Area Plan Commission Board Member Establishing Ordinance
Wells County Zoning Ordinance
Wells County Subdivision Control Ordinance
Wells County Ordinance for Flood Hazard Areas

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Carolyn C Bertsch
Wells County Recorder IN
Recorded as Presented

Jurisdictions:
County of Wells, IN | City of Bluffton, IN | Town of Ossian, IN
Town of Zanesville, IN | Town of Uniondale, IN
Town of Poneto, IN | Town of Vera Cruz, IN

Prepaired By:
Wells County Area Plan Commission
113 W. Washington St., Bluffton, IN 46714
wcapc@wellscounty.org | Ph. 260-824-6407 | Fax. 260-824-6415

"Building a stornger community through proactive planning!"

Wells County Zoning and Floodplain Management Ordinance and Wells County Subdivision Control Ordinance Amendment Summary as of May 5, 2008

WCZFMO – Wells County Zoning and Floodplain Management Ordinance (2008-2013)
WCSCO – Wells County Subdivision Control Ordinance
APCBMEO – Area Plan Commission Board Membership Establishing Ordinance
WCZO – Wells County Zoning Ordinance
WCOFHA – Wells County Ordinance for Flood Hazard Areas

Date	Ordinance	Amendment Description
July 6, 2010	WCZFMO WCSCO	WECS Ordinance Revision along with other miscellaneous amendments.
December 10, 2010	WCZFMO	Historic Monument amendment to sign ordinance.
March 28, 2011	WCZFMO	Special Exception section update and the addition of the Concrete Manufacturing Special Exception.
November 23, 2011	WCZFMO WCSCO	WECS Ordinance and Definition Technical Update
September 6, 2012	WCZFMO	Add Manure Lagoon and Satellite Manure Lagoon to CAFO Control Article
September 20, 2012	WCZFMO	Add Manure Lagoon and Satellite Manure Lagoon to CAFO Control Article - Vera Cruz
April 11, 2013	WCZFMO WCSCO	Clarify Public Use Area in CAFO Control Article and amend fee schedule
May 15, 2013	WCZFMO	Revision to WECS Ordinance setbacks and shadow flicker
October 16, 2014	APCBMEO WCZO WCSCO WCOFHA	Revision to the APC board membership establishing ordinance, removed the floodplain management section of the zoning ordinance, and created the ordinance for flood hazard areas.
September 11, 2015	WCZO WCSCO	Revision to Development Plans, BZA, and miscellaneous changes in the Wells County Zoning Ordinance and Wells County Subdivision Control Ordinance.
January 2, 2017	WCZO	Revision to Land Uses, Special Exceptions, Signs, Recreational Vehicles, Development Plans, Heavy Haul Routes, and miscellaneous changes in the Wells County Zoning Ordinance.
September 4, 2017	WCZO WCSCO	Revision to Land Uses, Setback Measurements, Power Plant Overlay District, Right-Of-Way Grants for Minor Subdivisions, and miscellaneous changes to Wells County Zoning Ordinance and Wells County Subdivision Control Ordinance.
December 7, 2018	WCZO WCSCO	Permitting, Home Occupations, Lot Requirements, Dwellings, Parking, Street Regulations, and other miscellaneous changes to Wells County Zoning Ordinance and Wells County Subdivision Control Ordinance.
December 12, 2019	WCZO	Accessory Structures, Special Exceptions, Manufacturing Definitions, Bank/Credit Permitted Use and Definitions, Manufactured Home Age Requirements, and Enclosed Mortality Composting Definition.
March 9, 2020*	WCZO	Fee Schedule, Solar Development Plan, and Solar Definitions

*Current Ordinances

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TITLE 1: AREA PLAN COMMISSION BOARD MEMBERSHIP ESTABLISHING ORDINANCE

An Ordinance adopting the Area Plan Commission board membership for the Wells County Area Plan Commission.

Whereas, the County of Wells, the City of Bluffton, the Town of Ossian, the Town of Poneto, the Town of Uniondale, the Town of Vera Cruz, and the Town of Zanesville (hereinafter the "Wells County Area Plan Participants") have previously enacted the Wells County Area Plan Commission, an Ordinance adopting the Area Plan Law; and

Whereas, the Wells County Area Plan Participants do hereby proclaim that IC 36-7-4-207 does not provide for equitable representation of the rural and urban population of Wells County; and

Whereas, IC 36-7-4-211 (a) provides that notwithstanding any other provision of the area planning law, the representation on any area plan commission may be changed by a similar ordinance adopted by the legislative body of each unit that is a participant in a planning department or by the legislative body of each unit that proposes to form a planning department; and

Whereas, IC 36-7-4-211 (b) provides that each ordinance adopted under this section must provide for at least one (1) representative from each unit that is a participant in the planning department;

NOW THERFORE, BE IT ORDAINED BY THE WELLS COUNTY AREA PLAN PARTICIPANTS OF WELLS COUNTY, IN:

That, pursuant to IC 36-7-4-211, the legislative bodies of the Wells County Area Plan Participants do hereby change the representation of the Area Plan Commission to consist of eleven (11) members as follows:

1 **MEMBERSHIP:** This Ordinance hereby sets forth the membership of the Wells County Area Plan Commission (APC) in full compliance with IC 36-7-4-211.

- **1.1** Wells County shall have five (5) members on the APC. These five (5) members shall be appointed in compliance with the following:
  - **1.1.1** Member One shall be appointed by the county executive from its membership or the county executive's designee who is a resident of the county.
  - **1.1.2** Member Two shall be a citizen member who is a resident of the county who is appointed by the county executive.
  - **1.1.3** Member Three shall be appointed by the county fiscal body from its membership or the county fiscal body's designee who is a resident of the county.
  - **1.1.4** Member Four shall be the county surveyor or the county surveyor's designee.
  - **1.1.5** Member Five shall be the county agricultural extension educator.
- **1.2** The participating City and Towns shall have six (6) members on the APC. These six (6) members shall be appointed in compliance with the following.
  - **1.2.1** Member Six shall be appointed by the legislative body of the City of Bluffton from its membership or the legislative body of the City of Bluffton's designee who is a resident of the City of Bluffton.
  - **1.2.2** Member Seven shall be appointed by the legislative body of the Town of Ossian from its membership or the legislative body of the Town of Ossian's designee who is a resident of the Town of Ossian.
  - **1.2.3** Member Eight shall be appointed by the legislative body of the Town of Zanesville from its membership or the legislative body of the Town of Zanesville's designee who is a resident of the Town of Zanesville.
  - **1.2.4** Member Nine shall be appointed by the legislative body of the Town of Uniondale from its membership or the legislative body of the Town of Uniondale's designee who is a resident of the Town of Uniondale.

1.2.5 Member Ten shall be appointed by the legislative body of the Town of Vera Cruz from its membership or the legislative body of the Town of Vera Cruz's designee who is a resident of the Town of Vera Cruz.

1.2.6 Member Eleven shall be appointed by the legislative body of the Town of Poneto from its membership or the legislative body of the Town of Poneto's designee who is a resident of the Town of Poneto.

2 GENERAL MEMBERSHIP REGULATIONS

2.1 Term Limits: This Ordinance hereby sets forth the term limits for the members on the APC as follows:

2.1.1 The term for a member from the membership of the city or town legislative body, county executive, or county fiscal body shall be in conformance with IC 36-7-4-217.

2.1.2 The term for a member whom is a designee of the city or town legislative body, county executive, or county fiscal body shall be a yearly appointment. The representative serves until his or her successor is appointed and qualified. The representative is eligible for reappointment.

2.1.3 The term for Member Two shall be shall be for four (4) years in conformance with IC 36-7-4-218.

2.2 Qualification of Citizen Members: This Ordinance shall include by reference all the citizen member qualification standards as set forth in IC 36-7-4-216.

2.3 Removing Members: This Ordinance shall include by reference all the requirements for removing a member as set forth in IC 36-7-4-218.

2.4 Membership Vacancies and Alternative Members: This Ordinance shall include by reference all requirements dealing with member vacancies and alternative members as set forth in IC 36-7-4-220.

2.5 Membership Expenses: This Ordinance shall include by reference all requirements dealing with membership expenses as set forth in IC 36-7-4-222.

2.6 Membership Mileage and Compensation: This Ordinance shall include by reference all requirements dealing mileage and compensation for the members as set forth in IC 36-7-4-222.5. All members shall receive a per diem as set by the County Fiscal Body for each regular or special meeting of the APC that the member attends.

2.7 Membership Disqualifications and Conflict of Interest: This Ordinance shall include by reference all requirements dealing with disqualifications and conflict of interest as set forth by IC 36-7-4-223.

If any section, provision, or part of this Ordinance is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Petition Number: A14-09-22 Effective Date: October 16, 2014

The Area Plan Commission gives a (due pass recommendation), (do not pass recommendation) or (no recommendation) by a vote of 10 in favor and 0 opposed on this 4th day of September, 2014.

Jerome Markley
Area Plan Commission President

Michael W. Lautzenheiser, Jr.
Area Plan Commission Director

BE IT ORDAINED BY THE COMMISSIONERS OF WELLS COUNTY, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Wells County, Indiana and shall read as set forth and shall be enforced as an ordinance of Wells County, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-05 Effective Date: October 16, 2014

Passed by the Commissioners of Wells County, Indiana this 6th day of OCTOBER, 14, by the following vote:

AYES 3, to-wit:	NAYS 0, to-wit:	ABSENT 0, to wit:

ATTEST:

Beth Davis
Wells County Auditor

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLUFFTON, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of the City of Bluffton, Indiana and shall read as set forth and shall be enforced as an ordinance of City of Bluffton, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 1384 Effective Date: October 16, 2014

Passed by the Common Council of the City of Bluffton, Indiana this 30 day of September, 2014, by the following vote:

AYES 5, to-wit:	NAYS 0, to-wit:	ABSENT 0, to wit:
Beth A. Ewbank		
James E. Brillhart		
Dennis J. Dugan		
Carl W. Gerber		
Michael D. Moroney		

Honorable Mayor Ted Ellis

ATTEST:

Briana Lautzenheiser
Deputy Clerk-Treasurer

Presented by me to the Mayor of the City of Bluffton, Indiana, this 30 day of September, 2014.

Briana Lautzenheiser
Deputy Clerk-Treasurer

Approved by me this 30 day of September, 2014.

Honorable Mayor Ted Ellis

BE IT ORDAINED BY THE TOWN BOARD OF OSSIAN, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Ossian, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Ossian, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 14-9-6 Effective Date: October 16, 2014

Passed by the Town Board of the Town of Ossian, Indiana this 22 day of September, 2014, by the following vote:

AYES 4, to-wit:	NAYS 0, to-wit:	ABSENT 1, to wit:
		Terrie LAZZEL

ATTEST:

Jeannette Dickey

Jeannette Dickey

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF ZANESVILLE, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Zanesville, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Zanesville, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-03 Effective Date: October 16, 2014

Passed by the Town Board of the Town of Zanesville, Indiana this 18th day of Sept, 14, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Patsy Brock

Jodie Schuchmann

Danny L. Miller

ATTEST:

JULIE CHRISTIAN

Julie Christian

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF UNIONDALE, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Uniondale, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Uniondale, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-11 Effective Date: October 16, 2014

Passed by the Town Board of the Town of Uniondale, Indiana this 14th day of Oct, 14, by the following vote:

AYES 2, to-wit: NAYS 0, to-wit: ABSENT 1, to wit:

Ronald Bley Pres

Robert Bennett Clerk Treas

Gene Cushman

ATTEST:

Sharice Bowen C/T

SHARICE BOWEN

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF VERA CRUZ, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Vera Cruz, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Vera Cruz, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-01 Effective Date: October 16, 2014

Passed by the Town Board of the Town of Vera Cruz, Indiana this 16 day of Sept, 14, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Sheila Flotkin

Ken Nemenschwander

Malea A. Grover

ATTEST:

Nila Marie Masterson

Nila Marie Masterson

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF PONETO, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Poneto, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Poneto, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-10-13 A Effective Date: October 16, 2014

Passed by the Town Board of the Town of Poneto, Indiana this 13th day of Oct, 14, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Finley Jane

Ricky E Smith

Steven R. Rusk

ATTEST:

Roy D. Schoeff

Roy D SCHOEFF

Clerk-Treasurer

TITLE 2: WELLS COUNTY ZONING ORDINANCE

An Ordinance establishing comprehensive zoning regulations for Wells County, Indiana, and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of Chapter 138 of the Acts of the General Assembly of Indiana, 1957, of I.C. 36-7 et. seq., and all acts supplemental and amendatory thereto, and for the repeal of all ordinances in conflict herewith.

WHEREAS the local legislative bodies of Wells County recognize:

- **(1)** the need to create and maintain conditions under which humans and nature can exist in productive harmony;
- **(2)** the profound impact of human activity on the interrelations of all components of the natural environment of Wells County, particularly the profound influences of the following:
  - **(A)** population growth,
  - **(B)** high-density urbanization,
  - **(C)** commercial and industrial expansion,
  - **(D)** standard and concentrated agriculture practices,
  - **(E)** resource exploitation,
  - **(F)** and new and expanding technological advances;
- **(3)** the critical importance of maintaining public health, safety, and welfare of the people of Wells County and securing safety from fire, flood, and other danger while fostering and promoting their residential, commercial, industrial, and social endeavors;
- **(4)** that each person is entitled to enjoy a healthful environment, specifically the right to enjoy clean air, clean water, and a healthy land;
- **(5)** that each citizen of Wells County has a responsibility to contribute to the preservation and enhancement of Wells County as stated in these principles, and

WHEREAS the local legislative bodies of Wells County, pursuant to the laws of Indiana, have created a Plan Commission to administer, enforce, and amend this Ordinance, and

WHEREAS the local legislative bodies have divided Wells County into zoning districts and has prepared regulations pertaining to such districts in accordance with a Comprehensive Plan as recorded in Misc. Records No. 58, Page 252 (July 27, 1993) in the Record's Office of Wells County, with the stated objectives of this Ordinance, and with reasonable consideration to existing conditions, the character of existing structure and uses, the most desirable use for which the land in each district is adapted, and the conservation of property values throughout Wells County, and

WHEREAS the Plan Commission has held public hearings and conferences concerning this Ordinance and has submitted its recommendations to the local legislative bodies of Wells County, and

WHEREAS all requirements of I.C. 36-7 et. seq., and acts supplemental and amendatory thereto, with regard to the preparation of this Ordinance and the subsequent action of the local legislative bodies of Wells County have been met.

ORDAINING CLAUSE

Petition Number: A19-11-17 Effective Date: March 9, 2020

The Area Plan Commission gives a Do Pass Recommendation by a vote of 8 in favor and 1 opposed on this 2nd day of January, 2020.

Jerome Markley
Area Plan Commission President

Michael W. Lautzenheiser, Jr.
Area Plan Commission Director

BE IT ORDAINED BY THE COMMISSIONERS OF WELLS COUNTY, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Wells County, Indiana and shall read as set forth and shall be enforced as an ordinance of Wells County, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2020-03 Effective Date: March 9, 2020

Passed by the Commissioners of Wells County, Indiana this 20 day of Jan, 2020, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

ATTEST:

Lisa McCormick

Lisa McCormick

Wells County Auditor

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLUFFTON, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of the City of Bluffton, Indiana and shall read as set forth and shall be enforced as an ordinance of City of Bluffton, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 1513 Effective Date: March 9, 2020

Passed by the Common Council of the City of Bluffton, Indiana this 20 day of Jan, 20, by the following vote:

AYES 5, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Honorable Mayor ~~Ted Ellis~~ John Whicker

ATTEST:

Michelle Simon

Municipal Clerk-Treasurer, Deputy

Presented by me to the Mayor of the City of Bluffton, Indiana, this 20 day of Jan, 20.

Michelle Simon

Municipal Clerk-Treasurer Deputy

Approved by me this 20 day of Jan, 20.

Honorable Mayor ~~Ted Ellis~~ John Whicker

BE IT ORDAINED BY THE TOWN BOARD OF OSSIAN, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Ossian, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Ossian, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 20-2-1 Effective Date: March 9, 2020

Passed by the Town Board of the Town of Ossian, Indiana this 10 day of February, 2020, by the following vote:

AYES 5, to-wit:	NAYS 0, to-wit:	ABSENT 0, to wit:

ATTEST:

Erika Allison

Erika Allison

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF ZANESVILLE, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Zanesville, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Zanesville, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2020-01 Effective Date: March 9, 2020

Passed by the Town Board of the Town of Zanesville, Indiana this 18th day of FEB, 2020 by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

John Schlemeier

Barbara O'Connor

Darrel L Frick

ATTEST:

Julie A. Christian

JULIE A. Christian

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF UNIONDALE, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Uniondale, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Uniondale, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2020-2-1 Effective Date: March 9, 2020

Passed by the Town Board of the Town of Uniondale, Indiana this 11th day of February, 2020, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Ervin Kiy Pres Town Council

Town council

Town council

ATTEST:

Sharice Bowen CT

Sharice Bowen CT

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF VERA CRUZ, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Vera Cruz, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Vera Cruz, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2020-TC-003 Effective Date: March 9, 2020

Passed by the Town Board of the Town of Vera Cruz, Indiana this 18th day of February, 2020, by the following vote:

AYES X 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Mabra Groves

Sheila Holton

Jim Ripple

ATTEST:

Jackie Alford

Jackie Alford

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF PONETO, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Poneto, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Poneto, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2020-2-A Effective Date: March 9, 2020

Passed by the Town Board of the Town of Poneto, Indiana this 10th day of February 2020 by the following vote:

AYES 3, to-wit:	NAYS 0, to-wit:	ABSENT 0, to wit:
Rebecca Smith		
Rita Knowlin		
Linda Gale		

ATTEST:

Lou Ann Reinhard

Lou Ann Reinhard

Clerk-Treasurer

ARTICLE 1: BASIC PROVISIONS

1-01 TITLE: The official title of this Zoning Ordinance is: "Wells County Zoning Ordinance, and may also be referred to as Zoning Ordinance or WCZO."

1-02 AUTHORITY: This Zoning Ordinance is adopted pursuant to I.C. 36-7, et seq., and acts supplemental and amendatory thereto, and this Zoning Ordinance repeals all ordinances in conflict herewith.

1-03 COMPLIANCE: No land or structure shall be used or be designed, nor shall any structure be located, erected, constructed, reconstructed, moved, converted, or enlarged, nor shall any dimension or area of any property be physically altered except in full compliance with all the provisions of this Zoning Ordinance and after the lawful issuances of the permits required by this Zoning Ordinance.

1-04 SEVERABILITY: If any provisions of this Zoning Ordinance or the application of any provisions to particular circumstances is held invalid, the remainder of this Zoning Ordinance or the application of such provision to other circumstances shall not be affected.

1-05 JURISDICTION AREA: The jurisdiction of this Zoning Ordinance shall include Wells County and its incorporated cities and towns, exclude Markle town limits in Wells County, and include Zanesville town limits in Allen County.

1-06 APPLICATION: It is not intended by this Zoning Ordinance to interfere with, abrogate, or amend any existing easements, covenants, or other agreements, between parties, nor is it intended by this Zoning Ordinance to repeal, abrogate, annul, or in any way interfere with any existing provisions of laws or ordinances, or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of buildings or premises provided. However, that where this Zoning Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this Zoning Ordinance shall control; but where such private covenants, permits, agreements, rules, or regulations impose a greater restriction than is imposed by this Zoning Ordinance, the greater restriction shall control.

ARTICLE 2: PURPOSE

2-01 PURPOSE: This Zoning Ordinance is adopted in accordance with the Wells County Comprehensive Plan to carry out the purposes listed in IC 36-7-4-601, and any amendments thereto.

ARTICLE 3: AREA PLANNING DEPARTMENT

3-01 PLANNING DEPARTMENT:

(1) In accordance with I.C. 36-7-4, Sections 202(b) and 701(e), and any amendments thereto, Wells County has established an area planning department having:

(A) a Plan Commission;
(B) a Plat Committee;
(C) a Board of Zoning Appeals;
(D) an executive director hereafter referred to as "Director"; and
(E) such staff as the Plan Commission considers necessary.

(2) In accordance with I.C. 36-7-4-222, and any amendments thereto, if the Plan Commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Commission may pay the applicable membership fees and all actual expenses of the members or employees, if the amount has been appropriated by the Wells County Council.

3-02 COMPOSITION OF THE PLAN COMMISSION: The Plan Commission shall be composed in conformance with the Wells County Area Plan Commission Board Membership Establishing Ordinance.

3-03 APPOINTMENTS OF THE PLAN COMMISSION: The Plan Commission shall appoint the following positions at the first meeting of the year.

(1) President of the Plan Commission who shall preside over the meetings and certify the official actions of the commission.
(2) Vice President of the Plan Commission who shall act as President if the President is absent from the meeting.
(3) Secretary of the Plan Commission who shall keep the minutes of the meeting and certify the official actions of the commission and who is not required to be a member of the Plan Commission.
(4) The Secondary Approval Official who must be a member of the Plan Commission, Plat Committee, or Plan Commission Staff.
(5) Board of Zoning Appeals representative.
(6) Plan Commission budget review committee made up of the three members of the Plan Commission. The committee shall review the office budget before submitting it to the County Council for approval.

3-04 COMMITTEES OF THE PLAN COMMISSION: In accordance with I.C. 36-7-4, Sections 402(d), 407, and 408(a) and (b), the Plan Commission may create a special purpose committee at any meeting.

3-05 JURISDICTION OF THE PLAN COMMISSION: The following items require official action by the Plan Commission:

(1) Development Plans except as designated in Article 14 to the Plan Commission Staff.
(2) Subdivisions
(3) Rezoning (Final Approval by Local Legislative Body)
(4) PUD (Final Approval by Local Legislative Body)
(5) CAFO
(6) Hearing items normally approved by the Plat Committee
(7) Appeals of Plat Committee decisions

3-06 COMPOSITION OF PLAT COMMITTEE: In accordance with I.C. 36-7-4-701(e), and any amendment thereto, the Plan Commission shall appoint a Plat Committee whose representation and composition shall be as follows.

(1) The Plat Committee shall consist of five (5) persons, with at least one (1) of the members being a member of the Plan Commission.
(2) Members must reside within Wells County.
(3) Each appointment of a member of the Plat Committee is for a term of one (1) year, but the Plan Commission may remove a member of the Committee. The Plan Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise.

3-07 APPOINTMENTS OF THE PLAT COMMITTEE: The Plat Committee shall appoint the following positions on the first meeting of the year.
(1) President of the Plat Committee who shall preside over the meetings and certify the official actions of the committee.
(2) Vice President of the Plat Committee who shall act as President if the President is absent from the meeting.
(3) Secretary of the Plat Committee who shall keep the minutes of the meeting and certify the official actions of the committee.
(4) The Secondary Approval Official is a member of the Plat Committee or Plan Commission Staff.

3-08 JURISDICTION OF THE PLAT COMMITTEE: The following items require official action by the Plat Committee. Any action of Plat Committee can also be performed by the Plan Commission.
(1) approving Minor Subdivisions
(2) approving Combines
(3) approving Additions
(4) reviewing Development Plans
(5) reviewing Subdivisions
(6) reviewing PUDs
(7) reviewing CAFOs

3-09 COMPOSITION OF THE BOARD OF ZONING APPEALS: In accordance with I.C. 36-7-4-900 et. seq., and any amendments thereto, the representation and composition of the Board of Zoning Appeals shall be as follows:
(1) The Board of Zoning Appeals shall consist of five (5) members.
(2) Members of the Board of Zoning Appeals shall serve four (4) year terms, except for the appointment of the Plan Commission who shall serve a one (1) year term.
(3) The members of the Board of Zoning Appeals and their term expiration dates shall be as follows.
(A) One (1) citizen member appointed by the Plan Commission from its membership;
(A) One (1) citizen member, who shall not be a member of the Plan Commission and whose initial term shall expire on January 1, 2010, appointed by the executive of the largest municipality in Wells County;
(B) Two (2) citizen members of whom one (1) shall be a member of the Plan Commission and one (1) shall not be a member of the Plan Commission and whose initial terms shall expire on January 1, 2012, appointed by the Wells County legislative body; and
(C) One (1) citizen member who is not a member of the Plan Commission whose initial term shall expire on January 1, 2010, appointed by the executive of the second largest municipality in Wells County.
(4) Appointments to the Board of Zoning Appeals shall be effective after the expiration of the previous appointees' term and prior to the first meeting of the Board of Zoning Appeals following the expiration of said term.
(5) If a member of the Board of Zoning Appeals should resign or become ineligible to serve on the Board of Zoning Appeals, the respective appointing entity shall make a replacement appointment within thirty (30) days after said vacancy occurs. The replacement appointee shall serve until the expiration of the predecessor's term.

(6) Members must reside within the corporate limits or county boundaries of the county, city, or town that appointed said, member.

(7) In accordance with I.C. 36-7-4-216, and any amendments thereto, a "citizen member" shall not hold any elective or appointive office in municipal, county, state, or federal government or any of their political subdivisions. Each citizen member shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area.

3-10 APPOINTMENTS OF THE BOARD OF ZONING APPEALS: The Board of Zoning Appeals shall appoint the following positions on the first meeting of the year.

(1) President of the Board of Zoning Appeals who shall preside over the meetings and certify the official actions of the board.

(2) Vice President of the Board of Zoning Appeals who shall act as President if the President is absent from the meeting.

(3) Secretary of the Board of Zoning Appeals who shall keep the minutes of the meeting and certify the official actions of the board and who is not required to be a member of the Board of Zoning Appeals.

3-11 JURISDICTION OF THE BOARD OF ZONING APPEALS: The following items require official action by the Board of Zoning Appeals:

(1) Variances

(2) Special Exceptions

(3) Non-Conforming (Expansion, Changes, and Reinstatement)

(4) Hearing appeals in accordance with Indiana Law and this Zoning Ordinance.

3-12 PLAN COMMISSION EXECUTIVE DIRECTOR:

(1) In accordance with I.C. 36-7-4-311, and any amendments thereto, the Plan Commission shall appoint an executive director for the area plan department and fix the Director's compensation. To be qualified for the position, the executive director shall have training and experience in the field of planning and zoning. The Plan Commission may not give any consideration to political affiliation in the appointment of the Director.

(2) In accordance with I.C. 36-7-4-312, and any amendments thereto, the duties of the Director shall be:

(A) propose annually a plan for the operation of the area planning department;

(B) administer the plan as approved by the Plan Commission;

(C) supervise the general administration of the area planning department;

(D) keep the records of the area planning department and be responsible for the custody and preservation of all papers and documents of the area planning department;

(E) subject to the approval of the Plan Commission, appoint and remove the employees of the Area Planning Department, according to the standards and qualifications fixed by the Plan Commission and without regard to political affiliation;

(F) prepare and present to the Plan Commission an annual report at a public hearing; and

(G) perform such other duties as the Plan Commission may direct.

3-13 PLAN COMMISSION STAFF: The Area Plan Commission Staff shall be appointed in accordance with I.C. 36-7-4-402 (b), and any amendments thereto. The staff shall carry out duties in support of the Director, Plan Commission, Plat Committee, and Board of Zoning Appeals. The Plan Commission shall prescribe the qualifications of, and with the department, which compensation must conform to salaries and compensations fixed before that time by the Wells County Council. The Plan Commission shall delegate authority to its employees to perform ministerial acts in all cases except where the final action of the Plan Commission, Plat Committee, or Board of Zoning Appeals is required by this Ordinance or state area planning law.

3-14 JURISDICTION OF THE EXECUTIVE DIRECTOR AND STAFF: In accordance with Indiana Code 36-7-4-402, and any amendments thereto, the Plan Commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the Plan Commission, the Plat Committee, or the Board of Zoning Appeals is required in accordance with Indiana Code and this Zoning Ordinance. The following items require official action by the Executive Director and staff of the plan commission.

(1) The Director shall approve all Improvement Location Permits.
(2) The Director shall approve all Development Plans as designated to the Plan Commission Staff in Article 14.
(3) The staff and Director shall maintain all Improvement Location Permits.
(4) The Director shall enforce this Zoning Ordinance and the Subdivision Control Ordinance as approved by the Plan Commission and the local legislative bodies.
(5) The staff and Director shall fulfill other functions in support of the Plan Commission, Plat Committee, and Board of Zoning Appeals.

3-15 CONFLICTS OF INTEREST: The following guidelines shall apply to prevent a valid conflict of interests and a financial conflict of interests concerning zoning matters. No member of the Area Plan Department or of a participating Local Legislative Body shall represent another person in a hearing before the Plan Commission, the Board of Zoning Appeals, the Plat Committee, or a Local Legislative Body concerning a zoning matter. A "zoning matter" does not include the participation or adoption of a Comprehensive Plan. No member of the Area Planning Department or their immediate family shall take part in an official action of the Area Planning Department in which a valid conflict of interest or a direct or indirect financial interest exists. The members of the affected Local Legislative Body may appoint an alternate or take action necessary to require an alternate if a conflict of interest does occur. Said alternate's name, address, and phone number shall be delivered to the Plan Commission two weeks before the scheduled hearing. The Findings of Facts and Ruling document for said hearing shall enter in its record the fact that said a person has such a disqualification and the name of the alternate if any is so designated, who participates in the hearing or decision in place of the disqualified person.

3-16 INDIANA CODE: Any requirements, functions, or duties of the Area Planning Department stated in I.C. 36-7-4, et seq., shall be incorporated into this Zoning Ordinance by reference.

ARTICLE 4: ADMINISTRATION

4-01 FEES: The Plan Commission hereby establishes and promulgates a schedule or reasonable fees to defray the administrative costs connected with processing and hearing administrative appeals, petitions for rezoning, special exceptions, variances, nonconforming uses, development plans, improvement location permits, and other official actions taken under this Zoning Ordinance. These fees shall be posted in the Area Planning Department office.

(1) Violation Fee: Any petition other than an appeal or a request for a special meeting filed as a result of a violation of this Zoning Ordinance or Subdivision Control Ordinance shall pay two times the fee listed in Table 4-01.

Table 4-01 Wells County Area Plan Commission Fee Schedule

Fee Category	Fee Name	Fee	Fee Notes	Violation Fee
APC	Development Plan (APC)	$200.00	N/A	X 2
APC	Large WECS	$500.00	Per Turbine	X 2
APC	Rezoning	$200.00	N/A	X2
APC	Major Subdivision	$300.00	$10.00 Per Lot	X 2
APC	Planned Unit Development	$300.00	$10.00 Per Lot	X 2
APC	Division of a Minor Subdivision	$60.00	N/A	X 2
APC	Plat Committee Appeal	$60.00	N/A	N/A
APC	SES Development Plan	$500.00	Per Parcel	X 2
BZA	Variance, Special Exception, or Legal Non-Conforming (Structure or Use)	$125.00	+ $50.00 Per Additional Request	X 2
BZA	Appeal of Administrative Decision	$60.00	N/A	N/A
PC	Minor Subdivision	$60.00	N/A	X 2
PC	Addition	$60.00	N/A	X 2
PC	Combine	$60.00	N/A	X 2
PC	Pond Review	$60.00	N/A	X 2
General	Development Plan (Staff)	$100.00	N/A	X 2
General	Medium WECS	$250.00	Per Turbine	X 2
General	Small WECS	$50.00	Per Turbine	X 2
General	Improvement Location Permit (less than or equal to 500 sq/ft)	$40.00	Per Item	X 2
General	Improvement Location Permit\ (greater than 500 sq/ft)	$60.00	Per Item	X 2
General	Ordinance Book Copies	$15.00	N/A	N/A
General	Legal Advertisement (News Banner / Ossian Journal)	Price Set By Paper	N/A	N/A
General	Public Advertisement Sign	$15.00	N/A	N/A
General	Digital Media Fee "CD or DVD"	$1.00	Per Item	N/A
General	Special Plat Committee Meeting	$325.00	N/A	N/A
General	Special Board of Zoning Appeals Meeting	$550.00	N/A	N/A
General	Special Plan Commission Meeting	$750.00	N/A	N/A

4-02 IMPROVEMENT LOCATION PERMITS: An improvement location permit shall be obtained before any structure, sign, or pond in any zoning classification district may be constructed, reconstructed, moved, enlarged, or structurally altered, including construction of basements and foundations, except as provided in this section.

(1) Any new home permits occurring within areas zoned for agricultural activities shall require the owner of said property to sign a Notice of Agricultural Activity Form.

(2) An improvement location permit is not required for the following; however, all other provisions of the Wells County Zoning Ordinance are applicable:

(A) Routine maintenance, repair, or remodeling of existing structures not involving any change of use or additional lot coverage. However, additional stories shall be required to obtain a permit before construction has commenced.

(B) RESIDENTIAL DRIVEWAYS: An improvement location permit is not required for the construction, expansion or maintenance of residential driveways.

(C) LOT AND YARD IMPROVEMENTS: Lot and yard improvements such as children's playhouses, uncovered concrete patios, play equipment, retaining walls, sidewalks, fences, and landscaping. However, all decks shall require a permit, and fences shall meet the requirements of this Zoning Ordinance.

(D) TEMPORARY STRUCTURES: an improvement location permit is not required for temporary structures; however before installation, construction, or placement of the temporary structures, a written statement shall be filed with the Director clearly stating the purpose of the temporary structure, where it is to be placed on the property, and when it will be removed. The Director shall make an approval or disapproval based on the requirements for a temporary structure as prescribed by this Zoning Ordinance.

(E) TEMPORARY STRUCTURES: Temporary signs and Traffic Control signs. However, these items shall meet the requirements of this Zoning Ordinance, including Article 11-10.

(3) No permit shall be issued unless

(A) the proposed structure or proposed use of a structure or land is in complete conformity with the provisions of this Zoning Ordinance;

(B) a written order is received from the Board of Zoning Appeals, the Plan Commission, or a Court in accordance with this Zoning Ordinance and Indiana Law; or

(4) If a septic permit is required, then said permit, issued by the Wells County Department of Health, shall be presented to the Plan Commission prior to an issuance of an improvement location permit.

(5) All applicants for permits shall be accompanied by a plot plan that is drawn to scale and shows the following items clearly and completely:

(A) the location, dimensions, and nature of the property;

(B) the location and dimensions of any existing or proposed structures;

(C) all adjoining thoroughfares and any existing or proposed access to these thoroughfares;

(D) the existing and proposed use of all structures and land; and

(E) such other information as deemed to be necessary by the Director to determine conformance with this Zoning Ordinance.

(6) All applicants for permits shall be made by the recorded owner (or the recorded owner's contractor) of the lot or parcel on which the improvement is to be located.

(7) If the work described in any permit has not begun within one hundred eighty (180) days from the date of issuance thereof, said permit shall be null and void, and a written cancellation notice shall be sent to the property owner. Extensions of this time period may not be granted; however, the lot owner may file a new application for an improvement location permit including payment of a new fee.

(8) If the work described in any permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire, and a written cancellation notice shall be sent to the property owner. Further work shall not proceed unless a new permit is obtained. Extensions of this time period may not be granted, and only one additional permit may be issued.

4-03 HEARING TYPES: The goal of a hearing shall be to receive as much input as possible to fulfill the purpose of this Zoning Ordinance and the spirit of the Comprehensive Plan. Hearings to administer, enforce, and amend this Zoning Ordinance shall be as follows.

(1) The Plan Commission has exclusive control over the approval of all plats and replats involving land covered by the Subdivision Control Ordinance, including but not limited to Minor Subdivision, Combines, and Additions and may approve or disapprove a petition for a proposed plat, replat, Major Subdivision, or Development Plan except as designed in Article 14 at the conclusion of the public hearing on the petition.

(2) The Plan Commission may recommend for approval or disapproval of a proposed rezoning, PUD, or ordinance revision to the appropriate Local Legislative Body at the conclusion of the public hearing on the proposed rezoning, PUD, or ordinance revision.

(3) In accordance with I.C. 36-7-4-701 (d) and (e), and any amendments thereto, the Plat Committee may grant primary approval of the subdivision of land that does not involve the opening of a new public way and that complies in all other respects with the Subdivision Control Ordinance and this Zoning Ordinance at a meeting without public notice and hearing, subject to appeal to Plan Commission. The Plat Committee shall hold hearings to review and make recommendations to the Petitioner and to the Plan Commission as to any proposed Development Plan, Major Subdivision, or PUD.

(4) The Board of Zoning Appeals shall have the power to hear and decide appeals of actions by the Director or staff of the Area Planning Department to administer this Zoning Ordinance or the Subdivision Control Ordinance.

(5) The Board of Zoning Appeals may approve or deny all special exceptions, variances, and non-conforming uses from the terms of this Zoning Ordinance, but only as specified in this Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval.

(6) The Plan Commission's Staff has exclusive control over the approval or disapproval of designated Development Plans in Article 14 without a public hearing.

4-04 SCHEDULE OF HEARINGS FOR THE PLAN COMMISSION, PLAT COMMITTEE, AND BOARD OF ZONING APPEALS: A hearing on a petition submitted to the Plan Commission, Plat Committee, or Board of Zoning Appeals shall be held at the next regular meeting of the petitioned governing agency unless there exists one of the following conditions.

(1) The filing deadline has passed for the next meeting.

(A) The filing deadline for a Plan Commission or Board of Zoning Appeals hearing shall be by the same date as a regularly scheduled meeting. The filing deadline is to request a hearing for the ensuing month's regular scheduled meeting.

(B) The filing deadline for a Plat Committee's hearing shall be two (2) days prior to the next available Plat Committee meeting.

(2) There is an overcrowding of the agenda for the next hearing.

(3) The petitioner asks that the hearing is set to a later date.

(4) There are insufficient members present to constitute a majority of the governing agency.

(5) The governing agency requires more time to review the petition prior to the hearing. However, the governing agency cannot continue the hearing without the petitioner's consent for more than forty-five (45) days from the filing date.

(6) With the consent of both the petitioner and governing agency, the hearing on the proposed petition may be reset two (2) times before a new petition shall be required, unless the delay is no fault of the petitioner. If a petition for the proposed project is not brought to hearing by the petitioner within the aforementioned time frame, the petition shall be deemed dismissed.

(7) Notice of any hearing on a petition shall be provided to all interested parties. By rule, who are interested parties, how notice is to be given to them, and who is required to give that notice shall be defined in the "Rules of Procedure" for the governing agency.

(8) An Agenda for a public hearing shall be made available to the public ten (10) days before the public hearing date of the Plan Commission and Board of Zoning Appeals.

4-05 FILING A PETITION: The following documents listed in TABLES (a, b, c, and d) are necessary for the filing of a petition for a Development Plan (**D P**), Rezoning (**R Z**), Board of Zoning Appeals official actions (**BZA**), Planned Unit Development (**PUD**), Major Subdivisions (**Major**), Minor Subdivisions (**Minor**), Combines (**Com**), and Additions (**Add**). Further information on the specific petition requirements is available in this Zoning Ordinance or the Subdivision Control Ordinance.

Table 4-05 (a)	Zoning Ordinance				Subdivision Control Ordinance			
Petition Requirements for the Filing Deadline	D P	R Z	BZA	PUD	Major	Minor	Com	Add
The documentation provided by the Area Planning Department shall be completed and filled out in a clear and concise manner and signed by at least 50% of the current property owner(s) prior to any official action by a governing body.	X	X	X	X	X	X	X	X
Filing fee	X	X	X	X	X	X	X	X
Advertisement fee	X*	X	X	X	X	X		
One (1) letter or legal sized site plan created in compliance with criteria for applying for an improvement location permit.			X					
One (1) plat, but the preferred size is legal or letter for record keeping purposes.						X		X
Three (3) 24" X 36" plats for Plat Committee and Director review	X			X	X			
Two (2) sets of 24" X 36" drawings of proposed project as requested by the Local Legislative Body	X			X	X			
A copy of the current deed as recorded in the Recorder's office for the property cited in the petition.	X	X	X	X	X		X	X
A copy of the primary parcel deed as recorded in the Recorder's office as of January 1, 1971.						X	X	
A copy of the Property Record Card from the Assessor's office for the property cited in the petition.	X	X	X	X	X	X	X	X
The status of all applicable permits or approvals from other regulatory agencies shall be brought to the attention of the governing agency.	X	X	X	X	X	X	X	X
A signed copy of the NOTICE OF AGRICULTURAL ACTIVITY form shall be filed with any petition on property zoned A-1 or A-R	X	X	X	X	X	X	X	X
A copy of the proposed PUD District Ordinance				X				
A copy of any proposed covenants or private restrictions for the petition				X	X	X		
	D P	R Z	BZA	PUD	Major	Minor	Com	Add

LEGEND: Development Plan (**D P**), Rezoning (**R Z**), Board of Zoning Appeals official actions (**BZA**), Planned Unit Development (**PUD**), Major Subdivisions (**Major**), Minor Subdivisions (**Minor**), Combines (**Com**), Additions (**Add**).
*Not required for a development plan reviewed by the Plan Commission Staff.

Table 4-05 (b)	Zoning Ordinance		Subdivision Control Ordinance		
Plat Requirements	D P	PUD	Major	Minor	Add
The survey shall be certified by a licensed Land Surveyor within the State of Indiana. The survey shall meet the minimum requirements established by Title 865, IAC 1-12-13 and 1-12-14, and any amendments thereto.	X	X	X	X	X
Title Block area for the seals and signatures for any applicable Professional Land Surveyors and Professional Engineers.	X	X	X	X	X
The location and size of all structures and ponds existing on adjacent property within twenty (20) feet of the new property lines of the proposed project		X	X	X	X
Project name, names and addresses of the owner of the real estate and developer.	X	X	X		
A vicinity of the subject real property.	X	X	X		
Public improvements to be accepted by a Local Legislative Body shall be certified by a licensed Professional Engineer or Licensed Land Surveyors within the state of Indiana. The improvements shall meet the minimum requirements established by the Subdivision Control Ordinance, written standards established by an affected municipality, and applicable Indiana and Federal law.	X	X	X		
A stormwater plan that meets the minimum requirements established by the Subdivision Control Ordinance.	X	X	X		
The nature, density, and intensity of the proposed uses	X	X	X		
Lot numbers, public way names, and Local Legislative Body and Plan Commission approved physical addresses.		X	X		
Certificates as described in the Zoning Ordinance and Subdivision Control Ordinance.		X	X		
	D P	PUD	Major	Minor	Add

LEGEND: Development Plan (**D P**), Rezoning (**R Z**), Board of Zoning Appeals official actions (**BZA**), Planned Unit Development (**PUD**), Major Subdivisions (**Major**), Minor Subdivisions (**Minor**), Combines (**Com**), Additions (**Add**).

Table 4-05 (c)	Zoning Ordinance				Subdivision Control Ordinance			
Petition Requirements for Governing Agency's Meeting	D P	R Z	BZA	PUD	Major	Minor	Com	Add
Six (6) 24-inch x 36-inch drawings of the plat of the proposed development must be submitted one (1) day before the scheduled Plan Commission hearing date. These plats may contain any changes requested by the Plat Committee and will be used during the Plan Commission hearing.	X*			X	X			
A letter from the affected Local Legislative Body stating the proposed petition shall or shall not meet the standards set by the Local Legislative Body must be submitted one (1) day before the scheduled Plan Commission hearing date for said development or the date of the Plan Commission's Staff review.	X			X	X			
Public Meeting Advertisement shall be done in compliance with applicable Indiana Law and the Rules of Procedure adopted by affected Governing Agency.	X*	X	X	X	X	X	X	X
	D P	R Z	BZA	PUD	Major	Minor	Com	Add

LEGEND: Development Plan (**D P**), Rezoning (**R Z**), Board of Zoning Appeals official actions (**BZA**), Planned Unit Development (**PDU**), Major Subdivisions (**Major**), Minor Subdivisions (**Minor**), Combines (**Com**), Additions (**Add**).
*Not required for a development plan reviewed by the Plan Commission Staff.

Table 4-05 (d)	Zoning Ordinance					Subdivision Control Ordinance		
Petition Requirements After Official Action	D P	R Z	BZA	PUD	Major	Minor	Com	Add
Recording Fee (For any documents that require recording by state law)	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**
Advertisement of Official Action of the Plat Committee.						**X**		
After acceptance of a Subdivision or PUD, a digital plan in NAD_1983_StatePlane_Indiana_East_FIPS_1301_Feet coordinate system shall be submitted to the Plan Commission Office. The file format shall be transferable to ESRI GIS products. If such digital plat is not available due to software limitations, this requirement shall be voided.	**X**			**X**	**X**	**X**		**X**
The written approvals for all applicable permits or approvals from other regulatory agencies shall be brought in before an improvement location permit may be issued.	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**
The secondary approval official as designated by the Subdivision Control Ordinance shall review and approve all applications for secondary approval					**X**	**X**	**X**	**X**
All conditions of approval shall be met or waived before the issuance of secondary approval or an improvement location permit. The proof of meeting or waiving of a condition of approval shall be submitted in writing.	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**
All applicable bonding shall be submitted to the Plan Commission and the Local Legislative Body for approval before an improvement location permit or secondary approval may be issued.	**X**			**X**	**X**			
All deeds and recitals required by the Subdivision Control Ordinance for secondary approval shall be reviewed and certified by the secondary approval official before submittal for recording.					**X**	**X**	**X**	**X**
After acceptance two (2) plat copies shall be printed on Mylar or equivalent material at least two (2) mils in thickness and delivered to the Area Planning Office for the purpose of recording and secondary approval. The petitioner shall have one of the two final copies recorded at the Recorder's office within the applicable county.				**X**	**X**			
Appeal time in days after the official action has been made by the governing agency.	**30**	**30**	**30**	**30**	**30**	**10**	**N/A**	**N/A**
	D P	R Z	BZA	PUD	Major	Minor	Com	Add

LEGEND: Development Plan (**D P**), Rezoning (**R Z**), Board of Zoning Appeals official actions (**BZA**), Planned Unit Development (**PDU**), Major Subdivisions (**Major**), Minor Subdivisions (**Minor**), Combines (**Com**), Additions (**Add**).

4-06 OFFICIAL ACTION OF THE PLAN COMMISSION, PLAT COMMITTEE, AND BOARD OF ZONING APPEALS: Official actions of Plan Commission, Plat Committee, and Board of Zoning Appeals shall require a majority vote of its total membership. Official action of said governing bodies shall meet the following guidelines.

(1) The standard of review by the governing agency for a petition shall be clear and concise.

(2) The proposed petition shall be consistent with the Comprehensive Plan and must satisfy applicable requirements specified in this Zoning Ordinance.

(3) The vote and decision of the governing agency on any petition shall be accompanied by written Findings of Fact and Ruling document in support of the vote and decision of the governing agency and certification of the vote and, in case of a proposed rezoning, PUD, or ordinance revision, the recommendation to the appropriate Local Legislative Body.

(4) At any time after the commencement of the hearing on a petition, the vote on said petition may be continued to the next available hearing date to allow for further evidence or testimony or to allow for further consideration by the governing agency.

(5) Any petition may be tabled by the governing agency for a vote only and no additional testimony shall be presented.

(6) An identical or substantially identical petition for the proposed project cannot be filed until at least twelve (12) months after a vote to deny a petition.

ARTICLE 5: MEETING MINUTES

5-01 PURPOSE: To provide historic information about official actions for the governing agencies, citizens of Wells County, and other interested parties, the minutes of the meeting of the Plan Commission, Plat Committee, and Board of Zoning Appeals shall be kept in a clear and concise manner.

5-02 REQUIREMENTS: The following information shall be listed in the meeting minutes.

(1) The name of the governing agency shall be listed at the top of the first page.
(2) The date and time of the meeting shall be listed just below the governing agency name.
(3) The list of the governing agency members present and absent from the meeting shall follow the date and time.
(4) Any members of governing agency with a conflict of interest shall be listed and the name of the replacement if any shall be listed.
(5) The petitions shall be listed clearly on the left-hand side of the page.
- **(A)** The petition number shall be listed first.
- **(B)** The name of the property owner shall be listed after the petition number.
- **(C)** A brief legal description depicting the location of the petition shall follow the property owner's name.
- **(D)** A brief description of the project shall follow the legal description.
- **(E)** A summary of the discussion including relevant statements concerning the petition from the governing agency, petitioner(s), and audience member(s) shall follow the project description.
- **(F)** A list of any conditions of approval shall follow the summary of the discussion.
- **(G)** The list of the governing agency members who motioned if any shall follow the list of conditions.
- **(H)** The vote shall be stated following the motions.

(6) Any actions a governing agency takes not involving a petition shall follow the petitions and shall be listed in the same fashion as the petitions.
(7) The ending date and time shall be listed once the governing agency has voted to adjourn the meeting.

5-03 APPROVAL OF MINUTES: The governing agency shall approve or amend the minutes from the following meeting. If the minutes are to be amended, the governing agency shall approve the minutes at their next regular meeting. The approval of the minutes shall be done by a majority vote of the members of the governing agency.

5-04 STORAGE OF APPROVED MINUTES: The Plan Commission office shall maintain a file of all the approved minutes from the subsequent governing agencies.

5-05 PUBLIC ACCESS TO THE MINUTES: After the meeting minutes have been approved by the appropriate governing agency of the Area Planning Department, these meeting minutes shall be available for public access at the Area Planning Department office during normal business hours.

5-06 APPEALS: If any petitioners or other interested persons wish to have the minutes amended due to the omission of what they consider critical facts presented or statements made during a meeting of a governing agency of the Area Planning Department, they may present their request within sixty (60) days to the subject governing agency. The governing agency may act to amend said minutes as requested in the manner described in this Article.

ARTICLE 6: FINDINGS OF FACT AND RULING

6-01 PURPOSE: To provide the specific written reasons supporting how the petition fulfills the applicable requirements of this Zoning Ordinance and the Subdivision Control Ordinance and the vote and decision of the governing agency.

6-02 PROCEDURE: A proposed Written Findings of Fact and Ruling shall be prepared and filed with the Area Plan Commission when a petition for a development plan, Rezoning, Board of Zoning Appeals Official Action, Planned Unit Development, Major Subdivision, Minor Subdivision, Combine, or Addition. The written findings of fact and ruling shall be prepared by the petitioner or the petitioner's agent; however, the findings of fact and ruling shall be written in a clear and concise manner and conform with this article. In order to assist the Petitioner or the Petitioner's agent the Area Planning Department may provide examples; fill in the blank documents, and/or documents showing the basic requirements of a Findings of Fact and Ruling document. If a petition is denied then the Plan Commission Director or the Plan Commission's attorney shall prepare the Findings of Fact and Ruling Document for the petition.

6-03 FORM:

(1) Preface**:** Within the preface of the Findings of Fact and Ruling Document the following items shall be described in the following order. **(A)** "PETITION FOR (Petition Type) APPROVAL: (Petition Number)"

- **(A)** "OWNER OF REAL ESTATE: (Owner's Name)"
- **(B)** "LOCATED AT: (Site Address or Adjoining Street Names)"
- **(C)** "DESCRIPTION: (Brief Legal Description)"
- **(D)** "CURRENT ZONING CLASSIFICATION: (Zoning Type)"
- **(E)** "PROPOSED (Petition Type): (Brief Petition Description)"
- **(F)** "PRINT DATE: (Printing Date)"

(2) Body**:** Within the body of the Findings of Fact and Ruling Document the following items shall be described in the following order.

- **(A)** "Comes now the (Governing Agency) and in support of granting (Petitioner) Petition for (Type of Petition) makes the following Findings of Fact, to wit:"
- **(B)** "(Petitioner) filed a Petition for a (Type of Petition) as to the following described real estate located in _____ Township, Wells County, Indiana; more particularly described on Exhibit A attached hereto."
- **(C)** Advertisement: (Except for Development Plans reviewed by the Plan Commission's Staff)
  - (a) **Public Hearing:** "Notice of the scheduled (public hearing date) public hearing on the Petition was duly published in accordance with I.C. 5-3-1 more than ten (10) days prior to the public hearing."
  - (b) **Development Plan, CAFO, Major Subdivision, or PUD:** "The sign as required by the Plan Commission has been duly posted in accordance with the Rules of Procedure of the Plan Commission more than fourteen days prior to the Plan Commission hearing."
- **(D)** Hearing: (Except for Development Plans reviewed by the Plan Commission's Staff)
  - (a) **Public Hearing:** "On (public hearing date), the (governing agency) conducted a public hearing on the Petition in accordance with the Rules of Procedure of the (governing agency) and the following evidence was heard.
  - (b) **Plat Committee Hearing:** "On (hearing date), the Wells County Plat Committee conducted a hearing on the Petition in accordance with the Rules of Procedure of the Wells County Plat Committee."
- **(E)** The body shall continue to state the reasons how the proposed petition satisfies or does not satisfy the requirements set forth by the applicable provisions and Articles within this Ordinance and other applicable state/federal laws.
- **(F)** In the case of a variance, the hardship shall be clearly stated.

(3) Ruling**:** The ruling section of the Findings of Fact and Ruling document shall contain the following items.

(A) Any variances approved by the Board of Zoning Appeals.

(B) Any Waivers.

(C) Any conditions or commitments.

(D) "Wherefore, based upon the above findings of fact and upon the Motion of _____, duly seconded by _____, the Petition for a (type of petition) by (Petitioner) is hereby (granted / denied) by a vote of _____ in favor and _____ opposed." (Except for Development Plans reviewed by the Plan Commission Staff)

(E) "(Granted / Denied) this (day) day of (month), (year)."

(F) Signature line for (governing agency) President.

(G) Signature line for (governing agency) Secretary.

(H) Signature line for Plan Commission Staff instead of President and Secretary for Development Plans reviewed by the Plan Commission Staff.

6-04 **REVIEW:** A Findings of Fact and Ruling Document shall be made available for review by the petitioner, petitioner's agent, or interested party within a reasonable time prior to and after the government agency's hearing. The Area Planning Department may have any Findings of Fact and Ruling Document reviewed by the Plan Commission's Attorney for any reason.

6-05 **MODIFICATION:** During a hearing of a governing agency prescribed by this Zoning Ordinance, the petitioner or governing agency may request a modification to the Findings of Fact and Ruling Document as part of the official action. This modification shall be prepared by the Director or the Attorney of the Plan Commission**.**

6-06 **CERTIFICATION:** The President shall certify, the Secretary shall attest, and the governing agency's seal shall be placed upon the Findings of Fact and Ruling Document after an official action has been made by the governing agency and all required modifications have been made. However, in the case of Development Plans reviewed by the Plan Commission's Staff the Director shall certify the Findings of Fact and Ruling Document.

6-07 **RECORD KEEPING:** The Findings of Fact and Ruling Documents shall be stored and maintained by the Area Planning Department in their public access files once the Findings of Fact and Ruling Documents have been certified.

ARTICLE 7: VIOLATIONS AND APPEALS

7-01 VIOLATIONS: Violations of the terms of the Wells County Zoning Ordinance, Wells County Subdivision Control Ordinance or the Wells County or Markle Ordinance for Flood Hazard Areas, as well as any conditions or commitments made by the Plan Commission, Board of Zoning Appeals, Plat Committee, of the Plan Commission Staff, shall be handled as follows:

(1) Enforcement Officer: The enforcement officer shall be the Plan Commission Director.

(2) Notification: The notification procedure for alerting the Enforcement Officer of a violation is as follows:

(A) The Enforcement Officer shall actively enforce violations of Plan Commission petitions, Board of Zoning Appeals petitions, Plat Committee petitions, Plan Commission staff petitions, improvement location permits, floodplain development permits issued through the ordinance listed above.

(B) The Enforcement Officer may actively review flood-related violations on properties within the jurisdiction of the Wells County or Markle Ordinance for Flood Hazard Areas.

(C) The Enforcement Officer can only review violations not specifically listed in (A) and (B) if a written or oral complaint is made to the enforcement office by any interested party.

(3) Right of Entry: The right of entry law shall be as follows:

(A) Any of the above-mentioned petitions or permits act as permission to enter the property for inspection.

(B) Any flood-related issue not covered in (A) shall follow the right of entry rule listed in the Wells County or Markle Ordinance for Flood Hazard Areas.

(C) Any other inspection shall be done from publically controlled property including but limited to municipally owned property, right-of-ways, or easements.

(4) Review of Alleged Violation: The Enforcement Officer shall then review the violation to determine its validity through the preponderance of the evidence.

(5) Violator: Violator shall be defined as the legal owner of the property where the violation is occurring.

(6) Notification of Violator: In a case where the Enforcement Officer determines there is a violation the following written notification will be given to the violator through standard mail. If written notification by standard mail fails to obtain a response within thirty (30) days from the violator then the written notification shall be plated at a conspicuous location on the property and/or shall be sent to the violator through certified mail.

(A) Date of Letter

(B) Violation Number (unique designator for the violation)

(C) Affected Ordinance Section

(D) Description of Violation (may include photographs or drawings)

(E) List of Potential Options to Cure the Violation (may include fees and fines)

(F) "The above-mentioned violation must be cured within thirty (30) days of receiving this written notification."

(G) "If no action is taken to cure the violation or an administrative appeal has not been filed within thirty (30) days of receiving this written notification the Enforcement Officer will ask the Plan Commission or Board of Zoning Appeals to authorize a civil action in conformance with IC 36-7-4-1014, IC 36-1-6-4, and IC 34-28-5-1, and any amendments thereto at their next available regular meeting.

(H) "Within thirty (30) days of receiving this written notification, you may file an appeal of an administrative decision with the Board of Zoning Appeals if you feel that the violation has been wrongly assessed.

(I) Contact Information for Enforcement Officer

(J) Signature of Enforcement Officer

(7) Penalties: Upon compliance with the above-mentioned notification procedure, the Enforcement Officer may ask the Plan Commission or Board of Zoning Appeals at their next available regular meeting to determine that the Violator has failed to make a substantial attempt to cure the violation and has not filed an appeal of an administrative decision. If the Plan Commission or Board of Zoning Appeals finds a failure to cure the violation and no appeal has been filed, then Plan Commission or Board of Zoning Appeals can authorize the Plan Commission's attorney to bring a civil action in conformance with IC 36-7-4-1014, IC 36-1-6-4, and IC 34-28-5-1, and any amendments thereto.

7-02 VIOLATION OF STATE OR FEDERAL REGULATIONS: If an approved Development Plan, Major Subdivision, or PUD has been cited for violation of state or federal regulations which supersede the provisions of this Zoning Ordinance, the office of the Area Planning Department shall suspend issuing further improvement location permits for the offending Development Plan, Major Subdivision, or PUD until said compliance has been acknowledged in writing by the appropriate state or federal agency or agent.

7-03 APPEALING A DECISION: Any petitioner or interested party may appeal any decision rendered by the Plan Commission, the Plat Committee, the Board of Zoning Appeals, the Director, or the staff of the Planning Department.

(1) Appealing a Decision of the Executive Director or Staff**:** The Board of Zoning Appeals shall have the power to hear and decide appeals from any order, requirement, decision, grant, or refusal made by the Director or the staff in the administration of this Zoning Ordinance (other than with respect to approval or denial of a Development Plan as authorized by this Zoning Ordinance) in accordance with I.C. 36-7-4-900, et. seq., and any amendments thereto. The appeal shall be filed with the Board of Zoning Appeal within thirty (30) days that the Director or the staff made said order, requirement, decision, grant, or refusal. The filing of the appeal shall be done in accordance with the "Rules of Procedure" of the Board of Zoning Appeals.

(2) Appealing a Decision of the Plat Committee**:** In accordance with I.C. 36-7-4-701(d) and 708(a), and any amendments thereto, the Plan Commission shall have the power to hear and decide appeals of any official action of the Plat Committee. After any primary approval of a Minor Subdivision, the Area Planning Department Staff shall provide for due notice to interested parties in accordance with the "Rules of Procedure" of the Plat Committee. An appeal of any Plat Committee decision shall be filed with the Plan Commission within ten (10) days from the date notification of the Plat Committee's official action. The filing of the appeal shall be done in accordance with the "Rules of Procedure" of the Plan Commission.

(3) Appealing a Decision of the Plan Commission or Board of Zoning Appeals**:** Each decision of the Plan Commission or the Board of Zoning Appeals is subject to review by certiorari. Each person aggrieved by a decision of the Plan Commission or Board of Zoning Appeals may file with the Circuit or Superior Court of the county in which the premise affected is located, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. No change of venue from the county in which the premise affected is located may be had in any cause arising under this section. The person shall file the petition with the court within thirty (30) days after the date of that decision of the Plan Commission or the Board of Zoning Appeals.

(4) Appealing a Decision of the Staff with Respect to a Development Plan**:** In accordance with I.C. 36-7-4-1404(a)(3), and any amendments thereto, the Plan Commission shall have the power to hear and decide appeals of any decision of the Area Planning Department Staff with respect to approval or denial of a Development Plan as authorized by this Zoning Ordinance. An appeal of any such decision shall be filed with the Plan Commission within thirty (30) days from the date notification of the Staff's official action. The filing of the appeal shall be done in accordance with the "Rules of Procedure" of the Plan Commission.

ARTICLE 8: BOARD OF ZONING APPEALS

8-01 GENERAL: The Board of Zoning Appeals shall act in accordance with I.C. 36-7-4-900, et. seq., and any amendments thereto. A Board of Zoning Appeals shall be appointed and said Board shall adopt rules to govern its procedures. The Board of Zoning Appeals shall hold meetings, keep minutes, and, pursuant to notice, shall conduct hearings, take testimony, and render decisions in writing, all as required by law and this ordinance. When permitting any appeal, variance, or an expansion, change, or reinstatement of a non-conforming use, the Board of Zoning Appeals may impose such conditions and requirements as it deems necessary for the protection of adjacent property and the public interest. Whenever a public hearing is conducted pursuant to a petition filed by the Board of Zoning Appeals, notice of said public hearing shall be made as directed by the rules of the Board of Zoning Appeals, a copy of which is available through the Plan Commission Office.

8-02 PROCEDURE: Whenever a BZA Petition is desired, the seller(s)/owner(s) of the subject real estate shall file with the Plan Commission the appropriate forms, surveys, and fees as prescribed in Article 4 of this Zoning Ordinance and this Article.

8-03 FINDINGS OF FACT AND RULING: A proposed findings of fact and ruling document that complies with the requirements set forth in Article 6 of this Ordinance shall be filed with the Area Plan Office two (2) weeks before the public hearing on said petition.

8-04 APPEALS: The Board of Zoning Appeals shall hear and determine appeals from and review:

(1) any order, requirement, decision, or determination made by an administrative official or staff member under the zoning ordinance;

(2) any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of the Zoning Ordinance; or

(3) any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of an ordinance adopted under this Article requiring the procurement of an improvement location or occupancy permit.

8-05 VARIANCES: Upon appeal by a petitioner, the Board of Zoning Appeals shall have the power to authorize variances from the development standards of this Zoning Ordinance and to attach such conditions and commitments to the variances as it deems necessary to assure compliance with the purpose of this Zoning Ordinance. A variance may be permitted if all the following requirements are met.

(1) The petitioner files for a variance with the Board of Zoning Appeals, notice is given to all interested parties, and a public hearing is held.

(2) The variance shall not be injurious to the public health, safety, morals, and general welfare of the community.

(3) The use and value of the area adjacent to the property included in the variance shall not be affected in a substantially adverse manner.

(4) The strict application of the terms of this Zoning Ordinance will result in practical difficulties in the use of the property included in the variance. Practical difficulties shall exclude a financial hardship or any project that creates a visual impression that is inconsistent with the environment of the neighborhood.

(5) Any approval of a structure regulated under I.C. 8-21-10, Regulation of Tall Structures, shall meet the provisions established in I.C. 8-21-10.

(6) The Board of Zoning Appeals shall not issue a variance for a development requirement found in the Subdivision Control Ordinance.

8-06 IMPLEMENTATION OF A VARIANCE: A variance from the terms of this Zoning Ordinance must be fully constructed, implemented, or placed into existence within thirty-six (36) months of being granted. If the variance is not fully constructed, implemented, or placed into existence within said thirty-six (36) month period, the variance shall terminate, and the applicant or current landowner shall be required to file a new petition if they still wish to obtain said variance.

8-07 NON-CONFORMING: This section regulates the legal status of any structure, lot, or use regarding the regulations of the Zoning Ordinance, Subdivision Control Ordinance, or Flood Hazard Ordinance.

(1) Legal: Any structure, lot, or use that is in complete compliance with all applicable requirements of the Zoning Ordinance, Subdivision Control Ordinance, and Flood Hazard Ordinance shall be considered a legal structure, lot, or use.

(2) Illegal Non-Conforming: Any structure, lot, or use that came into existence after the adoption of the applicable requirement(s) of the Zoning Ordinance, Subdivision Control Ordinance, and Flood Hazard Ordinance that is not in compliance with, shall be considered an illegal non-conforming structure, lot, or use. An illegal non-conforming structure, lot or use is considered a common nuisance and is in violation of this Zoning Ordinance, Subdivision Control Ordinance, or Flood Hazard Ordinance.

(3) Legal Non-Conforming: Any structure, lot, or use that came into existence prior to the adoption of the applicable requirement(s) of the Zoning Ordinance, Subdivision Control Ordinance, and Flood Hazard Ordinance that is not in compliance with, shall be considered a legal non-conforming structure, lot, or use. The following regulations apply to all legal non-conforming structures, lots, or uses.

(A) Expansion: The following provisions apply to the expansion of a legal non-conforming structure, lot, or use

a) Structure- A legal non-conforming structure may be expanded if it does not increase the violation in any way and complies with all other applicable requirements. (i.e. A structure that is violating a setback can be expanded as long as the expansion does not get any closer to the property line.) If the expansion increases the violation or violates another applicable requirement in any way then a Variance approval would be required.

b) Lot- A legal non-conforming lot may be expanded in compliance with the Subdivision Control Ordinance and with all other applicable requirements.

c) Use- A legal non-conforming use may not be expanded.

(B) Change: The following provisions apply to the change of a legal non-conforming structure, lot, or use.

a) Structure- A legal non-conforming structure may be changed in compliance with reinstatement section and with all other applicable requirements.

b) Lot- A legal non-conforming lot may be expanded in compliance with the Subdivision Control Ordinance and with all other applicable requirements.

c) Use- A legal non-conforming use may be changed if changed use continues to fall under the same use definition, per the Zoning Ordinance, as the prior original legal non-conforming use. (i.e. If the prior use was light manufacturing then it can only be changed to light manufacturing.)

(C) Termination: The following provisions apply to the termination of a legal non-conforming structure, use, or lot.

a) Structure- A legal non-conforming structure shall be considered terminated is a structure is removed from the site for any reason for twelve (12) consecutive months.

b) Lot- A legal nonconforming lot shall be considered terminated at the time it is altered in size. All alterations shall conform to the Subdivision Control Ordinance and with all other applicable requirements.

c) Use- A legal non-conforming use shall be considered terminated if the use ceases for any reason for twelve (12) consecutive months.

(D) Reinstatement: A legal non-conforming structure, lot or use may be reinstated prior to the termination date as provided by the following provisions.

a) Structure- A legal non-conforming structure may be reinstated prior to the termination date if the structure does not increase the violation in any way and complies with all other applicable requirements. (i.e. A structure that is violating a setback can be expanded as long as the expansion does not get any closer to the property line.) If the reinstatement increases the violation or violates another applicable requirement in any way then a Variance approval would be required.
b) Lot- A legal non-conforming lot may not be reinstated.
c) Use- A legal non-conforming use may be reinstated if the use continues to fall under the same use definition, per the Zoning Ordinance, as the prior original legal non-conforming use. (i.e. If the prior use was light manufacturing then it can only be reinstated as light manufacturing.)

8-08 SPECIAL EXCEPTIONS

(1) Only those uses identified in each individual zoning district shall be permitted; however, the Board of Zoning Appeals shall have the discretion to grant the following Special Exception(s).

(A) Housing in an approved Business or Religious Development

(a) The housing must be located on the same parcel as the approved Business or Religious Development.

(b) The housing must only be for the living quarters of the owner or agent of the owner responsible for management of the premises.

(B) Manufactured home to occupy the same parcel as another existing dwelling. In the A-1 and A-R zoning districts, a manufactured home may occupy the same property as an existing dwelling as an accessory dwelling with said special exception approval. All previous special exceptions for temporary manufactured homes approved by the Board of Zoning Appeals shall be considered approved accessory dwellings and are no longer required to follow previous removal timelines.

(C) Concrete Manufacturing Plant in an A-1 or I-1 zoning district.

(a) The concrete manufacturing plant must be located on the parcel or directly adjacent to the parcel containing a mineral excavation facility.

(b) The owner or operator of the concrete manufacturing plant must have a written approval from all Local Legislative Bodies responsible for the maintenance of the roadways that will be used to gain access to and from the parcel from an arterial road. Said approval shall include a statement from the Local Legislative Body that all designated roadways leading to the arterial roadway are capable of accommodating the traffic created by the operation of the plant and an agreement specifically identifying the party responsible for all necessary upgrades or repairs.

(c) The concrete manufacturing plant shall go through the Development Plan procedure upon receiving special exception approval.

(2) Grant of Special Exceptions:

(A) The Board of Zoning Appeals authority to grant a special exception is subject to the following requirements.

(a) A petition for Special Exception shall be filed with the Board of Zoning Appeals by the owner of the parcel real estate in which the special exception is sought. The petition shall include a proposed Findings of Fact in support of the Special Exception.

(b) A public hearing shall be held and all interested parties shall receive notice in the same manner as variance petition.

(c) A demonstration by the Petitioner and a determination by the board that:

(i) The proposed use will not be injurious to the public health, safety, comfort, morals, convenience or general welfare of the community;

(ii) The proposed use will not injure or adversely affect the use or value of other property in the immediate area in a substantially adverse manner; and,

(iii) The proposed use will be consistent with the general character of the zoning district, land uses authorized therein, the spirit of the Wells County Zoning Ordinance and the Wells County Comprehensive Plan.

(3) Conditions for the Grant of a Special Exception

(A) The grant of a Special Exception shall be subject to the following conditions:

(a) The proposed use shall conform to all development standards of the applicable zoning district.

(b) The proposed use shall conform to all conditions attached to the Special Exception by the Board. Such conditions may include any reasonable site, development, operational and performance standards, requirements and restrictions deemed necessary to ensure compliance with the Findings of Fact determinations. The granting of a Special Exception may be for a limited period of time, as specified by the Board.

(4) Changes, Expansions, and Terminations

(A) A special exception may not be extended, expanded or changed unless the person seeking the extension, expansion, or change petitions the Board in the same manner as a new special exception pursuant to this Zoning Ordinance.

(B) A special exception granted by the Board shall be considered terminated for any of the following reasons:

(a) The special exception has not commenced within twelve (12) months from the date in which it was granted;

(b) The special exception has not been completed within twenty-four (24) months from the date in which it was granted; or,

(c) The special exception has ceased, for any reason, for one continuous year.

(C) A special exception that has been terminated for any reason shall not be reinstated except by the approval of the Board upon the filing of a new petition for special exception described in this Zoning Ordinance.

ARTICLE 9: ZONING DISTRICTS

9-01 ZONE MAPS: A "Zone Map" of the City of Bluffton, the Town of Ossian, the Town of Poneto, the Town of Uniondale, the Town of Vera Cruz, the Town of Zanesville, and each township in Wells County is hereby adopted as a part of this Zoning Ordinance. The Zone Maps shall be kept on file and available for examination at the office of the Area Planning Department.

9-02 ZONING DISTRICTS: Wells County shall be divided into the districts stated in this Zoning Ordinance and shown by the district boundaries on the Zone Maps. These districts are as follows:

(1) "A-R" Agriculture-Residential
(2) "A-1" Agriculture-Intensive
(3) "B-1" Central Business District (CBD)
(4) "B-2" Service Business
(5) "B-3" General Business
(6) "C-1" Conservation
(7) "I-1" Light Industrial
(8) "I-2" Heavy Industrial
(9) "L-1" Landfill
(10) "M-1" Manufactured Home Community
(11) "M-2" Manufactured Home Subdivision
(12) "R-1" Residential
(13) "R-2" Residential
(14) "R-3" Residential
(15) "S-1" Suburban Residential
(16) "P-1" Power Plant Overlay District

9-03 DISTRICT BOUNDARIES: District boundaries shown within the lines of streets, streams, and transportation rights-of-way shall be deemed to follow their centerlines. The vacation of streets shall not affect the location of such district boundaries. When the Director cannot definitely determine the location of a district boundary by such centerlines, the scale, or dimensions stated on the Zone Map or by the fact that it clearly coincides with a property line, the Director shall refuse to determine said location, and the Board of Zoning Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zone Map and the purposes set forth in all relevant provisions of this Zoning Ordinance.

9-04 AGRICULTURE DISTRICTS: The district designated for Agriculture Residential Use, "A-R", is intended for areas adjacent to incorporated cities and towns where future expansion of public utilities is possible. The district designated for Agriculture-Intensive Use, "A-1", is intended for areas that cannot feasibly be served with public water and sewer facilities. Agriculture-Intensive districts shall preserve and protect agricultural land from undesirable urban growth while permitting limited residential development on large-size lots that provide adequate space for private water and sewage facilities. Agriculture Residential Districts shall act as buffers between the densely developed towns and Agriculture Intensive District. Limited residential development shall be compatible with either of these districts as governed by provisions for Minor Subdivision, Major Subdivisions, or PUDs as defined by this Zoning Ordinance and the Subdivision Control Ordinance.

9-05 BUSINESS DISTRICTS: The districts designated for business, "B-1", "B-2", and "B-3", are limited to business, public, and certain residential uses. By establishing compact districts for such uses, more efficient traffic movement, parking facilities and fire and police protection may be provided. Industrial uses are excluded in order to reduce the hazards caused by extensive truck and rail movements normally associated with such uses. The purpose of these districts is to provide unified shopping districts conveniently located. The district designated for "B-1" (Central Business District) is the area of an incorporated city or town such as the downtown area as platted at the time of the incorporation of the City or Town. The district designated "B-2" is an area zoned mostly for service-oriented business. The district designated "B-3" is zoned for a variety of business.

9-06 CONSERVATION DISTRICT: The district designated for conservation, "C-1", is limited to agricultural, recreational, and certain other open land uses. The purpose of the district is to prevent the development of land that is unsuitable for development because of topography, soil conditions, floodplain, or other natural features.

9-07 INDUSTRIAL DISTRICTS: The districts designated for industry, "I-1" and "I-2", provide suitable space for existing industries and their expansion as well as for future industrial development. Performance standards, parking specifications, and yard regulations are set forth in this Zoning Ordinance in order to ensure safe industrial development that is compatible with adjacent use. The locations of the districts are near railroads or highways in order to meet the transportation needs of industry. The light industrial district, "I-1", provides space for industries which do not cause conditions that would be objectionable characteristics to surrounding property. Greater separation is required between the industries and the residential or business uses in the "I-2" district than is necessary for the "I-1" district.

9-08 LANDFILL: The district designated for landfill, "L-1", shall be an overlay district in which sanitary landfill shall be allowed to be located after approval of a development plan.

9-09 MANUFACTURED HOME COMMUNITY: The district designated for a manufactured home community, "M-1", is a parcel of land platted according to all requirements of this Zoning Ordinance and Subdivision Control Ordinance, on which three (3) or more manufactured homes are occupied as residences and that is platted according to all the requirements of this Zoning Ordinance, Subdivision Control Ordinance, and regulations of the State of Indiana that govern such manufactured home residency.

9-10 MANUFACTURED HOME SUBDIVISION: The district designated for a manufactured home subdivision, "M-2", is a parcel of land platted for a subdivision into lots designed or intended to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes and is platted according to all the requirements of this Zoning Ordinance, Subdivision Control Ordinance, and the State of Indiana that govern such manufactured home residency on which three (3) or more manufactured homes are occupied as residences.

9-11 OVERLAY DISTRICT: An overlay district is a zoning classification that co-exists with an underlying zoning classification. In any district that is overlaid by a PUD district, all permitted uses and/or special exceptions shall be treated as non-conforming uses, unless it is a permitted use under the overlay district.

9-12 POWER PLANT OVERLAY DISTRICT: The overlay district designated for large scale electric power production, "P-1" is to add the possibility of large-scale electric power plants in such areas. A Power Plant Overlay District can only be applied for on property currently zoned A-1 "Agriculture-Intensive," I-1 "Light Industrial," or I-2 "Heavy Industrial."

9-13 RESIDENTIAL DISTRICTS: Districts designated for residential use, "R-1", "R-2", "R-3", and "S-1", are limited to dwellings and public or semi-public uses which are normally associated with residential districts and which would not detract from the residential character of the neighborhood. The purpose of these four districts is to create an attractive, stable, and orderly residential environment. However, the families per dwelling and the lot and yard requirements are different in the four districts to provide for various housing needs and desires of the citizens.

9-14 REZONING: To rezone property, the following criteria shall be met.

(1) The requirements set forth in IC 36-7-4-603, and amendments thereto are hereby incorporated into this ordinance.

(2) As part of a rezoning petition, the Plan Commission can recommend proposed commitments to be included in the approval of a rezoning petition by the applicable legislative body.

9-15 PERMITTED USES: The permitted uses for each district are shown in the following table, Table 9-15. Unless specifically defined by this Ordinance, the uses listed for the various districts shall be according to the common meaning of the term. Permitted uses under this Zoning Ordinance shall be subject to all the conditions and requirements of this Zoning Ordinance. Development Plans shall be required in all zoning districts unless excluded under this Zoning Ordinance. Any use not specified in this section shall be considered to be not permitted by this Zoning Ordinance.

TABLE 9-15 (Part 1of 5) Permitted Uses in Zoning Districts
Development Plan Required = Highlighted Text | SE = Special Exception | $_x$ = Multiple On One Lot

USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1
Accessory Uses (If required by Article 14)	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	
Accessory Structure General (If required by Article 14)	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**						**X**	**X**
Accessory Structure Residential (If required by Article 14)										**X**	**X**	**X**	**X**	**X**		
Agriculture	**X**	**X**				**X**									**X**	
Airport	**X**	**X**					**X**	**X**								
Antique Restoration			**X**	**X**	**X**		**X**	**X**								
Asphalt Manufacturing Plant								**X**								
Automobile Sales & Service			**X**	**X**	**X**		**X**	**X**								
Auto & Truck Repair					**X**		**X**	**X**								
Bank / Credit Union			**X**	**X**	**X**		**X**									
Boarding House													**X**	**X**		
Brewery	**SE**	**SE**	**SE**	**SE**	**SE**		**X**									
Brewery, Micro-	**X**	**X**	**X**	**X**	**X**		**X**									
Bulk Fuel Storage (Private)	**X**	**X**			**X**		**X**	**X**								
Bulk Fuel Storage (Commercial)		**X**			**X**		**X**	**X**								
USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1

TABLE 9-15 (Part 2 of 5) Permitted Uses in Zoning Districts
Development Plan Required = Highlighted Text | SE = Special Exception | $_x$ = Multiple On One Lot

USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1
CAFO		**X**														
Campground	**X**	**X**				**X**										
Cemeteries	**X**	**X**				**X**									**X**	
Church	**X**	**X**	**X**	**X**	**X**		**X**					**X**	**X**	**X**	**X**	
CFO		**X**														
Clinic, Medical			**X**	**X**	**X**		**X**									
Clubs (Private)	**X**		**X**	**X**	**X**							**X**	**X**	**X**		
College Buildings & Grounds			**X**	**X**	**X**							**X**	**X**	**X**	**X**	
Concrete Manufacturing Plant		**SE**					**SE**	**X**								
Condominiums													**X**	**X**		
Convenience Store			**X**	**X**	**X**		**X**									
Crematorium		**X**					**X**	**X**								
Day Care Center					**X**											
Development Plan	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	
Distillery	**SE**	**SE**	**SE**	**SE**	**SE**		**X**									
Distillery, Micro-	**X**	**X**	**X**	**X**	**X**		**X**									
Drive-In Business			**X**	**X**	**X**											
Dry Cleaning & Laundry					**X**		**X**	**X**								
Dump or Transfer Station								**X**								
Dwelling (Central Business District)			**X**													
Dwelling (Multiple Family)														**X**		
Dwelling (Four-Family) (Multiple On One Lot)														**X$_x$**		
Dwelling (Three-Family) (Multiple On One Lot)														**X$_x$**		
Dwelling (Two-Family) (Multiple On One Lot)													**X**	**X$_x$**		
Dwelling (Single Family) (Multiple On One Lot)	**X**	**X**										**X**	**X**	**X$_x$**	**X**	
Dwelling, Accessory	**X**	**X**								**X**	**X**		**X**	**X**	**X**	
USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1

TABLE 9-15 (Part 3 of 5) Permitted Uses in Zoning Districts
Development Plan Required = Highlighted Text | SE = Special Exception | $_x$ = Multiple On One Lot

USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1
Eating & Drinking Establishment			X	X	X											
Essential services	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Farm implement Sales, Service, & Repair	X	X					X	X								
Farm Fertilizer, Seeds, & Chemical Sales	X	X					X	X								
Farmers Market	X	X	X	X	X		X									
Farmers Market, Temporary	X	X	X	X	X		X								X	
Food Production or Processing, Retail			X	X	X		X									
Food Production or Processing, Wholesale							X	X								
Fraternity Housing														X		
Funeral Home			X	X	X											
Garbage Collectors								X								
Gasoline or Oil Retail Sales			X	X	X											
Golf Course	X	X										X	X	X	X	
Grain Elevator	X	X					X	X								
Greenhouse & Nurseries	X	X		X	X											
Group Home (Multiple On One Lot)														X$_x$		
Hospital			X	X	X		X									
Hotel & Motel				X	X		X									
Junkyard								X								
Kennel	X	X		X	X											
Livestock Auction & Stockyard		X														
Machine & Welding Shop	X	X					X	X								
Manufactured Home Type 1 (Multiple On One Lot)	X	X								X	X$_x$	X	X	X	X	
Manufactured Home Type 2 (Multiple On One Lot)	SE	SE								X	X$_x$			SE		
Manufactured Home Type 3 (Multiple On One Lot)	SE	SE								X	X$_x$					
Manufactured Home Subdivision											X					
USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1

TABLE 9-15 (Part 4 of 5) Permitted Uses in Zoning Districts
Development Plan Required = Highlighted Text | SE = Special Exception | $_x$ = Multiple On One Lot

USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1
Manufacturing (Heavy)								X								
Manufacturing (Light)							X	X								
Manure Lagoon		X														
Manure Lagoon, Satellite		X														
Mall or Shopping Center				X	X											
Mineral Excavation		X						X								
Municipal Building	X	X	X	X	X		X	X	X	X	X	X	X	X	X	
Nature Preserves	X	X				X										
Nursery School			X	X	X							X	X	X	X	
Nursing Home	X	X												X		
Office Complex			X	X	X		X									
Office (Professional)			X	X	X		X									
Parking Lot	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Parks & Play Grounds (Public)	X	X	X	X	X	X				X	X	X	X	X	X	
Personal & Professional Service			X	X	X		X									
Ponds (Recreational)	X	X													X	
Power Plant																X
Public Transportation Terminal					X		X	X								
Public Way	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
PUD	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Recreation, Commercial	X	X	X	X	X		X								X	
Recreational, Non-commercial	X	X	X	X	X	X				X	X	X	X	X	X	
Recreational Vehicle Park	X	X									X					
Recycling Center (Permanent)							X	X	X							
Recycling Collection Point (Temporary)	X	X	X	X	X		X	X	X	X	X	X	X	X	X	
Research & Testing Laboratory					X		X	X								
Restaurant			X	X	X											
Retail Business			X	X	X		X									
Retirement Home	X	X			X									X		
Riding Stable	X															
Sanitary Landfill									X							
Schools, Commercial			X	X	X											
Schools, Public & Parochial			X	X	X							X	X	X	X	
Self Service Laundry Facility			X	X	X											
Service Station			X	X	X		X									
Sign	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1

TABLE 9-15 (Part 5 of 5) Permitted Uses in Zoning Districts
Development Plan Required = Highlighted Text | SE = Special Exception | $_x$ = Multiple On One Lot

USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1
Slaughterhouse, Large								X								
Slaughterhouse, Small		SE					X	X								
Solar Energy Facility, Large															SE	X
Solar Energy Facility, Medium	SE	X	X	X	X	X	X	X	X					SE	SE	
Solar Energy Facility, Small	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Solar Energy Facility, Structure Mounted (If structure mounted on would require Development Plan)	X_x	X_x	X_x	X_x	X_x	X_x	X_x	X_x	X_x	X_x	X_x	X_x	X_x	X_x	X_x	
Sorority Housing														X		
Subdivision, Major	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Subdivision, Minor, Combine, or Addition	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Supervised Homes (Multiple On One Lot)	X	X										X	X	X_x	X	
Supply Yard								X								
Swimming Pool (Commercial)	X	X										X	X	X	X	
Tank Bulk Storage	X	X					X	X								
Theater			X	X	X											
Towers (Communication)	X	X					X	X								
Truck & Railroad Terminals							X	X								
Veterinarian Clinic/Hospital			X	X	X		X									
Warehouse					X		X	X								
Water & Wastewater Treatment Plants	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
WECS Testing Facility	X	X					X	X								
WECS, Large																
WECS, Medium	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
WECS, Small	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Winery	SE	SE	SE	SE	SE		X									
Winery, Micro-	X	X	X	X	X		X									
Wholesale Business					X		X	X								
USES	A-R	A-1	B-1	B-2	B-3	C-1	I-1	I-2	L-1	M-1	M-2	R-1	R-2	R-3	S-1	P-1

9-16 LOT SIZES, SETBACK, AND HEIGHT RESTRICTIONS. Lot sizes and setbacks and height restrictions for structures shall be as follows for the Zoning Districts designated in this Zoning Ordinance. Except as stated elsewhere in this Zoning Ordinance.

Table 9-16, Lot Sizes, Setbacks, and Height Restrictions

(1) A setback shall be measured from the nearest property line or public right-of-way to the foundation of any structure as long as the overhang including gutter does not project past the foundation more than two (2) feet.

(2) Heights shall be measured from the highest section of the structure to the average land elevation of the parcel on which said structure is located.

(3) In the A-1, A-R, S-1 and C-1 zoning districts the minimum lot size shall be two (2) acres except if there is written proof and proper approvals stating that the property can utilize public sewer or an onsite sewage disposal system that does not take up as much space and has a significantly longer life span than a traditional system.

(4) No structure except WECS Projects, WECS Testing Facilities, and Communication Towers shall be erected above the maximum height requirement for each zoning type described in this Zoning Ordinance. No structure may be erected within any district whose height would place it in the proximity to commercial power transmission lines.

(5) Primary and accessory structures used for the parking of vehicles may not be less than twenty (20) feet from a property line when a vehicular ingress and/or egress point faces a public right-of-way unless said public right-of-way is an alley.

Zoning Districts	Minimum Lot Size (Acres)	Minimum Road Frontage (Feet)	Property Line / Right-of-Way Setbacks (Feet)	Maximum Structure Height (Feet)
A-1 (Unincorporated Areas Only	2 or .5	25	P.L. = 20 ROW = The greater of 30' from ROW or 60 from center of road	100
A-R, S-1, C-1 & (Incorporated Areas Only A-1)	2 or .5	25	P.L. = 5 ROW = The greater of 30' from ROW or 60 from center of road	100
B-1 (CBD)	N/A	N/A	0	100
B-2, B-3, I-1 & I-2	N/A	25	P.L. = 5 ROW = The greater of 5 or platted/deeded building line	100
R-1	N/A	25	P.L. = 5 ROW = The greater of 30' or platted/deeded building line	35
R-2, R-3, M-1 & M-2	N/A	25	P.L. = 5 ROW = The greater of 5 or platted/deeded building line	35
L-1	10	25	IDEM Standards	100
P-1	Use Base District	Use Base District	Use Base District	Use Base District

ARTICLE 10: ORDINANCE REVISIONS AND ZONING MAP CHANGES

10-01 GENERAL: Any proposal to adopt a replacement Zoning Ordinance after repealing the entire existing Zoning Ordinance, including amendments and zone maps for a jurisdiction, shall follow the procedure stated in I.C. 36-7-4-600 et. seq. and any amendments thereto.

10-02 PROCEDURE TO AMEND OR PARTIALLY REPEAL ZONING ORDINANCE: This Zoning Ordinance shall be amended or partially repealed in accordance with I.C. 36-7-4-607 and any amendments thereto.

10-03 PROCEDURE TO AMEND ZONING MAP: The zone map incorporated by reference into this Zoning Ordinance shall be amended in accordance with I.C. 36-7-4-608 and any amendments thereto. For additional provisions concerning PUD or Rezoning see elsewhere in this Zoning Ordinance.

ARTICLE 11: GENERAL REGULATIONS

11-01 ACCESSORY STRUCTURES AND USES: Accessory uses and structures are permitted in all districts in conjunction with a primary use or structure provided the accessory use does not change the character of the district in which it is located and conforms with all other requirements of this Zoning Ordinance. Accessory structures include sheds, barns, silos, detached garages, above or below ground pools, dog kennels, pavilions, gazebos, and similar structures.

(1) Manufactured homes shall not be used for accessory structures.

(2) Truck bodies and semi-trailer bodies shall not be used as an accessory structure except as follows:

(A) A truck body or semi-trailer may be utilized as an accessory structure in the A-1, I-1, I-2, and L-1 zoning districts. Such accessory structures shall require an improvement location permit.

(B) A truck body or semi-trailer may be utilized as an accessory structure as a special exception in the A-R, S-1, C-1, B-1, B-2, and B-3 zoning districts. Such an accessory structure shall require an improvement location permit.

(3) Migrant worker's housing facilities may be permitted as an accessory use in conjunction with an agricultural or industrial operation in the A-1, A-R, I-1, or I-2 districts.

(4) Accessory structures or uses shall not adversely affect any section of a storm water plan to an approved Development Plan, Major Subdivision, PUD, or CAFO.

(5) An accessory structure in the A-1 zoning district can meet a 5-foot setback from a property line if it is less than 14 feet tall and less than 500 square feet in size.

11-02 FENCES: Unless a Local Legislative Body enacts an ordinance to establish more stringent standards for fences in its own jurisdiction, no improvement location permit shall be required for fences, but fences shall meet these following minimum requirements.

(1) Fences erected by a property owner shall be located on the property of that owner.

(2) Fences shall not be located within the front yard setbacks as defined in this Zoning Ordinance, except for agricultural fences which must stay out of the public right-of-way. Agricultural fences shall be defined as a fence in the A-R, A-1, S-1, or C-1 zoning district that does not utilize solid privacy fence style panels.

(3) Fences shall not obstruct any portion of the site triangle.

11-03 HOME OCCUPATIONS: A home occupation may be permitted in the A-1, A-R, M-1, M-2, R-1, R-2, R-3, and S-1 zoning districts if it complies with the requirements of this Zoning Ordinance and the following.

(1) The home occupation shall be carried on by a member of the family residing in the dwelling unit and their immediate family with not more than three (3) employees, per day (24 hours), who is not part of the immediate family. For purposes of this section, immediate family shall mean a person's spouse, parents and their spouses, children and their spouses, and siblings and their spouses.

(2) A home occupation shall occur wholly within a primary or accessory structure.

(3) A home occupation shall not be the primary use for the property.

(4) A Home Occupation shall not be permitted to have outside displays of merchandise and/or storage of merchandise; however, this may be permitted in an A-1 and A-R area. Outside displays and/or storage of merchandise in A-1 and A-R areas shall not be lighted or situated so as to distract from the residential character of the neighborhood.

(5) The home occupation shall provide off-street parking and shall not create any traffic congestion in the neighborhood.

(6) A home occupation may not be extended, expanded, or substantially changed in size except as permitted in accordance with the provisions contained in this Zoning Ordinance.

(7) The receipt, purchase, and sale of merchandise manufactured outside the home occupation shall not be permitted in a home except as follows.

(A) Merchandise used as a part of a service rendered by the home occupation may be sold.
(B) It shall be permissible for a home occupation to bring in antiques, crafts, and craft materials manufactured outside of the home occupation for re-sale or re-working.
(C) It shall be permissible for a home occupation to operate a Direct Selling business which is defined as the sale of a consumer product or service, person-to-person, away from a fixed retail location.

(8) The following business shall **NOT** qualify as a Home Occupation.
(A) Garbage/ Recycling Collectors
(B) Junk Yards
(C) Other junk accumulation activities

11-04 MISCELLANEOUS LOT REQUIREMENTS: The Plan Commission office shall impose the following miscellaneous regulations.

(1) A property with legal non-conforming structures regarding to setbacks or heights can expand said existing structure or build new structures at the preexisting setback or height on said property as long as the preexisting structures do not extend over into a neighboring property.
(2) In the B-2, B-3, I-1, I-2, M-1, M-2, R-2 and R-3 zoning districts, a structure can be built with a zero side or rear yard setback if said structure shares or is designed to share a common wall with at least one other structure on the neighboring property with said neighboring property owner's written permission.

11-05 OFF-STREET LOADING: Every building shall provide off-street loading berths of a size and arrangement appropriate for the types of vehicles required to deliver or distribute materials. Or merchandise to that building. Loading or unloading shall not be permitted within public rights-of-way without written authorization from the Director.

11-06 OFF-STREET PARKING: Off-street parking spaces (a minimum of 10-foot-wide by 20-foot-long) shall be provided based on a parking needs analysis submitted as part of a Development Plan approval. Off-street parking shall be designed to avoid an undue burden on on-street parking while minimizing it so to provide more space for current and future development. A parking needs analysis is not required for projects occurring within Central Business District zoned areas

11-07 PONDS: Ponds shall require a permit as stated in section 4-02 of this Zoning Ordinance. The Plat Committee shall approve size and location of ponds as follows.

(1) Ponds may be permitted in the A-1 (Agriculture-Intensive), A-R (Agriculture-Residential), C-1 (Conservation-1), I-1 (Industrial-1), I-2 (Industrial-2), and S-1 (Suburban-1) Districts.
(2) Retention and detention ponds that are a part of the storm drainage system may be permitted in any district.
(3) Ponds may be permitted in a Major Subdivision or Development Plan by the approval of the Plan Commission. If a pond in a Major Subdivision abuts a Public Way, the pond shall meet setback requirements.
(4) Ponds shall be set back a minimum of fifty (50) feet from the water's edge to any property line or public right-of-way. Any mounding around the pond shall be set back a minimum of twenty (20) feet from the toe of the pond's bank to any property line or public right-of-way. The toe of the pond's bank is where the elevation goes back to the preexisting grade.
(5) Ponds and banks of ponds shall comply with the visual sight angle requirements as defined in the Performance Standards of this Zoning Ordinance.
(6) If during the construction, maintenance, or use of a pond, any legal ditch, drain, or watercourse is broken, destroyed, or disturbed, then owner of said pond at owner's expense shall reconstruct or reroute said ditch, drain, or watercourse so as to provide the same volume of drainage as existed prior to the construction of said pond with the approval of the Wells County Surveyor, Wells County Drainage Board, or Plan Commission.

(7) All excess dirt stockpiled on the property after excavating the pond shall be set back a minimum of twenty (20) feet from the toe of the dirt stockpile to any property line or public right-of-way. The toe of the dirt stockpile is where the elevation goes back to the preexisting grade.

11-08 SIGNS: Unless specifically exempted under this section, all signs shall require a permit as required by section 4-02 of this Zoning Ordinance.

(1) The following signs do not require a permit, provided they comply with all the provisions of this section and if a more stringent standard has not been enacted by the Local Legislative Body:

(A) Temporary signs provided:

(a) It shall conform to the sight triangle requirements.

(b) It shall not be located within a public right-of-way.

(c) It shall not be located within an easement.

(d) It shall conform to the lighting requirements.

(e) It shall comply with the height restrictions for the applicable zoning district.

(B) Signs required or approved by the affected government entity to be located in a public right-of-way or easement.

(C) Any sign that is securely fastened to and lays flat against a structure.

(D) Any sign that is located or designed to be viewable only when the intended viewer is not on any public way.

(2) Unless listed above, all other signs shall meet the following requirements unless a more stringent standard has not been enacted by the Local Legislative Body:

(A) The leading edge of the sign shall meet a five (5) foot setback from all property lines and public rights-of-way, except in the B-1 zoning district as follows:

(a) The leading edge of the sign shall meet the B-1 front yard, side yard, and rear yard setbacks requirements, except as follows. Signs and Awnings shall also be allowed to encroach into the public right-of-way if the sign or awning meets the requirements as follows:

(i) The sign or awning must only be attached to a preexisting structure.

(ii) The sign or awning including all apparatus must at least be eight (8) feet above ground level.

(iii) The sign or awning may not project into the travel lanes or on-street parking spaces of the adjacent roadways.

(iv) Written acknowledgment of the sign or awning must be obtained by owner/controller of the public right-of-way.

(B) It shall comply It shall not be located within an easement.

(C) It shall conform to the sight triangle requirements.

(D) It shall conform to the lighting requirements.

(E) It shall not detract from the public safety, welfare, and wellbeing of the viewers.

(F) Parcels or lots zoned A-1, B-1, B-2, B-3, I-1, I-2, and L-1 may have one (1) free-standing sign with no greater than one hundred (100) square feet per face. Additional signs are allowed for wayfinding signage that directs traffic to different sections of a building or property.

(G) Parcels or lots zoned M-1, M-2, A-R, R-1, R-2, R-3, S-1, and C-1 may have a free-standing sign with no greater than sixteen (16) square feet per face. Additional signs are allowed for wayfinding signage that directs traffic to different sections of a building or property.

(H) It shall comply with the height restrictions for the applicable zoning district.

11-09 TEMPORARY STRUCTURES: Temporary structures, which may include manufactured or mobile homes or offices used in conjunction with construction work, seasonal sales, education, sales or special events, and emergencies, may be permitted by the Director if the proposed site is acceptable and neighboring uses are not adversely affected. They shall be removed promptly when their function has been fulfilled. Also, see Multiple Dwelling Units section of this Article.

11-10 LIGHTING:

(1) Any Development Plan that is installing private lighting, except for lighting emitted from a backlit or LED style sign shall be required to utilize lighting placement and fixtures that substantially limit the amount of light pollution on neighboring properties. Light pollution shall be defined as light trespass or glare on a neighboring property as an unwanted consequence of private lighting.

(2) Any LED sign shall meet the following requirements.

(A) Between 30 minutes prior to dusk and 30 minutes after dawn any LED sign shall utilize an automatic dimming feature to reduce the lighting level to avoid a lighting intensity or brilliance that would cause glare on neighboring properties or to impair the vision of the driver of any motor vehicle or which otherwise interfere with any driver's operation of a motor vehicle.

(3) All lighting shall be accomplished in a manner that does not cause an undue distraction, confusion, or hazard to vehicular traffic or neighbors; strobe lights are prohibited unless required by the Federal Aviation Administration.

11-11 SIGHT TRIANGLES: To ensure an area of unobstructed vision at public way intersections or the egress/ingress points from a parcel onto a public way the sight triangle for all lots, except those in a B-1 (Central Business District), shall be in compliance with the following requirements:

(1) Nothing including but not limited to shrubs, trees, and fences shall be erected, placed, planted, or allowed to grow in such manner as to impede the vision between a height of thirty-two (32) inches and ninety-six (96) inches above the elevation as measured at the center of the intersection.

(2) The site triangle shall be measured following INDOT design manual standards.

(3) The provisions of this section shall not apply to official warning signs or signals necessary to the public safety.

11-12 EASEMENT RESTRICTIONS: No structure, fence, tree, bush, or similar woody plant shall be erected or maintained on any non-blanket style easement controlled by a division of local government, unless said division of local government grants in writing permission for said structure, fence, tree, bush, or similar woody plant to be located within the easement.

11-13 FIRE PROTECTION: Firefighting equipment and prevention measures acceptable to the local Fire Department shall be readily available and apparent when any activity involving the handling of storage of flammable or explosive materials is conducted. All development plans, PUD(s), and major subdivisions shall meet fire code standards established by the state of Indiana and the local fire department.

11-14 RECREATIONAL VEHICLES: The following regulations govern the placement of Recreational Vehicles (RV).

(1) Within a Recreational Vehicle Park: An RV located within a Recreational Vehicle Park may be located there for a time period not exceeding eight (8) months in a calendar year, except as follows:

(A) Special Exception: At a public hearing, the Board of Zoning Appeals may decide that a portion of a Residential Vehicle Park would be designated for extended stays. This designation is good for a one (1) year time period. Prior to the end of the one (1) year, an one (1) year extension may be filed.

(B) The portion of the Recreational Vehicle Park designated for extended stays shall be separated from any zoning district that does not allow as a permitted use a Recreational Vehicle Park a distance of 300 feet for sites to provide a visual separation between non-compatible uses.

(2) Outside of a Recreational Vehicle Park: An RV may occupy the same parcel for residential purposes outside of a Recreational Vehicle Park for a time period not exceeding thirty (30) consecutive days in an incorporated area or ninety (90) consecutive days in an unincorporated area, except as follows:

(A) Special Exception: The owner of a given property may obtain a special exception for up to one (1) a year by the Board of Zoning Appeals if said owner intends to construct a new principal dwelling on the lot, remodel or rebuild a preexisting principal dwelling on the lot. The owner may apply for no more than one (1) extension for the one (1) year maximum time limit.

(3) RV to Type III Manufactured Home: An RV would be considered a Type III Manufactured Home per this Zoning Ordinance if one of the following circumstances exists:

(A) The RV fails to be fully licensed and ready for highway use (defined as having its wheels and tongue installed, attached to the site only by quick-disconnect-type utilities and security devices, and having no permanent attached additions); or

(B) The RV violated on the time period restrictions.

ARTICLE 12: LEFT BLANK INTENTIONALLY

ARTICLE 13: MANUFACTURED HOUSING

13-01 PURPOSE: To encourage the provision of alternative modest income housing, this Zoning Ordinance shall permit the use of manufactured homes (a.k.a., mobile homes); in certain zoning districts in which similar dwellings constructed on the site are permitted.

(1) A "manufactured home" is a factory-built, single-family dwelling and conforms to the federal government's U.S. Code Title 42, Chapter 70, Manufactured Home Construction and Safety Standards Act (the HUD Code), rather than local building codes. The HUD Code is enforced by the Department of Housing and Urban Development (HUD).

(2) I.C. 22-12-1-16 references the meaning of a "manufactured home" set forth in U.S. Code 42-70-5402 which states that a "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under this chapter; and except that such term shall not include any self-propelled recreational vehicle. In short, all manufactured homes are built on a non-removable steel chassis and are transported to the building site on their own wheels.

(3) As defined by I.C. 16-41-27-4, a "mobile home" is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD-Code and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Before the term "manufactured home" was established by federal regulations, a factory-built home was generically referred to as a "mobile home." As used in this Zoning Ordinance, "mobile home shall have the same meaning as "manufactured home."

13-02 EXTERIOR APPEARANCE STANDARDS: Manufactured homes are subject to the requirements and procedures set forth herein to assure acceptable similarity in exterior appearance between such manufactured homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent or nearby lots in the same zoning district. Types of manufactured homes, as established by this Zoning Ordinance and their requirements for approval including standards established by the American National Standards Institution / National Fire Protection Association (ANSI/NFPA) are as follows.

(1) TYPE I MANUFACTURED HOME:

(A) shall have more than nine hundred and fifty (950) square feet of living space in a double-section unit;

(B) Photographs of the unit must be made available to Plan Commission Staff prior to moving the Manufactured Home onto the site to verify that the Manufactured Home is in good condition;

(C) shall be placed onto a permanent foundation and anchored to the ground in accordance with the provisions of this Zoning Ordinance for one- and two-family dwellings and to the manufacturer's specifications;

(D) shall have wheels, axles, and hitch mechanisms removed;

(E) shall have utilities connected, in accordance with the provisions of this Zoning Ordinance for one- and two-family dwellings and manufacturer's specifications; and

(F) shall have compatible siding material and roofing materials of a type customarily used on site-constructed residences. The Plan Commission Director may compile a list of approved materials meeting this compatibility test.

(2) TYPE II MANUFACTURED HOME:

(A) shall have more than nine hundred and fifty (950) square feet of living space in a single or Expando unit;

(B) Photographs of the unit must be made available to Plan Commission Staff prior to moving the Manufactured Home onto the site to verify that the Manufactured Home is in good condition;

(C) shall be placed onto a support system and be enclosed with a permanent perimeter enclosure, in accordance with approved Installation Standards as specified in this Article;

(D) shall be anchored to the ground, in accordance with manufacturer's specifications or the ANSI/NFPA Installation Standards;

(E) shall have utilities connected, in accordance with the provisions of this Zoning Ordinance for one- and two-family dwellings and manufacturer's specifications; and

(F) shall have compatible siding material and roofing materials of a type customarily used on site-constructed residences. The Plan Commission Director may compile a list of approved materials meeting this compatibility test.

(3) TYPE III MANUFACTURED HOME:

(A) shall have equal to or less than nine hundred and fifty (950) square feet of living space;

(B) Photographs of the unit must be made available to Plan Commission Staff prior to moving the Manufactured Home onto the site to verify that the Manufactured Home is in good condition;

(C) shall be placed onto a support system and be enclosed with foundation siding/skirting, in accordance with approved Installation Standards as specified in this Article;

(D) shall be anchored to the ground, in accordance with manufacturer's specifications or the ANSI/NFPA Installation Standards; and

(E) shall have utilities connected, in accordance with manufacturer's specifications or the ANSI/NFPA Installation Standards.

13-03 SUBDIVISIONS AND PARKS:

(1) Manufactured home subdivisions must meet the requirements as established for zoning districts M-1 and M-2 and for Subdivision Control.

(2) Mobile Home Parks, where permitted, shall require a Development Plan and shall be in accordance with I.C. 16-41-27 et. seq., 410 I.A.C. 6-6 et. seq., and all acts supplemental and amendatory thereto, and provisions and regulations established by the Indiana State Board of Health Regulations, as amended. A Development Plan shall contain the following requirements.

(A) The minimum area of a mobile home park shall be five (5) acres.

(B) The mobile home park shall be divided into lots, one lot per mobile home, and an accurate plat shall be submitted indicating the size and location of each lot.

(C) Each lot shall have a minimum area of thirty-six hundred (3,600) square feet and a minimum width of forty (40) feet.

(D) Not less than ten (10) percent of the gross area of the mobile home park shall be improved for recreational activities for the residents of the park.

(E) There shall be no dead-end streets less than twenty-four (24) feet in width and in excess of one hundred fifty (150) feet in length for vehicle traffic within the mobile home park. Turnarounds at the end of dead-end streets shall have a diameter of at least one hundred twenty (120) feet to accommodate emergency response vehicles.

(F) One-way streets shall be at least twelve (12) feet wide and two-way streets shall be at least twenty (24) feet wide. If on-street parking is provided, each parking lane shall be at least an additional eight (8) feet wide.

(G) At least one (1) auto parking space for each lot shall be provided within the property lines of the mobile home park.

(H) Overflow parking shall be provided at a rate of one (1) space for each three lots.

(I) Lighting for streets and walkways, utilities, sewage and refuse disposal, and other essential services shall meet the standards as established by Indiana Code and the Indiana State Board of Health.

(J) Coin-operated laundries, laundry and dry-cleaning pick-up stations, and other commercial convenience establishments may be permitted in mobile home parks provided:

a) they are subordinate to the residential character of the park;

b) they are located, designed, and intended to serve only the needs of persons living in the park;

c) the establishments and the parking areas related to their use shall not occupy more than twenty (20) percent of the total area of the park; and

d) the establishments shall present no visible evidence of their commercial nature to areas outside the park.

(K) Each mobile home site shall be provided with a pad consisting of either a solid concrete slab or two concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock that is four (4) inches thick.

(L) The mobile home park shall meet all applicable requirements of this Zoning Ordinance.

13-04 PERMITTED PLACEMENT OUTSIDE OF A MANUFACTURED HOME SUBDIVISION:

(1) The establishment, location, and use of an individual manufactured home as a permanent residence may be approved in a zoning district where such use is permitted in the Schedule of Uses, as set forth in Table 13-05. Such homes shall:

(A) meet the appropriate Exterior Appearance Standards, as set forth in this Zoning Ordinance;

(B) meet the requirements and limitations that apply to such residential use in said zoning district, and

(C) secure all required permits and conform to the Comprehensive Plan and other ordinances of those local legislative bodies participating in the Plan Commission.

(2) A manufactured or mobile home placed and maintained on a parcel of land and deemed to be a legal non-conforming use prior to the adoption of this Zoning Ordinance shall continue to be a legal non-conforming use. If the legal non-conforming use is discontinued for more than twelve (12) months, the parcel of land thereafter must be used in conformity with all provisions of this Zoning Ordinance.

(3) Thereafter, upon application to and approval by the Plan Commission Director, a manufactured or mobile home deemed a legal non-conforming use may be replaced provided the replacement is of an equal or a higher type and is in accordance with the provisions of this Zoning Ordinance. Equal or higher type means that a TYPE III manufactured home could be replaced with a TYPE I, II, or III manufactured home; a TYPE II manufactured home could be replaced with a TYPE I or II manufactured home; a TYPE I manufactured home could be replaced with a TYPE I manufactured home.

(4) See the General Regulations Article of this Zoning Ordinance about temporary mobile home usage.

13-05 SCHEDULE OF USES IN ZONING DISTRICTS: See Permitted Use Table.

13-06 INSTALLATION STANDARDS:

(1) PERMANENT FOUNDATION: Each mobile or manufactured home site shall be provided with a pad consisting of either a solid concrete slab or two concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock that is four (4) inches thick.

(2) PERMANENT PERIMETER ENCLOSURE: Those manufactured homes designated in this Zoning Ordinance as requiring a permanent perimeter enclosure must be set onto an excavated area with foundations, footings, and crawl space or basement walls constructed in accordance with the provisions of this Zoning Ordinance for one- and two-family dwellings. The space between the floor joists of the home and the excavated under floor grade shall be completely enclosed with the permanent perimeter enclosure (except for required openings). A permanent perimeter enclosure shall consist of weather-resistant, non-combustible, or self-extinguishing materials which blend with the exterior siding of the home.

(3) FOUNDATION SIDING/SKIRTING FOR TEMPORARY STRUCTURES: All manufactured or mobile homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and backup framing shall be weather-resistant, non-combustible, or self-extinguishing materials which blend with the exterior siding of the home. Below grade level and for a minimum distance of six (6) inches above finished grade, the materials shall be unaffected by decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

(4) SUPPORT SYSTEM:

(A) TYPE I MANUFACTURED HOMES: All TYPE I manufactured home load-bearing foundations shall be installed in conformance with the provisions of this Zoning Ordinance for one- and two-family dwellings and with the manufacturer's installation specifications.

(B) TYPE II and III MANUFACTURED HOMES: All TYPE II and III manufactured homes not placed on a permanent foundation shall be installed with a foundation siding on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANSI/NFPA Installation Standards.

(5) TIE-DOWN: Tie-down means sufficient anchorage to resist flotation, collapse, or lateral movement of any mobile home. At a minimum, such anchorage shall consist of the following.

(A) Over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations while mobile homes that are less-than-fifty (50) feet long shall require only one (1) additional tie per side (OR)

(B) Frame ties shall be provided at each corner of the mobile home with five (5) additional per side at intermediate points while mobile homes that are less-than-fifty (50) feet long shall require only four (4) additional ties per side.

(C) Each component of the anchoring system shall be capable of carrying a force of forty-eight hundred (4,800) pounds.

(D) Any addition(s) to the mobile home shall be similarly anchored.

ARTICLE 14: DEVELOPMENT PLAN

14-01 GENERAL: Section 9-14 of the Zoning Ordinance hereby designates zoning districts where a Development Plan is required. The Plan Commission or its designee shall have exclusive authority to approve or disapprove Development Plans and their modifications on real property in a designated zoning district within this Zoning Ordinance's jurisdiction.

14-02 PROCEDURE: Whenever a Development Plan required under this article is desired the owner(s) of the subject real estate shall file with the Plan Commission or its designee the appropriate forms, surveys, and fees as prescribed in Article 4 of this Zoning Ordinance, by this Article, and in conformance with applicable Approval Agency's rules of procedure.

14-03 DESIGNEE: The Plan Commission authorizes the Plan Commission's Staff to act as its designee for certain Development Plans as stated in this Article per IC 36-7-4-1402 (c), and any amendments thereto. These Development Plans shall not require a public hearing.

(1) Designee Duties and Procedures: The Plan Commission's Staff shall follow duties and procedures set forth in Article 4 of this Zoning Ordinance and the Rules of Procedure of the Plan Commission.

(2) Designee Appeal: A decision made by the Plan Commission's Staff may be appealed directly to the Plan Commission as long as the appeal is filed within thirty (30) days of the Staff's decision and is filed in compliance with Article 7 of this Zoning Ordinance and the Rules of Procedure of the Plan Commission.

14-04 RESIDENTIAL DEVELOPMENT PLANS: A Residential Development Plan is required as follows:

(1) Jurisdiction: The following items require a Residential Development Plan:

(A) Any multi-family residential development.

(B) Any time more than one (1) single-family-dwelling, two-family-dwelling, three-family-dwelling, four-family-dwelling, group homes, or Type I, II or III Manufactured Home is to be located on the same parcel with one (1) or more single-family-dwellings, two-family-dwellings, three-family-dwellings, four-family-dwellings, group homes, or Type I, II or III Manufactured Homes. This shall not include the placement of an accessory dwelling on the site with another dwelling.

(C) Any modification made to a previously approved Development Plan that would now require a Residential Development Plan per this section or any modification that previously did not require a Development Plan that now requires a Residential Development Plan per this section. A modification shall be defined as any changes or expansion made to items 14-04(1)(A) – 14-04(1)(B).

(2) Approval Agency: Residential Development Plans shall be reviewed by either the Plan Commission or the Plan Commission's Staff as stated below:

(A) The Plan Commission shall review new Residential Development Plans and modifications that create a substantial increase in the preexisting impervious surface for the affected parcel. A substantial increase shall be defined as any development that increases the preexisting impervious surface for the affected parcel by greater than twenty-five (25) percent. The preexisting impervious surface shall be defined as the amount of impervious surface approved under the last Development Plan for the affected parcel, or for developments that predate the requirement for a Development Plan it shall be defined as the amount of impervious surface existing on the affected parcel as of September 11, 2015. (FORMULA=Proposed Additional Hard Surface / Preexisting Hard Surface = Percentage Increase of Hard Surface)

(B) The Plan Commission's Staff shall review new Residential Development Plans and modifications that create a non-substantial increase in the preexisting impervious surface for the affected parcel. A non-substantial increase shall be defined as any development that increases the preexisting impervious surface for the affected parcel by less than or equal to twenty-five (25) percent; However, this requirement does not include developments that meet the exemption standard in section 14-04(3). The preexisting impervious surface shall be defined as the amount of impervious

surface approved under the last Development Plan for the affected parcel, or for developments that predate the requirement for a Development Plan it shall be defined as the amount of impervious surface existing on the affected parcel as of September 11, 2015. (FORMULA=Proposed Additional Hard Surface / Preexisting Hard Surface = Percentage Increase of Hard Surface)

(3) **EXEMPTION**: Residential Development Plans shall not be required if the proposal increases the net amount of preexisting impervious surface by less than or equal to 500 square feet, and the proposal does not violate or cause a violation of any of the requirements of this section. The preexisting impervious surface shall be defined as the amount of impervious surface approved under the last Development Plan for the affected parcel, or for developments that predate the requirement for a Development Plan it shall be defined as the amount of impervious surface existing on the affected parcel as of September 11, 2015.

(4) **DEVELOPMENT REQUIREMENTS:** The Residential Development Plan shall be in conformance with the following development requirements.

(A) The following requirements guarantee the compatibility of the development with surrounding land uses:

a) The property shall be zoned R-3, except for a petition regarding manufactured homes which shall be zoned M-1.

b) If the petitioned property abuts property zoned B-1, B-2, B-3, I-1, I-2, or L-1 one of the following buffers shall be installed along the affected property line. However, no portion of the buffer can be located in an easement, right-of-way or site triangle.

1) A minimum of a six (6) foot tall privacy fence or wall.

2) A minimum of a six (6) foot tall earthen mound.

3) A minimum of two (2) staggered rows that are a minimum of six (6) foot tall coniferous trees.

4) Any combination of the above-listed options equaling at least six (6) foot tall.

(B) The following requirements guarantee the development's adequate availability and coordination of water, sanitary sewers, and storm water drainage.

a) Any publicly maintained utilities shall be installed in compliance with the adopted standards of the affected community. Written proof shall be obtained from the affected community that the plans meet their minimum standards.

b) Any publicly maintained utilities shall be located in a recorded utility easement in favor of the affected community which meets the easement standards set forth in Zoning Ordinance and Subdivision Control Ordinance.

c) All taps made to any publicly maintained utilities shall be done in compliance with the adopted standards of the affected community. Written proof shall be obtained from the affected community that the plans meet their minimum standards.

d) The proposed development shall meet the Storm Water Standards of the Subdivision Control Ordinance and any adopted standards of the affected community. Written proof shall be obtained from the affected community that the plans meet their minimum standards.

e) Any publicly maintained storm water drainage facilities shall be located in a recorded storm water easement in favor of the affected community which meets the easement standards set forth in Zoning Ordinance and Subdivision Control Ordinance.

(C) The following requirements guarantee that the development's management of traffic is in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.

a) Street and Highway Access Points

1) Any driveway access point made to a publicly maintained street shall be constructed in conformance with the adopted standards of the affected community. Written proof shall be obtained from the affected community that the plans meet their minimum standards.

2) Driveway accesses should be located directly across from other driveway accesses on the other side of the street from the driveway accesses unless the Approval Agency finds it not to be feasible.

3) Anytime driveway access is required on an arterial street the use of one (1) of the following access reduction methods shall be installed.

a) A frontage road or rear collector road shall be installed that shall be dedicated to the affected community and built to their adopted standards and as follows.

1) One (1) driveway access to the arterial street shall be permitted per five hundred (500) foot section of the frontage road or rear collector road.

2) If there are multiple driveway accesses connecting the frontage road or rear collector road to the arterial street then they should be located as far apart from each other as possible.

3) The frontage road or rear collector road shall be stubbed to undeveloped properties.

b) A shared driveway system shall be installed that shall be located in an ingress/egress easement that includes a maintenance agreement that would be recorded and as follows:

1) One (1) driveway access to the arterial street shall be permitted per five hundred (500) feet of road frontage.

2) If there are multiple driveway accesses connecting the shared driveway system to the arterial street then they should be located as far apart from each other as possible.

3) Driveway accesses should be located across from other driveways accesses on the other side of the arterial street from the driveway accesses.

b) Capacity of Adjacent Streets, Highways, Entrances and Streets

1) The installation of driveway access improvements (deceleration lanes, acceleration lanes, passing blisters, and center turn lanes) shall be required if qualifications found within the most recent version of the Indiana Department of Transportation's Driveway Permit Manual or Indiana Department of Transportation's Indiana Design Manual have been met for the specific form of driveway access improvement.

c) Heavy Haul Route

1) Any Development Plan shall provide a written Highway/Street Department approved heavy haul route for construction traffic.

(D) All setback requirements shall be met as required by this Zoning Ordinance.
(E) All height requirements shall be met as required by this Zoning Ordinance.
(F) All accessory structure requirements shall be met as required by this Zoning Ordinance.
(G) All fence requirements shall be met as required by this Zoning Ordinance.
(H) All off-street loading requirements shall be met as required by this Zoning Ordinance.
(I) All off-street parking requirements shall be met as required by this Zoning Ordinance.
(J) All pond requirements shall be met as required by this Zoning Ordinance.
(K) All sign requirements shall be met as required by this Zoning Ordinance.
(L) All easement requirements shall be met as required by this Zoning Ordinance.
(M) All lighting requirements shall be met as required by this Zoning Ordinance.
(N) All site triangle requirements shall be met as required by this Zoning Ordinance.
(O) All temporary structures shall be met as required by this Zoning Ordinance.
(P) All sidewalks shall meet the minimum requirements set forth by the Americans with Disabilities Act (ADA). If a sidewalk is located in a public right-of-way it shall be installed to the affected community's standards. Written proof shall be obtained from the affected community that the plans meet their minimum standards.
(Q) All development shall be in compliance with all local and state floodplain regulations.

14-05 GENERAL DEVELOPMENT PLANS: A General Development Plan is required as follows:

(1) Jurisdiction: The following items require a General Development Plan:

(A) Any time a primary structure is being proposed for a use designated as requiring a Development Plan in Section 9-14 of this Zoning Ordinance, which does not fall under the jurisdiction of any other type of Development Plan as set forth by this Article.

(B) Any Parking Lot, Accessory Structure, or Storm drainage facility located on the same parcel as item 14-05(1)(A).

(C) Any modification made to a previously approved Development Plan that would now require a General Development Plan per this section or any modification that previously did not require a Development Plan that now requires a General Development Plan per this section. A modification shall be defined as any changes or expansion made to items 14-05(1)(A) – 14-05(1)(B).

(2) Approval Agency: General Development Plans shall be reviewed by either the Plan Commission or the Plan Commission's Staff as stated below:

(A) The Plan Commission shall review new General Development Plans and modifications that create a substantial increase in the preexisting impervious surface for the affected parcel. A substantial increase shall be defined as any development that increases the preexisting impervious surface for the affected parcel by greater than twenty-five (25) percent. The preexisting impervious surface shall be defined as the amount of impervious surface approved under the last Development Plan for the affected parcel, or for developments that predate the requirement for a Development Plan it shall be defined as the amount of impervious surface existing on the affected parcel as of September 11, 2015. (FORMULA=Proposed Additional Hard Surface / Preexisting Hard Surface = Percentage Increase of Hard Surface)

(B) The Plan Commission's Staff shall review new General Development Plans and modifications that create a non-substantial increase in the preexisting impervious surface for the affected parcel. A non-substantial increase shall be defined as any development that increases the preexisting impervious surface for the affected parcel by less than or equal to twenty-five (25) percent. The preexisting impervious surface shall be defined as the amount of impervious surface approved under the last Development Plan for the affected parcel, or for developments that predate the requirement for a Development Plan it shall be defined as the amount of impervious surface existing on the affected parcel as of September 11, 2015. (FORMULA=Proposed Additional Hard Surface / Preexisting Hard Surface = Percentage Increase of Hard Surface)

(3) Exemption: General Development Plans shall not be required if the proposal increases the net amount of preexisting impervious surface by less than or equal to 500 square feet, and the proposal does not violate or cause a violation of any of the requirements of this section. The preexisting impervious surface shall be defined as the amount of impervious surface approved under the last Development Plan for the affected parcel, or for developments that predate the requirement for a Development Plan it shall be defined as the amount of impervious surface existing on the affected parcel as of September 11, 2015.

(4) DEVELOPMENT REQUIREMENTS: The General Development Plan shall be in conformance with the following development requirements.

(A) The following requirements guarantee the compatibility of the development with surrounding land uses:

(a) The property shall be zoned incompatibility with the permitted use section of the Zoning Ordinance.

(b) If the petitioned property abuts property zoned R-1, R-2, R-3, S-1, M-1, M-1 or A-R one of the following buffers shall be installed along the affected property line. However, no portion of the buffer can be located in an easement, right-of-way or site triangle.

1) A minimum of a six (6) foot tall privacy fence or wall.

2) A minimum of a six (6) foot tall earthen mound.
3) A minimum of two (2) staggered rows that are a minimum of six (6) foot tall coniferous trees
4) Any combination of the above-listed options equaling at least six (6) foot tall.

(B) The following requirements guarantee the development's adequate availability and coordination of water, sanitary sewers, and storm water drainage.

(a) Requirement as stated in sections 14-04(4)(B)(a) – 14-04(4)(B)(e).

(C) The following requirements guarantee that the development's management of traffic is in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.

(a) Requirement as stated in sections 14-04(4)(C)(a) – 14-04(4)(C)(c).

(D) The requirements as stated in sections 14-04(4)(D) – 14-04(4)(Q).

14-06 CONFINED FEEDING OPERATION (CFO) OR MANURE LAGOON DEVELOPMENT PLAN: A CFO Development is required as follows:

(1) Jurisdiction: The following items require a CFO or Manure Lagoon Development Plan:

(A) At least three hundred (300) cattle as well as meeting the definition for confined feeding as set forth in IC 13-11-2-39.

(B) At least six hundred (600) swine or sheep as well as meeting the definition for confined feeding as set forth in IC 13-11-2-39.

(C) At least thirty thousand (30,000) fowl as well as meeting the definition for confined feeding as set forth in IC 13-11-2-39.

(D) At least five hundred (500) horses as well as meeting the definition for confined feeding as set forth in IC 13-11-2-39.

(E) Any Manure Lagoon.

(F) Any Satellite Manure Lagoon.

(G) Any modification made to a previously approved Development Plan that would now require a CFO or Manure Lagoon Development Plan per this section, or any modification that previously did not require a Development Plan that now requires a CFO or Manure Lagoon Development Plan per this section. A modification shall be defined as any changes or expansion made to items 14-06(1)(A) – 14-06(1)(F).

(2) Approval Agency: CFO or Manure Lagoon Development Plans shall be reviewed by either the Plan Commission or the Plan Commission's Staff as stated below:

(A) The Plan Commission shall review new CFO or Manure Lagoon Development Plans and modifications as follows:

(a) <u>CFO</u>: CFO petition that creates a substantial increase in the number of livestock raised on the affected parcel. A substantial increase shall be defined as any development that increase the preexisting number of livestock raised on the affected parcel by greater than ten (10) percent. A preexisting number of livestock shall be defined as the amount of livestock approved under the last Development Plan for the affected parcel, or for developments that predate the requirements for a Development Plan shall be defined as the amount of livestock existing on the affected parcel as of September 11, 2015.

(b) <u>Manure Lagoon</u>**:** Manure Lagoon petition that creates a substantial increase in the net manure storage capacity on the affected parcel. A substantial increase shall be defined as any development that increases the preexisting net manure storage capacity on the affected parcel by greater than ten (10) percent. Preexisting net manure storage capacity shall be defined as the net manure storage capacity approved under the last Development Plan for the affected parcel, or for developments that predate the requirements for a Development Plan shall be defined as the amount of net storage capacity existing on the affected parcel as of September 11, 2015.

(B) The Plan Commission's Staff shall review new CFO or Manure Lagoon Development Plans and modifications as follows:

(a) CFO: CFO petitions that create a non-substantial increase in the number of livestock raised on the affected parcel. A non-substantial increase shall be defined as any development that increases the preexisting number of livestock raised on the affected parcel by less than or equal to ten (10) percent. A preexisting number of livestock shall be defined as the amount of livestock approved under the last Development Plan for the affected parcel, or for developments that predate the requirements for a Development Plan shall be defined as the amount of livestock existing on the affected parcel as of September 11, 2015.

(b) Manure Lagoons: Manure Lagoon petition that creates a non-substantial increase in the net manure storage capacity on the affected parcel. A non-substantial increase shall be defined as any development that increases the preexisting net manure storage capacity on the affected parcel by less than or equal to ten (10) percent. Preexisting net manure storage capacity shall be defined as the net manure storage capacity approved under the last Development Plan for the affected parcel, or for developments that predate the requirements for a Development Plan shall be defined as the amount of net storage capacity existing on the affected parcel as of September 11, 2015.

(3) **Exemption**: CFO or Manure Lagoon Development Plans shall not be required if the proposal increases the net amount of preexisting impervious surface by less than or equal to 500 square feet, and the proposal does not violate or cause a violation of any of the requirements of this section. The preexisting impervious surface shall be defined as the amount of impervious surface approved under the last Development Plan for the affected parcel, or for developments that predate the requirement for a Development Plan it shall be defined as the amount of impervious surface existing on the affected parcel as of September 11, 2015.

(4) **DEVELOPMENT REQUIREMENTS:** The CFO or Manure Lagoon Development Plan shall be in conformance with the following development requirements.

(A) The following requirements guarantee the compatibility of the development with surrounding land uses:

(a) The Zoning District shall be A-1 for CFO or Manure Lagoon.

(b) Minimum Setbacks:

1) A CFO or Manure Lagoon shall be at least eight hundred (800) feet from any residential structure that is not located on the CFO's parcel.

2) A CFO or Manure Lagoon shall be at least two thousand six hundred forty (2640) feet from any commercial or industrial structure.

3) A CFO or Manure Lagoon shall be at least five thousand two hundred eighty (5280) feet from any education institution.

4) A CFO or Manure Lagoon shall be at least two thousand six hundred forty (2640) feet from any religious institution.

5) A CFO or Manure Lagoon shall be at least five hundred (500) feet from an open legal drain, stream, or river without a twenty (20) foot filter strip.

6) A CFO or Manure Lagoon shall be at least three hundred (300) feet from an open legal drain, stream, or river with a twenty (20) foot filter strip.

7) A CFO or Manure Lagoon shall be at least two thousand six hundred forty (2640) feet from any R-1, R-2, R-3, S-1, A-R, or PUD zoning types.

8) A CFO or Manure Lagoon shall be at least five thousand two hundred eighty (5280) feet from any municipal boundary.

9) A CFO or Manure Lagoon shall be at least two thousand six hundred forty (2640) feet from any Non-Incorporated town plat with a post office.

10) A CFO or Manure Lagoon shall be at least two thousand six hundred forty (2640) feet from any Public Use Area.

11) A CFO or Manure Lagoon shall be at least five hundred (500) feet from any well other than to service the CFO, Manure Lagoon, other structures (including a residence) located on the same parcel as the CFO or Manure Lagoon.

12) A CFO or Manure Lagoon shall be at least three hundred (300) feet from a property line, except if the reduction of the three hundred (300) foot setback would benefit the setback from a residential structure that is not located on the subject parcel. A CFO or Manure Lagoon's property line setback may be lowered to a minimum of one hundred (100) feet under this provision.

(c) A CFO or Manure Lagoon shall adopt and implement an environmental management system (EMS) recognized by the Indiana Department of Environmental Management - **OR** - the Natural Resource Conservation Service (NRCS) approved soil conservation plan for all acreage on which manure is applied.

(d) A CFO or Manure Lagoon shall have an Indiana Department of Environmental Management approved manure management plan. If an emergency causes the approved manure management plan to be violated, the Approval Agency shall be notified.

(e) A CFO or Manure Lagoon shall have an Indiana Department of Environmental Management approved closure plan.

(f) A Manure Lagoon shall include engineered construction plans which meet the Indiana Department of Environmental Management's design standards for a Manure Lagoon or a Satellite Manure Lagoon must be provided to the Approval Agency upon filing a petition. If due to capacity the Manure Lagoon or Satellite Manure Lagoon falls outside the jurisdiction of Indiana Department of Environmental Management, engineered plans which meet United States Department of Agriculture's technical standards for a Manure Lagoon or a Satellite Manure Lagoon must be provided to the Approval Agency upon filing a petition. All planning and construction for such a project shall be done under the supervision of the Natural Resources Conservation Service (NRCS). Detailed as built inspection reports shall be submitted to the Approval Agency to prove compliance with this section prior to utilizing the Manure Lagoon or Satellite Manure Lagoon. All required plans and reports shall be prepared by an engineer who is licensed in the State of Indiana.

(g) A CFO or Manure Lagoon shall have a suitable truck turnaround area so that semi-trailers do not have to back into the facility from the road or back into the road from the facility. The truck turnaround shall be completely within the applicable property. Any turns shall be a minimum of a sixty foot outside radius. The truck turnaround also should incorporate parking spaces for each truck remaining overnight. The parking area shall not be part of the truck turnaround area. The truck turnaround and parking area shall be covered with an all-weather surface to prevent the caking of mud on truck wheels.

(h) POINTS: A CFO or Manure Lagoon shall score a minimum of two hundred twenty (220) points as defined in the following point system.

1) Additional separation distance, above minimum setback, from the proposed CFO or Manure Lagoon to the closest residence, not owned by the owner of the CFO or Manure Lagoon. Every ten (10) feet of additional separation up to one thousand two hundred (1,200) feet shall be worth .75 points. Every ten (10) feet of additional separation beyond one thousand two hundred (1,200) feet, but less than one thousand six hundred (1,600) feet shall be worth 1 point. Every ten (10) feet of additional separation beyond one thousand six hundred (1,600) feet, but less than two thousand (2,000) feet shall be worth 1.25 points. Every ten (10) feet of additional separation beyond two thousand (2,000) feet shall be worth 1.5 points.

a) The setback shall be measured from the proposed CFO structure or Manure Lagoon to the closest residence, not owned by the owner of the CFO or Manure Lagoon.
b) The owner of a residence, not owned by the owner of the CFO or Manure Lagoon, may waive their residence from counting towards this setback without a point penalty to the petitioner, provided that a fully executed and recorded written waiver agreement is secured from the affected residence owner and Approval Agency approves the waiver.

2) A CFO or Manure Lagoon may implement one or more of the following odor abatement measures. At any time after approval of the CFO or Manure Lagoon, any approved odor abatement measure may be interchanged with something of equal or greater value.

a) A CFO or Manure Lagoon may implement an Anaerobic Digester to receive one hundred (100) points.
b) A CFO or Manure Lagoon may implement a Tier 1 odor abatement measure to receive sixty (60) points for the first measure and fifty (50) points for the second measure and forty (40) points each additional measure. The following is a list of acceptable Tier 1 odor abatements being greater than twenty-five (25) percent effective.
    1. Filtration (biofiltration or biofilters installed on continuous or nearly continuously running exhaust ventilation fans)
    2. Permeable cover or impermeable cover for manure storage or lagoon.
    3. Liquid manure storage structure is covered.
    4. Enclosed mortality composting.
    5. Other strategies approved by the Purdue Agricultural Air Quality Laboratory (PAAQL)
c) A CFO or Manure Lagoon may implement a Tier 2 odor abatement measure to receive forty (40) points for the first measure and thirty (30) points for the second measure and twenty (20) points for each additional measure. The following is a list of acceptable Tier 2 odor abatements being up to twenty-five (25) percent effective.
    1. Utilization of landscaping around CFO or Manure Lagoon (shelter belts)
    2. Windbreak Walls
    3. Solid separation
    4. Other strategies approved by the Purdue Agricultural Air Quality Laboratory (PAAQL)

3) Adoption and implementation of liquid manure injection as the only form of manure application practice for the CFO or Manure Lagoon. The Applicant may use the twenty-four (24) hour application of solid manure to comply with this section if the livestock type does not naturally lend itself to liquid manure injection. This section shall be worth seventy (70) points.

4) A permit applicant has held an interest in a CFO or Manure Lagoon for five (5) years or more. The applicant does not have in the last five (5) years an environmental violation that resulted in a discharge or manure. This section shall be worth twenty (20) points.

5) The applicant demonstrates community support from fifty-one (51) percent of the property owners who are not the applicant and applicant's immediate family and who are within a two (2) mile radius, and from a local elected official or state legislator. This section shall be worth twenty (20) points.

6) The applicant demonstrates that all land in the IDEM approved manure management plan with open drainage features have a filter strip a minimum of twenty (20) feet of even width. This section shall be worth twenty (20) points.

7) If a waiver is granted by the Approval Agency for one (1) or more of the minimum requirements listed in this section the following point penalty shall be assessed. The first waiver shall be worth negative ten (-10) points. Each following waiver shall be worth negative twenty (-20) points.

8) The setbacks for manure application shall meet the minimum standards set forth by the Indiana Department of Environmental Management and the Indiana State Chemist or their successors. This section is subject only to enforcement by the Indiana Department of Environmental Management and the Indiana State Chemist or their successors.

(i) Any CFO or Manure Lagoon which receives approval automatically shall agree to a commitment to maintain a point level at or above two hundred twenty (220) points for the life of the property.

(B) The following requirements guarantee the development's adequate availability and coordination of water, sanitary sewers, and storm water drainage.

(a) Requirement as stated in sections 14-04(4)(B)(a) – 14-04(4)(B)(e).

(C) The following requirements guarantee that the development's management of traffic is in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.

(a) Requirement as stated in sections 14-04(4)(C)(a) – 14-04(4)(C)(c).

(D) The requirements as stated in sections 14-04(4)(D) – 14-04(4)(Q).

14-07 COMMUNICATION TOWERS OR WIND ENERGY CONVERSION SYSTEM TESTING FACILITIES (WECS TESTING FACILITIES) DEVELOPMENT PLAN: A Communication Tower or WECS Testing Facility Development Plan is required as follows:

(1) Jurisdiction: The following items require a Communication Tower or WECS Testing Facility Development Plan:

(A) Any communication tower**.**

(B) Any WECS testing facility.

(C) Any modification made to a previously approved Development Plan that would now require a Communication Tower or WECS Testing Facility Development Plan per this section, or any modification that previously did not require a Development Plan that now requires a Communication Tower or WECS Testing Facility Development Plan per this section. A modification shall be defined as the replacement of the entire tower or facility or any development that increases the overall height of the tower or facility. Overall all height shall be measured from the mean ground elevation at the base of the tower or facility to the highest point reached by the tower or facility.

(2) Approval Agency: Communication Tower or WECS Testing Facility Development Plans shall be reviewed by either the Plan Commission or the Plan Commission's Staff as stated below:

(A) The Plan Commission will review any Communication Tower or WECS Testing Facility Development Plan or its modification that is greater than 200 feet in total height as measured from the mean ground elevation at the base of the tower or facility to the highest point reached by the tower or facility**.**

(B) The Plan Commission's Staff will review any Communication Tower or WECS Testing Facility Development Plan or its modification that is less than or equal to 200 feet in total height as measured from the mean ground elevation at the base of the tower or facility to the highest point reached by the tower or facility.

(3) DEVELOPMENT REQUIREMENTS: The Communication Tower or WECS Testing Facility Development Plan shall be in conformance with the following development requirements.

(A) The following requirements guarantee the compatibility of the development with surrounding land uses:

(a) Use: The property shall be zoned in compatibility with the permitted use section of the Zoning Ordinance.

(b) Specifications: Construction information and specifications, including the equipment name, height, hazard signage, a copy of the standard product specification sheet, and maintenance schedule must be provided.

(c) Property Line Setback: The property line setback is equal to 1.1 times the length of highest point reached by the Communication Tower or WECS Testing Facility on the property.

1) Distance measurements shall be taken from the center of the Communication Tower or WECS Testing Facility to the property line.

2) A tower may be designed to only meet the guy-wire and horizontal extensions setback provided that a fully executed and recorded written waiver agreement is secured from the affected adjoining landowner and the Approval Agency approves the waiver.

(d) Public Road Right-Of-Way Setback: The public road right-of-way setback is equal to 1.1 times the length of highest point reached by the Communication Tower or WECS Testing Facility on the property.

1) Distance measurements shall be taken from the center of the Communication Tower or WECS Testing Facility to the property line.

2) A tower may be designed to only meet the guy-wire and horizontal extensions setback provided that a fully executed and recorded written waiver agreement is secured from the affected community and the Approval Agency approves the waiver.

(e) Guy-wire sand Horizontal Extension Setback: The furthest horizontal extension, including guy-wires, shall be setback a distance of at least twenty (20) feet from all property lines and public road rights-of-way.

(f) Color and Finish: The Communication Tower or WECS Testing Facility shall be white, gray, or other Approval Agency approved non-obtrusive color.

(g) Climb Prevention: The Communication Tower or WECS Testing Facility shall be designed and constructed in a manner to prevent climbing from the ground to at least fifteen (15) feet vertically.

(h) FAA and Lighting: There is no limitation on height, except those height limitations imposed by the Federal Aviation Administration (FAA) rules. All FAA required lighting including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by the FAA permits and regulations. The FAA required lighting shall utilize a vertical aiming device.

(i) Proof of Approvals of Other Local, State, and Federal Agencies: At the time of filing, an update shall be given stating what applicable local, state and federal agencies are reviewing this development. Prior to the issuance of an improvement location permit for a Communication Tower or WECS Testing Facility, the following agencies approvals, if applicable, shall be submitted to the staff of the Area Planning Department:

1) FAA

2) U.S. Fish and Wildlife

3) Indiana Department of Environmental Management

4) U.S. Army Corp of Engineers

5) Federal Communication Commission

6) Soil and Water Conservation District

7) Any other applicable local, state, and federal agencies affecting the development.

(j) Hazard Signage: All electric devices shall have proper warning signage. A list of the electric equipment and standard signage shall be made part of the filing.

(k) Guy-wire Warning: All guy-wire support shall be marked in such a manner that the first eight (8) feet from the ground level are covered with high visibility yellow or orange. Under no circumstance shall a fence be considered adequate for this requirement. If a Communication Tower or WECS Testing Facility is one hundred (100) feet in height or greater, the 1/3 and 2/3 points of the outside most guy-wire supports shall be marked with a high visibility yellow or orange marker ball.

(l) Electric Lines: Any electric lines installed as part of the petition shall be located underground.

(m) Signage: Signs shall not be permitted on Communication Tower or WECS Testing Facility except for warning and hazard signs as required by law or this Zoning Ordinance. Any standard symbol or design which identifies the manufacturer shall not be considered a sign for the purposes of this Zoning Ordinance.

(n) Emergency Contact Sign: A standard metal road sign including the owner of the Communication Tower or WECS Testing Facility's name, emergency contact phone number, and the physical address shall be posted at the entrance of the access drive to the unit. The sign shall be posted just outside of the public road right-of-way and site triangle.

(o) Interference: A Communication Tower or WECS Testing Facility shall be designed, constructed, and operated so not to interfere with local broadcast television, telecommunication, communication, or microwave transmissions. If the Owner or Operator receives a written complaint related to interference the Owner or Operator shall alleviate the complaint within thirty (30) days.

(p) Materials Handling, Storage, and Disposal:

1) Solid Wastes: All solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the Communication Tower or WECS Testing Facility, including parts and equipment related to the construction, operation, or maintenance of the Communication Tower or WECS Testing Facility shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

2) Hazardous Materials: All hazardous materials or waste related to the construction, operation and/or maintenance of any Communication Tower or WECS Testing Facility shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.

(B) The following requirements guarantee the development's adequate availability and coordination of water, sanitary sewers, and storm water drainage.

(a) Requirement as stated in sections 14-04(4)(B)(a) – 14-04(4)(B)(e).

(C) The following requirements guarantee that the development's management of traffic is in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.

(a) Requirement as stated in sections 14-04(4)(C)(a) – 14-04(4)(C)(c).

(D) The requirements as stated in section 14-04(4)(E).

(E) The requirements as stated in sections 14-04(4)(G) – 14-04(4)(Q).

14-08 SOLAR ENERGY SYSTEM (SES) DEVELOPMENT PLAN: A SES Development Plan is required as follows:

(1) Jurisdiction: Any time a Large Solar Energy Facility is being developed, a SES Development Plan is required.

(2) Approval Agency: The Plan Commission will review any SES Development Plan or its modification.

(3) Development Requirements: The SES Development Plan shall be in conformance with the following development requirements.

(A) Additional Public Notice Requirement: The SES developer shall send via USPS Priority Mail a notification letter stating the SES developer's intentions to develop a SES near their property. The notification letter must be sent to all properties within one (1) mile of any participating property in this SES development. The SES developer shall submit as part of the initial rezoning application the address list, USPS Tracking Numbers, and USPS Certificate of Mailing.

(B) Overlay District: All properties that are participating in the SES Development Plan shall be rezoned to include the Power Plant Overlay District "P-1."

(C) Setbacks:

a) Non-Participating Property Line Setbacks: A SES Facility shall be at least two hundred (200) feet from a non-participating property line.

b) Participating Property Line Setbacks: A SES Facility shall meet the minimum setbacks of the applicable zoning district.

c) Non-Participating Preexisting Residence Setbacks: A SES Facility shall be at least four hundred (400) feet from a non-participating preexisting residence.

d) Participating Residence Setbacks: There are no required setbacks from a participating residence.

e) Noise Generating Equipment Setback: Any pieces of equipment (such as inverters) that create a potentially objectionable sound level during normal operation shall meet the following setback to a non-participating preexisting residential dwelling. The setback is measured as follows:

Sound Level (dBA) Setback Table Notes: (1) Measured at five 5 from equipment; (2) Calculated using Inverse Square Law; (3) 35 (dBA) is considered an accepted noise level in a rural setting. http://hyperphysics.phy-astr.gsu.edu/hbase/Acoustic/isprob2.html		
Minimum (dBA)	Maximum (dBA)	Setback (Feet)
Exceeds 73	76	560
Exceeds 76	79	790
Exceeds 79	82	1120
Exceeds 82	85	1580

f) Setback Exclusions: Setbacks exclude driveways, perimeter fencing, visual buffers, poles, and wire necessary to connect the facility to an electric utility or between participating properties.

g) Participating: Participating shall be defined as a property that is under a recorded lease or signed and recorded contract with the SES Facility developer or owner.

(D) Height: No part of the solar panel may be over twenty-five (25) feet tall as measured from the average ground level directly below the panel to the top of each panel at its maximum tilt in the vertical direction.

(E) Maximum Vibrations: Any item that could create vibrations as part of a SES Facility shall be located centrally within the SES Facility to reduce any potential impacts on non-participating properties.

(F) Interference With Reception: A SES Facility shall be constructed and operated so that it does not interfere with television, microwave, GPS, military defense radar, navigational, or radio reception to neighboring areas.

(G) Glare: A SES Facility at no time shall create glare on any non-participating property.

(H) Equipment: All components of the SES Facility shall be new, commercially available equipment. Used, experimental, or proto-type equipment still in testing shall require a waiver approved by the APC.

(I) Fencing: The SES Facility shall be completely fenced in with perimeter fencing and locked gates that are at least six (6) feet in height.

(J) Appearance: A SES Facility, including all accessory buildings, shall, to the extent possible, use materials and colors that will blend them into the surrounding built environment.

(K) Waste Management: All solid waste whether generated from supplies, equipment, parts, packaging, operation, or maintenance of the facility (including old parts and equipment) shall be removed from the site in a timely manner consistent with industry standards. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubricating materials, cleaning materials, or such shall be handled in a manner consistent with all local, state, and federal rules and regulations and shall not be allowed to seep into the ground or come in contact with any open water.

(L) Visual Buffers: A visual buffer shall be installed between a non-participating preexisting residence and the SES Facility. This includes non-participating preexisting residences located across a public right-of-way. The visual buffer can be comprised of natural vegetation or plantings to provide a reasonable visual buffer and lighting buffer for the non-participating preexisting residences. The buffer shall cover the entire viewshed from the non-participating preexisting residence to the SES Facility. The buffer must be a minimum of six (6) feet in height when installed and must be designed to grow to be a minimum of twenty (20) feet in height.

(M) Emergency Contact Signage: A standard metal road sign including the owner of the SES Facility's name, emergency contact phone number, and the physical site address shall be posted at each entrance to the facility. The sign shall be posted just outside of the public road right-of-way and site triangle.

(N) Electric Wires: The electric collection system shall be located underground, except for transformers, inverters, substations, and controls. The collection system is required to be above ground if it is located in a public-right-way or county drainage easement. The transmission system shall be located above ground.

(O) Drainage Infrastructure: All damages including, but not limited to waterways, drainage ditches, field tiles, and/or any other infrastructures caused by the construction or maintenance of the SES Facility, must be completely repaired to original or better condition, and so as not to impede the flow of water. All repairs must be completed in a reasonable amount of time as agreed upon between the county and the applicant, owner and/or operator.

(P) Liability Insurance: The owner or operator of the SES Facility shall maintain a current general liability policy covering bodily injury and property damage and name Wells County as an additional insured with limits of at least two million dollars per occurrence and five million dollars in the aggregate with a deductible of no more than five thousand dollars.

(Q) The following agreements must be agreed upon by the local legislative and fiscal governmental agencies and must be signed and recorded prior to the issuance of any local permits for the SES Facility.

a) Road Usage / Repair Agreement
b) Economic Development Agreement
c) Decommissioning Agreement

(R) The following requirements guarantee the development's adequate availability and coordination of water, sanitary sewers, and stormwater drainage.

(a) Requirement as stated in sections 14-04(4)(B)(a) – 14-04(4)(B)(e).

(S) The following requirements guarantee that the development's management of traffic is in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.

(a) Requirement as stated in sections 14-04(4)(C)(a) – 14-04(4)(C)(c).

(T) The requirements as stated in section 14-04(4)(D) – (Q).

14-09 SMALL WIND ENERGY CONVERSION SYSTEM (SMALL WECS) OR MEDIUM WIND ENERGY CONVERSION SYSTEM (MEDIUM WECS) DEVELOPMENT PLAN: A Small WECS Development Plan is required as follows:

(1) Jurisdiction: The following items require a Small WECS and Medium WECS Development Plan:

(A) Any Small WECS.

(B) Any Medium WECS.

(C) Any modification made to a previously approved Development Plan that would now require a Small WECS or Medium WECS Development Plan per this section, or any modification that previously did not require a Development Plan that now requires a Small WECS or Medium WECS Development Plan per this section. A modification shall be defined as the replacement of entire the WECS, or any development that increases the overall height of the WECS as measured from the mean ground elevation at the base of the WECS to the highest point reached by the blade or tower whichever is greater.

(2) **Approval Agency**: Small WECS or Medium WECS Development Plans shall be reviewed by either the Plan Commission or the Plan Commission's Staff as stated below:

(A) The Plan Commission will review any Small WECS or Medium WECS Development Plan or its modification that creates greater than 100 megawatts in net nameplate electrical production on the affected property – Or – any Small WECS or Medium WECS that is equal to or greater than 200 feet in total height. Total height shall be defined as the measurement from the mean ground elevation at the base of the WECS to the highest point reached by the blade or tower whichever is greater.

(B) The Plan Commission's Staff will review any Small WECS or Medium WECS Development Plan or its modification that creates less than or equal to 100 megawatts in net nameplate electrical production on the affected property and must be less than 200 feet in total height. Total height shall be defined as the measurement from the mean ground elevation at the base of the WECS to the highest point reached by the blade or tower whichever is greater.

(3) **Exemption**: Small WECS and Medium WECS Development Plans shall not be required if the proposal is only to replace portions of the WECS that does not result in increased nameplate electric capacity or additional height as measured from the mean ground elevation at the base of the WECS to the highest point reached by the blade or tower whichever is greater.

(4) **DEVELOPMENT REQUIREMENTS:** The Small WECS and Medium WECS Development Plan shall be in conformance with the following development requirements.

(A) The following requirements guarantee the compatibility of the development with surrounding land uses:

(a) Use: The property shall be zoned in compatibility with the permitted use section of the Zoning Ordinance.

(b) Specifications: Construction information and specifications, including the equipment name, height, hazard signage, a copy of the standard product specification sheet, and maintenance schedule must be provided.

(c) Property Line Setback: The property line setback is equal to 1.1 times the length of highest point reached by the Small WECS or Medium WECS on the property.

1) Distance measurements shall be taken from the center of the Small WECS or Medium WECS to the property line.

2) A WECS may be designed to only meet the guy-wire and horizontal extensions setback provided that a fully executed and recorded written waiver agreement is secured from the affected adjoining landowner and the Approval Agency approves the waiver.

(d) Public Road Right-Of-Way Setback: The public road right-of-way setback is equal to 1.1 times the length of highest point reached by the Small WECS or Medium WECS on the property.

1) Distance measurements shall be taken from the center of the Small WECS or Medium WECS to the property line.

2) A WECS may be designed to only meet the guy-wire and horizontal extensions setback provided that a fully executed and recorded written waiver agreement is secured from the affected community and the Approval Agency approves the waiver.

(e) Guy-wire sand Horizontal Extension Setback: The furthest horizontal extension, including guy-wires, shall be setback a distance of at least twenty (20) feet from all property lines and public road rights-of-way.

(f) Color and Finish: The Small WECS or Medium WECS shall be white, gray, or other Approval Agency approved non-obtrusive color.

(g) Climb Prevention: The Small WECS or Medium WECS shall be designed and constructed in a manner to prevent climbing from the ground to at least fifteen (15) feet vertically.

(h) FAA and Lighting: There is no limitation on height, except those height limitations imposed by the Federal Aviation Administration (FAA) rules. All FAA required lighting including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by the FAA permits and regulations. The FAA required lighting shall utilize a vertical aiming device.

(i) Proof of Approvals of Other Local, State, and Federal Agencies: At the time of filing, an update shall be given stating what applicable local, state and federal agencies are reviewing this development. Prior to the issuance of an improvement location permit for a Communication Tower or WECS Testing Facility, the following agencies approvals, if applicable, shall be submitted to the staff of the Area Planning Department:

1) FAA
2) U.S. Fish and Wildlife
3) Indiana Department of Environmental Management
4) U.S. Army Corp of Engineers
5) Federal Communication Commission
6) Soil and Water Conservation District
7) Any other applicable local, state, and federal agencies affecting the development.

(j) Hazard Signage: All electric devices shall have proper warning signage. A list of the electric equipment and standard signage shall be made part of the filing.

(k) Guy-wire Warning: All guy-wire support shall be marked in such a manner that the first eight (8) feet from the ground level are covered with high visibility yellow or orange. Under no circumstance shall a fence be considered adequate for this requirement. If a Small WECS or Medium WECS is one hundred (100) feet in height or greater, the 1/3 and 2/3 points of the outside most guy-wire supports shall be marked with a high visibility yellow or orange marker ball.

(l) Electric Lines: Any electric lines installed as part of the petition shall be located underground.

(m) Signage: Signs shall not be permitted on Small WECS or Medium WECS except for warning and hazard signs as required by law or this Zoning Ordinance. Any standard symbol or design which identifies the manufacturer shall not be considered a sign for the purposes of this Zoning Ordinance.

(n) Emergency Contact Sign: A standard metal road sign including the owner of the Small WECS or Medium WECS name, emergency contact phone number, and the physical address shall be posted at the entrance of the access drive to the unit. The sign shall be posted just outside of the public road right-of-way and site triangle.

(o) Interference: A Small or Medium WECS shall be designed, constructed, and operated so not to interfere with local broadcast television, telecommunication, communication, or microwave transmissions. If the Owner or Operator receives a written complaint related to interference the Owner or Operator shall alleviate the complaint within thirty (30) days.

(p) Materials Handling, Storage, and Disposal:

1) Solid Wastes: All solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the Small WECS or Medium WECS, including parts and equipment related to the construction, operation, or maintenance of the Small WECS or Medium WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

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

(B) The following requirements guarantee the development's adequate availability and coordination of water, sanitary sewers, and storm water drainage.

(a) Requirement as stated in sections 14-04(4)(B)(a) – 14-04(4)(B)(e).

(C) The following requirements guarantee that the development's management of traffic is in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.

(a) Requirement as stated in sections 14-04(4)(C)(a) – 14-04(4)(C)(c).

(D) The requirements as stated in section 14-04(4)(E).

(E) The requirements as stated in sections 14-04(4)(G) – 14-04(4)(Q).

14-10 CONFLICT OF SECTIONS: Any restrictions, rules, standards, and conditions imposed by other sections of this Zoning Ordinance that is not in conflict with the requirements of this Article shall remain in full force and effect. If there are conflicts between this Article and other sections of this Zoning Ordinance, then the provisions of this Article shall be controlling.

14-11 WAIVER OF DEVELOPMENT REQUIREMENTS:

(1) In accordance with I.C. 36-7-4-1402(b) (3), any or all requirements defined in this Article and any or all requirements incorporated by reference in this Article, except those related to use, may be waived by the Plan Commission or Plan Commission's Staff after hearing evidence and arguments for any Development Plan if:

(A) the waiver is justified because of topographic or other special conditions unique to the property involved, in contradistinction to mere inconvenience or financial disadvantage;

(B) the waiver will not adversely affect the reasonable development of adjacent properties;

(C) the waiver grant will not be detrimental to the public health, safety, and general welfare of the community;

(D) the waiver does not materially affect the spirit and purpose of this Zoning Ordinance; and

(E) the waiver request is signed by the property owner.

(2) As a condition for approval said waiver must be approved in writing by the affected Local Legislative Body if the waiver affects future or existing public utilities and public ways.

14-12 AMENDMENTS: A Development Plan may be amended at any time prior to a decision thereon by the Approval Agency as to non-material matters. Material amendments are amendments that substantially change the scope or purpose of the Development Plan. A material amendment shall include making a significant change to the Development Plan that would avoid interested parties from receiving proper notice regarding the scope or purpose of the plan. A material amendment may also include making a significant change to the Development that would change Approval Agency jurisdictions. In these cases or any other significantly similar amendment shall require a new Development Plan filing in compliance with this Article.

14-13 PLAT COMMITTEE REVIEW: The Plan Commission may designate a Plat Committee or create a special purpose committee to review and make a recommendation to the Petitioner and to the Plan Commission as to any Development Plan under the approval jurisdiction of the Plan Commission. Appropriate representatives of the affected Local Legislative Body shall be invited to attend said Plat Committee review meeting.

14-14 PUBLIC HEARING: The Plan Commission's public hearing shall be held in according to with this Zoning Ordinance and Plan Commission's rules of procedure.

14-15 EXPIRATION: The approval for a Development Plan made by the Approval Agency shall expire if the approved development has not been started (site has been staked, earthwork has commenced or applicable improvement location permit has been issued) within two (2) years or substantially completed within ten (10) years.

14-16 APPEALS: The decision of the Plan Commission as to any Development Plan petition may be appealed in accordance with this Zoning Ordinance and applicable Indiana Code.

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ARTICLE 17: PLANNED UNIT DEVELOPMENT (PUD)

17-01 PURPOSE: Article 1 of the Indiana Constitution (*Bill of Rights)* protects the right of individual ownership of real property, and the Indiana Code reserves to local communities the power to plan and regulate real property, including not limited to the use and improvement of real property and the location and condition of structures and other improvements and to the platting and subdividing of real property and number of structures abutting public ways. In accordance with I.C. 36-7-4-1500 et. seq., and all acts supplemental and amendatory thereto, the purpose of a Planned Unit Development, hereinafter referred to as PUD, is to facilitate creative and innovative developments in areas properly designated as "PUD Districts," which shall be compatible with the Comprehensive Plan.

17-02 PERMITTED ZONES: A PUD is allowed in all zoning districts. A PUD District is an overlay district as defined in this Zoning Ordinance and shall be designated in the same manner as an amendment to the zone maps as defined in this Zoning Ordinance.

17-03 PUD DEFINITION: A Planned Unit Development (PUD) is a development that may accommodate multiple uses and structures in such a way as to be compatible with other land uses and structures within the development and with surrounding land uses while allowing for substantial flexibility in planning and design. A PUD encourages original and imaginative development design which preserves the natural amenities of the subject property and provides for the general welfare of surrounding community.

17-04 PROCEDURE: Whenever a PUD Petition is desired, the seller(s)/owner(s) of the subject real estate shall file with the Plan Commission the appropriate forms, surveys, and fees as prescribed in Article 4 of this Zoning Ordinance and this Article.

17-05 FINDINGS OF FACT AND RULING: A proposed findings of fact and ruling document that complies with the requirements set forth in Article 6 of this Ordinance shall be filed with the Area Plan Office two (2) weeks before the public hearing on said petition.

17-06 PUD DISTRICT ORDINANCE: Whenever a PUD is desired, the owners of the subject real estate shall file with the Plan Commission a "PUD DISTRICT ORDINANCE." The filings shall be done in accordance with the provisions of this Zoning Ordinance. The adoption and amendment of a PUD District Ordinance are a legislative act executed by the affected Local Legislative Body.

(1) A PUD District Ordinance means an ordinance that does the following:
- **(A)** designates a parcel of real property as a PUD District;
- **(B)** specifies uses or a range of uses permitted in the PUD District;
- **(C)** specifies development requirements in the PUD District;
- **(D)** specifies the plan documentation and supporting information that may be required;
- **(E)** specifies any limitation applicable to a PUD District; and
- **(F)** meets other conditions and requirements required by this Zoning Ordinance and the Subdivision Control Ordinance.

(2) The Plan Commission shall hold a public hearing to review proposed PUD following the provisions of this Article and shall make a recommendation to the Local Legislative Body having jurisdiction over the subject real estate to approve or disapprove the proposed PUD District Ordinance in the same manner as for a zone map amendment.

(3) When adopting or amending a PUD District Ordinance, the Local Legislative Body may
- **(A)** impose reasonable conditions on a proposed planned unit development;
- **(B)** require, as a condition for the issuance of an improvement location permit, the furnishing of a bond or a satisfactorily written assurance guaranteeing the timely completion of any proposed public improvements in the PUD or serving the PUD;

(C) allow or require the owners of the subject real estate to make a written commitment in the manner authorized in this Article.

(4) The form and application are available at the office of the Area Planning Department.

17-07 PUD REQUIREMENTS: The Plan Commission may recommend approval of a proposed PUD District if the PUD meets or complies with the following detailed requirements.

(1) The PUD shall conform to the objectives of the Comprehensive Plan.

(2) The real property on which a PUD is to be developed must be under single ownership and/or unified control.

(3) The PUD shall not be detrimental to the surrounding properties and land uses, nor shall a PUD substantially diminish or impair the property values of the neighborhood.

(4) The PUD shall not endanger the public health, welfare, or safety of the neighborhood in which it is to be located.

(5) The PUD shall be sited, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

(6) Scale, building materials, and building style of the structures and land uses between structures located within the PUD shall be sufficient to allow for a total visual impression and environment of the neighborhood.

(7) Each portion of the PUD shall comply with the building setback lines, height requirements, and lots sizes as prescribed by the PUD District Ordinance. The building setback lines, height requirements, and lot sizes shall pay reasonable regard to the existing and surrounding zoning types.

(8) The PUD shall present a traffic management plan that creates conditions favorable to public health, safety, and convenience and shall be harmonious with the Comprehensive Plan. The Plan Commission may require but not be limited to acceleration and deceleration lanes, passing blisters, site angles, and construction requirements.

(9) Vehicle access and parking within the PUD shall be organized to minimize congestion in the neighborhood.

(10) The proposed PUD shall allow for the availability and coordination of essential utilities and other necessary appurtenances for urban development. The petitioner shall present written evidence that they have entered into a contract with the Local Legislative Body or utilities to install and extend necessary services to accommodate proposed division of a property.

(11) The petitioner shall present the final draft of any restrictive covenants.

(12) Any applicable provisions, rules, restrictions, standards, and conditions imposed by other provisions and Articles of this Zoning Ordinance are incorporated by reference as PUD requirements and include but are not limited to the following.

(A) **LOTS AND YARD REQUIREMENTS:** provisions as prescribed in the PUD District Ordinance which pays reasonable regard to the Zoning Ordinance.

(B) **STORM WATER STANDARDS:** provisions as prescribed elsewhere in the Subdivision Control Ordinance.

(C) **GENERAL REGULATIONS:** provisions as prescribed in the PUD District Ordinance which pays reasonable regard to the Zoning Ordinance.

(D) **WELLS COUNTY ORDINANCE FOR FLOOD HAZARD AREAS**

(E) **SURVEY STANDARDS** provisions as prescribed elsewhere in the Subdivision Control Ordinance.

(F) **PERFORMANCE STANDARDS:** provisions as prescribed elsewhere in this Zoning Ordinance.

(G) **PUBLIC WAYS – ROADS:** provisions as prescribed elsewhere in the Subdivision Control Ordinance.

(H) **SUBDIVISION CONTROL**: provisions as prescribed elsewhere in the Subdivision Control Ordinance.

17-08 CONDITIONS AND COMMITMENTS: At any time prior to voting and the decision by the Plan Commission, the petitioner may make or be required to make as a condition of approval written commitments restricting the use of or binding the petitioner to future action as to the real estate that is the subject of the PUD. Any such written commitments shall be made a part of the written findings of fact. All written commitments shall be duly recorded, at the petitioner's expense, in the office of the Recorder of the County in which the subject real estate lies, if the PUD is subsequently adopted by the appropriate legislative body.

17-09 RECORDING OR EXPIRATION: The petitioner shall present the original copy of the approved plat with all required certificates with signatures affixed thereon for recording to the Office of the Recorder of the County in which the subject real estate lies. Unless the plat is duly recorded within ninety (90) days from the date of the approval by the Local Legislative Body for the PUD, the approval of the PUD shall expire and shall be of no effect until subsequently reinstated.

17-10 CERTIFICATES: The following six (6) certificates shall be affixed to the recorded plat and are available at the office of the Area Planning Department.

(1) CERTIFICATE OF PUBLIC NOTICE
(2) CERTIFICATE OF DEDICATION
(3) CERTIFICATE OF ACKNOWLEDGMENT
(4) LAND SURVEYOR'S CERTIFICATE
(5) CERTIFICATE OF PRIMARY APPROVAL
(6) CERTIFICATE OF INTENT TO ACCEPT

17-11 CONFLICT OF SECTIONS: Any restrictions, rules, and standards, and conditions imposed by other sections of this Zoning Ordinance which are not in conflict with the requirements of this Article shall remain in full force and effect. If there are conflicts between this Article and other sections of the Zoning Ordinance, then the provisions of this Article shall be controlling.

17-12 PERFORMANCE AND MAINTENANCE BONDS: Performance and maintenance bonds and guarantees shall be filed in accordance with the Subdivision Control Ordinance.

17-13 MODIFICATION OF REQUIREMENTS:

(1) In accordance with I.C. 36-7-4-1511(b), any or all requirements defined in this Article and any or all requirements incorporated by reference in this Article may be waived by the Plan Commission after hearing evidence and arguments at the public hearing for a PUD if:

(A) the modification is justified because of topographic or other special conditions unique to the property involved, in contradistinction to mere inconvenience or financial disadvantage;

(B) the modification will not adversely affect the reasonable development of adjacent properties;

(C) modification grant will not be detrimental to the public health, safety, and general welfare of the community;

(D) the modification does not materially affect the spirit and purpose of this Zoning Ordinance; and

(E) the modification is coupled with a written commitment by the petitioner that alleviates the need for said requirement(s).

(2) As a condition for approval, said modification(s) must be approved in writing by the affected Local Legislative Body if the modification(s) affects future or existing public utilities and public ways.

17-14 AMENDMENTS: A PUD Plan may be amended at any time prior to a decision thereon by the Plan Commission as to non-material matters. Material amendments are amendments that substantially change the scope or purpose of the PUD such as to prevent an interested party from receiving proper notice. Material amendments shall only be approved after proper public notice and hearing.

17-15 PLAT COMMITTEE REVIEW: The Plat Committee shall review all proposed PUDs to make recommendations and answer questions prior to the hearing before the Plan Commission. Appropriate representatives of the affected Local Legislative Body shall be invited to attend said Plat Committee review meeting.

17-16 PUBLIC HEARING: A PUD District Ordinance may be recommended for approval or disapproval to the appropriate Local Legislative Body at the conclusion of the public hearing on the PUD District Ordinance. A recommendation to the Local Legislative Body for approval or disapproval of a PUD District Ordinance shall require a vote by a majority of the members of the Plan Commission. The public hearing shall be conducted in accordance with this Zoning Ordinance.

17-17 ENFORCEMENT: A violation of the terms, conditions, commitments, or restrictions of an approved Subdivision shall be enforced in accordance with this Ordinance.

17-18 MODIFICATION: A PUD that has already been approved by the Plan Commission and the appropriate Local Legislative Body may be modified at a later date by complying with the same procedures required for the original approval of a PUD. However, with a modification, the Plan Commission Director may waive any required drawings, forms, surveys, or other required accompaniments to the petition that do not involve directly the requested modification.

17-19 VACATING PLAT: The process for vacating a recorded plat shall be done in accordance with applicable Indiana Code.

17-20 APPEALS: An appeal of the decision of any governing agency shall be done in accordance with this Zoning Ordinance.

ARTICE 18: DEFINITIONS

Certain words used in this Zoning Ordinance are defined below. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the male gender shall include the female gender and the female gender shall include the male gender; and the word "shall" is mandatory and not permissive. Unless specifically defined below, words or phrases used in this Zoning Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Zoning Ordinance it's most reasonable application. Terms not specifically defined herein and subsequent new terms shall have their meanings as set forth in the current edition of Anderson's American Law of Zoning and all amendments and updates thereto.

ACCELERATION LANE: A tapered section of pavement that is located adjacent to the right lane of the traveled portion of a public way at the exit access from a traffic generator and that is used by vehicles to obtain the desired speed to merge with the traffic flow of the public way.

ACCESSORY STRUCTURE: See STRUCTURE (ACCESSORY).

ACCESSORY USE: See USE (ACCESSORY).

ADDITION: The act of adding a portion of an existing parcel to another existing contiguous parcel which is located on an existing public way.

AEROBIC STRUCTURE: An Aerobic Structure shall be defined as an animal feeding operation structure which relies on aerobic bacterial action which is maintained by the utilization of air or oxygen and which includes aeration equipment to digest organic matter. Aeration equipment shall be used and shall be capable of providing oxygen at a rate sufficient to maintain an average of two (2) milligrams per liter dissolved oxygen concentration in the upper thirty (30) percent of the depth of manure in the structure at all times.

AGENDA: The written list of petitions and other matters for a hearing of a governing agency posted by the office of the Area Planning Department.

AGRICULTURE: Any use of land or structures for farming, dairying, pasturage, horticulture, floriculture, arboriculture, aquaculture, or animal or poultry husbandry. Agriculture does not include a concentrated or confined animal feeding operation.

AIRPORT: A parcel of land used for commercial or private aircraft to land or take-off, and the embarkation and for the loading and unloading of passengers and/or freight.

ALLEY: A public way providing secondary means of access to abutting lands.

AMENDMENT: A revision to a petition made after the petition has been filed.

ANCHORING SYSTEM: An approved system of straps, cables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured home.

ANSI/NFPA: Standards for installation of manufactured homes as established and copyrighted by American National Standards Institution / National Fire Protection Association.

ANIMAL, DOMESTIC: A household domestic animal including, but not limited to rabbits, chickens, cats and dogs that are normally housed within the confines of a residential property. Commercially raised farm livestock, for the purpose of this Zoning Ordinance, shall not be considered as domestic animals.

ANIMAL, DOMESTIC FARM: means all cattle, bison, or animals of the bovine species; all horses, mules, burros, or animals of the equine species; all goats or animals of the caprine species; all swine or animals of the porcine species; llamas and all animals of the lama genus; ostrich, chickens, and other domesticated poultry; farm raised or legally hunted deer, elk, moose, or animals of the Cervidae family; all sheep or animals of the ovine species; and commercially caught or farm raised fish and seafood.

ANTIQUES: Other than motor vehicles, an item, relic, or other object belonging to a substantially earlier period or to antiquity that is collectible because of its value or age.

APC: Wells County Area Plan Commission.

APPEAL: A grievance taken, in accordance with this Zoning Ordinance and applicable Indiana Code, against an official action of a governing agency or employee of the Area Planning Department.

APPROVAL AGENCY: The agency that has jurisdiction under this Zoning Ordinance, Subdivision Control Ordinance, Flood Hazard Ordinance or through Indiana Code to take action regarding said petition.

APPROVAL (PRIMARY): Initial approval given by the Plan Commission or Plat Committee for a petition in accordance with the Subdivision Control Ordinance and applicable Indiana Code.

APPROVAL (SECONDARY): Final approval given by the designated secondary approval official in accordance with the Subdivision Control Ordinance and applicable Indiana Code.

AREA: The square footage or acreage of a parcel of land.

ARTERIAL PUBLIC WAY: See PUBLIC WAY (ARTERIAL).

ASPHALT MANUFACTURING FACILITY: A parcel of land and structure used to store raw materials for the manufacturing of asphalt, to manufacture asphalt, and to store asphalt products.

AUTOMOBILE SALES AND SERVICE: Any sales or service of automobiles, trucks, motorcycles, ATVs, or any motorized vehicles.

AUTOMOBILE AND/OR TRUCK BODY REPAIR GARAGES: A structure where automobiles or trucks are fixed, painted, or refurbished.

BANK / CREDIT UNION: A structure used as a bank or credit union.

BASEMENT: A story having more than fifty percent (50%) of its clear height below the normal topography.

BOARD OR COMMITTEE PRESIDENT: An appointed position by the governing body created and given jurisdiction by this Zoning Ordinance and applicable Indiana Code.

BOARD OR COMMITTEE SECRETARY: An appointed position by the governing body created and given jurisdiction by this Zoning Ordinance and applicable Indiana Code.

BOARD OR COMMITTEE VICE PRESIDENT: An appointed position by the governing body created and given jurisdiction by this Zoning Ordinance and applicable Indiana Code.

BOARD OF ZONING APPEALS: The Wells County Board of Zoning Appeals.

BOARDING HOUSE: A residential used as a substitute home providing for foster care for orphans, delinquents, handicapped persons, or others with special needs.

BOND: Any evidence of indebtedness payable to a Local Legislative Body and the Plan Commission to issue the installation, performance, and longevity of improvements which will be accepted by the Local Legislative Body.

BREWERY: A facility for the brewing of beer or mead that produces greater than 15,000 barrels per year. It may often include a tasting room, event space, and retail space to sell the beer or mead and related items to patrons on-site.

BREWERY, MICRO-: A facility for the brewing of beer or mead that produces less than or equal to 15,000 barrels per year. It may often include a tasting room, event space, and retail space to sell the beer or mead and related items to patrons on-site.

BULK FUEL STORAGE: A parcel of land containing tanks or facilities suitable for the storage of flammable products, materials, or flammable compressed gas.

BZA: Wells County Board of Zoning Appeals.

CAFO: See Concentrated Animal Feeding Operation.

CEMETERIES: A parcel of land or structure used for the burial of humans and/or animals.

CHURCH: A parcel of land or structure used for the purpose of conducting religious services.

CITY: An incorporated governmental unit with sufficient population to be accorded the status of "city" under Indiana Law.

CLINIC (MEDICAL): Any establishment where human patients are examined and treated by doctors or dentists but not hospitalized overnight; a medical or dental facility where medical or dental apparatuses are made and/or fitted on the premises.

CLUB: An establishment operated for social, recreational, or educational purposes but open only to members and not the general public.

COLLECTOR PUBLIC WAY: See PUBLIC WAY (COLLECTOR).

COLLEGE BUILDINGS AND GROUNDS: A post high school educational facility for students whether domiciled in dorms, fraternity houses, or off-campus.

COMBINE: The act of deeding together two (2) existing parcels into one (1) or more parcel which is located on an existing public way.

COMMERCIAL RECREATION: Recreational activities operated for pecuniary gain.

COMMERCIAL SCHOOLS: A structure for housing a school or educational facility that derives its remuneration from the student.

COMMITMENTS: A written promise or guarantee is given by a petitioner to the Plan Commission or Board of Zoning Appeals as a condition for approval of a petition.

COMMITTEE: Special purpose group appointed by the Plan Commission in accordance with this Zoning Ordinance and applicable Indiana Code.

COMMON NUISANCE: Any structure or use which is in violation of this Zoning Ordinance.

COMMUNICATION TOWER: A Communication Tower is a tower or other device used to broadcast, receive, transmit, repeat, or disseminate electronic signals for the purpose of communication. This section includes towers that fall under IC 36-7-5.2, Regulations of Amateur Radio Preemption or any amendments thereto.

COMPREHENSIVE PLAN: The most recent Comprehensive Plan of Wells County which is on file with the Wells County Recorder and the Area Planning Department and which is a separate document from the Zoning Ordinance.

CONCENTRATED ANIMAL FEEDING OPERATION: As defined by 327 I.A.C. 5-4-3, a lot or facility, other than an aquatic animal production facility, that exceeds a certain number, as established by state law, of individual animals and where (1) those animals have been, are, or will be stabled or confined and fed or maintained for a total of at least forty-five (45) days in any twelve (12) month period and (2) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over at least fifty percent (50%) of the lot or facility. For the purposes of this ordinance, this definition will also include both onsite and satellite manure storage facilities.

CONCRETE MANUFACTURING PLANT: A parcel of land and structure used to store raw materials for the manufacturing of concrete, to manufacture concrete, and to store finished concrete products. This is also known as a batch plant, ready mix plant, or central mix plant.

CONDOMINIUM: Individual ownership of a single unit in a multi-unit structure or complex of structures as defined in the Indiana Horizontal Property Regime Law and amendments thereto.

CONFLICT OF INTEREST: Any time a member of a governing agency or employee of the Area Planning Department has direct or indirect financial ties to a petition submitted to the Area Planning Department.

CONTOUR: An imaginary line on the surface of the ground that connects points of equal elevation.

CONTOUR INTERVAL: The vertical distance between contour lines.

CONTOUR MAP: A map that shows the shape of the surface features of the ground by use of contours.

CONVENIENCE STORE: A retail business selling such items as candy, grocery items, pop, sundries, hardware, and pharmaceutical in conjunction with gasoline, oil, and automotive products, but that does not provide for the service or repair of vehicles.

COUNTY COMMISSIONERS: The legislative body of Wells County government.

COUNTY COUNCIL: The Local Fiscal Body of Wells County government.

COVENANTS: Limitation on the usage of lots within a Subdivision in various ways proposed by the subdivider and recorded with the plat.

COVERED: In Regards to CFOs and Manure Lagoons covered shall be defined as an organic or inorganic material, placed upon an animal feeding operation structure used to store manure, which significantly reduces the exchange of gasses between the stored manure and the outside air. Organic materials include, but are not limited to, a layer of chopped straw, another crop residue, or a naturally occurring crust on the surface of the stored manure. Inorganic materials shall include but are not limited to, wood, steel, aluminum, rubber, plastic, or Styrofoam. The materials shall shield at least ninety (90) percent of the surface are of the stored manure from the outside air. Cover shall include an organic or inorganic material which current scientific research shows reduces detectable odor by at least seventy-five (75) percent. A formed manure storage structure directly beneath a floor where animals are housed in a confinement feeding operation is deemed to be covered.

CREMATORIUM: A structure or furnace used to cremate the remains of humans or animals.

CROSS-SECTION: A drawing that shows the features that would be exposed by a vertical cut through a man-made or natural structure.

CROSSWALK: A designated portion of a public right-of-way that crosses a public right-of-way to furnish access for pedestrians to adjacent public ways or properties.

CUL-DE-SAC: A public way that has only one (1) point of ingress/egress and that terminates in a turnaround.

DAY CARE CENTER: A commercial facility for the part-time, but not overnight care of minor children.

DECELERATION LANE: A tapered section of pavement that is located adjacent to the right lane of the traveled portion of a public way and that is used by vehicles to reduce their speed for a turn onto an entrance access to a traffic generator.

DECK: A flat, floored roofless area that is above grade level and adjoins a dwelling.

DEED: A legal document acting as the vehicle for the sale and purchase of parcels or lots.

DEVELOPMENT PLAN: A specific plan for the development of real property.

DIRECTOR: The Executive Director of the Wells County Area Plan Commission as created and given jurisdiction by this Zoning Ordinance and applicable Indiana Code.

DISTILLERY: A facility that produces liquor in quantities greater than 15,000 barrels per year. It may often include a tasting room, event space, and retail space to sell the spirits and related items to patrons on-site.

DISTILLERY, MICRO-: A facility that produces liquor in quantities less than or equal to 15,000 barrels per year. It may often include a tasting room, event space, and retail space to sell the spirits and related items to patrons on-site.

DRIVE-IN BUSINESS: A business in which any part of the operation's sales is to drive-in customers. This definition shall include drive-in theaters.

DRY CLEANING AND LAUNDRY PLANT: A structure used for the cleaning or laundering clothing or cloth fabric items on a retail basis, but not on a self-service basis.

DUMP STATION OR TRANSFER STATION: A structure or parcel of land where waste materials, but not biodegradable materials, are collected for disposal.

DWELLING, CENTRAL BUSINESS DISTRICT UNIT: One or more residential dwelling unit(s) in a structure but is not located on the first floor, ground level, or in the basement.

DWELLING, MULTIPLE-FAMILY: A residential structure designed for five **(**5) or more families.

DWELLING, SINGLE-FAMILY: A detached residential dwelling unit, other than a manufactured home, designed for and occupied by one family.

DWELLING, TWO-FAMILY: A detached residential structure containing two (2) dwelling units designed to be occupied by not more than two (2) families.

DWELLING, THREE-FAMILY: A detached residential structure containing three (3) dwelling units designed to be occupied by not more than three (3) families.

DWELLING, FOUR-FAMILY: A detached residential structure containing four (4) dwelling units designed to be occupied by not more than four (4) families.

DWELLING, ACCESSORY: A residential dwelling located on a property with a preexisting residential dwelling that is located in a preexisting or newly constructed accessory structure. There shall only be one (1) accessory dwelling per parcel.

DWELLING UNIT: Any structure or part of a structure designed or used as living quarters for one family.
EASEMENT: A right of use over the property of another.
EATING AND DRINKING ESTABLISHMENT: A structure or use where food and beverages are sold, prepared, and served to the public.
ENCLOSED MORTALITY COMPOSTING: A self-contained roofed structure with walls on 3 of the 4 sides with a gated entrance to be used for mortality composting in conjunction with a confined animal feeding operation.
ENFORCEMENT: The police powers designated to the Plan Commission by this Zoning Ordinance and applicable Indiana Code.
ENGINEER: An engineer licensed in compliance with the laws of the State of Indiana.
ENVIRONMENTAL VIOLATION: Environmental Violation shall be defined as an order from the Indiana Department of Environmental Management or comparable state or federal agency or final court ruling against the construction permit applicant for environmental violations related to animal feeding operation that resulted in a discharge.
EROSION: All of the process by which soil and rock are loosened and moved downhill or downwind.
EROSION CONTROL: Regulations as established by the State of Indiana.
ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by public utilities, local legislative bodies, or municipal or other governmental agencies of underground or overhead gas, electrical, conduit, steam, water, sewage, drainage, or other distribution systems, including, but not limited to poles, wires, mains, drains, sewers, pipes, signals, hydrants, public way signs, transmission equipment, towers, antennas, microwave disc, and any other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of service by such public utilities, local legislative bodies, or municipal or other governmental agencies. However, this definition shall not include structures.
EXCAVATION: The removal, stripping, or disturbance of soil, earth, sand, rock, gravel, or other similar materials from the ground.
EXECUTIVE DIRECTOR: The Executive Director of the Wells County Area Plan Commission as created and given jurisdiction by this Zoning Ordinance and applicable Indiana Code.
EXISTING GRADE: The vertical and horizontal location of the existing ground surface prior to excavation or filling.
EXPANDO UNIT: A factory constructed attachment to a manufactured housing unit extending perpendicular to the manufactured housing unit.
FAMILY: One or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, club, fraternity, sorority, hotel, or motel.
FARM IMPLEMENT SALES, SERVICE, AND REPAIR: A business, parcel of land, or structure where farm equipment is sold, serviced or repaired.
FARM SALES OF FERTILIZER, FARM SEEDS, AND FARM CHEMICALS: A business that sells farm chemicals, fertilizer, and seed to a farm operation or one that processes seed or grain for planting or resale to farmers.
FARMERS MARKET: An area, which may or may not is in a completely enclosed building, where seasonally or permanently, growers and producers of agricultural, horticultural, or other homemade goods may sell those products and/or other incidental items directly to the public.
FARMERS MARKET, TEMPORARY: An area, which may or may not is in a completely enclosed building, where on designated days and times, growers and producers of agricultural, horticultural, or other homemade goods may sell those products and/or other incidental items directly to the public.
FEES: Payments made, in accordance with this Zoning Ordinance and applicable Indiana Code, to the Area Planning Department to cover costs associated with petitions, to the local newspaper to cover advertisement costs associated with legal notices, and to the Recorder of the applicable County for recording services associated with approved petitions.
FENCE: A man-made barrier restricting access and visibility to a lot or parcel as permitted by this Zoning Ordinance.
FILING: The act of delivering all the required documentation and fees to the office of the Area Planning Department to petition the applicable governing agency for an official action.
FILL: Any material used to build up the ground surface or alter the existing grade.
FINAL OR FINISHED GRADE: The final grade or elevation of ground surface conforming to the approved grade.
FLOOR AREA OF A STRUCTURE: The floor area is the area as measured by the length and width of the structure. Each floor, including the basement, shall be a separate floor area.
FOOD PRODUCTION OR PROCESSING, RETAIL: means a commercial facility that produced or processed food for human consumption and certain related products, where the primary business propose is for retail sale at the facility. The business may include wholesale sales as long as the primary business purpose if retail sales at the facility. (EXAMPLES: commercial bakeries, dairy product processing, fats and oils processing, fruit, vegetable, meat, and seafood canning, preserving, curing, and related by-product processing, and miscellaneous food preparation from raw products, including catering services that are independent of food stores or restaurants.)
FOOD PRODUCTION OR PROCESSING, WHOLESALE: means a commercial facility that produces or process food for human consumption and certain related products, where the primary business purpose is for wholesale. (EXAMPLES: commercial bakeries, dairy product processing, fats and oils processing, fruit, vegetable, meat, and seafood canning, preserving, curing, and related by-product processing, and miscellaneous food preparation from raw products, including catering services that are independent of food stores or restaurants.)

FOUNDATION SIDING/SKIRTING: A type of wainscoting constructed of material, such as aluminum, treated pressed wood or other materials, enclosing the entire undercarriage of the manufactured or mobile home.

FRATERNITY HOUSING: A structure used to provide lodging and boarding for male students in schools of higher learning, but not for transients.

FREEBOARD: The vertical distance between the maximum water surface elevation anticipated in design and the top of the retaining banks or structures provided to prevent overtopping because of unforeseen conditions.

FRONT YARD: See YARD (FRONT).

FRONTAGE: See ROAD FRONTAGE.

FUNERAL HOME: A structure used for conducting services and preparation for final funeral rites of people.

GARBAGE COLLECTORS: A business operation owned by a Local Legislative Body or private entity to collect, but not dispose of, refuse, garbage, or trash whether by contract or private pay.

GASOLINE & OIL RETAIL SALES: A business where gasoline and oil sales are made in conjunction with other merchandise.

GOLF COURSE: A parcel of land that is so landscaped and designed for the game of golf including all structures necessary for the operation of a golf course, such as clubhouses and maintenance structures.

GOVERNING AGENCY: The Plan Commission, the Board of Zoning Appeals, and the Plat Committee.

GRADIENT: Change of elevation, velocity, pressure, or other characteristics per unit of length.

GRADING: Any stripping, cutting, filling, or stockpiling of ground or any combination thereof.

GRAIN ELEVATORS: A non-farming commercial business with facilities for the buying, selling, or storage of non-mechanical farm supplies, grain, seed, fertilizer, chemicals, and items that are clearly agricultural in nature.

GRASSED WATERWAYS: A natural or constructed vegetated channel or swale used for safe disposal of surface runoff water.

GREENHOUSE AND NURSERIES: A parcel of land or structure used to raise flowers, fruit, vegetables, trees, and other vegetation in a controlled environment for commercial purposes.

GROUND COVER: Grasses or other plants grown to protect soil from wind or water erosion.

GROUP HOME: A residential structure housing multiple individuals that share common areas of the structure and that share certain residential expenses. For the purposes of this ordinance, residential drug and alcohol rehab facilities shall be considered group homes.

HARD SURFACE: Is any surface such as roof, concrete, asphalt and stone that restricts the ability of water to penetrate into the ground. For the purposes of calculating hard surface sidewalks and walking paths that have a pervious surface on two opposite sides should not be counted towards the total amount of hard surface.

HEARING (NON-PUBLIC): A meeting of the Plat Committee that has no applicable notification standards and is in accordance with Indiana Code.

HEARING (PUBLIC): A meeting of the Plan Commission or the Board of Zoning Appeals that has applicable notification standards and is accordance with the governing agency's rules of procedure and applicable Indiana Code.

HEARING SCHEDULE: A schedule that is posted in the Area Planning Department and that includes date and time of the meeting dates for the governing agencies.

HEIGHT: The distance from the average ground elevation to the highest part of any structure.

HISTORICAL MONUMENT: A sign or marker used to signify a notable historic building, person, or event.

HOME OCCUPATION: An occupation carried on in (1) a dwelling unit of a primary structure which is clearly incidental and secondary to the use for dwelling purposes and does not change the character of the unit as a dwelling or (2) an accessory structure located in an Agricultural 1 (A-1) area only. An office primarily used for bookkeeping purposes shall not be considered a home occupation under this Zoning Ordinance.

HORIZONTAL EXTENSION: Any item attached to a WECS Tower, a WECS Testing Facility or Communications Tower that extends away from such WECS Tower, WECS Testing Facility or Communications Tower, including, without limitation, radio antenna, wind measuring equipment, guy wires and guy wire anchors.

HOSPITALS: A structure used for the care of patients including diagnostic equipment that may be necessary to provide care, convenience, and comfort of the patients with overnight facilities and food provided.

HOTELS AND MOTELS: A structure designed for temporary commercial lodging.

IMPROVEMENT LOCATION PERMIT: A permit issued by the office of the Plan Commission before any structure or pond in any zoning district may be constructed, reconstructed, moved, enlarged, or structurally altered.

IMPROVEMENT LOCATION SURVEY: A drawing prepared by a Professional Land Surveyor licensed by the State of Indiana of a parcel subject of a petition before any of the governing boards of the Area Plan Department.

INDIANA CODE (I.C.): Indiana State Law which oversees the creation and requirements of this Zoning Ordinance.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM: A private sanitary sewage disposal system designed to serve or accommodate one dwelling, business, or industry located on-site.

INFRASTRUCTURE: The fundamental facilities and systems serving counties, cities, and towns.

JUNK: Scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or zinc, and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles and cans, or old used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes and crates, used pipe or pipe fixtures, used automobiles, trucks, or airplanes, tires, and other manufactured goods that are so worn, deteriorated, or obsolete as to make them unusable in their existing condition, but are subject to being dismantled.

JUNKYARD: Any place where junk, waste, discarded, or salvaged materials are bought, exchanged, sold, stored, baled, packed, disassembled, or handled, including automobile wrecking yards, house wrecking, and structural steel materials and equipment, but not including the purchase or storage of used furniture and household equipment or used or salvaged materials as a part of a manufacturing operations. Any site in which vehicles are cannibalized shall be determined to be a junkyard.

JURISDICTION: The area designated by the local legislative bodies to be governed by this Zoning Ordinance.

KENNEL: A structure, parcel of land, or portion thereof on which more than four (4) dogs, cats or other household domestic animals over four (4) months of age are maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale.

LAND SURVEYOR: A land surveyor licensed in compliance with the laws of the State of Indiana.

LANDSCAPING: The location and design of grass, shrubs, and trees placed deliberately on a parcel or lot. Landscaping shall also include decretive elevation changes.

LEGAL ACCESS: An access to a parcel of land from a public way.

LEGAL DESCRIPTION: A description recognized by law which definitely describes property by references to government surveys, coordinated systems, or recorded maps and is sufficient to locate the property without oral testimony.

LEGAL DRAIN: An open or a tiled ditch, as defined by Indiana Statute, which the provisions of that statute make subject to the jurisdiction and control of the Wells County Drainage Board.

LEGISLATIVE BODY: See LOCAL LEGISLATIVE BODY.

LIVING SPACE: The area of a residential dwelling used for human habitation.

LIVESTOCK AUCTION AND STOCKYARD: A parcel of land or structure for the housing and sale of animals for marketing purposes whether for slaughter or sale for feeding purposes.

LOCAL FISCAL BODY: The fiscal body of an incorporated town, city, or county of Wells County.

LOCAL LEGISLATIVE BODY: The legislative body of an incorporated town, city, or county of Wells County.

LOCAL PUBLIC WAY: See PUBLIC WAY (LOCAL).

LOCATION MAP: A map depicting the location of a petition and showing landmarks, city or town names, and major public ways.

LOT: A portion of a Subdivision or other land intended as a unit for transfer of ownership.

LOT AREA: The square footage or acreage of a lot.

MACHINE OR WELDING SHOP: A structure where equipment may be built, rebuilt, or repaired on site.

MANUFACTURED HOME: A factory-built single-family dwelling that conforms to the federal government's Manufactured Home Construction and Safety Standards Act (the HUD Code), is built on a non-removable steel chassis, and is transported to the building site on their own wheels.

MANUFACTURED HOME COMMUNITY (PARK): A parcel of land on which five (5) or more manufactured or mobile homes are occupied as residences in accordance with this Zoning Ordinance.

MANUFACTURED HOME SUBDIVISION: A parcel of land platted for a Subdivision according to all requirements of this Zoning Ordinance and designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes.

MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS ACT (HUD CODE): Rules and regulations adopted and governed by the U.S. Department of Housing and Urban Development (HUD) and regulations and interpretations of said code by the Indiana Department of Fire Prevention and Building Safety; all of which became effective for mobile/manufactured home construction on June 15, l976.

MANUFACTURING: The process and converting of raw, unfinished, or finished materials or products or any of these into a different character or for use for a different purpose; also industries furnishing labor in the case of manufacturing or refinishing of manufactured articles.

MANUFACTURING (HEAVY): The manufacturing, processing, assembling, fabrication, or repairing of any materials which may produce such noise, vibration, electrical disturbance, air pollution, water pollution, heat, glare, waste matter, odor, or fire hazard to neighboring property.~~,~~ Operations where punch presses or such types of equipment are part of the manufacturing process. There also may be the outside storage of raw materials, processed materials, recycled materials, and manufactured goods. Furthermore, there may be manufacturing operations that occur outside of a structure.

MANUFACTURING, (LIGHT): The manufacturing, processing, assembling, fabrication, or repairing of any materials or products where no continuous process involved will produce noise, vibration, electrical disturbance, air pollution, water pollution, heat, glare, waste matter, odor, or fire hazard which will disturb or endanger any neighboring. There also may be the outside storage of processed materials and manufactured goods. The manufacturing process shall fully occur within a structure.

MANURE LAGOON: A natural or artificial pool or pond, existing or newly constructed, for storage/treatment of excrement, especially of animals, or other refuse used as fertilizer.

MANURE LAGOON, SATELLITE: A manure lagoon not located on the same parcel as an existing animal feeding operation.

MALL OR SHOPPING CENTER: A group of not less than five (5) continuous retail stores, originally planned and developed as a single unit, having a total ground floor area of not less than sixty thousand (60,000) square feet with immediate adjoining off-street parking facilities.

MEETING MINUTES: A written document summarizing the hearing of a governing agency created in accordance with this Zoning Ordinance and applicable Indiana Code.

MINERAL EXCAVATION: The mining of stone, gravel, ore, oil, gas, and similar materials by drilling, excavation, or underground mining.

MOBILE HOME: By federal law, a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD-Code and acceptable under applicable state codes in effect at the time of construction or introduction of the manufactured home into the state. The term is often used interchangeably with "manufactured home."

MOBILE HOME PARK: See MANUFACTURED HOME COMMUNITY**.**

MONUMENT: See SURVEY MONUMENT.

MUNICIPAL BUILDING: A structure housing a Local Legislative Body office or a non-commercial public use, including police, fire, and utility structures.

NATURE PRESERVE OR RESERVE: A parcel of land used for the preservation of game or vegetation by either public or private organizations.

NATURAL RESOURCES: The Indiana Department of Natural Resources.

NO-ACCESS NOTATION: A strip of land adjacent to a public way which is denied access to said public way.

NON-COMMERCIAL RECREATION: A park or playground with recreational equipment and facilities where there is no charge or donation for the use of such grounds, equipment, or facilities.

NON-CONFORMING STRUCTURE: See STRUCTURE (NON-CONFORMING).

NON-CONFORMING USE: See USE (NON-CONFORMING).

NURSERY SCHOOL: A structure used for non-overnight accommodation for pre-school children.

NURSING HOME: A structure to provide care where foods, lodging, medical care, physical therapy, and physical rehabilitation services are provided for aged and infirm people.

OCCUPIED SPACE: The total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, concrete patios, and porches.

OFF STREET PARKING: Parking spaces which are not located on any public right-of-way.

OFFICE COMPLEX: A structure where services are rendered to the public including the directing headquarters of an enterprise or organization comprised of individual offices.

OFFICE (PROFESSIONAL): A structure where services are rendered to the public by a licensed professional, including but not limited to doctors, attorneys, and dentists.

OFFICIAL ACTION: A vote to approve or disapprove any petition in accordance with this Zoning Ordinance and applicable Indiana Code.

OWNER: Any individual, firm, association, syndicate, co-partnership, or corporation having proprietary interests in a parcel of land.

PARCEL: A legally defined and recognized piece of real estate.

PARCEL (PRIMARY): shall be defined as a tract of land recorded as of January 1, 1971.

PARKING LOT: An open area other than a public way for the parking of vehicles and available for public or employee parking use whether for compensation or as an accommodation for clients or customers.

PARKING SPACE: An area designated for the parking of a single vehicle.

PATIO: A recreation area that adjoins a dwelling at grade level.

PERMANENT FOUNDATION: Any structural system made of concrete blocks, poured cement or treated wood and capable of transposing loads from the walls of a structure to the ground to a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

PERMANENT PERIMETER ENCLOSURE: A structural system completely enclosing the space between the floor joists of the structure and the ground.

PERSON: An individual, firm, partnership, corporation, company, association, joint-stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other legal representative.

PERSONAL AND PROFESSIONAL SERVICE: A service rendered to the public by a professional licensed by the State of Indiana or other governmental licensing agency or division.

PETITION: The filing of an applicable request to a governing agency for official action as described in this Zoning Ordinance.

PETITIONER: The parcel or lot owner who is requesting official action by a governing agency of the Area Planning Department.

PLANNED UNIT DEVELOPMENT (PUD): A development that allows for flexibility of design of subdividing real estate as permitted by this Zoning Ordinance and applicable Indiana Code.

PLAT: An improvement location survey that contains all the applicable requirements in accordance with this Zoning Ordinance and Subdivision Control Ordinance for the development or subdivision of land and that is intended to be filed for record.

PLAT COMMITTEE: A committee appointed by the Plan Commission to review Development Plans and Subdivisions and approve Sell Offs, Combines, and Additions.

PLAN COMMISSION: The Wells County Area Plan Commission.

POND: A body of water which is considered a structure that shall be used for recreation or irrigation or for retention or detention in a storm water drainage system as permitted by and in accordance with this Zoning Ordinance. A pond structure includes any elevation changes created because of the excavation and moving soil.

POWER PLANT: A plant, including engines, dynamos, etc., and the building or buildings necessary for the generation of electricity.

PRESIDENT (BOARD OR COMMITTEE): See BOARD OR COMMITTEE PRESIDENT.

PRIMARY APPROVAL: See APPROVAL (PRIMARY).

PRIMARY PARCEL: See PARCEL (PRIMARY).

PRIMARY OR PRINCIPAL STRUCTURE: See STRUCTURE (PRIMARY).

PRINT SHOPS: A commercial operation which requires the use of printing presses or the contemporary equivalent.

PROCEDURE: Specific set of regulations describing the filing regulations and hearing guidelines for a petition in accordance with this Zoning Ordinance.

PUBLIC PARKS AND PLAYGROUND: A parcel of land maintained and used by a Local Legislative Body for recreational uses.

PUBLIC PLACE: Any parcel of land or structure owned by a Federal, State, County, or Municipal government or a political subdivision.

PUBLIC TRANSPORTATION TERMINALS: A business or location that provides for the embarkation or disembarkation of passengers from a paid transportation service, such as buses or taxis.

PUBLIC WAY: A dedicated right-of-way for vehicular movement, location of utilities, and placement of other necessary appurtenances for urban development.

PUBLIC WAY (ARTERIAL): Street providing for traffic movements between generating areas and having an average daily traffic count of 1000 cars per day or more.

PUBLIC WAY (COLLECTOR): Street providing connection primarily between arterial streets and local streets and averaging a daily traffic count of more than 500 and less than 1000 cars per day.

PUBLIC WAY (LOCAL): Street serving primarily as access to abutting properties not intended as major arteries carrying through traffic and averaging a daily traffic count of fewer than 500 cars per day.

PUD: See PLANNED UNIT DEVELOPMENT.

REAR YARD: See YARD (REAR).

RECREATIONAL VEHICLE: A portable vehicular structure designed for travel, recreation, camping, or vacation purposes, either having its own motor power or mounted onto or driven by any other vehicle and including, but not limited to, travel and camping trailers, truck campers, and motor homes.

RECREATION VEHICLE PARK: A parcel of land used for the commercial parking of two (2) or more recreational vehicles.

RECYCLING COLLECTION POINT (PERMANENT): A parcel of land and/or structure that is used for the collection of recyclables on a permanent basis.

RECYCLING COLLECTION POINT (TEMPORARY): A parcel of land and/or structure that is used for the collection of recyclables on a periodic basis by a non-for-profit organization, a fraternal group, a school district, or a church group.

REGULATED DRAIN: An open or a tiled ditch, as defined by Indiana Statute, which the provisions of that statute make subject to the jurisdiction and control of the Wells County Drainage Board.

REQUIREMENTS: Specific rules, procedures, and standards set forth by this Zoning Ordinance and the minimum standards of applicable Indiana Code.

RESEARCH AND TESTING LABORATORY: A structure or parcel of land for experimentation of products, chemicals, or grains for the private or public benefit.

RESTAURANT: A retail business for the preparation of food for sale to the public.

RESTRICTIVE COVENANTS: See COVENANTS.

RETAIL BUSINESS: A structure open to the public for the retail sales of merchandise or personal property and services.

RETIREMENT HOME: A structure designed for the housing of elderly and/or retired people.

REZONING: In accordance with this Zoning Ordinance and applicable Indiana Code, the changing of the zoning district defined to a lot or parcel.

RIDING STABLE: A structure or parcel of land where horses are kept for riding and boarding purposes.

RIGHT-OF-WAY: A strip of land occupied or intended to be occupied by a public way, pedestrian way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or sewer main, special landscaping, drainage swale, or other special uses.

ROAD FRONTAGE: The width of a lot measured along a continuous and straight line connecting the side lot lines at a point where said side lot lines intersect the right-of-way line of a street, road, or highway from which such lot has legal access.

SANITARY LANDFILL: A parcel of land used for the disposal of accumulations of refuse or other discarded materials.
SCHOOLS (PUBLIC OR PAROCHIAL): A structure used for the public or private education of students.
SECONDARY APPROVAL: See APPROVAL (SECONDARY).
SECRETARY (BOARD OR COMMITTEE): See BOARD OR COMMITTEE SECRETARY.
SECTION CORNER: A corner established as part of the United States Public Land Surveying System used for the horizontal control in describing the land.
SELF SERVICE LAUNDRY FACILITY: A business that offers the cleaning or laundering of clothing or cloth fabric on a self-service basis. This definition is not meant to regulate private laundry facilities for tenants of single, two or multi-family dwellings even if the laundry facility is in a common location for multiple units.
SELL-OFF: A minor subdivision of property from a Primary Parcel which is located on an existing public way, has occurred after January 1, 1971, and is filed with the Plan Commission.
SERVICE AREA: The total area of any structure or designated enclosures to which the public routinely has access.
SERVICE STATION: A business where the primary function is the sale of gasoline, oil, and automotive service products and the minor service of vehicles.
SETBACK: The distance between the right-of-way of a public way or a property line to a principal and/or accessory structure. A right-of-way of a public way shall take precedent wherever it overlaps the property line. A setback shall be measured from the foundation of a building as long as the overhang including gutter does not project past the foundation by more than two (2) feet.
SHADOW FLICKER: the condition which occurs when the blades of a WECS pass between the sun and an observer, casting a readily observable moving shadow on the observer and his or her immediate environment.
SHELTER BELT: A Shelter Belt shall be defined as trees, shrubs, and earthen berm must reach a cumulative height of six (6) feet prior to startup of operation. Minimum of two rows of trees and shrubs, of fast and/or slow growing species, shall be needed.
SIDE YARD: See YARD, SIDE.
SIGN: A name, identification, description, display, or illustration which is affixed directly or indirectly to a structure or parcel of land and which directs attention to an object, product, place, person, institution, organization, or business.
SIGHT ANGLES OR SIGHT TRIANGLES: Regulations ensuring an area of unobstructed vision at public way intersections or the egress/ingress points from a parcel onto a public way.
SLAUGHTERHOUSE, LARGE: A commercial facility for the slaughtering and processing of over 5,000 domestic farm animals or deer (or 20,000 poultry animals) per year, and the refining of the byproducts.
SLAUGHTERHOUSE, SMALL: A commercial facility for the slaughtering and processing of less than or equal to 5,000 domestic farm animals or deer (or 20,000 poultry animals) per year, and the refining of their byproducts.
SOIL SURVEY: A general term for the systematic examination of soils in the field and in the laboratories, their description and classification, and the mapping of kinds and interpretation of soils according to their adaptability for various uses.
SOLAR ENERGY FACILITY, LARGE: Any free-standing solar array or solar arrays that have a combined nameplate power rated capacity of more than 10 MW (megawatts) of peak generating capacity.
SOLAR ENERGY FACILITY, MEDIUM: Any free-standing solar array or solar arrays that have a combined nameplate power rated capacity of greater than 10 KW (kilowatts) or less than or equal to 10 MW (megawatts) of peak generating capacity.
SOLAR ENERGY FACILITY, SMALL: Any free-standing solar array or solar arrays that have a combined nameplate power rated capacity of less than or equal to 10 KW (kilowatts) of peak generating capacity. A permit is not required for an array or arrays with a nameplate capacity of less than or equal to 1KW (kilowatts).
SOLAR ENERGY FACILITY, STRUCTURE MOUNTED: Any solar array or solar arrays that are mounted directly to the roof of a preexisting structure. This would be considered an expansion of the preexisting structure and would be permitted and/or approved as this ordinance directs. A permit is not required for an array or arrays with a nameplate capacity of less than or equal to 1KW (kilowatts).
SORORITY HOUSING: A structure used to provide lodging and boarding for female students in schools of higher learning, but not for transients.
SPECIAL EXEMPTION: A use or structure requiring official action from the Board of Zoning Appeals to be permitted.
SPOT ZONING: The process of singling out a single parcel of land for a use classification totally different from that of the surrounding area. The extension or expansion of an adjacent area of a zoning classification shall not be construed as spot zoning.
STANDARDS: The rules for materials, design, function, and implementation for public improvement and utilities as adopted by a Local Legislative Body or stated by this Zoning Ordinance.
STORM SEWER: A storm water collection system and underground lines controlled by a Local Legislative Body and used to collect and carry surface water away from an area.
STORM WATER MANAGEMENT: Runoff water safely conveyed or temporarily stored and released at an allowable rate to minimize erosion and flooding.
STORMWATER PLAN: A plan stating how the excess storm water will be handled due to a Development Plan, Subdivision, PUD, or CAFO as required by this Zoning Ordinance.
STREAM CAPACITY: The maximum amount of material a stream is able to transport.

STRUCTURE: Anything constructed or erected on location or otherwise, the use of which requires a fixed location on the ground, including, but not limited to, additions to structures, carports, wood decks, porches, swimming pools, ponds, radio and television and communication towers, WECS Projects, and other building features but not including sidewalks, drives, fences, uncovered concrete patios, satellite dishes, and private television towers for residences.

STRUCTURE (GENERAL ACCESSORY): A structure incidental and subordinate to the principal structure and located on the same parcel of real estate as the primary structure, including, but not limited to a pool, deck, carport, gazebo, shed, garage, barn.

STRUCTURE (RESIDENTIAL ACCESSORY): A structure incidental and subordinate to the principal structure and located on the same parcel of real estate as the primary structure, including, but not limited to a pool, deck, carport, gazebo, shed, garage, barn. This structure shall have a footprint of less than or equal to 1,500 square feet. This structure shall not be taller than the tallest point of the principal structure on the same property or the principal structure on a contiguous neighbor's property. Contiguous neighbor shall be defined as the next property located north, northeast, east, southeast, south, southwest, west, or northwest from the property being developed.

STRUCTURE (NON-CONFORMING): A structure designed, converted, or adapted for use prior to the adoption of this Zoning Ordinance and not conforming to the provisions of this Zoning Ordinance.

STRUCTURE (PRIMARY): A structure used to contain the principal use of a parcel of land.

SUBDIVIDER: Any person who undertakes the subdividing of land as defined herein.

SUBDIVIDING: The subdividing of real estate into two or more new parcels or lots.

SUBDIVISION: The subdividing of real estate by way of Major or Minor Subdivision into lots, parcels, or interests as permitted by this Subdivision Control Ordinance.

SUBDIVISION BENCHMARK: A monument placed within a Subdivision by a registered land surveyor and denoting the boundaries and elevation of said Subdivision.

SUBDIVISION CONTROL ORDINANCE: The Subdivision Control Ordinance legislates the subdividing of land.

SUBSURFACE DRAINAGE: A system of pipes, tiles, conduits, or tubing installed beneath the ground surface and used to collect groundwater from individual parcels, lots, Subdivisions, or building footings to an outlet of sufficient size to handle the expected volume of water.

SUPERVISED HOMES: A single family dwelling for the housing of people not related by blood or law, and under the custody, control, tutelage, supervision, or authority of any legal entity.

SUPPLY YARD: A commercial establishment storing or offering for sale wholesale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. A supply yard does not include the wrecking, salvage, cannibalizing, dismantling, or storing of automobiles or similar vehicles.

SURFACE DRAINAGE: A system by which the storm water run-off is routed to an outlet of sufficient size to handle the expected volume of water. This would include the proper grading of parking lots, public ways, driveways, yards, etc. so that storm water runoff is removed without pounding and flows to a drainage swale, open ditch, or a storm sewer of sufficient size to handle the anticipated volume of water.

SURVEY: A map of a parcel of land showing, but not limited to, features, contours, and boundaries of that parcel.

SURVEY BOUNDARY: A survey showing the exterior boundaries of a parcel of land.

SURVEY GRADE: Survey information obtained and monumented that meets the minimum standards for precision and accuracy as prescribed by local, state, and federal agencies.

SURVEY MONUMENT: A physical structure that marks the location of a corner or other survey point.

SWALE: A linear, shallow depression in the ground surface which conveys drainage water but offers no impediment to traffic.

SWIMMING POOL (COMMERCIAL): A swimming facility used for pecuniary gain or in connection with a commercial establishment.

TANK (BULK STORAGE): A cylindrical structure for the bulk storage of dangerous and/or noxious liquids and/or compressed gasses. However, the storage of compressed gasses and/or liquids as an integral part of the service rendered by a clinic or hospital or for the storage of fuels used for heating purposes, but not for resale shall not be considered bulk storage tanks for zoning purposes.

TEMPORARY SIGN: A sign that serves as a short-term solution for advertisement and can be both easily erected and removed from its location. The director shall be the one to determine if the sign shall be considered temporary or permanent.

TEMPORARY STRUCTURE: A structure that serves as a short-term solution for storage, workspace, or other similar activities.

THEATER: A structure used for the viewing of films or theatrical events by the public.

THOROUGHFARE: The entire right-of-way for public use of a public way or public place that is included in the thoroughfare plan of a unit and all surface and subsurface improvements on said right-of-way such as sidewalks, curbs, shoulders, and utility lines and mains.

THOROUGHFARE PLAN (OFFICIAL): The part of the Wells County Comprehensive Plan, now or hereafter adopted, which includes a major public way and highway plan and sets forth the location, alignment, dimensions, identification, and classification of existing and proposed public ways, highways, and other thoroughfares.

TOWN: An incorporated governmental unit with sufficient population to be accorded the status of "town" under Indiana Law.

TRACT: shall be defined as a unit of real property with a separately defined legal description within a deed.

TRAFFIC CONTROL SIGN (PUBLIC): A sign placed by a government agency to give motorist information about laws, warnings, street names, destinations, distances, and other similar items.

TRAFFIC CONTROL SIGN (PRIVATE): A sign placed by a private entity to give motorist information about traffic patterns on a parking lot or property.

TRAFFIC GENERATOR: A use, such as but not limited to, shopping centers and malls, schools, ballparks, recreation areas, business areas, industry, Subdivisions, apartment complexes, or any use which in the opinion of the Plan Commission may increase the traffic congestion or increase safety hazards so as to be detrimental to the safety of the public.

TRAVEL TRAILER: A mobile vehicle with wheels designed for overnight living or camping purposes, capable of being towed by a passenger automobile, and having an overall length of less than thirty (30') feet and an overall width of less than eight (8) feet.

TRUCK AND RAILROAD TERMINALS: An enterprise where freight is received and then broken down for distribution locally or collected and assembled for shipment. Railroad terminals may serve as a passenger terminal.

USE: The purpose or activity for which the parcel of land or structure for which it is designated, arranged, or intended or for which it is occupied or maintained.

USE (ACCESSORY): A use customarily incidental and subordinate to the principal use and located on the same parcel as the principal use.

USE (NON-CONFORMING): Any use or arrangement of land or structures legally existing prior to the adoption of this Zoning Ordinance and not conforming to the provisions of this Zoning Ordinance.

USE (PERMITTED): Uses allowed in zoning districts in accordance with this Zoning Ordinance and applicable Indiana Code.

USE (PRIMARY): The main permitted use of a lot, parcel, or structure thereon for which it is designated, arranged, or intended or for which it is occupied and maintained.

U-STORE: A non-commercial warehouse for the storage of personal property, household goods, and other non-commercial merchandise. A U-Store unit shall be compartmentalized with no access to adjoining units. A large structure may be converted into a U-Store, and each unit shall not be connected to any other unit by a passageway.

UTILITIES: Public and private infrastructure including but not limited to sewer, electric, storm, water, and other utilities.

UTILITIES (ESSENTIAL): Public sewer, Public electric, Public or Private storm, and Public or Private water.

VARIANCE: Granting less than the minimum requirements as allowed by this Zoning Ordinance and applicable Indiana Code.

VELOCITY: The distance water flows in a certain period of time, usually measured in feet per second.

VEHICLE: A motorized or non-motorized device in, upon, or by which a person, livestock, property, or personal property is or may be transported or drawn upon a public way or moved about.

VETERINARIAN CLINIC/HOSPITAL: Any structure in which a licensed veterinarian practices their profession.

VICE PRESIDENT (BOARD OR COMMITTEE): See BOARD OR COMMITTEE VICE PRESIDENT.

VIOLATION: Anything that is noncompliant with this Zoning Ordinance.

VISUAL SIGHT ANGLE OR SIGHT TRIANGLE: See SIGHT ANGELS OR SIGHT TRIANGLES.

WAREHOUSE: A structure or parcel of land on which personal property is stored. A warehouse may be in conjunction with a retail or wholesale operation.

WATERCOURSE: a channel, either natural or human-made, with well-defined banks and bottom through which water flows and has flowed immemorial not necessarily all the time, but ordinarily and permanently for substantial periods of each year.

WATER AND WASTEWATER (SEWAGE) TREATMENT PLANT: A structure or facility where water and/or wastewater (sewage) are treated and processed for the health and safety of the public by either a Local Legislative Body or private enterprise.

WATERSHED: All land and water within the confines of a drainage divide.

WATER TABLE: A gently curved surface below the ground marking the top of the water-saturated zone and the bottom of the unsaturated zone.

WECS (WIND ENERGY CONVERSION SYSTEM) means all necessary devices that together convert wind energy into electricity and store or deliver that electricity to a utility's transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, foundation, transformer, and electrical cabling from the WECS Tower, substation, wind farm collection system, communications facilities and other required facilities and equipment.

WECS, LARGE: is a utility size WECS which has a nameplate power rated capacity of more than 100 KW of peak generation capacity.

WECS, MEDIUM: is a WECS, which has a nameplate power rated capacity of greater than 10 KW and not more than 100 KW peak generation capacity and which is intended to primarily reduce on-site consumption of utility power.

WECS PROJECT: means one (1) or more WECS on a single property or aggregate properties as specified in an application

for Development Plan Approval.

WECS, SMALL: is a WECS which has a nameplate power rated capacity of not more than 10 KW or less peak generation capacity and which is intended to primarily reduce on-site consumption of utility power**.**

WECS TESTING FACILITY: is a meteorological tower or other device used to create feasibility models for WECS Projects.

WECS TOWER: means the monopole, freestanding or guyed structure that supports the energy capture, conversion, storage or transfer components of a WECS.

WELLS COUNTY AREA PLAN COMMISSION: Plan Commission or APC.

WELLS COUNTY AREA PLAN COMMISSION OFFICE: Office which holds all the records, maps, and minutes of the Plan Commission, the Board of Zoning Appeals, and the Plat Committee.

WELLS COUNTY AREA PLAN COMMISSION EXECUTIVE DIRECTOR: Director as created and given jurisdiction by this Zoning Ordinance and applicable Indiana Code.

WELLS COUNTY AREA PLAN COMMISSION EXECUTIVE STAFF: Employees of the Plan Commission as created and given jurisdiction by this Zoning Ordinance and applicable Indiana Code.

WELLS COUNTY AREA PLANNING DEPARTMENT: Created to implement and enforce the Zoning Ordinance and Composed of the Plan Commission, the Plat Committee, the Board of Zoning Appeals, the Executive Director, and the staff of the Plan Commission.

WELLS COUNTY BOARD OF ZONING APPEALS: Board of Zoning Appeals or BZA.

WELLS COUNTY COMPREHENSIVE PLAN: Comprehensive Plan which is a separate document from the Zoning Ordinance.

WELLS COUNTY DRAINAGE BOARD: Created and given jurisdiction, as defined by Indiana Code, to oversee storm water management of unincorporated areas of Wells County.

WELLS COUNTY PLAT COMMITTEE: Plat Committee.

WELLS COUNTY SURVEYOR: Elected official whose jurisdiction is in accordance with this Zoning Ordinance and applicable Indiana Code.

WELLS COUNTY ZONING MAP: Zoning Map that represents the zoning districts as approved by the local legislative bodies governed by the Plan Commission; the Zoning Map is maintained, stored, and available at the Plan Commission Office.

WELLS COUNTY ZONING ORDINANCE: This Zoning Ordinance which legislates the intent of the Comprehensive Plan.

WHOLESALE BUSINESS: A business where merchandise or personal property is sold to a retail business.

WINERY: A facility that produces and bottles wine or brandy in quantities greater than 15,000 barrels per year. It may often include a tasting room, event space, and retail space to sell the wine or brandy and related items to patrons on-site.

WINERY, MICRO-: A facility that produces and bottles wine or brandy in quantities less than or equal to 15,000 barrels per year. It may often include a tasting room, event space, and retail space to sell the wine or brandy and related items to patrons on-site.

WITNESS MONUMENT/MARKER: A marker or monument that is set as a reference to the actual corner when it is not possible or practical to set the actual corner.

YARD: On the same parcel of land with a structure, an open space unoccupied and unobstructed by structures, except as otherwise permitted by the Zoning Ordinance.

YARD (FRONT): The space extending across the full length of the front lot line, which is a right-of-way line, between the side lot lines and not containing any structures or storage areas between a structure or storage area and a public way street, road, or right-of-way.

YARD (REAR): That area of a lot at the opposite end of the lot from the front yard and that encompasses the space between the rear lot line and the foundation of a structure nearest to the rear lot line and extending along the full length of the rear lot line between the side lot lines.

YARD (SIDE): A yard extending along a side from the front to the rear yard.

ZONING: The designation of parcels and lots with a specific set of use to promote positive community growth patterns.

ZONING DISTRICTS: Zoning designations of specific land areas as shown on the Zoning Map and with specific size, setbacks, and permitted use requirements as defined by this Zoning Ordinance and applicable Indiana Code.

ZONING ORDINANCE: The Zoning Ordinance legislates the intent of the Comprehensive Plan.

ARTICLE 19: LEFT BLANK INTENTIONALLY

TITLE 3: WELLS COUNTY SUBDIVISION CONTROL ORDINANCE

PREAMBLE

An ordinance adopting, as part of the Comprehensive Plan of the County of Wells and its incorporated areas excluding Markle Town limits in Wells County and including Zanesville Town limits in Allen County, provisions for the control of the subdividing of real property within the area over which the Wells County Area Plan Commission has Jurisdiction in accordance with I.C. 36-7-4-700, et. seq., and all acts supplemental and amendatory thereto.

Whereas, the Wells County Plan Commission has established a Comprehensive Plan of Wells County and its participating local legislative bodies, as recorded in Misc. Records No. 58, Page 252 (July 27, 1993) in the Recorder's Office of Wells County, and

Whereas, such Comprehensive Plan is designed to promote

(1) the need to create and maintain conditions under which humans and nature can exist in productive harmony;
(2) the critical importance of maintaining public health, safety, and welfare of the people of Wells County and securing safety from fire, flood, and other danger while fostering and promoting their residential, commercial, industrial, and social endeavors;
(3) each person's right to enjoy a healthful environment, specifically the right to enjoy clean air, clean water, and a healthy land, and

Whereas, the Wells County Plan Commission shall include provisions for the control of the subdivision of land, and

Whereas, the Wells County Plan Commission has held public hearings and conferences concerning this Subdivision Control Ordinance and has submitted its recommendations to the County's local legislative bodies, and

Whereas, all requirements of I.C. 36-7 et. seq., and all acts supplemental and amendatory thereto, with regard to the preparation of this Subdivision Control Ordinance and the subsequent action of the County's local legislative bodies have been met.

ORDAINING CLAUSE

Petition Number: A 18-11-18 Effective Date: December 7, 2018

The Area Plan Commission gives a Do Pass Recommendation by a vote of 11 in favor and 0 opposed on this 1st day of November, 2018.

Jerome Markley
Area Plan Commission President

Michael W. Lautzenheiser, Jr.
Area Plan Commission Director

BE IT ORDAINED BY THE COMMISSIONERS OF WELLS COUNTY, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Wells County, Indiana and shall read as set forth and shall be enforced as an ordinance of Wells County, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2018-13 Effective Date: December 7, 2018

Passed by the Commissioners of Wells County, Indiana this 19th day of November, 2018 by the following vote:

AYES 3, to-wit:	NAYS 0, to-wit:	ABSENT 0, to wit:

ATTEST:

Beth Davis

Beth Davis
Wells County Auditor

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLUFFTON, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of the City of Bluffton, Indiana and shall read as set forth and shall be enforced as an ordinance of City of Bluffton, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 1481 Effective Date: December 7, 2018

Passed by the Common Council of the City of Bluffton, Indiana this 7th day of November 2018 by the following vote:

AYES 5, to-wit: NAYS ____, to-wit: ABSENT ____, to wit:

Honorable Mayor Ted Ellis

ATTEST:

Tamara D. Runyon, IAMC, MMC,
Municipal Clerk-Treasurer

Presented by me to the Mayor of the City of Bluffton, Indiana, this 13th day of November, 2018

Tamara D. Runyon, IAMC, MMC,
Municipal Clerk-Treasurer

Approved by me this 13th day of November, 2018.

Honorable Mayor Ted Ellis

BE IT ORDAINED BY THE TOWN BOARD OF OSSIAN, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Ossian, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Ossian, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 18-11-5 Effective Date: December 7, 2018

Passed by the Town Board of the Town of Ossian, Indiana this 12 day of November, 2018, by the following vote:

AYES 5, to-wit:	NAYS 0, to-wit:	ABSENT 0, to wit:

ATTEST:

Erika Allison
Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF ZANESVILLE, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Zanesville, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Zanesville, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2018-05 Effective Date: December 7, 2018

Passed by the Town Board of the Town of Zanesville, Indiana this 20th day of November, 2018, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

John Schafmeister

Barbara O'Connor

David L Fink

ATTEST:

Julie A. Christian

Julie A. Christian

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF UNIONDALE, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Uniondale, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Uniondale, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2018-11-01 Effective Date: December 7, 2018

Passed by the Town Board of the Town of Uniondale, Indiana this 13th day of November, 2018 by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Ray Sly Pres

Janet Garwick

Emily T. Lance

ATTEST:

Sharice Bowen

Sharice Bowen

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF VERA CRUZ, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Vera Cruz, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Vera Cruz, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2018-TC-8 Effective Date: December 7, 2018

Passed by the Town Board of the Town of Vera Cruz, Indiana this 20th day of November, 2018, by the following vote:

AYES 3, to-wit:	NAYS 0, to-wit:	ABSENT 0, to wit:
Mara Grove		
Sheila Felton		
James Winger		

ATTEST:

Jackie Aefson

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF PONETO, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Poneto, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Poneto, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2018-12-11-2 Effective Date: December 7, 2018

Passed by the Town Board of the Town of Poneto, Indiana this 12th day of November, 2018, by the following vote:

AYES 3, to-wit:	NAYS 0, to-wit:	ABSENT 0, to wit:
Steve Rush		
Mary E. Smith		
Rebecca Stone Smith		

ATTEST:

Kimberley Bower
Clerk-Treasurer

ARTICLE 1: Basic Provisions

1-01 **Title:** The official title of this Ordinance is: "Wells County Subdivision Control Ordinance, and may also be referred to as Subdivision Control Ordinance or WCSCO"

1-02 **Authority:** This Subdivision Control Ordinance is adopted pursuant to I.C. 36-7-4-700, et seq., and acts supplemental and amendatory thereto.

1-03 **Compliance:** No land shall be subdivided nor shall any dimension or area of any property be physically altered except in full compliance with all the provisions of this Subdivision Control Ordinance and after the lawful issuance of the approvals required by this Subdivision Control Ordinance.

1-04 **Severability:** If any provision of this Subdivision Control Ordinance or the application of any provisions to particular circumstances is held invalid, the remainder of the Subdivision Control Ordinance or the application of such provision to other circumstances shall not be affected.

1-05 **Jurisdiction Area:** The jurisdiction of the Subdivision Control Ordinance shall include Wells County and its incorporated towns, exclude Markle town limits in Wells County, and include Zanesville town limits in Allen County.

1-06 **Application:** It is not intended by this Subdivision Control Ordinance to interfere with, abrogate, or amend any existing easements, covenants, or other agreements, between parties, nor is it intended by this Subdivision Control Ordinance to repeal, abrogate, annul, or in any way interfere with any existing provisions of laws or ordinances, or any rules, regulations, or approvals previously adopted or issued pursuant to law relating to the subdividing of land. However, that where this Subdivision Control Ordinance imposes a greater restriction upon the subdividing of land is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or approvals, the provisions of this Subdivision Control ordinance shall control; but where such private covenants, permits, agreements, rules, or regulations impose a greater restriction than is imposed by this Subdivision Control Ordinance, the greater restriction shall control.

ARTICLE 2: Purpose

2-01 **Purpose:** This Subdivision Control Ordinance is adopted in accordance with the Wells County Comprehensive Plan and Zoning Ordinance to carry out the purposes listed in IC 36-7-4-700, and any amendments thereto.

ARTICLE 3: Process and Procedure for Subdividing Land

3-01 General: Article 1 of the Indiana Constitution (*Bill of Rights)* protects the right for individual ownership of real property, and the Indiana Code reserves to local communities the power to plan and regulate real property, including but not limited to the subdividing of real property, in accordance with I.C. 36-7-2-2 and I.C. 36-7-4-700, et seq., and acts supplemental and amendatory thereto.

3-02 Petition Types: The following table states the five (5) standard petition types and what governing agency approves them.

Table 3-02

Petition Type	Governing Agency
Major Subdivision	**Plan Commission**
Minor Subdivision	**Plat Committee**
Addition	**Plat Committee**
Combine	**Plat Committee**
Petition to Vacate or Replat Private Property	**Plan Commission**

3-03 Procedure: Whenever a Major Subdivision, Minor Subdivision, Addition, or Combine Petition is desired, the seller(s)/owner(s) of the subject real estate shall file with the Plan Commission the appropriate forms, surveys, and fees as prescribed in Article 4 of the Zoning Ordinance and this Article.

3-04 Findings of Fact and Ruling: A proposed findings of fact and ruling document that complies with the requirements set forth in Article 6 of this Ordinance shall be filed with the Area Plan Office as stated in the following:

(1) For a Major Subdivision, the findings of fact and ruling document shall be delivered two (2) weeks before the public hearing on said petition.

(2) For a Minor Subdivision, Addition, or Combine the findings of fact and ruling document shall be delivered at the time of filing.

3-05 Fees: The Plan Commission shall establish a uniform schedule of fees proportioned to the cost of checking and verifying the petitions. An applicant shall pay the specified fee upon the filing of an application for approval. These fees shall be posted in the Area Planning Department office.

3-06 Hearing Dates: Upon receipt of a petition for primary approval, the Plan Commission staff shall review the petition for technical conformity with the standards prescribed in this Subdivision Control Ordinance. Within thirty (30) days after receipt, the staff shall announce the date for a hearing before the Plan Commission or Plat Committee and provide for Legal Notification of Hearings in accordance with this Subdivision Control Ordinance. The goal of the hearing shall be to receive as much input as possible to fulfill the purpose of this Subdivision Control Ordinance and Comprehensive Plan. The Plan Commission and Plat Committee shall prescribe Rules of Procedures for setting hearing dates and for the conduct of hearings.

3-07 Legal Notification of Hearings: After the staff has announced a date for a hearing before the Plan Commission or Plat Committee, the staff shall notify the petitioner in writing, and the following legal notifications shall be at the expense of the petitioner.

(1) If a petition is for a Plan Commission hearing, the staff shall

(A) give notice of the hearing by publication in accordance with I.C. 5-3-1 when applicable and

(B) provide for due notice to interested parties at least ten (10) days before the date set for the hearing. The Plan Commission shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.

(2) If a petition is for a Plat Committee hearing, the staff shall
- **(A)** provide for due notice to interested parties for at least ten (10) consecutive days after official action has been taking by the Plat Committee for Minor Subdivision and
- **(B)** provide written notice to all interested parties who have contacted the Area Planning Department during the ten (10) day notice period.

3-08 **Primary Approval:** Primary approval of a proposed Major Subdivision, Minor Subdivision, Combine, or Addition may be granted as follows.

(1) The petition that does not involve the opening of a new public way and that complies in all other respects with this Subdivision Control Ordinance and the Zoning Ordinance may be granted primary approval by the Plat Committee without public notice or hearing.

(2) The petition that involves the opening of a new public way must be granted primary approval by the Plan Commission.

3-09 **Conditions and Commitments:** At any time prior to the vote and decision by the Plan Commission or Plat Committee, the petitioner may make or be required to make as a condition of approval written commitments based on the requirements specified in the Subdivision Control Ordinance and Zoning Ordinance that are applicable to the subdivision of land or to a Combine or Addition of existing tracts. Any such written commitments shall be part of the Findings of Fact and Ruling Document and recorded, at the petitioner's expense, in the office of the Recorder of the County in which the subject real estate lies. As a condition for primary approval of a Major or Minor Subdivision, Addition, or Combine, the Plan Commission or Plat Committee, after hearing evidence and arguments at the hearing, may specify:

(1) provisions for lot size, width, depth, number, and location;

(2) the manner in which public ways shall be laid out, graded, and improved and the coordination of new public ways with current and planned public ways;

(3) a provision for water, sanitary and storm sewers, and other municipal services.

(4) a provision for drainage design;

(5) a provision for the allocation of areas to be used as public ways, parks, schools, public and semipublic buildings, homes, businesses, and utilities, and any other standards related to the purpose of the Comprehensive Plan;

(6) provisions for other services as specified in this Subdivision Control Ordinance;

3-10 **Waiving and Modifying Subdivision Control Requirements:** The requirements and conditional requirements as specified by this Subdivision Control Ordinance may be waived or modified in accordance with I.C. 36-7-4-701(f) and 702, subject to the following.

(1) Any condition imposed by the Plan Commission or Plat Committee for primary approval of a Major or Minor Subdivision, Addition, or Combine may be waived by the affected Local Legislative Body. Each legislative body shall prescribe a procedure under which a person may apply for a waiver of a primary approval condition. Such a waiver shall be part of the Findings of Fact and Ruling Document and recorded, at the petitioner's expense, in the office of the Recorded of the County in which the subject real estate lies.

(2) The Plan Commission or Plat Committee, after hearing evidence and arguments at the public hearing, may make modifications to any or all requirements prescribed in the this Subdivision Control Ordinance that are not covered by the preceding subsection one (1) subject to the following:
- **(A)** the modification is justified because of topographic or other special conditions unique to the property involved, in contradistinction to mere inconvenience or financial disadvantage;
- **(B)** the modification will not adversely affect the reasonable development of adjacent properties;
- **(C)** modification grant will not be detrimental to the public health, safety, and general welfare of the community;
- **(D)** the modification does not materially affect the spirit and purpose of this Subdivision Control Ordinance; and

(E) the modification does not lower the Subdivision Control Ordinance's requirements below those prescribed by the Zoning Ordinance. Any such modification would need Variance approval from the Board of Zoning Appeals.

(3) As a condition for approval said modification must be approved in writing by the affected Local Legislative Body if the modification affects future or existing public utilities and public ways.

3-11 **Conflict of Sections:** Any restrictions, rules, standards, and conditions imposed by other sections of this Subdivision Control Ordinance or the Zoning Ordinance which are in not in conflict with the requirement of this Article shall remain in full force and effect. If there are conflicts between this Article and other sections of this Subdivision Control Ordinance or the Zoning Ordinance, then the provisions this Article shall be controlling.

3-12 **Appeal**: Any person aggrieved by a decision of the Plat Committee or Plan Commission may appeal as follows.

(1) A Plat Committee's decision to approve or disapprove a petition that does not involve the opening of a new public way shall be subject to appeal to the Plan Commission. An interested party may appeal to the Plan Commission by filing a notice of appeal with the Plan Commission not more than ten (10) days after the Plat Committee's action has been advertised to the interested parties. The notice shall be given and a hearing held by the Plan Commission in the same manner as in the case of the Plat Committee.

(2) The primary approval or disapproval of a petition by the Plan Commission or the imposition of a condition on primary approval is a final decision of the Plan Commission that may be reviewed as provided by I.C. 36-7-4-1016, and any amendments thereto. Any person aggrieved by a decision of the Plan Commission may appeal to the Wells County Circuit Court for final judgment if a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality is filed within thirty (30) days from the final action of the Plan Commission. The court shall reverse, affirm, or modify the decision of the Plan Commission. This appeal must be taken in the same manner and on the same terms as appeals in other civil actions. The judicial review shall not be a de novo hearing.

3-13 Secondary Approval:

(1) In accordance with I.C. 36-7-4-710 (d), and any amendments thereto, no plat of a subdivision shall be filed with the County Auditor or recorded with the County Recorder until said plat has been granted secondary approval, signed, and certified by the Plan Commission or its designee**.**

(2) In accordance with I.C. 36-7-4-710 (a), and any amendments thereto, the Plan Commission and Plat Committee may delegate to the Plat Committee or Area Planning Department Staff the authority to grant secondary approval for an applicable petition.

(3) The secondary approval official shall review the application and then certify it after determining that the following criteria have been met:

Table 3-13

Criteria	Major	Minor	Addition	Combine
That the appeal time after primary approval has expired	30 days	10 days	N/A	N/A
That the applicable fees and material are submitted for recording	X	X	X	X
That all conditions set by the Plan Commission or Plat Committee have been completed and affixed to the deed or Findings of Fact and Ruling Document for recording	X	X	X	X
That all applicable requirements have been met as prescribed in the Subdivision Control Ordinance and the Zoning Ordinance	X	X	X	X
That all deeds have been stamped and verified prior to recording		X	X	X

3-14 Recording or Expiration:

(1) A petitioner has two (2) years after primary approval of a petition that does not involve the opening of a new public way to receive secondary approval and record the approved Minor Subdivision, Combine, or Addition in the office of the Recorder of the County in which the subject real estate lies.

(2) A petitioner shall record, with all required certificates with signatures affixed thereon, the original copy of the approved plat of the approved Major Subdivision that involves the opening of a new public way in the office of the Recorder of the County in which the subject real estate lies. Unless the plat is duly recorded within ninety (90) days from the date of Secondary Approval, the Plan Commission's approval of the plat shall expire and shall be of no effect until subsequently reinstated.

3-15 Certificates: The following seven (7) certificates shall be affixed to the recorded plat of an approved subdivision of land that involves the opening of a new public way and is available at the office of the Area Planning Department.

(1) Certificate of Public Notice
(2) Certificate of Dedication
(3) Certificate of Acknowledgement
(4) Land Surveyor's Certificate
(5) Certificate of Primary Approval
(6) Certificate of Secondary Approval
(7) Certificate of Intent to Accept

3-16 Modification: A subdivision of land that has already been approved by the Plat Committee or Plan Commission may be modified at a later date by complying with the same procedures required for the original approval of a subdivision of land. However, with a modification, the Director may waive any required drawings, forms, surveys, or other required accompaniments to the petition that do not involve directly the requested modification.

3-17 Amendments: A plat may be amended at any time prior to a decision thereon by the Plan Commission or Plat Committee as to non-material matters. Material amendments are amendments that substantially change the scope or purpose of a subdivision, combine, or addition and shall only be approved after notice and hearing as prescribed in this Subdivision Control Ordinance.

3-18 Improvement Inspections: The Plan Commission designates that (1) the Plan Commission Director or County Surveyor and (2) a designee(s) from the Local Legislative Body shall inspect the site to verify that all improvements and installations have been constructed and completed as required by the Subdivision Control Ordinance. An improvement inspection is needed to release of the performance and maintenance bonds.

3-19 Enforcement: No subdivision of land or combine or addition shall be recorded or sold without primary and secondary approval as prescribed by the Subdivision Control Ordinance. Any such action shall be handled under the same provisions to enforce a violation of the Zoning Ordinance.

3-20 Vacating a Plat: The Plan Commission, or Plat Committee if so designated by the Plan Commission to act on its behalf, has exclusive control over the vacation of plats or parts of plats by owners of said land in said plats, in accordance with I.C. 36-7-3 et seq., and all acts supplemental and amendatory thereto.

ARTICLE 4: Minor Subdivisions, Combines, and Additions

4-01 **Purpose:** Article 1 of the Indiana Constitution (*Bill of Rights)* protects the right of individual ownership of real property, and the Indiana Code reserves to local communities the power to plan and regulate real property, including but not limited to the subdividing of real property. To facilitate subdividing, combining, and adding to property on existing public ways, this article shall provide for the creation of new or the adjusting of existing parcel lines while preserving public health, public welfare, and public safety of the altered parcels and the surrounding real estate owners and occupants.

4-02 **Jurisdiction:** A Minor Subdivision, Combine, or Addition shall be required any time within the jurisdiction of this Subdivision Control Ordinance that property is to be physically altered in shape while not involving the opening of a new Public Way.

4-03 **Permitted Zones:** A Minor Subdivision, Combine, or Addition shall be permitted in zoning districts as prescribed by the Zoning Ordinance.

4-04 **Definitions:**

(1) A **Minor Subdivision** (commonly referred to as a Sell-Off) shall be defined as a division of property from a Primary Parcel, and both are located on an existing Public Way. A Minor Subdivision is a subdivision of property which has occurred after January 1, 1971, and is filed with the Plan Commission.

(2) A **Combine** shall be defined as the act of deeding together two (2) existing parcels into one (1) parcel which is located on an existing Public Way.

(3) An **Addition** shall be defined as the act of adding a portion of an existing parcel to another existing contiguous parcel which is located on an existing Public Way.

(4) A **Public Way** shall be defined as a dedicated right-of-way for vehicular traffic, pedestrian traffic, the location of utilities, and placements of other necessary appurtenances for urban development.

(5) A **Primary Parcel** shall be defined as a tract of land recorded as of January 1, 1971.

(6) A **Tract** shall be defined as a unit of real property with a separately defined legal description within a deed.

(7) **Road Frontage** shall be defined as the property line of a parcel which borders a Public Way. Road Frontage shall not be less than twenty-five (25) feet to allow for two-way traffic onto and off the defined Public Way.

4-05 **Minor Subdivision Requirements:** A Minor Subdivision from a Primary Parcel may be approved if it meets or complies with the following.

(1) A Primary Parcel shall have six (6) Minor Subdivisions if the primary parcel meets the requirements for road frontage, lot size, and other applicable requirements prescribed in this Article.

(2) A Minor Subdivision shall not divide ponds, structures, septic systems, or wells.

(3) A Minor Subdivision shall not extend beyond its Primary Parcel lines without filing for an additional Combine or Addition.

(4) A Minor Subdivision shall not create a portion of the Primary Parcel that is not contiguous to the whole of the Primary Parcel.

(5) During the process of filing for a Minor Subdivision, if a Primary Parcel has not been designated by a previous Minor Subdivision, the petitioner shall designate the Primary Parcel and Minor Subdivision.

(6) The Improvement Location Survey shall show all existing structures. No existing primary or accessory structure shall be located within the applicable setback of the newly established property line. No existing well shall be located within fifty (50) feet of a newly established property line. All existing ponds shall meet the setback requirements set forth by the Zoning Ordinance to a newly established property line. Without limiting the foregoing, no newly established property line shall be closer to any existing WECS Projects, WECS Testing Facilities, Communication Towers, and other tall structures than the setbacks for such WECS Projects, WECS Testing Facilities, Communication Towers, and other tall structures as approved through a variance granted by the Board of Zoning Appeals or an approved Development Plan, unless a variance is granted by the Board of Zoning Appeals as required elsewhere in the Zoning Ordinance.

(7) No Improvement Location Permit may be obtained before a Minor Subdivision has been approved by the Plan Commission or Plat Committee and recorded with the Recorder's office.

(8) The lot or parcel home site size requirements for a Minor Subdivision shall conform to the requirements of the Zoning Ordinance. A home site size requirement shall not include:

- **(A)** property designated as being in a flood fringe or floodway as determined by Area Planning Department using the best available data,
- **(B)** any access strips deeded with a Minor Subdivision to allow for two-way traffic onto and off an existing public way, and
- **(C)** any part of a regulated drain easement as determined by the Area Planning Department and the Wells County Surveyor's office using the best available data.

(9) An easement and maintenance agreement for any shared driveway plans shall be shown on the plat or accompanying document for review by the governing agency approving the Minor Subdivision(s).

(10) The road frontage requirements for a Minor Subdivision shall be as follows.

- **(A)** Frontages shall conform to the requirements of the Zoning Ordinance.
- **(B)** Frontage shall not come off of a public way ending in a dead end or cul-de-sac.
- **(C)** A twenty-five (25) foot access strip shall be approved if the property is located more than two hundred (200) feet from an existing public way. The twenty-five (25) foot access strip must be deeded together with the property to be subdivided.
- **(D)** Frontages for a Minor Subdivision shall have at least twenty-five (25) feet of actual frontage that is not designated as part of the floodway or flood fringe by the State of Indiana. Determinations of the floodway and flood fringe elevations will be in accordance with the rules and procedures for Floodplain Management of the Zoning Ordinance. Any other natural or man-made feature which limits the use of the road frontage shall meet the same requirements of this section. The Area Planning Department shall determine these limits using the best available information.
- **(E)** If the access way onto the property crosses an open county regulated drain, sizing and approval of the crossing shall be required by the Wells County Drainage Board before approval.

(11) A Minor Subdivision that fronts on any roadway without platter or fee simple right-of-way shall grant a portion of said Minor Subdivision ad public right-of-way to the affected local government agency with jurisdiction of said roadways.

- **(A)** Dimension: 30 feet unless the functional classification of the roadway designated a greater right-of-way width in the Wells County Thoroughfare Plan.
- **(B)** Documentation: This shall be done by using the approved right-of-way grant documentation by the affected local government agency with jurisdiction of said roadways.

4-06 **Requirements to Subdivide a Minor Subdivision:** A Minor Subdivision may be subdivided under one of the following two conditions.

(1) A petitioned Minor Subdivision, which involves a subdivision from a Primary Parcel, may be further subdivided if it complies with the following requirements.

(A) The petitioner and buyer agree in writing how the remaining Minor Subdivision rights shall be divided between the Primary Parcel and the Minor Subdivision.

(B) Minor Subdivision rights shall not be assigned to a Minor Subdivision that lacks the conditions to satisfy the requirements for further minor subdividing.

(C) The following statement shall be made part of the deed conveying the Minor Subdivision and of the Findings of Fact and Ruling Document for recording, "There are (number - both numerically and spelled out) Minor Subdivisions remaining from this Primary Parcel. The Primary Parcel shall retain the rights to (number – both numerically and spelled out) of the remaining Minor Subdivision(s) and the Minor Subdivision shall retain the rights to (number – both numerically and spelled out) of the remaining Minor Subdivision(s)."

(2) A Minor Subdivision without any assigned Minor Subdivision rights can receive one (1) additional Minor Subdivision with a waiver approved by the Plan Commission if the proposed subdivision meets the requirements for a Minor Subdivision and the following requirements.

(A) The Minor Subdivision to be subdivided shall not have been intentionally designed to take advantage of this provision.

(B) The Minor Subdivision to be subdivided shall be ten (10) acres or greater in total area.

(C) The Minor Subdivision to be subdivided shall have two (2) times the road frontage requirement prescribed under this section.

4-07 **Combine Requirements:** A Combine may be approved if it meets or complies with the following requirements.

(1) A Combine may occur between any two (2) or more parcels which are contiguous to each other. Two (2) or more parcels shall be considered contiguous if they share at least twenty-five (25) feet of uninterrupted border.

(2) The deed that combines the property shall have this following paragraph on the deed: "Hereafter, the within described real estate shall not be conveyed other than in conjunction with the _____- acre tract of real estate described in a certain deed dated _____, _____, recorded in Deed Record _____, page _____, of the records of Wells County, Indiana, unless approval to do otherwise is first obtained from the Plan Commission or its successor(s)".

(3) Combining parcels shall return any Minor Subdivision rights to the Primary Parcel if the Combine involves a Primary Parcel as prescribed in this Article.

(4) Combining Primary Parcels shall not add Minor Subdivision rights together.

4-08 **Addition Requirements**: An Addition may be approved if it meets or complies with the following requirements.

(1) An Addition may occur between any two (2) or more parcels which are contiguous to each other. Two (2) or more parcels shall be considered contiguous if the share at least twenty-five (25) feet of uninterrupted border.

(2) The deed that adds the property together shall have this following paragraph on the deed: "Hereafter, the within described real estate shall not be conveyed other than in conjunction with the _____- acre tract of real estate described in a certain deed dated _____, _____, recorded in Deed Record _____, page _____, of the records of Wells County, Indiana, unless approval to do otherwise is first obtained from the Plan Commission or its successor(s)".

(3) An Addition shall not leave any conforming affected parcels that fail to satisfy the existing lot size, road frontage, and setback requirements for a Minor Subdivision as prescribed in this Article.

4-09 **Conflict of Sections:** Any restrictions, rules, standards, and conditions imposed by other sections of this Subdivision Control Ordinance or the Zoning Ordinance which are in not in conflict with the requirements of this Article shall remain in full force and effect. If there are conflicts between this Article and other sections of this Subdivision Control Ordinance or the Zoning Ordinance, then the provisions of this Article shall be controlling.

ARTICLE 5: Major Subdivision

5-01 Purpose: Article 1 of the Indiana Constitution (*Bill of Rights)* protects the right of individual ownership of real property, and the Indiana Code reserves to local communities the power to plan and regulate real property, including but not limited to the platting and subdividing of real property and number of structures abutting public ways. To facilitate urban style divisions of property on future public ways and to provide for planned residential, business, and industrial development, this article shall provide for the creation of a Major Subdivision in a manner acceptable to community standards while preserving public health, welfare, and safety. While the following provisions are guidelines for designing a Major Subdivision, developers, prior to submitting a final proposal, are encouraged to bring tentative or innovated ideas to the office of the Director and the appropriate officials of the affected Local Legislative Body for consideration and free advice.

(1) A Major Subdivision is defined as a division of property in a new public way.

(2) A Public Way is defined as a dedicated right-of-way for vehicular movement, location of utilities, and placement of other necessary appurtenances for urban development.

5-02 Permitted Zones: A Major Subdivision shall be permitted in zoning districts as prescribed by the Zoning Ordinance.

5-03 Common Standards for Approval: A proposed Major Subdivision may be approved if it complies with the following provisions.

(1) The proposed Major Subdivision must conform to the objectives of the Comprehensive Plan.

(2) The real property on which the proposed Major Subdivision is to be developed must be under single ownership and/or unified control.

(3) The proposed Major Subdivision must be of a type and so located as not to be detrimental to the surrounding properties and land uses.

(4) The proposed Major Subdivision shall not substantially diminish or impair the property values of the neighboring properties.

(5) The proposed Major Subdivision shall not endanger the public health, welfare, or safety of the neighborhood in which it is to be located.

(6) The proposed Major Subdivision shall present a traffic management plan that creates conditions favorable to public health, safety, and convenience and shall be harmonious with the Comprehensive Plan. The Plan Commission may require but not be limited to acceleration and deceleration lanes, passing blisters, site angles, and construction requirements.

(7) The proposed Major Subdivision shall allow for the availability and coordination of essential utilities and other necessary appurtenances for urban development. The petitioner shall present written evidence that they have entered into a contract with the Local Legislative Body or appropriate utility agencies to install and extend necessary services to accommodate proposed division of a property.

(8) The petitioner shall present the final draft of any restrictive covenants or private restrictions to be adopted with the secondary approval of the Plat.

5-04 Specific Infrastructure, Lot, and Planning Requirements for Approval: Where stated in the following requirements, certain standards can be established by ordinance enacted by the Local Legislative Body to govern Major Subdivisions in their jurisdiction. If the Local Legislative Body has not established such standards, then the Plan Commission reserves the right to require the standards set forth by the City of Bluffton as the standards for approval.

(1) Easements:

(A) Easements for utilities and drainage shall be provided to all lots of a Major Subdivision with access available to all portions of said easement.

(B) Utility easements which run adjacent to existing or proposed rights-of-way shall be at least fifteen (15) feet of even width. Utility easements elsewhere in a proposed Major

(C) The subdivision shall be at least twenty (20) feet of even width. If proposed utility easements are combined with existing utility easements, the combined widths shall total at least twenty (20) feet of even width.

(D) All farm tiles that are to be preserved and to remain on the subject property shall require a minimum easement of twenty (20) feet of even width.

(E) The process for vacating an easement on a recorded plat shall be done in accordance with I.C. 36-7-3, et. seq., and any other applicable provisions of the Indiana Code.

(2) **Street Lights and Sidewalks**: Major Subdivision plans must meet the standards and requirements, if any, for street light fixtures and sidewalks as established by local legislative bodies. Said street light fixtures and sidewalks shall be located within the appropriate easements and rights-of-way.

(3) **Utilities**: Major Subdivision plans must meet the standards and requirements, if any, established by the Local Legislative Body for water lines, sanitary sewers, storm water sewers, and any other utilities provided by the Local Legislative Body to the proposed Major Subdivision.

(4) **Signs:** The subdivider shall place a sign to identify the Major Subdivision at all points of ingress/egress off a preexisting Public Way into the Major Subdivision. The sign shall meet the sign requirements as defined in the Zoning Ordinance.

(5) **Lot and Yard Requirements (A)** No lots shall derive direct vehicular access from an arterial public way.

(A) The Plan Commission may require driveways for new lots be designed and arranged to avoid the necessity for vehicles to back into traffic on a collector public way.

(B) The Plan Commission may require that two or more new lots be served by a common driveway in order to limit the possible traffic hazards from multiple accesses to a public way.

(C) Lots with road frontage on more than one public way excluding alleys shall be fifty (50) percent larger than the minimum lot size required by the Zoning Ordinance.

(D) Lots with road frontage on the turnaround of a cul-de-sac shall be fifty (50) percent larger than the minimum lot size required by the Zoning Ordinance.

(E) A plated lot in a Major Subdivision may be located behind other platted lots if a twenty-five (25) foot wide access strip that is contiguous with an existing Public Way is platted with said lot and if proposed lot has been approved in writing by the Local Legislative Body under whose jurisdiction the Major Subdivision is to be located.

(F) No lot or parcel line in a Major Subdivision shall be closer to any existing WECS Projects, WECS Testing Facilities, Communication Towers, and other tall structures than the setbacks for such WECS Projects, WECS Testing Facilities, Communication Towers, and other tall structures as approved through a variance granted by the Board of Zoning Appeals or an approved Development Plan unless a variance is granted by the Board of Zoning Appeals as required elsewhere in the Zoning Ordinance.

(G) All other applicable provisions as prescribed elsewhere in the Zoning Ordinance or Subdivision Control Ordinance.

a) **Public Ways - Roads:** provisions as prescribed elsewhere in this Subdivision Control Ordinance.

b) **Storm Water Standards:** provisions as prescribed elsewhere in this Subdivision Control Ordinance.

c) **Wells County Ordinance For Flood Hazard Areas**

d) **General Regulations:** provisions as prescribed elsewhere in the Zoning Ordinance.

e) **Survey Standards:** provisions as prescribed elsewhere in this Subdivision Control Ordinance.

f) **Performance Standards:** provisions as prescribed elsewhere in the Zoning Ordinance.

5-05 Bonds:

(1) Performance Bond: A performance bond shall be required for any incomplete or unfinished public infrastructure at the time of recording of the secondary plat.

(A) A performance bond shall be enacted by the developer within 30 days of the date of recording of the secondary plat.

(B) Public infrastructure shall include but not be limited to streets, sanitary piping, storm water piping, water mains, sidewalks and erosion control that will be accepted by the affected local legislative body.

(C) The performance bond shall only be in effect for public infrastructure that complies with the location requirements set forth in IC 36-7-4-709(g), and any amendments thereto.

(D) A performance bond may be in the form of a bond or other surety that is acceptable to the Plan Commission and affected the local legislative body.

(E) The performance bond shall be released as follows:

(a) An annual partial release schedule as set forth in IC 36-7-4-709(h)(2), and any amendments thereto, and

(b) The performance bond shall be released in full upon the completion of the public infrastructure to the satisfaction of the Plan Commission and affected the local legislative body.

(F) The performance bond shall be in the amount as set forth in IC 36-7-4-709(i), and any amendments thereto.

(G) The performance bond shall be in writing and shall include language regarding when bond may be used that is acceptable to the Plan Commission and affected the local legislative body.

(2) Maintenance Bond: A maintenance bond shall be required for any public infrastructure as defined in 4-07 (1)(B) that was completed prior to the recording of the secondary plat or any public infrastructure that has been completed and had its performance bond released.

(A) A maintenance bond shall be enacted by the developer as follows:

(a) Within thirty (30) days of the date of the recording of the secondary plat for public infrastructure that was completed to the satisfaction of the Plan Commission and affected local legislative body prior to the recording of the secondary plat, or

(b) Within thirty (30) days of the date of the release of the performance bond for the public infrastructure.

(B) A maintenance bond shall only be in effect for public infrastructure that complies with the location requirements set forth in IC 36-7-4-709(g), and any amendments thereto.

(C) A maintenance bond may be in the form of a bond or other surety that is acceptable to the Plan Commission and affected the local legislative body.

(D) A maintenance bond shall be in effect for eighteen (18) months. Upon completion of the eighteen (18) month period, it shall be considered released.

(E) A maintenance bond shall be twenty-five (25) percent of the amount set forth in IC 36-7-4-709(i), and any amendment thereto.

(F) The maintenance bond shall be in writing and shall include language regarding when bond may be used that is acceptable to the Plan Commission and affected the local legislative body.

5-06 Plat Committee Review: The Plat Committee shall review all proposed Major Subdivisions to make recommendations and answer questions prior to the hearing before the Plan Commission. Appropriate representatives of the affected Local Legislative Body shall be invited to attend said Plat Committee review meeting.

5-07 Conflict of Sections: Any restrictions, rules, and standards, and conditions imposed by other sections of this Subdivision Control Ordinance which are not in conflict with the requirements of this Article shall remain in full force and effect. If there are conflicts between this Article and other sections of this Subdivision Control Ordinance or the Zoning Ordinance, then the provisions of this Article shall be controlling.

ARTICLE 6: Public Ways - Roads

6-01 **Purpose:** To provide for adequate ingress and egress for Major Subdivisions, PUDs, and Development Plans, while increasing connectivity for existing and future developments while preserving public health, wellbeing, and safety.

6-02 **Design Standards.**

(1) A Public Way shall be defined as a dedicated right-of-way for vehicular traffic, pedestrian traffic, the location of utilities, and placement of other necessary appurtenances for urban development.

(2) The petitioner of a Minor Subdivision, Major Subdivision, PUD, or Development Plan shall dedicate to the affected Local Legislative Body the appropriate one-half (1/2) right-of-way width, as established by the Local Legislative Body, for the type of public way on which the subject parcel of the petition is located. If no published standards are enacted by the Local Legislative Body, the Plan Commission shall establish the right-of-way standard. The Plan Commission or Local Legislative Body may require increased right-of-way if anticipated traffic flow or drainage needs warrant such increased width. The dedicated one-half (1/2) right-of-way shall serve as the affected public way's frontage for the Minor Subdivision, Major Subdivision, PUD, or Development Plan.

(3) As conditions for approval of a Development Plan, Major Subdivision, or PUD, the Plan Commission or the Local Legislative Body affected by a proposed project may require the owner of said project to pay some or all costs for improvements within said right-of-way necessary to comply with minimum road and drainage standards or with the anticipated traffic flow or increased drainage needs.

(4) A petitioner must secure written approval from the Local Legislative Body in whose jurisdiction the proposed project shall be built that the method and design of points of ingress and/or egress onto affected public ways meet the standards of said Local Legislative Body. If the Local Legislative Body does not have their own published standards, then the Plan Commission shall require the points of ingress and/or egress for a Development Plan, Major Subdivision, PUD, or other proposed development to have passing blisters and acceleration and deceleration lanes when said access points are located on arterial or collector public ways. The Plan Commission or affected Local Legislative Body may require passing blisters and acceleration and deceleration lanes on local public ways if warranted by anticipated traffic flow.

(5) A petitioner shall secure written approval from the Local Legislative Body affected by any proposed new Public Way that the design and construction of said Public Way shall meet the standards of said Local Legislative Body. If the Local Legislative Body does not have their own published standards, then the Plan Commission reserves the right to require the standards set forth by the City of Bluffton as the standards for approval.

(6) The Plan Commission may waive any of the provisions for Public Ways if the Plan Commission has received written approval for such waiving from the Local Legislative Body affected by the proposed changes.

(7) No Local Legislative Body is obligated to accept or pay for public way improvements for the purpose of making the private land suitable for development.

6-03 **Connectivity**. Any proposed development – Major Subdivision, PUD, or other Development Plan - with new public ways shall meet the following connectivity requirements. The Plan Commission may waive any of the following provisions if the Plan Commission has received written approval for such waiving from the Local Legislative Body affected by the proposed project.

(1) Public ways shall whenever possible be installed in a grid pattern.

(2) Subdivision of twenty-five (25) or fewer parcels.

(A) A development of twenty-five (25) or fewer parcels, lots, or interests shall have at least one (1) point of ingress/egress to an existing public way.

(B) A development of seven (7) to twenty-five (25) parcels, lots, or interests shall have an additional point of ingress/egress to either an existing public way or stubbed to adjacent undeveloped property for future connection.

(C) Centerlines of rights-of-way for said points of ingress/egress shall be a minimum of six hundred (600) feet apart.

(3) Subdivision of twenty-six (26) to sixty (60) parcels.

(A) A development of twenty-six (26) to sixty (60) parcels, lots, or interests shall have at least two (2) points of ingress/egress to existing public ways.

(B) Centerlines of rights-of-way for said points of ingress/egress shall be a minimum of six hundred (600) feet apart.

(4) Subdivision of sixty-one (61) to one hundred (100) parcels.

(A) A development of sixty-one (61) to one hundred (100) parcels, lots, or interests shall have at least two (2) points of ingress/egress to existing public ways.

(B) A development of sixty-one (61) to one hundred (100) parcels, lots, or interests shall have an additional point of ingress/egress to either an existing public way or stubbed to adjacent undeveloped property for future connection.

(C) Centerlines of rights-of-way for said points of ingress/egress shall be a minimum of six hundred (600) feet apart.

(5) Subdivision of more than one hundred (100) parcels.

(A) A development of more than one hundred (100) parcels, lots, or interests shall have at least three (3) points of ingress/egress to existing public ways.

(B) A development of more than one hundred (100) parcels, lots, or interests shall have an additional point of ingress/egress to either an existing public way or stubbed to adjacent undeveloped property for future connection.

(C) Centerlines of rights-of-way for said points of ingress/egress shall be a minimum of six hundred (600) feet apart.

(6) Connectivity with Adjacent Property. In addition to preceding four subsections proposed public rights-of-way within a development shall conform to the following.

(A) Said right-of-way shall connect to any existing right-of-way on adjacent property that terminates at or shares a common property line with said proposed development.

(B) Developer shall improve any right-of-way existing to the developer's proposed development boundary if said right-of-way is used as public access to one (1) or more lots or interests in said development.

(C) Developer shall provide right-of-way stubs to property lines of adjacent undeveloped land following these requirements.

a) Right-of-way extensions shall be no greater than six hundred (600) feet apart following the aggregate surveyed dimension of the perimeter of said development.

b) The Plan Commission may require such stubs at ends of cul-de-sacs to ensure connectivity.

c) The Plan Commission may waive these right-of-way stubs requirements if it deems connectivity does not serve the best interests of the surrounding area and the affected Local Legislative Body agrees in writing.

d) Said right-of-way stubs to provide for a future public way do not require improvement unless said stub is to be used for access to one (1) or more lots or interests.

e) Said improved right-of-way stubs shall have a temporary cul-de-sac installed unless the affected Local Legislative Body agrees in writing otherwise.

(7) Connectivity within a Development. No new internal public way shall exceed six hundred (600) feet without creating an intersection with another existing or new public way that is neither a Cul-De-Sac nor a dead-end public way.

(8) Intersections. The minimum distance between centerlines of parallel or approximately parallel public ways intersecting a third public way from opposite directions shall be two hundred (200) feet. This design distance shall apply when at least one of the three public ways is to be a new public way.

6-04 **Cul-De-Sacs:** A *Cul-de-sac* is defined as a public way that has only one (1) point of ingress/egress and that terminates in a turnaround. A cul-de-sac shall conform to the following.

(1) Projects shall be developed in a pattern that minimizes the use of cul-de-sacs and maximizes the amount of through connectivity within the project and to neighboring properties.

(2) A cul-de-sac shall not be longer than six hundred (600) feet. The measurement shall be from the center of the closest intersection to the center of the turnaround.

(3) To accompany fire and emergency vehicles, a turnaround of a cul-de-sac shall have a minimum outside curb radius of fifty (50) feet and a right-of-way radius of sixty (60) feet.

(4) If a Local Legislative Body does not have their own published stricter standards for cul-de-sacs, then the standards set forth herein shall govern.

(5) The names of cul-de-sacs shall be designated as "Courts."

6-05 **Temporary Dead-End Streets.** So as to provide adequate fire and emergency protection, any dead-end improved public right-of-way that exceeds one hundred (100) feet in length and that is designed to be extended or connected to a future public right-of-way shall have a gravel turnaround constructed at its termination that satisfies the dimensional requirements prescribed in this Article for a turnaround for a cul-de-sac. Plan Commission may waive this requirement if such waiver is agreed to in writing by of the affected Local Legislative Body.

6-06 **Signage:** Once the first permit has been granted for a primary structure, the Local Legislative Body shall have the right to order and install the necessary street signs and traffic control signs for the proposed Major Subdivision, PUD, or Development Plan, and such signage shall be the expense of the developer.

6-07 **Vacating a Platted Public Way:** The process for vacating a public way on a recorded plat shall be done in accordance with I.C. 36-7-3, et. seq., and any other applicable provisions of the Indiana Code.

ARTICLE 7: Storm Water Standards

7-01 **Purpose:** To regulate the stormwater release from newly developed sites in a way to minimize the impact to existing development.

7-02 **Jurisdiction:** The storage and controlled release of excess storm water runoff shall be required for all Development Plans, Major Subdivisions, and PUD(s) located within the jurisdiction of this Ordinance.

7-03 **Incorporated Regulations:** If a Local Legislative Body has their own published stricter standards for storm water, then said storm water standards shall be adhered to when a project falls within the Local Legislative Body's jurisdiction. The Local Legislative Body is responsible for verifying compliance in regards to their stricter standards for storm water. The Local Legislative Body must respond to the Area Plan Commission Office in writing prior to the public hearing or for staff approved development plans within a minimum of three (3) weeks from the date of submittal of said petition or compliance will be assumed.

7-04 **Policy on Storm Water Quantity Management:** The storm water drainage system shall be separated and independent of any sanitary sewer system.

(1) DETENTION POLICY: It is recognized that most streams and drainage channels serving Wells County do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, except for situations provided for in this Article, the storage and controlled release of excess storm water runoff shall be required for all Development Plans, Major Subdivisions, and PUD(s). In general, the post-developed release rates shall be no greater than the general release rate provided in the following table. For sites where the pre-developed area has more than one (1) outlet, the release rates shall be computed based on pre-developed discharge to each outlet point.

General Release Rates (CFS/acre) Based on Pre-Developed Condition Curve Number at Each Outlet Point		
Curve Number	10-Year	100-Year
< 65	0.07	0.23
66-69	0.13	0.33
70-73	0.2	0.43
74-77	0.27	0.53
78-81	0.34	0.63
82-85	0.44	0.75
> 86	0.55	0.87

(2) Runoff from all upstream tributary areas (off-site land areas) may be bypassed around the detention/retention facility without attenuation. Such runoff may also be routed through the detention/retention facility, provided that a separate outlet system or channel is incorporated for the safe passage of such flows, i.e., not through the primary outlet of a detention facility. Unless the pond is being designed as a regional detention facility, the primary outlet structure shall be sized and the invert elevation of the emergency overflow weir determined according to the on-site runoff only. Once the size and location of the primary outlet structure as well as the invert elevation of the emergency overflow weir is determined by considering on-site runoff, the 100-year pond elevation is determined by routing the entire inflow, on-site and off-site, through the pond.

(3) Note that the efficiency of the detention/retention facility in controlling the on-site runoff may be severely affected if the off-site area is considerably larger than the on-site area. As general guidance, on-line detention may not be effective in controlling on-site runoff where the ratio of off-site area to on-site area is larger than 5:1. Additional detention (above and beyond that required for the on-site area) may be required by the Plan Commission when the ratio of off-site area to on-site area is larger the 5:1.

(4) DOWNSTREAM RESTRICTIONS: In the event, the downstream receiving channel or storm sewer system is inadequate to accommodate the post-developed release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of receiving downstream channel or storm sewer system. Additional detention, as determined by the Plan Commission, shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers or waterways.

(A) If the proposed Development Plan, Major Subdivision, or PUD makes up only a portion of the undeveloped watershed upstream of the limiting restriction, the allowable release rate for the project shall be in direct proportion to the ratio of its drainage area to the drainage area of the entire watershed upstream of the restriction.

(B) The allowable release rates may be further reduced by the Plan Commission if on-site or off-site conditions warrant the reduction.

(C) Notwithstanding the foregoing, if the Plan Commission, Wells County Drainage Board, or Local Legislative Body determines within three years after final approval of the storm water plans that the downstream receiving channel or storm sewer system are inadequate to accommodate the as-built development and have been damaged thereby, or if the subject as-built system is inadequate to accommodate upstream runoff or has caused damage to upstream channel or storm sewer system, the Owner, Developer, or Contractor shall be required to take such corrective actions as the Plan Commission, Wells County Drainage Board, or Local Legislative Body shall determine to be reasonably necessary to remedy such damages and enable such channels and storm sewers to accommodate the as-built drainage system.

(5) EXEMPTIONS FOR DETENTION REQUIREMENTS: Detention shall not be required for the following.

(A) Land alterations were the primary basis on which stormwater drainage plan is required is the construction, enlargement, or location (on a permanent foundation) any structures that do not require a Development Plan.

(B) Approved fill areas or one-time additions to existing commercial buildings that do not increase the amount of impervious area on-site by more than a total of 0.25 acres, provided the existing runoff patterns and flow capacity of the property will not be altered by the filling operation.

(C) Notwithstanding the provisions of above section, those site developments where the stormwater management system has been designated such that:

a) after combining flows from both the off-site and on-site drainage areas, there will be no increase in the total peak discharge from the developed site during the 2, 10, or 100-year storm events; and

b) the volume of runoff for each project site outlet has not been increased for the entire range of storm events, up to the 100-year storm event; and

c) the flow width and velocity at the property boundary line for each sub-basin is less than or equal to that flow width and velocity which existed prior to the development (for the entire range of storm events, up to the 100-year storm events).

7-05 Grading and Building Pad Elevation Policy: Maximum yard slopes shall be no steeper than 3:1 where soil has been disturbed during construction processes. Top of the foundation must be no less than six (6) inches above finished grade and a minimum of fifteen (15) inches above an adjacent road elevation unless a written variance is granted by the Plan Commission.

(1) For all structures located in the SFHA as shown on the current Flood Insurance Rate Map (FIRM) or best available information available to the Plan Commission, the lowest floor elevations of all residential, commercial, agricultural, and industrial buildings, shall be such that all floors, including basement, shall be at the flood protection grade and therefore have two (2) feet of freeboard above the 100-year flood elevation.

(2) The Lowest Adjacent Grade for residential buildings outside a FEMA or IDNR designated floodplain shall have two feet of freeboard above the flooding source's 100-year flood elevation under proposed conditions unless the flooding source is a rear-yard swale. When the flooding source is a rear-yard swale, the Lowest Adjacent Grade for residential buildings shall have two (2) feet of freeboard above the 100-year flood under proposed conditions or be separated by a minimum distance of twenty-five (25) feet from the proposed condition 100-year flood boundary.

(3) The Lowest Adjacent Grade (including walkout basement floor elevation) for all residential buildings adjacent to ponds shall be set a minimum of two (2) feet above the 100-year pond elevation or two feet above the emergency overflow weir elevation, whichever is higher.

(4) Overflow paths throughout the development resulting from a 100-year storm event shall be determined, clearly shown on the plans, and contained in permanent drainage easements with a minimum width of thirty (30) feet and the centerline of the easement being the centerline of the flow path. No fences, landscaping, or land alterations shall be constructed within the easement areas that may impede the free flow of storm water. Building pad elevations for all residential, commercial, and industrial buildings adjacent to the overflow shall be constructed at an elevation that provides at least one (1) foot of freeboard above the anticipated overflow water surface elevations.

7-06 Adjoining Property Impacts Policy: Design and construction of the stormwater facility shall provide for the discharge of the storm water runoff from off-site land areas as well as the storm water from the area being developed (on-site land areas) to an acceptable outlet(s) (as determined by the Plan Commission) having the capacity to receive upstream (off-site) and on-site drainage. The flow path from the development outfall(s) to a regulated drain or natural waterway (as determined by the Plan Commission) shall be provided in an exhibit that includes topographic information. Any existing field tile encountered during the construction shall also be incorporated into the proposed storm water drainage system or tied to an acceptable outlet. In addition, no activities conducted as part of the development shall be allowed to obstruct the free flow of flood waters from an upstream property.

(1) Where the outfall from storm water drainage system of any development flows through real estate not owned by the developer prior to reaching a regulated drain or natural waterway (as determined by the Plan Commission), no approval shall be granted for storm water drainage system until all owners of real estate crossed by the outfall either consent in writing to the use of their real estate or are notified in writing of a hearing before the Plan Commission with respect to the proposed use. Written notice of the time and place of the hearing shall be made by 1) mailing a copy of the notice by registered or certified mail, return receipt requested to such person's residence, place of business or employment with return receipt requested and returned showing receipt of such notice; 2) delivering a copy of such notice to the owner, or 3) leaving a copy of notice at the owner's dwelling house or usual place of abode. Such notice shall be personally delivered or mailed not less than seven (7) nor more than fourteen (14) days prior to the hearing. Proof of delivery of notice to each landowner shall be filed by affidavit, by the developer, with the Plan Commission prior to the hearing.

(2) Connection to a state drainage system is allowed only with written approval from the Indiana State Highway Department. Connection to a County legal drain is allowed only with written approval of the Wells County Drainage Board in accordance with the Indiana Code requirements for local drains. Connection to a County road ditch is allowed only with written approval from the Wells County Highway Department and Wells County Drainage Board.

(3) If an adequate outlet is not located on site, then off-site drainage improvements may be required. Those improvements may include but are not limited to extending storm sewers, clearing, dredging and/or removal of obstructions to open drains or natural water courses, and the removal or replacement of undersized culvert pipes as required by the Plan Commission.

7-07 **Calculations and Design Standards and Specifications:** The calculation methods as well as the type, sizing, and placement of all storm water facilities shall meet the design criteria, standards, and specifications as established by sound engineering practices and Local Legislative Body standards.

7-08 **Easement Requirements for County Regulated Drain Projects:** This section refers to regulated drain easement requirements for projects located within the county's jurisdiction. When the Wells County Drainage Board determines it is necessary to establish a new regulated drain, each developer must provide the necessary information and meet the requirements of the 1965 Indiana Drainage Code, as amended, for the establishment of a new Regulated Drain. Necessary easements for adequate maintenance shall be determined by the Wells County Drainage Board if not already established by this Ordinance.

7-09 **Placement of Utilities:** No utility company may disturb existing storm drainage facilities without the consent of the Wells County Surveyor, whose decisions may be appealed to the Wells County Drainage Board. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties a prescribed by this Subdivision Control Ordinance and any other applicable laws.

7-10 **Structures Near County Regulated Drains:** For Regulated Drains unless otherwise approved by the Wells County Drainage Board, no permanent structure (including fences) shall be erected within seventy-five (75) feet measured at right angles from 1) the existing top edge of each bank of an open Regulated Drain, as determined by the Wells County Surveyor; or 2) the centerline of a tiled Regulated Drain.

7-11 **Inspection, Maintenance, Record Keeping, and Reporting:** After the approval of the stormwater management plan by the Plan Commission and the commencement of construction activities, the Wells County Surveyor or Plan Commission Director has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this chapter and the terms and conditions of the approved plan.

(1) If deficiencies are found during the inspection, the owner of the facility will be required to take all necessary measures to correct such deficiencies within one hundred eighty (180) days. If the owner fails to correct the deficiencies within the allowed time period, the Plan Commission may undertake the work and collect the cost and attorney fees, from the owner using lien rights if necessary in accordance with this Ordinance.

(2) Assignment of responsibility for maintaining facilities serving more than one lot or parcel shall be documented by appropriate easements or covenants to property deeds unless responsibilities are formally accepted by a public body and determined before the final storm water plan is approved.

ARTICLE 8: Survey and Plat Standards

8-01 **Purpose:** To provide a standard for plats and surveys within the jurisdiction of this Subdivision Control Ordinance and to ensure that survey markers remain in the field for use by governing agencies and private citizens.

8-02 **Monumenting of a Parcel or Lot:** The parcel or lot shall be monumented following the standards established by Title 865, IAC 1-12-18, 1-12-24, all other applicable State provisions, and any amendments thereto.

8-03 **Monumenting of a Major Subdivision or PUD Boundary Survey:** The Major Subdivision or PUD boundary survey shall be monumented using the following standards.

(1) Exterior and interior lots shall follow the standards for monumenting a parcel or lot.

(2) The approximate or survey grade state plane coordinate either calculated or collected shall be listed for all property corners. The state plane coordinate data shall be stated as approximated or survey grade. Approximate state plane coordinate data are available at the Wells County Surveyor's Office.

8-04 **Monumenting of Public Ways:** The new public way centerlines proposed within a Major Subdivision or PUD shall be monumented using the following standards.

(1) A monument shall be placed at the following locations.

(A) At the beginning and ending of all curves along the center of a public way.

(B) At the intersection of the centerline of two public ways.

(2) The approximate or survey grade state plane coordinate either calculated or collected shall be listed for all public way monuments. The state plane coordinate data shall be stated as approximated or survey grade. Approximate state plane coordinate data are available at the Wells County Surveyor's Office.

8-05 **Survey Data.** All survey data to be included on plats shall meet the requirements established in Title 865, IAC 1-12-13, 1-12-14, and other applicable state regulations, and any amendments thereto.

8-06 **Legal Description:** The legal description shall be on the Plat. The legal description may be located on separate document for a Minor Subdivision, Addition, or Combine

8-07 **Plat and Survey Print or Drawing Requirements:** The following paper size, line quality, and font requirements shall be required for any plat or survey.

(1) A Plat shall be 24 inches X 36 inches for any Development Plan, Major Subdivision, PUD, WECS Project, or CAFO.

(2) A Plat or Survey may be any size, but it is preferred due to record keeping for the plat to be either 8 ½ inches X 11 inches or 8 ½ inches X 14 inches for any Minor Subdivision, Addition, or Combine.

(3) All lettering on a Plat shall be at least in size ten (10) font and in Times New Roman or comparable type. All lettering shall be in black print except for the title area.

(4) A final approved copy of the Plat for a Major Subdivision shall be printed on Mylar or equivalent material at least two (2) mils in thickness.

ARTICLE 9: Local Legislative Bodies

9-01 Purpose: Prior to enactment of this Ordinance, when reviewing for approval or disapproval of a petition for a proposed development, the Plan Commission had the power to enforce the following provisions and standards. If a Local Legislative Body has not enacted an ordinance to establish and enforce provisions and standards more stringent than those prescribed in this Subdivision Control Ordinance or the Zoning Ordinance, the Plan Commission may require the petitioner for a Development Plan, Major Subdivision, PUD, or other proposed developments to do any of the following if the Plan Commission deems such action necessary for the proposed project and preserves the spirit and purpose of this Ordinance and the Comprehensive Plan.

9-02 Off-Site Improvements: In reviewing the petition for a Development Plan, Major Subdivision, PUD, or other proposed development, the Plan Commission may require the petitioner to make and pay for improvements that are located off-site from the subject property of the petition and that are deemed necessary by the Plan Commission to serve the proposed project. No Local Legislative Body shall be obligated to make improvements for the purpose of making the private land suitable for development.

9-03 Future Maintenance: With any petition for a Development Plan, Major Subdivision, PUD, or other proposed development, the Plan Commission may require the petitioner to submit plans for anticipated annual costs and adequate methods to maintain certain improvements built for the proposed project. Such improvements may include but not be limited to recreation facilities, open space, private pedestrian ways, parking lots, private sewage and water systems, and drainage facilities including but not limited to lagoons, detention area, retention ponds, and infiltration facilities.

9-04 Landscape Buffers: Major Subdivisions and PUDs containing land zoned for business use or any proposed development on property zoned for business may be required to contain a landscape buffer area at least fifteen (15) feet in depth along all lot lines abutting land zoned as a residential district. Major Subdivisions and PUDs containing land zoned for industrial use or any proposed development on property zoned for industrial may be required to contain a landscape buffer area at least twenty-five (25) feet in depth along all lot lines abutting land zoned as a residential district. To satisfy this requirement, a petition for a Major Subdivision, PUD, or Development Plan must include a plan showing the planting details, including the type(s) and height(s) of vegetation and the caliper of trees to be planted. Such a landscape buffer must be at least six (6) feet in height and must consist of materials which will form a dense screen within two (2) years. An opaque fence may be constructed to accomplish this purpose; design and materials of the fence must be shown on the submitted plan(s).

9-05 Pedestrian Ways: The Plan Commission may require paved pedestrian ways not less than six (6) feet in width be located through proposed developments and at the end of cul-de-sacs if deemed desirable to provide for circulation or access to neighboring uses. Standards for such paved pedestrian ways shall conform to standards established by the Local Legislative Body affected by the proposed development. If no standards exist the Plan Commission reserves the right to require the standards set forth by the City of Bluffton. In determining whether pedestrian ways are required, the Plan Commission shall consider methods of maintaining such pedestrian ways and their usefulness in providing access to any common open space, water areas, recreation areas, schools, surrounding uses, existing pedestrian/bike trails or paths, and other residential areas including those within a proposed Major Subdivision or PUD.

9-06 **Other:** The local legislative bodies that are under the jurisdiction of the Plan Commission may establish standards as provided in the following provisions of this Subdivision Control Ordinance and the Zoning Ordinance.

(1) **BONDS FOR DEVELOPMENT PLANS:** provisions as prescribed elsewhere in the Zoning Ordinance.

(2) **WAIVER OF CERTAIN SUBDIVISION CONDITIONS:** provisions as prescribed elsewhere in this Subdivision Control Ordinance.

(3) **FENCES:** provisions as prescribed elsewhere in the Zoning Ordinance.

(4) **SIGNS:** provisions as prescribed elsewhere in the Zoning Ordinance.

(5) **STREET LIGHTING AND SIDEWALKS:** provisions as prescribed elsewhere in this Subdivision Control Ordinance.

(6) **UTILITIES:** provisions as prescribed elsewhere in this Subdivision Control Ordinance.

(7) **PUBLIC WAYS – ROADS:** provisions as prescribed elsewhere in this Subdivision Control Ordinance.

(8) **IMPACT DRAINAGE AREAS:** provision as prescribed in Storm Water Control Article in this Subdivision Control Ordinance.

9-07 **Impact Fees:** Local legislative bodies may establish Impact Fees as provided by the Indiana law, I.C. 36-7-4-1300 et. seq.

WELLS COUNTY ORDINANCE FOR FLOOD HAZARD AREAS

FOR

WELLS COUNTY, CITY OF BLUFFTON, TOWN OF UNIONDALE, TOWN OF VERA CRUZ, TOWN OF ZANESVILLE, TOWN OF OSSIAN, TOWN OF PONETO

Wells County Ordinance No…….2014-08

The city of Bluffton Ordinance No…….1387

Town of Uniondale Ordinance No……2014-14

Town of Vera Cruz Ordinance No……2014-04

Town of Zanesville Ordinance No……2014-06

Town of Ossian Ordinance No……..14-9-9

Town of Poneto Ordinance No…….2014-10-13D

ARTICLE 1: Statutory Authorization, Findings of Fact, Purpose, and Objectives.

Section A. Statutory Authorization.
The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Wells County Commissioners; the Common Council of the City of Bluffton; and the Town Boards of the Towns of Uniondale, Vera Cruz, Zanesville, Ossian and Poneto (hereinafter noted as Wells County) do hereby adopt the following floodplain management regulations.

Section B. Findings of Fact.

(1) The flood hazard areas of Wells 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.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

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

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.
(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.
(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
(6) Make federally subsidized flood insurance available for structures and their contents in Wells County by fulfilling the requirements of the National Flood Insurance Program.

Section D. Objectives.
The objectives of this ordinance are:

(1) To protect human life and health.
(2) To minimize expenditure of public money for costly flood control projects.
(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
(4) To minimize prolonged business interruptions.
(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
(6) To 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.

ARTICLE 2: Definitions.

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

A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

> Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.
>
> Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)
>
> Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
>
> Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
>
> Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.
>
> Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds

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

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.

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

Boundary River means the part of the Ohio River that forms the boundary between the Kentucky and Indiana.

Boundary River Floodway means the floodway of a boundary river.

Building - sees "Structure."

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

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Critical facility means 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, installations which produce, use or store hazardous materials or hazardous waste.

Development means any man-made change to improved or unimproved real estate including but not limited to:

(1) construction, reconstruction, or placement of a structure or any addition to a structure;
(2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
(3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
(4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
(5) mining, dredging, filling, grading, excavation, or drilling operations;
(6) construction and/or reconstruction of bridges or culverts;
(7) storage of materials; or
(8) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" 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.

Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

Elevation Certificate is a certified statement that verifies a structure's elevation information.

Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

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

FEMA means the Federal Emergency Management Agency.

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

Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

Flood Prone Area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

Flood Protection Grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

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

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations mean this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

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

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe is those portions of the floodplain lying outside of the floodway.

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

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structures mean any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

Letter of Map Amendment (LOMA) means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in an SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. An LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest elevation described among the following:

(1) The top of the lowest level of the structure.
(2) The top of the basement floor.
(3) The top of the garage floor, if the garage is the lowest level of the structure.
(4) The top of the first floor of a structure elevated on pilings or pillars.
(5) The top of 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 flood waters unless:
   a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
   b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
   c) such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

Mitigation means sustained actions are 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.

National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood."

Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in a customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in an FIS.

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood," "One-Percent Annual Chance Flood," and "100-Year Flood."

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 exceeds 25% of the market value of the structure before the damage occurred.

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of Wells County subject to inundation by the regulatory flood. The SFHAs of Wells County are generally identified as such on the Wells County, Indiana and Incorporated Areas Flood Insurance Rate Map dated October 16, 2014, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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 another structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or another 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 or any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones are shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

Zone A (see definition for A zone)

Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of the flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

ARTICLE 3: General Provisions.

Section A. Lands to Which This Ordinance Applies.
This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of Wells County.

Section B. Basis for Establishing Regulatory Flood Data.
This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Wells County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Wells County, Indiana, and Incorporated Areas dated October 16, 2014, and the corresponding Flood Insurance Rate Map dated October 16, 2014, as well as any future updates, amendments, or revisions prepared by the Federal Emergency Management Agency with the most recent date.
(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Wells County, delineated as an "A Zone" in the Wells County, Indiana, and Incorporated Areas Flood Insurance Rate Map dated October 16, 2014, as well as any future updates, amendments, or revisions prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available 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 data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources provided the upstream drainage area from the subject site is greater than one square mile.
(4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

Section C. Establishment of Floodplain Development Permit.
A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

Section D. Compliance.
No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions.
This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the most stringent restrictions shall prevail.

Section F. Discrepancy between Mapped Floodplain and Actual Ground Elevations.
(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

Section G. Interpretation.
In the interpretation and application of this ordinance all provisions shall be:

(1) Considered as minimum requirements.
(2) Liberally construed in favor of the governing body.
(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section H. Warning and Disclaimer of Liability.
The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the County, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

Section I. Penalties for Violation.
Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Wells County. All violations shall be punishable by a fine not exceeding $2,500 per day.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.
(2) The Wells County Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
(3) Nothing herein shall prevent the Wells County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

ARTICLE 4: Administration.

Section A. Designation of Administrator.
Wells County hereby appoints the Plan Commission Executive Director to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

Section B. Permit Procedures.
Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application Stage.
   a) A description of the proposed development.
   b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
   c) A legal description of the property site.
   d) A site development plan showing existing and proposed development locations and existing and proposed land grades.
   e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
   f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
   g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Article 4, Section C. (6) for additional information.)

(2) 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 a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. (The Floodplain Administrator shall review the lowest floor elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. 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. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct any deficiencies detected by such review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

   Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. The certification shall be prepared by or under the direction supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) Finished Construction.
   Upon completion of construction, a FEMA elevation certificate, Form 81-31, which depicts all finished construction, is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, a FEMA floodproofing certificate, Form 81-65, is required to be submitted by the applicant to the Floodplain Administrator.

Section C. Duties and Responsibilities of the Floodplain Administrator.
The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.
(6) 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.
(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
(8) 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.
(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
(10) Review certified plans and specifications for compliance.
(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B.
(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.
(13) The floodplain administrator or designee shall make inspection(s) to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The floodplain administrator or designee shall have the right to enter and inspect properties located in the SFHA.
(14) Stop Work Orders
   a) Upon notice from the floodplain administrator, work on any building, structure or premises that are being done contrary to the provisions of this ordinance shall immediately cease.
   b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
(15) Revocation of Permits
   a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
   b) The floodplain administrator may revoke a permit upon a 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.

ARTICLE 5: <u>Provisions for Flood Hazard Reduction.</u>

Section A. General Standards.
In all SFHAs and known flood prone areas the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, 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. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
(9) 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.
(10) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
   a) The excavation shall take place in the floodplain and on the same property in which the authorized fill or structure is located.
   b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be on the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.
   c) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.
   d) The fill or structure shall not obstruct a drainage way leading to the floodplain.
   e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.
   f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.
   g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

Section B. Specific Standards.
In all SFHAs, the following provisions are required:

(1) In addition to the requirements of Article 5, Section A, all 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:
   a) Construction or placement of any structure having a floor area greater than 400 square feet.
   b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
   c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before the damage occurred.
   d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
   e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
   f) Reconstruction or repairs made to a repetitive loss structure.
   g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4).

(3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) 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 Article 5, Section B (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:
   a) 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, the rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4, Section C (12).
   b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

   Elevated structures with fully enclosed areas formed by the foundation and other exterior walls below the flood protection grade 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. Designs must meet the following minimum criteria:
   a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
   b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
   c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
g) Openings are to be not less than three (3) 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.
h) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents and that the elimination or alteration of the openings in any way will violate the requirements of Article 5, Section B. 4. Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Wells County Recorder.
i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six (6) feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Wells County Recorder.

(5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent landfill in accordance with the following:
a) The fill shall be placed in layers no greater than one (1) foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
b) The fill shall extend ten (10) feet beyond the foundation of the structure before sloping below the BFE.
c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.
d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
e) The top of the lowest floor including basements shall be at or above the FPG.
f) Fill shall be composed of clean granular or earthen material.

(6) **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
(i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
(ii) Fully enclosed areas formed by the foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

(i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
(ii) Fully enclosed areas formed by the foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

c) Recreational vehicles placed on a site shall either:
(i) be on site for less than 180 days;
(ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
(iii) meet the requirements for "manufactured homes" as stated earlier in this section.

(7) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
a) Shall not be used for human habitation.
b) Shall be constructed of flood resistant materials.
c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
d) Shall be firmly anchored to prevent flotation.
e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

(8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

Section C. Standards for Subdivision Proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.
(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
(4) 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.
(5) All subdivision proposals shall minimize development in the SFHA and/or limit the density of development permitted in the SFHA.
(6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

Section D. Critical Facility.

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.

Section E. Standards for Identified Floodways.
Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, 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 a permit for construction in a floodway. Under the provisions of 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 etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

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 for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will 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), Wells 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.

Section F. Standards for Identified Fringe.
If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

Section G. Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

(1) 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 either a permit for construction in a floodway (including letters of authorization) 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 permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, 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 Article 5 of this ordinance have been met.

(2) 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 Article 5 of this ordinance have been met.

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

Section H. Standards for Flood-Prone Areas.
All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Article 5.

ARTICLE 6: Variance Procedures.

Section A. Designation of Variance and Appeals Board.
The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

Section B. Duties of Variance and Appeals Board.
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 Wells County Circuit Court.

Section C. Variance Procedures.
In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

(1) The danger of life and property due to flooding or erosion damage.
(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
(3) The importance of the services provided by the proposed facility to the community.
(4) The necessity to the facility of a waterfront location, where applicable.
(5) The availability of alternative locations for the proposed use which is not subject to flooding or erosion damage.
(6) The compatibility of the proposed use with existing and anticipated development,
(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
(8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
(9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
(10) 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.

Section D. Conditions for Variances.
(1) Variances shall only be issued when there is:
   a) A showing of good and sufficient cause.
   b) A determination that failure to grant the variance would result in exceptional hardship.
   c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
(2) No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance may be granted.
(3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
(4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, 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.
(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
(6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(7) 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 (See Article 6, Section E).
(8) 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 (See Article 6, Section E).

Section E. Variance Notification.
Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage;
(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

Section F. Historic Structure.
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.

Section G. Special Conditions.
Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

ARTICLE 7: Severability.
If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

ARTICLE 8: Effective Date.
This ordinance shall be in full force and effect on October 16, 2014.

Petition Number: A14-09-22 Effective Date: October 16, 2014

The Area Plan Commission gives a (due pass recommendation), (do not pass recommendation) or (no recommendation) by a vote of 10 in favor and 0 opposed on this 4th day of September, 2014.

Jerome Markley
Area Plan Commission President

Michael W. Lautzenheiser, Jr.
Area Plan Commission Director

BE IT ORDAINED BY THE COMMISSIONERS OF WELLS COUNTY, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Wells County, Indiana and shall read as set forth and shall be enforced as an ordinance of Wells County, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-08 Effective Date: October 16, 2014

Passed by the Commissioners of Wells County, Indiana this 16th day of OCTOBER 14, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

ATTEST:
Beth Davis
Wells County Auditor

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLUFFTON, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of the City of Bluffton, Indiana and shall read as set forth and shall be enforced as an ordinance of City of Bluffton, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 1387 Effective Date: October 16, 2014

Passed by the Common Council of the City of Bluffton, Indiana this 30th day of September 2014 by the following vote:

AYES 5, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Honorable Mayor Ted Ellis

ATTEST:

Briana Lautzenheiser
Deputy Clerk-Treasurer

Presented by me to the Mayor of the City of Bluffton, Indiana, this 30 day of September, 2014.

Briana Lautzenheiser
Deputy Clerk-Treasurer

Approved by me this 30 day of September, 2014

Honorable Mayor Ted Ellis

BE IT ORDAINED BY THE TOWN BOARD OF OSSIAN, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Ossian, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Ossian, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 14-9-9 Effective Date: October 16, 2014

Passed by the Town Board of the Town of Ossian, Indiana this 22 day of September, 2014, by the following vote:

AYES 4, to-wit:	NAYS 0, to-wit:	ABSENT 1, to wit:
		TERRIE LAZZEL

ATTEST:

Jeannette Dickey

Jeannette Dickey

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF ZANESVILLE, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Zanesville, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Zanesville, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-06 Effective Date: October 16, 2014

Passed by the Town Board of the Town of Zanesville, Indiana this 18th day of Sept, 14, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Patty Bract

John Schuchmann

Ronny R. Mills

ATTEST:

Julie Christian

Julie Christian

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF UNIONDALE, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Uniondale, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Uniondale, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-14 Effective Date: October 16, 2014

Passed by the Town Board of the Town of Uniondale, Indiana this 14th day of Oct, 14, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 1, to wit:

Ronald R. Pope

Robert Bennett Vanderman

Gene Cushman

ATTEST:

Sharice Bowen CIT

Sharice Bowen

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF VERA CRUZ, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Vera Cruz, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Vera Cruz, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-04 Effective Date: October 16, 2014

Passed by the Town Board of the Town of Vera Cruz, Indiana this 16 day of Sept, 14, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Sheila Hartley

Ken Vanewselwale

Walter R. Grover

ATTEST:

Nola Marie Masterson

Nola Marie Masterson

Clerk-Treasurer

BE IT ORDAINED BY THE TOWN BOARD OF PONETO, INDIANA AS FOLLOWS:

Section 1: This ORDINANCE shall be added to the Code of Ordinances of Poneto, Indiana and shall read as set forth and shall be enforced as an ordinance of the Town of Poneto, Indiana.

Section 2: This ORDINANCE shall take effect and be in force after its adoption and publication as required by law.

Ordinance Number 2014-10-13D Effective Date: October 16, 2014

Passed by the Town Board of the Town of Poneto, Indiana this 13th day of Oct, 14, by the following vote:

AYES 3, to-wit: NAYS 0, to-wit: ABSENT 0, to wit:

Shelly Lore

Mary E Smith

Aaron R. Rush

ATTEST:

Roy D Schoeff

Roy D. SCHOEFF

Clerk-Treasurer

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

X