal any other powers granted under state statutes.
- **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 LaGrange 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.
- **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 LaGrange County. All violations shall be punishable by a fine not less than \$25.00 per day no more than \$500.00 per day.
  - A separate offense shall be deemed to occur for each day the violation continues to exist.
  - The LaGrange County Zoning 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.
  - 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.

## Administration

- **Designation of Administrator**
  - **Position.** The Board of Commissioners of the County of LaGrange hereby establishes the position of Floodplain Administrator to administer the provisions of this section. A person appointed as Administrator may have other regular or partial employment with the County.
  - **Ex Officio Appointment.** Except as otherwise provided by this section, the LaGrange County Zoning Administrator shall serve as the default Administrator. To the extent that the LaGrange County Zoning Administrator would have been the Administrator but is otherwise unavailable, the Deputy LaGrange County Zoning Administrator shall serve as the Administrator.
  - **Appointment by Motion.** Notwithstanding Section XXXX (Ex Officio Appointment), the Board of Commissioners of the County of LaGrange may instead appoint a different Administrator by motion.

- **Delegation of Powers.** The Board of Commissioners of the County of LaGrange hereby delegate to the Administrator all authority and powers necessary to administer this section, subject to applicable law. The Administrator may delegate, in turn, any power and duty to another public servant, as appropriate, while retaining ultimate responsibility therefor. The Board of Commissioners of the County of LaGrange retain jurisdiction to be the final authority on all floodplain permits.
- **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:
  - **Application Stage**
    - A description of the proposed development.
    - Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
    - A legal description of the property site.
    - 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.
    - A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met.
    - A site development plan showing existing and proposed development locations and existing and proposed land grades.
    - 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.
    - Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AH and AE. Elevation should be in NAVD 88.
    - Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed.
    - Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.
    - Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.
    - Plans showing how any proposed structure will be anchored to resist flotation or collapse.

- 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.
    - 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 the Department of Natural Resources for approval. Once the Department of Natural Resources approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction (See **Division 4, Subsection C (8) and Division 4, Subsection E** for additional information.).
    - 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.
  - **Construction Stage.** Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator shall review the elevation certificate. Any deficiencies detected during the review shall be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.
  - **Finished Construction**
    - 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.
    - 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.
    - 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.
- **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:
  - Enforce the provisions of this ordinance.
  - Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
  - Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.

- 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.
- 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.
- Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas, must meet the development standards of these regulations.
- 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:
  - Verify and document the market value of the pre-damaged or pre-improved structure.
  - 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.
  - 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.
  - 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 **Division 5** of this ordinance are required.
- 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.
- Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to **Division 5, Subsection A (1), Subsection A (3) (a) and Subsection A (4)** of this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if **Division 4, Subsection C (9)** is applicable.

- Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with **Division 4, Subsection B.**
- Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with **Division 4, Subsection B.**
- Make on-site inspections of projects in accordance with **Division 4, Subsection D.**
- 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.
- 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.
- Provide information, testimony, or other evidence as needed during variance hearings.
- Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with **Division 4, Subsection D.**
- 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 Department of Natural Resources 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 **Subsection Division 4, Subsection D.**
- Coordinate map maintenance activities and associated FEMA follow-up in accordance with **Division 4, Subsection E.**
- 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.
- 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.
- **Administrative Procedures**
  - **Inspections of Work in Progress.** As the work pursuant to a permit progress, 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.
  - **Stop Work Orders**
    - 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.

- 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.
  - **Revocation of Permits**
    - The floodplain administrator may revoke a permit or approval, issued under the provisions of this 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.
    - 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.
  - Floodplain Management Records
    - 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.
    - These records shall be available for public inspection at LaGrange County Office Building, 114 West Michigan Street, LaGrange, Indiana 46761.
  - **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.
- **Map Maintenance Activities.** To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that LaGrange County flood maps, studies and other data identified in **Division 3, Subsection B** accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:
  - **Requirement to Submit New Technical Data**
    - 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:
      - Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.

- 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.
  - 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.
- 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.
- 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.
- 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 Subsection.
- **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 President of the Board of Commissioners of LaGrange County and may be submitted to FEMA at any time.
- **Annexation/Detachment.** Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the 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 LaGrange County's Flood Insurance Rate Map accurately represent the County's boundaries, include within such notification a copy of a map of the County suitable for reproduction, clearly showing the new corporate limits or the new area for which the County has assumed or relinquished floodplain management regulatory authority.
- **Variance Procedures**
  - The Board of Zoning Appeals (the board) as established by the Board of Commissioners of LaGrange County shall hear and decide appeals and requests for variances from requirements of this ordinance.
  - 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 LaGrange County Circuit Court as provided by State Statute.
  - In considering such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other Subsections of this ordinance, and:

- The danger to life and property due to flooding or erosion damage.
- The danger that materials may be swept onto other lands to the injury of others.
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- The importance of the services provided by the proposed facility to the community.
- The necessity to the facility of a waterfront location, where applicable.
- The compatibility of the proposed use with existing and anticipated development.
- The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- The safety of access to the property in times of flood for ordinary and emergency vehicles.
- The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters at the site.
- 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.
- A written report addressing each of the above factors shall be submitted with the application for a variance.
- 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 showing of good and sufficient cause.
  - A determination that failure to grant the variance would result in exceptional hardship as defined in **Division 2**.
  - 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.
- No variance for a residential use within a floodway subject to **Division 5, Subsection A (1), Subsection A (3) (a) or Subsection A (4)** of this ordinance may be granted.
- Any variance granted in a floodway subject to **Division 5, Subsection A (1), Subsection A (3) (a) or Subsection 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.
- Variances to the Provisions for Flood Hazard Reduction of **Division 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.
- 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 a “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.

- Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 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.
- 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 elevation.
- 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.

## Provisions for Flood Hazard Reduction

- **Floodplain Status Standards**
  - **Floodways (Riverine).** Located within SFHAs, established in **Division 3, Subsection 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 Division 3, Subsection 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).
    - 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 Division.
    - 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.

- 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 **Division 4, Subsection 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.
  - 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.
  - For all projects involving channel modifications or fill (including levees) LaGrange 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.
- **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 Division have been met.
  - **SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)**
    - 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 Subsection have been met.

- 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 Division have been met.
- **SFHAs not Identified on a Map**
  - 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.
  - 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 Division have been met.
- **Public Freshwater Lakes.** Within the SFHA are public freshwater lakes. Public freshwater lakes are governed by IC 14-26-2 (sometimes referred to as the Lakes Preservation Act) and rules adopted by the Natural Resource Commission at 312 IAC 11-1 through 312 IAC 11-5 to assist with its implementation. A listing of public freshwater lakes can be found in the Indiana Register, Information Bulletin #61. Noting while Lake Freeman and Lake Shafer are listed, Indiana Department of Natural Resources and Natural Resource Commission authority is abridged by IC 14-26-2-15. Dredging of public freshwater lakes is addressed in the Indiana Register, Information Bulletin #60.
  - Lakes Preservation Act jurisdiction is based on the specific lake's legally established lake level, where this legally established elevation (legal lake level) meets the land along the shoreline. When no legal lake level is established for a lake, average normal shoreline at each site is used, based on observation of breaks such as lakebed vs ground and lines of demarcation.
  - Indiana Department of Natural Resources approval is required for excavation, fill, and placement, modification, or repair of a temporary or permanent structure over, along or lakeward of the shoreline or waterline of a public freshwater lake. Walls landward of the shoreline (within ten (10) feet) and below legal or normal water

level of a public freshwater lake also require prior approval from the Department of Natural Resources.

- General licenses and exemptions to the Lake Preservation Act may apply to the placement of temporary piers, dry hydrants, aerators, or glacial stone reface, provided they meet the specific criteria of the Public Lakes Rules.
- No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval or qualification for a general license has been verified. Once a permit or approval has been issued by the Indiana Department of Natural Resources (or general license qualification verified), the Floodplain Administrator may issue the local Floodplain Development Permit, provided the applicable provisions contained in this Division have been met. The Floodplain Development Permit cannot be less restrictive than the permit issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.
- **General Standards.** In all areas of special flood hazard, the following provisions are required:
  - All new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
  - New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
  - Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
  - New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  - 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.
  - 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.
  - 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.

- Drainage plans must be provided to guide floodwaters around and away from proposed subdivisions.
- 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.
- Non-conversion agreements shall be required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
- Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard.
- **Specific Standards.** In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in **Division 3, Subsection B**, the following provisions are required:
  - **Building Protection Requirement.** In addition to the general standards described in **Division 5, Subsection B**, structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
    - Construction or placement of a residential structure.
    - Construction or placement of a non-residential structure.
    - Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50 percent 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.
    - Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50 percent 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).
    - Installing a manufactured home on a new site or a new manufactured home on an existing site.
    - Installing a travel trailer or recreational vehicle on a site for more than 180 days.
    - Reconstruction or repairs made to a repetitive loss structure.
    - Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.
  - **Residential Construction**
    - New construction or substantial improvement of any residential structures shall meet provisions described in **Division 5, Subsection A** and applicable general standards described in **Division 5, Subsection 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 FPG. 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 **Division 5, Subsection C (2) (c)**. Should fill be used to elevate a structure, the standards of **Division 5, Subsection C (2) (d)** must be met.

- **Fully Enclosed Areas.** Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirements:
  - 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. 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:
    - 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).
    - 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.
    - Doors and windows do not qualify as openings.
    - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
    - Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
  - The floor of such enclosed area must be at or above grade on at least one side.
- A residential structure may be constructed on **fill** in accordance with the following:
  - Fill shall be placed in layers no greater than 1 foot deep before compacting to 95 percent 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.
  - Fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
  - 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.
  - Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - Fill shall be composed of clean granular or earthen material.
- 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.

- **Non-Residential Construction**

- New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in **Division 5, Subsection A** and applicable general standards described in **Division 5, Subsection 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, elevated to or above the FPG or be floodproofed to or above the FPG. 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 **Division 5, Subsection C (3) (c)**. Should fill be used to elevate a structure, the standards of **Division 5, Subsection C (3) (d)** must be met.
- **Fully Enclosed Areas**. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirements:
  - 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. 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:
    - 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).
    - 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.
    - If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
    - 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.
    - Doors and windows do not qualify as openings.
    - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
    - Openings are to be not less than **three** inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

- The floor of such enclosed area must be at or above grade on at least one side.
  - A nonresidential structure may be constructed on **fill** in accordance with the following:
    - Shall be placed in layers no greater than one foot deep before compacting to 95 percent 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.
    - Shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
    - 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.
    - Shall not adversely affect the flow of surface drainage from or onto neighboring properties.
    - Shall be composed of clean granular or earthen material.
  - A nonresidential structure may be floodproofed in accordance with the following:
    - 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.
    - Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
  - 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.
- **Manufactured Homes and Recreational Vehicles**
  - These requirements apply to all manufactured homes to be placed on a site in the SFHA:
    - 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.
    - 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 **Division 5, Subsection C (2) (c)**.
    - Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
  - Recreational vehicles placed on a site in the SFHA shall either:
    - 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



## **Standards for Critical Facilities**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

# Article 13 Administration and Procedures

## Purpose

The purpose of this article is to identify the roles and responsibilities of the Board of County Commissioners, the Plan Commission, the Board of Zoning Appeals, and the duties of the Zoning Administrator in the administration and regulatory processes of this Ordinance.

## Summary Table of Procedures

The following table summarizes the review and decision-making responsibilities of the entities that have roles in the various regulatory procedures.

**Table XXXX: Summary Table of Procedures**

Procedure	Section Reference	Zoning Administrator	Plan Commission	Board of Zoning Appeals	County Commissioners
Zoning Text or Map Amendment	XXXX	S	R		D
Preliminary Planned Unit Development	XXXX	S	R		D
Final Planned Unit Development	XXXX	S	D		A
Development Plan (Primary Approval)	XXXX	S	D		
Variance	XXXX	S		D	
Use Variance	XXXX	S		D	
Conditional Use	XXXX	S		D	
Administrative Appeal	XXXX	S		D	
Administrative Adjustment	XXXX	S			
Certificate of Zoning Compliance	XXXX	S		A	

**S = Zoning Administrator Review R = Review and Recommendation D = Final Decision A = Appeal**

## Common Review Requirements

- **Authority to File Applications.** Unless otherwise specified in this ordinance, development applications may be initiated by:
  - The owner(s) of the property that is the subject of the application or an authorized agent of the owner;
  - The developer of the property;
  - Business owner or tenant; or

- A representative of LaGrange County.
- **Fees**
  - The Plan Commission may establish and set forth by ordinance a schedule of fees for the procedures listed in Table XXXX pursuant to IC 36-7-4-411.
  - Governmental entities shall not be required to pay any fee associated with an application to LaGrange County.

## Specific Procedures

- **Zoning Text or Map Amendment**
  - **Process Flow Chart**<sup>5</sup>. Applications for zoning text or map amendments shall follow the specific procedure outlines in subsection XXXX, which is summarized in the flow chart below.
  - **Initiation of Amendment**
    - Amendments to the Zoning Ordinance may be initiated in one of the following ways:
      - By adoption of a motion of the Plan Commission; or
      - By adoption of a motion of the County Commissioners.

The Zoning Administrator shall be charged with preparing the proposal pursuant to the requirements of IC 36-7-4-601 and subsequent amendments.
    - Amendments to the Zoning Map may be initiated in one of the following ways:
      - By a petition signed by property owners who own at least 50 percent of the land involved;
      - By adoption of a motion of the Plan Commission; or
      - By adoption of a motion of the County Commissioners.
  - **Application Requirements.** All applications for a zoning text or map amendment shall be completed on a form approved and provided by LaGrange County and include any and all additional information requested.
  - **Approval Process.** The following is the approval process for a zoning text or map amendment.
    - **Submit Completed Application**
      - Upon receipt of the application, the Zoning Administrator shall determine whether the application is complete. If it is not complete, the applicant shall be notified of the additional materials or information that are needed.
      - When the application is deemed complete, public notice of the hearing shall be provided in the following ways:
        - Notice shall be given by the Plan Commission at the expense of the petitioner by first class U.S. mail, on forms prescribed by the Commission. Said notices shall be given at least 10 days prior to the date of the public hearing.
        - Legal notice of the hearing shall appear in a newspaper of general circulation within the area involved at least 10 days preceding the hearing.

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<sup>5</sup> MDC will add in flow charts in the final draft of the UDO once the processes have all been reviewed and finalized.

- **Plan Commission Public Hearing.** A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.
- **Plan Commission Review.** In preparing and considering proposals to amend the zoning ordinance, the Plan Commission shall pay reasonable regard to the following matters in accordance with state law:
  - The LaGrange County Comprehensive Plan.
  - Current conditions and the character of current structures and uses in each district.
  - The most desirable use for which the land in each district is adapted.
  - The conservation of property values throughout the jurisdiction.
  - Responsible development and growth.
- **Plan Commission Recommendation.** After the public hearing, the Plan Commission shall forward the proposal to the County Commissioners with a favorable recommendation, an unfavorable recommendation, or no recommendation.
- **County Commissioners Meeting**
  - The County Commissioners, upon receipt of the recommendation by the Plan Commission shall set a date and time for a meeting on the proposed amendment.
  - Legal notice of the meeting shall appear in a newspaper of general circulation within the area involved at least 10 days preceding the hearing.
- **County Commissioners Review.** In preparing and considering proposals to amend the zoning ordinance, the County Commissioners shall pay reasonable regard to the following matters in accordance with state law:
  - The LaGrange County Comprehensive Plan.
  - Current conditions and the character of current structures and uses in each district.
  - The most desirable use for which the land in each district is adapted.
  - The conservation of property values throughout the jurisdiction.
  - Responsible development and growth.
- **County Commissioners Decision.** The County Commissioners pursuant to IC 36-7-4-607 shall vote on the proposal within 90 days after the Plan Commission certifies the proposal to:
  - **Adopt the Proposal.** If the County Commissioners vote to adopt the proposal, it shall take effect as other ordinances of the County Commissioners.
  - **Reject the Proposal.** If the County Commissioners vote to reject or amend the proposal, it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons for the rejection or amendment. The Plan Commission shall consider the rejection or amendment of the proposal and bring it to a vote within 45 days.





- The approval will not be injurious to the public health, safety, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- The need for the variance arises from some condition peculiar to the property involved;
- The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- The approval does not interfere substantially with the LaGrange County Comprehensive Plan.
- **Board of Zoning Appeals Decision**
  - The Board of Zoning Appeals shall review the application and the evidence presented to determine if the requested use variance complies with the review criteria and the intent and specific standards of Section XXXX (standards for a variance).
  - Following review of the application, the Board of Zoning Appeals shall approve or disapprove the request for a use variance. The Board of Zoning Appeals may impose additional conditions, stipulations, and safeguards it finds necessary for the protection of nearby property and the public health, safety, morals, and general welfare of the community.
  - The Board of Zoning Appeals shall make written findings of fact on all applicable criteria and shall provide the applicant with a copy of the findings.
- **Conditional Use**
  - **Process Flow Chart.** Applications for conditional use shall follow the specific procedure outlines in subsection XXXX, which is summarized in the flow chart below.
  - **Approval Process.** The following is the approval process for conditional use.
    - **Submit Completed Application**
      - The property owner or the owner's representative shall submit a conditional use application to the Zoning Administrator on a form provided by LaGrange County and include any and all information requested.
      - The Zoning Administrator shall determine whether the application is complete. If it is not complete, the applicant shall be notified of the additional materials or information that are needed.
    - **Board of Zoning Appeals Hearing**
      - When the application is deemed complete, public notice of the hearing shall be provided in the following ways:
        - Notice shall be given by the County at the expense of the petitioner by first class U.S. mail, on forms prescribed by the Board. Said notices shall be given at least 10 days prior to the date of the public hearing.

- Legal notice of the hearing shall appear in a newspaper of general circulation within the area involved at least 10 days preceding the hearing.
- **Board of Zoning Appeals Review.** A conditional use shall not be granted unless the Board of Zoning Appeals finds that all of the following conditional use standards have been met:
  - The proposed use is a conditional use in the zoning district for which it is proposed;
  - The proposed conditional use will be in accordance with the general objectives, or with any specific objective, of LaGrange County's Comprehensive Plan or this UDO;
  - The proposed conditional use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the neighborhood;
  - The proposed conditional use will not be hazardous or unreasonably disturbing to existing or future neighboring uses;
  - The proposed conditional use will be served adequately by essential public facilities and services such as streets, police and fire protection, drainage, water and sewer, or the persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such services;
  - The proposed conditional use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
  - The proposed conditional use will not involve uses, activities, processes, materials, equipment and conditions or operations that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
  - The proposed conditional use will have vehicular approaches to the property that are designed so as not to interfere with traffic on surrounding public thoroughfares; and
  - The proposed conditional use will not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.
- **Board of Zoning Appeals Decision**
  - The Board of Zoning Appeals shall review the application and the evidence presented to determine if the requested conditional use complies with the review criteria and the intent and specific standards of Section XXXX (standards for a conditional use).
  - Following review of the application, the Board of Zoning Appeals shall approve or disapprove the request for a conditional use. The Board of Zoning Appeals may impose additional conditions, stipulations, and safeguards it finds necessary for the protection of

nearby property and the public health, safety, morals, and general welfare of the community.

- The Board of Zoning Appeals shall make written findings of fact on all applicable criteria and shall provide the applicant with a copy of the findings.

- **Administrative Appeal**

- **Process Flow Chart.** Applications for an administrative appeal shall follow the specific procedure outlined in subsection XXXX, which is summarized in the flow chart below.

- **Approval Process.** The following is the approval process for an administrative appeal.

- **Submit Completed Application**

- The property owner or the owner’s representative shall submit an administrative appeal application to the Zoning Administrator on a form provided by LaGrange County and include any and all information requested.
- An appeal shall specify the ground thereof and shall be filed within 30 days of the decision to be in error. The administrative official or body from whom the appeal is taken shall forthwith transmit to the Board all documents, plans, and papers constituting the record of the action from which the appeal is taken.

- **Board of Zoning Appeals Hearing**

- When the application is deemed complete, public notice of the hearing shall be provided in the following ways:
  - Notice shall be given by the County at the expense of the petitioner by first class U.S. mail, on forms prescribed by the Board. Said notices shall be given at least 10 days prior to the date of the public hearing.
  - Legal notice of the hearing shall appear in a newspaper of general circulation within the area involved at least 10 days preceding the hearing.

- **Board of Zoning Appeals Review & Decision**

- The Board of Zoning Appeals may, so long as such action is in conformity with this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from. For this purpose, the board has all the powers of the official, officer, board, or body from which the appeal is taken.

- **Development Plans**

- **Process Flow Chart.** Applications for a development plan shall follow the specific procedure outlines in subsection XXXX, which is summarized in the flow chart below.

- **Approval Process.** The following is the approval process for a development plan.

- **Submit Completed Application**

- The property owner or the owner’s representative shall submit an administrative appeal application to the Zoning Administrator on a form provided by LaGrange County and include any and all information requested.



- To further the public interest in land development, the County has enacted new zoning regulations.
  - In some very limited situations, the application of such zoning or other land development regulations may deny a property owner all reasonable use of his property and consequently effect a taking under the United States Constitution.
  - To preserve and protect private property rights, an administrative process is desirable that would afford appropriate relief in those instances where zoning regulations lead to denial of a land development application and create a substantial economic hardship.
  - Such an administrative economic hardship/taking relief process would provide LaGrange County a quick and flexible means to respond to valid economic hardship and taking claims without necessarily incurring the time-consuming and significant expense of litigating such a claim in the courts.
- **Economic Hardship/Taking Standard.** For the purposes of this Ordinance, a substantial economic hardship shall be defined as a denial of all reasonable economic use of the property. Upon a finding that the denial of the application has resulted in a denial of all reasonable economic use of the property, LaGrange County may provide the petitioner with appropriate relief from the zoning regulations as set forth in this Ordinance.
- **Hardship Relief Petition.** Any applicant for development, after a final decision on his application is rendered by the Plan Commission, County Commissioners, or Board of Zoning Appeals, may file a Hardship Relief Petition with the County Auditor seeking relief from the zoning regulations on the basis that the denial of the application has created a substantial economic hardship, depriving the applicant of all reasonable use of property.
  - **Affected Property Interest.** The Hardship Relief Petition must provide information sufficient for the County Attorney to determine that the petitioner possesses a protectable interest in a property under the Fifth Amendment to the United States Constitution.
  - **Time for Filing Notice of Petition and Petition.** No later than 10 calendar days from final action by the Plan Commission, County Commissioners, or Board of Appeals on any development plan or other type of zoning application, the applicant shall file a Notice of Petition in writing with the County Auditor. Within 30 days of the filing of a Notice of Petition, the applicant shall file a hardship relief petition with the County Auditor.
  - **Information to be Submitted with Hardship Relief Petition.** The hardship relief petition must be submitted on a form prepared by the Zoning Administrator and must be accompanied by the materials and information specific in the Plan Commission Rules of Procedure.
- **Determination of Substantial Economic Hardship**
  - Prior to the appointment of a Hearing Officer and based on a review of documents submitted by the petitioner, the County Commissioners, upon advice of the County Administrator and the County Attorney, shall within 30 days after the petition is filed, make a determination whether the petitioner has made a prima facie case that the subject property has suffered a denial of all reasonable use that amounts to a substantial

economic hardship. Upon such showing of a prima facie case, a Hearing Officer shall be appointed and a full review of the hardship petition may proceed.

- If upon the advice of the County Administrator and the County Attorney, the County Commissioners find that the petitioner has not made a prima facie case of economic hardship as defined above, the petition for hardship relief shall be denied and no Hearing Officer shall be appointed.
- **Hearing Officer**
  - The County Commissioners shall, within 30 days following a preliminary determination of hardship appoint a Hearing Officer to review information by the petitioner, to hold a public hearing to determine whether there is an affected property interest and whether a substantial economic hardship has been created as a result of the final action on the application, and to make a recommendation to the County Commissioners concerning approval or denial of the Hardship Relief Petition.
  - Every appointed Hearing Officer shall have demonstrated experience in either development, real estate finance, real estate analysis, real estate consulting, real estate appraisal, planning, real estate or zoning law, or in other real estate related disciplines sufficient to allow understanding, analysis, and application of the economic hardship standard. Prior to appointment, the Hearing Officer shall submit a statement of no potential or actual conflict of interest. The Hearing Officer shall not be an employee or officer of LaGrange County.
- **Public Hearing**
  - Within 10 days following appointment of the Hearing Officer, written notice of a public hearing shall be published and posted in accordance with IC 5-3-1. The hearing shall be held within 30 days following the final date of written notice, unless both the County Administrator and the petitioner agree to a reasonable extension of time.
  - All public hearings conducted by the Hearing Officer to consider an economic hardship petition shall be conducted in accord with the rules and administrative procedures adopted by the County Commissioners to govern such actions.
- **Determination on Petition.** In applying the economic hardship standard in this Section, the Hearing Officer shall consider, among other items, the following information or evidence:
  - Any estimates from contractors, appraisers, architects, real estate analysts, qualified developers, or other competent and qualified real estate professionals concerning the feasibility, or lack of feasibility, of construction or development on the property as of the date of the application, and in the reasonably near future.
  - Any evidence or testimony of the market value of the property both under the uses allowed by the existing regulations and any proposed use; and
  - The petitioner shall have the burden of proving that the denial of the application created a substantial economic hardship under the standard provided in Section XXXX (Economic Hardship/Taking Standards) above.



the conclusion of the public hearing, unless extended by mutual agreement.

- **County Commissioners Review and Consideration**
  - The County Commissioners shall review the report and recommendations of the Hearing Officer and approve or disapprove the Hardship Relief Petition within 30 days after receipt of the Hearing Officer's report. Provided, however, that the County Commissioners may extend this period upon a finding that due to the size and complexity of the development or proposal and similar factors that additional review time is necessary.
  - The County Commissioners may hold a public hearing and provide notice as set forth in Section XXXX (Public Hearing) of this Ordinance. Only new testimony and evidence shall be presented at any public hearing held by the County Commissioners
  - The County Commissioners may adopt any legally available incentive or measure reasonably necessary to offset any substantial economic hardship as defined in Section XXXX (Economic Hardship/Taking Standards and may condition such incentives upon approval of specific development plans.
  - The decision of the County Commissioners shall not become final until it determines the provision of any such relief.
- **Time Limits/Transfer of Relief or Incentives.** Any relief or incentives adopted by the County Commissioners pursuant to this Ordinance may be transferred and utilized by successive owners of the property or parties in interest, but in no case shall the incentives be valid after the expiration date of a specific development approval.

### Pre-Existing Development and Nonconformities

- **Purpose and Intent.** Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is the general policy of the County to allow legally existing uses and structures to continue in productive use, but also to bring these uses as nearly into compliance with existing regulations as is reasonably possible. In furtherance of that policy, these regulations are intended to do the following:
  - Recognize the interests of property owners in continuing to use their property;
  - Promote reuse and rehabilitation of existing buildings; and
  - Place reasonable limits on the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.
- **Applicability.** This Ordinance applies to nonconformities created by initial adoption or amendments to this Ordinance. It also applies to nonconformities that were legal nonconformities under previously applicable ordinances, even if the type or extent of nonconformity is different.
- **Continuation Permitted.** Any nonconformity that legally exists on the effective date of this Ordinance or that becomes nonconforming upon the adoption of any amendment to this Ordinance may be continued in accordance with the provisions of this Ordinance.
- **Determination of Nonconforming Status**
  - The burden of establishing a legal nonconformity shall, in all cases, be the sole responsibility of the owner of such nonconformity.

- An illegal nonconforming use shall not be validated by the adoption of this Ordinance.
- The casual, intermittent, temporary, or illegal use of land, buildings, or premises shall not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.
- **Repairs and Maintenance.** Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this Ordinance. Nothing in this Ordinance shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an order of a public official.
- **Nonconforming Uses**
  - **Existing Nonconforming Uses.** The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance. However, only the portion of the land or water in actual use may be so continued, and the structure or area within which the use is contained may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or official order, so as to comply with the provisions of this Ordinance.
  - **Total Lifetime Structural Repairs.** Total lifetime structural repairs or structural alterations to a structure with a nonconforming use shall not exceed 50 percent of the assessed value of the structure at the time it became a nonconforming structure and use unless it is permanently changed to conform to the use provisions of this Ordinance.
  - **Change of Use**
    - **Change to Conforming Use.** A nonconforming use may be changed to any use that is allowed in the zoning district in which it is located, subject to all standards and requirements applicable to the new use. Once a nonconforming use is converted to a conforming use it may not be changed back to a nonconforming use.
    - **Change to Other Nonconforming Use.** The Board of Zoning Appeals may approve, per the conditional use process, a change in use from one nonconforming use to another nonconforming use if it finds that the new proposed use will be no more injurious than the previous use or will decrease the extent of the nonconformity. If the Board approves such a change of use, it shall be authorized to impose conditions it deems necessary to reduce or minimize any potentially adverse effect upon other property in the neighborhood, and to carry out the general purpose and intent of this Ordinance.
    - **Substitution of New Equipment.** The Board of Zoning Appeals may permit the substitution of new equipment (e.g., fencing, mechanical equipment) if such equipment will reduce the incompatibility of the nonconforming use with neighboring uses.
  - **Loss of Legal Nonconformity Status**
    - **Discontinuance.** If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance.



- 410, in a municipality within the county that has designated the LaGrange County Plan Commission as its plan commission.
- The Board of County Commissioners, acting as the legislative body, shall, after report and recommendation from the Plan Commission, approve or deny any proposed amendment to this Ordinance.
  - If the Commissioners reject or amend a proposal recommended favorably by the Plan Commission, the Commissioners shall return the proposal to the Plan Commission with the written reasons for the rejection or amendment, as provided in IC 36-7-4-607.
  - As provided in IC 36-7-4-607 and 608, if the Commissioners fail to act on a recommendation from the Plan Commission within the time limit prescribed by the Indiana Code, the Plan Commission recommendation stands as if the Commissioners had acted upon it.
- **Plan Commission**
    - **Powers and Duties**
      - The Plan Commission shall adopt rules for the conduct of its hearings and shall adopt by rule of schedule of reasonable fees for the following:
        - Processing and hearing administrative appeals and petitions for rezoning, conditional uses, and variances;
        - Issuing permits; and
        - Other official actions taken in accordance with IC 36-7-4.
      - The Plan Commission shall provide for notice and conduct public hearings on amendments to the map or text of this Ordinance, final planned unit developments, and development plans.
      - The Plan Commission shall forward proposals to amend the zoning map or the text of this Ordinance to the Board of County Commissioners with a favorable, unfavorable, or no recommendation in accordance with IC 36-7-4-607 and 608 and the Plan Commission’s Rules of Procedure.
      - The Plan Commission shall hear and approve, approve with conditions, or deny final planned unit developments and development plans as provided in Article X, Sections XXXX and XXXX of this Ordinance.
      - The Plan Commission may appoint a Hearing Officer. The Hearing Officer shall have the following powers and duties:
        - The right to hear and approve or deny variances from the development standards of the Zoning Ordinance except a lot size variance.
        - A development standard variance may be approved by the Hearing Officer only upon written determination as prescribed in this Article under Section XXXX (Development standards Variance).
    - **Membership.** The membership of the LaGrange County Plan Commission shall be appointed in accordance with IC 36-7-4-208.
  - **Board of Zoning Appeals**
    - **Powers and Duties**
      - The Board of Zoning Appeals shall hear and decide all applications for variances and conditional uses and all appeals from administrative decisions made under the provisions of this Ordinance.

- The Board of Zoning Appeals shall provide for public notice to interested parties of hearings before the board in accordance with IC 5-3-1-2 and IC 5-3-1-4 at least 10 days before the date set for the hearing. The Board shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice. The party taking the appeal or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties.
- The Zoning Administrator may appear before the Board at the hearing and present evidence relevant to the effect on the Comprehensive Plan or Zoning Ordinance of the granting of a variance or the determination of any other matter.
- The Board of Zoning Appeals shall make a decision on any matter that it is required to hear either at the meeting at which the matter is first presented, or at the conclusion of the hearing on that matter, if it is continued. Within five days of making a decision, the Board shall file a written copy of its decision in the office of the Board.
- The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings and record the specifics of each vote on all actions taken. All minutes and records shall be filed in the offices of the Board and shall be a public record.
- The Board of Zoning Appeals shall adopt rules of procedure concerning the filing of appeals, applications for variances, and conditional uses, giving of notice, conduct of hearings and other such matters as may be necessary to carry out its duties under this Ordinance. At the first meeting of each year, the Board shall elect a Chair and Vice-Chair from among its members.
- **Divisions.** In accordance with IC 36-7-4-902, three divisions of the Board of Zoning Appeals are hereby established, as follows:
  - Division 1 shall have authority over all matters within the unincorporated area of LaGrange County and within the Town of Shipshewana.
  - Division 2 shall have authority over all matters within the Town of LaGrange.
  - Division 3 shall have authority over all matters within the Towns of Topeka and Wolcottville.
- **Membership.** Each division of the Board of Zoning Appeals shall consist of five members appointed as follows:
  - **Division 1:**
    - Three citizen members residing in the unincorporated area of LaGrange County or of the Town of Shipshewana, appointed by the Board of County Commissioners, of whom one shall be a member of the Plan Commission and two shall not be members of the Plan Commission;
    - One citizen member residing in the unincorporated area of LaGrange County or of the Town of Shipshewana, appointed by the County Council, who shall not be a member of the Plan Commission; and

- One member, who shall be a citizen member or the county extension educator, appointed by the Plan Commission from its membership.
  - **Division 2:**
    - One citizen member of the Plan Commission, appointed by the Town Council of the Town of LaGrange;
    - Three citizen members who reside in the Town of LaGrange, appointed by the Town Council of the Town of LaGrange; and
    - One member who shall be a citizen member or the county extension educator, appointed by the Plan Commission from its membership.
  - **Division 3:**
    - One citizen member of the Plan Commission, appointed by the Board of County Commissioners;
    - One citizen member who resides in the Town of Wolcottville, appointed by the Town Council of the Town of Wolcottville;
    - One citizen member who resides in the town of Topeka, appointed by the Town Council of the Town of Topeka;
    - One citizen member who resides in the Town of Topeka or the Town of Wolcottville, appointed jointly by the town councils of the Towns of Wolcottville or Topeka; and
    - One member who shall be a citizen member or the county extension educator, appointed by the Plan Commission from its membership.
- **Limitation on Refiling.** Any petition approved by the Board of Zoning Appeals, unless otherwise stipulated, shall expire and become void one year after the date of its granting unless the petitioner or his agent has substantially put into effect the use on the property for which the petition was approved. Within 90 days of approval of a petition, the petitioner shall apply for an improvement location permit, zoning compliance certificate, or building permit as appropriate.
- **Majority Vote Required.** An affirmative vote by a majority of the Board of Zoning Appeals shall be required to approve or deny a petition before the Board.
- **Zoning Administrator**
  - **Authority.** The Zoning Administrator shall have the authority to take those lawful actions necessary to enforce the terms of this Ordinance on behalf of the Plan Commission and Board of Zoning Appeals.
  - **Powers and Duties**
    - The authority to perform inspections, review applications, issue permits, and grant administrative adjustments is hereby delegated to the Zoning Administrator.
    - The Zoning Administrator is authorized to issue zoning compliance certificates as described in Article 1, Section XXXX (Compliance).
    - The Zoning Administrator is authorized to make inspections of all lands located within the jurisdiction of the Plan Commission in order to enforce this Ordinance. In order to execute inspections, the Zoning Administrator shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out their duties in the enforcement of these

regulations. If the owner or occupant of the premises refuses to permit entry, the Zoning Administrator may make an application to any judge of the Circuit or Superior Courts of LaGrange County, Indiana, for the issuance of an administrative search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a violation of these regulations exists on such premises.

- The Zoning Administrator is authorized to approve administrative adjustments of no more than 10 percent to any numerical dimensional or intensity standard in accordance with the following criteria:
  - The adjustment is requested because it eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;
  - The requested administrative modification is of a technical nature and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.
  - The adjustment does not alter access to property nor on-site circulation;
  - The adjustment does not decrease the amount of off-street parking to an amount not adequate for the use. In determining the amount of parking that is adequate, the Zoning Administrator shall consider the amount otherwise required by the zoning ordinance for this use, the information available from the Institute of Traffic Engineers, empirical studies of the parking needs for the use.
- **Interpretation.** The Zoning Administrator is hereby authorized to interpret the various provisions of this Ordinance. The Zoning Administrator's interpretation may be appealed to the Board of Zoning Appeals. The Zoning Administrator shall follow the rules of interpretation contained in Article XXXX (Definitions).

## Enforcement and Penalties

- **Authority.** The Zoning Administrator shall have the authority to take those lawful actions necessary to enforce the terms of this Ordinance on behalf of the Commission and Board. The Zoning Administrator of LaGrange County is hereby designated as the official responsible for administration of this ordinance. The Zoning Administrator is hereby authorized to perform those duties specified by IC 36-4-700 et seq. and such other duties as may be assigned to it from time to time by the Commission, Board, County Commissioners.
  - **Inspections.** The authority to perform inspections, review applications and issue permits and citations is hereby delegated to the Zoning Administrator. The Zoning Administrator is authorized to make inspections of all lands located within the jurisdiction of the Commission in order to enforce this Ordinance. In order to execute inspections, the Zoning Administrator shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out their duties in the enforcement of these regulations. If the owner or occupant of the premises refuses to permit entry, the Zoning Administrator may make an application to any judge of the Circuit or Superior Courts of LaGrange County, Indiana, for the

issuance of an administrative search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a violation of these regulations exists on such premises.

- **Stop-Work Orders.** The Zoning Administrator is hereby granted the authority to issue a stop work order for any activity that commenced without a permit required by this Ordinance or for any activity that is being carried out in a manner that violates this ordinance.
- **Violations and Penalties**
  - **Complaint.** Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such a complaint stating fully the causes and basis thereof should be filed with the Zoning Administrator. The Zoning Administrator shall properly record such complaints and investigate in a timely manner. If acts elicited by such investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, such official shall issue a citation in accordance with this Section and/or file with the County Attorney a complaint against such person requesting action thereon as provided by this Ordinance and in accordance with law.
  - **Nuisance Declared.** Any buildings erected, raised or converted, or land or premises used in violation of any section of this Ordinance or regulation thereof is hereby declared to be a common nuisance and the owner thereof shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding.
  - **Penalties.** Any person who violates any Section of this Ordinance or regulation thereof or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with this Ordinance, shall be guilty of an ordinance violation and upon conviction, shall be fined in a sum not less than \$25 nor more than \$500 for each day's violation. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, realtor, agent, or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
  - **Injunction.** The Commission, the Board or any designated administrative official may institute a suit or injunction in the Circuit or Superior Court of LaGrange County to restrain any person from violating the Sections of this Ordinance. The Commission or the Board may institute a suit for mandatory injunction directing a person to remove a structure erected in violation of the Sections of this Ordinance or to make the same comply with its terms. If such Commission or Board is successful in its suit, the respondent shall bear the costs of the action including reasonable attorney's fees.
  - **Other Remedies.** Nothing herein contained shall prevent the County, City or Town from taking such other lawful action as is necessary to prevent or remedy any violation.
  - **Citations.** Any person who uses property in violation of this ordinance shall be deemed to have committed a civil zoning violation, and the Zoning Administrator may issue a citation. Each day a violation remains uncorrected is a distinct and separate civil zoning violation subject to an additional citation and fine in the amount prescribed in Table XXXX. In no event shall the total monetary fine for

each civil zoning violation exceed \$5,000.00. All fines prescribed by this Section for civil zoning violations shall be paid in accordance with the provisions of Indiana Law and the Ordinances of LaGrange County.

**Table XXXX: Schedule of Fines**

Violation	Amount of Fine
First Violation	\$50
Second Violation	\$100
Third Violation	\$200
Fourth Violation	\$350
Each Subsequent Violation	\$500

- The Zoning Administrator may issue a civil zoning violation to a person who commits a civil zoning violation to the legal owner, the contract vendee, or any person or entity with a possessor interest in the real estate upon which the violation occurs. The citation may be served by personal service, by certified mail, or by placement in a conspicuous place on the property where the violation occurs and shall serve as notice to a person that he or she has committed a civil zoning violation.
- No citation shall be issued for the first offense unless the person who commits a civil zoning violation, or the legal owner, the contract vendee, or any person or entity with a possessor interest in the real estate upon which the violation occurs has been issued a warning ticket. Unless a compliance deadline has already been established by the Board of Zoning Appeals or Plan Commission, an Improvement Location Permit, or Certificate of Occupancy, said person shall be allowed not less than three working days before the issuance of the citation to correct the violation. A longer time may be granted at the discretion of the Zoning Administrator, based upon the nature of the violation and the time required to correct it, provided that the time allowed shall not exceed 30 calendar days.
- A person who receives a warning ticket or a citation may file a petition for a variance, conditional use, rezoning, or other means provided by this Ordinance to correct the violation. A person who elects to file such a petition shall indicate this intent on the warning ticket or citation and return it to the Zoning Administrator within three working days. A person shall have 10 working days after issuance of the warning ticket to file the petition, and for violations involving permanent signs, additional monetary fines shall be stayed upon receipt of the notice of intent. A person who files the petition within the said time period shall pursue the petition in an expeditious fashion. If the petition is denied, withdrawn, or dismissed for want of prosecution, the Board shall establish a time limit for correction of the violation, not to exceed 30 calendar days. No fines shall be assessed during this correction period. After that time, if the civil zoning violation continues at the real estate, then a lawsuit will be commenced by the designated enforcement entity in a court of competent jurisdiction in LaGrange County, Indiana. A person who receives a citation under this

Section and elects to file a petition shall not be entitled to a stay of additional monetary fines.

- A person who receives a citation may elect to stand trial for the offense by indicating on the citation his intent to stand trial and returning a copy of the citation to the issuing agency. The returned copy of the citation shall serve as notice of the person's intent to stand trial, and additional monetary fines shall be stayed upon receipt of the notice. The notice shall be given at least five working days before the date of payment set forth on the citation. On receipt of the notice of intention to stand trial, a lawsuit will be commenced by the county attorney in a court of competent jurisdiction in LaGrange County. The matter shall be scheduled for trial, and a Summons and an Order to Appear shall be served upon the Defendant.
- If a person who receives a citation fails to pay the assessed fine by the date of payment set forth in the citation and fails to give notice of his intention to stand trial as prescribed above, the county attorney may file a civil lawsuit as provided by applicable laws and seek penalties as prescribed in this Ordinance.
- A person judged to have committed a civil zoning violation is liable for the Court costs and fees. No cost shall be assessed against the enforcement agency in any such action.
- Seeking a civil penalty as authorized by this Section does not preclude the county from seeking alternative relief from the court in the same action, or from seeking injunctive relief or any other remedy in a separate action for the enforcement of this Ordinance.
- A change of venue from LaGrange County shall not be granted in such a case, as provided in IC 36-7-4-1014.

# Article 14 Definitions

## Rules and Interpretations

- **General Definitions.** Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this UDO. The following shall apply:
  - Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.
  - A singular number shall include the plural number, and the plural the singular;
  - The word “building” shall include the word “structure.”
  - The word “used” shall be arranged, designed, constructed, altered, converted, rented, leased, or intended to be used;
  - The masculine shall include the feminine, and vice versa.
  - The word “shall” is always mandatory, and the words “may” or “should” are always permissive.
- **Lists and Examples.** Unless otherwise specifically indicated, lists of items or examples that use terms such as “including,” “such as,” or similar language are intended to provide examples, not to be exhaustive lists of all possibilities.
- **References to Other Regulations, Publications, and Documents.** Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.
- **Public Officials and Agencies.** All public officials, bodies, and agencies to which references are made are those of LaGrange County, unless otherwise expressly stated. Whenever reference is made to a public official Ordinance or name of a public agency, that reference shall be construed as referring to the most up-to-date Ordinance or agency name, or to the relevant successor official or agency.
- **Delegation of Authority.** Whenever a provision appears requiring the head of a department or another officer or employee of the County to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.
- **Undefined Words.** If a word is not defined in this UDO, the definition of a word is the commonly accepted definition.

## Definitions

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

### A.

**AASHTO.** The American Association of State Highway and Transportation Officials.

**Abutting.** Having a common border with or being separated from such a common border by a right-of-way, alley, or easement.

**Accessory Structure.** A structure with a floor area of 400 square feet or less that is on the same parcel of property as the principal structure and the use of which is incidental to the use of the

principal structure; an accessory structure specifically excludes structures use for human habitation.

- Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- 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.
- 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:
  - 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 o the same parcel as a principal residence.
  - Structures used by the public, such as a place of employment or entertainment.
  - 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).

**Accessory Use.** A use that is subordinate and incidental to the primary use or structure located on the same lot.

**Addition.** 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.

**Administrator.** The term “administrator” with respect to the Floodplain Regulations, means the person designated by the Board of Commissioners of the County of LaGrange to administer the Floodplain Regulations; the term includes any other person to whom the administrator has delegated a portion of his or her duties under this ordinance to the extent of such delegation.

**Adult Entertainment Establishment.** An adult bookstore, adult live entertainment arcade, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret, or adult service establishment as defined below:

- **Adult Bookstore.** An establishment having as a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.
- **Adult Cabaret.** A nightclub, bar, theater, restaurant, or similar establishment which frequently features live performances by topless or bottomless dances, go-go dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of Specified Anatomical Areas or which regularly feature films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of Specified Anatomical Areas for observation by patrons.

- **Adult Live Entertainment Arcade.** Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or both a series of live dance routines, strip performances, or other gyrational choreography which performances are distinguished or characterized by an emphasis on Specified Sexual Activities or by exposure of Specific Anatomical Areas.
- **Adult Motion Picture Arcade.** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors or other image-reducing devices are maintained to show images to 5 or fewer persons per machine at one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
- **Adult Service Establishment.** Any building, structure, premises or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving Specified Sexual Activities or display of Specified Anatomical Areas.

To further determine whether the above facilities are adult entertainment establishments, the following definitions shall apply:

- **Services Involving Specified Sexual Activities or Display of Specified Anatomical Areas means any combination of two or more of the following activities:**
  - The sale or display of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of Specified Sexual Activities or Specified Anatomical Areas;
  - The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of Specified Sexual Activities or Specified Anatomical Areas for observation by patrons;
  - The operation of coin or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors or other image producing devices to show images to 5 or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas;
  - Live performances by topless or bottomless dances, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- **Specified Anatomical Areas.** Specified anatomical areas means any of the following:
  - Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
  - Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Aerator.** A mechanical device placed within a public freshwater lake that is used to accomplish any of the following:

- Increase the amount of dissolved oxygen in the water.
- Increase the decomposition of organic materials.
- Alter water flow or circulation.
- Reduce icing.
- Enhance audio or visual enjoyment by bubbling or spraying water.

**Agribusiness.** A facility directed at meeting the needs of those engaged in local farming, such as the warehousing, sales, repair, and servicing of agricultural equipment, vehicles, feed, or supplies.

**Agricultural Building.** A structure utilized for the conduct of farming operations, but not including dwellings used for human occupancy.

**Agricultural Land.** As defined in IC 32-26-9-0.5 and subsequent amendments, means land that is:

- Zoned or otherwise designated as agricultural land;
- Used for growing crops or raising livestock; or
- Reserved for conservation.

**Agriculture/Agricultural Use.** Land that is used for the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designed as a conservation reserve plan, pastureland, poultry, or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees, apiary products, tobacco, or other agricultural products.

**Alcohol Production (Winery/Brewery/Distillery/Cidery), Large Scale.** A licensed building or property that produces more than 15,000 barrels per year whose primary purpose is to produce and sell alcoholic beverages for distribution and may include accessory commercial facilities such as a tasting room, restaurant, and event facilities.

**Alcohol Production (Winery/Brewery/Distillery/Cidery), Small Scale.** A licensed building or property that produces less than 15,000 barrels per year whose primary purpose is to produce and sell alcoholic beverages for distribution and may include accessory commercial facilities such as a tasting room, restaurant, and event facilities.

**Alley.** A minor way that provides vehicular access to the back side of property that abuts a street.

**Alteration of a Watercourse.** A dam, impoundment, channel relocation, change

**Amateur Radio Antenna.** A device that is designed to transmit and receive radio frequency for the purposes of private recreation.

**Ambient Baseline Sound Pressure Level.** The L90 A-weighted sound pressure emissions level (the level of sound exceeded 90 percent of the time) for a WECS project area prior to construction as determined by a baseline acoustics emissions study.

**Animal Boarding of Pets.** A facility in which five or more dogs or other domesticated animals more than six months of age are housed, groomed, bred, boarded, trained, or sold.

**Animal Breeding of Pets.** A facility in which five or more breeding females are housed, groomed, and bred to produce progeny meant for sale. Household pets include such animals as dogs, cats, and birds.

**Animal Feeding Operation (AFO).** An “animal feeding operation” or “AFO” in LaGrange County is defined as any farm that meets the following:

- Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period.
- Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over at least 50 percent of the lot or facility.
- The equivalent of 30 animal units as identified in Table XXX (AFO/CFO/CAFO Animal Units) or any other animal species that has more than 30,000 pounds of cumulative body weight on the farm parcel.

An AFO does not include facilities for aquatic animal production.

**Animal, Small.** Chickens, ducks, and rabbits.

**Antenna.** A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures.

**Appeal.** The term “appeal” with respect to the Floodplain Regulations, means a request for a review of the floodplain administrator’s interpretation of any provision of the Floodplain Regulations, a request for a variance, or a challenge of a board decision.

**Applicant.** The term “Applicant” when used in connection with or in respect of a WECS shall mean the person(s) and/or entity(ies) which is/are the developer and/or promoter of the WECS Project which prepares and files the initial application with Advisory Plan Commission for a WECS project, and the term shall include all successors and assigns of the initial Applicant. The term “Applicant” shall not include any person or entity which signs the application solely in the capacity as an Owner of an interest in real property in which the WECS shall be located.

**Area of Special Flood Hazard.** The land within a community subject to a one percent or greater chance of being flooded in any given year.

**As-Built Plans.** A drawing or drawings accurately indicating the location and design details of all improvements installed in relation to the subdivision.

**Auction House.** A structure or enclosure where goods or livestock are sold by auction.

**Authorized Encroachment.** Development in the riparian buffer that is otherwise prohibited as specified in the Watershed Conservation Overlay section XXXX.

**B.**

**Backlot Development.** The development of land by subdivision or severance or by any other means within 500 ft. of a waterbody that is separated from that waterbody by an existing lot(s) of record having a developable area sufficient in size to legally accommodate development.

**Base Flood.** The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one percent annual chance flood or 100 year flood.

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

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

**Bed and Breakfast.** As defined in IC 16-41-31-1 and subsequent amendments, an operator-occupied residence that meets the following conditions and does not include hotels, motels, boarding houses, or food service establishments:

- Provides sleeping accommodations to the public for a fee;
- Has not more than 14 guest rooms;
- Provides breakfast to the guests as part of the fee;
- Provides sleep accommodations for not more than 30 consecutive days to a particular guest.

**Best Available Flood Layer (BAFL).** 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 floodplain 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.

**Block.** Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or between the nearest intersection of an intercepting street and railroad right-of-way, waterway, or other definite barrier. For the purposes of this definition, a cul-de-sac less than 100 feet in length does not constitute an intersecting or intercepting street.

**Boarding or Rooming House.** A building, other than hotel/motels, bed and breakfasts, or multifamily dwellings, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants of the facility, is provided for a fee for up to 10 guests.

**Buffer.** The area of land lying adjacent to a body of water or drainageway in which development is prohibited or limited as set out in section XXXX.

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

**Building Height.** The height of a building is the vertical distance from the average finished grade of the structure to the highest points of the roof surface for flat roofs, the deck line of a mansard roof, or the average height level between eaves and ridge for a gable, hip, or gambrel roof.

**Building Line.** A line parallel to the street line touching that part of a building closest to the street.

**Building, Prefabricated.** 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.

**Building, Principal.** 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.

**Building Site.** A three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations, minimum yard setbacks, and is large enough to accommodate the principal structure, any on-site sewage disposal system, and customary accessory structures such as garages, decks, and patios.

**Business Service.** An establishment primarily engaged in rendering financial or contractual services to businesses or individuals. These uses include but are not limited to financial institutions, insurance services, printing, mailing, and packaging, photo finishing, billing services, employment services, protective services, and office equipment rental and leasing.

**C.**

**Campground and RV Park.** A lot or parcel on which two or more tents, cabins, lean-tos, recreational vehicles, or other similar object is established or maintained as temporary living quarters for recreation, education, or vacation purposes.

**Car Wash.** A facility used for the washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

**Cattle.** Shall include, but not be limited to, dairy cows, whether milked or dry, veal, calves, heifers, steers, bulls, and cow/calf pairs.

**Cemetery.** A lot or portion of a lot in any cemetery designated and maintained for the interment of a human body or bodies or remains thereof and for no other purpose.

**Cider Mill.** A facility or establishment that produces cider through the pressing of fruit. The fruit does not need to be produced on the same lot.

**Clinic, Medical.** An establishment in which patients are admitted on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers, and where patients are not usually lodged overnight.

**Cluster Treatment System or Cluster Private Sanitary Waste Disposal Treatment System.** A waste disposal system serving more than one lot and in which solids and grease are removed in one or more septic tanks and the effluent discharged to a common drainage field.

**Co-Applicant.** When used in connection with or in respect of a WECS shall mean a person or entity which executes an application for a WECS solely because of an ownership interest in real property to be used in connection with the WECS.

**Collector.** Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

**Commercial Center.** A group of four or more separately operated commercial establishments, planned, developed, owned, and managed as a unit, with common off-street parking provided on the property.

**Commercial Message.** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, industry, product, service, or other similar activity.

**Commercial Recreation (Indoor and Outdoor).** A privately owned and operated facility that offers activities related to fitness, purposeful relaxation and/or games.

**Commercial Solar Facility.** Also known as a Commercial Solar Energy System, means a facility that:

- Has a nameplate capacity of at least 10 megawatts; and
- Captures and converts solar energy into electricity;
  - For the purpose of selling the electricity at wholesale; and
  - For use in locations other than where it is generated.

**Commission.** The LaGrange County Plan Commission.

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

**Community Sewer System.** A package wastewater treatment plant or a cluster private sanitary waste disposal treatment system.

**Comprehensive Plan.** The complete plan or any of its parts for the development of LaGrange County adopted in accordance with IC 36-7-4 and subsequent amendments as is now or may hereafter be in effect.

**Concentrated Animal Feeding Operation (CAFO).** An “animal feeding operation” or “AFO” is defined as a “CAFO” if it stables or confines as many as or more than the number of animals specified in Table XXX (AFO/CFO/CAFO Animal Units).

**Confined Feeding.** As defined under IC 13-11-2-39 and subsequent amendments, the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:

- Animals are confined, fed, and maintained for at least 45 days during any 12 month period; and
- ground cover or vegetation is not sustained over at least 50 percent of the animal confinement area.

The term does not include the following:

- A livestock market:
  - where animals are assembled from at least two sources to be publicly auctioned or privately sold on a commission basis; and
  - that is under state or federal supervision.
- A livestock sale barn or auction market where animals are kept for not more than 10 days.

**Confined Feeding Operation (CFO).** The raising of animals for food, fur, or recreation in lots, pens, ponds, sheds, or buildings, where the total number of animals is consistent with Table XXX (AFO/CFO/CAFO Animal Units).

**Construction Plans.** Any maps or drawing accompanying a subdivision plat showing the location and design details of improvements to be installed for the subdivision in accordance with the requirements of this UDO.

**Construction Trailer and Material Storage.** The temporary use of a mobile home, or similar structure, as a construction office and surrounding area for the storage for materials to be used during the development of a new subdivision, office building, shopping center, industrial complex, and so forth.

**Convenience Store.** Any retail establishment not exceeding 3,500 square feet in area offering for sale prepackaged food products, household items, newspapers, and magazines, along with other convenience items such as sandwiches, donuts, salads, coffee, and fountain drinks.

**Critical Facility.** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

**Crop Production/Row Crops.** Commercial agricultural fields and orchards that include the production of field crops, flowers and seeds, fruits, grains, melons, ornamental crops, tree nuts, trees and sod, vegetables. Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing, and sales in the field not involving a permanent structure.

**County Commissioners.** The Board of County Commissioners of LaGrange County, Indiana.

**County Surveyor.** The LaGrange County Surveyor.

**Covenant.** A restriction placed on the development or use of land through a written, recorded instrument.

**Critical Wind Speed.** The wind speed at which WECS turbine sound pressure levels are at greatest variance with ambient background sound pressure levels.

**Cul-de-sac.** A street with only one outlet and having a paved, usually circular, turnaround at one end.

**D.**

**Deck.** An open platform, usually made of wood, with no walls or roof.

**Decommissioning Plan.** With regard to a WECS, shall have the meaning and include the requirements pursuant to the term of this UDO.

**Decommissioning Security.** With regard to a WECS, shall have the meaning and meet the requirements set forth in Article XXXX (Post Construction and continued maintenance requirements).

**Department.** The LaGrange County Planning Department.

**Developer.** Any individual subdivider, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under the Subdivision Regulations to effect a subdivision of land.

**Development.** The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

**Development, Floodplain Regulations.** The term “development” with respect to the Floodplain Regulations, means any man-made change to improved or unimproved real estate including but not limited to:

- Construction, reconstruction, or placement of a structure or any addition to a structure.
- 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.
- Installing utilities, erection of walls and fences, construction of roads, or similar projects.
- Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.
- Mining, dredging, filling, grading, excavation, or drilling operations.
- Construction and/or reconstruction of boat lifts, docks, piers, and seawalls.
- Construction and/or reconstruction of bridges or culverts.
- Storage of materials.
- 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.

**Development Agreement.** A document that establishes the contractual relationship between the developer of a subdivision and the County for the installation of improvements in accordance with the standards and specifications set forth in the Subdivision Regulations.

**Development Plan.** A specific plan required by this UDO and in accordance with IC 36-7-4 and all subsequent amendments, the 1400 Series, showing the development details as required by Article XXXX (Development Plans).

**Development Plan (WECS).** With regarding to a WECS, shall have the meaning and content and meet the requirements pursuant to the terms of this UDO.

**Discontinuance of Use or Abandonment.** The relinquishment of property or a discontinuance of the use of the property by the owner or lessee for a continuous period of one year or more.

**Drainage Plan.** With regards to a WECS, shall mean the storm water management plan approved by the LaGrange County Drainage Board for the WECS Project as required from this UDO.

**Drainage Swale.** A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, sued to conduct surface water from a field, diversion, or other site feature.

**Drainage System.** Any combination of surface and/or subsurface drainage components fulfilling the drainage requirements of this UDO.

**Drive-Through Window/Pick-Up Window/Drive-In.** An establishment which provides parking facilities and service to those facilities in order that patrons may utilize on-site goods or services without leaving their vehicles.

**Dry Hydrant.** A structure that does both of the following:

- Extends lakeward of the legally established or average normal waterline or shoreline.
- Provides a means of suction water supply without direct drafting for fire protection.

**Dwelling, Caretaker.** A dwelling located on the same parcel as a nonresidential principal use and occupied exclusively by either the owner, manager, caretaker, or operator, and his or her family, of a permitted principal use.

**Dwelling, Multi-Family.** A dwelling designed and constructed for or occupied by three or more families on a single lot. This would include apartments and condominiums.

**Dwelling, Secondary Dwelling.** A separate, complete housekeeping unit with a kitchen, sleeping area, and full bathroom facilities, which is either detached or located within the principal single-family residential structure and located on the same lot.

**Dwelling, Single Family.** A building that contains one dwelling unit and is not attached to any other dwelling unit.

**Dwelling, Townhomes.** A single-family attached dwelling consisting of one dwelling from ground to roof, a separate entrance and having more than one floor or story, but sharing walls with another dwelling unit or an accessory structure of another dwelling unit, where three or more dwelling units attached.

**Dwelling, Two Family.** A dwelling on a single parcel containing two dwelling units, each of which is totally separated from the other by an unpierced wall extended from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. An example of this is a duplex.

**Dwelling.** A building or part of a building, containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one or more families. In no case shall a manufactured home, motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling.

## **E.**

**Easement.** A grant by the property owner of the use of part of the owner's property by another for a specified purpose.

**Easement, Access.** A private way meeting the standards of this UDO that provides access to lots, tracts ,or parcels of land.

**Economic Development Agreement (WECS).** An agreement between the WECS Applicant, Owner and/or Operator, and the County setting forth the Applicant, Owner and/or Operator's financial commitment to support economic development and/or provide other financial assistance in the County, or any portion thereof.

**Educational Institution, Public.** An educational facility, which offers instruction in many branches of learning. These institutions include pre-school, elementary, middle, junior high, and high schools.

**Educational Institution, Private.** An educational facility which does not secure the majority of its funding from a governmental agency and offers instruction in many branches of learning. These institutions include pre-school, elementary, middle, junior high, and high schools.

**Elevation Certificate.** 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).** An area of a structure enclosed by walls on all sides.

**Enclosure Below the Lowest Floor.** See “Lowest Floor” and “Enclosed Area.”

**Erosion.** The wearing away of the land surface by the action of wind, water, or gravity.

**Event Center.** An establishment which is rented by individuals or groups to accommodate public or private functions including, but not limited to, banquets, weddings, birthday parties, anniversaries, receptions, and other similar celebrations and may or may not have a liquor license or open air facilities.

**Existing Manufactured Home Park.** A manufactured home park 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.** 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).

**F.**

**Family.** A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common management plan based on an intentionally structured relationship providing organization and stability. This definition does not include a group occupying a hotel, motel, club, nurses’ home, dormitory, or fraternity or sorority house.

**Farm-Based Business.** Businesses that are customarily associated with the agriculture practices in LaGrange County.

**Farm Supply Store.** An establishment involved in the retail sale of animal feeds, fertilizers, pesticides, seeds and other farm supplies, and non-mechanized equipment.

**Farm Worker.** A person other than the owner of the farm, who for pay performs labor either seasonally or year round in the production, planting, cultivation, or harvesting of farm products or the care of livestock.

**Farm Worker Housing.** Housing units that can only be occupied by farm laborers and their immediate family members. Each unit shall be self-contained with sanitation, shower, lavatory facilities, heating and electrical, and a kitchen. Housing shall be maintained to meet the current building codes.

**Farm Market.** A structure or portion thereof for the shelter, display, and sale of food products, as specifically authorized by Indiana House Enrolled Act 1309 and subsequent amendments, which products shall be produced on the premises with no space for customers within the structure

itself. The term Farm Market shall be synonymous with the term Roadside Stand throughout this Ordinance.

**FEMA.** The Federal Emergency Management Agency.

**Fence.** An upright, freestanding structure made of wood, stone, brick, metal, natural plants, or synthetic materials and designed to enclose, screen, or separate areas. Fences may not be made from trash, inoperable or junk vehicles, barrels, or any other material not designed to be used as fencing. A security fence called for by a provision of this UDO may be made of chain-link metal.

**Fill.** The term “fill” with respect to the Floodplain Regulations, 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.

**Flag.** A rectangular, square, or similarly shaped piece of lightweight fabric of distinct design that is used as a symbol of a nation, governmental entity, business, institution, organization, or similar entity.

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- The overflow of inland or tidal waters.
- The unusual and rapid accumulation or runoff of surface waters from any source.
- Mudslides (i.e., mudflows) which are proximately caused by flooding and area 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.** Any floodplain, floodway, floodway fringe district or any combination thereof as illustrated in the flood boundary and floodway map prepared by the Federal Emergency Management Agency. This is the area that is subject to the one percent annual chance flood, also referred to as a “one-hundred-year flood.”

**Flood Insurance Rate Map (FIRM).** 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).** 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.** Any land area acknowledged by a community as being susceptible to inundation by water from any source (See “Floodplain”).

#### **Flood Protection Grade**

- For residential buildings, the elevation of the lowest floor of a building or structure. If a building contains a basement, the basement is considered the lowest floor.

- For commercial and industrial buildings, the water surface elevation for which the building is protected according to standards and specifications established by the Federal Emergency Management Agency.

**Flood Protection Grade (FPG).** Is the BFE plus two feet at any given location in the SFHA (See “Freeboard”).

**Flood, Regulatory.** The flood having a one percent 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 Division 3, Subsection B of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**Flood-Related Erosion.** The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding.

**Floodplain or Flood Prone Area.** Any land area susceptible to being inundated by water from any source (See “Flood”).

**Floodplain Management.** 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.** 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 Certificate.** A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

**Floodway.** That area shown on the LaGrange County Flood Boundary and Floodway Maps of current adoption as meeting the definition of floodway promulgated by the Federal Emergency Management Agency and the Indiana Department of Natural Resources.

**Floodway Fringe.** That area shown on the LaGrange County Flood Boundary and Floodway Maps of current adoption as meeting the definition of floodway fringe promulgated by the Federal Emergency Management Agency and the Indiana Department of Natural Resources.

**Floodplain.** The floodway and the floodway fringe and any other areas indicated on the flood boundary maps as “flood prone areas” for which no data are available.

**Food Truck/Mobile Vendor.** A motor vehicle or trailer which is specifically designed or used for mobile food vending. This includes a motor vehicle or trailer within which individuals prepare or

serve food or beverages in a ready-to-consume state. It does not include the sale of groceries or vegetables and fruits not prepared for immediate consumption at the vehicle.

**Freeboard.** 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.

**Freight Services or Truck Terminals.** A premises used for loading or unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point and which is designed to accommodate the simultaneous loading or unloading of trucks.

**Fringe or Flood Fringe.** The portion of the floodplain lying outside the floodway.

**Frontage Road.** A street that is approximately parallel to and separated from an arterial street by a buffer strip and designed to provide access to property from one side only.

**Functionally Dependent Use.** 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.

**Funeral Home.** An establishment primarily engaged in the provision of services involving the care, preparation, or disposition of the deceased, including funeral services, funeral parlors or mortuaries but does not include crematoriums or cemeteries.

## **G.**

**Garage/Carport.** A building accessory to a residential use, or an enclosed area attached or integrated into a residential building, that is primarily designed and intended to be used for the storage of the private vehicles for the occupants of said residence and is not a separate commercial enterprise available to the general public.

**Garden Center.** A place of business where retail and wholesale nursery and garden products are sold. These uses import many of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

**Gas Station/Charging Station.** A use involving the retail dispensing of vehicular fuels or containing electric vehicle charging stations for public use. It may also include the sale of vehicle accessories such as lubricants, washer fluids, and ice scrapers.

**Glacial Stone.** A rounded stone that satisfies each of the following:

- Was produced by glacial activity.
- No individual stone weights more than 120 pounds.
- At least 90 percent of the material passes through a 12 inch sieve.
- Not more than 10 percent of the material passes through a six inch sieve.

**Grain Elevator.** A building for buying, selling, storing, discharging, and sometimes processing grain.

**Greenhouse, Accessory.** A building with a roof and sides made largely of a transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for personal use or enjoyment.

**Greenhouse, Commercial.** A building with a roof and sides made largely of a transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale.

## **H.**

**Hardship.** The term “hardship” with respect to the Floodplain Regulations, means the exceptional hardship that would result from a failure to grant the requested variance. The LaGrange County Board of Zoning Appeals requires that the variance must be 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.

**Hazardous Material.** A material which is defined in one or more of the following categories:

- **Carcinogenic.** A gas, liquid, or solid which is normally considered to be cancer causing or mutagenic. Examples: PCB’s in some waste oils.
- **Corrosive.** A gas, liquid, or solid which through repeated exposure or in a single large dose can be hazardous to man.
- **Explosive.** A reactive gas, liquid, or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure, or combinations thereof. Examples: dynamite, organic peroxides, and ammonium nitrate.
- **Highly Toxic.** A gas, liquid, or solid so dangerous to man as to afford an unusual hazard to life. Example: chlorine gas.
- **Ignitable.** A gas, liquid, or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.
- **Moderately Toxic.** A gas, liquid, or solid which through repeated exposure or in a single large dose can be hazardous to man.

**Health Department.** The LaGrange County Health Department.

**Highest Adjacent Grade.** The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**Historic Structure.** Any structure that is:

- 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;
- 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;
- 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
- 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.

**Home-Based Business, Class I.** A business that is clearly subordinate to a residential use and operated by occupants of the residence on the premises.

**Home-Based Business, Class II.** A home-based business that requires a zoning compliance certificate. A class II business includes but is not limited to music instruction, tax preparation, hair salon, financial planning, insurance sales, sewing and tailoring and repairs of small items.

**Hospital.** An institution that provides primary health services and psychological, medical, or surgical care to persons suffering from illness, disease, injury, deformity and other physical or mental conditions, that provides overnight accommodation for persons receiving treatment, and that includes as an integral part of the institution, related facilities such as laboratories, outpatient or training facilities.

**Hotel/Motel.** Any building or group of buildings containing guest rooms designed or intended to be occupied for sleeping purposes by guests for a fee, often with general kitchen and dining room facilities provided within the building or an accessory building, and that caters to the traveling public. The use may include associated administrative offices; the sale of food, beverages, and convenience items; and meeting rooms.

**Hydrologic and Hydraulic Engineering Analysis.** 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.

## **I.**

**IDEM.** The Indiana Department of Environmental Management.

**IDNR.** The Indiana Department of Natural Resources.

**Impaired Major Drainageway.** A body of water that is classified as an “inlet”, “lake”, or “river” in the Indiana Department of Environmental Management’s 303(d) List of Impaired Waters.

**Impaired Minor Drainageway.** A body of water that is classified as a “creek” or “ditch” in the Indiana Department of Environmental Management’s 303(d) List of Impaired Waters.

**Improvement Plans.** The maps, drawings, and text accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Subdivision Regulations as a condition of the approved plat.

**Industrial Park.** A tract of land that is planned, developed, and operated as an integrated facility for several individual industrial uses, with consideration to transportation facilities, circulation, parking, utilities, aesthetics, and compatibility.

**Industrial Processing.** The series of continuous actions that changes one or more raw materials into a finished product. Examples of industrial processing include but are not limited to chemical processing as in the processing of photographic materials; a specially processing method such as processing butter or cheese; or mechanical processing such as packaging a base product.

**International Code Council-Evaluation Service (ICC-ES) Report.** 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 and installed.

**ISDH.** The Indiana State Department of Health.

**J.**

**Junk.** Any scrap, waste, reclaimable material, or debris, that is for sale, or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use of disposition.

**Junkyard.** Any area, lot, or other parcel of land used for the storage, collection, processing, purchase, sales, salvage, or disposal of junk.

**K.**

**Keeping of Small Animals.** The housing of small animals on residential properties which includes female chickens, ducks, and rabbits.

**L.**

**Laboratory.** Facilities equipped for experimental study in a science or for testing and analysis; facilities providing opportunity for research, experimentation, observation, or practice in a field of study.

**LaGrange County Highway Standards.** The manual adopted by the Board of County Commissioners, and any amendments thereto.

**Lake.** As defined in IC 14-26-2-1.5, means a reasonably permanent body of water that:

- Existed on March 12, 1947;
- Is substantially at rest in a depression in the surface of the earth that is naturally created;
- Is of natural origin or part of a watercourse, including a watercourse that has been dammed; and
- Covers an area of at least five acres within the shoreline and water line, including bays and coves.

**Lake, Public Freshwater.** A naturally formed lake (not man-made) that has been used by the public with the acquiescence of a riparian owner. The term does not include the following:

- Lake Michigan.
- A lake lying wholly or in part within the corporate boundaries of any of the three cities having the largest population in a county having a population of more than 400,000 but less than 700,000.
- A privately owned body of water:
  - Used for the purpose of surface coal mining; or
  - Created as a result of surface coal mining.

A listing of Indiana public freshwater lakes is maintained in Natural Resources Commission Information Bulletin #61.

**Landscape Screen.** Any combination of fences, walls, hedges, shrubs, trees, and other landscape materials which effectively provide a solid, dense, and opaque mass, to prohibit view, absorb sound, and provide site delineation. Such a screen shall provide total opacity throughout the year.

**Legal Description.** A property description recognized by law that defines boundaries by reference to government surveys, coordinate systems, or recorded maps and is sufficient to locate property with oral testimony.

**Letter of Final Determination (LFD).** 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:

- **Conditional Letter of Map Revision (CLOMR).** 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.
- **Conditional Letter of Map Revision Based on Fill (CLOMR-F).** A letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- **Letter of Map Amendment (LOMA).** An amendment by letter to the currently effective FEMA map that establishes that a building or area of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- **Letter of Map Amendment Out as Shown (LOMA-OAS).** 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.
- **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.
- **Letter of Map Revision Based on Fill (LOMR-F).** FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

**Livestock.** Animals, other than customary domestic pets, commonly associated with agriculture. These include but are not limited to cows, cattle, sheep, goats, hogs, horses, mules, llamas, and poultry.

**Livestock Facilities.** Include all permanent or temporary buildings (or containment structures) used for housing and handling livestock, manure storage structures, feed storage, processing, and mortalities.

**Livestock Pasturing Operating.** Any livestock operation that uses pasture, as defined under this UDO, as the primary source of feed for the animals.

**Livestock Production not Requiring an IDEM Permit.** An operation or establishment which keeps, feeds, or raises livestock for commercial purposes and as the principal land use and does not meet the requirements of a confined feeding operation (CFO).

**Lot.** A platted parcel of land, sufficient in size to meet the lot width, lot frontage, lot area, and other open space provisions of this UDO, and separately owned, developed, and otherwise operated as a unit.

**Lot Area.** The computed area contained within the lot lines.

**Lot, Corner.** A lot abutting two or more streets at their intersection or upon two parts of the same street which form an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.

**Lot Coverage.** That portion of a lot that is covered by principal or accessory buildings or structure and by surfaces that prevent the passage or absorption of storm water such as paving and driveways.

**Lot, Cul-de-Sac or Curved.** A lot with frontage along a curved street or cul-de-sac.

**Lot, Interior.** A lot with only one frontage on a street and is not a corner lot.

**Lot, Flag.** A lot that does not front or abut a public right-of-way and where access to the public right-of-way is limited to a narrow strip of land.

**Lot Line.** The property lines bounding a lot.

**Lot Line, Front.** The line separating the lot from a street. On a corner lot, the front lot line shall be the shorter lot line abutting a street. If the lot lines are the same length, the front lot line may be either lot line abutting a street.

**Lot Line, Rear.** The lot line opposite to and the most distance away from the front lot line.

**Lot Line, Side.** Any lot line other than a front or rear lot line.

**Lot of Record.** A lot created in accordance with applicable regulations and shown or described on a plat or deed in the Office of the County Recorder.

**Lot Width.** The distance between the side lot lines measured along a straight line parallel to the front lot line at the front building line.

**Lowest Adjacent Grade.** The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway

**Lowest Floor.** The term “lowest floor” with respect to the Floodplain Regulations, means the lowest elevation described among the following:

- The lowest floor of a building.
- The basement floor.
- The garage floor if the garage is connected to the building.
- The first floor of a structure elevated on pilings or pillars.
- 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:
  - The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
  - At least two openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade

immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.

- 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 60.3.

**Lumber/Storage Yard.** A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold.

## **M.**

**Manual on Uniform Traffic Control Devices.** The book by that title prepared by the Joint Committee on Traffic Control Devices, U.S. Department of Commerce, Bureau of Public Roads, as amended.

**Manufactured Home.** 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.** A parcel (or contiguous parcels) of land divided into two or more manufacture home lots for rent or sale.

**Manufactured Home Park, New.** 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.

**Manufacturing/Production, Artisan.** Application, teaching, making, or fabrication of crafts or products by an artist, artisan, or craftsperson either by hand or with minimal automation and may include direct sales to consumers. This definition includes uses that employ activities and processes such as small-scale fabrication, welding, and coating, that are typically not permitted in non-industrial zoning districts.

**Manufacturing.** The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

**Manure.** Fecal material and urine from livestock, as well as animal-housing wash water, bedding material, rainwater or snow melt that comes in contact with fecal material or urine. Further liquid manure shall mean manure handled as a liquid or slurry.

**Marina.** A parcel of land that is utilized for one or more of the following activities:

- Provides storage for more than eight boats or watercraft.
- Provides servicing of boats and/or other watercraft.
- The sale of petroleum products for use in boats and/or other watercraft.

**Meat Processing Establishment.** A building where live animals are killed and processed; and/or a building where meat, poultry, or eggs are cooked, smoked, or otherwise processed or packed.

**Mini-Warehouse, Indoor Storage.** A building or group of buildings containing one or more individual compartmentalized storage units for the inside storage of customers' goods or wares.

**Mini-Warehouse, Outdoor Storage.** A building or group of buildings containing one or more individual compartmentalized storage units for the outdoor storage of customers' goods, wares, or vehicles.

**Mitigation.** 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.

**Mixed Use.** A building, lot, or development that contains a mixture of uses including residential, commercial, or industrial uses. Such uses may be mixed within one building (either horizontally or vertically) or within an overall development.

**Mobile Home.** A structure transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width at its narrowest dimension which when erected on site, is 320 or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained therein, and which was manufactured prior to the effective date of the Federal Manufactured Home Construction and Safety Act of 1974, which became effective June 15, 1976.

**Motor Vehicle.** Any machine designed or intended to travel over land, sea, or by air by self-propulsion or while attached to any self-propelled vehicle, i.e., camper, trailer, or travel trailer.

**Motor Vehicle (EV) Charging Station, Accessory.** Equipment that connects to an electric vehicle (EV) to a source of electricity to recharge electric vehicles.

**Motor Vehicle (EV) Charging Station, Level 1.** A slow speed charging station that typically operates on a 15- or 20-amp breaker on a 120-volt Alternating Current (AC) circuit.

**Motor Vehicle (EV) Charging Station, Level 2.** A medium speed charging station that typically operates on a 40- to 100-amp breaker on a 208- or 240- volt Alternating Current (AC) circuit.

**Motor Vehicle (EV) Charging Station, Level 3.** A high-speed charging station that operates on a high-voltage circuit.

## **N.**

**Natural Grade.** The term "natural grade" with respect to the Floodplain Regulations, 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.** The term "new construction" with respect to the Floodplain Regulations, means any structure for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**Noncommercial Concrete Batching Plant.** A temporary facility, incidental to a construction site that manufactures concrete from any combination of cement, cement supplement, fine aggregate, coarse aggregate, and water for immediate use.

**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.

**NPDES Permit.** A National Pollutant Discharge Elimination System permit.

**NRCS.** The National Resources Conservation Service.

**Nursery School/Daycare.** A place in which supervision, protection, and care is administered to a person or persons, by an adult other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption, but not including overnight lodging. Such uses may also include educational learning, such as preschool and kindergarten programs.

**O.**

**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.

**Office.** An accessory and subordinate use wherein services are performed involving predominately administrative, professional, or clerical operations.

**One-Percent Annual Chance Flood.** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year (See “Regulatory Flood”).

**Open Space.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment.

**Open Space, Common.** Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.

**Operator.** An individual or group of individuals, a partnership, a corporation, a joint venture, or any other entity owning or controlling one or more animal feeding operations or animal wintering operations.

**Operator (WECS).** When used in connection with or in respect of a WECS shall mean any person or entity which has the primary involvement with or responsibility for the use, operation, or maintenance of all or a portion of the WECS.

**Other Institutional Use.** Any institutional use that is not listed, as determined by the Zoning Administrator.

**Outdoor Display and Retail.** An accessory and subordinate use that is an unenclosed area exhibiting sample goods or merchandise. The items for sale must be from the principal business in which the outdoor display or retail area is associated with.

**Owner (Legal Title).** The person(s) listed in the most recent official records of the township or county assessor.

**Owner (WECS).** The term “Owner” when used in connection with or in respect of a WECS shall mean any person or entity and his, her or its assigns and successors in interest which has any ownership interest in any or all of the necessary devices to convert wind energy into electricity as herein defined as a WECS. The term “Owner” does not include any person or entity whose ownership interest in a WECS is limited to an interest in real property which is used in a WECS.

**P.**

**Package System or Package System Wastewater Treatment Plant.** A prefabricated mechanical treatment facility installed to treat the sewage generated from the lots in a subdivision.

**Parent Tract of Property.** The land from which the new lot or tract of land is being taken, as recorded in the recorder’s office at the time of adoption of this UDO. No lot created after the effective date of this UDO shall be considered to be a parent tract.

**Park or Recreational Facility, Public.** A place designed and equipped for the conduct of sports and leisure-time activities owned or operated by a unit of government or included in a subdivision approved by the Plan Commission and operated for the benefit of all of the lot owners in the subdivision.

**Park or Recreational Facility, Private.** A place designed and equipped for the conduct of sports and leisure-time activities owned or operated by a commercial enterprise or by a nonprofit organization.

**Pasture.** An area where crops, vegetative forage growth, or post-harvest residues are sustained for the purpose of grazing animals in that area.

**Pasturing.** A livestock operation in which animals graze in a pasture.

**Permit.** A non-expired written authorization pursuant to this UDO, as assigned and issued by competent authority.

**Person.** An individual, corporation, firm, partnership, association, organization, or any other unit or legal entity.

**Personal Care.** A facility that offers supervision, assistance, and activities for special populations. Uses include but are not limited to day care centers for children or adults, children’s homes, nursing homes, senior centers, and neighborhood social centers.

**Personal Services.** Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. These uses include but are not limited to laundry, dry cleaning, beauty or barber shops, diaper service, and shoe repair.

**Pets.** Any domesticated animal such as a dog, cat, bird, rodent (including a rabbit), fish, reptiles, or turtle, that is traditionally kept in the home for non-commercial purposes.

**Plant Nursery.** A premises used for growing plants or trees intended to be used as landscaping materials.

**Plat.** A map indicating the subdivision or resubdivision of land, and intended to be recorded in the LaGrange County Recorder’s plat books.

**Plat, Final.** A drawing prepared in accordance with the provisions of this UDO, submitted for secondary approval and intended for recording.

**Pond.** A small body of water formed naturally or by hollowing or embanking.

**Practical Difficulties.** Practical difficulties are defined as significant economic injury that:

- Arises from the strict application of the UDO to the conditions of a particular, existing parcel of property;
- Is not as significant as the injury associated with hardship, that is, it does not deprive the parcel owner of all reasonable economic use of the parcel; and
- Is clearly more significant than compliance cost.

**Primary Approval.** Approval granted by the Commission to a preliminary plat. The primary approval shall include all conditions need to bring the plat into conformance with this UDO.

**Principally Above Ground.** Means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**Prison.** A facility for the detention, confinement, treatment, or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail, and prison. These facilities house prisoners who are in the custody of city/county/law enforcement and the facilities are typically government owned.

**Professional Offices.** An office used by members of a recognized profession, including but not limited to architects, artists, dentists, engineers, lawyers, musicians, physicians, and surgeons.

**Projected Sound Emission Study.** A study predicting the sound pressure levels that will be produced by a WECS Project. This study shall include a brief summary of the study methodology and a sound contour map in five decibel increments displayed as an overlay on an aerial photograph of the project area to a minimum of 40 decibels. The study shall be done at the maximum turbine sound level as provided by the manufacturer.

**Public Building/Use.** Any building or land owned, leased, or held by the United States, the State of Indiana, the County of LaGrange, any city, town, special district, school district, or any other agency or political subdivision of the State or of the United States, which building, or land is used for governmental or public purposes.

## **R.**

**Raising of Exotic Animals.** The raising of any animal classified as exotic under 9 CFR 352.1 (k) which includes any reindeer, elk, deer, antelope, water buffalo, bison, buffalo, or yak.

**Recreational and Commercial Vehicle Parking.** The location of operable recreational or commercial vehicles owned by a resident of the site as an accessory to the primary use of the property.

**Recreational Vehicle.** Means a vehicle which is:

- Built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projections;
- Designed to be self-propelled or permanently towable by a light duty truck; and
- Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

**Religious Facility/Place of Assembly.** A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

**Repetitive Loss.** Means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25 percent of the market value of the structure before the damage occurred.

**Residential Living Facility.** Includes the following, or as defined by the Indiana Administrative Code.

- A sub-acute stabilization facility;
- A supervised group living facility;
- A transitional residential services facility;
- A semi-independent living facility; and
- An alternative family home operated solely by resident householders under this rule.

**Residential Outdoor Sale.** A residential outdoor sale consists of house, apartment, garage, and yard sales and are permitted in any residential district, but only when limited to the personal possessions of the owner or occupant of the dwelling unit at which such sale is being conducted.

**Restaurant.** An establishment engaged in the retail sale of prepared food and drinks for consumption on the premises or for carry-out.

**Resubdivision or Replat.** Any change in a map of a recorded subdivision plat affecting any street layout, easement, area reserved for public use, lot line, or affecting any map or plan legally recorded prior to the adoption of this UDO. A replat shall be considered a minor subdivision, provided that no new streets or roads or utility extensions are required. If streets or utility extensions are required, then the plan shall be considered a major subdivision.

**Retail, Artisan.** A retail establishment engaged in the sale of art, glass, ceramics, jewelry, furniture, and other handcrafted items.

**Retail, Big Box.** A single retail establishment containing 75,000 square feet or more.

**Retail, Food and Beverage.** A retail establishment for the preparation, display, and sale of meals, groceries, and liquor.

**Retail, General.** Establishments primarily engaged in the sale of goods or provision of services to the general public, including but not limited to department stores, furniture, carpet, interior decorating, upholstering, furrier, and office supply stores; restaurants and catering establishments; hotels, taverns and nightclubs; and storage, processing and/or conditioning when incidental to any of these uses.

**Retail, Micromobility.** A retail establishment engaged in the sale of micromobility devices that include but are not limited to bicycles and electric bicycles, electric scooters, skateboards, etc.

**Retail, Outdoor.** The display and sale of products and services primarily outside of a building or structure. Outdoor retail includes but is not limited to vehicle sales/rental, boat sales, farm equipment sales, farm market, auction house, lumberyards, and landscaping materials sales.

**Retail Services.** Establishments primarily engaged in the sale of everyday household and consumer goods, including but not limited to drugstores, variety stores, book and stationery stores, newsstands, candy and ice cream stores, grocery stores, florist, gift, antique, art, music, toy and hobby shops, package liquor stores, paint and wallpaper stores, jewelry stores.

**Riparian Area Vegetation.** Grasses, sedges, rushes, ferns, legumes, and forbs tolerant of intermittent flooding or saturated soils, established or managed as the dominant vegetation in the transitional area between upland and aquatic habitats.

**Riparian Owner.** Means, as provided in 312 IAC 11-2-19, the owner of land, or the owner of an interest in land sufficient to establish the same legal standing as the owner of land, bound by a lake. The term includes a littoral owner.

**Riverine.** Means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Row Crop.** A commercial agricultural field for the production of field crops, flowers, seeds, fruits, grains, vegetables, etc.

## **S.**

**Sawmill.** An establishment in which timber is sawed into planks, boards, etc., by machinery.

**Seasonal Sale.** The temporary sale of seasonal goods, which may include, but is not limited to, farmer's markets, and the sale of Christmas trees, pumpkins, and similar items. This use does not include the outdoor display or sales of goods from the principal business in which the display or sales is associated with.

**Secondary Approval.** The final approval granted to a major subdivision by the Zoning Administrator. This approval authorizes the owner or agent to record the plat.

**Semi-Public Land.** Land that is maintained by a private organization or citizen for use by a larger group of people to include employees, neighbors, or the general public.

**Setback.** The minimum distance required between a building and any lot line.

**Setback, Front Yard.** A setback that is measured from the front lot line.

**Setback Line.** The line that is the required minimum distance from any lot line and that establishes the area within which the building or structure must be erected or placed.

**Setback, Rear Yard.** A setback that is measured from the rear lot line.

**Setback, Side Yard.** A setback that is measured from the side lot line.

**Shopping Center.** A group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access and often with protection from the elements.

**Shooting Range (Indoor or Outdoor).** A permanently located and improved area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder and other similar sport shooting in an indoor or outdoor environment. The area may be publicly or privately

owned and operated for profit or not for profit. “Shooting range” does not include any area for the exclusive use of archery or air guns.

**Shoreline or Water Line.** Means the line formed, under IC 14-26-2-4, to delineate the surface boundaries of a public freshwater lake.

**Short Term Rentals.** In accordance with IC 36-1-24-6 and subsequent amendments, the rental of a single-family home, an accessory dwelling, a duplex, a multi-family dwelling, or a condominium for terms of less than 30 days at a time through a short-term rental platform. The term includes a detached accessory structure, including a guest house, or other living quarters that are intended for human habitation, if the entire property is designated for a single-family residential use. The term does not include property that is used for any non-residential use.

**Sign.** Any name, identification, description, illustration, symbol, statue, or device illuminated or non-illuminated which is visible from any public place or is located on private property and which is visible from the public right-of-way or other location outside of the property where the sign is located and which directs attention to a product, service, place, activity, person, institution, business or solicitation, or any emblem, painting, banner, pennant, placard, or temporary sign designed to advertise, identify or convey information, to include any landscaping wherein letters or numbers are used for the purpose of directing the public's attention to a product or location.

**Sign, Area.** The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim, and molding, but not including the supporting structure.

**Sign, Awning.** A sign that is mounted on or painted on an awning.

**Sign, Banner.** A sign on a lightweight fabric, or similar non-rigid material that is attached by at least two corners of such sign, to a building or structure. Flags of any country, state, unit of local government, institution of higher learning, or similar institution are not considered to be banners.

**Sign, Bench.** Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public roadway.

**Sign, Canopy.** A sign that is mounted on or painted on an attached canopy.

**Sign, Commercial.** A sign which directs attention to a business, profession, service, product, or activity sold or offered upon the premises where such sign is located.

**Sign, Construction.** A sign that is located on a lot that has active construction.

**Sign, Directional or Informational.** A sign on private property that gives direction such as location, entrances, exits, or street number to attractions.

**Sign, Electronic Message Center.** A sign that is capable of displaying words, symbols, figures, or images that can be electronically changed by remote or automatic means. May also be known as a variable message sign or a LED sign.

**Sign Face.** The surface of the sign which the message of the sign is exhibited.

**Sign, Inflatable.** Any sign or device that is capable of being expanded.

**Sign, Governmental.** A sign authorized by this municipality, another governmental agency, the State of Indiana, or the federal government. Such signs shall include, but not be limited to, street signs, safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, and signs of historical interest, informational signs, and the like.

**Sign, Ground Mounted.** A sign supported by one or more uprights, posts, or bases, in or upon the ground and not attached to any part of a building.

**Sign, Height.** The distance measured in a vertical plane from grade at the edge of pavement of the adjacent street from which the property has immediate access to the highest point of the sign.

**Sign, Illuminated.** Any sign lit by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.

**Sign, Menu Board.** Any signage pertaining to items, goods, or services offered by a drive-through business.

**Sign, Neighborhood Identification.** A sign at the entrance of a residential neighborhood identifying the neighborhood.

**Sign, Non-Commercial.** A sign that does not contain information or advertising for any business or commodity for sale, and is of a political, religious, or ideological nature.

**Sign, Nonconforming.** A sign in place before the effective date of this Ordinance that does not comply with all of the requirements of this Ordinance, but that does comply with all of the requirements of the previous Ordinance.

**Sign, Obscene.** A sign which contains words or pictures in which the dominant theme, taken as a whole, appeals to the prurient interest in sex or is patently offensive because it affronts the contemporary community standard relating to the description or representation of sexual material which is without redeeming social value.

**Sign, Obsolete.** A sign that no longer advertises or identifies a business conducted on the property or product sold.

**Sign, Permanent.** A sign that is attached to the ground or to a building in such a manner that it is not intended to be frequently removed or replaced and is not a portable or temporary sign as defined in this Ordinance.

**Sign, Projecting.** A sign affixed to any part of a building or structure which extends beyond the building or structure by more than 12 inches.

**Sign, Revolving.** A sign which in its entirety or in part moves in a revolving manner.

**Sign, Roof.** A sign erected, constructed, or maintained upon, or which projects above the roof line of a building.

**Sign, Portable Sandwich.** An advertising or business ground sign constructed in such a manner as to form an "A" or tent-like shape, hinged, or not hinged at the top; each angular face held at an appropriate distance by a supporting member.

**Sign, Residential.** A sign, temporary in nature, that is located on a residential property such as a real estate sign.

**Sign, Snipe.** A sign that is posted, tacked, nailed, pasted, glued, or otherwise attached to trees, utility poles or structures, street lights, fences, or any other object on public property or within the public right-of-way.

**Sign, Special Event/Auction.** A sign for events such as grand openings, vehicle shows, displays, craft shows, benefits, fund-raisers, festivals, auctions, and other limited term events.

**Sign, Temporary.** A sign that is neither permanently anchored to the ground, nor permanently affixed to a structure, nor mounted on a chassis, and/or is intended for a limited period of display.

**Sign, Unsafe.** Any sign that becomes insecure, in danger of falling or otherwise unsafe but not considered an immediate danger by the Ordinance Enforcement Officer to the health or safety of the public.

**Sign, Vehicle.** Advertisements or graphics that are affixed to a vehicle and which are intended to advertise a business, but does not include license plates, license plate frames, or vehicle brand.

**Sign, Window.** A sign applied, painted, or affixed to, or in the window of a building or structure and clearly visible from the street, alley, or parking area.

**Sign, Wall.** A sign attached to, painted upon, placed against, or supported by the exterior surface of any building or structure.

**Small Wind Energy Conversion System (SWECS).** A wind energy system designed and installed exclusively for the on-site use of any associated electric power generation with a manufacturer's rating of 10 kilowatts or less.

**Solar Panel Array.** A freestanding configuration of solar panels for residential or light commercial use, which configuration shall not exceed nine hundred square feet in area.

**Solid Waste Disposal Facility.** Any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

**Special Flood Hazard Area (SFHA).** Synonymous with "areas of special flood hazard" and floodplain, those lands within the jurisdiction of the County subject to a one percent 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 and Flood Insurance Studies as Zones A, AE, A99, or VE. 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.

**Sport Court.** An accessory structure and/or land that is designed and used for the conduct of sports.

**Stable, Commercial.** A structure and/or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.

**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.

**Start-Up Business.** A start-up business requires a zoning compliance certificate and includes but is not limited to contracting, catering, blacksmithing, cabinet making, small wood product maker, or service shop.

**Storage, Boat/Watercraft.** An accessory structure and/or land that is designed for the storage of a boat or other similar watercraft.

**Storage, Enclosed.** The keeping, in a roofed area, of any goods, material, merchandise, vehicles, trailers, or equipment in the same place for more than 24 hours.

**Storage, Outdoor.** The keeping, in an unroofed area, of any goods, material, merchandise, vehicles, trailers, or equipment in the same place for more than 24 hours.

**Street.** A right-of-way dedicated or otherwise legally established for public use, which affords the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name. A street may also be classified according to the function as follows:

- **Expressways.** Limited-access highways that carry large volumes of traffic and are of more importance regionally than locally. They provide continuous, high-speed traffic flow.
- **Arterial Streets.** High-capacity, high-volume streets that provide access to and through the county. The primary function of these streets is traffic movement, not access to property.
- **Collector Streets.** Medium-volume roads that collect and distribute traffic from lower-classification streets to arterials and expressways or activity centers. Traffic movement on these roads is a higher priority than access to property.
  - **Major Collector Streets.** Intended primarily for non-residential traffic. Direct access to property from these streets is extremely limited.
  - **Minor Collector Streets.** Intended primarily for residential traffic. Direct access to property from these streets is permitted under specified circumstances.
- **Local Streets.** Medium-volume roads that form the majority of the county road network. Often they are part of the numbered county road system and are typically longer than subdivision streets. While in some cases these streets may provide direct access to property, their primary function is traffic movement.

- **Subdivision Streets.** Low-capacity, low-speed roads intended primarily to serve as direct access to property.

**Street, Dead-End.** Any street with only one outlet but having no paved turnaround at the closed end.

**Street, Half.** A street for which only half the required right-of-way is dedicated or improved.

**Structure.** Anything constructed or erected on the ground or having a fixed location on the ground or attached to something having a fixed location on the ground, including but not limited to buildings, factories, sheds, detached garages, cabins, mobile homes, manufactured homes, free-standing signs, and other similar items.

**Subdivider.** Any person who:

- Having an interest in land, causes it, directly or indirectly, to be subdivided as defined herein, or;
- Directly or indirectly, sells, leases, or develops or offers to sell, lease or develop, or advertises to sell, lease, or develop, any interest, lot, parcel, site, or unit in a subdivision, or;
- Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, or unit in a subdivision; or
- Is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

**Subdivision.** The division of a lot of record into two or more Lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, allocation, distribution, transfer, hold for investment or development, either on the installment plan or upon any and all other plans, terms, and conditions, including re-subdivision. Subdivision includes the division or development of land zoned for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

**Subdivision, Major.** All subdivisions other than those subdivisions defined as “Minor Subdivisions.”

**Subdivision, Minor.** A division of land fronting an existing public right-of-way, not requiring any new streets, alleys, roads, or opening of a new public right-of-way, results in the creation of five or less lots, and complies in all other respects with the UDO.

**Substantial Improvement.** 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.

**Subsurface Drainage.** A system of pipes, tile, conduit, or tubing installed beneath the ground surface used to collect ground water from individual parcels, lots, or building footings.

**Surface Drainage.** A system by which the stormwater runoff is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways, yards, etc., so that the stormwater runoff is removed without ponding and flows to a drainage swale, open ditch, or a storm sewer.

**Surface Water.** Waters of the state located on the ground surface such as lakes, ponds, marshes, watercourses, waterways, reservoirs, rivers, and creeks.

**Swimming Pool.** Any artificial basin of water constructed or erected for wading or swimming.

## **T.**

**Temporary Structure.** A structure designed, built, created, or occupied for short and/or intermittent periods of time and shall include tents, lunch wagons, dining cars, trailers and other roofed structures on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, Assembly, educational or recreational purposes.

**Temporary Structure (Public Freshwater Lakes Only).** A structure that can be installed and removed from the waters of a public freshwater lake without using a crane, bulldozer, backhoe, or similar heavy or large machinery. Examples of a temporary structure include the following:

- A pier that is supported by auger poles or other poles that do not exceed 3½ inches in diameter and rest on the lakebed; and is not mounted in or comprised of concrete or cement.
- A boat shelter, boat lift, or boat hoist that has a canvas top and sides; is supported by auger poles or other poles that do not exceed 3½ inches in diameter; is not mounted in or comprised of concrete or cement; is designed to float or to rest upon the bed of the lake under its own weight if any structure to which it is attached complies with this Subsection; and, is not wider than 10 feet nor longer than 20 feet.

**Thoroughfare Plan (Official).** The part of the comprehensive plan now or hereafter adopted which includes a major street and highway plan and sets the location, alignment, identification, and classification of existing and proposed public streets, highways, and other thoroughfares.

**Transient.** Only lasting for a short time; impermanent, a person who is staying or working in a place for only a short time.

**Transportation Plan.** A detailed route plan recommended by the WECS Transportation Committee and approved by the LaGrange County Commissioners used for construction and maintenance by a WECS including plans for temporary road closures and traffic rerouting, plans for the repairs, replacement and/or reconstruction of all damage to roads, bridges, signage, vehicles, drainage structures, and other public or private improvements damaged by the WECS construction and maintenance, and the posting or repair, replacement and maintenance bonds and such other matters as may be determined to be necessary and appropriate to protect the health and safety of motorists and to preserve and maintain the affected roads, bridges, and other public and private improvements.

## **U.**

**Unnecessary Hardship.** Unnecessary hardship is defined as significant economic injury that:

- Arises from the strict application of this UDO to the conditions of a particular, existing parcel of property;
- Effectively deprived the parcel owner of all reasonable economic use of the parcel; and
- Is clearly more significant than compliance cost or practical difficulties.

**Utility Plants or Substations.** Electrical switching facilities and primary substations, and other services which are necessary to support principal development and involve minor structures such as lines and poles. This definition excludes generating plants.

**V.**

**Variance.** A grant of relief from the requirements of the UDO consistent with the variance conditions contained herein.

**Vehicle Service and Repair, Minor.** An establishment engaged in the minor repairs to any vehicle, including repairs and replacement of cooling, electrical, fuel, and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, and repair and replacement of shock absorbers.

**Vehicle Service and Repair, Major.** Repair of construction equipment, commercial trucks, and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted.

**Vehicle Sales/Rental.** An Establishment primarily engaged in the retail sale or rental of new and used automobiles, noncommercial trucks, motor homes or recreational vehicles, including incidental storage, maintenance, and servicing.

**Vehicle Storage, Outdoor.** A facility for the storage of vehicles for a period of time greater than 24 hours not in an enclosed building.

**Veterinary Clinic, Small Animals.** Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases or injuries to all size animals; includes household pets, such as dogs, cats, and birds that are admitted for examination and medical treatment. The use does not include medical care for large animals or livestock.

**Veterinary Clinic, Large Animals.** Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases or injuries to all size animals. Such an establishment may include accessory boarding facilities provided they are located inside the building. Larger animals and livestock such as, but not limited to, horses, cows, sheep, and pigs are permitted in this classification as well as small animals, including household pets.

**Violation.** The failure of a structure or other development to be fully compliant with this UDO.

**W.**

**Walled and Roofed.** A building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

**Warehousing/Distribution Center.** Establishments or places of business primarily engaged in handling freight (with or without maintenance); selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies; or the intake of goods and merchandise, individually or in bulk, the short-term holding or storage of such goods or merchandise, or the breaking up into lots or parcels and subsequent shipment off-site of such goods and merchandise. This definition includes facilities such as distribution operation; storage and transfer establishments; and distribution from truck yards.

**Waste Disposal Facility.** A tract of land that is used to store or process materials that are discarded by households, businesses, industries, or other entities. Waste includes both recyclable and non-recyclable materials.

**Watercourse.** 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.

**WECS Net Salvage Value.** The net value of the towers, nacelles, generators, turbines, blades, wires, transformers, and all other saleable parts and commodities which make up the WEC whether sold as used parts or on a commodity/scrap basis or any combination thereof (whichever is greater) after deducting all estimated costs and expenses of sale (including but not limited to all commissions and fees) and the amount necessary to pay and satisfy all liens, security interests, and other encumbrances attaching to the WECS. The commodity/scrap value shall be based on the prior five years average scrap value of the commodity.

**Welding/Electroplating.** Establishments primarily engaged in manufacturing welding equipment, electric welding apparatus and accessories.

**Wetland.** Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions. The Indiana Wetlands Inventory Maps produced by the Indiana Department of Natural Resources Division of Water will be used as references in determining the size and location of wetlands.

**Wholesaling.** 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; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Wind Energy Conversion System.** All necessary devices referred to in the Zoning Ordinance that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer and electrical cabling from the WECS Tower, the substations, switching stations, meteorological towers, communication facilities and other required facilities and equipment, as related to the WECS project.

**Wind Energy Conversion System Overlay.** This district is intended to define areas, which because of their location and wind resources, are recommended and best suited for the establishment of commercial WECS. This district will permit and regulate the development of WECS to minimize impact on underlying zoning district and potential for conflict with other uses.

**Wind Energy Conversion System Project.** The collection of WECS – Commercial (as defined) as specified in the Development Plan (alternatively “the WECS Overlay Application”) pursuant to this ordinance.

**Wrested Vegetation, Point Of.** That point at the edge of a stream where vegetation has been moved or wrested as a result of normal stream flow or wave action.