# TITLE 7

# COMPREHENSIVE PLAN
# AND
# ZONING ORDINANCE

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**Chapters:**

**7.02 Comprehensive Plan**
**7.05 Zoning Ordinance**

## Chapter 7.02

## COMPREHENSIVE PLAN

**Sections:**

**7.02.010 Adoption**

**7.02.010 Adoption.** Ordinance 08-05 and Resolution 2008-01 hereby repeals the prior Comprehensive Plan, Ordinance 97-5 and O-87-9, and adopts and incorporates the Comprehensive Plan for the Town of Ferdinand, Indiana prepared by Bonar Group in the summer of 2007. The Comprehensive Plan is available for review at the Ferdinand Town Hall. (Res. 08-01, April 8, 2008) (Ord. 97-5, May 12, 1997) (Ord. O-87-9, 1987)

## Chapter 7.05

## ZONING ORDINANCE

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### 7.05.010 Definitions.

(1) Word Usage. The definitions in this section apply throughout this Chapter. Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give common usage meaning and to give this Chapter its most reasonable application. (Ord. 97-3, Article I, S1, April 8, 1997)

(2) Definitions:

A. The following words, terms and phrases, wherever they occur in this Chapter, shall have the meanings ascribed to them by this section, except where otherwise indicated.

B. Definitions provided by this Section include:

1. Accessory Uses and Structures. One which (a) is subordinate to and serves a principal building or principal

use; (b) is subordinate in area, extent, or principal building or principal use served; (c) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and (d) is located on the same lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot with the building or use served.

Fences, hedges, walks, driveways, curbs, retaining walls, lattice-work screens, trees, flowers, plants, mail boxes, nameplates, lamp posts, bird baths, bird houses, benches and landscaping of a like nature are permitted in any required front, side, or rear yard provided they do not violate the requirements of Municipal Ordinance of the Town of Ferdinand.

A private swimming pool shall be permitted as an accessory use if it is surrounded by a wall or fence or other locking device or other means to prevent uncontrolled access.

2. Adult Arcade means an establishment where, for any form of consideration, one or more still or motion picture machines, projectors, or other image producing devises are regularly used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

3. Adult Bookstore, Adult Novelty Store or Adult Video Store means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale or rental, for any form of consideration, any one or more of the following:

   (a) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas";

   (b) instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities"; or

(c) A commercial establishment may have other principal business purposed that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an ADULT BOOKSTORE or ADULT NOVELTY STORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE or ADULT NOVELTY STORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

4. Adult Cabaret means a nightclub, bar, juice bar, restaurant, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features:

(a) persons who appear in a state of nudity or semi-nudity;

(b) live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities";

(c) films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(d) persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

5. Adult Motel means a hotel, motel or similar commercial establishment that:

(a) offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction

or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions;

(b) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(c) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

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

7. Adult Theater means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

8. Agriculture. The use of land or structures for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory structures and uses for the packing, treating or storing of produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

9. Awning. Any structure made of cloth or metal with a frame attached to a building and projecting out from the building (and so erected as to permit its being raised to a position flat against the building when not in use).

10. Banner. Any temporary hanging sign attached or affixed to a building possessing characters, letters, illustrations or ornamentations applied to paper, plastic, or fabric of any kind. This classification shall not include plastic or fabric signs which are permanently attached within a rigid frame which are intended to be used as permanent signs. National flags, political flags and symbolic flags of any institution or

business shall not be considered banners for the purpose of this chapter.

11. Basement. That portion of a building which is partially or completely below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be considered a dwelling or story of a dwelling.

12. Block. Property abutting on one side of a street, and lying between the two nearest intersecting streets, or between the nearest intersecting street and railroad right-of-way, waterway, or other definite barrier.

13. Board. The Board of Zoning Appeals of the Town of Ferdinand, Dubois County, Indiana.

14. Building. A structure built for the support, enclosure, shelter, or protection of persons, animals, chattels, or moveable property of any kind.

15. Business B1. A commercial district that is intended to be utilized for small scale local or neighborhood businesses which are compatible with adjoining residential uses and which provide convenience goods and services to the nearby residents.

16. Business B2. A commercial district that is a general, all purpose business district intended to permit more intense commercial uses that are not compatible with adjoining residential uses.

17. Canopy. Any structure, other than an awning made of cloth or metal with a frame, attached to a building, projecting out from the building, and in part supported by the ground not attached to any building.

18. Commission. The Plan Commission of the Town of Ferdinand, Dubois County Indiana.

19. Commercial. Any use and structures which are customarily related to the retail sale of goods or services.

20. Communication Tower. Any structure, including but not limited to wireless support structures of any height, as defined in Indiana Code 8-1-32.3; other tower-type structures and other antennae which exceed one hundred (100') in height,

and other broadcasting, receiving or relay structures, and any office, studio, station or other land uses and accessories directly related to the function of the communication tower.

21. County. Dubois County, Indiana.

22. Development. Any man-made change to improved or unimproved real estate including but not limited to:

(a) Construction, reconstruction, demolition, or placement of a building or any addition to a building.

(b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on site for more than 180 days;

(c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;

(d) Construction of flood control structures such as levees, dikes, channel improvements, etc.;

(e) Mining, dredging, filling, grading, excavation, or drilling operations;

(f) Construction and/or reconstruction of bridges or culverts;

(g) Storage of materials

(h) Any other activity that might change the direction, height, volume, or velocity of flood or surface waters; or

(i) Any construction that increases the cumulative impervious area of the property by 10,000 sq. ft. or more.

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

23. Development site. One or more lots, plots, or parcels of land developed or to be developed as a single development or land use and containing one or more buildings which are a

minimum of one thousand two hundred (1200) square feet in area, commonly under single ownership or control at the time of construction.

24. Directional Sign. A sign which has as its primary purpose, the conveyance of information as to how to get to the site of an activity or use.

25. Dwelling. A permanent building, or portion thereof, but not a mobile home or basement designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple family dwellings, but not including hotels, motels, or lodging houses.

26. Dwelling, Multiple Family. A dwelling containing three or more dwelling units including condominiums.

27. Dwelling, Single-Family. A dwelling containing one dwelling unit.

28. Dwelling, Two-Family. A dwelling containing two dwelling units only.

29. Dwelling Unit. One or more rooms which are arranged, designed or used as living quarters for one family.

30. Easement. A grant by the property owner for the use of a strip of land by public, corporation or persons for specific uses and purposes.

31. Employ, Employee, Employment means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

32. Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

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

34. Establishment means and includes any of the following:

    (a) The opening or commencement of any sexually oriented business as a new business;

    (b) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

    (c) the addition of any sexually oriented business to any other existing sexually oriented business;

    (d) the relocation of any sexually oriented business; or

    (e) a sexually oriented business or premises on which the sexually oriented business is located.

35. Family. A group of individuals, related by blood, marriage or adoption or a group of not more than three persons not all so related, living together in a dwelling unit as a single nonprofit housekeeping unit; as distinguished from a group occupying a boarding house, hotel, fraternity or similar living arrangement.

36. Fence. A structure serving as an enclosure, barrier or boundary.

37. Flood Plain. The area adjoining the river or stream which has been or may hereafter be covered by floodwater.

38. Ground Sign. A sign which is supported by upright columns, etc., in or upon the ground and not attached to any building.

39. Home Occupation. Any use or economic activities (regardless of whether a profit is derived therefrom) performed within any dwelling unit by the residents thereof which are clearly incidental to the use of the dwelling for residential purposes. Examples include but are not limited to certain personal services, professional services, and handicrafts. Excluded are nail salons, beauty salons, and barber shops which have more than two chairs; doctors, dentists, and reflexology and pain clinics which have more than two beds. (Ord. 2012-03, S7.05.010, June 12, 2012)

40. Impervious. Material through which water cannot pass, or through which water passes with difficulty or whatever definition is given to that term within the context of the Storm Water Control Ordinance of the Town of Ferdinand then in effect.

41. Improvement Location Permit. A document issued under this Ordinance permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land.

42. Industrial. The manufacturing, storage, 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 property and where operations and storage may be in open areas.

43. Industrial Park. A project of one or more buildings that has been planned as an integrated unit or cluster on property under unified control of ownership at the time that zoning was approved by the town.

44. Jurisdictional Area. Township 3 south, Range 4 west, sections 16, 17, 20, 21, 28, 29, 32, 33, 34, east 1/2 31, east 1/2 30, east 1/2 19, east 1/2 18, west 1/2 15, west 1/2 22, west 1/2 27.

45. Lot. A tract or parcel of land of at least sufficient size to meet minimum zoning requirements for use and area and to provide such yards and other open spaces as are herein required.

46. Lot, Corner. A lot situated at the intersection of two or more streets.

47. Marker. An object which is intended to be a permanent point for record purposes. Markers shall consist of an iron rod at least three (3) feet in length, and not less than five-eights (5/8) inch in diameter. A marker shall be placed so that the marked point shall coincide exactly with the intersection of lines to be marked. Markers shall be set with the top level with the finished grade and shall be placed at the beginning and ending of all curves along street property lines, at all points where lot lines intersect curves, either front or rear, at

all angles in the property lines of lots, and at all other lot corners not established by a monument.

48. Marquee. A canopy or awning of permanent construction projecting from the wall of a building above an entrance.

49. Massage Parlor means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas". The definition of sexually oriented businesses shall not include the practice of massage in or by any licensed hospital; nor by a licensed physician, surgeon, chiropractor or osteopath; not by any nurse or technician working under the supervision of a licensed physician, surgeon or osteopath; nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program; nor by any person or entity licensed according to the State of Indiana guidelines.

50. Mobile Home. A vehicle, including the equipment sold as part of a vehicle that is constructed for use as a conveyance upon public streets or highways by either self-propelled or not self-propelled means, is designed, constructed, or reconstructed, or added to by means of an enclosed addition or room, to permit the occupancy as a occupied dwelling, and does not have a foundation other than wheels, jacks, skirting or other temporary supports. A mobile home does not mean a manufactured home which is constructed after January 1, 1981 and exceeds nine hundred fifty (950) square feet of occupied space.

51. Mobile Home Park. A land use regulated by the State of Indiana as a mobile home park as an area of land on which at least five (5) mobile homes, other than mobile homes on permanent foundations, are harbored on temporary supports for the purpose of being occupied as principal residences.

52. Monuments. An object which is intended to be a permanent point for record purposes. Monuments shall be of concrete with a minimum diameter of three (3) inches, and a minimum length of three (3) feet and shall be marked on top with a five-eights (5/8) inch iron pin set flush with the top of the monument. Monuments shall be placed at all corner and angle points in the boundary subdivision and shall be set with

the top not less than one (1) inch above nor more than three (3) inches below the finished grade and shall be placed at all corner and angle points in the boundary subdivision.

53. Municipal Services. Any structure used or any use of land by the town, a unit of government, or a public or private utility related to a governmental or proprietary function of such government, utility or the town.

54. Natural Resources. The Indiana Natural Resources Commission.

55. Nudity or a State of Nudity means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a full opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

56. Occupied Space. The total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios, and porches.

57. Operate, Cause to be Operated, Operator means and includes the owner, permit holder, custodian, manager, operator or person in charge of any sexually oriented business.

58. Outdoor Advertising Sign. A sign which directs attention to an existing business, industry, activity or product sold or conducted at a location other than upon the premises where the sign is located.

59. Parking Space. An area ten (10) feet wide and twenty (20) feet long, exclusive of driveways and accessible from a street without having to pass over another parking space.

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

61. Preliminary Plat. A tentative map indicating the subdivision or resubdivision of land, prepared in accordance with the requirements of this ordinance as a basis for consideration prior to the preparation of the final plat.

62. Plat. A land survey and map indicating the subdivision or resubdivision of land filed or intended to be filed for record.

63. Projecting Sign. A sign which is attached to a building or other structure and extends more than one foot beyond the line of said building or structure.

64. Public Building. Any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the United States, which building is used for governmental services.

65. Public Park Or Recreation Area. Public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities.

66. Public Service Sign. A sign erected or located by a public agency providing information or instructions.

67. Regularly Features Or Regularly Shown means a consistent or substantial course of conduct such that the films or performances exhibited constitute a substantial portion of the films, or performances offered as a part of the ongoing business of the sexually oriented business.

68. Regulatory Flood. A flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a one hundred year period, as calculated by a method and procedure which is acceptable to and approved by Natural Resources. This flood is equivalent to a flood having the probability of occurrence of one percent in any given year.

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

70. Residential District. Any area zoned R-1 or R-3.

71. Residential Use. Any property used for single family, two-family or multiple family dwellings.

72. Roof Sign. A sign erected upon or above the roof or parapet wall of a building and which is wholly or partially supported by said building.

73. School. Any public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. The term "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

74. Secretary. The Executive Secretary appointed by the commission or board as the case may be, whose job description is specified in this ordinance (chapter).

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

(a) Semi Nude Model Studio shall not include a proprietary school licensed by the State of Indiana or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational program in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure;

(b) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(c) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(d) Where no more than one nude or semi-nude model is on the premises at any one time.

76. Sexual Encounter Establishment means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of engaging in "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or

semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

77. Sexually Oriented Business(es) means an adult arcade, adult bookstore or adult novelty store or adult video store, adult cabaret, adult motel, adult motion picture, escort agency, massage parlor, semi-nude or nude model studio, or sexual encounter establishment.

78. Sexually Oriented Entertainment Activity means the sale, rental, or exhibition for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances which are characterized by any emphasis on the exposure or display of "specified sexual activities" or "specified anatomical areas".

79. Shopping Center, Business Park, Office Park, or Other Grouping. A project of one or more buildings that has been planned as an integrated unit or cluster on property under unified control of ownership at the time that zoning was approved by the town.

80. Sign. A one or two-faced lettered board or form, a wall, or other surface used to visually announce, advertise, or convey information to the public for any purpose. If the lettered board or form consists of two facings then two facings shall be assembled parallel to each other, as one unit and shall convey the identical information when viewed from either side, see illustrations attached as Form 4 in Appendix. Included in the dimensions of a sign would be the following:

    (a) Any supporting posts and/or framework.

    (b) A separate form consisting of a face or other surface elements.

    (c) A form or device erected in the shape of a symbol or trademark.

    (d) A form or device attached or fastened to another structure, such as on the wall of a building.

    (e) A surface of a form or device upon which lettered, pictorial or other visual information is placed.

81. Sign Area. The maximum area of a sign including the frame or structure upon which information or copy can be placed or viewed from a single point or side.

82. Sign Zone A. Extends from center of intersection of State Road 162 and I-64 1750 feet north, east, west and south to the Dubois County line forming a rectangle.

83. Sign Zone B. Extends from center of intersection of State Road 162 and I-64 3614 feet north (to 40 acre line), and south to the Dubois County line and from 23rd Street and State Road 264 to the north jurisdictional line.

84. Sign Zone C. Extends from 3rd Street north to 23rd Street and State Road 264.

85. Specified Anatomical Areas means any of the following:

(a) the human male genitals in a discernibly turgid state, even if dully or opaquely covered;

(b) less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

86. Specified Sexual Activities means and includes any of the following:

(a) the fondling or other erotic or intentional touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

(b) sex acts, normal or perverted, actual or simulated, including intercourse, oral, copulation, or sodomy;

(c) masturbation, actual or simulated;

(d) human genitals in a state of sexual stimulation, arousal or tumescence;

(e) ultimate sexual acts, normal or perverted, actual or simulated, including intercourse, masturbation, excretory functions, or lewd exhibition of the genitals, whether between humans, a human and an animal, or for the purpose of sadomasochistic sexual abuse or stimulation.

87. Street. The dedicated and accepted space or area between the lot lines, abutting upon a right-of-way and designed as a way for vehicular traffic whether designated as a street, highway, throughway, freeway, expressway, road, avenue, boulevard, lane, place, cul-de-sac or however otherwise designated.

88. Street Clock. A timepiece erected upon or in a frame or structure placed or located by a person or business for the convenience of the public and which also serves as a business sign.

89. Structural Change or Structural Alteration. A substantial change in the foundation or a supporting member of a building, such as a bearing wall or partition, column, beam, or girder, or in an exterior wall or the roof, excluding painting, siding, shingle and window replacements.

90. Structure. Anything constructed or erected that requires location on or in the ground or attachments to something having a location on or in the ground which includes, but is not limited to, anything with a roof area of greater than 32 square feet constructed, erected or placed, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground; an inground or above ground swimming pool permanently installed; fences, buildings and walls. Exceptions: public utility, communication and electrical transmission lines and equipment and facilities supporting the same and/or incidental thereto.

91. Subdivider. Any person engaged in the subdivision of land which complies with the definition of a subdivision as contained in this ordinance (chapter).

92. Subdivision. The division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels of land, any one of which is less than ten (10) acres, for the purpose, whether immediate or future, of transfer of ownership or leasing for residential, commercial or industrial purposes; or the development of a single lot, tract or parcel of land, or a part thereof, into more than one lot, tract or parcel due to the construction or installation of buildings, building groups, streets, alleys, parking areas, or leaseholds, for the purpose of immediate or future building development for residential, commercial or industrial purposes; including shopping centers, apartment complexes, condominiums, industrial or office parks and similar developments. Provided, however, that this definition excludes certain

divisions of land more fully described as Subdivision Exemptions in Section 7.05.100 of this Ordinance.

93. Substantial Enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than fifteen percent (15%), as the floor areas exist on the date this Ordinance takes effect or on the date of an initial application or renewal, if such application or renewal is required.

94. Temporary Sign. A sign or advertising display intended to be displayed for a designated period of time. Included in this category are banner signs, construction signs, real estate signs, temporary subdivision signs, directional signs, miscellaneous private purpose signs and other signs as determined by the Secretary.

95. Town. The Town of Ferdinand, Dubois County, Indiana.

96. Township. Ferdinand Township, Dubois County, Indiana.

97. Transfer of Ownership or Control of a sexually oriented business means and includes any of the following:

    (a) the sale, lease, or sublease of the business;

    (b) the transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or

    (c) the establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

98. Variance. A request to permit a variation from the requirements of the ordinance (chapter) but not a variation allowing a use not in conformance with the zoning use classification of a particular district.

99. Wall Sign. A sign which is affixed in any manner against or parallel to any exterior wall or window of a building or structure and which does not extend above the parapet, eaves or facade of the building to which it is attached and intended to be seen from the exterior of the building or structure.

100. Yard. An open unoccupied space on the same lot with a structure extending the full side of the lot and situated between the point where the structure is closest to the lot line or street line, whichever is closer.

101. Yard, Front. A yard extending along the full length of the front lot line between the side lot lines.

102. Yard, Rear. A yard extending along the full length of the rear lot line between the side lot lines.

103. Yard, Side. A yard extending along a side lot from the front to the rear yard. (Ord. 2016-06, S7.05.010, April 12, 2016) (Ord. 2004-7, Article 1, July 19, 2004) (Ord. 2002-7, Article 1, Apr. 10, 2002) (Ord. 1998-11, Oct. 6, 1998) (Ord. 1997-3, Article I, S2, April 8, 1997)

**7.05.020 Establishment of Zoning Districts.**

(1) Standard Zoning Districts. The Town and the Jurisdictional Area contiguous thereto are divided into the following zoning districts which primarily regulate the use of land shown below under three general land categories:

A. Agricultural Districts
   1. Agricultural

B. Residential Districts
   1. One and Two Family Residential
   2. Multiple Family Residential
   3. Mobile Home

C. Non-Residential Districts
   1. Commercial
      (a) Business B1
      (b) Business B2
   2. Industrial

(2) Overlay Zoning Districts. For the purpose of this Ordinance (Chapter), there are hereby established overlay zoning districts. Overlay zoning districts impose additional uniform restrictions on all properties within their boundaries which are in addition to or may supersede those of the underlying standard zoning district. Overlay zoning districts which may impact lands under the jurisdiction of this Ordinance (Chapter) include:

A. Flood Plain District

B. Sign Zone District

(3) Map of Zoning Districts. The standard districts and overlay zoning districts are bounded as shown on maps entitled "Zoning, Town of Ferdinand, Indiana," a copy of which is available for public inspection at the Town Office.

(4) Description of Zoning Districts.

A. Agricultural.
A district that is intended to permit the use of land and structures for agricultural purposes.

B. Residential Districts.

1. One and Two Family Residential.
A district that is intended to permit development of single-family dwellings and two-family dwellings.

2. Multiple Family Residential.
A district that is intended to permit development of multiple family dwellings.

3. Mobile Home.
A district that is intended to permit placement of a mobile home structure.

C. Non-Residential Districts.

1. Commercial.
A district that is intended to permit the use of land and structures for Business B1 and Business B2 purposes.

2. Industrial.
A district that is intended to permit the use of land and structures for industrial purposes.

In the event that a business meets the definition of a Sexually Oriented Business under this Title, but may also be considered another type of business under this Title or other applicable section of the Municipal Code of the Town of Ferdinand, the rules and regulations pertaining to Sexually Oriented Businesses shall supersede and take precedence over the rules and regulations for any other type of business and said business shall be required to meet Sexually Oriented Business rules and regulations, including locating in an Industrial Zoning District.

D. Overlay Zoning Districts.

1. Flood Plain District.
This district is intended to guide development in flood hazard areas identified on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated August 5, 1985, along with any subsequent amendments or revisions which are hereby adopted by reference and declared to be a part of this Section. Uses are restricted so that development does not create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety. The district's purpose is to reduce the potential for health and safety hazards, and reduce the potential for extraordinary public expenditures for flood protection and relief.

2. Sign Zone Districts.
These districts are intended to provide additional uniform size and placement regulations of signs within the designated boundaries of Sign Zone A, Sign Zone B and Sign Zone C. These sign regulations are in addition to or may supersede those of the underlying sign regulations. (Ord. 2004-09, S2, Sept. 8, 2004) (Ord. 97-3, Article II, S1-4, April 8, 1997)

**7.05.030 Land Use Regulations.**

(1) Purpose. The purpose of this Section is to indicate which land uses may locate in each zoning district and which uses may not locate therein. There are uses that may locate in a district but only after receiving approval of a special use permit to do so.

(2) Interpretation of Land Use Table.

A. Land Uses Permitted by Right. Land uses that are listed in Table 1 with a "X" are permitted by right pursuant to various requirements of this Ordinance (Chapter).

B. Land Uses Permitted as Special Exceptions. Land uses that are listed in Table 1 as "special exceptions" are special uses requiring an application to and review by the Board of Zoning Appeals. Each application for, and instance of a special exception use shall be considered a unique situation and shall not be construed as precedent for similar requests.

C. Land Uses Permitted for Sales. Land uses that are listed in Table 1 with a "S" are permitted for the sale of goods and/or services pursuant to various requirements of this Ordinance (Chapter).

D. Land Uses Permitted for Manufacturing. Land uses that are listed in Table 1 with a "M" are permitted for the manufacturing of goods pursuant to various requirements of this Ordinance (Chapter).

E. Blank Spaces on the Chart. Land uses for which a blank space is shown for a specific zoning district are not permitted in that district, except as legal nonconforming uses.

F. Zoning Determination for Unmentioned Use. A determination will be made by the Commission regarding the proper zoning of all uses not similar to or specifically mentioned in this Section.

G. Permitted Uses Subject to All Provisions of this Ordinance (Chapter). Although a land use may be noted as permitted by right or permitted as a special use, it does not imply that such land use is permitted or permissible on every parcel in such district. No land use is permitted or permissible on a parcel unless it can be located thereon in full compliance with all of the standards and regulations of this Ordinance (Chapter) which are applicable to the specific land uses in question, or unless an appropriate variance has been granted.

H. "Sexually Oriented Businesses" shall be added as a Permitted Use for the Industrial District; and such Permitted Uses indicated above shall be subject to all applicable sections of Item XVIII of the Ferdinand Zoning Ordinance and any other applicable sections of the Municipal Code.

(3) Natural Production Uses. There may be permitted in any zoning district, on approval of the Commission, the excavation and sale of sand, gravel, clay, shale, topsoil or other natural mineral deposit or other quarrying of any kind of rock formation. As a condition of approval, the Advisory Plan Commission may impose all reasonable conditions it deems necessary.

(4) Special Provisions for Communication Towers. Communication Towers include all freestanding, broadcasting, receiving, or relay structures and similar principal land uses; and any office, studio, station or other land uses directly related to the function of the Communication Tower. Communication Towers shall be located so that there is sufficient radius of clear land surrounding the tower so that its collapse shall be completely contained on the property. Additionally, towers and accessory or similar structures shall be designed, landscaped, fenced, and secured so as not to pose an attractive nuisance to children. Communication Towers shall not be permitted by right in any of the zoning districts, but shall be permitted, if approved as a special exception, in the Agriculture and Industrial zoning districts, subject to the following requirements:

A. GENERAL PURPOSE

General Purpose is:

1. To regulate the location of wireless telecommunication facilities and cell towers within the Town's planning jurisdiction.

2. To protect certain land uses and residential areas from potential adverse impacts of telecommunication facilities and cell towers.

3. To promote and encourage shared use and co-location of wireless telecommunication facilities and cell towers as the primary option before the construction of new facilities.

4. To provide visual impact guidelines through landscape and design standards in support of the location of these facilities with the surrounding land uses and zoning districts.

5. To insure that such facilities and structures are designed, constructed, and maintained in a safe and sound manner.

B. DEFINITIONS. For purposes of this Ordinance, consistent with Ind. Code 8-1-32.3. *et. seq.,* the words and phrases below are defined as follows:

1. "antenna" means any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.

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

3. "business day" means a day other than a Saturday, a Sunday, or a legal holiday.

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

5. "Commission" means the Ferdinand Advisory Plan Commission.

6. "construction plan" when referring to a new wireless support structure means a written plan for construction that demonstrates that the aesthetics of the wireless support structure is

substantially similar to the street lights located nearest the proposed location; includes the total height and width of the wireless facility and wireless support structure, including cross section and elevation, footing, foundation and wind speed details; a structural analysis indicating the capacity for future and existing antennas, including a geotechnical report and calculations for the foundations capacity; the identity and qualifications of each person directly responsible for the design and construction; and signed and sealed documentation from a professional engineer that shows the proposed location of the wireless facility and wireless support structure and all easements and existing structures within Two Thousand (2,000) feet radius of such wireless facility or wireless support structure and a professional engineer's certification of the area within which the wireless support structure is designed to collapse.

"construction plan" when referring substantial modification of an existing wireless facility or wireless support structure means a plan that describes the proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

7. "electrical transmission tower" means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

8. "equipment compound" means the area that: (1) surrounds or is near the base of a wireless support structure; and (2) encloses wireless facilities.

9. "existing structure" does not include a utility pole or an electrical transmission tower.

10. "permit authority" means the Ferdinand Board of Zoning Appeal or the Executive Secretary and/or Ferdinand Plan Commission, as delegee, where appropriate.

11. "person" means a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

12. "small cell facility" means: (1) a personal wireless service facility as defined by the Telecommunications Act or (2) a wireless service facility that satisfies the following requirements: (a) each antenna, including exposed elements, has a volume of three (3) cubic feet or less; (b) all antennas, including exposed elements, have a total volume of six (6) cubic feet or less; and (c) the primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less.

13. "small cell network" means a collection of interrelated small cell facilities designed to deliver wireless service.

14. "substantial modification of a wireless support structure" means the mounting of a wireless facility on a wireless support structure in a manner that: (1) increases the height of the wireless support structure by the greater of: (a) ten percent (10%) of the original height of the wireless support structure; or (b) twenty (20) feet; (2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of: (a) twenty (20) feet; or (b) the width of the wireless support structure at the location of the appurtenance; or (3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.

    The term substantial modification does not include the following: (1) increasing the height of a wireless support structure to avoid interfering with an existing antenna; (2) increasing the diameter or area of a wireless support structure to: (a) shelter an antenna from inclement weather; or (b) connect an antenna to the wireless support structure by cable.

15. "utility pole" means a structure that is: (1) owned or operated by: (a) a public utility; (b) a communications service provider; (c) a municipality; (d) an electric membership corporation; or (e) a rural electric cooperative; and (2) designed and used to: (a) carry lines, cables, or wires for telephone, cable television, or electricity; or (b) provide lighting.

    The term does not include a wireless support structure or an electrical transmission tower.

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

17. "wireless support structure" means a freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.

C. PERMITS

1. A person that provides wireless communications service or otherwise makes available infrastructure for wireless communications services must first apply for a permit to (a) locate a wireless facility or wireless support structure, (b) perform a substantial modification or (c) collocate wireless facilities on existing structures within the jurisdictional limits of the

Ferdinand Zoning Ordinance.

An applicant shall demonstrate that the proposed communication tower, wireless facility, wireless support structure or substantial modification thereof complies with the requirements of this Ordinance (Chapter).

2. Setbacks. Beginning on the effective date of this ordinance, the setbacks for new telecommunication towers, new wireless facilities and wireless support structures shall be as follows and shall be measured from the base of the communication tower to the applicable property lines or street right-of-way:

   (a) Front Yard from road right-of-way including corner lots and lots which "front" more than one road right-of-way: 100% of tower height from the ground measurement. Provided, however, that no secondary support components including but not limited to guy wires and foundations for guy wires shall be erected within a yard less than twenty five feet. The yard requirements provided herein are to be measured from the most protruding point of the secondary support components including but not limited to guy wires and foundations for guy wires.

   (b) Side and rear yards and distances from adjacent property lines-interior property line 100% of tower height from the ground measurement. Provided, however, that no secondary support components including but not limited to guy wires and foundations for guy wires shall be erected within a yard less than twenty five feet. The yard requirements provided herein are to be measured from the most protruding point of the secondary support components including but not limited to guy wires and foundations for guy wires.

D. NEW COMMUNICATION TOWERS OR WIRELESS SUPPORT STRUCTURES

1. Contents of Application. An application for a permit shall include the following:

   (a) The name, business address, and point of contact for the applicant;

   (b) The location of the proposed or affected wireless support structure or wireless facility;

   (c) A construction plan, as defined herein, that describes the proposed wireless, support structure and all equipment and

network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment and certification of its fall zone;

(d) Evidence supporting the choice of location, including, without limitation,

i. maps or plats showing the proposed location(s) of applicant's proposed wireless support structure;

ii. if the proposed location is on private property, a contract with an owner of real property Owner, upon which the wireless facility and wireless support structure are to be located and a power-of-attorney giving applicant the right to seek a permit if the application in not submitted in the Owner's name; and

iii. a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:

I. would not result in the same wireless service functionality, coverage, and capacity;

II. is technically infeasible; or

III. is an economic burden to the applicant.

(e) Special, Contingent or Conditional Use or Special Exception. If the underlying zoning designation requires a special exception, special use, contingent use, or conditional use be approved for the proposed wireless support structure, the applicant shall additionally submit evidence showing that the application complies with the criteria set forth in the zoning ordinance with respect to the special exception, special use, contingent use, or conditional use must be included with the application.

(f) Variances. If the proposed wireless support structure is not a permitted use under an applicable zoning ordinance, the applicant shall additionally submit evidence showing that the application complies with the criteria for a variance of use from the terms of the zoning ordinance.

(g) Complete Application. If an applicant submits the

information required by this Section D-1, the application shall be deemed complete.

2. Procedure.

(a) Determination of Completion/Defects. Within ten (10) business days of receipt of an application, the permit authority shall review an application to determine if the application is complete and whether a public hearing is required on its request. Where a public hearing is required regarding a request, the permitting authority (Ferdinand Board of Zoning Appeals) shall conduct the hearing and take final action on the request within a reasonable period of time as indicated herein. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. An applicant that receives a written notice of incompletion may cure the defects and resubmit the application within thirty (30) days of receiving the notice.

If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(b) Decision by Permit Authority. Not more than ninety (90) days after the permit authority makes an initial determination of completeness, the permit authority shall: (1) review the application to determine if it complies with applicable underlying zoning designation and this Ordinance (Chapter); and (2) notify the applicant in writing whether the application is approved or denied.

However, if the applicant requested additional time to cure defects in the application, the ninety (90) day shall be is extended for a corresponding, reasonable amount of time.

E. SUBSTANTIAL MODIFICATIONS

1. Contents of Application. An application for substantial modification of a communication tower or wireless support structure shall include:

(a) The name, business address, and point of contact for the applicant;

(b) The location of the proposed or affected wireless support structure or wireless facility; and

(c) A construction plan, as defined herein, that describes the proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

(d) Special, Contingent or Conditional Use or Special Exception. If an applicable zoning ordinance specifies that a special exception, special use, contingent use, or conditional use must be approved for the proposed substantial modification of a wireless support structure, the application shall include evidence showing that the application complies with the criteria set forth in the ordinance with respect to the special exception, special use, contingent use, or conditional use.

(e) Variances. If the proposed substantial modification of a wireless support structure is not a permitted use under an applicable zoning ordinance, the application shall include evidence showing that the application complies with the criteria for a variance of use from the terms of the underlying zoning ordinance.

2. Procedure.

(a) Determination of Completion/Defects. Within ten (10) business days of receipt of an application, the permit authority shall review an application to determine if the application is complete and whether a public hearing is required on its request. Where a public hearing is required regarding a request, the permitting authority (Ferdinand Board of Zoning Appeals) shall conduct the hearing and take final action on the request within a reasonable period of time as indicated herein. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application.

(b) Cure. An applicant that receives a written notice of incompletion may cure the defects and resubmit the application within thirty (30) days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(c) Decision by Permit Authority. Not more than ninety (90)

days after the permit authority makes an initial determination of completeness, the permit authority shall: (1) review the application to determine if it complies with applicable laws and ordinances governing land use and zoning; and (2) notify the applicant in writing whether the application is approved or denied.

However, if the applicant requested additional time to cure defects in the application, the ninety (90) days shall be is extended for a corresponding, reasonable amount of time.

F. COLLOCATION An application for a permit for collocation shall include:

1. Contents of Application. An application for collocation of a wireless support structure shall include:

   (a) The name, business address, and point of contact for the applicant;

   (b) The location of the proposed or affected wireless support structure or wireless facility; and

   (c) Evidence of conformance with applicable building permit requirements.

2. Single Application. An applicant may submit one (1) application to collocate multiple wireless service facilities that are located within the zoning jurisdiction of the permit authority. The permit authority shall issue a single permit or all wireless service facilities included in the application rather than individual permits for each wireless service facility.

3. Procedure. Within ten (10) business days of receipt of an application the permit authority shall review an application to determine if the application is complete. If a permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. An applicant that receives a written notice of incompletion, may cure the defects and resubmit the application within fifteen (15) days of receiving the notice.

   If an applicant is unable to cure the defects within the fifteen (15) day period, the applicant shall notify the permit authority in writing of the additional time the applicant requires to cure the defects.

   Not more than forty-five (45) days after making an initial determination of completeness under subsection, a permit

authority shall: (1) review the application to determine its conformity with applicable building permit requirements; and (2) notify the applicant in writing whether the application is approved or denied.

However, if the applicant requests additional time to cure defects in the application, the forty- five (45) day period is extended for a corresponding, reasonable amount of time.

4. Special Provisions for Communication Towers. For the purpose of this Ordinance (Chapter) all wireless support structures and all wireless facilities as defined herein, and including but not limited to all freestanding, broadcasting, receiving, or relay structures and similar principal land uses shall be referred to as "Communication Towers"; and the provisions of this Ordinance (Chapter) shall be applicable to any office, studio, station or other land uses directly related to the function of a Communication Tower as well. Communication Towers shall be located so that there is sufficient radius of clear land surrounding the tower so that its collapse shall be completely contained on the property. The fall zone requirement for all wireless support structures shall be as follows: an area equivalent to the area within which the wireless support structure is designed to collapse, as set forth in the professional engineer's certification as included in the applicant's construction plan for the wireless support structure. Such fall zone area may be increased to a larger area if the permit authority provides evidence to indicate that the applicant's engineering certification is flawed. Such evidence, if provided, must include a study performed and certified by a professional engineer. Additionally, communication towers and accessory or similar structures shall be designed, landscaped, fenced, and secured so as not to pose an attractive nuisance to children. Communication Towers shall not be permitted by right in any of the zoning districts, but shall be permitted, if approved by the Board of Zoning Appeals as a special exception, in the Agriculture and Industrial zoning districts, subject to the procedures and requirement contained herein.

G. Special Requirements for Communication Towers

1. Fencing and Screening Requirements. Communication Towers and any equipment enclosures shall be visually screened on a year round basis with suitable vegetation. Notwithstanding any minimum size requirements found elsewhere in this Ordinance, the scale and nature of the vegetation shall be of sufficient

density to screen the lowest ten feet of the Communication Tower and equipment enclosure within three years of installation. A security fence shall be erected within the visually screened area and each component part of the Communication Tower.

2. Lighting. Antennae and Communication Towers shall not be illuminated by artificial means and shall not display strobe lights unless such is specifically required by the FAA or other federal and state authority for a particular Communication Tower. When incorporated into the approved design of the Communication Tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the Communication Tower.

3. Signage. The use of any portion of a Communications Tower facility for signs other than warning or equipment signs is prohibited. All such signage must comply with the sign requirements of this Ordinance. This requirement may be superseded by the written requirements of the federal and state agencies possessing jurisdiction over Communication Towers.

4. Aesthetics. The Communication Tower and any antennae located on the Communication Tower must be designed to blend into the surrounding environment through the use of color (such as metallic gray, silver or green) and camouflaging architectural treatment. Where feasible, communication towers should be designed structurally to allow other carriers to co-locate on the tower structure, thereby reducing the total number of future towers. The integration of a communications facility into an existing or proposed structure such as a church steeple, light standard, power line support, flag pole, or similar structure is encouraged.

   These requirements may be superseded by written requirements of federal or state agencies possessing jurisdiction over Communication Towers.

5. Visual Impact Analysis. In the case of a new Communication Tower, or where an existing structure is being enlarged in size, a visual impact analysis shall be prepared and certified by a qualified professional engineer or architect. Such analysis shall include the following information:

   (a) Identification of significant existing natural and manmade features adjacent to the proposed Communication Tower location, indicating those features that will provide buffing for adjacent properties and rights-of-way.

   (b) Identification of at least three specific points within a 2,000 foot radius of the proposed Communication Tower from which the line of site analysis is presented. The exact number and location of these points

shall be determined in coordination with staff prior to the preparation and completion of the analysis. Applicant shall then prepare a graphic illustration of the visual impact of the proposed Communication Tower, at a scale that does not exceed five degrees of horizontal distance, presented from the specific points identified. Such graphic illustration shall be a computer enhanced photograph with the computer-generated tower image depicted to an accurate scale; the photograph shall include text indicating from where the photograph was taken, and how many feet from the proposed Communication Tower site.

(c) A statement as to the potential visual and aesthetic impacts of the proposed Communication Tower on all adjacent properties. Such statement shall provide specific explanation as to the feasibility of camouflage given the needed height and design of the Communication Tower.

(d) Such other additional information as may be required by staff to fully review and evaluate the potential impact.

H. General Requirements. A building permit is required for every Communication Tower facility. Every building permit which is an application for a Communication Tower facility shall be accompanied by the following additional information:

1. Certification. Stating the reasons why the new structure cannot or will not be shared with additional users in the future. Certification by a qualified and licensed professional engineer that the design of the antennae support tower conforms to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronic Industry Association. Such certification must take into account any existing or proposed future users of the antennae support structure.

2. Inspection. Commercial Wireless communications service providers shall provide documentation that proposed communications facilities comply with the latest applicable Federal and State environmental, health, and safety standards, including those established by the Federal Communications Commission on Radio Frequency Emissions (REF) and exposure thereto.

(a) All communications facilities shall be required to be inspected at no expense to the Town of Ferdinand, by a qualified and licensed professional engineer, on the following timetable:

i. Monopoles: Once every ten years.

ii. Lattice (un-guyed): Once every 5 years.

iii. Guyed towers: Annually.

iv. Facilities attached to other structures: Annually.

(b) If the inspection engineer finds the facility to be structurally sound, he or she shall provide the owner/operator and the permit authority with a written certification that the facility meets the minimum safety standards of the Uniform Building Code and the Electronic Industry Association.

(c) Any safety problems or failure to comply with the design approved at time of permit issuance shall be reported by certified mail, return receipt requested, by the engineer to the owner/operator of the facility and to the Planning Department. The owner/ operator of the facility must correct the deficiencies within thirty days. The engineer shall then re-inspect the facility. If the engineer finds that the deficiencies have been corrected, he shall provide the owner/operator and the Planning Department with a certification that the facility meets the minimum safety standards of the Uniform Building Code and the Electronic Industry Association.

(d) In the event that an owner/operator fails to schedule the required inspection in. a timely fashion, the Town shall notify the owner/operator of the requirement and shall allow sixty days for the owner/ operator to obtain said inspection. If the inspection has not taken place in that time, the Town may choose an engineer to perform the inspection, placing a lien upon the property for the costs of such inspection and for any required repairs. Delay by the Town in taking action under this provision shall not in any way waive the Town's right to take action.

(e) Obsolete Communication Towers / Unused Communication Towers. The discontinuation of use, disconnection or shutdown of any communication facility shall be reported immediately in writing by the service provider to the Executive Secretary of the Plan Commission. Notwithstanding any provision of this Ordinance indicating otherwise, Communication Tower facilities that are not operated for communication for a period of six months or more shall be deemed to be abandoned. Such discontinued facilities shall be

completely removed within six (6) months of the cessation of its operation, and the site shall be restored to its pre-existing condition. If such Communication Tower facility is not removed within six (6) months, the Town of Ferdinand may remove the discontinued facility at the owner's expense. If there are two or more users of a single Communication Tower facility, this provision shall not apply until all users cease operating from said Communication Tower facility.

I. Written Determinations. Written determinations shall state clearly the basis for the decision to approve or deny an application. If the permit authority denies an application, the written notice must include substantial evidence in support of the denial. A notice is considered written if it is included in the minutes of a public meeting of the permit authority.

J. Interpretation. The provisions of this Ordinance (Chapter) are intended to support not replace the current portion of the Ferdinand Zoning Ordinance on communication towers. Nothing herein shall be construed to repeal any part of the Ferdinand Zoning Ordinance, specifically, existing provisions of the Zoning Ordinance concerning communication towers and telecommunication facilities.

K. Effective Date. This Ordinance shall be in full force and effect upon compliance with Indiana law, including without limitation a duly noticed public hearing of the Commission pursuant to Ind. Code 36-4-7 *et. seq*.

L. Severability. If any of the provisions of this Ordinance (Chapter) are declared invalid, the other provisions shall remain in full force and effect. (Ord. 2016-06, S7.05.030, April 12, 2016)

(5) Full Compliance Required. The storage and controlled release of storm water runoff shall be required of all new development, any redevelopment and other new construction in the jurisdictional territory of the Town of Ferdinand. The release rate of storm water from developed lands shall not exceed the release rate from the land area in its present land use. Because topography and the availability and adequacy of outlets for storm runoff vary with almost every site, the requirements for storm drainage tend to be an additional matter for any project. It is recommended that each proposed project be discussed with the Planning Commission office at the earliest practical time in the planning stage. Every project undertaken within the jurisdictional limits of the Town of Ferdinand, Indiana shall, unless otherwise exempt, be in full compliance with the full terms and provisions of the Ordinance Establishing the Town of Ferdinand, Indiana Storm Drainage Control Policy, then in effect. (Ord. 2004-09, S3, Sept. 8, 2004) (Ord. 2004-07, July 19, 2004 (Ord. 02-7, ARTICLE III, Apr. 10, 2002) (Ord. 97-3, Article III, S1-3, April 8, 1997)

## Table 1

| | (A-1) Agriculture | (A-1) Sp. Exception | (R-1) 1 & 2 Family Res. | (R-1) Sp. Exception | (R-3) Multiple Family | (R-3) Sp. Exception | (B-1) Business | (B-1) Sp. Exception | (B-2) Business | (B-2) Sp. Exception | (I-1) Industrial | (I-1) Sp. Exception | (M-1) Mobile Homes |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ABUSE CLINICS | | X | | | | | | X | X | | | | |
| ADOPTION SERVICE | | X | | X | | X | X | | X | | | | |
| AEROBICS/GYM | | X | | X | | X | X | | X | | | | |
| AGRICULTURE CHEMICALS | | X | | | | | | X | | X | X | | |
| AGRICULTURE EQUIPMENT | | X | | | | | | | S | M | X | | |
| AIR BNB (NOT OWNER'S PRINCIPAL RESIDENCE) | | X | | X | | | | X | | X | | | |
| AIR BNB (OWNER'S PRINCIPAL RESIDENCE) | X | | X | | | | X | | X | | | | |
| AIRPORTS/AIRCRAFT CHARTER | | X | | | | | | | | X | | X | |
| AMBULANCE SERVICE | | X | | X | | X | | X | X | | | | |
| AMUSEMENT PARK | | X | | | | | | | X | | | | |
| ANTIQUES DEALER | | X | | X | | X | X | | X | | | | |
| APPLIANCE DEALER | | X | | | | | X | | X | | | | |
| ARCADES | | X | | | | | | X | X | | | | |
| ASPHALT PRODUCTS | | X | | | | | | | | X | X | | |
| AUCTION HOUSE | | X | | | | | | X | X | | | | |
| AUTOMOBILE PARTS | | X | | | | | X | | X | | X | | |
| AUTO REPAIRS/SERVICE/SALE | | X | | | | | | X | X | | X | | |
| BAKERS/RETAIL | | X | | | | | X | | X | | | | |
| BAKER/WHOLESALE | | X | | | | | | | | X | X | | |
| BANK | | X | | | | | X | | X | | | | |
| BARBER/BEAUTY SHOP | | X | | | | | X | | X | | | | |
| BARK PARK – NON MUNICIPALLY OWNED | | X | | | | | | | | | | | |
| BED & BREAKFAST INN | | X | | X | | X | X | | | X | | | |
| BEVERAGE WHOLESALE | | X | | | | | | | X | | X | | |
| BILLIARDS | | X | | | | | | X | X | | | | |
| BOARDING HOUSE | | | | | X | | | X | | | | | |
| BOAT/RV | | X | | | | | | | S | | M | | |
| BOOK DEALER | | X | | | | | X | | X | | | | |
| BOWLING ALLEY | | X | | | | | | X | X | | | | |
| BOX MANUFACTURING | | X | | | | | | | | | X | | |
| BREWERS | | X | | | | | | | | | X | | |
| BUILDING SUPPLIES | | X | | | | | | | S | M | X | | |

**Table 1 (cont.)**

| | (A-1) Agriculture | (A-1) Sp. Exception | (R-1) 1 & 2 Family Res. | (R-1) Sp. Exception | (R-3) Multiple Family | (R-3) Sp. Exception | (B-1) Business | (B-1) Sp. Exception | (B-2) Business | (B-2) Sp. Exception | (I-1) Industrial | (I-1) Sp. Exception | (M-1) Mobile Homes |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| BULK GAS, DIESEL, AND OTHER FUELS | | X | | | | | | | | X | X | | |
| CAFES/RESTAURANT | | X | | | | | | X | X | | | | |
| CAR WASH | | X | | | | | | X | X | | | X | |
| CATERER | | X | | | | | | X | | X | | | |
| CELL PHONE STORES | | | | | | | X | | X | | | | |
| CHILD CARE | | X | | X | | X | X | | X | | | | |
| CHURCH | | X | | X | | X | | X | X | | | | |
| CLUB | | X | | X | | X | X | | X | | | | |
| CITY OFFICE | | X | | | | | X | | X | | | | |
| COM. RECREATION CENTER | | X | | X | | X | | X | X | | | | |
| COMMUNICATION TOWER | | X | | | | | | | | | | X | |
| COMPUTER/TECH INDUSTRIES | | X | | | | | X | | X | | X | | |
| CONCRETE PRODUCTS | | X | | | | | | | | | X | | |
| CONTRACTORS/BUILDING | | X | | | | | | | S | | M | X | |
| CONTRACTORS/CONCRETE | | X | | | | | | | S | | M | X | |
| CONTRACTORS/ELECTRIC | | X | | | | | | S | S | | M | | |
| CONTRACTORS/MASON | | X | | | | | | | X | | | X | |
| CONTRACTORS/PAINTING | | X | | | | | | S | S | | M | | |
| CONTRACTORS/PAVING | | X | | | | | | | S | | X | | |
| CONTRACTOR/PLUMBING H/AC | | X | | | | | | S | S | | M | | |
| CONVENT & MONASTERIES | | X | | X | X | | | | | | | | |
| CONVENIENCE STORE | | X | | | | | | X | X | | | | |
| CRISIS CENTERS | | X | | | | | | X | X | | | | |
| DAIRY PRODUCTS | | X | | | | | S | | S | | M | | |
| DEPARTMENT STORES | | X | | | | | | X | X | | | | |
| DRYCLEANERS | | X | | | | | | | X | | X | | |
| DUPLEX APTS. | | X | X | | X | | | | | | | | |
| ELECTRONIC SALES AND REPAIR | | X | | | | | X | | X | | | | |
| ENGINE/REBUILD EXCHANGE | | X | | | | | | | | X | X | | |
| FAIRGROUNDS | X | | | | | | | | | | | X | |
| FARM EQUIPMENT | | X | | | | | | | S | | M | | |

**Table 1 (cont.)**

| | (A-1) Agriculture | (A-1) Sp. Exception | (R-1) 1 & 2 Family Res. | (R-1) Sp. Exception | (R-3) Multiple Family | (R-3) Sp. Exception | (B-1) Business | (B-1) Sp. Exception | (B-2) Business | (B-2) Sp. Exception | (I-1) Industrial | (I-1) Sp. Exception | (M-1) Mobil Home |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FEED DEALERS | | X | | | | | | | S | M | X | | |
| FILLING STATION | | X | | | | | | X | X | | | X | |
| FLORISTS | | X | | | | | S | | X | | | | |
| FUNERAL HOME | | X | | | | | | X | X | | | | |
| FURNITURE RETAIL | | X | | | | | | X | X | | | | |
| FURNITURE MANUFACTURING | | X | | | | | | | | X | X | | |
| FURNITURE REPAIR/REFINISH | | X | | | | | | X | X | | X | | |
| GARDEN CENTER | | X | | | | | | | X | | X | | |
| GOLF COURSE | X | | | | | | | | | X | | | |
| GROCERS | | X | | | | | | X | X | | | | |
| HALFWAY HOUSE | | X | | | | | | X | X | | | | |
| HARDWARE STORE | | X | | | | | | X | X | | | | |
| HOME OCCUPATIONS | | X | | X | | X | | X | | X | | X | |
| HOSPITALS | | X | | X | | X | | | X | | | | |
| HOTEL/MOTEL | | X | | | | | | | X | | | | |
| INTERIOR DECORATORS | | X | | X | | X | X | | X | | | | |
| JANITOR SERVICE | | X | | | | | | X | X | | | | |
| KENNELS | X | | | | | | | | | X | | | |
| LAUNDROMAT | | X | | | | | | X | X | | | | |
| LIBRARIES | | X | | X | | X | X | | X | | | | |
| LIMOUSINE/TAXI SERVICE | | X | | | | | X | | X | | | | |
| LIQUOR STORE | | X | | | | | X | | X | | | | |
| LIVESTOCK YARD | X | | | | | | | | | | | X | |
| LOCKERS COLD STORAGE | | X | | | | | | X | X | | | | |
| LUMBER RETAIL/WHOLESALE | | X | | | | | | | X | | X | | |
| MAIL ORDER/CATALOG | | X | | | | | X | | X | | | | |
| MEAT PACKERS/PROCESSING | | X | | | | | | | | X | X | | |
| MEDICAL CLINICS | | X | | X | | X | | X | X | | | | |
| MINI STORAGE BUILDING | | X | | | | | | | X | | | X | |
| MOBILE HOME | | | | | | | | | | | | | X |
| MULTIPLE FAMILY | | | | | X | | | | | | | | |

**Table 1 (cont.)**

| | (A-1) Agriculture | (A-1) Sp. Exception | (R-1) 1 & 2 Family Res. | (R-1) Sp. Exception | (R-3) Multiple Family | (R-3) Sp. Exception | (B-1) Business | (B-1) Sp. Exception | (B-2) Business | (B-2) Sp. Exception | (I-1) Industrial | (I-1) Sp. Exception | (M-1) Mobil Home |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| MUSEUMS | | X | | | | | | X | X | | | | |
| NEWSPAPERS PUBLISHING | | X | | | | | | X | X | | X | | |
| NURSING HOMES | | X | | | X | | | | | | | | |
| PAINT & FINISH LABORATORIES | | X | | | | | | X | X | | X | | |
| PARKING LOTS/GARAGES | | X | | | | | | X | X | | | | |
| PEST CONTROL | | X | | | | | | S | S | | M | | |
| PET STORES | X | | | | | | | X | X | | | X | |
| PHARMACIES | | | | | | | X | | X | | | | |
| PHOTO FINISHING | | X | | | | | X | | X | | | | |
| PHOTOGRAPHERS | | X | | X | | X | X | | X | | | | |
| PIERCINGS | | X | | | | | | X | X | | | X | |
| POST OFFICES | | X | | X | | X | X | | X | | | | |
| POULTRY HATCHERY | | X | | | | | | X | X | | | X | |
| POULTRY PROCESSORS/WHL | | X | | | | | | | | X | X | | |
| PRINTERS | | X | | | | | | X | | X | X | | |
| PROFESSIONAL OFFICE BUILDING | | X | | | | | X | | X | | | | |
| PUBLIC SWIMMING POOL | | X | | | | | | | X | | | | |
| QUARRIES | X | | | | | | | | | | | X | |
| RECEPTION | | X | | | | | X | | X | | | | |
| RECYCLING CENTERS | | X | | | | | | | | X | X | | |
| RESIDENTIAL/BOARDING SCHOOL | | X | | X | | X | | X | | X | | | |
| SAW MILLS | | X | | | | | | | | | X | | |
| SCHOOLS | | X | | X | | X | | X | X | | | | |
| SEWAGE/TRASH DISPOSAL | | X | | | | | | | | | X | | |
| SEXUALLY ORIENTED BUSINESS | | | | | | | | | | | X | | |
| SHELTERS (PEOPLE) | | | | | X | | | X | | | | | |
| SHOPPING CENTERS | | X | | | | | | X | X | | | | |
| SIGN COMPANY | | X | | | | | | S | S | M | M | | |
| SINGLE FAMILY | X | | X | | X | | | X | | X | | | |
| SKATING RINKS | | X | | | | | | X | X | | | | |

**Table 1 (cont.)**

| | (A-1) Agriculture | (A-1) Sp. Exception | (R-1) 1 & 2 Family Res. | (R-1) Sp. Exception | (R-3) Multiple Family | (R-3) Sp. Exception | (B-1) Business | (B-1) Sp. Exception | (B-2) Business | (B-2) Sp. Exception | (I-1) Industrial | (I-1) Sp. Exception | (M-1) Mobile Homes |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| SMALL SCALE ASSEMBLY FIREARMS AND AMMUNITION | | X | | | | | | | | | | X | |
| SPORTING GOODS | | X | | | | | S | | S | | M | | |
| STABLES | X | | | | | | | | | | | | |
| TATTOO PARLORS | | X | | | | | | X | X | | | X | |
| THEATRES (FAMILY) | | X | | | | | | X | X | | | | |
| TIRE DEALER | | X | | | | | | X | X | | | | |
| UTILITY COMPANY/OFFICE | | X | | | | | X | | X | | | | |
| VENDING MACHINES | | X | | | | | | X | X | | | | |
| VETERINARY CLINIC | | X | | | | | X | | X | | | X | |
| VIDEO RENTAL | | X | | | | | X | | X | | | | |
| WELDING SHOP | | X | | | | | | X | X | | | X | |
| WINDOW/SALES/MANUFACTURING | | X | | | | | | S | S | | M | | |

**7.05.040 Land Use Requirements.**

(1) Parcel Frontage Requirements. All buildings hereinafter erected shall be located on a parcel which has at least one hundred feet (100') of road frontage. For the purposes of this Section, road frontage shall be interpreted as abutting a dedicated and accepted public street. This Section does not apply to residential subdivision lots which have a lesser frontage requirement.

(2) Visibility at Intersection. On a corner property, no structure, fence, wall, hedge or planting, more than three feet (3') in height above the level of the curb nearest to such structure, fence, wall, hedge or planting shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty-five feet (25') from the point of intersection, measured along said street lines.

Provided, however that the above paragraph shall not apply to traffic signs and public utility structures.

(3) Building Size and number of accessory structures. No single family dwelling shall be erected having a living area of less than one thousand (1,000) square feet. No dwelling unit shall be erected having a living area of less than five hundred (500) square feet. In areas zoned residential, accessory structures such as detached garages, detached outbuildings and other accessory structures are limited to two (2) per parcel or lot unless the restrictive covenants provide otherwise.

In areas zoned residential, and in areas zoned agricultural which consist of five (5) acres or less, detached buildings or structures shall have a maximum height and roof ridge which is no greater than that of the residential structure it serves. Any such detached building or structure shall be on the same lot as said residential structure or a lot immediately adjacent to the residential structure it serves. Detached garages and other accessory buildings or structures are not permitted to be constructed prior to construction of the principal structure. The maximum height of all detached buildings in all other zones shall not be greater than that of the principal structure situated thereon.

(4) Yard Requirements. No structure shall be erected in a "One and Two Family Residential" district or a "Multiple Family Residential" district with a yard less than as provided herein. All yard requirements provided herein are to be measured from the roof line or most protruding point of the structure or building.

No structure or building shall be erected in any easement.

(5) Front Yard. Twenty-five (25) feet, provided however, that in any district each structure hereafter erected may have a front yard equal to the average of

the front yards of the lots immediately adjacent thereto on either side, but no front yard shall be less than ten (10) feet. Adjacent unimproved lots shall be considered as having a front yard of twenty-five (25) feet.

(6) Side Yard. Total of fifteen (15) feet, with a minimum of five (5) feet on one side.

(7) Rear Yard. Residence twenty-five (25) feet, accessory structures five (5) feet in residential districts, fifteen (15) feet in B1 B2 districts, five (5) feet in industrial districts.

(8) Side Yard and Rear Yard Transition. Where a lot in a B1 B2 or "Industrial" district abuts a lot in a "One and Two Family Residential" or "Multiple Family Residential" district, there shall be provided along such abutting lines a yard equal in width or depth to that required in the "One and Two Family Residential" and "Multiple Family Residential" districts.

(9) Front Yard Transition. Where the frontage on one side of a street between two streets which intersect therewith is zoned partly as "One and Two Family Residential" or "Multiple Family Residential" and partly as a "B1, B2" or "Industrial" district, the front yard depth in the "B1, B2" or "Industrial" district shall be equal to the required front depth of the "One and Two Family Residential" or "Multiple Family Residential" district.

(10) Rear Yard Transition. Where the frontage on one side of a street between two streets which intersect therewith is zoned partly as "One and Two Family Residential" or "Multiple Family Residential" and partly as a "B1, B2" or "Industrial" district, the rear yard depth in the "B1, B2" or "Industrial" district shall be equal to the required rear yard depth of the "One and Two Family Residential" or "Multiple Family Residential" district.

(11) Corner Lot Transition. On every corner lot in a "One and Two Family Residential" or "Multiple Family Residential" district, there shall be provided on the side street a side yard equal to the front yard depth on said side street.

(12) Off Street Parking. The following off-street parking spaces shall be provided and satisfactorily maintained for each structure which, after the date when this ordinance becomes effective, is erected, enlarged or altered for use for any of the following purposes:

A. Dwelling: Two parking spaces for each dwelling unit.

B. Auditorium, Stadium, Theater, Church or Other Places of Public Assemblage: At least one parking space for each four seats provided for its patrons, based on maximum seating capacity.

C. Hotel: At least one parking space for each three guest sleeping rooms.

D. Motel: At least one parking space for each guest sleeping room.

E. Restaurant or Other Eating Place: Parking spaces in a number equal to one-third of the total seating capacity, excepting when it is in a building which provides parking space, in which case the number of places already provided may be taken to be available for the restaurant or other eating place.

F. Hospital, Sanitarium, or Nursing Home: At least one parking space for each five patient capacity.

G. Retail Stores, Service Establishments and Repair Shops: At least one parking space for each three hundred square feet of store floor area devoted to sales.

H. Offices, Office Buildings, Banks and Other Financial Institutions: At least one parking space for each three hundred (300) square feet of office floor area.

I. Industrial or Manufacturing Establishments: At least one parking space for each four hundred (400) square feet of gross floor area, exclusive of areas used only for storage.

J. Bowling Alleys: At least four parking spaces for each alley.

K. Amusement Enterprises, Exhibition Halls, Auction Barns, and Places of Public Assembly Without Fixed Seats: At least one parking space for each hundred square feet of floor area in public use.

L. Funeral Homes and Mortuaries: At least one parking space for each fifty square feet of floor area in service rooms.

M. Laundromats: At least one parking space for each two machines.

All parking spaces provided pursuant to this section shall be on the same lot with the building, except that the Board of Zoning Appeals may permit the parking spaces to be on any lot within five hundred (500) feet of the building, if it determines that it is impractical to provide parking on the same lot with the building. The requirements set forth for off-street parking may be waived by the Board.

For purposes not specified above: Parking spaces shall be provided in a number equal to the number required for the listed use which is most similar, as determined by the Advisory Plan Commission.

(13) A. Public Garages, Filling Stations, and Parking Areas. Plans for the erection or structural alteration of any public garage for more than

five (5) motor vehicles, or a filling station, or a parking lot, shall be approved by the Advisory Plan Commission. The Commission may require such change in regard to yards, landscape treatment, location of pumps, buildings, floodlights, surfacing and construction of structures as it may deem best suited to insure safety, to minimize traffic difficulties and to safeguard adjacent properties.

B. Requirements for Off-Street Parking Areas. The following requirements for off-street parking areas within the jurisdiction of this Zoning Ordinance shall apply as follows:

1. The provisions of this section shall not apply to any existing off-street parking area within the jurisdiction of this Zoning Ordinance unless or until there is a change of use, ownership, or occupancy, or modification as herein provided.

2. Whenever an off-street parking area constructed before the effective date of the Ordinance codified in this section is changed; or altered; or enlarged in area or number of spaces, or there is a change in the type of materials, change of use, ownership, or occupancy, repaving, or otherwise, the off-street parking areas existing prior to the effective date of the Ordinance codified in this section shall then and thereafter comply with the full requirements set forth herein.

3. Off-street parking areas shall be used only for the parking of vehicles of occupants, patrons, visitors, or employees and shall not be used for any kind of loading, sales, servicing, or continuous storage of a vehicle for more than forty-eight (48) hours.

4. Every parcel of land hereafter used as a public or private off-street parking area which accommodates five (5) or more vehicles, with the exception of those in the Agricultural zoning district and those private parking areas which serve only one single family residence, shall be developed and maintained in accordance with the following requirements:

(a) Each off-street parking space shall have direct access to an aisle or driveway and all off-street parking areas shall have vehicular access to a street or alley so designed to minimize interference with pedestrian and traffic movement.

(b) All off-street parking, including access drives and aisles, shall be paved with bituminous, concrete, or other all-weather, dust-proof surfacing and shall be provided with bumper guards or barrier curbs where

needed. A crushed stone or gravel surface may be used for a period not exceeding one (1) year after the parking area is opened for use where ground conditions are not immediately suitable for permanent surfacing.

(c) All open off-street parking areas shall be effectively screened on each side adjoining or fronting on any property situated in a Residential District or any institutional premises by a wall, fence, or densely planted compact hedge, not less than five (5) feet nor more than eight (8) feet in height.

5. Any variance from the requirements of this Ordinance shall require Board of Zoning Appeals approval.

(14) Earthen Ponds and Lakes. No earthen pond, lake, or other similar body of water shall be constructed in any zoning district without first obtaining BZA approval of it as a special exception. (Ord. 2022-10, S1, Mar. 15, 2022) (Ord. 2021-03, S7.05.040, Mar. 16, 2021) (Ord. 2016-23, Nov. 8, 2016) (Ord. 2014-21, 7.05.040, Dec. 9, 2014) (Ord. 2014-19, S7.05.040, Nov. 11, 2014) (Ord. 11-04, Mar. 8, 2011) (Ord. 98-11, Oct. 6, 1998) (Ord. 97-3, Article IV, April 8, 1997)

(15) Tall Structure Construction. Contractors are urged to submit FAA For 7460-1 to initiate an FAA Airspace evaluation prior ro construction of very tall buildings and to comply with Indiana Code 8-21-10 or any subsequent laws then in effect. See Appendix Form 7. (Ord. 2022-23, S7.05.040, June 21, 2022)

(16) No above ground storm water detention shall be constructed on any development fronting Main Street (State Hwy 162). (Ord. 2022-39, S7.05.040, Nov. 22, 2022)

(17) Except for Single Family Residential and Industrial zoning districts, any new construction, development, or re-development shall have its ground mounted HVAC equipment including duct work positioned in such a manner that it is not visible from the street it fronts. (Ord. 2022-39, S7.05.040, Nov. 22, 2022)

(18) All Commercial and Multi-Family Residential developments or re-developments shall have appropriate screening or fencing to conceal its permanent dumpsters and commercial trash containment areas. (Ord. 2022-39, S7.05.040, Nov. 22, 2022)

**7.05.045 Standards for Solar Installations.**

(1) Commercial. On October 18, 2022, the Ferdinand Town Council adopted Ordinance 2022-37, which adopted the default standards for commercial installations that are provided by statute.

(2) Residential. The owner of a residential property may not install or locate a solar panel system on the property anywhere other than the roof top of the residential structure, without first obtaining a variance from the Board of Zoning Appeals. (Ord. 2022-39, S7.05.045, Nov. 22, 2022)

**7.05.050 Signs.**

(1) Purpose. The purpose of this Section is to promote and protect the safety and welfare of the public and to enhance and preserve the beauty and appearance of the environment through the regulations of existing and proposed signs in the Town and Jurisdictional Area. This Section is not intended to regulate the content of signs, but merely their size and placement.

(2) Administration.

A. Permanent Signs.

1. Permit. Except as otherwise provided in this Section, no permanent sign exceeding six (6) square feet in area and six (6) feet in height above ground shall be erected, placed, altered, located or relocated anywhere in the Jurisdictional Area or in the Town until a sign permit for such has been issued by the Executive Secretary.

2. Application for Sign Permit. Application for a permanent sign permit shall be made upon forms provided by the Executive Secretary, a copy of which is contained in Form 1 of the Appendix to this Ordinance (Chapter). An artist rendition, photograph of similar sign, or sketch must be provided with all permanent sign applications for Plan Commission approval.

3. Issuance of Permit. The Executive Secretary shall examine the application and accompanying information and the premises upon which the sign is proposed to be located, and if it shall appear that the proposed sign is in compliance with all the requirements of this Section and any other applicable Sections, the Executive Secretary shall then issue a permit. Such permit shall be valid for a period of one (1) year, and all work for which the permit had been issued shall be completed within that period of time. If work has not been

completed within the one (1) year period, it shall be necessary for the applicant to apply for another permit, just as if no previous permit had been issued.

4. Permit Fee. Every applicant, before being granted a permanent sign permit, shall pay to the Town a Permit Fee in the amount of Twenty-Five Dollars ($25.00). The Executive Secretary shall refuse to issue any permanent sign permit to any permittee or owner who refuses to pay any costs so assessed.

5. Revocation of Permits & Licenses. The Executive Secretary is hereby authorized and empowered to revoke any sign permit issued by him upon failure of the applicant to comply with any provision of this Section.

B. Temporary Signs.

1. Permit. Except as otherwise provided in this Section, no temporary sign exceeding six (6) square feet in area and six (6) feet in height above ground shall be erected, placed, altered, located or relocated anywhere in the Jurisdictional Area or in the Town until a temporary sign permit for such has been issued by the Executive Secretary. The height shall be measured from street or sidewalk level.

2. Application for Sign Permit. Application for a temporary sign permit shall be made upon forms provided by the Executive Secretary, a copy of which is contained in Form 1 of the Appendix to this Ordinance (Chapter).

3. Issuance of Permit. The Executive Secretary shall examine the application and accompanying information and the premises upon which the temporary sign is proposed to be located, and if it shall appear that the proposed temporary sign is in compliance with all the requirements of this Section and any other applicable Sections, the Executive Secretary shall then issue a temporary sign permit. The permit shall not be valid for more than thirty (30) days or forty eight (48) hours after the advertised event, whichever occurs earlier. If a permit for a temporary sign is issued, a new permit application for said premises shall not be issued until thirty (30) days after expiration of the prior permit.

4. Permit Fee. Every applicant, before being granted a temporary sign permit, shall pay to the Town a Permit Fee in the amount of Five Dollars ($5.00). The Executive Secretary

shall refuse to issue any sign permit to any permittee or owner who refuses to pay any costs so assessed.

5. Revocation of Permits & Licenses. The Executive Secretary is hereby authorized and empowered to revoke any temporary sign permit issued by him upon failure of the applicant to comply with any provision of this Section.

C. Unsafe and Unlawful Signs. If the Executive Secretary shall find that any sign, sign framework, or any part thereof is unsafe, unsecured, a menace to the public, not in good condition or repair, or has been constructed or located in violation of the provisions of this Section and any other applicable Sections, he shall notify the permittee or owner hereof to comply with the provisions of this Ordinance (Chapter). Signs must be in compliance within fifteen (15) days from receipt of such notice. Upon failure to comply with such notice within the prescribed period, the Executive Secretary or duly authorized representative is hereby authorized to take whatever corrective action is necessary to bring the sign into compliance with this Ordinance (Chapter), and to collect the costs of such corrective action, together with a penalty from the permittee or owner, in the manner provide by law and this Ordinance (Chapter).

D. Removal of Certain Signs. Any commercial sign which no longer advertises an existing business conducted or product sold on the premises, shall be removed by the owner of the sign or premises upon which such sign is located. The Executive Secretary, upon determining that all business operations have ceased and noting that a sign exists, shall notify the owner of the premises in writing to remove said sign within thirty (30) days after the date of such notice. Upon failure to comply with such notice within the prescribed period, the Executive Secretary is hereby authorized to take whatever corrective action is necessary to cause removal of such sign, and to collect the costs of such corrective action, together with a penalty from the owner of such sign or of such property, as the case may be, in the manner provided by law and this Ordinance (Chapter).

E. Nonconforming Exempt Signs. Existing signs which do not conform to the provisions of this Section as of the effective date of this Ordinance (Chapter) shall be considered lawful nonconforming exempt signs. No nonconforming sign shall be altered, rebuilt, or moved without being brought into compliance with the requirements of this Ordinance (Chapter). Minor repairs, routine maintenance and repainting are permitted and are not considered alterations for the purposes of this Ordinance (Chapter). A minor repair is considered any repair having a value of less than twenty-five percent (25%) of the replacement value of such sign and such repairs are limited to once every twelve (12) months. Single face changes are not

considered alterations for the purposes of this Ordinance (Chapter). Any non-conforming sign destroyed by an act of God may be repaired or replaced by a sign of same dimensions of original size. Any repairs or replacements must be completed within six (6) months after destruction.

(3) Specific Regulations.

A. Wall Signs.

1. The cumulative area of one or more wall signs shall not exceed the lesser of a total square foot area of more than twenty-five percent (25%) or two hundred forty (240) square feet of the total wall and window area to which they are attached.

2. Wall signs shall not extend out from the building or structure to which they are attached for more than one (1) foot, except that any wall sign or part thereof which is less than nine (9) feet above the ground level shall not extend out for more than four (4) inches.

B. Projecting Signs

1. Projecting signs shall not project or extend out from the building or structure to which it is attached for more than five (5) feet.

2. Tops of projecting signs shall not exceed twenty (20) feet in height above ground level.

3. No glass shall be used in projecting signs other than safety glass.

4. Size of projecting sign area shall be no more than twenty-five (25) square feet.

5. There shall be no more than one (1) projecting sign per building.

C. Ground (Free Standing) Signs

1. No part of any ground sign shall be closer than six (6) feet to a street curb line or edge of pavement.

2. No ground sign shall be allowed on street corners within the triangular area fifteen (15) feet along each intersecting street.

3. No part of any ground sign shall be closer than six (6) feet to any adjacent lot or property line.

D. Awnings, Canopies, and/or Marquees

1. All awnings, canopies and/or marquees shall be constructed and erected so that the lowest portion thereof shall not be less than nine (9) feet above the level of the sidewalk.

2. No portion of any awning, canopy and/or marquee shall be permitted to extend beyond a point five (5) feet inside the curb line.

3. No sign shall be placed on any awning, canopy and/or marquee except the name of the owner and the business or activity conducted on the premises may be painted or otherwise permanently placed in a space not exceeding twelve (12) inches in height on the front and side portions thereof.

E. Street Clocks

1. Street Clocks must meet regulations set forth for ground (free standing), wall and projecting signs contained herein.

2. Only the name of the owner and/or name of the business or activity conducted on the premises shall be permitted to appear on the clock.

3. Flashing or blinking lights are permitted only to indicate the time and/or temperature.

F. Temporary Signs. Temporary signs for the purpose of this Section shall mean any display or sign constructed of fabric, canvas, plastic, plywood or other light material and designed or intended to be displayed for a short period of time (such as banners, balloons, construction signs, sales event signs, political campaign signs, yard sale signs.) All temporary signs, regardless of area and size, must meet the following requirements:

1. All temporary signs may be erected no more than thirty (30) days prior to the event they advertise.

2. Temporary signs must be marked in permanent marker in the lower right hand corner with the date on which it was erected.

3. All temporary signs must be removed within thirty (30) days after they are erected or within forty-eight (48) hours after the event they advertised, whichever occurs earlier.

4. In the event temporary signs are not removed from the public right-of-way or public property within thirty (30) days after they are erected and/or forty-eight (48) hours after the advertised event, whichever occurs earlier, the Town may remove the sign.

5. If a temporary sign is erected, the same or a different temporary sign may not be erected on the premises until thirty (30) days after removal of the temporary sign.

6. No more than two (2) banners may be displayed at any time per premises, with total square footage of all banners not to exceed fifty (50) square feet.

7. All temporary signs, shall not be located on any tree or public utility pole.

G. Roof Signs. Roof signs are not permitted.

Rationale: The restriction of roof signs furthers the public interest of reducing visual clutter which has been determined to be a cause of unsafe traffic conditions. Adequate and ample means of portraying the message on such signs remains available, including wall signs, projecting signs, ground (free-standing) signs, marquees, and street clocks.

H. General Provisions.

1. No sign shall be erected that by reason of position, shape, or color may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.

2. Under no circumstance shall any sign or part thereof project over or extend beyond a point five (5) feet inside the curb line or edge of the street pavement.

3. No part of any sign shall project or extend over any pedestrian walkway for a distance of more than eight (8) feet, and every such sign projecting out for more than two (2) feet shall have a clear space of at least nine (9) feet below all projecting parts.

4. No sign may be placed on utility poles.

I. Signs - Residential. Signs shall be permitted in districts zoned Residential if they comply with the following:

1. One (1) ground (free-standing) sign per structure per street lot is permitted.

2. Size of ground signs shall be no more than six (6) square feet.

3. Tops of ground signs shall not exceed six (6) feet in height above ground level. The height shall be measured from street or sidewalk level.

4. Illuminated signs are prohibited in residential uses.

5. No sign used for display of commercial advertising shall be permitted in a district zoned residential unless approved by the Board of Zoning Appeals.

6. Signs shall be placed and located so as to maintain the integrity of the residential area, shall not conflict with pedestrian or traffic movements and shall not be injurious to the public health, safety or welfare.

J. Signs - Agricultural. Signs shall be permitted in districts zoned Agricultural if they comply with the following:

1. One (1) ground (free-standing) sign per lot is permitted.

2. Size of ground signs shall be no more than six (6) square feet.

3. Tops of ground signs shall not exceed six (6) feet in height above ground level. The height shall be measured from street or sidewalk level.

4. Illuminated signs are prohibited in agricultural uses.

5. Signs used for display of commercial advertising shall pertain to the existing business, activity or product sold or used on the premises.

6. Signs used for display of commercial advertising which pertains to an existing business, industry, activity or product sold or used at a location other than the premises where the sign is located shall not be permitted in a district zoned agricultural unless approved by the Board of Zoning Appeals.

7. Signs shall be placed and located so as to maintain the integrity of the agricultural area, shall not conflict with

pedestrian or traffic movements and shall not be injurious to the public health, safety or welfare.

K. Signs - Non-Residential.

1. Commercial. Signs shall be permitted in districts zoned Business B1 and B2 if they comply with the following:

(a) No more than one (1) wall sign.

(b) No more than one (1) ground (free-standing) sign per structure per street frontage, not to exceed fifty (50) square feet in area. The ground (free-standing) sign shall not exceed twenty (20) feet in height above ground level. The height shall be measured from street or sidewalk level.

(c) Shopping Center, Business Park, Office Park, or other Grouping, in addition to the permitted wall sign, are allowed no more than one (1) marquee per one thousand (1,000) lineal feet of building frontage.

(d) Signs used for display of commercial advertising shall pertain to the existing business, activity or product sold on the premises.

(e) Signs shall be placed and located so as to maintain the integrity of the building or structure, shall not conflict with pedestrian or traffic movements, shall not be injurious to the public health, safety or welfare, and shall be designed in keeping with the character of the structure and surrounding land use.

2. Industrial. Signs shall be permitted in districts zoned Industrial if comply with the following:

(a) No more than one (1) wall sign.

(b) No more than one (1) ground (free-standing) sign per structure per street front, not to exceed one hundred (100) square feet in area. The ground (free-standing) sign shall not exceed eight (8) feet in height above ground level. The height shall be measured from street or sidewalk level.

(c) Industrial Parks, in addition to the permitted wall sign, are allowed no more than one (1) marquee sign

per one thousand (1,000) lineal feet of building frontage.

(d) Signs used for display of commercial advertising shall pertain to the existing business, industry, activity or product sold on the premises.

(e) Signs shall be placed and located so as to maintain the integrity of the building or structure, shall not conflict with pedestrian or traffic movements, shall not be injurious to the public health, safety or welfare, and shall be designed in keeping with the character of the structure and surrounding land use.

L. Signs - Overlay Sign Zone A. In order to encourage multiple user signs, developers in the Overlay Sign Zone A District shall be permitted one (1) additional ground sign on the development site for each five (5) acres of development, subject to the following guidelines:

1. The top of the one (1) additional ground sign shall be no more and no less than one hundred (100) feet in height above ground level. The height will be measured from the nearest street or sidewalk level or the ground at the base of the sign, whichever is higher.

2. Size of ground signs shall depend on the number of users:
   (a) A single user sign shall not exceed two hundred and fifteen (215) square feet in area.

   (b) A two user sign shall not exceed four hundred and thirty (430) square feet in area, with any single user on the two user sign not to exceed two hundred and fifteen (215) square feet in area.

   (c) A three user sign shall not exceed six hundred and forty (640) square feet in area, with any single user on the three user sign not to exceed two hundred and fifteen (215) square feet in area.

3. Ground signs shall be a minimum of three hundred (300) feet from the right of way of State Road 162.

4. Ground signs shall be maintained and located at a minimum of intervals of five hundred (500) feet.

5. Signs used for display of commercial advertising shall pertain to the existing business, industry, activity or product sold on the premises.

M. Signs - Overlay Sign Zone B. Any sign located in the Overlay Sign Zone B District shall be a minimum of fifty (50) feet from the right of way of State Road 162.

N. Signs - Overlay Sign Zone C. Any sign located in a districts zoned Commercial and Industrial in the Overlay Sign Zone C District shall comply with the following:

1. No more than one (1) ground (free-standing) sign per structure per street front, not to exceed fifty (50) square feet in area. The ground (free-standing) sign shall not exceed twenty (20) feet in height above ground level. The height shall be measured from street or sidewalk level.

2. Signs used for display of commercial advertising shall pertain to the existing business, industry, activity or product sold on the premises.

O. Outdoor Advertising Signs: Signs used for display of commercial advertising which pertains to an existing business, industry, activity or product sold at a location other than upon the premises where the sign is located shall be permitted in districts zoned Business B2 or Industrial if they comply with the following:

1. No more than one (1) ground (free-standing) sign, not to exceed fifty (50) square feet in area. The ground (free-standing) sign shall not exceed twenty (20) feet in height above ground level. The height shall be measured from street or sidewalk level.

2. Signs shall be placed and located so as to maintain the integrity of the building or structure, shall not conflict with pedestrian or traffic movements, shall not be injurious to the public health, safety or welfare, and shall be designed in keeping with the character of the structure and surrounding land use.

3. The area of such sign must be included in the total allowable sign area of the owner of the premises on which the sign is located.

(4) Penalties. Any person who fails to comply with any or all of the requirements of this Section or who fails to or refuses to comply with any notice, order or direction of the Executive Secretary made thereunder shall

be guilty of an offense, and upon conviction thereof shall pay a fine to the Town of Ferdinand of not less than Twenty-Five Dollars ($25.00) and no more than One Hundred Dollars ($100.00) plus costs of prosecution. Each day of violation shall be deemed a separate offense.

(5) Variances.

A. The Board of Zoning Appeals may grant a variance from the requirements of this Section if it finds the following conditions exist:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

3. The strict application of the terms of this Section will result in practical difficulties in the use of the property.

4. The variance requested is the minimum necessary to permit the applicant reasonably to draw attention to its business, enterprise, and exhibition.

B. The Board of Zoning Appeals may make any variance it grants subject to any reasonable conditions that it deems necessary or desirable to make the device that is permitted by the variance compatible with the purposes of this Ordinance (Chapter).

C. If a variance is granted the area of such sign must be included in the total allowable sign area of the owner of the premises on which the sign is located. (Ord. 97-3, Article V, S1-5, April 8, 1997)

**7.05.060 Flood Plain Overlay Zoning District.**

(1) Floodplain Overlay District. There is hereby established a floodplain overlay district as herein described whose restrictions shall be in addition to those of the underlying zoning district. Wherever a discrepancy exists between the floodplain regulations and the zoning district regulations, the more restrictive shall apply.

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, upon favorable recommendation of the Ferdinand Plan Commission, the Town Council of the Town of Ferdinand, Indiana does hereby adopt the following floodplain management regulations.

B. Findings of Fact.

1. The flood hazard areas of the Town of Ferdinand 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.

C. Statement of Purpose. It is the purpose of this ordinance (chapter) 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 flood waters.

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 federal subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

D. Objectives. The objectives of this ordinance (chapter) 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.

(2) Definitions. Unless specifically defined below, words or phrases used in this ordinance (chapter) shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance (chapter) 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 Al -A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

1. 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.

2. 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 Al -A30.)

3. 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.

4. 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.

5. 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.

6. 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.

7. **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.

8. **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.

9. **Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance (chapter).

10. **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.

11. **Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year.

12. **Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.

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

14. **Boundary River** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

15. **Boundary River Floodway** means the floodway of a boundary river.

16. **Building** - see "Structure."

17. **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

18. **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.

19. **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.

20. **Development** means any man-made change to improved or unimproved real estate including but not limited to:

    (a) construction, reconstruction, or placement of a structure or any addition to a structure;

    (b) 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;

(c) installing utilities, erection of walls and fences, construction of roads, or similar projects;

(d) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

(e) mining, dredging, filling, grading, excavation, or drilling operations;

(f) construction and/or reconstruction of bridges or culverts;

(g) storage of materials; or

(h) 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.

21. **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).

22. **Elevation Certificate** is a certified statement that verifies a structure's elevation information.

23. **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.

24. **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.

25. **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).

26. **FEMA** means the Federal Emergency Management Agency.

27. **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.

28. **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.

29. **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.

30. **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.

31. **Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

32. **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

33. **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.

34. **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.

35. **Floodplain management regulations** means this ordinance (chapter) 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.

36. **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.

37. **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.

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

39. **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.

40. **Fringe** is those portions of the floodplain lying outside the floodway.

41. **Hardship** (as related to variances of this ordinance (chapter))

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

42. **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.

43. **Historic structures** means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

44. **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.

45. **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.

46. **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:

47. **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 a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

48. **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.

49. **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A 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.

50. **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.

51. **Lowest floor** means the lowest elevation described among the following:

    (a) The top of the lowest level of the structure.

    (b) The top of the basement floor.

    (c) The top of the garage floor, if the garage is the lowest level of the structure.

    (d) The top of the first floor of a structure elevated on pilings or pillars.

    (e) 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:

        i 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;

ii 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,

iii such enclosed space shall be usable solely for the parking of vehicles and building access.

52. **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."

53. **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.

54. **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.

55. **Mitigation** means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

56. **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.

57. **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.

58. **New construction** means any structure for which the "start of

construction" commenced after the effective date of the community's first floodplain ordinance.

59. **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.

60. **Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.

61. **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.

62. **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.

63. **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".

64. **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.

65. **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 the customary manner, of any

navigable lake, or river, bay, stream, canal, or basin.

66. **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.

67. **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 a FIS.

68. **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 (chapter). The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood'.

69. **Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10- year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

70. **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.

71. **Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Ferdinand are generally identified as such on the Dubois 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, Al- A30, AH, AR, A99, or AO).

72. **Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

73. **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 tem' also includes recreational vehicles to be installed on a site for more than 180 days.

74. **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

75. **Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code

requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

76. **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.

77. **Variance** is a grant of relief from the requirements of this ordinance (chapter), which permits construction in a manner otherwise prohibited by this ordinance (chapter) where specific enforcement would result in unnecessary hardship.

78. **Violation** means the failure of a structure or other development to be fully compliant with this ordinance (chapter). A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance (chapter) is presumed to be in violation until such time as that documentation is provided

79. **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.

80. **X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones 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.

81. **Zone** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

82. **Zone A** (see definition for A zone)

83. **Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of 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.)

(3) General Provisions.

A. **Lands to Which This Ordinance (Chapter) Applies.** This ordinance (chapter) shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Ferdinand.

B. **Basis for Establishing Regulatory Flood Data.** This ordinance's (chapter'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 the Town of Ferdinand shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Dubois County, Indiana and Incorporated Areas 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 the Town of Ferdinand, delineated as an "A Zone" on the Dubois 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.

C. **Establishment of Floodplain Development Permit.** A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance (chapter) prior to the commencement of any development activities in areas of special flood hazard.

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 (chapter) and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance (chapter) and other applicable regulations.

E. **Abrogation and Greater Restrictions.** This ordinance (chapter) is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance (chapter) and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

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.

G. **Interpretation.** In the interpretation and application of this ordinance (chapter) 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.

H. **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance (chapter) 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 (chapter) does not create any liability on the part of the Town of Ferdinand, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance (chapter) or any administrative decision made lawfully thereunder.

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 (chapter). Such violations may be considered a common nuisance and be treated as such. In accordance with the provisions of the Zoning Code for the Town of Ferdinand, judgment of up to $2,500.00 for each violation may be recovered.

1. Each day of noncompliance with the provisions of this Ordinance (Chapter) shall constitute a separate and distinct ordinance violation.

2. Upon a determination that a violation exists, the Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

3. Nothing herein shall prevent the Town of Ferdinand from taking such other lawful action to prevent or remedy any violations. The Town of Ferdinand may recover all costs, including its attorney fees, if judgment is entered in its favor for a violation of this Ordinance (Chapter).

(4) Administration.

A. **Designation of Administrator.** The Town Council of the Town of Ferdinand hereby appoints the Executive Secretary of the Plan Commission to administer and implement the provisions of this ordinance (chapter) and is herein referred to as the Floodplain Administrator.

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 applicants risk.

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. Certification shall be prepared by or under the direct 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, an elevation certification which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.

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 (chapter). The administrator is further authorized to render interpretations of this ordinance (chapter), 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 (chapter) 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 (chapter), 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 (chapter).

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. Stop Work Orders

    (a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance (chapter) 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.

14. Revocation of Permits

(a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance (chapter), in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance (chapter).

(5) Provisions for Flood Hazard Reduction.

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 (chapter) shall meet the requirements of "new construction" as contained in this ordinance (chapter).

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 it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding

the value of the land) before 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 (chapter) does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

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, 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 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.

5. **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

   (a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

   (b) The fill shall extend 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 3 horizontal to 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.

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 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 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.

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.

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.

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 (chapter) 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 affect 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) the Town 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.

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 (chapter) 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.

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 (chapter) 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 (chapter) 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.

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.

(6) Variance Procedures.

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 (chapter).

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 (chapter). Any person aggrieved by the decision of the board may appeal such decision to the Dubois County Circuit Court.

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 (chapter), 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 are 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.

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 (chapter) may be granted.

3. Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance (chapter) 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).

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; and;

2. Such construction below the flood protection grade increases risks to life and property.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

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 an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

G. **Special Conditions.** Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance (chapter), 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 (chapter).

(7) Severability. If any section, clause, sentence, or phrase of the Ordinance (Chapter) is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance (Chapter). (Ord. 14-14, S7.05.060, Sept. 9, 2014) (Ord. 07-08, Exhibit 1, July 10, 2007) (Ord. 97-3, Article VI, S1, April 8, 1997)

**7.05.070 Nonconforming Uses and Nonconforming Structures.**

(1) Nonconforming Use Regulations.

A. Definition. A nonconforming use is an active and actual use of land or structures, or both, legally established prior to the effective date of this Ordinance (Chapter) or subsequent applicable amendment thereto which has continued the same use to the present, and which would not be permitted under the current land use regulations of this Ordinance (Chapter).

B. Continuance of a Nonconforming Use. Any nonconforming use lawfully existing upon the effective date of this Ordinance (Chapter) may be continued at the size and in a manner of operation existing upon such date, except as hereafter specified.

C. Modification of a Nonconforming Use. Except as hereafter specified, a nonconforming use shall not be expanded or changed to another nonconforming use unless such modification would make the nonconforming use have a more desirable effect in terms of implementing the purposes of this Ordinance (Chapter), as determined by the Plan Commission. If such a modification is

permitted, said use shall not be modified back to the original nonconforming use, or to any other nonconforming use which does not better accomplish the purposes of this Ordinance (Chapter). Permission to modify in such a manner shall require that the lot be brought into conformance wherever reasonable and feasible, or a schedule be developed to bring the lot into conformance with the provisions of this Ordinance (Chapter).

D. Discontinuance of a Nonconforming Use. Except as hereafter specified, when any nonconforming use of any structure or land is discontinued for a period of twelve (12) months or is changed into a conforming use, any future use of said structure or land shall be in conformity with the provisions of this Ordinance (Chapter).

E. Maintenance of a Nonconforming Use. The normal maintenance of a structure or land containing or related to a nonconforming use is permitted, including necessary repairs and incidental alterations which do not exacerbate the adverse impacts of the nonconforming use in relation to the purposes of this Ordinance (Chapter). In no instance shall said repairs exceed fifty percent (50%) of the assessed value of said structure or property prior to said repairs.

F. Exceptions for Pre-Existing Mobile Home Structures and Pre-Existing Mobile Home Parks.

1. Pre-Existing Mobile Home Structures. Any mobile home structure lawfully existing upon the effective date of this Ordinance that was used, previously used, or originally designated for such use, may be used for a residential use with said use considered a permitted nonconforming use. No new or different mobile home may be placed on the land after the nonconforming mobile home is removed. Any new or different structure placed on the land must be in conformity with the provisions of this Ordinance (Chapter).

2. Pre-Existing Mobile Home Parks. Any mobile home park lawfully existing upon the effective date of this Ordinance that was used, previously used, or originally designated for such use, may be used for a residential use with said use considered a permitted nonconforming use. However, the mobile home park may not be enlarged by permitting a new or different mobile home to be placed on the area of land being used as a nonconforming mobile home park. Additionally, no new or different mobile home may be placed on the area of land being used as a non-conforming mobile home park after a mobile home is removed from the mobile home park. Any new or different structure placed on the

land must be in conformity with the provisions of this Ordinance (Chapter).

G. Changes of a Zoning District. Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any nonconforming uses existing thereon.

(2) Nonconforming Structure and Building Regulation.

A. Continuance of a Nonconforming Structure. Any structure or building lawfully existing upon the effective date of this Ordinance which is used for a permitted land use regulation but is not in conformity with the land use requirements may be continued in the size and in a manner of operation existing upon such date, except as hereafter specified.

B. Permitted Alterations to Nonconforming Structures. Alterations and expansions to a building or structure used for a permitted land use regulation are permitted if they do not further encroach on the nonconformity with the land use requirement. For example, a structure used for a lawful land regulation which does not meet the front yard building setback may build a room addition in the rear if it meets all setbacks. However, such alteration may be conditioned upon alleviation or partial correction of any one or more of the other nonconforming aspects of the structure or use where feasible and reasonable, and to an extent that parallels the extent of the request to alter or expand. This subsection in no way is intended to permit a building used for a nonconforming land use regulation to be expanded or altered if such an expansion would intensify the nonconforming land use.

C. Maintenance of a Nonconforming Structure.

1. Normal Maintenance.

Normal maintenance of a nonconforming structure or building is permitted, including necessary nonstructural repairs and incidental alterations which do not extend, enlarge, or intensify the nonconformity with the land use requirement.

2. Unsafe Buildings and Structures.

Nothing in this Ordinance (Chapter) shall preclude the Plan Commission from remedial or enforcement actions when a nonconforming structure or building is declared unsafe. Any nonconforming structure or portion thereof declared unsafe

by proper authority may be restored to a safe condition within one (1) year of such declaration and continue as a nonconforming structure.

D. Modification of a Nonconforming Structure. When any lawful nonconforming structure or building in any district is modified so as to be in conformance with the provisions of this Ordinance (Chapter), and future modification of said structure or building shall be in conformance with the provisions of this Ordinance (Chapter).

E. Damaged Structure. Except as hereinafter provided, whenever a lawful nonconforming structure has been damaged by fire, flood, wind, explosion, earthquake, war, riot, unlawful act or Act of God, to the extent in real value of more than fifty percent (50%) of its assessed value, it shall be rebuilt or reconstructed in conformity with the provisions of this Ordinance (Chapter). However, as long as the structure is not subject to the jurisdiction of a preservation commission or is not located within a flood plain and is not a pre-existing mobile home structure, the owner of a legal, nonconforming structure on a parcel of real property used for residential purposes which is damaged or destroyed shall be permitted to reconstruct, repair, or renovate the nonconforming structure if the reconstruction, repair, or renovation meets the following requirements:

1. The structure will continue to be used for residential purposes; and

2. The new foundation of the reconstructed, repaired, or renovated structure may not exceed the square footage of the foundation of the damaged or destroyed structure.

F. Permits Issued for Structures Prior to the Effective Date of this Ordinance. Any structure or building for which a building permit has been lawfully granted prior to the effective date of this Ordinance which will become nonconforming hereunder, may be constructed in accordance with the approved permits and plans, provided construction is started within three (3) months of the effective date of this Ordinance, and provided that construction is completed within one (1) year of the effective date of this Ordinance. Said structure or building shall thereafter be a legal nonconforming structure or building.

G. Temporary Structure. The Board may authorize in a one, two, or multiple family residential district for a period of not more than one (1) year from the date of such permit, a temporary structure for commercial or industrial use incidental to the construction and development of said district.

H. Exceptions for Pre-Existing Mobile Home Structures.

1. Any mobile home structure lawfully existing upon the effective date of this Ordinance used, previously used, or originally designated for such use, may not be altered, expanded or modified in any way. No new or different mobile home structure may be placed on the land after the nonconforming mobile home is removed. Any new or different structure placed on the land must be in conformity with the provisions of this Ordinance (Chapter).

(3) Prohibition on Creation of Nonconforming Lots. No lot or combination of lots and parcels may be further used, sold, or divided after the effective date of this Ordinance in a manner which creates a lack of conformance with one or more of the requirements established herein, including lot width and area requirements. (Ord. 2021-03, S7.05.070, Mar. 16, 2021) (Ord. 1997-3, Article VII, S1-3, April 8, 1997)

**7.05.080 Improvement Location Permits.**

(1) "Improvement Location Permit" Preliminary Approval. Preliminary approval on an "Improvement Location Permit" must be obtained by the property owners before any person may commence excavation for, construction or reconstruction of, structural change of, moving for, or changing to a different use, any development, land or structure located or to be located thereon. Provided however, no permits shall be required for placement of a Mobile Home in a Mobile Home District.

(2) Application for "Improvement Location Permit." Application for an "Improvement Location Permit" shall be made to the Secretary upon a form provided by the Secretary, a copy of which is contained in Form 1 of the Appendix to this Ordinance, or such revised version of the Improvement Location Permit as the Town of Ferdinand may adopt and use after the date of this Ordinance. Such application must be accompanied by a dimensioned sketch or scale plan indicating the shape, size, height, and location of all structures to be erected, changed structurally or moved, and of any structure already on the lot. The applicant shall also state the existing and intended use of all such structures and supply such other information as may be required by the Secretary for determining whether the provisions of this ordinance are being observed.

(3) Preliminary Approval. If the proposed excavation for, construction or reconstruction of, structural change of, or moving of a structure or land as set forth in the application is in conformity with the provisions of this Ordinance and other Ordinances of the Town, the Secretary shall give preliminary approval for such excavation, construction, reconstruction, structural change, or moving. If the application is made for change of use only and new use will be in conformity with the provisions of this Ordinance and other Ordinances of the Town, the Secretary shall give preliminary approval for such change of use. In all other cases, final approval shall be granted as provided for herein. Preliminary approval of an

"Improvement Location Permit" shall not be granted until the Secretary receives adequate proof that all construction plans have been approved by the State Building Commission or that a State Plan Design Release has been issued, if one is required. However, in all cases where the "Improvement Location Permit" relates to a permitted nonconforming use or structure, preliminary approval of such shall be specifically approved by the Commission.

(4) Refusal of Preliminary Approval. If preliminary approval is refused, the Secretary shall specify in writing the basis for refusal to the applicant. The Secretary or Commission shall grant or deny preliminary approval within ten (10) days from the date the application is submitted. However, in all cases where the "Improvement Location Permit" relates to a permitted nonconforming use or structure, and approval is refused, the Commission shall specify in writing the basis for refusal to the applicant.

(5) Final Approval. No land or structure or part thereof erected or changed in its use or construction shall be used until the Secretary shall have issued final approval, indicating that such land, structure, development, or part thereof, and the proposed use thereof is in conformity with the provisions of this Ordinance and other Ordinances of the Town.

(6) Expiration. An improvement location permit shall be valid for the period indicated below at which time it shall expire, unless work authorized by the improvement location permit is proceeding and an extension has been requested and granted by the Plan Commission or the Executive Secretary, in which case it shall remain in full force and effect.

Residential and other structures/developments under 10,000 square feet - 18 months.

All other structures/developments - 24 months.

Structures and developments must have exterior completion finished prior to the expiration of the location improvement permit.

(7) Penalty for Not Obtaining a Permit or Having an Expired Permit. Any property owner who allows construction, reconstruction, structural alteration, relocation or development, without first obtaining a permit or obtaining an extension of time to prevent the revocation or expiration of an issued permit shall be penalized in an amount and manner as determined by the Commission in each case, provided however no fine or penalty shall be assessed for any violation of less than six (6) days.

(8) Exempt Projects. No Improvement Location Permit shall be required for zoning purposes for:

(a) Routine maintenance, painting, re-roofing, re-siding, gardening, plowing, and similar agricultural practices that do not involve filling, grading or excavation, repair or remodeling of existing structures not involving any change of use, additional lot coverage, increase in structure size, elevated or

exposed foundations.

(b) Lot and yard improvements such as sidewalks, patios, play equipment, and landscaping; (fences and pools shall require a permit)

(9) Permits Issued for Structures Prior to the Effective Date of this Ordinance. Any structure or building or development for which an Improvement Location Permit has been lawfully granted, prior to the effective date of this Ordinance, which will become nonconforming hereunder, may be constructed in accordance with the approved permits and plans, provided construction is started within three (3) months of the effective date of this Ordinance, and provided that construction is completed within one (1) year of the effective date of this Ordinance. Said structure or building or development shall thereafter be a legal nonconforming structure or building or development.

(10) Extensions. Extensions of the time for accomplishing any matters set forth herein may be granted by the Plan Commission at a public hearing for good cause shown.

(11) **Improvement Location Permit Fees:**

| | | |
|---|---|---|
| Agricultural and Residential | $0 to $500 | $10 |
| | $501 to $10,000 | $25 |
| | $10,001 to $100,000 | $50 |
| | $100,001 and Above | $100 |
| All Others | $0 to $500 | $10 |
| | $501 to $10,000 | $50 |
| | $10,001 to $100,000 | $100 |
| | $100,001 and Above | $.001 x FMV |
| Fences/Swimming Pools/Driveways/ and Miscellaneous | $10.00 | |
| Other (specify: _____) | | |

Fees must be paid at the time the improvement location permit application is filed with the town office.
(Ord. 2010-05, Exhibit A, June 8, 2010) (Ord. 1997-3, Article VIII, S1-7, April 8, 1997)

**7.05.085 Fence Permits and Fence Guidelines.**

(1) Except as specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences in Residential Zoning Districts**.**

A. No fence shall be constructed in such a manner or be of such design as to be a traffic hazard.

B. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals. Razor wire, barbed wire and electric fences are prohibited in residential zoned areas.

C. No fence, except fences erected upon public or parochial school grounds or in public parks or playgrounds, shall be constructed to a height greater than three feet (3') in the front yard.

D. All fences shall conform to the construction standards of any applicable building code.

E. Fence height cannot exceed six feet (6') above grade of the property on which the fence is located.

F. Fences fronting onto any existing or proposed right-of-way, except for corner lots, must include a gate providing access to the right-of-way.

G. The finished side of all fences must face away from the lot on which it is installed.

H. Fences may only be placed upon the property line with the consent of adjacent property owner(s) - by signature on fence permit application. If an agreement is not secured with an adjacent property owner a minimum setback of two feet (2') is required.

I. Fences that exceed three feet (3') in height may not extend nearer to the front lot line than the closest wall of the principal structure or twenty-five feet (25') from that front lot line, whichever is greater.

J. Fences along corner side yard lot lines must be setback to the corner side yard line.

1. Exception: Open style fences, not exceeding three feet (3') in height, may be constructed along front and corner side yard lot lines. An open style fence shall be designed so that an area equal to 30% of the width of each upright remains

unobstructed. Examples of open style fences include, without limitation, picket, chain link, wrought iron and split rail.

K. Fences must not be erected until the required permit has been approved AND the permittee has been given a copy of the issued permit.

L. Fences less than three feet (3') in height do not require a fence permit but must comply with all fence regulations specified herein.

M. Fences that are erected in the proximity of any Town electrical equipment must provide the required clearances as indicated herein.

N. Fences must not interfere with storm water drainage conveyance.

O. Call underground utility locators at least 48 hours before you dig: 24-hour toll free 800-382-5544 or 811.

P. It is possible that the restrictive covenants of your subdivision will have more stringent regulations regarding fences. We recommend that you refer to them to ascertain if this is the case.

Q. Fences must be located on private property built with consent of the property owner**.**

R. Fencing in front yard cannot exceed thirty-six inches (36") in height.

S. Fences must be located at least five feet (5') from public right-of-way.

T. In the sight triangle (see illustration) landscape materials and plantings that are easily maintained at no more than three feet (3') tall from curb height are allowed. Trees may not be planted and fences and walls may not be situated in the sight triangle.

U. Fences may be located in a utility easement, however, they must have a gate installed on each end that is the width of the easement with NO permanent center post. No fence shall be built directly on top of the utility. Fences shall be built on the edge of the easement.

V. Fences may not be located in a platted drainage easement.

W. A site plan must be submitted with the application in order to process the permit.

X. Fence-like structures, such as those used for dog kenneling and chicken coop purposes are excluded from the regulations of this section as long as they do not involve permanent posting in the

ground and are situated within all applicable setbacks. Other fencelike structures also excluded from the regulations of this section include backstops and rebound walls used for athletic activities; enclosures around above ground pools; pergolas; and temporary snow fencing used as enclosures for town wide events. (Ord. 2019-25, S7.05.085, Nov. 19, 2019)

Y. No fence permit shall be required for zoning purposes for routine maintenance practices that involve the removal or replacement of less than 50% of an existing legal, nonconforming fence as long as that fence is not relocated or enlarged and is situated within all necessary setbacks. Projects which involve the removal or replacement of 50% or more of an existing legal, nonconforming fence shall require an approved fence permit and shall comply with all regulations of the fence permit provisions of this section then in effect. Notwithstanding any of the foregoing, all fence projects involving legal, nonconforming fences shall comply with this ordinance if and when the cumulative area of the fence repairs and replacements initiated in any five-year period after the effective date of this ordinance amendment is, in the aggregate, 50% or more of the entire size of the fence. (Ord. 2019-25, S7.05.085, Nov. 19, 2019)

(2) Electrical Requirements:

A. All municipal electric equipment must be accessible to town personnel.

B. When installing a fence, residents should adhere to the following regulations in respect to transformers and pedestals.

(3) Transformers:

A. In order to provide sufficient access, the following requirements shall be met if a transformer is located near the fence.

B. A five foot (5') clearance on all sides, with a removable fence (pins) or gate in front of the side in which the transformer opens (side with lock).

C. A ten foot (10') clearance must be kept in front of the side in which the transformer opens, if no gate or removable section of the fence is incorporated.

D. If proper clearance cannot be achieved, a gate or removable fence section must be installed in a manner so that the section can be removed without the use of tools.

(4) Pedestals:

A. In order to provide sufficient access, the following conditions must be met if a pedestal is located near the fence.

B. A three foot (3') clearance on all sides must be maintained.

(5) Fees and Charges: The permit fee for a fence is $10 payable to the Town of Ferdinand. The fee must accompany all applications.

(6) A PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED, OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS STARTED.

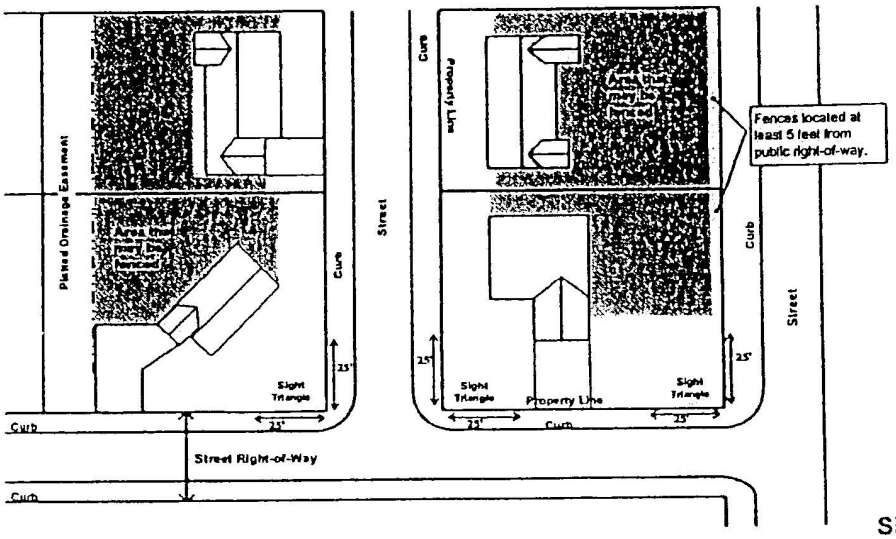
(7) Application for a "Fence Permit" shall be made to the Secretary on a form provided by the Secretary, a copy of which is attached as "Exhibit A", and which form shall be added to the Appendix of Forms which is a part of the Ferdinand Zoning Ordinance, or such revised version of the Fence Permit as the Town of Ferdinand may adopt and use after the date of this Ordinance shall be used.

## Fence Permit Supplement

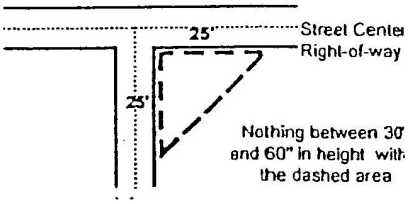
**PLOT PLAN REQUIREMENTS:**

A plot plan must be submitted with the application in order to process the permit. The plot plan must include the following information:

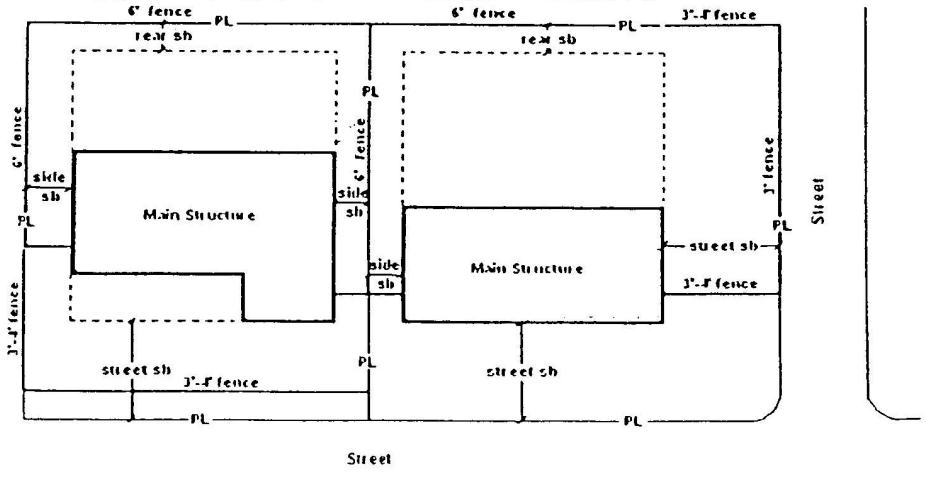
- ☐ Location of all property lines
- ☐ Location of all existing structures
- ☐ Location of existing or proposed pools/spas
- ☐ Location of existing fencing on or adjacent to the property that is to remain in place.
- ☐ Portions of existing fence that will be replaced
- ☐ Location of new fencing
- ☐ Location of gates
- ☐ Location of utility easements
- ☐ Location of drainage easements




**Sight Triangle**




**Interior lot Setbacks** **Corner lot Setbacks**



# Town of Ferdinand - APPLICATION FOR FENCE PERMIT

**Address of Fence:** _____ **Permit #** _____ **Date:** ___/___/___

***Property Owner Information:***

Name: _____

Address: _____

City: _____ State: ____ Zip: _____

E-Mail: _____

Phone: _____

Fax: _____

***Adjacent Property Owner Information (if applicable):***

Name: _____

Address: _____

City: _____ State: ____ Zip: _____

E-Mail: _____

Phone: _____

Fax: _____

***Contractor/Installer Information:***

☐ Check if fence will be installed by the owner

Contractor/Owner: _____ Contact Name: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

E-Mail Address: _____ Phone # _____ Mobile # _____ Fax # _____

***Fence and Property Information:***

- Type of Fence: ☐ Residential ☐ Commercial
  ☐ Picket ☐ Board on board ☐ Split rail ☐ Stockade ☐ Chain link ☐ Wrought Iron
  ☐ Wood Privacy ☐ Retaining Wall ☐ Other (describe) _____
- Anticipated date of installation: _____
- Fence material: _____ Height of fence at highest point: _____
  (Note: Razor wire, barbed wire and electric fences are prohibited in residential zoned areas.)

**Lot Information:** ☐ corner lot ☐ Interior Lot

- Will the fence be installed in the front yard? ☐ Yes ☐ No
- Will the fence be installed perpendicular to a street or public right-of-way? ☐ Yes ☐ No
  - If yes, which street? _____
- Does this lot contain any Town /REC electric equipment? ☐ Yes ☐No
  - if yes, which type: ☐Transformer ☐Pedestal ☐Pole

**CAUTION TO ALL APPLICANTS:** Fence permits will be issued in reliance upon information provided by applicant at the time of application. The issuance of a permit should not be construed as the Town's opinion as to or verification of the location of property lines. The Town of Ferdinand is not responsible for verifying the accuracy of the location of property lines through the use of surveys or otherwise. Applicants are strongly urged to have their property surveyed before applying for permit or commencing construction.

***Required Signatures:***

*The undersigned: (1) agrees that the fence will be constructed in all respects in accordance with the plans and specifications submitted herewith and in accordance with all applicable provisions of the Ferdinand Municipal code; (2) acknowledge that the provisions and regulations of said ordinances and/or codes pertaining to such construction governed and shall be followed; (3) certifies that he /she has read and examined this application and knows the same to be true and correct; (4) understands granting of a permit does not presume to give authority to violate or cancel the provisions of any other State or local law regulating construction or the performance of construction; and (5) understands that this is an application for a permit and that I do not have authority to construct a fence until such times as the permit has been approved and issued.*

Signature of Property Owner: _____ Date: ____/____/20__

Signature of Consenting adjacent Property Owner: _____ Date: ____/____/20__
(only necessary if the fence is constructed on the property line)

**NOTE: A SITE PLAN IS REQUIRED WITH THIS APPLICATIOIN..... Fee: $10.00 (payable: Town of Ferdinand)**

**A PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED, OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS STARTED.**

**Note: Inspection of permitted work may reveal violations not discovered during plan review.**

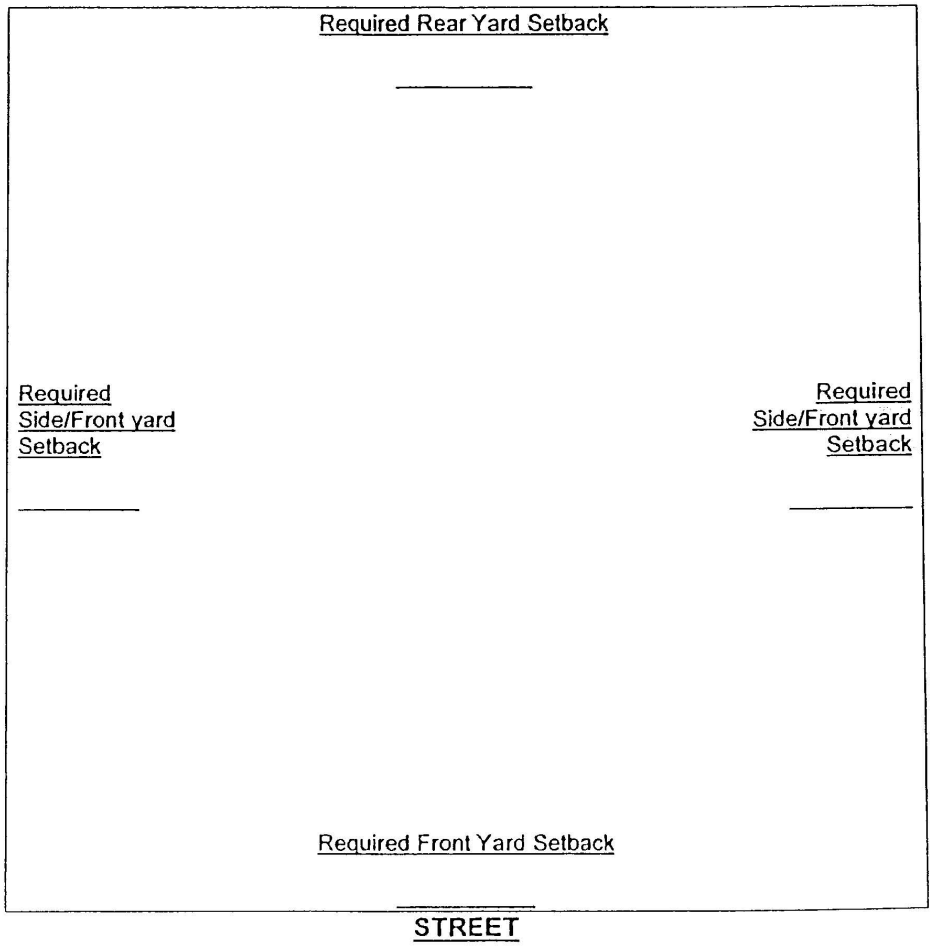
FOR OFFICE USE ONLY

- _____ Street Dept. _____ Utility Dept _____ Wastewater Dept Planning Office Approval: _____
- Zoning District _____ Fee Paid _____ Date: _____

**EXHIBIT A**

**SITE PLAN – Fence**

Address _____
APN _____
Owner's Name _____
Applicant's Name (If different) _____
Contact Information _____
Fence Height _____
Fence Materials _____



**7.05.090 Fees and Charges.**

(1) Variance and Special Exception Fee. Any person or corporation requesting a variance or special exception shall pay a fee of Fifty Dollars ($50.00) payable to the Secretary at the time the variance is requested. (Ord. 98-11, Oct. 6, 1998)

(2) Re-Zoning Fee. Any person or corporation requesting a re-zoning from one classification of use to another shall pay a fee of Seventy-five Dollars ($75.00), payable to the Secretary at the time the re-zoning is requested.

(3) Subdivision Fee. Any person or corporation requesting a sub-division of real estate shall pay a fee of Two Hundred Dollars ($200.00), plus $5.00 per lot, payable to the Secretary at the time the preliminary plat is presented to the Commission.

(4) No Refunds. No refunds shall be permitted after a petition has received a hearing before the Commission, whether or not the Commission has taken action on the petition.

(5) Waiver of Fee for Government Unit. No filing fee shall be required for any application by a unit of government.

(6) Waiver of Required Fee. The Board of Zoning Appeals, upon request, may waive all or any part of a required fee. The Town and its boards, commissions and departments shall be exempt from payment of a fee. (Ord. 2010-05, Exhibit A, June 8, 2010) (Ord. 1997-3, Article IX, S1-8, April 8, 1997)

**7.05.100 Subdivision Control.**

(1) Purpose. The provisions on subdivision control are enacted for the purpose of controlling and regulating the subdivision of any land for any purpose within the jurisdictional area of the Town and within the Town. The Commission shall have all the powers and duties with respect to preliminary and final plats and subdivisions and the procedure relating thereto which is specified by statute and by the provisions of this Ordinance (Chapter). In their interpretation and application, these provisions shall be held to be the minimum requirements adopted for the protection of the public health, safety and welfare, by providing for harmonious development for the coordination of streets within subdivisions with other existing or planned streets and with other features, for adequate sewage treatment, and for the efficient and economical maintenance of streets.

(2) Jurisdiction. The provisions of this ordinance (chapter) shall apply to all subdivisions of land within the Town and within the jurisdictional area of the Town. No plat or replat of a subdivision of land located within the Town or the jurisdictional area shall be recorded until it shall have the final approval

of the Commission, and such approval shall have been entered upon the plat. The plat shall be accompanied by a certificate signed by the President of the Commission and attested to by the Secretary of the Commission.

(3) Subdivision Exemptions. Notwithstanding the subdivision requirements contained herein, the following types of division of existing parcels of land are hereby considered subdivision exemptions:

A. Adjacent Lot Owners Exemption. The sale of lots or exchange of parcels between adjoining lot owners that do not create additional building sites within the Town or within the Town's jurisdictional area as it exists on the date of the adoption of the Ferdinand Zoning Ordinance in 1997. Deeds relating to such transfers shall contain the following notation:

This transfer is exempt for the platting requirements of the Town of Ferdinand and is a transfer between adjacent property owners and the transfer is not intended to create any additional building sites.

C. Existing Street/Easement Exemption. Divisions of land not involving any new street or newly created easement of access, provided that the existing easement of access is of sufficient width and proper grade and located so as to accommodate traffic and provide sufficient access and not impair the safety of the owners of any neighboring lots or any street or easement of access.

D. Family Farm Residence Exemption. In the case of a farm, as defined herein, where the owner wishes to convey a parcel of land, either with or without consideration, to a member or members of his family, as defined herein, for the purpose of locating a residence to be occupied by the family member for a period of at least twelve (12) months, such owner may be authorized by the Plan Commission to convey said parcel without subdividing.

1. Any exception thus authorized is required to be entered in writing in the minutes of the Plan Commission and the reasoning on which the exception was authorized shall be set forth.

2. The Exception shall be authorized in accordance with the following provisions:

(a) For the purpose of this Section, a farm shall be defined as an area containing ten (10) acres or more, used for agricultural purposes, as defined herein, by the resident owner or tenant.

(b) No more than two parcels shall be conveyed as exceptions from any one farm.

(c) Except as otherwise provided herein, the new parcel shall be subject to all requirements of the Zoning Ordinance and other local ordinances now or hereafter adopted. The new parcel qualifying as a family farm exception would not need to have at least 100' of road frontage as long as the new parcel is accessible by private road, shared drive or by a public easement existing on the date of this amendment which is of sufficient width to accommodate traffic and emergency vehicles.

(d) The parcel shall be subject to the sewer provisions of this ordinance.

(e) For the purpose of this Section, a member of the family shall be defined only as mother, father, brother, sister, son, daughter, grandmother, grandfather, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece or nephew.

(f) The original occupant of the residence to be located on the new parcel shall be the family member to whom the parcel was conveyed and the potential occupant must express a sincere intention to reside therein for a period of at least twelve (12) months.

(g) For the purposes of this Section, agriculture purposes shall be defined as farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

E. Government Use Exemption. A division of land for federal, state, or local government to acquire street right-of-way.

F. Probate/Estate Exemption. A division of land in settlement of a decedent's estate by virtue of a court decree for the distribution of a probate estate, provided that all of the tracts so distributed are at least two (2) acres in size or larger and front a public street or road right-of-way.

G. Agricultural Purposes Only Exemption. Divisions of land for agriculture purposes only that will not create additional building sites, provided that all of the tracts when divided are at least two (2) acres in size or larger and front a public street or road right-of-way.

Notations on Deeds. Lots qualifying as subdivision exemptions pursuant to (B) through (F) above shall contain the following notation:

This transfer is exempt from the platting requirements of the Town of Ferdinand.

Other Compliance Required. Lots qualifying as subdivision exemptions, as defined herein, while not subject to the platting provisions of this Ordinance, remain subject to all non-plat provisions of the Ferdinand Zoning Ordinance.

(4) Pre-Application Procedure.

A. Prior to the filing of an application for conditional approval of a preliminary plat, the sub-divider is encouraged to consult informally with the Commission, and the County Health Department when the land to be subdivided is outside the Town.

B. General subdivision information shall be provided as the first step in the plat approval process. General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This information may include data on existing covenants, land characteristics, and available community facilities and utilities; information describing the subdivision proposal, such as number of residential lots, typical lot width and depth, business areas, proposed protective covenants and proposed utilities and street improvements.

C. The subdivider shall submit to the following at least twenty (20) days prior to the pre-application meeting: to the Secretary of the Plan Commission, ten (10) copies of a sketch plan, to the Street Superintendent, one (1) copy of the sketch plan, to the Water & Electric Superintendent, one (1) copy of the sketch plan, to the Sanitary Sewer Superintendent, one (1) copy of the sketch plan, to the Town Manager, one (1) copy of the sketch plan, approval for the County Health Department when the land to be subdivided is outside the Town, approval from any utility supplier when the Town's municipal services will not be used, a legal description of the land, and the names of the owners thereof. (Ord. 11-04, Mar. 8, 2011)

(5) Procedure for Approval of Preliminary Plat.

A. A subdivider desiring approval of a preliminary plat of any land within the jurisdictional area or within the Town shall submit to the Secretary at least twenty (20) days prior to the next regular meeting a written application for a certificate of approval and one copy of the

preliminary plat and survey by a registered land surveyor or engineer. The application shall specify the intent of the subdivider with respect to land use, drainage, sewage treatment, water supply, street improvements, what, if any restrictions exist or are to be placed on the property to be subdivided, and the expected dates of development of the subdivision or sections thereof. The Plan Commission shall not approve any plat unless all streets shown on it shall be sufficient width and proper grade and shall be so located as to accommodate the volume of traffic thereon, provide access of firefighting equipment to buildings and provide a coordinated system of streets. The Plan Commission reserves the right to limit the number of access points onto any bypass, or any other street or roadway to prevent the efficiency or safety of the bypass or such other roadways from being excessively impaired. No land shall be subdivided unless it is in conformance and its intended use will be in conformance with this Ordinance (Chapter) as is now or hereafter adopted. Said application shall be executed by all owners of said land together with any contract purchasers or other parties in interest.

B. The Secretary, if he determines that the above standards and requirements have been met, shall prior to the preliminary plat meeting:

1. Set a date for a preliminary hearing before the Commission;

2. Notify the applicant and the Commission; and

3. Cause to be published once in any newspaper, as required by I.C. 5-3-1-4, a notice of the filing of said application, the pendency of the same, the date of hearing of said application, the legal description of the real estate, and the general location of the proposed subdivision. Said publication shall be by one insertion not less than ten (10) days prior to said hearing. Said notice shall be directed to the public and any interested parties and shall state that all interested parties shall have the right to be heard.

C. If after public hearing, the Commission determines that the provisions contained herein have not been met, it shall make written findings that set forth its reasons for rejecting the application and provide the applicant with specifications of the items of non-compliance, which decision shall be signed by the Executive Secretary. In case of disapproval there shall be no re-application for a substantially similar plat for sixty (60) days from the date of disapproval.

D. If after public hearing, the Commission determines that the application and plat complies with the provisions contained herein, it

shall make written findings of its decision to approve the plat, signed by the Secretary and shall affix a certificate thereon to the effect that the Commission gives its preliminary approval. The certificate shall be signed by the President of the Commission and be attested to by the Secretary.

E. Approval of the preliminary plat shall be effective for a maximum period of six (6) months, unless upon the application of the subdivider, the Commission grants an extension not to exceed six (6) months. If approval of the final plat is not accomplished within that time, the preliminary plat must be resubmitted for approval.

(6) Final Plat Approval Procedure. The Commission shall consider approval of a final plat only after:

A. A determination by the Commission that the final plat substantially conforms with the preliminary plat as approved and with all changes permitted and all requirements imposed as a condition of its approval.

B. The Town receives a performance and payment bond provided by the subdivider, which:

1. Runs to the Town;

2. Provides that improvements and utility installations are in compliance with the provisions contained herein;

3. Provides surety to the satisfaction of the Commission; and

4. Specifies the time for completion of building and installation of the utilities; or

5. The subdivider shows by written evidence that it has entered into a contract with the Town or utility providing the services; and

6. The Commission determines based on written evidence that the contract provides satisfactory assurance that the utility services will be installed or extended in compliance with this Section.

C. Any funds received from these bonds, upon default, shall be used only for the purposes of making the improvements and utility installations for which the bond was provided. The proceeds of the bond may be used for these purposes without appropriations.

D. If the subdivider elects to provide the improvements and utility installations required by the provisions contained herein after preliminary approval and before the subdivider applies for final plat approval and it is shown to the satisfaction of the Commission that all applicable conditions and requirements have been met, and if the final plat conforms substantially to the preliminary plat as approved, the Commission shall have no other alternative than to give final plat approval within thirty days after application.

E. Only after final plat approval and proper execution thereof shall said plat be entitled to recording and be recorded in the Office of the County Recorder.

F. Completion of improvements and installation of utilities shall be inspected by the Town, by and through its Department Heads or the County Health Department if the land is within the jurisdictional area. It shall be the obligation of the subdivider to request such inspection and obtain written evidence of the approval in a form satisfactory to the Town. Suitable forms are attached and labeled as Exhibit A and B. Such inspections shall be required in all instances regardless of whether the work is performed before or after the final plat approval. Failure of the subdivider to request inspection at proper and reasonable intervals during construction of the improvements and utility installations as required may be cause for either denial of final plat approval and/or denial of acceptance for maintenance by the Town. (Ord. 11-04, Mar. 8, 2011)

G. As-built plans of all underground public utilities shall be filed by the subdivider with the appropriate utility and/or governmental agency and the fact of said filing certified in writing to the Commission.

H. The subdivider shall record the final plat as approved within six (6) months after the date of approval, or said approval shall expire and shall be of no effect until reinstated by the Commission.

(7) Town Acceptance of Streets. Any person requesting the Town to accept and maintain a street or related storm drainage infrastructure as part of the Town's system of streets must comply with the provisions of this Section. Additionally, the provisions of this Section must be agreed to and met by any person seeking approval of a subdivision plat. To that extent, these provisions shall control, and any provisions in conflict herewith are hereby repealed. Provided, however, that these provisions shall not apply to any street under substantial construction as of October 26, 1993. All other streets, prior to acceptance by the Town, must meet the provisions of this Section, including streets constructed in previously platted areas.

(8) General Street Standards. The following standards are applicable to all streets:

A. Minimum street width shall be twelve (12) feet of surface on each side of the center line;

B. Maximum street width shall be eighteen (18) feet of surface on each side of the center line;

C. All streets shall have a base of #53 rock;

D. All streets shall be graded and surfaced as required herein to the satisfaction of the Town's Street Commissioner;

E. The arrangement, character, extent, width, grade, and location of all streets shall be correlated to existing topography, existing streets, public convenience and safety, and in appropriate relation to the proposed uses of the land to be served by such streets. To this end:

1. The street layout shall provide access to all lots or parcels of land within a platted subdivision or a planned development;

2. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient;

3. Certain streets, where appropriate, shall be extended so as to provide for normal circulation of traffic within the vicinity.

F. Minimum centerline vertical grade shall be five tenths percent (0.5%);

G. Minimum centerline radius shall be seventy-five (75) feet;

H. Minimum angle of intersecting street shall be seventy degrees (70°);

I. Street intersection property line corners shall be rounded by an arc of twenty (20) feet;

J. Minimum centerline offset of adjacent street intersections (street jobs) shall be one hundred twenty-five (125) feet;

K. Clear visibility for a minimum of two hundred (200) feet measured along the centerline of the street on a plane four (4) feet above the street grade;

L. Constructed with either asphalt or concrete as provided for herein;

M. Minimum fifty (50) feet of street, drainage, utility easement, right-of-way.

N. The pavement of a turning circle at the end of a cul-de-sac street shall have a minimum right of way or outside diameter of 68' or a turn radius of 34' measured from the center of the turning circle with an additional allowance of two (2) feet for the curbing, all in order to allow sufficient turn-around space for trash-trucks and other municipal vehicles. (Ord. 2007-09, July 10, 2007)

(9) Industrial/Commercial Street Standards. The following standards are applicable to streets designated Industrial/Commercial:

A. Asphalt Construction -

1. Minimum of eight (8) inches of compacted aggregate, base, compacted with at least an eight (8) ton roller;

2. Minimum of three (3) inches of hot asphaltic base course and minimum of one (1) inch hot asphaltic surface course;

3. Minimum of two (2) feet wide shoulder on each side of street constructed of #53 rock.

B. Concrete Construction -

1. Minimum eight (8) inches thick six (6) bag Portland concrete street with reinforcement;

2. Concrete at four thousand (4,000) psi strength, air content to be six percent plus (6% +) or minus one percent (- 1%), concrete placement at a maximum of four and one-half (4 1/2) slump;

3. Sub-base to be compacted to ninety five percent (95%) density;

4. Minimum of four (4) inches compacted aggregate, placed over the sub-base, provided sub-base acceptable to visual and proof-rolling, and compacted with at least an eight (8) ton roller;

5. Longitudinal joint placement shall be every twelve (12) feet and dowelled. Joints across the concrete pavement to be skewed and placed every twelve (12) feet.

(10) Residential Street Standards. The following standards are applicable to streets designated Residential:

A. Asphalt Construction -

1. Minimum of six (6) inches of compacted aggregate base, compacted with at least an eight (8) ton roller;

2. Minimum of two (2) inches of hot asphaltic base course and minimum of one (1) inch hot asphaltic surface course;

3. Minimum of two (2) feet wide shoulder on each side of street constructed of #53 rock.

B. Concrete Construction -

1. Minimum five (5) inches thick six (6) bag Portland concrete street with reinforcement;

2. Concrete at four thousand (4,000) psi strength, air content to be six percent plus (6% +) or minus one percent (-1%), concrete placement at a maximum of four and one-half (4 1/2) slump;

3. Sub-base to be compacted to ninety five (95%) density;

4. Minimum of four (4) inches compacted aggregate, placed over the sub-base, provided sub-base acceptable to visual and proof-rolling, and compacted with at least an eight (8) ton roller;

5. Longitudinal joint placement shall be every ten (10) feet and dowelled. Joints across the concrete pavement to be skewed and placed every ten (10) feet.

C. All streets shall have two (2) feet wide curb on each side of the street surface.

(11) Industrial/Commercial or Residential Standard Considerations. The Town Council shall determine on a case-by-case basis whether the Industrial/Commercial or Residential standards are applicable. The Council shall consider all relevant facts, including but not limited to:

A. Existing and intended zoning classification;

B. Existing and intended use of the property; and

C. Existing and anticipated traffic volume and patterns.

(12) Storm Water Drainage System of Streets. All streets shall be required to have an adequate storm water drainage system. To this end, whenever open

ditches or swells are not appropriate, one of the following improvements shall be constructed to facilitate drainage, and in all cases, to insure suitable entrances for private driveways intersection with the street.

A. Private Driveway Drainage Standard. The following standards are applicable with respect to private driveways;

1. Minimum of twenty (20) feet of twelve (12) inches reinforced concrete tile shall be used;

2. Such tile shall be installed using crushed stone or gravel as an envelope with compaction of backfill in six (6) inches layers under the haunches, around the sides, and above the tile with a minimum of twelve (12) inches.

B. Roadside Drainage Standards Where Open Ditches or Swells are Not Appropriate. The following standards are applicable with respect to roadside drainage systems where open ditches or swells are not appropriate;

1. Minimum of twelve (12) inches reinforced concrete tile; or

2. Indiana Department of Transportation approved (N-12) polyethylene pipe with smooth interior wall at least twelve (12) inches inside diameter, with the following installation requirements: crushed stone, gravel, or compacted soil backfill shall be used as an envelope material. Compaction of backfill shall be in six (6) inches layers under the haunches, around the sides, and above the pipe with a minimum of twelve (12) inches cover;

3. When a cross-structure (pipe or conduit) for storm water drainage under and crossing the roadway is needed, it shall be at a minimum, a reinforced concrete tile with the following installation requirements; Crushed stone or gravel backfilled and compacted under the haunches, around the sides, and above the tile in six (6) inches layers.

C. Drainage Pipe in Excess of Twelve (12) Inches Diameter - Additional Cost Responsibility. When requested by the Town's Street Superintendent or when needed and approved by the Superintendent, the Town shall be responsible for the additional cost of drainage conduit (pipe) in excess of twelve (12) inches in diameter.

D. Catch Basins. If catch basins are used to facilitate drainage, these basins shall be manufactured and installed so as to remove surface drainage in a manner satisfactory to the Street Superintendent. At a

minimum, these catch basins shall be installed every one hundred (100) feet and shall meet the following minimum requirements;

1. Basin to be at least six (6) inches lower than side of road;

2. Basins may be either:

   (a) Poured in place;

   (b) Pre-cast as per State specifications/standards;

   (c) Masonry.

3. Poured or pre-cast basin standards are as follows:

   (a) Walls shall be constructed of six (6) inches reinforced concrete in width. Reinforcement shall be at a minimum of #5 bar placed vertically every twelve (12) inches;

   (b) The floor of the catch basin shall be a minimum six (6) inches thick reinforced concrete with #5 bar every twelve (12) inches. Portland cement shall be a minimum of five and one-half (5 1/2) bag mix per cubic yard with a minimum three thousand five hundred (3500) psi.

4. Masonry basins shall be constructed with:

   (a) Minimum of six (6) inches base;

   (b) Eight (8) inches solid block walls;

   (c) Parge (seal) all joints inside and outside.

5. Surface of catch basin shall be constructed to accommodate a steel grate cover consisting of, at a minimum, two (2) pieces of one and one-half inch (1 1/2) inch angle iron one-eighth (1/8) inch in thickness and one (1) inch in diameter reinforcement bars spaced at no greater than one (1) inch apart. The catch basin grate shall be installed flush with the concrete surface of the catch basin to facilitate surface water flow to the basin inlet itself.

(13) Unlawful to Fill or Block Drainage Ditches. No person shall fill or block either end of the roadside drainage ditches.

(14) Water and Sewer Line Placement. Water and sewer lines must be placed within fifty (50) feet easement, right-of-way behind the curb where curbs are to be installed or outside of the street pavement width when curb is not provided.

(15) Hardship. Where the Town Council finds that hardships may result from strict compliance with this Section, it may vary or modify the requirements so that substantial justice may be done and the public interest served.

(16) Easements.

A. Easements preferably centered on rear or side lot lines shall be provided for utilities where necessary and shall be a minimum twenty (20) feet wide. Easements shall be continuous to the street at the end of the block to connect with adjoining blocks in the shortest direct line.

B. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided an adequate storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width of construction, or both, as will be adequate for the purpose.

C. No permanent structures or plantings shall be placed on an easement. Any object placed on an easement shall be easily removed for immediate access by utility crews. Concrete pads are discouraged and repairs to damages shall be the responsibility of the property owner.

(17) Blocks. The lengths, widths and shapes of blocks shall be determined with due regard to:

A. Provision of adequate building sites suitable to the special needs of the type of use contemplated.

B. Zoning requirements as to lot sizes and dimensions.

C. Needs for convenient access, circulation, control, and safety of street traffic.

D. Limitations and opportunities of topography.

E. Where appropriate to the design, proposed streets shall be continuous and in alignment with existing planned or platted streets with which they are to connect.

F. Residential minimum of nine thousand eight hundred and one (9801) square feet and a minimum of seventy five (75) feet in width at building line.

(18) Lots.

A. Building setback lines shall be established on all lots, and the minimum building setback line shall be appropriate for the location of the subdivision and for the type of development and use contemplated; provided however, that they shall not be less than the standards otherwise established by this Ordinance (Chapter).

B. The areas and minimum frontage requirements of all lots shall not be less than the standards for corresponding uses established by this Ordinance (Chapter), and depth and width of properties required or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required elsewhere by this ordinance (chapter).

C. Corner lots for residential use shall have extra width to permit appropriate building setback from an orientation to both streets, as set forth for the district elsewhere in this Ordinance (Chapter).

D. The subdividing of the land for residential use shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

E. Side lines of all lots, so far as possible, shall be at right angles or radial to the street line.

(19) Non-residential Subdivision. It is recognized that a subdivider, in creating commercial and industrial subdivisions, faces unique problems not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the owner to follow the regular procedure outlined in this Ordinance (Chapter), however, the subdivider need show only two lots along with the street and block layout. Then from time to time, as prospective buyers or users express interest in lots sized in their required specifications, the owner shall submit an amendment to the approved recorded subdivision plat for consideration. Regular procedural requirements of the Commission following the receipt of a final subdivision plat shall then apply.

(20) Markers. A marker shall be placed so that the marked point shall coincide exactly with the intersection of lines to be marked. Markers shall be set with the top level with the finished grade and shall be placed at the beginning and ending of all curves along street property lines, at all points where lot lines intersect curves, either front or rear, at all angles in property lines of lots, and at all other lot corners not established by a monument. Markers shall consist of an iron rod at least three (3) feet in length, and not less than five-eights (5/8) inch in diameter.

(21) Monuments. Monuments shall be placed at all corner and angle points in the boundary subdivision and shall be set with the top not less than one (1) inch above nor more than three (3) inches below the finished grade. Monuments shall be of concrete with a minimum diameter of (3) inches, and a minimum length of three (3) feet and shall be marked on top with a five-eights (5/8) inch iron pin set flush with the top of the monument.

(22) Storm Water Drainage. The subdivider shall provide the subdivision with an adequate storm water drainage system whenever the evidence available to the Commission indicates that the natural surface drainage is inadequate. When the surface drainage is adequate, easements for such surface drainage shall be provided.

In a subdivision where curbs and gutter are not provided, the subdivider shall furnish one of the following types of improvements to facilitate roadside drainage and to assure suitable entrances for private driveways which are proposed to intersect the roadway:

A. private driveway drainage;

B. roadside drainage;

C. drainage pipe in excess of twelve (12) inches in diameter;

D. catch basin.

(23) Sewage Treatment. The subdivider shall provide the subdivision with a complete sanitary sewer system, which shall connect with the sanitary sewer system of the Town whenever required by Ordinance as it presently exists or as amended, and conforming in all respects thereto. The plans for such system shall be approved by the Town and the Indiana State Board of Health.

Whenever connection with the Town sanitary sewer system is not required by Ordinance, the subdivider shall provide the subdivision with a complete sanitary sewer system approved by the Town, the Dubois County Health Department and the Indiana State Board of Health in conformance therewith in one of the following ways:

A. The subdivision may be provided with a complete sanitary sewer system, with lateral connections to each lot and a common treatment plant.

B. The subdivision may be provided with a private sewage treatment system in individual lots consisting of a septic tank and soil absorption field, or other approved sewage treatment system, provided such systems are installed in accordance with at least the

minimum standards required and provided that the soil in the subdivision will properly absorb sewage effluent.

(24) Water. Where public water supply is available within two hundred (200) feet of any boundary of the proposed subdivision, the subdivider shall construct a system of water mains, connected with such public water supply and provide for lines serviceable by each lot. The work shall be done in accordance with the plans, profiles, and specifications prepared by a registered professional engineer, and shall be approved by the Town, and be in conformance with at least the minimum requirements of the State Board of Health. Pipe specifications shall be determined by the water supplier, subject to approval by the Town.

(25) Driveways and Parking Lot Entrances.

A. The minimum distance of driveways and parking lot entrances to the intersection at a street corner shall be twenty-five (25) feet. This requirement shall be included in the restrictive covenants contained in the plat of the subdivision.

B. Driveways within the corporate limits of the Town of Ferdinand shall be designed and constructed in accordance with the following additional standards:

1. Separation. The edge of a driveway shall have not less than the following minimum separation distances from the following uses:

(a) Twenty-five feet to the right-of-way lines of intersecting streets or alleys.

(b) Four feet to another curb opening.

(c) Two feet to a property line.

2. Width. Width shall be not less than 12 feet, but not more than 25 feet for properties without a garage, with a carport, or with a standard one or two car garage; and not more than 30 feet for driveways accessing a three car garage; and not more than 40 feet for driveways accessing a four car garage.

3. Construction. All residential driveways intersecting a street or alley shall have a hard surface of concrete, asphalt, solid brick pavers, or other similar impervious material approved by the Street Superintendent. The hard surface shall extend a minimum of ten feet from such intersection. Construction shall be in accordance with the standards established by the Town of Ferdinand.

C. Driveways located outside the corporate limits of the Town of Ferdinand shall be constructed in accordance with the standards of the Dubois County Highway Department. (Ord. 2007-09, S2, July 10, 2007)

(26) Utilities. All utilities in residential subdivisions, both public and private, shall be placed underground, either in road right-of-way or approved easement.

(27) Inspection. The Commission or its designee, at adequate and reasonable intervals during construction and thereafter, may inspect all street, driveway, sidewalk, drainage, public utility, monuments and markers, private treatment facilities, and other required improvements and installations for conformance with this ordinance and with plans, specifications, and conditions required by the Commission.

(28) Plats and Data.

A. Plats and Data for Approval of Preliminary Plat. The preliminary plat shall be prepared in accordance with the provisions of this Ordinance (Chapter) and shall be presented as follows:

1. The preliminary plat shall consist of a plan which shall show the proposed layout of streets, lots, and other features in relation to existing conditions.

2. The plat shall include the proposed subdivision and all existing subdivisions, street and tract lines. It shall show how streets in the proposed subdivision may connect with existing and proposed streets in the continuous subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood.

3. The plat shall contain the following information:

(a) Names and Data:

i. Proposed name of subdivision.

ii. Location of section, township, and range, or by other legal description.

iii. Name and address of subdivider.

iv. Name and address of owner, contract purchaser, or other interested party if different than subdivider.

v. Name and address of registered land surveyor preparing the plat and survey.

vi. Scale of plat, graphic scale, north point, and date.

(b) Existing Conditions:

i. Boundary line of proposed subdivision indicated by solid heavy line.

ii. Location, width, and names of all existing or prior platted streets or other public ways; railroad and utility rights-of-way, parks and other public open spaced, location of permanent buildings or structures, and section and municipal corporation lines within or adjacent to the tract.

iii. In case of replat, all descriptive lines of the original plat being vacated shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in solid lines.

iv. The location, width, and purpose of easements.

v. Existing zoning of proposed subdivision.

vi. If deemed necessary by the Commission, contours based at not more than five (5) feet nor less than two (2) feet vertical intervals.

(c) Proposed Conditions:

i. Layout of streets, their names and widths, and widths of easements. The names of streets shall conform so far as practicable to the names of streets on the same approximate alignments existing in the vicinity of the subdivision.

ii. Layout, dimensions, and number of lots with lot numbers, gross acreage, and acreage of each lot.

iii. Parcels of land to be dedicated or temporarily reserved for public use or set aside for the use of property owners in the subdivision. Land dedicated or reserved for parks or other public uses shall be set forth and described in the articles of dedication or reservation and shall also be shown on the plat under the appropriate heading, such as "park land" or "out lot for public use" on the plat thereof.

iv. Building setback lines.

(d) Other Preliminary Plans:

When required by the Commission, the preliminary plat shall be accompanied by profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross-sections of the proposed grading, roadway and sidewalk; and preliminary plans of proposed utilities, storm water drains and culverts with grades and size indicated. All elevations shall be on the Mean Sea Level Datum.

B. Plats and Data for Final Approval.

1. After approval of the preliminary plat and the fulfillment of all the requirements and standards of this Ordinance (Chapter), the final plat shall be drawn in ink on tracing cloth, mylar, or equal, on sheets of the same size and scale as required for the preliminary. One blackline or blueline reproduction of the final plat and reproducible transparency shall be submitted to the Commission at least fourteen (14) days prior to the date of the Commission meeting at which it is to be considered.

2. The final plat may include all or part of the approved preliminary plat and shall show the following:

(a) Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions, deflection angles or bearings, and radii, arcs, central angles of all curves, monuments, and markers.

(b) Name and right-of-way width of each street or other right-of-way.

(c) Location, dimension and purpose of any easements.

(d) Number to identify each lot or site.

(e) Purpose for which sites, other than residential lots, are dedicated or reserved.

(f) Minimum building setback lines on all lots and other sites.

(g) Certification and seal by registered land surveyor certifying the accuracy of survey and plat.

(h) Certification of title showing that applicant is the land owner, by way of title search, title memorandum, title insurance, or attorney's opinion.

(i) Statement by owner dedicating streets, rights-of-way and any sites for public uses.

(j) Title, scale, north arrow, and date.

(k) An acknowledgment certificate signed by a notary public.

(l) Protective covenants in form for recording.

(m) Such other certificates, affidavits, endorsements, or dedications as may be required by the Commission in the enforcement of this Ordinance (Chapter).

(29) Variances and Modifications

A. Hardship. Where the Commission finds that hardships may result from strict compliance with this Section, it may vary or modify the requirements so that substantial justice may be done and the public interest served.

B. Conditions. In granting variances and modifications, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

C. Large Scale Developments. The standards and requirements of this Section may be modified by the Commission in the case of a plan and program for a complete community, or a neighborhood unit, which, in the judgment of the Commission, provide adequate public

spaces and improvement for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan.

(30) Validity of Plat. No plat of any subdivision shall be entitled to be recorded in the office of the County Recorder or have any validity until it shall have been approved in the manner prescribed in this Ordinance (Chapter).

(31) Certificates. Each final plat submitted to the Commission for approval shall contain or be accompanied by the following certificates, acknowledgments and descriptions in substantially the following forms:

A. Certificate of Approval.

"Under the authority provided by I.C. 36-7-4-700, et seq, enacted by the General Assembly of the State of Indiana, and all acts amendatory thereto and after proper public notice of the hearing was published, this plat, upon proper hearing and consideration, was given final approval by a majority of the members of the Advisory Plan Commission of the Town of Ferdinand, Indiana, at a meeting held on the _____ day of _____, 19_____.

Advisory Plan Commission of the
Town of Ferdinand, Indiana.

_____
President

_____
Executive Secretary

B. Land Surveyor's Certificate. Each final plat submitted to the Commission for approval shall carry a certificate signed by a registered professional land surveyor in substantially the following form:

"I, _____, hereby certify that I am a registered professional land surveyor of the State of Indiana; that this plat correctly represents a survey completed by me on _____, 19 _____; that all the monuments shown thereon actually exist, and that their location, size, type, and material are accurately shown, and comply with the provisions of the zoning and subdivision control

ordinances of the Town of Ferdinand, Indiana, and this instrument was prepared by me."

C. Legal Description Certificate. The final plat submitted to the Commission for approval shall contain a metes and bounds legal description prepared by the registered professional land surveyor of the outside boundary of the completed survey.

D. Acknowledgment Certificate.

"STATE OF INDIANA
COUNTY OF DUBOIS

Before me, the undersigned Notary Public, in and for the County and State, personally appeared _____ and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes expressed therein.

WITNESS my hand and notarial seal this _____ day of _____, 19 ____.

_____

(SEAL) Notary Public

_____

(Printed Name)

Residing in _____ County, Indiana

My Commission Expires _____, _____."

E. Dedication Certificate. Each final plat submitted to the Commission for approval shall carry a deed of dedication, either of said final plat or incorporated therein by reference, in substantially the following form:

"We, the undersigned owners of the real estate or interested parties in the real estate shown and described herein, do hereby lay off, plat and subdivide said real estate in accordance with the herein plat.

This subdivision shall be known and designated as _____, an addition to _____, State of Indiana. All streets, easements, and public open spaces shown and not heretofore dedicated are hereby dedicated to the public.

Front yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the streets, there shall be erected or maintained no building or structure.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, building, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility is responsible.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure, building, planting or other material part thereof erected or maintained in violation hereof, is dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns."

WITNESS our hands and seals this _____ day of _____, 19 _____.

_____

_____"

An acknowledgment certificate as provided for above shall be added at the conclusion of this certificate.

F. Other Certificates. Such other certificates, affidavits, endorsements, or documents as may be required by the Commission in the enforcement of this ordinance. (Ord. 2016-23, Nov. 8, 2016) (Ord. 07-09, Article X, July 10, 2007) (Ord. 04-07, Article X, July 19, 2004) (Ord. 1997-3, Article X, S1-30, April 8, 1997)

**7.05.150 Plan Commission.**

(1) The Plan Commission. The Ferdinand Plan Commission, an advisory plan commission under Indiana Law, is hereinafter referred to as the "Commission".

(2) Jurisdiction. Having adopted a comprehensive plan as required under IC 36-7-4-501, all of the incorporated and unincorporated territory within the following or part of the sections of the Ferdinand Township, Dubois County, Indiana, shall constitute the planning and zoning jurisdiction of the Commission:

Township 3 south, Range 4 west, sections 16, 17, 20, 21, 28, 29, 32, 33, 34, east 1/2 31, east 1/2 30, east 1/2 19, east 1/2 18, west 1/2 15, west 1/2 22, west 1/2 27.

(3) Membership.

A. Appointment.

1. The Commission shall consist of nine (9) members, appointed as follows:

(a) Town Council: Three (3) appointments, all of whom must be elected or appointed officials or employees of the Ferdinand Town government.

(b) President of Town Council: Four (4) citizens appointments, of whom no more than two (2) may be from the same political party.

(c) County Board of Commissioners: Two (2) citizens appointments, both of whom must reside in the unincorporated area within the Commission's jurisdiction, and who shall not be of the same political party.

2. Citizen members shall reside within the Commission's jurisdictional area, and shall not hold other elective or appointive office in municipal, county or state government.

B. Terms of Appointment. Appointments are for a term of four (4) years. A member serves until their successor is appointed and qualified. A member is eligible for reappointment.

C. Removal. The appointing authority may remove a member for cause. Removal may be appealed.

D. Vacancies. When a vacancy occurs, the appointing authority shall appoint a replacement for the unexpired term of the vacating member.

E. Conflicts of Interest. Except for the preparation or adoption of a comprehensive plan, a member of the Commission or the Town Council may not participate as a member of the Commission in a hearing or decision of the Commission or Town Council concerning a zoning matter in which that member has a direct or indirect financial interest, nor may a member of the Commission directly or personally represent another person in a hearing before the Commission concerning a zoning matter.

(4) Officers and Employees.

A. Officers. The Commission shall at its first meeting each year elect from among its members a president and vice-president, and may appoint an executive secretary and ordinance enforcement officer. The secretary is not required to be a member of the Commission.

B. President. The president shall preside over Commission meetings and on behalf of the Commission shall exercise general supervision over the administration of the affairs of the Commission, including the execution of contracts and agreements, the appointment of committees and representatives, the determination of points of order and procedure, and the signing of all official documents.

C. Vice-President. The vice-president shall act as president of the Commission during the absence of the president. In the case of the resignation or removal of the president, the vice-president shall succeed to the presidency, and a new vice-president shall be elected from the membership.

D. Executive Secretary. The executive secretary shall be responsible for supervising the keeping of an accurate and complete record of all Commission proceedings including the keeping of records and minutes, and the custody and preservation of all papers and documents of the Commission. In the absence of both the president and vice-president of the Commission, the executive secretary shall preside; provided, however, that the first and only item of business to be presented by such presiding officer shall be the election of a presiding officer pro tempore.

The executive secretary or the executive secretary designate shall appear at all meetings and assist the Commission, presenting factual opinion on significant issues raised by petitions and shall assign and reassign street numbers to lots and structures.

F. Ordinance Enforcement Officer.

1. The Town's Ordinance Enforcement Officer shall be responsible for all site layout inspections, and

2. Shall enforce compliance of all codes.

G. Additional Personnel.

1. The Commission may appoint and prescribe the duties and fix the compensation of such employees as are necessary for the discharge of the duties and responsibilities of the Commission, and may make contracts for special or temporary services and professional counsel; subject, however, to an appropriation for same from the Town Council, and

2. The Commission shall request the Town Attorney to serve as counsel for the Commission.

(5) Powers and Duties. The powers, duties and responsibilities of the Commission shall be as set forth in I.C. 36-7-4-400, et. seq.

(6) Meetings.

A. Regular Meetings.

1. Unless otherwise announced, all regular meetings shall be held on the fourth Wednesday of each month at 7:00 p.m. in the town offices, 2065 Main Street, in the Town of Ferdinand.

2. At the first regular meeting in each year, in addition to the election of officers, the Commission shall promulgate a new schedule of regular meetings for the next twelve months.

B. Special Meetings.

1. Special meetings shall be called as required by the president or by two (2) members of the Commission upon written request to the secretary. The secretary shall send to all members, at lease three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice is not required if:

(a) The date, time and place of the special meeting are fixed at a regular meeting: and

(b) All members of the Commission are present at that regular meeting.

2. Public notice shall be posted for the special meeting in accordance with IC 5-3-1.

3. At special meetings, no business shall be considered other than as outlined in the agenda and order of business for the special meeting.

C. Recess. During the course of any regular or special meeting, but only upon the consent of the majority of the voting members present, the Commission may declare recess from time to time; provided, however, that no Commissioner may discuss or otherwise conduct Commission business during said recess.

D. Order of Business. The order of business at regular meetings shall be as follows:

1. Call to Order

2. Roll Call

3. Approval of Minutes

4. Reports, Resolutions and Communications

5. Final Hearings/Unfinished Business

6. Preliminary Hearings/New Business

7. General Discussion and Staff Proposals

8. Adjournment

E. Conduct of Meetings.

1. General format for each case will be an order and time limit as follows:

Staff Report
Presentation by Proponents - 20 minute total
Presentation by Opponents - 20 minutes total
Summary by Proponents - 5 minutes total
Summary by Opponents - 5 minutes total

2. The presiding officer of the Commission will ask, prior to hearing each case, who plans to speak and set per-speaker limits accordingly, towards the goal of the above limits.

3. Thereafter, further public discussion and inquiry by the Commission shall be at the sole discretion of the presiding officer, unless these rules are modified by a unanimous vote of the Commission.

F. Quorum. A majority of the entire voting membership of the Commission constitutes a quorum. Action of the Commission is not official unless authorized by a majority of the entire voting membership of the Commission.

G. Voting. Except as otherwise provided by law or by these Rules of Procedure, each member of the Commission shall have the right at all meetings of the Commission to one (1) vote. Decisions on petitions shall be by roll call and shall be by voice vote. The vote of each member shall be recorded by the secretary of the Commission and shall be placed in the minutes of the meeting. Assignment of voting rights by a member to another person is prohibited. Vote by proxy is prohibited.

H. Preliminary and Final Hearings. In all cases in which a hearing is required, the Commission shall require both a preliminary and final hearing.

1. Preliminary Hearing. The purpose of the preliminary hearing shall be the exchange of information, and to allow the most thorough consideration of all sides to a controversy. All parties are encouraged to provide the Commission with ten (10) copies of written statements or position papers, at least twenty-one (21) days prior to meeting. Any petitioner withholding information from the Commission or other interested parties will be denied the right to rely on such information at the final hearing.

2. Final Hearing. The final hearing shall be for the purpose of final disposition and decision on the merits of each petition. In the event the Commission feels that the issues have been adequately addressed and the case has received sufficient review, the final hearing may be waived by a majority vote of the Commission, and the petition may be acted upon at the preliminary hearing; provided, however, that the requirements of state law have also been satisfied. No final hearing shall be waived unless both the legal notice and the notices to interested parties have specified that such a waiver has been requested.

I. Disposition of Cases.

1. The final disposition of any request, petition or resolution before the Commission shall be in the form of a motion, adopted according to proper parliamentary procedures. Said motion may be to grant, deny, continue, modify or table the petitioner's request; additionally, the Commission may attach such conditions to a motion as are deemed necessary for the furtherance of the public health, safety or convenience, or to achieve consistency with the Town's Comprehensive Plan or the Ferdinand Municipal Code. The minutes of the Commission meeting shall indicate action taken and the reasons therefore and shall be furnished to any interested party upon request.

2. No petition may be withdrawn by the petitioner after a vote has been ordered by the presiding officer. No petition which has been withdrawn by the petitioner may be placed on the docket again for a period of three (3) months, except upon motion to permit re-docketing, adopted by affirmative vote of a majority of the voting membership of the Commission.

3. No zoning or subdivision petition which has been disapproved by the Commission and rejected by the Town Council shall be again placed on the docket for hearing within a period of sixty (60) days from the date of the Commission's disapproval.

4. The Commission may dismiss a case for lack of jurisdiction, or when a petitioner or the petitioner's representative has failed to appear at two (2) consecutive meetings, the case may be dismissed for lack of prosecution.

5. No case may be continued or tabled at the request of the petitioner unless such request has been made to the Executive Secretary not later than noon, seven (7) days before the scheduled hearing. The Executive Secretary, at his discretion, may act as agent for the Commission and approve such requests without formal Commission vote, noting the request on the agenda. The Commission may, at its discretion, continue or table a hearing on the basis of new information or concerns brought to the Commission's attention after the above referenced deadline.

(7) Petitions, Notices and Fees.

A. Petitions.

1. Written petitions for hearings before the Commission shall be submitted to the Executive Secretary not later than twenty-one (21) days preceding the date of the requested hearing, and shall include:

(a) the name of the petitioner(s);

(b) the legal description and general location or other identifiable geographic characteristic of the property involved in the request;

(c) the nature of the request; and

(d) any and all evidence available at the time of filing of the petition that should be available for the public hearing.

2. The Executive Secretary shall schedule the petition for a hearing on the next available date, provided, however, that a petition may not be placed on the agenda whenever the Executive Secretary determines that the petitioner has failed to comply with the requirements listed above. The Executive Secretary shall so inform the petitioner in writing setting out the scheduled date of the public hearing(s).

B. Newspaper Notification. Not less than ten (10) days prior to the date set for the first Commission hearing, the Executive Secretary will cause legal notice to be published in a local publication (The Ferdinand News), which notice shall serve as legal notice for both public hearings. The petitioner shall bear the expense of said advertisement.

C. Notices to Interested Parties.

1. Except for a petition initiated by the Commission or by the Town Council to repeal and replace the zoning maps for the entire planning and zoning jurisdiction, notice of pending hearing(s), shall be given to interested parties as provided herein. Such notice shall be delivered via postal certificate of mailing or via certified mail, return receipt requested, postmarked at least ten (10) days prior to the preliminary hearing.

2. Interested parties shall be defined as follows:

(a) owners of property located within the area included in the petition who are not party to the petition;

(b) all persons owning or residing on land adjacent and contiguous to the property named in the petition. Intervening public rights-of-way and city owned property shall not be considered in determining adjacent and contiguous lands, and

(c) any other person or organization not party to the petition and who is known to have a direct pecuniary interest in the property described in the petition.

3. The Executive Secretary shall prepare the notice to interested parties. Not less than twenty-one (21) days prior to the scheduled Commission hearing, the petitioner shall provide the Executive Secretary with the names and last known addresses of all interested parties. The records of the Auditor and Treasurer of Dubois County shall be used to determine the names and addresses of property owners. Where investigation reveals that the property owner is known to be at an address other than that specified in the roles of the real estate assessment, such fact shall be recorded in the commission files and the notification shall be mailed to the noted address. The addresses of other interested parties shall be determined by all available means which are based on good faith effort.

4. A minimum of six (6) different owners of adjacent and contiguous property shall be served with legal notice of the pending petition. Wherever there are less than six different owners, then the remainder shall be chosen from among the next most adjacent and contiguous properties. In no event shall any owner of property located within the area of the petition also be counted as an owner of property which is adjacent and contiguous.

5. The petitioner shall be responsible for paying the cost of and for mailing all notices via postal certificate of mailing or certified mail, return receipt requested, at least ten (10) days prior to the hearing, and the Executive Secretary shall file all certified mail/certificate of mailing receipts as proof of notification. The petitioner shall bear the postage expense of these mailings.

6. For letters to owners of adjacent and contiguous properties and other interested parties, and letters to non-participating

owners of property located within the area included in the petition, certified mail return receipts shall be required as proof of notification.

(8) Miscellaneous Provisions.

A. Amendments. Amendments to these Rules of Procedure may be made by the Commission at any regular or special meeting upon the affirmative vote of a majority of the entire voting membership of the Commission.

B. Suspension of Rules. The suspension of any of these Rules of Procedure may be ordered at any meeting by a unanimous vote of those present. (Ord. 2021-03, S7.05.150, Mar. 16, 2021) (Ord. 2010-05, June 8, 2010) (Ord. 1997-3, Article XI, S1-8, April 8, 1997)

**7.05.180 Board of Zoning Appeals.**

(1) The Board of Zoning Appeals. The Ferdinand Board of Zoning Appeals, an advisory board of zoning appeals under Indiana Law, is hereinafter referred to as the "Board".

(2) Jurisdiction. Having adopted a comprehensive plan as required under IC 36-7-4-501, all of the incorporated and unincorporated territory within the following or part of the sections of the Ferdinand Township, Dubois County, Indiana, shall constitute the planning and zoning jurisdiction of the Commission:

Township 3 south, Range 4 west, sections 16, 17, 20, 21, 28, 29, 32, 33, 34, east 1/2 31, east 1/2 30, east 1/2 19, east 1/2 18, west 1/2 15, west 1/2 22, west 1/2 27.

(3) Membership.

A. Appointment. The Board shall consist of five (5) members, appointed as follows:

1. Three (3) citizen members appointed by the President of the Town Council, of whom one (1) must be a member of the Plan Commission and two (2) must not be members of the Plan Commission.

2. One (1) citizen member appointed by the Town Council, who must not be a member of the Plan Commission.

3. One (1) citizen member appointed by the Plan Commission, who must be a member of the Plan Commission other than the member appointed under subsection (1), above, and who must be

one of the Plan Commission members appointed by the County Board of Commissioners to the Plan Commission who resides in the unincorporated area within the Commission's jurisdiction.

B. Restrictions. None of the members of the board of zoning appeals may hold other elective or appointive office, except as permitted above. A member must be a resident of the jurisdictional area of the board.

C. Terms of Appointment. Appointments are for a term of four (4) years. A member serves until their successor is appointed and qualified. A member is eligible for reappointment.

D. Removal. The appointing authority may remove a member for cause. Removal may be appealed.

E. Vacancies. When a vacancy occurs, the appointing authority shall appoint a replacement for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the Board in any hearing or decision in which the regular member it has appointed has a disqualification due to a conflict of interest.

F. Conflicts of Interest. A member of the Board of Zoning Appeals may not participate in a hearing or decision of that Board concerning a zoning matter in which he has a direct or indirect financial interest.

(4) Organization.

A. At the first meeting of each year, the Board shall elect a chairman and vice-chairman from its members and may appoint an executive secretary.

B. All meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine.

C. All meetings of the Board shall be open to the public. The Secretary shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and records of the Board shall be kept at the Town Hall. The Secretary shall make written findings of fact in all cases heard by the Board.

D. Action of the Board is not official, unless it is authorized by a majority of the entire membership of the Board. A majority of the entire membership of the Board shall constitute a quorum.

(5) Procedure of the Board.

A. The procedures, duties and responsibilities of the Board, as well as appeals from decisions of the Board, shall be as set forth in I.C. 36-7-4-900, et seq. Additionally, the Board may adopt rules concerning the filing of appeals, the application for variance and exceptions, the giving of notice, and the conduct of hearings.

B. No request for a variance or special exception shall be acted upon until the applicant has filed with the Board a certification in substantial conformity with Form 3 contained in the Appendix to this Ordinance (Chapter). The Board shall determine who are affected property owners in each case.

(6) Powers and Duties of the Board. The powers, duties and responsibilities of the Commission shall be as set forth in I.C. 36-7-4-900, et. seq. and shall include:

A. Review. The Board shall hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative:

1. Official, hearing officer, or staff member under the zoning ordinance;

2. Board or other body except the plan commission in relation to the enforcement of this ordinance (chapter);

3. Board or other body except the plan commission in relation to the enforcement of the requirement of this Ordinance (Chapter) regarding procurement of a Structure and Land Use Permit.

B. Variances. The Board shall hear and approve or deny variances from the terms of the zoning ordinance and may impose reasonable conditions as a part of its approval. A variance may be approved only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

3. The need for the variance arises from some condition peculiar to the property involved;

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought;

5. The approval does not interfere substantially with the comprehensive plan; and

6. The adjacent affected property owners have been notified in writing of the variance request by the persons seeking the variance.

The Board shall hear and approve or deny variances from the development standards of the zoning ordinance. A variance may be approved only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

3. The strict application of the terms of the zoning Ordinance will result in practical difficulties in the use of the property; and

4. The adjacent affected property owners have been notified in writing of the variance request by the persons seeking the variance.

C. Special Exceptions. The Board shall hear and approve or deny, subject to appropriate conditions and safeguards, requests to vary the application of the regulations of this Ordinance (Chapter) as follows:

1. Grant in undeveloped areas of the community, temporary permits not exceeding two 2 years for structures and uses in contravention of the use regulations controlling residence districts, provided such uses are not prejudicial to adjoining and neighboring areas already developed;

2. Permit public utility or public service uses or public buildings, in any district when found to be necessary for the public health, safety, or the general welfare;

3. Grant a permit whenever it is provided in this ordinance that approval of the Board is required;

4. Permit a mobile home as an accessory use to the permanent - standard dwelling unit in the Agricultural District; provided that said dwelling unit is located on an ownership parcel of at least two (2) acres, and provided that the mobile home is occupied by the adult child, parents, or full-time employee of the owner and inhabitant of said dwelling unit;

5. Permit a mobile home in the Agricultural District as a temporary use, not to exceed one (1) year, where the purpose and intention of the owner and inhabitant thereof is to construct a permanent standard dwelling unit on the same site within one (1) year of the issuance of the temporary permit. Reasonable extensions may be granted if completion of the dwelling unit for habitation is delayed through no fault of said owner;

6. Permit a mobile home as an accessory use to the permanent standard dwelling for one (1) year in the One and Two Family Residential District if a temporary or permanent physical or mental disability of the child or parents of the occupants of said dwelling is documented to the satisfaction of the Board. The permit may be extended from year to year while said physical or mental disability exists and shall terminate upon the cessation of the disability; and

7. Permit a mobile home for one (1) year in the One and Two Family Residential Districts, if one or two family dwelling has been destroyed by flood, fire, explosion, or other natural disaster, and such mobile home will be used by the former inhabitants of the one or two family dwelling at the time it was damaged for living purposes in said mobile home while the one or two family dwelling is being repaired or rebuilt.

8. Permit an earthen pond, lake, or other similar body of water in any district except one and two family residential, multiple family residential, or commercial district, and in all other zoning districts only by special exception of the Board. (Ord. 1997-3, Article XII, S1-6, April 8, 1997)

9. Permit a Home Occupation provided that:

   (a) The Home Occupation shall be carried on by a member of the family residing in the dwelling unit and not more than one employee who is not part of the family will be employed there.

   (b) The Home Occupation shall be carried on wholly within the principal or accessory structures.

(c) Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be produced.

(d) The Home Occupation shall not create any traffic or parking problems.

(e) There shall be no exterior display or storage of goods on said premises.

(f) Home Occupations as special exceptions granted shall not apply to the next occupant or owner of property for which original use was granted. The Home Occupation for a residential structure does not run with the property, but rather to the specific occupant and the specific business enterprise.

(g) The dwelling unit used for the Home Occupation shall not serve as a storage facility for a business conducted elsewhere.

(h) The use of the dwelling unit for a Home Occupation shall be compatible with the character of nearby residential areas; shall not create a nuisance for neighboring properties due to, but not limited to, noise, odors, vibration, heat, or the use or storage of chemicals, explosives, flammable liquids, pollutants or other hazardous or toxic materials not typically found (because of type or quantity) in a residential structure.

(i) Signage. A small placard type sign, not exceeding four (4) square feet in area is allowed. Such sign shall be unlighted or unilluminated. The sign's placement shall not be less than fifteen (15) feet from the front and side property lines.

(j) The Home Occupation shall not be conducted within any unenclosed or partially-enclosed accessory building; structure; or garage or on any porch, deck, patio, or other unenclosed or partially-enclosed portion of the dwelling unit.

(k) No activity, materials, goods, or equipment incidental to the Home Occupation shall be externally visible.

(l) No more than twenty-five (25) percent of the total living area of the dwelling (exclusive of garage and porch areas) shall be used for the Home Occupations.

(m) Use as a Home Occupation shall not change the character or use of the dwelling for residential purposes.

(n) In a rental situation, both Tenant and Landlord must jointly petition for the special exception. (Ord. 2014-22, S7.05.180, Dec. 9, 2014) (Ord. 2012-03, S7.05.180, June 12, 2012)

**7.05.200 Executive Secretary.**

(1) Executive Secretary of Plan Commission. The Commission may appoint an Executive Secretary, who shall serve at the pleasure of the Plan Commission.

A. The Executive Secretary of the Plan Commission shall have the following responsibilities:

1. Act as secretary for the Commission and attend all meetings of the Commission, and also the Town Council when necessary.

2. Keep all minutes of meetings and records in an orderly, type-written form.

3. Maintain and update zoning maps.

4. Perform all other duties of a secretarial nature.

5. Arrange meetings of the Board;

(a) Schedule meetings and notify members;

(b) Publish all required legal notices for the Commission.

6. Respond to questions concerning zoning and the Plan Commission, as well as be reasonably accessible for such purpose.

7. Have an excellent knowledge of all zoning requirements.

8. Issue all Structure and Land Use Permits, monitor compliance with zoning requirements, investigate all complaints of violation.

9. Act as receiver of funds and transmit the same to the Town's Clerk-Treasurer.

(2) Executive Secretary of Board of Zoning Appeals. The Board may appoint an Executive Secretary, who shall serve at the pleasure of the Board.

A. The Executive Secretary of the Board shall have the following responsibilities:

1. Act as secretary for the Board and attend all meetings of the Board, and also the Town Council when necessary.

2. Keep all minutes of meetings and records in an orderly, type-written form.

3. Perform all other duties of a secretarial nature.

4. Arrange meetings of the Board;
(a) Schedule meetings and notify members;

(b) Publish all required legal notices for the Board.

5. Respond to questions concerning zoning and the Board of Zoning Appeals, as well as be reasonably accessible for such purpose.

6. Have an excellent knowledge of all zoning requirements. (Ord. 1997-3, Article XIII, S1 and 2, April 8, 1997)

**7.05.220 Remedies and Enforcement.**

(1) Violations. Whenever a violation of this ordinance (chapter) occurs, any person may request the Commission take action thereon by filing a complaint in writing with the Secretary, who shall properly record such complaint and investigate and report thereon to the complainant, the alleged violator, and the Commission.

(2) Enforcement Action Taken. The Secretary, upon determination that a violation exists, may take any immediate enforcement action required and as permitted by I.C. 36-7-4-1000 et seq. Additionally, the Secretary shall report to the Commission regarding any immediate enforcement action taken or recommended by the Secretary to be taken.

(3) Whom may Enforce. Any person, or the Commission, upon advice from the Secretary or on its own motion, may take any enforcement action permitted by I.C. 36-7-4-1000 et seq.

(4) Each Day is a Separate Violation. Each day of non-compliance with the provisions of this Ordinance shall constitute a separate and distinct Ordinance violation. Judgment of no less than $25.00 and no more than $2,500.00 for each violation may be recovered by the Commission.

(5) Attorney Fees. The Commission shall recover its attorney's fees upon a favorable Court decision assessing judgment in its favor for any Ordinance violation. (Ord. 2010-05, June 8, 2010) (Ord. 1997-3, Article XIV, S1-5, April 8, 1997)

**7.05.250 Interpretation, Conflict with Other Laws.**

(1) Interpretation, Conflict with Other Laws. In their interpretation and application, the provisions of this Ordinance (Chapter) shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this Ordinance (Chapter) are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern. (Ord. 1997-3, Article XV, S1, April 8, 1997)

**7.05.260 Amendments.**

(1) Amendments. All amendments to this Ordinance (Chapter) shall be in conformity with Indiana Code 36-7-4. (Ord. 1997-3, Article XVI, S1, April 8, 1997)

**7.05.270 Validity.**

(1) Validity. If any provision of this Ordinance (Chapter) is decided by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance (Chapter) as a whole or any part thereof other than the part so decided to be unconstitutional or invalid. (Ord. 1997-3, Article XVII, S1, April 8, 1997)

**7.05.280 Sexually Oriented Businesses.**

(1) Purpose and Findings.

A. Purpose. It is the purpose of this ordinance to regulate, through zoning, sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Town of Ferdinand and those in their zoning jurisdiction, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town's zoning jurisdiction, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or

deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

B. Findings. Based on evidence of the adverse secondary effects of adult uses in other communities and on findings incorporated in the cases of City of Erie v. Pap's AM, 529 U.S. 277 (2000); City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986); Young v. American Mini Theaters, 426 U.S. 50 (1976); Barnes v. Glen Theater, Inc., 501 U.S. 560 (1991); Pleasureland Museum, Inc. v. City of Mishawaka, 298 F.3rd 988 (7th Cir. 2002); Entertainment Concepts, Inc. vs. Robert T. Meciejewski, 631 F.2d 497 (1980); Genusa vs. City of Peoria, 619 F.2d 1203 (1980); Topanga Press, Inc. vs. City of Los Angeles, 989 F.2d 1524 (1993); City of Los Angeles vs. Alameda Books, Inc., 122 S. Ct. 1728 (2002); North Ave. Novelties, Inc. vs. Ci!y of Chicago, 88 F.3d 441 (7th Cir. 1996), and other cases; and on reports of secondary effects occurring in and around sexually oriented businesses in other communities throughout the United States, the Town Council finds:

1. Sexually oriented businesses have a deleterious effect on both existing businesses around them and the surrounding residential areas adjacent to them, causing adverse secondary effects including increased crime and downgrading of property values.

2. Sexually oriented businesses are frequently used for unlawful sexual activities and illicit sexual behavior, which in turn lead to communicable diseases such as syphilis, gonorrhea, HIV-AIDS, and genital herpes.

3. Location restrictions for sexually oriented businesses can assist in protecting the health, safety and general welfare of Ferdinand residents.

4. Sexually oriented businesses should be separated from residential uses, churches, parks, other public facilities and schools and from other land uses dissimilar to them.

5. No evidence has been presented to show that location of sexually oriented businesses in any certain zoning district will improve the commercial viability or quality of life of the community.

6. Zoning regulations are legitimate reasonable means of accountability to insure that sexually oriented businesses

comply with reasonable regulations and are located in placed which minimize the adverse secondary effects of sexually oriented businesses.

7. The Town Council of the Town of Ferdinand, Indiana believes that by preventing adverse effects of sexually oriented businesses, they thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight and protect against the threat to health from the spread of communicable and social diseases. (Ord. 2004-09, S1, Sept. 8, 2004)

(2) Regulations for Location of Sexually Oriented Businesses. The establishment of a sexually oriented business shall be permitted only in the specified Industrial District zone; provided, however, that no person shall cause or permit the establishment of sexually oriented businesses, as defined in Section 9 of Ordinance 2004-09, and Section 7.05.010 Definitions in the Municipal Code, within 500 feet of another sexually oriented business; or within 500 feet of a religious institution; school; boys or girls club, or similar existing youth organization; or public park or recreation area; or public building; or residential district; or residential use (the foregoing uses are hereinafter collectively referred to as "sensitive uses").

Notwithstanding any other provision herein to the contrary, sexually oriented businesses shall be considered permitted uses in the zoning district where sexually oriented businesses are allowed to locate under this chapter, and shall not be subject to the standards applied to variances and special exceptions in those zoning districts.

In the event that a business meets the definition of a Sexually Oriented Business under this Title, by may also be considered another type of business under this Title or other applicable section of the Municipal Code of the Town of Ferdinand, the rules and regulations pertaining to Sexually Oriented Businesses shall supersede and take precedence over the rules and regulations for any other type of business and said business shall be required to meet Sexually Oriented Business rules and regulations, including, but not limited to, locating in an Industrial Zoning District. (Ord. 2004-09, S4, Sept. 8, 2004)

(3) Measurement of Distance. For the purpose of determining the distance requirements set forth in this Section 7.05.280, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexually oriented business and any religious institution; school; boys or girls club, or similar existing youth organization; or public park or recreation area; or public building; or

residential district; or residential use (hereinafter "sensitive uses") shall be measured from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted, to the nearest property line of the premises of the sensitive uses. The Town of Ferdinand may require that the owner or operator of a sexually oriented business certify all distance measurements by a land surveyor registered by the State of Indiana. (Ord. 2010-05, June 8, 2010) (Ord. 2004-09, S5, Sept. 8, 2004)

(4) Exterior Portions of Sexually Oriented Businesses. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit is required or has been issued for said business under this Ordinance or any other ordinances of the Town of Ferdinand, to display or otherwise exhibit the materials and/or performances at such sexually oriented business in any advertising or any portion of the interior premises which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.

It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit is required or has been issued for said business under this Ordinance or any other ordinances of the Town of Ferdinand, to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance. (Ord. 2004-09, S6, Sept. 8, 2004)

(5) Signage and Lighting Regulations. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit is required or has been issued for said business under this Ordinance or any other ordinance of the Town of Ferdinand, to advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.

It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit is required or has been issued for said business under this Ordinance or any other ordinance of the Town of Ferdinand, to erect, construct or maintain any sign for the sexually oriented business other than as permitted by the Town of Ferdinand Zoning Ordinance or other applicable Code sections. All off street parking areas and premise entries of the sexually oriented business shall be illuminated from dusk to dawn with a lighting system to provide for visual inspection or video monitoring to prohibit loitering and in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the sketch or diagram of the premises, if such a sketch or diagram is required. (Ord. 2004-09, S7, Sept. 8, 2004)

(6) Sexual Encounter Establishment Prohibited. No person shall operate a sexual encounter establishment as defined in this chapter. Operation of such an establishment shall constitute a nuisance per se and will additionally result in imposition of penalties for violation of this chapter. (Ord. 2004-09, S8, Sept. 8, 2004)

**7.05.300 Appendix.**

| | |
|---|---|
| FORM 1 | Improvement Location/Sign Permit |
| FORM 2 | Request for Re-Zoning/Variance/Special Exception/Plat |
| FORM 3 | Subdivision Performance Bond Release |
| FORM 4 | Illustrations of Signs (Ord. 1997-3, Appendix, April 8, 1997) |
| FORM 5 | Curb & Gutter Permit Application |
| FORM 6 | Driveway Permit Application |
| FORM 7 | Indiana Tall Structure Permit Areas |

TOF-1-05

Effective 7/1/18
Mandatory Disclosure
Required
See Attachment

Ferdinand
Indiana

Town of Ferdinand
2065 Main Street
FERDINAND, IN 47532-0007
Phone 812-367-2280
Fax 812-367-1303
E-mail: townofferdinand@sigecom.net
www.ferdinandindiana.org

# IMPROVEMENT/BUILDING PERMIT APPLICATION

**Type of Work:**

**Application #:** _____

[ ] New Building

**Date of Application:** ___ / ___ / ____

[ ] Addition

[ ] Other (Excavation, Renovation, Swimming Pool, Etc.) _____

**Application is made hereby for an IMPROVEMENT/BUILDING PERMIT, as follows:**

**Applicant's Name:** _____ **Phone Number:** _____

**Address:** _____

**Property Owner Name:** _____ **Phone Number:** _____

**Location Information**

**Address:** _____

**Present Zoning:** _____ **Kind of Structure:** _____

**Proposed Improvements:** _____

**Present Use of Premises:** _____ **Proposed Use:** _____

**Estimated Start Date:** ____ / ____ / _____ **Estimated Completion Date:** ___ / ___ / ____

**NOTE: Residential and other projects under 10,000 sq. ft. must be completed within 18 months. All other project must be completed within 24 months.**

**Square Footage of New Construction:** _____ **Height of Structure at Completion:** _____

**# of Bedrooms: (New)** _____ **(Existing)** _____ **# of Bathrooms: (New)** _____ **(Existing)** ____

**Is a Basement Included?** [ ] Yes [ ] No

**# of Parking Spaces: (Residential)** _____ **(Commercial)** _____ **(Industrial)** _____

**Size of Lot:** _____ **Cost of Improvement:** _____

**Building Heated By:** _____ **Air Conditioner:** _____

Contact the Zoning Administrator at (812) 367-2280 with questions and concerns regarding this application/topic.

TOF-1-05

**Name of Contractors or "Self"**

**General:** _____ **Plumbing:** _____ (Certification #)

**Surveyor:** _____ **Electrical:** _____ (Certification #)

**Heating:** _____

**Utility Suppliers**

**Electric:** [ ] Town [ ] Other **Water:** [ ] Town [ ] Other

**Wastewater:** [ ] Town [ ] Other **Gas:** _____

**Sump Pump:** [ ] Yes [ ] No

**If Yes, Where Does Effluent Go?** [ ] Storm Sewer [ ] Sanitary [ ] Other

---

I certify that this application is true and correct and that the proposed improvements shall be installed or constructed only on the property specified in this application. I further understand and agree that any improvements installed or constructed over a recorded utility easement or drainage easement, whether or not authorized by a permit, is undertaken at the risk of the property, and that in the event access to such easement is required for installation or maintenance of utilities, the improvement shall be removed at the expense of the owner.

_____ _____ ___/___/____

**Owner's Signature** **Printed Name** **Date**

**Please note the following items before submitting your application:**

- [ ] **Compliance with the town's storm water control ordinance is mandatory.**
- [ ] **Attach erosion control measures**
- [ ] **Repairs are required to damaged curb/gutter/street from construction**
- [ ] **Please allow 2 to 3 weeks for approval of application**
- [ ] **Please draw the site plan in the space provided on the next page or attach your own. The following information must be included:**
  - [ ] **Lot dimensions**
  - [ ] **Location of driveways, sidewalks, street, and street names**
  - [ ] **Location of all existing structures, with measurements from lot lines to the structures**
  - [ ] **Locations of all proposed construction, with measurements from lot lines to proposed structures**
  - [ ] **Location of all utility lines, including gas, water, sewer, electric, cable TV, and telephone**
  - [ ] **Location of utility and drainage easements**
  - [ ] **Location of existing or proposed septic field (unless on sewer)**
  - [ ] **Setback lines on structure are established at roof line/gutters**

Contact the Zoning Administrator at (812) 367-2280 with questions and concerns regarding this application/topic.

TOF-1-05

# IMPROVEMENT/BUILDING PERMIT APPLICATION

**Site Plan Area**

**For Internal Use Only**

**Zoning Classification:** _____

| | | | |
|---|---|---|---|
| **State Design Release Attached:** | **[ ] Yes** | **[ ] No** | **[ ] Not Required** |
| **Septic Permit Attached:** | **[ ] Yes** | **[ ] No** | **[ ] Not Required** |
| **Driveway Permit:** | **[ ] Yes** | **[ ] No** | **[ ] Not Required** |
| **Floodplain:** | **[ ] Yes** | **[ ] No** | |

**Town Department Approval:**

**Electric**_____ **Water**_____ **Street**_____ **Wastewater**_____

**Town Manager**_____

**Storm water control ordinance compliance Yes** _____ **Exempt**_____ **Date**_____

**Comments:** _____

_____

**Inspection Notes:** _____

**Inspection Date:** ____ / ____ / _____ **Signature:** _____

**Improvement Location #:** _____ **Issue Date:** ____ / ____ / _____

**Permit Fee:** _____ **Date Paid:** ____ / ____ / _____ **Issued by:** _____

**Notes:** _____

Contact the Zoning Administrator at (812) 367-2280 with questions and concerns regarding this application/topic.

## MANDATORY DISCLOSURE:

## SENATE ENROLLED ACT No. 393

### Section 1. IC 22-11-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS (EFFECTIVE July 1, 2018)

### Chapter 21. Firefighter Safety Notification

Sec. 1. This chapter applies only to a Class 1 or Class 2 structure for which a building permit is issued by a city, town or county after June 30, 2018.

Sec. 2. As used in this chapter, "advanced structural components" means lightweight I-joists or lightweight roof trusses that:

(1) Have less mass cross-sectional area than sawn lumber of equivalent proportions used in an equivalent application; and
(2) Are assembled from combustible or noncombustible materials, or both.

The term does not include a structural assembly, joist, or trust that provides at least one (1) hour of tire resistance when tested in accordance with the ASTM Standard E119.

## ADVANCED STRUCTURAL COMPONENTS

____ WILL - BE USED IN THIS STRUCTURE

____ **WILL NOT - BE USED IN THIS STRUCTURE**

1. **street address** _____
2. **township/county** _____
3. **types of advanced structural component used**

   _____
4. **location where used (roof - floor - both)**

   _____

_____

**Applicant Name – signature**

_____

**Applicant Name - print**

Failure to disclose will result in the return of your application.

- Senate Enrolled Act 393 requires individuals to disclose on their building permit application issued by a city, town or county for a Class 1 or Class 2 structure after Jun 30, 2018, if they are using advanced structural components. The law also requires the city, town or county building commissioner to notify the local fire department and 911 call center of the advanced structural components no later than 90 days after issuing a building permit.

FORM 2

We, the undersigned, having been advised of the request of _____

_____ for a (change of the present zoning of their property as it presently exists) (for a variance from the zoning requirements) (for a special exception) (for a plat of real estate) pursuant to the Zoning Ordinance of the Town of Ferdinand, which request for (re-zoning) (variance) (special exception) (a plat of real estate) is as follows: _____

_____

_____, do hereby consent to such (re-zoning) (variance) (special exception) (a plat of real estate).

_____ _____

_____ _____.

_____ _____

_____ _____

_____ _____

We, _____, certify to the Plan Commission that the above named persons represent all affected property owners affected by the (re-zoning) (variance) (special exception) (a plat of real estate).

_____ _____

FORM 3

SUBDIVISION PERFORMANCE BOND
RELEASE FORM

Area Developed _____

_____

Name of
Developer _____

_____

| | APPROVAL DATE | APPROVED BY |
|---|---|---|
| 1. Streets (to include curb & gutter if required) | | |
| 2. Water | | |
| 3. Gas | | |
| 4. Sanitary Sewer | | |
| 5. Electric | | |

COMMENTS: _____

_____

_____

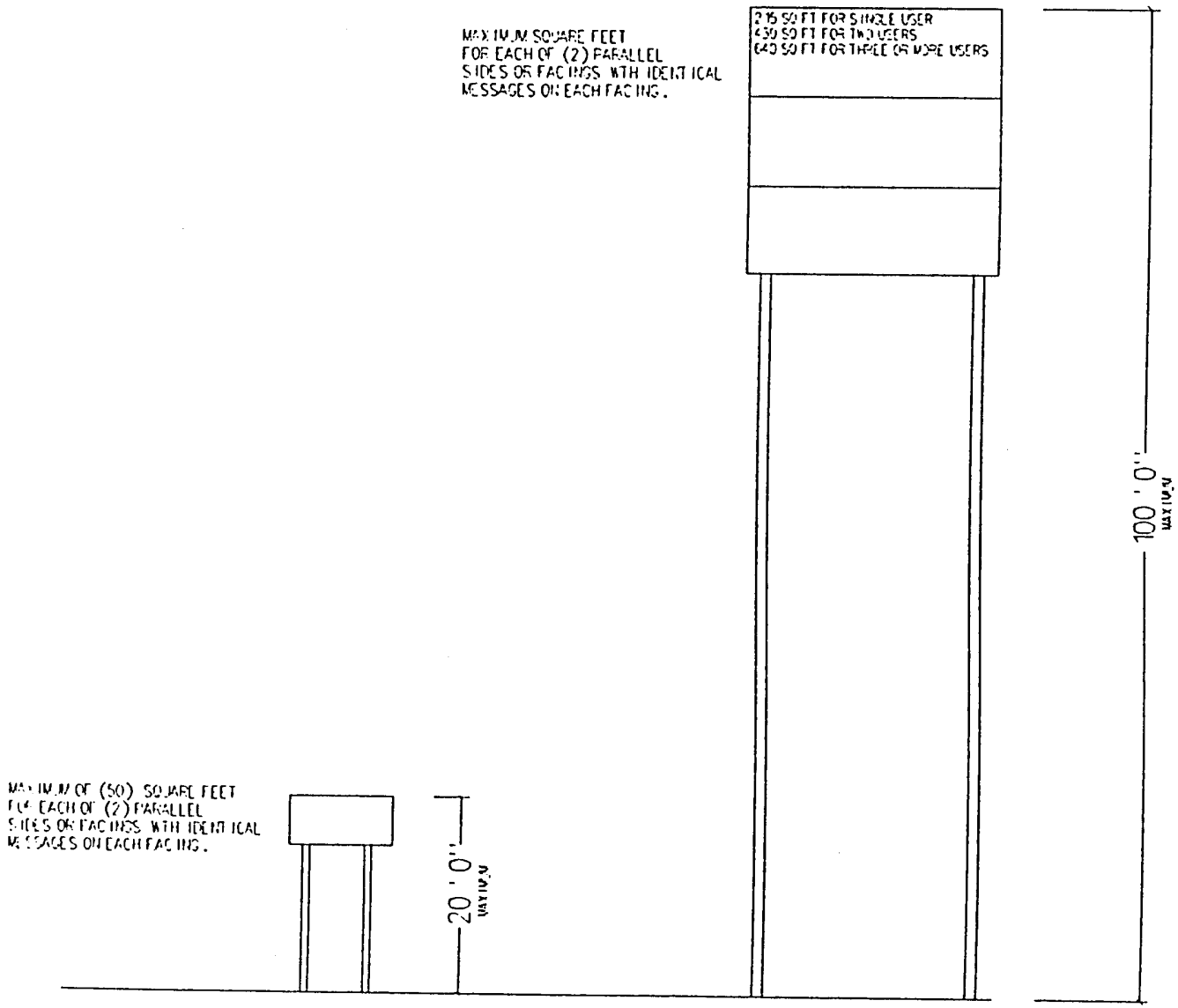
_____

*FOR OFFICE USE ONLY*

Checked by: _____ Date _____

Released by: _____ Date _____

**Form 4**




MAXIMUM SIGN SIZES FOR OVER-LAY ZONES LOCATED AT INTERSTATE ( I-64 ) OR SR ( 162 ).
AN INSERT TO THE SIGN ORDINANCE OF FEE NAND, INDIANA.

# Form 5

TOWN OF FERDINAND
CURB & GUTTER PERMIT APPLICATION

APPLICANT'S NAME _____ DATE _____

ADDRESS _____ PHONE _____

JOB ADDRESS _____ PERMIT NO. _____

A) Application is hereby made to build or replace curb & gutter at the address listed above. Before work starts, this application must be approved by the Town of Ferdinand Street Superintendent under whose supervision all work is to be performed. Work must conform to Americans With Disabilities Act provisions.

B) Indiana law requires the applicant to notify Underground Plant Protection Service before any digging takes place in a public right-of-way or easement. Notification must be given to 1-800-382-5544 at least two (2) working days prior to digging.

C) Curb & gutter is NEW-REPLACEMENT RESIDENTIAL-COMMERCIAL (circle as appropriate).

D) Curb & gutter length in feet _____

E) Curb & gutter includes a driveway cut YES NO (circle one)
A driveway or sidewalk permit may also be required if yes.

F) Curb & gutter design ROLLED COMBINED OTHER (circle one – see back side)

G) Contractor's name _____ Phone _____

Address _____ City _____

Contractor must have liability/property damage Certificate of Insurance on file with the Town before work begins.

H) Applicant agrees to furnish and place required pedestrian and vehicular safety devices during construction and to comply with the provisions above.

_____
Applicant's Signature

_____ Date _____

APPROVED – Street Superintendent Signature
Ferdinand Street Department
533 W. 5th Street
P.O. Box 7
Ferdinand, IN 47532
(812) 367-2282

**(Ord. 07-09, July 10, 2007)**

# Form 6

TOWN OF FERDINAND
DRIVEWAY PERMIT APPLICATION

APPLICANT'S NAME_____ DATE _____

ADDRESS_____ PHONE _____

JOB ADDRESS _____ PERMIT NO._____

A) Application is hereby made to build or replace a driveway at the address listed above. Before work starts, this application must be approved by the Town of Ferdinand Street Superintendent under whose supervision all work is to be performed. Work must conform to Americans With Disabilities Act provisions.

B) Indiana law requires the applicant to notify Underground Plant Protection Service before any digging takes place in a public right-of-way or easement. Notification must be given to 1-800-382-5544 at least two (2) working days prior to digging.

C) If sidewalk is affected it is NEW REPLACEMENT (circle one)

D) Affected sidewalk length in feet_____ width in feet (nnn, four feet) _____
Sidewalk modifications require a sidewalk permit.

E) Driveway is NEW-REPLACEMENT RESIDENTIAL-COMMERCIAL (circle as appropriate)

F) Driveway width in feet (residential minimum of twelve feet-maximum twenty-four feet) _____
(commercial minimum of twelve feet-maximum of forty feet) _____

G) Driveway construction material (circle one) CONCRETE ASPHALT
Minimum residential requirements - One (1) inch bituminous surface over two (2) inches bituminous base over three (3) inches of compacted aggregate OR four (4) inches of reinforced concrete over three (3) inches of compacted aggregate. Minimum commercial requirements - One (1) inch bituminous surface over three (3) inches bituminous base over six (6) inches of compacted aggregate OR six (6) inches of reinforced concrete over six (6) inches of compacted aggregate.

H) Driveway must be designed utilizing hard surface materials (concrete or asphalt) extending from the curb line for a minimum distance of: 1) ten (10) feet, or 2) five (5) feet past the new or existing sidewalk whichever is greater.

I) Driveway must not be closer than twenty-five (25) feet to an intersection and separated from any other opening in the curb by a minimum of four (4) feet. Additional site specific requirements, including drainage and curb 86 gutter, may be required by the Street Superintendent.

J) _____ Contractor's name___Phone

Address_____ City_____

Contractor must have liability/property damage Certificate of Insurance on file with the Town before work begins.

K) Applicant agrees to furnish and place required pedestrian and vehicular safety devices during construction and to comply with the provisions above.

**CAUTION TO ALL APPLICANTS:** Driveway permits will be issued in reliance upon information provided by applicant at the time of application. It is the responsibility of the applicant to stake off the areas indicated in the application. The issuance of a permit should not be construed as the Town's opinion as to or verification of the location of property lines. The Town of Ferdinand is not responsible for verifying the accuracy of the location of property lines through the use of surveys or otherwise. Applicants are strongly urged to have their property surveyed before applying for a permit or commencing construction.

The undersigned: (1) agrees that the driveway will be constructed in all respects in accordance with the plans and specifications submitted herewith and in accordance with all applicable provisions of the Ferdinand Municipal code; (2) acknowledges that the provisions and regulations of said ordinances and/or codes pertaining to such construction govern and shall be followed; (3) certifies that he/she has read and examined this application and knows the same to be true and correct; (4) understands granting of a permit does not presume to give authority to violate or cancel the provisions of any other State or local law regulating construction or the performance of construction; and (5) understands that this is an application for a permit and does not grant authority to construct a driveway until such time as the permit has been approved and issued.

Date _____

Applicant's Signature

APPROVED — Street Superintendent Signature
Ferdinand Street Department
533 W. 5th Street, P.O. Box 7
Ferdinand, IN 47532
(812) 367-2282

(Ord. 14-20, Nov. 11, 2014) (Ord. 07-09, July 10, 2007)

**COMPLIANCE FORM**

I have been provided with a copy of the subdivision preliminary sketch plan of _____ on the _____ day of _____, 20_____.

_____
Street Superintendent

I have been provided with a copy of the subdivision preliminary sketch plan of _____ on the _____ day of _____, 20_____.

_____
Sanitary Sewer Superintendent

I have been provided with a copy of the subdivision preliminary sketch plan of _____ on the _____ day of _____, 20_____.

_____
Water/Electric Superintendent

I have been provided with a copy of the subdivision preliminary sketch plan of _____ on the _____ day of _____, 20_____.

_____
Town Manager

After completion, please provide this fully completed and signed form to the Executive Secretary of the Plan Commission.

## EXHIBIT A

**INSPECTION FORM**

I have inspected and approved the improvements and/or installation of utilities for the following subdivision: _____

Date: _____, 20_____.

_____
Street Superintendent

I have inspected and approved the improvements and/or installation of utilities for the following subdivision: _____

Date: _____, 20_____.

_____
Sanitary Sewer Superintendent

I have inspected and approved the improvements and/or installation of utilities for the following subdivision: _____

Date: _____, 20_____.

_____
Water/Electric Superintendent

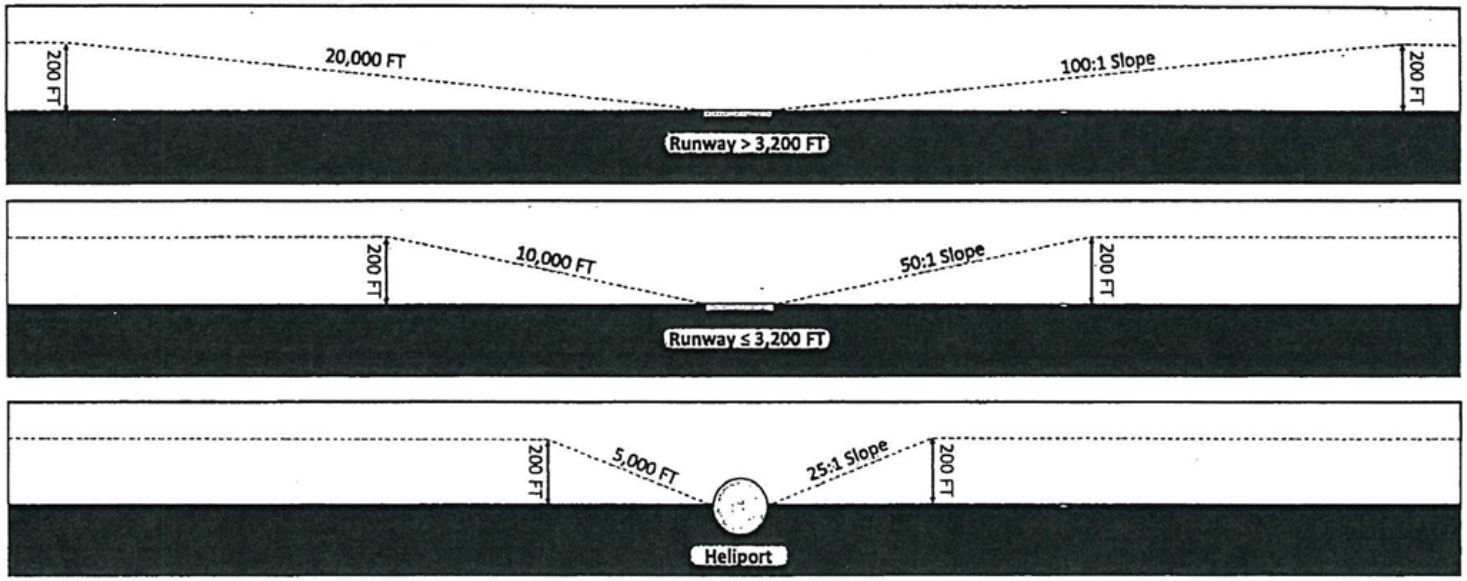
After completion, please provide this fully completed and signed form to the Executive Secretary of the Plan Commission.

## EXHIBIT B

## INDIANA TALL STRUCTURE PERMIT AREAS
## (INDIANA CODE 8-21-10*)

**Applicable only to public-use runways/heliports*

INDOT Office of Aviation
100 N. Senate Ave., Room N955
Indianapolis, IN 46204




Not to Scale. Surfaces Exaggerated for Demonstration.

**If an Indiana Tall Structure Permit is Required:**

1. Submit FAA Form 7460-1 *(https://oeaaa.faa.gov)* to initiate an FAA airspace evaluation
2. Prior to construction, provide 60 days' written notice to:
   - All public-use airports/heliports within 5 nautical miles of the proposed structure *(if applicable)*
     *Note: A notification template is available on the INDOT Aviation website: http://www.in.gov/indot/2808.htm*
   - The INDOT Office of Aviation
3. An airspace determination of "No Hazard" must be issued by the FAA and complied with prior to construction

EXHIBIT
Form 7

**INDIANA DEPARTMENT OF TRANSPORTATION**
*Driving Indiana's Economic Growth*

100 North Senate Avenue
Room N955
Indianapolis, Indiana 46204

PHONE: (317) 232-1477
FAX: (317) 232-1499

Mitchell E. Daniels, Jr., Gover
Michael B. Cline, Commissior

**DATE:** August 23, 2010

**RE:** **I.C. 8-21-10, Regulation of Tall Structures and Noise Sensitive Permits**

This letter is to advise of changes in the tall structure permitting process administered by the INDOT – Office of Aviation beginning August 23, 2010. The noise sensitive permit process will remain the same and is also included in this memo.

**Tall Structure Permits**

Changes reflected in this document are to provide clarity to the administrative process and to ensure early notification to Indiana airports. In order to obtain an Indiana tall structures permit, the following processes must be completed:

1. File a Federal Aviation Administration Form 7460-1, *Notice of Proposed Construction or Alteration*, with the FAA online at https://oeaaa.faa.gov. This website is the Federal Aviation Administration's Obstruction Evaluation / Airport Airspace Analysis page.

2. All applicants for a tall structure permit must have proof of notification (by certified mail, registered mail with return receipt requested or e-mail confirmation the recipient has received the notification) to any public-use airport located within a five (5) nautical mile radius of their proposed structure. The applicant must provide a copy of the notification of airport to INDOT's Office of Aviation. This notification to the airport must include the following:
   - Name, telephone number, and contact person of the applicant
   - Name, telephone number, and contact person of INDOT's Office of Aviation in charge of tall structures
   - Name, telephone number, and contact person of the plan commission with jurisdiction over the site
   - The location and legal description of the site (coordinates)
   - The proposed height of the structure
   - The aeronautical study number that the Federal Aviation Administration (FAA) has assigned to the proposed construction

3. An aeronautical study number will be assigned by the FAA when they receive an FAA Form 7460-1, *Notice of Proposed Construction or Alteration*. Once the FAA has studied the structure, they will either issue a *Determination of No Hazard* or, conversely, a *Notice of Presumed Hazard.* INDOT will not issue a permit unless the FAA has issued a Determination of No Hazard.

4. INDOT's Office of Aviation will then start a 60 day study period for consideration of a proposed structure upon receipt of a hard copy of Federal Aviation Administration's Form 7460-1 (or notification of assigned aeronautical study number) as well as evidence that all public-use airports within five (5) nautical miles of the proposed structure have been notified properly. This notification shall be sent by the applicant. INDOT will study the structure for a period of 60 days regardless of FAA determination.

5. Once INDOT's Office of Aviation has studied the structure for a period of 60 days and has determined that no hazards exist, the finalized FAA Determination of No Hazard will become a valid Indiana tall structure permit.

6. Although INDOT's Office of Aviation will not issue separate tall structure permits from the FAA, it still retains the right to revoke a permit if it determines that it will present a hazard to aerial navigation.

**Noise Sensitive Permits**

Changes are required to the noise sensitive permitting process due to the amendments to IC 8-21-10. Most of these changes simply codify the policy that INDOT had already been working under. These changes became effective July 1, 2002. The permitting process will be as follows:

1. File an INDOT Form 101 with the INDOT – Office of Aviation. This form can be found on: http://www.in.gov/indot/3054.htm.

2. A noise sensitive permit is required for construction of a building or structure used as a residence, school, church, child care facility, medical facility, retirement home, or nursing home when the construction takes place within the noise sensitive area of a public-use airport as outlined in I.C. 8-21-10.

3. A proponent for a noise sensitive permit must notify (by certified mail or registered mail with return receipt requested) any public-use airport located within a one (1) nautical mile radius of their proposed noise sensitive use structure. This notification must include the following:
    - Name, telephone number, and contact person of the applicant
    - Name, telephone number, and contact person from INDOT
    - Name, telephone number, and contact person of the plan commission with jurisdiction over the site
    - The location and legal description of the site
    - The proposed height of the structure, and
    - If the FAA was notified, the aeronautical study number that the FAA has assigned to the structure

4. To be considered valid, all noise sensitive permits issued by the INDOT – Office of aviation must be recorded in the county in which it is located within five business days of receiving the permit from the INDOT – Office of Aviation.

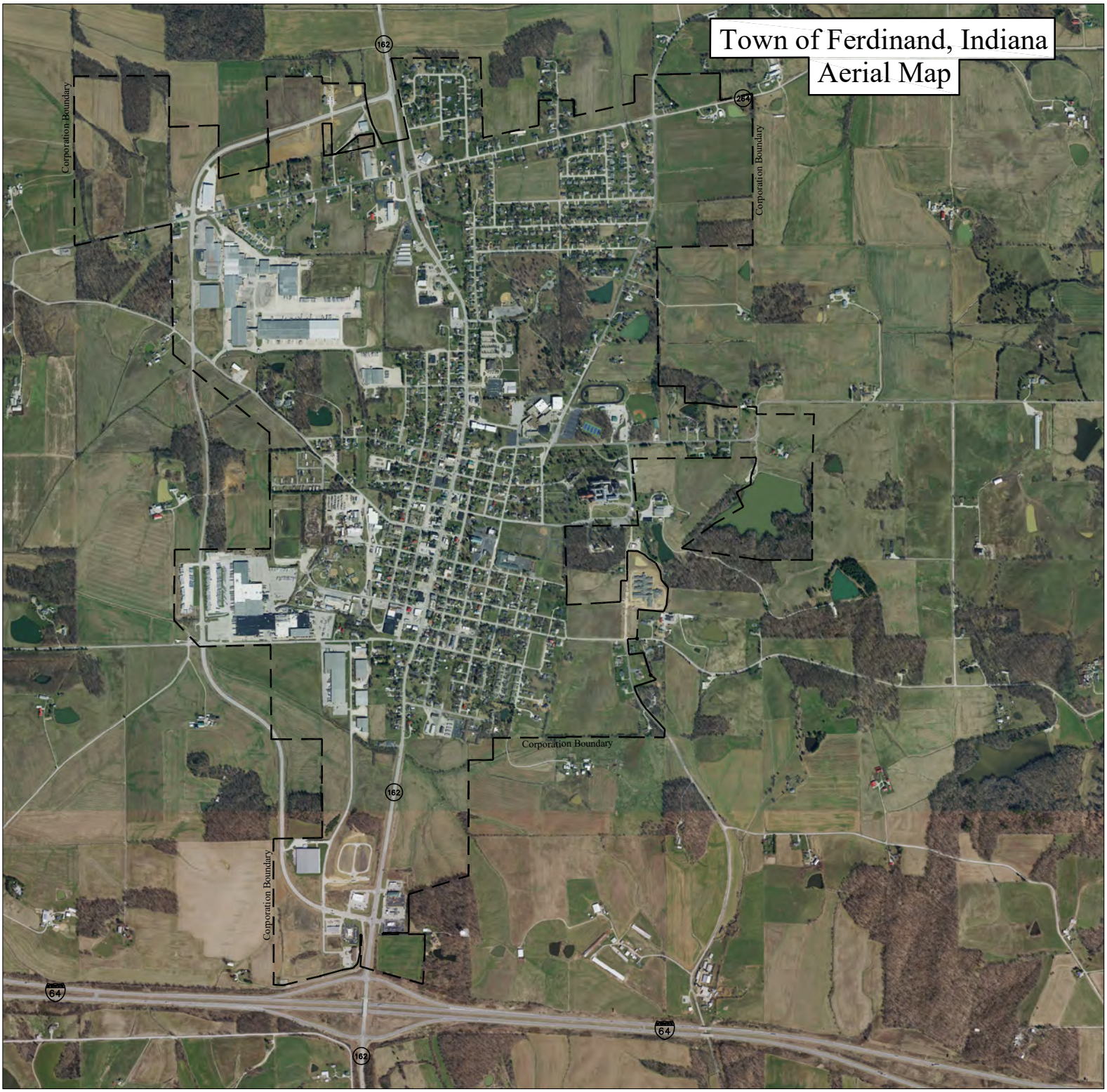
5. If the structure is located in more than one county, the county that contains the majority of the structure is the county in which the permit must be filed.

6. The permit will not be considered valid until the INDOT – Office of Aviation has received a copy of the recorded permit with the recording data from the county recorder of the county in which the structure is located.

7. Application for a noise sensitive permit is to be made in INDOT Form 101, available on our website at http://www.in.gov/indot/3054.htm.

If you have any questions pertaining to this matter feel free to call INDOT – Office of Aviation at (317)232-1485.

# Town of Ferdinand, Indiana
## Aerial Map




The information located upon the Ferdinand, Indiana Aerial Map is provided by Indiana 15 Regional Planning Commission. The data provided herein was compiled using various sources. The sources include:

--Ferdinand Plat Maps from the Dubois County Auditor's Office;
--Miscellaneous surveys and deeds recorded in the Dubois County Recorder's office;
--Ferdinand Ordinances that annex territory and vacate streets up to and including 2022-02

Some of these sources had conflicting boundary descriptions and lots that did not fully close. Any person who relies on said information does so solely at their own risk. While the Indiana 15 Regional Planning Commission worked diligently to place the legal documents, this data is provided as is without warranty.

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GRAPHIC SCALE

0 200 400 800 1200 FEET

1 Inch = 400 Feet

Aerial Photo Taken Spring 2019

INDIANA 15 REGIONAL PLANNING COMMISSION

| | |
|---|---|
| Title: Ferdinand, INDIANA - Aerial | |
| Prepared By: E.L., N.G., S.M. | Reviewed By: L.G. |
| Orig: June 15, 2015 | |
| Revisions: Sept 12, 2017 June 6, 2022 | |
| Revisions: | |
| N:\Counties\Dubois\Maps\Base Maps\Current\Ferdinand Base Map | |

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# Town of Ferdinand, Indiana
# Base Map

Corporation Boundary

Corporation Boundary

Corporation Boundary

Corporation Boundary

Roos Heights

Royal Ridge

Country Ridge Estates

Industrial Park Rd

Leisenbach Hills 1st Addition

RND Subdivision

Beckman's Addition

Original Town

1st (Eastern) addition

2nd (west) addition

Karcher's Addition

Henry Wagner's Addition

Plat of Ferdinand Health Campus

Lot 1

Scenic Hills Development

Ferdinand Crossing Addition

Old Ferdinand Lake

New Ferdinand Lake

Monastery Immaculate Conception

FERDINAND COMMUNITY CENTER

FERDINAND LIBRARY

TRI-COUNTY YMCA

FOREST PARK SPORTS COMPLEX

FOREST PARK HIGH SCHOOL

Chapel Reserve

5th Street Park

Green Creek

Cross Drain

Pike Run

Water Run

Ferdinand Run

Hunt Run

Holey Run

Hickhorn Creek

Ferdinand Road NW

Ferdinand Rd East

Convent Rd

Best Dr.

Industrial Park Dr.

Scenic Hills Dr.

Scenic Hills Ct.

Southwind Dr.

Meadowlark Ln.

Cardinal St.

Redbird St.

Robin Dr.

Wren Ct.

Swan Ct.

Maple Dr.

Birch Dr.

Oak Dr.

Main St.

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# Town of Ferdinand, Indiana
# Zone Map

Corporation Boundary

Corporation Boundary

Corporation Boundary

Corporation Boundary

Roos Heights

Royal Ridge

Country Wright Estates

KNU Design Center

RND Subdivision

Lehmenbach Hills 1st Addition

Beckman's Addition

Regina Tieken 1st (Eastern) Addition

Ferdinand 2nd (west) Addition

Karcher's Addition

Henry Wagner's Addition

South East Addition

Plat of Ferdinand Health Campus

Steele Hills Development

Ferdinand Country Estates

Not in Town

Meadowlark Ln.

Cardinal Dr.

Robin Rd.

Oriole Dr.

Sycamore Ct.

Dogwood Ct.

Chestnut Ct.

Maple Ct.

Oak Ct.

Elm Ct.

Ash Ct.

Beech Ct.

Walnut Ct.

Hickory Ct.

Pine Ct.

Spruce Ct.

Cedar Ct.

Fir Ct.

Willow Ct.

Birch Ct.

Poplar Ct.

Aspen Ct.

Redwood Ct.

Sequoia Ct.

Juniper Ct.

Hemlock Ct.

Larch Ct.

Cypress Ct.

Magnolia Ct.

Palm Ct.

Fern Ct.

Ivy Ct.

Moss Ct.

Vine Ct.

Leaf Ct.

Stem Ct.

Root Ct.

Seed Ct.

Flower Ct.

Petal Ct.

Sepal Ct.

Pollen Ct.

Nectar Ct.

Ovary Ct.

Ovule Ct.

Stigma Ct.

Style Ct.

Anther Ct.

Filament Ct.

Receptacle Ct.

Peduncle Ct.

Pedicel Ct.

Bract Ct.

Calyx Ct.

Corolla Ct.

Androecium Ct.

Gynoecium Ct.

Perianth Ct.

Tepal Ct.

Petaloid Ct.

Sepaloid Ct.

Carpel Ct.

Pistil Ct.

Stamen Ct.

Filament Ct.

Anther Ct.

Pollen Ct.

Nectar Ct.

Ovary Ct.

Ovule Ct.

Stigma Ct.

Style

# Town of Ferdinand, Indiana Zone Map- Jurisdictional Area

Corporation Boundary

Corporation Boundary

Corporation Boundary

Corporation Boundary

## LEGEND

Zoning Designation

- Agriculture
- B-1 Commercial
- B-2 Comercial
- Industrial
- Residential
- Residential - Multi Family
- Residential - Mobile Home
- Flood Plain
- Jurisdictional Boundary
- County Parcels
- Corporation Boundary
- State Roads
- Improved Streets
- Section Line
- Water Body
- National Hydrography Dataset–streams
- Section Corners
- * Reverts to R-1 if not used as Bed & Breakfast

The information located upon the Ferdinand, Indiana Zoning Map is provided by Indiana 15 Regional Planning Commission. The data provided herein was compiled using various sources. The sources include:

–The June 15, 2015 Ferdinand Base Map Produced by Indiana 15 Regional Planning Commission
–Ferdinand Replacement Zoning Ordinance 97–3 and associated zoning map dated December 1997
–May 27, 2009 Zoning Designations Map Titled Town of Ferdinand. Indiana Planning and Zoning.
–Ferdinand Ordinances from Ferdinand Code Book from 97–3 up to and including 2022–04 Rezoning and adopting amendments to the text of the Zoning Ordinance.

While the Indiana 15 Regional Planning Commission worked diligently to piece the legal documents together, this data is provided as is without warranty. Any person who relies on said information does so solely at their own risk.

N

GRAPHIC SCALE

0 600 1200 1800 2400 FEET

1 Inch = 600 Feet


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*Ferdinand, IN 47532*
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*FAX: (812) 367-8171*
*Website: www.ind15rpc.org*


| | | |
|---|---|---|
| Title: Ferdinand, INDIANA - Jurisdictional Area Zoning Map | | |
| Prepared By: E.E. , N.G., S.M. | Reviewed By: L.G. | Orig: April 12, 2016 |
| Revisions: June 13, 2017; September 12, 2017; December 31, 2017 | | |
| Revisions: February 22, 2019, June 6, 2022 | | |
| N:\Counties\Dubois\Maps\Zone Maps\Ferdinand Zoning 2022 | | |

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