

## CHAPTER 8

### Zoning and Subdivision Code of Benton County

as adopted by the Benton County Commissioners on March 20, 2007

Sec. 8-1	General Provisions.
Sec. 8-2	Specifications and Definitions.
Sec. 8-3	Establishment of Districts and Zone Map.
Sec. 8-4	Residential Uses and Requirements.
Sec. 8-5	Business Uses and Requirements.
Sec. 8-6	Shopping Center Requirements and Procedures.
Sec. 8-7	Enclosed Industrial Use, Standards and Requirements.
Sec. 8-8	FP Flood Plain Districts.
Sec. 8-9	Contingent Uses and Requirements.
Sec. 8-10	Conditional Uses (Special Exceptions).
Sec. 8-11	Off-Street Parking and Loading.
Sec. 8-12	Accessory Uses.
Sec. 8-13	Soil Survey, Drainage, Erosion and Sediment Control.
Sec. 8-14	Garden Apartment Plan.
Sec. 8-15	B-3 Roadside Business District.
Sec. 8-16	Mobile Homes.
Sec. 8-17	Nonconforming Use Specifications.
Sec. 8-18	Administration by Building Commissioner.
Sec. 8-19	Board of Zoning Appeals.
Sec. 8-20	Organization and Rules of Board of Zoning Appeals.
Sec. 8-21	Powers and Duties of Board of Zoning Appeals.
Sec. 8-22	Variances, Appeals to Board, Hearings, and Findings of Fact.
Sec. 8-23	Subdivision Control Code of Benton County, Indiana.
Sec. 8-24	Wind Energy Conversion Systems.

#### Figures

Figure 1	Residential Uses and Requirements
Figure 2	Business Uses and Requirements
Figure 3	Business Uses - Loading and Unloading Berths Required
Figure 4	Business Uses - Parking Spaces Required
Figure 5	Enclosed Industrial Uses and Requirements
Figure 6	Enclosed Industrial Uses - Loading and Unloading Berth Requirements
Figure 7	Contingent Uses and Requirements
Figure 8	Contingent Uses - Maximum Height
Figure 9	Fees
Figure 10	Zone Maps

## CHAPTER 8

### Zoning and Subdivision Code of Benton County

#### Sec. 8 - 1 General Provisions.

- a. Short Title. The Zoning Ordinance, as amended, shall hereinafter be referred to as the "Zoning Code of Benton County, Indiana."
- b. Interpretation. In interpreting and applying this chapter, its provisions shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare. The *Commission* has given consideration to the existing and future probable *use* of the land in the territory affected by this chapter and has prepared a Comprehensive Land Use Plan ("*Comprehensive Plan*") showing the future *development* of this area which has served as a guide in the preparation of this chapter.
- c. Noninterference with Greater Restrictions Otherwise Imposed. It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants, or other agreements between parties; nor any ordinances, rules, regulations or permits previously adopted or issued or which shall be adopted or issued and which are not in conflict with any of the provisions of this chapter; except that where this chapter imposes a greater restriction upon the *use of buildings* or land, or requires larger open spaces or greater *lot area per family*, than are required or imposed by such easements, covenants, or agreements between parties or by such chapter, rules, regulations or permits, the provisions of this chapter shall control.
- d. Determination and Interpretation of District Boundaries.
  1. In determining the boundaries of *districts* and establishing the provisions applicable to each *district*, due and careful consideration has been given to existing conditions, the character of *buildings* erected in each *district*, the most desirable *use* for which the land in each *district* may be adapted, and the conservation of property values throughout the jurisdiction of the *Commission*.
  2. Where uncertainty exists as to the exact boundaries of any *district* as shown on the *Zone Map*, the following rules shall apply:
    - A. In subdivided areas or where a *district* boundary subdivides a *lot*, the exact location of the boundary shall be determined by *use* of the scale of the *Zone Map*.

- B. In the case of further uncertainty, the *Board* shall interpret the intent of the *Zone Map* as to the location of the boundary in question.
- e. Procedure Relating to Annexed or Vacated Areas.
1. Territory which may hereafter be annexed to a *town* which has designated the *Commission* as the Town Plan shall remain as Zoned if it lies within the *jurisdiction of the Commission*, unless changed by amendment to this chapter; otherwise the area to be annexed should be Zoned by amendment to this chapter in accordance with the *Development Plan* of the *Town* and the Benton County *Comprehensive Plan*, as amended, a copy of which is on file in the Office of the Benton County Surveyor.
  2. Whenever any *street, alley*, public way, railroad right-of-way, waterway or other similar area is vacated by proper authority the *districts* adjoining each side of such *street, alley*, public way, railroad, right-of-way, or similar areas shall be extended automatically to the center of such vacation, and all area included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended *district*. In the event of a partial vacation, the adjoining *district* or *district* nearest the portion vacated shall be extended automatically to include all of the vacated area.
- f. Use. No *building* or land shall be *used*, and no *building* shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a *use* which is permitted and specified in a *district* in which such *building* or land is located.
- g. *Yard, Lot Area and Size of Building*. No *building* shall be erected, reconstructed or structurally altered in any manner which will encroach upon or reduce in any manner the *yards, lot area per family, ground floor area, dwellings, or lot coverage* provisions established and specified for the *use* and the *district* in which such *building* is located.
- h. *Lots*. Every *building* hereafter erected shall be located on a *lot*. In no case shall there be more than one (1) *principal building* used for residential purposes and its *accessory buildings* located on one (1) *lot*, except as otherwise provided in this chapter.
- i. Parking Space: *Loading and Unloading Berths*. For each *building* hereafter erected and for certain other *uses* of land, *parking spaces* for motor vehicles and *loading and unloading berths* as specified for the *use* to which such *building* or land is to be devoted shall be provided, except that *parking spaces* may not be required in a *block*

*frontage* contained in a Business District in which the *ground floor area* of *business* or industrial *structures*, including their *accessory buildings*, existing at the time of passage of this *Zoning Code*, equaled fifty (50) percent or more of the entire area of the *block frontage*.

j. Specifications for Surfacing Parking Area. All *public parking areas* and all *parking spaces* required for *business*, enclosed industrial or open industrial *use*, and loading or unloading berths shall be surfaced with a dust-proof and hard surface.

k. Forms and Filing Fees.

1. Application Forms. Applications and petitions shall be prepared on the forms provided by the *Building Commissioner*, and accompanied by the filing fees specified in Figure 9, to be paid to the *Building Commissioner* who shall forthwith pay over to the Auditor of Benton County to the credit of the General Fund of Benton County.

2. Fees Must Be Paid. Until all applicable fees have been paid in full, no application shall be processed by *Building Commissioner*.

3. Fees Not Returnable. No part of any filing fee paid pursuant to this section or Figure 9 shall be returnable to the applicant or petitioner.

4. Publication Costs. In addition to the fees set forth herein, the applicant, petitioner or appellant shall meet the cost of publication notices and due notices to interested parties, when required.

l. Remedies.

1. The *Commission*, the *Board*, the *Building Commissioner*, any designated enforcement official or any *person* or *persons*, firm or corporation, jointly or severally aggrieved, may institute a suit for injunction in the Circuit Court of the County in which the *premises* affected is located to restrain an individual or a government unit from violating the provisions of this chapter.

2. The *Commission* or the *Board* may also institute a suit for mandatory injunction directing any individual, corporation or governmental unit to remove a *structure* erected in violation of the provisions of this chapter.

3. Any *building* erected, raised or converted, or land or *premises* used in violation of any provisions of this chapter or the requirements thereof is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

4. Penalty. Any *person* or corporation in violation of this chapter may be punished subject to the provisions of I.C.36-1-3-8 specifically: a fine of not more than two thousand, five hundred dollars (\$2,500.00) for an ordinance violation. Each day that a violation of this chapter exists, continues or is repeated shall constitute a separate violation.
  5. The *Commission*, the *Board*, the *Building Commissioner*, or any designated enforcement official may also seek any remedy permitted by I.C. 36-7-4-1000, et seq., as amended.
- m. Amendments. All amendments to this chapter shall be in conformance with the Indiana Advisory Planning Law, I.C. 36-7-4-601 et seq., as amended.
  - n. Invalidity of Portions. Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the chapter as a whole or any portion thereof other than the portion so declared to be invalid.
  - o. *Public Utility Installations Exempt. Structures* and land used for *public utility installations*, so defined herein, while so used shall not be affected by restrictions or regulations of this chapter; provided, however, that power substations, terminal facilities and treatment or processing plants are *Contingent Uses* and are subject to the provisions of this chapter.
  - p. Mineral Extraction and Timber Exempt. Nothing herein shall prevent, outside of urban areas, the complete *use* and alienation of any mineral resources or forests by the owner or alienee thereof. For the purpose of this paragraph, urban area shall include any land or *lots* used for residential purposes where there are eight (8) or more residences within one quarter (1/4) mile square area and such lands or *lots* as have been or are planned for residential areas contiguous to incorporated cities or *towns*.

Sec. 8 - 2 Specifications and Definitions.

- a. The following figures which include specifications and definitions are declared to be a part of this chapter:

Figure 1	Residential Uses and Requirements
Figure 2	Business Uses and Requirements
Figure 3	Business Uses-Loading and Unloading Berth Requirements
Figure 4	Business Uses - Parking Spaces Required
Figure 5	Industrial Uses and Requirements

Figure 6	Industrial Uses - Loading and Unloading Berth Requirements
Figure 7	Contingent Uses and Requirements
Figure 8	Contingent Uses - Maximum Height
Figure 9	Schedule of Fees
Figure 10	Zone Map

- b. The zoning figures are on file in the Office of the Benton County Surveyor and open for public inspection during regular *business* hours.
- c. A scientific and engineering report entitled "The Flood Insurance Study for Benton County, Indiana" dated January 2, 1981 with accompanying Flood Insurance Rate Maps, and any subsequent revisions to the text or maps adopted by reference are on file for public examination in the Office of the Benton County Surveyor.
- d. Definitions.

For the purpose of this *Zoning Code*, certain terms and words used herein shall be interpreted and defined as follows: words in the present tense include the future and vice-versa; the words in the singular number include the plural number and vice-versa; the word "*building*" includes the word "*structure*" and vice-versa; the word "shall" is mandatory and not directory; and references to the masculine include the feminine.

ABUTTING: Bordering.

ACCESSORY BUILDING AND USE: A *building* or *use* subordinate to another *structure* or *use* located on the same *lot* and which does not change or alter the character of the *premises* and which is not *used* for human occupancy; such as *public utility installations*, electric distribution and secondary power lines, gas, water and sewer lines, their supports and poles, guy wires, small transformers, wire or cable, and incidental equipment, and public telephone booths.

AGRICULTURE: The art or science of cultivating the ground, and raising and harvesting crops, also often including feeding, breeding and management of livestock; tillage, husbandry; *farming*; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's *use* and their disposal by marketing or otherwise. In this broad *use* it includes *farming*, horticulture, forestry, dairying, sugar-making, etc.

AIRPORT: A *use* devoted to the take-off, loading and storing of aircraft.

ALLEY: A permanent public service way or right-of-way, dedicated to public *use*,

other than a *street, place*, road, crosswalk or easement, designed to provide a secondary means of access for the special accommodation of *abutting* property.

APARTMENT: A *building* or portion thereof designed for or occupied by more than two (2) *families*. Also a Multi-family Dwelling.

AUTOMOBILE, TRUCK OR TRAILER RENTAL AND SALES AREA: An open area, other than a *street, used* for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed, sold or rented on the *premises*.

AUTOMOBILE WRECKING YARD: Any *place* where two (2) or more motor vehicles, not in running condition, lacking current license plates and state inspection stickers, including inoperable equipment and parts thereof, are stored in the open and not being restored to operating condition; and including the commercial salvaging of any other goods, articles or merchandise. (See "*Junk Yard*").

BASEMENT: A *story*, wholly or partly underground, which unless subdivided into rooms and *used* for tenant purposes, shall not be included as a *story* for the purposes of height measurement.

BED AND BREAKFAST HOME: A *building* in which one (1) but not more than five (5) rooms are *used* to provide or offer overnight accommodations to transient guests for compensation.

BLOCK: A unit of property entirely surrounded by public highways, *streets*, railroad rights-of-way, waterways, or other barriers, or a combination thereof.

BLOCK FRONTAGE: Property having *frontage* on one side of a *street* and lying between the two (2) nearest intersecting or intercepting *streets*, or nearest intersecting or intercepting *street* and railroad right-of-way, waterway, or other barrier.

BOARD: The Benton County Board of Zoning Appeals.

BOARDING HOUSE: a *building* where meals are regularly served for compensation for three (3) or more *persons*, but not exceeding twelve (12) *persons*, not open to transients, in contradistinction to *hotels* and restaurants open to transients.

BUILDING: a *structure* having a roof supported by columns or walls, for the shelter, support, enclosure or protection of *persons*, animals, chattels or other property.

BUILDING, DETACHED: A *building* having no structural connection with another *building*.

**BUILDING, FRONT LINE OF:** The line of the face of the *building* nearest the *front lot line*.

**BUILDING, HEIGHT OF:** The vertical distance measured from the *lot ground level* to the highest point of thereof for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

**BUILDING, PRINCIPAL:** A *building* in which is conducted the main or principal *use* of the *lot* on which said *building* is situated. Where a substantial part of an *accessory building* is attached to the *principal building* in a substantial manner, as by a roof, such *accessory building* shall be counted as a part of the *principal building*.

**BUILDING AREA:** The maximum horizontal projected area of the principal and *accessory building*, excluding open steps or terraces, unenclosed porches not exceeding one (1) *story* in height, or architectural appurtenances projecting not more than two (2) feet.

**BUILDING COMMISSIONER:** The Official designated by the Benton County Board of County Commissioners, and authorized to enforce this Chapter.

**BUILDING LINE - BUILDING SETBACK LINE:** The line nearest the front or side of and across a *lot* establishing the minimum *yard* to be provided between the *principal building* or *structure* and the *lot line*.

**BUILDING PERMIT:** See “Improvement Location Permit”.

**BUSINESS:** The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreation and amusement enterprises for profit.

**CAMP, PUBLIC:** Any area or tract of land *used* or designed to accommodate two (2) or more camping parties, including cabins, tents, or other camping outfits.

**CEMETERY:** Land *used* for the burial of the dead and dedicated for *cemetery* purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such *cemetery*.

**CERTIFICATE OF OCCUPANCY:** A Certificate signed by the *Building Commissioner* stating that the occupancy and *use* of land or a *Building* or *Structure* referred to therein complies with the provisions of this Chapter.



CLUB: *Buildings* and facilities owned or operated by a *person* for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a *business*.

COMMISSION: The Benton County Advisory Plan Commission.

COMPREHENSIVE PLAN: A composite of all plans of land *use*, of thoroughfares, of sanitation, of recreation, and of other related matters for the *development* of the County, prepared by the *Commission* and adopted by the Board of County Commissioners in accordance with the authority conferred by the Indiana Planning Statutes.

CONDITIONAL USE: *Uses* publicly operated, traditionally affected with a public interest, or entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property and public facilities. Same as “Special Exception.”

CONFINED FEEDING OPERATION: As defined in 327 IAC 16-2-5, as amended. A Restricted Commercial Farm Enterprise.

CONTINGENT USE: A *use* which is likely or liable, but not certain to occur and which is not inappropriate to the principal *uses* of the *district* in which it may be located.

COUNTY: Benton County, Indiana.

CUL-DE-SAC (Court or Dead End Street): A short residential *street* having one end open to traffic and being permanently terminated by a vehicle turn-around.

DECIBEL: A unit of measurement of the intensity of loudness of sound. Sound level meters are used to measure such intensities and are calibrated in decibels.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including, but not limited to, *buildings* and other *structures*, mining, dredging, filling, grading, paving, excavating or drilling operations.

DEVELOPMENT PLAN: Specific plans for the residential, commercial or industrial *development* or other *development* of property setting forth certain information and data required by the *Commission*. This data and information may include:

1. the proposed name of the *development*;
2. the name and address of developers;

3. the location by public way, township and section;
4. the legal description;
5. a Map including date, scale and north point, location, size, capacity, and *use* of all *buildings* and *structures* existing or to be placed in the *development*;
6. the nature and intensity of the operations involved in or conducted in connection with the *development*;
7. the site layout of the *development* including the location, size, arrangement and capacity of area to be *used* for vehicular access, parking, loading, and unloading;
8. the name of public ways giving access to the *development* and location, width, and names of *platted* public ways, railroads, parks, utility easements, and other public open spaces;
9. the layout of proposed public ways, their names and widths, and the widths of *alleys*, walkways, paths, lanes and easements;
10. a description of the *use* of adjacent property and an identification of that property;
11. the location, size, and arrangement of areas to be devoted to planting lawns, trees, and other site-screening activities;
12. the proposals for sewer, water, gas, electricity, and storm drainage;
13. the contours with spot elevations of the finished *grade* and the directions of storm runoff;
14. the layout of proposed *lots* with their numbers and dimensions; and
15. the land *use* density factors.

DISTRICT: A section of the territory within the jurisdiction of the Benton County Advisory Plan Commission for which uniform regulations governing the Use, Height, Area, Size and Intensity of Use of *Buildings* and Land, and open spaces about *Buildings*, are herein established.

DWELLING: A *building* or portion thereof, *used* primarily as a *place* of abode for

one (1) or more human beings, but not including *hotels* or *motels*, lodging or *boarding houses* or *bed and breakfast homes*.

DWELLING UNIT: A *dwelling* or a portion of *dwelling used* for one (1) *family* for cooking, living and sleeping purposes.

EASEMENT: A grant by the property owner of the *use* of a strip of land by the public or a *person* for specified purposes.

EDUCATIONAL INSTITUTION: Public or parochial pre-primary, primary, grade, junior-high, high preparatory school or academy; junior college, college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization.

FAMILY: A group of one (1) or more *persons* occupying a *building* and living as a single housekeeping unit shall consist of more than three (3) *persons*, as distinguished from a group occupying a *lodging house*, *hotel* or nursing home.

FARM: A tract of land comprising an area of at least thirty (30) acres which is devoted to agricultural operations, such as forestry; the growing of crops; pasturage; the production of livestock and poultry; the growing of trees; shrubs and plants; and other recognized agricultural pursuits and including *accessory buildings* essential to the operation of the *farm*. *Accessory buildings* may include barns; equipment and animal sheds; roadside sales *structure* for the sale of products of the *farm*; and *signs* displaying subject material of the particular *farm*; but not including industrial or commercial operations or *structures* or commercial *farm* enterprises as defined herein.

FARMSTEAD: The *farm* residence for the owner(s), operator or farm assistants. Other *farm buildings* are *accessory uses* (See "Farm").

FILLING STATION: Any *building structure*, *premises* or enclosure or other *place used* for the dispensing, sale or offering for sale at retail of fuels or oils for motor vehicles. When the dispensing, sale or offering for sale is incidental to the conduct of a *public garage*, the *premises* shall be classified as a *public garage*.

FLASH POINT: The lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will burn momentarily using the closed cub method.

FLOOD PLAIN: Any *Flood Plain*, floodway or floodway fringe district, or combination thereof, as illustrated on the Flood Boundary and Floodway Map as prepared by the Federal Insurance Administration.

FLOOR AREA, NET: The total area, computed on a horizontal plane, *used* for a particular *business* category; exclusive of entrances, hallways, stairs and other accessory areas *used* for ingress or egress.

FREE OR ACTIVE BURNING: A rate of combustion described by a material which burns actively and easily supports combustion.

FRONTAGE: All the property on one (1) side of a *street* between two (2) intersecting *streets* (crossing or terminating) measured along the line of the *street*, or if the *street* is dead-ended, then all of the property *abutting* on one (1) side between an intersecting *street* and the dead end of the *street*.

GARAGE, PRIVATE: An *accessory building* with capacity for not more than three (3) motor vehicles per *family*, not more than one (1) of which may be a commercial vehicle of not more than three (3) tons capacity. A garage designed to house one (1) or two (2) motor vehicles for each *family* housed in a Multi-family Dwelling shall be classified as a *private garage*.

GARAGE, PUBLIC: Any *building* or *premises*, except those defined herein as a *private garage*, *used* for the storage, or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GARDEN APARTMENT USE: An architectural and functional grouping of *dwelling units* which may include townhouses in one or more *buildings* not exceeding two and one-half (2 ½) stories in height with at least two (2) but not more than twenty (20) *dwelling units* in each *building* or *buildings*, and appropriate associated and *accessory uses*, which is the central feature of a *Development Plan* composed of *building area*, parking area, landscape development and planting areas, and other land features appropriate for its *use* as *dwellings*, and which conforms to the standards and requirements of this *Zoning Code*, provided that each *Garden Apartment Use* shall have at least twelve (12) *dwelling units*.

GRADE (ALSO LOT GROUND LEVEL):

1. For *buildings* having walls adjoining one (1) *street* only, the elevation of the side walk at the center of the wall adjoining the *street*.
2. For *buildings* having walls adjoining more than one (1) *street*, the average of the elevation of the sidewalk at the center of all walls adjoining the *streets*.
3. For *buildings* having no wall adjoining the *street*, the average level of the ground adjacent to the exterior walls of the *building*. Any wall approximately

parallel to and not more than five (5) feet from a *street* line is to be considered as adjoining the *street*.

**GROUND FLOOR AREA:** The square foot area of a residential *building* within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breeze ways, terraces, garages and exterior stairways. (See “*occupied space*”).

**HEALTH OFFICER:** Any officer of authority, Benton County Health Department and State Board of Health. Same as "County Health Office."

**HOME OCCUPATION:** Any *use* conducted entirely within a *dwelling*, or in a *dwelling* or an *accessory building* on a *farm*, and participated in solely by members of the *family* residing on the *premises*, which *use* is clearly incidental and secondary to the *use* of the *dwelling* for *dwelling* purposes and does not change the character thereof and in connection with which there is no commodity sold upon the *premises* except that which is produced thereon, provided that no *sign* other than a nameplate not exceeding two (2) square feet in area is displayed.

**HOSPITAL:** An institution licensed by the State Department of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the facility, provided such institution is operated by, or treatment is given under direct supervision of a licensed physician. Types of *hospitals* include general, mental, chronic disease and allied special *hospitals* such as cardiac, contagious disease, maternity, orthopedic, cancer and the like.

**HOTEL:** a *Building* in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding or *lodging house*.

**IMPROVEMENT LOCATION PERMIT:** A permit signed by the *Building Commissioner* stating that a proposed improvement complies with the provisions of this Chapter and such other ordinances as may be applicable. Same as “Building Permit.”

**INCOMBUSTIBLE:** Materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite, nor actively support combustion during an exposure for five minutes to a temperature of 1200 degrees Fahrenheit.

**INTENSE BURNING:** A rate of combustion described by a material that burns with

a high degree of activity and is consumed rapidly.

**JUNK YARD:** Any *place* at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or assorted, including but not limited to, used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

**JURISDICTION OF THE COMMISSION:** The unincorporated territory within Benton County, Indiana, subject to any jurisdiction claimed by a town Plan Commission, plus the Towns of Ambia, Boswell, Otterbein (including the area in Tippecanoe Count), and Oxford, whose governing bodies have designated the Benton County Advisory Plan Commission, by ordinance, as the town plan commission in accordance with the I.C. 36-7-4-410, as amended.

**KENNEL:** Any *lot* on which four (4) or more dogs, or small animals, at least four (4) months of age are kept.

**LOADING AND UNLOADING BERTHS:** The off-street area required for the receipt or distribution by vehicles of materials or merchandise, which in this *Zoning Code* is held to be a twelve (12) foot by forty five (45) foot loading space with a fourteen (14) foot height clearance; provided that if more than one (1) berth is provided the minimum dimensions are held to be ten (10) feet by thirty five (35) feet with a fourteen (14) foot height clearance.

**LODGING HOUSE:** A *building* where lodging only is provided for compensation to three (3) or more, but not exceeding twelve (12) *persons*, not open to transients, in contradistinction to a *hotel* which is open to transients.

**LOT:** A parcel, portion of a subdivision, other parcel of land intended as a unit for transfer of ownership or *development*, tract or area of land accessible by means of a *street* or *place* and for residential *uses* as set forth in this *Zoning Code*, *abutting* upon a *street* or *place* for at least fifty (50) percent of the *lot* width prescribed for the *district* in which the *lot* is located. It may be a single parcel separately described in a deed or *plat* which is recorded in the Office of the Recorder of the *County*, or it may include parts of, or a combination of such parcels when adjacent to one (1) another and *used* as one (1). In determining *lot* area and boundary lines no part thereof within the limits of a *street* or *place* shall be included.

**LOT, CORNER:** A *lot* at the junction of and *abutting* two (2) or more intersecting *streets*.

LOT COVERAGE: The percentage of the *lot* area covered by the *building area*.

LOT, DEPTH OF: The mean horizontal distance between the *front lot line* and the *rear lot line* of a *lot*, measured in the general direction of the *side lot line*.

LOT, INTERIOR: A *lot* other than a *corner lot* or *through lot*.

LOT LINE, FRONT: In the case of an *interior lot*, a line separating the *lot* from the *street* or *place*; and in the case of a *corner lot*, a line separating the narrowest *frontage* of the *lot* from the *street*, except in cases where deed restrictions in effect specify another *street* right-of-way line as the *front lot line*.

LOT LINE, REAR: A *lot* line which is opposite and most distant from the *front lot line* and, in the case of an irregular or triangular-shaped *lot*, a line ten (10) feet in length within the *lot*, parallel to and at the maximum distance from the *front lot line*.

LOT LINE, SIDE: Any *lot* boundary line not a *front lot line* or a *rear lot line*.

LOT OF RECORD: A *lot* which is part of a subdivision, the Map of which has been recorded in the Office of the County Recorder of the county in which the *lot* is located, or a parcel of land, the deed to which has been recorded in the Office of the County Recorder of the county in which the *lot* is located, on or prior to November 24, 1969.

LOT, REVERSED INTERIOR: An *interior lot*, the *front lot line* of which is formed by a *street*, which *street* also forms the *side lot line* of an *abutting corner lot*. The *corner lot* is considered *abutting* even though separated from the *interior lot* line by an *alley*.

LOT, THROUGH: A *lot* having *frontage* on two (2) parallel or approximately parallel *streets*.

LOT, WIDTH: The dimension of a *lot*, measured between *side lot lines* on the *building line*.

LOT OF RECORD: A *lot* which is a part of a subdivision, the Map of which has been recorded in the Office of the County Recorder of the county in which the *lot* is located, or a parcel of land, the deed to which has been recorded in the Office of the County Recorder of the county in which the *lot* is located, on or prior to November 24, 1969.

MANUFACTURED DWELLING: A *dwelling unit*, built in a factory and bearing a

seal of compliance with the Federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401, et. seq.) and constructed prior to January 1, 1981, and, although it is not actually a *manufactured home*, for the purposes of this *Zoning Code*, it is a *manufactured home*.

MANUFACTURED HOME: A *dwelling unit*, designed and built in a factory, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401, et. Seq.).

MOBILE HOME: Means a “Manufactured Home.”

MOBILE HOME PARK: A tract of land which has been developed with all necessary facilities and services in accordance with a *Development Plan* meeting all legal requirements and which is intended for the purpose of providing a site for two (2) or more *manufactured homes*, or *manufactured dwellings*, for human habitation, either free of charge or for revenue purposes, including any *building*, vehicle or enclosure used or intended for use as a part of the equipment of such *Mobile Home Park*.

MOBILE HOME SLAB: The solid material upon which the *mobile home* rests.

MOBILE HOME STAND: That part of the *Mobile Home Park* which has been reserved for the placement of one (1) *mobile home* unit, including the *mobile home slab*, lawn area, driveway area and parking area for the unit.

MODERATE BURNING: A rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

MODULAR HOME: Means a “Manufactured Home.”

MOTEL: A *building* or a *detached building used as dwelling units* containing bedroom, bathroom and closet space, and each unit having convenient access to a parking space either directly or through a lobby for the use of the unit's occupants. The units, with the exception of the *apartment* of the manager or caretaker, are devoted to the *use* of automobile transients. *Motels* may include other *accessory uses* such as restaurants, swimming pools, meeting rooms, and the like.

NONCONFORMING USE: A *building* or *premises* which does not conform in its *use* or otherwise with all of the regulations of the *district* in which such *building* or *premises* is located.

NURSING HOME: A facility licensed by the State Board of Health, which (1) provides nursing services on a continuing basis; (2) admits the majority of the



occupants upon the advice of physicians as ill or infirm *persons* requiring nursing services; (3) provides for licensed physicians services or supervision; and (4) maintains medical records. Such facilities may also provide other and similar medical or health services, provided that no occupant requires physical restraint within the facility. Examples of *nursing home* facilities that provide health services may include if they comply with all the above criteria, *nursing homes*, convalescent homes, maternity homes, rest homes, homes for the aged, and the like.

**NURSING HOME CONVERSIONS:** A *dwelling* which is converted for the *use* of a *nursing home* and licensed by the State Board of Health.

**OCTAVE BAND:** A narrow range of sound frequencies which classify sounds according to pitch. In the *octave band analyzer* the audible sound spectrum is divided into eight (8) *octave bands*.

**OCTAVE BAND ANALYZER:** An electrical device used with the sound level meter that sorts a complex noise or sound into the various *octave bands*.

**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.

**PARK MANAGEMENT:** The *person* who owns or has charge, care or control of the *Mobile Home Park*.

**PARKING AREA, PUBLIC:** An open area, other than a *street* or *alley* designed for *use* or *used* for the temporary parking of more than four (4) motor vehicles when available for public *use*, whether free or for compensation, or as an accommodation for clients or customers.

**PARKING SPACE:** A space other than on a *street* or *alley* designed for *use* or *used* for the temporary parking of a motor vehicle, and being not less than nine (9) feet wide and twenty (20) feet long exclusive of passageways. For computing purposes, the average area for passageways shall be at least seventy (70) square feet per space.

**PARTICULATE MATTER:** Finely divided liquid or solid material which is discharged and carried along in the air. This shall not include water droplets, commonly called steam.

**PERSON:** A corporation, firm, partnership, association, cooperative organization or any other group acting as a unit as well as a natural *person*.

**PERMANENT FOUNDATION:** Any structural system transposing loads from a

*structure* to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

PERMANENT PERIMETER WALL: An approved non-load-bearing perimeter structural system composed of a continuous solid or mortared masonry wall having the appearance of a permanent load-bearing foundation characteristic of site-constructed homes, designed to support the loads imposed and extending below the established frost line.

PLACE: An open, unoccupied, officially designated space other than a *street* or *alley*, permanently reserved for *use* as the principal means of access to *abutting* property.

PLAN COMMISSION: The Benton County Advisory Plan Commission.

PLAN COMMISSION STAFF: The *Staff* of the Benton County Advisory Plan Commission; specifically, the *Building Commissioner* of Benton County, Indiana, and any other persons employed by Benton County under the supervision of the *Building Commissioner* who have regular duties in the Plan Commission Office.

PLAT: A Map or chart indicating the subdivision or resubdivision of land, intended to be filed for record. Also, *plat* of a subdivision or *plat* of the subdivision.

PREMISES: A *lot* or *plat* including *buildings* thereon, if any.

PRIMARY APPROVAL: An approval that may be granted by the *Commission* and signed by the President of the *Commission* on a *plat* of a subdivision in which the procedures, standards of improvements, and conditions have been met by the applicant as required by this *Zoning Code*. A primary approval is a final decision of the *Commission* inasmuch as it may be reviewed by the courts.

PRIVATE SCHOOL: Private, primary, grade, high or preparatory academy.

PROFESSIONAL OFFICE: Office of a member or members of a profession as defined by the United States Bureau of the Census.

PROFESSIONAL OFFICE CENTER: An architectural and functional grouping of *professional offices* and appropriate associated and *accessory uses* which is the central feature of a site plan composed of *building area*, parking area, landscaped reservation and plantation, and other land features appropriate for its *use* as a *professional office* enterprise, designed to serve residential neighborhoods, and shall conform to the standards and requirements of this *Zoning Code*.

PROFESSIONAL OFFICE IN RESIDENCE: An office in the *dwelling* of a member

of the following recognized professions: doctor, dentist, lawyer, engineer and certified public accountant, provided that the professional service is performed by a member or members of the *family* occupying such *dwelling*, and that not more than one (1) additional *person* is employed in rendering such service, and provided further that not more than twenty five (25) percent of the gross floor area is devoted to such *use* and provided also that there shall not be used any nameplate or *sign* nor any artificial lighting or any display that will indicate from the exterior that the *dwelling* is being utilized in part for any purpose other than that of a *dwelling*.

**PUBLIC UTILITY INSTALLATIONS:** The erection, construction, alteration or maintenance by public utilities, municipal departments, commissions or common carriers of underground, surface or overhead gas, oil, electrical, steam, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utility or municipal departments, commissions, or common carriers, for the public health or safety or general welfare.

**RECREATIONAL VEHICLE:** A portable vehicular *structure* designed as a temporary *dwelling* for travel, vacation and recreational *uses* which is either a *structure* mounted on an automobile or truck and designed to be *used* for human habitation, including sleeping, or identified on the unit by the manufacturer as a travel trailer or *recreational vehicle*, and is not more than eight (8) feet in width, and not more than thirty two (32) feet in length.

**RECREATIONAL VEHICLE PARK:** A tract of land which has been developed with all necessary facilities in accordance with a site *Development Plan* meeting all legal requirements and which is for short term occupancy by *recreational vehicles* only. It shall include, but not be limited to, travel trailers, pick-up coaches, motor homes, camping trailers and tents. A *public camp*.

**REGULATORY FLOOD:** Any flood having a peak discharge which can be expected to be equaled or exceeded on the average of one (1) in a one hundred (100) year period as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources. This flood is equivalent to a flood having the probability of occurrence of one percent (1%) in any given year.

**REPLAT:** A subdivision or *plat*, the site of which has heretofore been *platted* or subdivided with *lots* or parcels of land. It may include all or any part of a previous subdivision or *plat*.

**RESTRICTED COMMERCIAL ENTERPRISES:** An operation or *use* which is inherent to or closely associated with a *farm* or *agriculture*, but not including

industrial grain elevators, industrial mills, abattoirs, the manufacture of commercial fertilizer and similar operations which are of an industrial nature. Also, a *restricted commercial enterprise* is any similar operation which may:

1. Cause stream pollution by the disposal of wastes discharged into streams thus endangering water supply and health, or
2. Release odors to the atmosphere beyond the boundary of the property which may be strong and beyond the normal expectancy of a *farm* operation, or
3. Create any unusual or loud noises audible beyond the boundaries of the property, or
4. Emit poisonous and injurious fumes and gases beyond the boundaries of the property, or
5. Cause the emission of *smoke, particulate matter* or cause any undue *vibration* or excessive glare or heat beyond the boundaries of the property, or
6. Because of the location of its facilities influence adversely the *uses* of adjacent properties either existing or proposed.

RINGELMANN NUMBER: The number of the area on the Ringelmann Chart that most nearly matches the light-obscuring capacity of *smoke*. The Ringelmann Chart is described in the U. S. Bureau of Mines Information Circular 6888, on which are illustrated graduated shades of gray for use in estimating *smoke density*. *Smoke* below the density of *Ringelmann Number 1* shall be considered no *smoke*, or Ringelmann O.

SECONDARY APPROVAL: An approval that may be granted by the *Commission* and signed and certified by the President of the *Commission* on a *plat* of a subdivision which the *Commission* has already given its primary approval before it can be filed with the Office of the Benton County Surveyor and recorded by the County Recorder, and the improvements and installations have been completed as required by this *Zoning Code*; or, if the improvements and installations have not been completed as required, the applicant therefore has provided a bond or other proof of financial responsibility in accordance with the requirements of Sec. 8-23.

SERVICE BUILDING: A *structure* housing toilet, lavatory and such other facilities as may be required by this *Zoning Code*.

SHOPPING CENTER: An architectural and functional grouping of retail stores, generally oriented around a super market or department store, and appropriate

associated and *accessory uses*, which is the central feature of a site plan or *Development Plan* composed of *building areas*, parking areas, access *streets* and circulatory ways for vehicles and pedestrians, landscape development and planting areas and other land features appropriate for its operation as a *business* enterprise, designed to serve residential neighborhoods or communities and which conforms to the requirements of the *Zoning Code*.

SIGN: Any advertising *sign*, billboard, or board, device, or *structure*, or part thereof, or device attached thereto or painted or represented thereon, for advertising, display or publicity purposes. *Signs* placed or erected by governmental agencies for the purpose of showing *street* names or traffic directions or regulations for other governmental purposes shall not be included herein.

SMOKE: A suspension of fine particles, excluding water droplets, in a gaseous plume, which obscure more or less the transmission of light.

SMOKE UNIT: The number obtained when the *smoke* density in *Ringelmann Number* is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed. The various products are then added together to give the total number of *smoke units* observed during the entire observation period.

SPECIAL SCHOOL: Any school which has as its primary purpose the instruction, care and rehabilitation of special needs or exceptional children or adults such that the usual statutory educational requirements expressly or implicitly do not apply.

STORY: That portion of a *building*, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be the *story*.

STORY, HALF: That portion of a *building* under a sloping, gable, hip, or gambrel roof, the wall plates on at least two (2) opposite exterior walls of which are not more than three (3) feet above the floor level of such *half story*.

STREET: A right-of-way, other than an *alley*, dedicated or otherwise legally established to the public *use*, usually affording the principal means of access to *abutting* property. A *street* may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name.

STREET, ARTERIAL: A *street* designated for large volumes of traffic movement. Certain arterial *streets* may be classed as Limited Access Highways to which entrances and exits are provided only at intersections and access is denied to *abutting*

properties.

**STREET, FEEDER:** A *street* planned to facilitate the collection of traffic from residential *streets* and to provide circulation within neighborhood areas and convenient ways for traffic to reach arterial *streets*.

**STREET, RESIDENTIAL:** A *street* designated primarily to provide access to *abutting* properties, usually residential. Certain residential *streets* may be marginal access *streets* parallel to arterial *streets* which provide access to *abutting* property and ways for traffic to reach access points on arterial *streets*.

**STRUCTURE:** Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a *building*, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls or the roof.

**SUBDIVIDER:** Any *person* responsibly engaged in developing or improving a tract of land which complies with the definition of a subdivision as defined in this Chapter.

**SUBDIVISION:**

1. The division of any parcel of land shown as a unit, as part of a unit, or as contiguous units on the last preceding transfer of ownership thereof, into two (2) or more parcels, sites, or *lots*, any one (1) of which is less than five (5) acres in area, for the purpose, whether immediate or future, of transfer of ownership; provided, however, that the division or partition of land into parcels of more than five (5) acres, not involving any new *streets* or easements of access, and the sale or exchange of parcels between adjoining *lot* owners, where such sale or exchange does not create additional *building* sites, shall not be considered a subdivision; or
2. The improvement of one (1) or more parcels of land for residential, commercial or industrial *structures* or groups of *structures* involving the subdivision and allocation of land as *streets* or other open spaces for common *use* by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public utilities and facilities.

**SWIMMING POOL, PRIVATE:** A swimming pool *used* only by the owner of the pool and friends as an *accessory use* at a private residence.

THOROUGHFARE PLAN: The part of the *Comprehensive Plan*, now or hereafter adopted, which includes a Thoroughfare Plan and sets forth the location, alignment, dimensions, identification, and classification of existing and proposed *streets*, highways and other thoroughfares.

TOWN: Any classified *town* of Benton County, Indiana, which has designated the Benton County Advisory Plan Commission as the Town Plan Commission.

TRADE OR BUSINESS SCHOOL: Secretarial or *business school* or college when not publicly owned, or owned or conducted by or under the sponsorship of a religious, charitable or nonprofit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for teaching industrial or technical arts.

USE: The employment or occupation of a *building, structure* or land for a *person's* service, benefit or enjoyment.

USE, NONCONFORMING: An existing *use* of land or *building* which fails to comply with the requirements set forth in this *Zoning Code* applicable to the *district* in which such *use* is located.

VARIANCE: A modification of the specific requirements of this *Zoning Code* granted by the *Board* in accordance with the terms of this *Zoning Code* for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and *district*.

VIBRATION: Oscillatory motion transmitted through the ground.

VISION CLEARANCE ON CORNER LOTS: A triangular space at the *street* corner of a *corner lot*, free from any kind of obstruction to vision between the heights of three (3) and twelve (12) feet above the established *street grade*. The *street grade* is measured at the intersection of the center lines of the intersecting *street* pavements, and the triangular space is determined by a diagonal line connecting two (2) points measured fifteen (15) feet along each of the *street* property lines equidistant from the intersection of the property lines or the property lines extended, at the corner of the *lot*.

YARD: A space on the same *lot* with a *principal building* open, unoccupied and unobstructed by *structures*, except as otherwise provided in this *Zoning Code*.

YARD, FRONT: A *yard* extending across the full width of the *lot* unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar *structures*, the depth

of which is the least distance between the *front lot line* and the *building line*.

YARD, REAR: A *yard* extending across the full width of the *lot* between the rear of the *principal building* and the *rear lot line* unoccupied other than by *accessory buildings* which do not occupy more than thirty percent (30%) of the required space, and steps, walks, terraces, driveways, lamp posts and similar *structures*, the depth of which is the least distance between the *rear lot line* and the rear of such *principal building*.

YARD, SIDE: A *yard* between the *principal building* and the *side lot line*, extending from the *front yard* or from the *front lot line* where no *front yard* is required, to the *rear yard*. The width of the required *side yard* is measured horizontally at ninety degrees (90°) with the *side lot line*, from the nearest part of the *principal building*, except in cases where irregular or pie-shaped *lots* are located, then the width of the required *side yard* shall be an average of the width of the area between the *side lot line* and the *principal building* measured horizontally at ninety degrees (90°) with the *side lot line*.

ZONING CODE: Chapter 8 of the Benton County Code, now or hereafter adopted, which includes a *Zone Map* which divides the *jurisdiction of the Commission* into *districts*, with regulations and requirements and procedures for the establishment of land *use* controls, and which indicates where subdivisions of land may occur.

ZONE MAP: A Map attached as Figure 10, and any amendments thereto.

Sec. 8 - 3 Establishment of Districts and Zone Map

- a. The territory within the *jurisdiction of the Commission* is hereby classified and divided into ten (10) *Districts* designated as follows:

District Designation	Type of District
A-1	Agriculture
R-1	Suburban Residence
R-2	Residence
R-3	Residence
R-4	Residence
B-1	Local Business
B-2	General Business
B-3	Roadside Business
I-1	Enclosed Industrial
FP	Flood Plain

- b. The *Zone Map* in Figure 10 which accompanies and is declared to be a part of this chapter and shows the boundaries of the area covered by the *districts*. Notations,



references, indications and other matters shown on the *Zone Map* are as much a part of this chapter as if they were fully described herein. Copies are available for public inspection in the Office of the Benton County Surveyor during regular *business* hours.

- c. The Flood Plain District (areas subject to inundation by the *regulatory flood*) as identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Benton County, Indiana" dated January 2, 1981 and accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps, and any subsequent revisions to the text or maps adopted by reference and made a part of this chapter as if fully described herein, is established, and the boundaries thereof shall supersede the boundaries of any other *district* shown on the *Zone Map*.

#### Sec. 8 - 4 Residential Uses and Requirements

- a. The residential *uses* defined below including *accessory buildings* and *uses* are permitted in the *districts* indicated in Figure 1 when complying with the requirements listed therein subject also to Sec. 8-4(b).
  - 1. A Single Family Dwelling is a *detached building* designed for or occupied by one (1) *family* exclusively.
  - 2. A Two Family Dwelling is a *detached building* designed for or occupied by two (2) *families* exclusively.
  - 3. A Multi-family Dwelling is a *building* designed for or occupied by three (3) or more *families* exclusively.
  - 4. A *manufactured home* is a *dwelling unit* designed and built in a factory which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401, et seq.), constructed after January 1, 1981 and exceeds nine hundred and fifty (950) square feet of *occupied space*.
- b. Other Provisions for Residential Uses are as follows:
  - 1. Use of Existing *Lots* Deficient in Area or Width. A Single Family Dwelling may be located on any *lot* in any *district* in which Single Family Dwellings are permitted if the *lot* was a single parcel in single ownership or a single parcel separately described or included in a deed or *plat* which was of record in the Office of the County Recorder in the County in which the parcel is located at the time of passage of this *Zoning Code*, even though the *lot* does

not have the minimum *lot* width or the minimum *lot* area specified for the *district*.

2. *Accessory Buildings and Uses:*

- A. *Accessory buildings* are permitted in all *districts*, but not prior to the erection of the *principal building* except strictly for storage purposes and not for human occupancy.
- B. No detached *accessory building* or swimming pool shall be located closer to a side or *rear lot line* than twenty (20) feet in the A-1 and R-1, B-3 and I-1 Districts, ten (10) feet in the R-2 Districts and five (5) feet in the R-3, R-4, B-1 and B-2 Districts; nor exceed eighteen (18) feet in height, and shall be set back at least forty (40) feet from the *building line*, provided that *private swimming pools* shall be surrounded by a fence at least five (5) feet in height, maintained so as to prevent access by children or animals. If any side or sides of said *private swimming pool* shall lie within twenty-five (25) feet of *abutting residential use*, a solid planting screen shall be provided and maintained which shall grow to a height of eight (8) feet and a depth of six (6) feet; or a solid screen of suitable construction material to a height of eight (8) feet, which will act as a sound barrier on said side or sides, shall be provided and maintained.
- C. *Accessory uses* such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, bird baths and *structures* of a like nature are permitted in any required *front, side or rear yard* without the issuance of any permit. Fences, lattice work screens, hedges or walls not more than seven (7) feet in height may be located in the required *side or rear yard*, and a hedge or fence maintained so as not to exceed three and one-half (3 ½) feet in height may be located in any *front yard*; provided, however, that nothing contained in this chapter shall be deemed to prohibit the construction or maintenance of a fence of any height in connection with an *agricultural use*. Trees, shrubs, flowers or plants shall be permitted in any required *front, side or rear yard* except that *vision clearance on corner lots* shall be provided when required.

3. *Building Lines:*

- A. Where 25% or more of the *lots* in a *block frontage* are occupied by *buildings*, the average setback of such *buildings* determines the location of the *building line* for the *block frontage*, but the *yard*

dimension need not exceed forty (40) feet in any case.

B. *Building lines* established in a recorded subdivision shall establish the setback of *buildings* in such subdivisions, except when such *building lines* may be less restrictive than provided in this Chapter.

C. On through *lots* a *building line* is required on each *street*.

4. Tapered Yard Formula: Where an *interior lot* fronts on a side *street* in the rear of a *corner lot* which *interior lot* may or may not be separated from the *corner lot* by an *alley*, an *accessory building* located on the *rear lot line* of the *corner lot* shall set back from the side *street* as far as the *dwelling* on said *interior lot*. For each foot that such *accessory building* is placed from the *rear lot line* toward the *front lot line* of the *corner lot*, the *accessory building* may be set four (4) inches closer to the *front lot line* along the side *street*, but in no case closer than the *building setback line* along the side *street* required by this chapter.

5. Additional Height of Dwelling. In the *districts* limiting height to twenty-five (25) feet a *dwelling* may be increased in height not to exceed thirty-five (35) feet provided that each of the required *side yard* dimensions is increased an additional foot for each foot such *structure* exceeds twenty-five (25) feet in height.

6. *Manufactured homes* may be permitted in certain *districts* (see I.C. 36-7-4-1106), provided their *use* as a Single Family Dwelling unit incorporates a *permanent foundation* and a *permanent perimeter wall* as well as other requirements in this chapter.

#### Sec. 8 - 5 Business Uses and Requirements

a. The *Business Uses* classified below are permitted in the *districts* indicated in Figure 2 when complying with the requirements specified in Figure 2, Figure 3 and Figure 4 on file in the Office of the Benton County Surveyor subject to the provisions of Sec. 8-5(c).

b. A local *business use* is one which is primarily of a retail or service nature and is specifically classified or implied in the following categories of *uses*:

1. Automobile Service includes:

A. *Public Garage* excluding major repair or body work

B. *Public Parking Area*

- C. Sales Room
2. Business Service includes:
- A. Bank
  - B. Office Building
  - C. Postal Station
  - D. Telegraph Office
  - E. Telephone Exchange
  - F. Utility Company Business Office
3. Clothing Service includes:
- A. Laundry Agency
  - B. Self-service Laundry or Self-service Dry Cleaning Establishment
  - C. Dry Cleaning Establishment using not more than two (2) clothes-cleaning units, neither of which has a rated capacity of more than sixty (60) pounds using cleaning fluid which is nonexplosive and nonflammable
  - D. Dressmaking
  - E. Millinery
  - F. Tailor and Pressing Shop
  - G. Shoe Repair Shop
4. Equipment Service includes:
- A. Radio or Television Shop
  - B. Electric Appliance Shop
  - C. Record Shop
5. Food Service includes:
- A. Grocery
  - B. Meat Market
  - C. Supermarket
  - D. Restaurant
  - E. Delicatessen
  - F. Cold Storage Locker for individual use
  - G. Bakery, provided that the floor area used for production shall not exceed one thousand (1,000) square feet
6. Personal Service includes:
- A. Barber Shop

- B. Beauty Shop
  - C. Reducing Salon
  - D. Photographic Studio
7. Retail Service, or Retail Stores generally include:
- A. Drug Store
  - B. Hardware or Paint Store
  - C. Stationer
  - D. Newsdealer
  - E. Show room and Sales Area for articles to be sold at retail
  - F. Commercial greenhouse not exceeding one thousand (1,000) square feet in area
  - G. Apparel Shop
  - H. Flower Shop
  - I. Antique Shop
  - J. Shoe Store
  - K. Variety Store
  - L. Toy Store
  - M. Jewelry Store
8. Business Recreational Uses include:
- A. Billiard Room
  - B. Dancing Academy
  - C. Tavern or Night *Club*, only in conformity with requirements of laws or ordinances governing such *use*
9. Private *Club* or Lodge
10. Advertising *Sign* or Billboard
11. Department Store
12. Veterinary Hospital for small animals
13. Any other retail store or service *business* which involves no nuisance features and which involves no more intensive *use* of land than those classifications specifically listed
14. *Accessory Building or Use* customarily incidental to the above *uses*.
- c. A general *business use* is one which is primarily of a retail or service nature, and

includes storage, warehouse and wholesale establishments and enclosed industrial *use*, and is specifically classified or implied in the following categories of *uses*:

1. Local Business Uses
  2. Automobile, Truck or Trailer Rental
  3. Automobile and Truck Repair entirely within enclosed *buildings*
  4. Indoor Theater
  5. Bowling Alley or Roller Rink entirely within enclosed *buildings*
  6. *Kennel* in enclosed, soundproof *building*
  7. Radio and Television Studios
  8. Newspaper Publishing
  9. Motor Bus or Railroad Passenger Station
  10. Storage Warehouse
  11. Wholesale Establishment
  12. Any *business use* not specifically stated or implied elsewhere in this chapter
  13. *Accessory buildings or use* customarily incidental to the above *uses*.
- d. General Business Uses proposed to be located in the B-3 Roadside Business District are *Conditional Uses*. See Figure 2 for special requirements for these *uses*.
- e. Other Provisions and Requirements for Business Uses are as follows:
1. *Parking Spaces* shall be provided on the *lot* or as an exception within three hundred (300) feet thereof with the number of spaces as indicated in Figure 4.
  2. *loading and unloading berths* shall be provided on the *lot* as indicated in Figure 3.
  3. The *Board* may waive the *parking space* required in a *block frontage* contained in the B-1 or B-2 Districts in which the *ground floor area* of

*business* or industrial *structures*, including their *accessory buildings*, existing at the time of passage of this *Zoning Code*, equaled fifty percent (50%) or more of the entire area of the *block frontage*.

4. Groups of *uses* requiring *parking space* may join in establishing a private parking area with capacity aggregating which is required for each participating *use*.
5. One-half ( $\frac{1}{2}$ ) of an *alley abutting* the rear of a *lot* may be included in the *rear yard*, but such *alley space* shall not be included for *loading and unloading berths*.
6. Where twenty-five percent (25%) or more of the *lots* in a *block frontage* are occupied by *buildings*, the setback of such *buildings* shall determine the location of the *building line*, except for the B-3 District.
7. *loading and unloading berths* shall not be required for *business uses* which demonstrably do not receive or transmit goods or wares by truck delivery.
8. *Parking spaces* and *accessory uses* are permitted in the required *front yard* in the B-3 District.
9. On a through *lot*, *front yards* shall be provided on each *street* in the B-3 District.
10. *Business Uses* shall be conducted within *buildings* so constructed that no noise of any kind produced therein shall be audible beyond the confines of the *building*.
11. *Business Uses* shall not include open storage *use* on the *lot*, except for the temporary storage of automobiles or trailers for retail sale or rental of farm machinery on a *lot* devoted to "*Automobile, Truck or Trailer Rental or Sales Area*" *use*, and for the temporary parking of vehicles in off-street *parking space* permitted for such *use*.
12. The emission of *smoke*, dust, gas, fumes, odors, noise or *vibrations*, which is noxious or offensive in the judgment of the *Building Commissioner*, beyond the confines of the *building* is not permitted.
13. *Buildings* may be erected higher than the normal maximum height of sixty (60) feet in the B-2 District, provided that *buildings* shall be set back from the required *side yard* lines and *rear yard* lines one (1) foot for each two (2) feet of height above forty-five (45) feet.

14. Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers, or essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.
  15. No *business* operation or activity shall discharge or cause to be discharged liquid or solid wastes into public waters unless in conformance with the provisions of I.C. 13-18, et seq., as amended, and the regulations promulgated thereunder. Plans and specifications for proposed sewage and other waste treatment and disposal facilities shall be submitted to and approval obtained from the Indiana Department of Environmental Management or the Federal Environmental Protection Agency.
  16. In all Business Districts it is permissible to erect more than one (1) *principal building* for use as a *business* or enclosed industrial use on a lot.
  17. Any Multi-family Dwelling used as an *accessory use* of a *business building* in the B-2 District shall conform to the minimum parking requirements set forth in Figure 1 for a Multi-family Dwelling use. The location of *parking space* may be permitted as an exception by the *Board*.
  18. Any *business use* proposed to be located on a lot which abuts or adjoins any lot used or Zoned for residential purposes shall include in the application thereof provision of a planting screen in accordance with the type and character set forth in Sec. 8-7(e)(9).
- f. In the event local business use, general business use or enclosed industrial use is proposed to be located in a B-3 District, the application therefor shall not be granted until after it has been subject to the requirements and procedure specified in Sec. 8-10 herein for a *Conditional Use*.
  - g. The application for an Automobile Filling Station, Car Wash Facility or Drive-In Restaurant shall not be granted until after it has been subject to the requirements specified in Sec. 8-10 herein for a *Conditional Use*.

Sec. 8 - 6 Shopping Center Requirements and Procedures

- a. The Local Business Uses set forth in categories 1 to 8, inclusive, and categories 11, 12, 13 and 14 of Sec. 8-5(b) and the General Business Uses set forth in categories 4, 5, 6, 9, 10 and 11 of Sec. 8-5(c) are permitted as a *Conditional Use* on a tract of land proposed for a *shopping center*, provided that the proposed plan for a *shopping center* includes at least four (4) separate types of *business uses* as are specifically



classified or implied in the categories. The *Board* may order an *Improvement Location Permit* issued for any of the said *uses* provided that the owner or owners of a tract of land containing at least four (4) acres in area submit an application for a Special Exception which includes a *shopping center Development Plan* in accordance with the provisions of this chapter. The tract of land proposed for a *shopping center* shall have a reasonable configuration for its intended *use* and may be situated within any *district*. The *shopping center Development Plan* shall include:

1. A design which conforms to the basic requirements for a business *use* in the B-3 District as set forth in Figure 2.
  2. Locations for off-street parking areas which shall be provided, maintained and convenient to the *uses* intended to be served containing at least two and one-half (2 ½) times the amount of the gross floor area of the *buildings*.
  3. A Plan of Landscape Development which shall include among other considerations a planting screen for parking areas which shall be provided and maintained in a manner set forth in Sec. 8-7(e)(9). Entrances to the *shopping center* shall be provided from the frontal *street* and a strip of land at least twenty (20) feet in width and *abutting* the frontal *street* shall be planted with trees, shrubbery and lawn area.
  4. An adequate number and proper arrangement of *loading and unloading berths*.
- b. The location, effect and arrangement of all outdoor advertising *signs* and artificial lighting shall be subject to the approval of the *Board*. Also, the style of the architecture of the *buildings* and *structures* proposed to be constructed shall be subject to the approval of the *Board*. The *Board's* approval shall be based on the architectural style creating or continuing a unified design which will be in character and proper relationship to the surrounding areas.

#### Sec. 8 - 7 Enclosed Industrial Use, Standards and Requirements

- a. The Industrial Use defined below, including *accessory buildings and uses*, is permitted in the *districts* indicated in Figure 5, in accordance with the requirements of this section and Figure 5. No activity involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted unless specifically approved by the Board of County Commissioners of Benton County. Such activity shall be conducted in accordance with the rules promulgated by the State Fire Marshal. Such materials shall include, but are not limited to, all primary explosives such as TNT, RDX, HMX, PETN and picric acid; propellants and components thereof, such as nitrocellulose, black powder, boron

hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as dynamite and nitroglycerine; unstable organic compounds such as acetyrides, tetrazoles and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates and hydrogen peroxide in concentrations greater than thirty-five percent (35%), and nuclear fuels, fissionable materials and products; and reactor elements such as Uranium 235 and Plutonium 239.

- b. The restrictions of this section shall not apply to the following:
1. the activities of site preparation or construction, maintenance, repair, alteration, modification or improvements of *buildings*, equipment or other improvements on or within the *lot* line;
  2. the operation of motor vehicles or other facilities for the transportation of personnel, materials or products;
  3. conditions beyond the control of the user such as fire, explosion, accidents, failure or breakdown of equipment or facilities or emergencies; and
  4. safety or emergency warning signals or alarms necessary for the protection of life, limb or property.
- c. An Enclosed Industrial Use is one in which manufacturing, fabricating, processing, extraction, repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes is conducted entirely within enclosed *buildings* of any size provided also that such *use* shall conform to the standards set forth in Sec. 8-7(d), herein.
- d. Standard for Enclosed Industrial Use
1. *Smoke* - The emission of more than seventy (70) *smoke units* per hour per stack and emissions in excess of Ringlemann No. 2 are prohibited, except that for one (1) hour during any twenty-four (24) hour period, this rate may be increased to eighty (80) *smoke units* per stack up to and including Ringlemann No. 3 for purging, soot blowing and fire cleaning.
  2. *Particulate matter* - The rate of emission of *particulate matter* from an individual process within the boundaries of any *lot* shall not exceed a figure of six hundredths (.06) pounds of effluent gas. Not more than fifty percent (50%) by weight of particles larger than 44 microns (325) mesh shall be allowed.
  3. *Odor* - Any activity or operation which releases odors to the atmosphere shall

be so controlled as to insure that it will produce no public nuisance or hazard at or beyond the nearest Agriculture or Residential District boundary line.

4. Poisonous and injurious fumes and gases - The emission of toxic or injurious fumes and gases shall be controlled so as to comply with the following: The emission from any source shall not cause at or beyond any *lot* life concentrations of toxic and/or injurious fumes and gases in excess of ten percent (10%) of the threshold limit as set for the fume or gas in question in the "Threshold Limit Value for Toxic Materials in Industry," from the American Conference of Governmental Hygienists, latest issue. (Cincinnati, Ohio) The emission of any gas or fumes across *lot* lines in such concentrations as to be detrimental to or endanger public health, safety, comfort and welfare or cause injury or damage to property or *business* is prohibited.
5. Glare and heat - No operation, activity or *structure* shall cause heat or glare in such a manner as to be a public nuisance at or beyond any Agriculture, Residence or Business District boundary.
6. *Vibration* - Any *use* creating intense earth-shaking *vibrations* such as are created by a heavy drop forge shall be set back from an Agriculture or a Residential District boundary at least two hundred and fifty (250) feet, or at least one hundred and fifty (150) feet from a Business District boundary. Earth shaking *vibrations* at the industrial property line shall not be in violation of this chapter as long as the *vibration* is not perceptible without the aid of instruments.
7. Noise.
  - A. At no point on the boundary of the I-1 District or any *district* which permits an Enclosed Industrial Use shall the sound pressure level of any operation or plant, other than background noises produced by sources not under the control of this chapter, exceed the *County* limits of the following *octave bands*:

Octave Band Frequency Cycles per Second	Maximum Permitted Sound Level (in Decibels) 125 Feet From District Adjoining Agriculture or Residence District Boundaries		Maximum Permitted Sound Level (in Decibels) 125 Feet From District Adjoining Business District Boundaries
	0 to 75	75	75
75 to 150	70	70	75

150	to	300	65	70
300	to	600	59	64
600	to	1200	53	58
1200	to	2400	48	53
2400	to	4800	48	49
Above		4800	41	46

Sound levels shall be measured with a sound level meter and associated *octave band analyzer* or filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI).

B. Noise and *Vibration* Standards that Apply to Wind Energy Conversion Systems (incorporating terms defined in Sec. 8-24):

At no point within two hundred (200) feet of a primary residence may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an *octave band analyzer* or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI). This standard shall supersede any noise standard(s) set forth in Sec. 8-7 of the *Zoning Code* as it applies to Wind Energy Conversion Systems.

Octave Bands for Benton County in Hertz (Hz), per ANSI	Maximum Permitted Sound Level (in decibels) measured 200 feet from edge of any Primary Structure.
63	75
125	70
250	65
500	59
1000	53
2000	48
4000	44
8000	41

8. Fire Hazards: The storage, utilization or manufacture of solid materials or products ranging from *incombustible* to *moderate burning* is permitted. The storage, utilization or manufacture of solid materials or products ranging from *free or active burning* to *intense burning* is permitted provided the following conditions are met:

- A. Said materials shall be stored, utilized or manufactured in such a manner and protected by such means as approved by the Indiana State Fire Marshal.
  - B. The storage, utilization or manufacture of flammable liquids or gases which produce flammable or explosive vapors shall be permitted in accordance with rules and standards promulgated by the National Board of Fire Underwriters for the "Storage and Handling of Liquidified Petroleum Gases," latest issue, as recommended by the National Fire Protection Association.
- e. Other provisions and requirements for Enclosed Industrial Use are as follows:
1. Each *use* shall provide one (1) *parking space* for each two (2) employees or combined employment of the two (2) largest successive shifts, located on the same *lot* as the *use* or as an exception within three-hundred (300) feet thereof.
  2. Groups of *uses* requiring *parking space* may join in establishing a private parking area with capacity aggregating that required for each participating *use*.
  3. Each *use* shall provide *loading and unloading berths* located on the same *lot* as the *use* as specified in Figure 6.
  4. The disposal of wastes discharged into public streams and sewage systems shall meet the requirements of I.C. 13-18, et seq., as amended.
  5. One-half ( $\frac{1}{2}$ ) of an *alley abutting* the rear or the side of a *lot* may be included in the required *rear yard* or *side yard*, respectively, but such *alley* space shall not be included for *loading and unloading berths*.
  6. In all *districts* permitting Enclosed Industrial Use it is permissible to erect more than one (1) *principal building* devoted to Enclosed Industrial Use on a *lot*.
  7. Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, tanks, water towers, distribution poles and lines, transmission towers or essential mechanical appurtenances may be erected to any height not prohibited by other laws and ordinances.
  8. The maximum height requirements, as specified in Figure 5, may be increased if the portion of the *building* above the maximum height requirement is set back from the *building line* one (1) foot for each two (2)

feet of additional height.

9. Any Enclosed Industrial Use other than a *building* and any *accessory buildings* or *accessory uses* including an employee parking area proposed to be located on a *lot* in any *district* permitting Enclosed Industrial Use shall include in the application thereof provision for a planting screen if the *lot* abuts, adjoins or is across the *street* or *alley* from any *lot used* or Zoned for residential purposes including a *lot* in the A-1 Agriculture District. A planting screen maintained to a width of at least six (6) feet and a height of at least six (6) feet shall be provided in order to mask any parking areas, *accessory buildings* or *accessory uses* and expected ground activity from the view of *abutting* or opposite properties. The planting screen shall consist of suitable shrubbery so as to provide a tight screen effective at all times of the year. The shrubbery may be planted informally or in a row and may include several varieties.

Sec. 8 - 8 FP Flood Plain Districts.

- a. The *development* of the flood hazard areas could result in the potential loss of life and property, create health and safety hazards and lead to extraordinary public expenditures for flood protection and relief. Since *development* of these areas is not essential to the orderly growth of Benton County and since these lands are suitable for open space *uses* that do not require *structures* or fill, the FP Flood Plain District shall be developed in accordance with the following criteria promulgated by law:
  1. The Flood Plain District (areas subject to inundation by the *regulatory flood*) as identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Benton County, Indiana" dated January 2<sup>nd</sup>, 1981, with the accompanying Flood Insurance Rate Maps and Flood Boundary Floodway Maps, along with any subsequent revisions to the text or maps are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the Office of the Benton County Surveyor. (See Sec. 8-2(c)).
  2. The following *uses* have a low flood damage potential and do not obstruct flood flows. These *uses* shall be permitted by right within the Flood Plain District to the extent that they are not prohibited or not otherwise controlled by other parts of this chapter and provided they do not require *structures*, fill or storage of materials or equipment:
    - A. Agricultural *uses* such as general *farming*, pasture, grazing, orchards, plant nurseries and vineyards.

- B. Forestry, wildlife areas and nature preserves.
  - C. Parks and recreational *uses*, such as golf courses, driving ranges and play areas.
3. All *development* applications located in the Flood Plain District which are not permitted by right as set forth in Sec. 8-8(a)(2), will require the review and approval by the Indiana Department of Natural Resources prior to the issuance of an Improvement Location Permit.
  4. Larger floods can and will occur on rare occasions. Therefore, the requirements set forth in this Chapter pertaining to Flood Plain Districts do not create any liability on the part of Benton County, the *towns* within the *jurisdiction of the Commission*, Indiana Department of Natural Resources or the State for any damages that result from reliance on these requirements or any administrative decisions lawfully made thereunder.
  5. For other requirements pertaining to Flood Plain Districts see *Nonconforming Use Specifications* in Sec. 8-17; Administration in Sec. 8-18 concerning review of *development* applications, and Sec. 8-22 concerning *variances*.

Sec. 8 - 9 Contingent Uses and Requirements.

- a. *Contingent Uses* defined herein, including *accessory buildings* and *Uses*, are permitted in the *districts* indicated in Figure 7 which is on file in the Office of the Benton County Surveyor and is subject to the provisions herein.
- b. *Contingent Use* is one which is likely or liable, but not certain to occur and which is not inappropriate to the principal *uses* of the *district* in which it may be located.
- c. Other provisions and requirements for *Contingent Uses* are as follows:
  1. A church or temple requiring parking area at times when nearby *uses* do not need their parking facilities may by agreement approved by the *Board* utilize such facilities in lieu of providing their own parking facilities.
  2. The *yard* and setback and basic requirements for *Contingent Uses* shall be as follows:
    - A. For *Contingent Uses* proposed to be located in the A-1, R-1, R-2, R-3 and R-4 Districts the requirements shall be the same as those for a Single Family Dwelling. See Figure 1 and Sec. 8-4(b)(2), Sec. 8-4(b)(3), and Sec. 8-4(b)(4); provided that the minimum *ground floor*

*area* in square feet set forth in Figure 1 shall not apply and the number of *parking spaces* set forth in Figure 7 and the maximum height requirements set forth in Figure 8 shall apply to *Contingent Uses*.

- B. For *Contingent Uses* proposed to be located in the B-1 and B-2 Districts, the requirements shall be the same as those for a Multi-family Dwelling. See Figure 1 and Sec. 8-4(b)(2), Sec. 8-4(b)(3), and Sec. 8-4(b)(4); provided that the minimum *ground floor area* in square feet set forth in Figure 1 shall not apply, and the number of *parking spaces* set forth in Figure 7 and the maximum height requirements set forth in Figure 8 shall apply to *Contingent Uses*.
  - C. For *Contingent Uses* proposed to be located in the B-3 District, the requirements shall be the same as those for a General Business Use in the B-3 District. Any *Contingent Use* proposed to be located in the B-3 District is a Special Exception and shall require approval by the *Board*. See Figure 2 and Sec. 8-5(c), provided that the number of *parking spaces* set forth in Figure 7 on the maximum height requirement set forth in Figure 8 shall apply to *Contingent Uses*.
  - D. For *Contingent Uses* proposed to be located in the I-1 District, the requirements shall be the same as those for an Enclosed Industrial Use. See Figure 5 and Sec. 8-7, provided that the number of *parking spaces* set forth in Figure 7 and the maximum height requirements set forth in Figure 8 shall apply to *Contingent Uses*.
- 3. The number of *parking spaces* to be provided shall conform to the requirements of Figure 7. The required number of *parking spaces* shall be provided on the same *lot* with the *use* or as an exception within three hundred (300) feet thereof.
  - 4. The *building* height for *Contingent Uses* shall be as provided in Figure 8 provided.
    - A. *Buildings* may be erected higher than the normal maximum *building* heights set forth in Figure 8, provided that the *buildings* shall be set back from the required *side and rear yard* lines one (1) foot for each two (2) feet of height above twenty-five (25) feet in the A-1, R-1 and R-3 Districts, but not to exceed thirty-five (35) feet in any case; thirty-five (35) feet in the R-4, B-1 and B-3 Districts, but not to exceed forty-five (45) feet in any case; and sixty (60) feet in the B-2



and I-1 Districts but not to exceed seventy (70) feet in any case.

- B. In all *districts*, spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, power transmission lines or towers and distribution poles and lines, and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.
- C. An existing use which is included herein as a *Contingent Use* and which is located in a *district* in which such *Contingent Use* is permitted is a conforming use. Any expansion of such *Contingent Use* involving the enlargement of the *buildings, structure* and land area devoted to such *use* shall be subject to the requirements of this section.

Sec. 8 - 10 Conditional Uses (Special Exceptions).

- a. General Requirements. The *Conditional Uses* or Special Exceptions listed in Sec. 8-10(b) and their *accessory buildings* and *Uses* may be permitted by the *Board* in the *districts* indicated in Sec. 8-4, Sec. 8-5, Sec. 8-6 and Sec. 8-7 in accordance with the procedure set forth in this section and the requirements listed herein.
- b. *Conditional Uses*. *Conditional Uses* are *uses* publicly operated, traditionally affected with a public interest, or entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property and public facilities. A listing of typical *Conditional Uses* and the *districts* in which the *uses* may be permitted follows:
  - 1. *Airport*, A-1 and I-1
  - 2. Artificial Lake of three (3) or more acres, All
  - 3. *Apartment* to be occupied by more than two (2) *families*, but not more than four (4) *families*, R-4
  - 4. *Cemetery*, All, except FP
  - 5. *Country Club* or Golf Course, All
  - 6. *Filling station*; Automobile Car Wash; and Roadside Restaurant located on Arterial Thoroughfare, B-1, B-2 and B-3
  - 7. *Garden Apartment Use*, R-2, R-3, R-4, B-1 and B-2

8. Heliport, All, except R-1, R-2, R-3 and FP
9. *Hospital*, All, except A-1, R-1 and FP
10. *Junk yard*, I-1
11. *Mobile Home Park Area*, A-1, R-4 and B-3
12. *Nursing home* or Home for Aged, All, except R-1, R-2, R-3, I-1 and FP
13. *Nursing Home Conversion*, All, except R-1, R-2, R-3, I-1 and FP
14. Outdoor Commercial Enterprise, All, except R-1, R-2, R-3, R-4 and FP
15. Outdoor Theater, B-3 and I-1
16. Penal or Correctional Institution, I-1
17. Power Transmission Lines, All
18. Private Recreational Development, All
19. *Private School*, including Kindergarten or Day Nursery, All except R-1, R-2, R-3 and FP
20. Produce Terminal Wholesale or Truck Freight Terminal, B-2, B-3 and I-1
21. *Professional Office Center*, R-4, B-1, B-2 and B-3
22. *Public Camp*, A-1 and I-1
23. Public or Commercial Sanitary Fill, All, except R-1, R-2, R-3, R-4 and FP
24. Public or Employee Parking Areas, All, except R-1, R-2, R-3 and FP
25. Public Park or Public Recreational Facility, All
26. Radio or Television Transmitting Tower, All
27. Raising and Breeding of Non-farm Fowl and Animals, Commercially, except *kennels*, B-2, B-3 and I-I

28. Seasonal Hunting and Fishing Lodge, A-1 and I-1
  29. *Shopping Center Plan*, All, except A-1, R-1 and FP
  30. *Special School*, R-4, B-1, B-2, B-3 and I-1
  31. *Bed and Breakfast Home*, R-4, B-1, B-2 and I-1
  32. Uses in I-1 Enclosed Industrial District, I-1
  33. Uses in B-3 Roadside Business District, B-3
  34. Used and New Farm Machinery Sales Area or *Building*, B-2 and B-3
  35. *Restricted Commercial Enterprise*, including Confined Feeding Operations, A-1 and I-1
  36. Wind Energy Conversion System, All, except R-1, R-2, R-3 and R-4.
- c. Procedure. Upon receipt of an application for an Improvement Location Permit for a Conditional Use by the Building Commissioner, it shall be referred to the Board accompanied by an application for a Conditional Use, only if the applicant has contemporaneously submitted the following additional documentation:
1. A drainage plan approved by the Benton County Drainage Board, if applicable;
  2. A transportation plan approved by the Benton County Commissioners, if applicable;
  3. A hydrology study of the area surrounding the proposed site of the Conditional Use, which includes data on draw-down testing, and/or a water use impact study, if applicable;
  4. A permit issued by the Indiana Department of Environmental Management, if applicable; and
  5. An environmental impact study of the proposed Conditional Use, if applicable.

A copy of each application shall be referred concurrently to the Board and Commission for examination and investigation as to the manner in which the proposed location and character of the Conditional Use will affect the Comprehensive Plan. The Commission shall not be required to hold public hearings of any kind during their investigation, but may do so if in the judgment of the Commission it is deemed advisable. The Commission shall report the results of its study to the Board within forty-five (45) days following their receipt of the

application, provided that if no such report has been filed with the Board within this time, the Board may proceed to process the application. The Board shall then proceed with a hearing, provided that notice is given to parties in interest in accordance with the provisions of this Chapter and the rules of procedure of the Board.

- d. Hearing and Board Requirements. Upon such hearing, if the *Board* finds that each of the following six (6) basic requirements have been met:
  1. The establishment, maintenance or operation of the *Conditional Use* will not be detrimental to or endanger the public health, safety, morals or general welfare;
  2. The *Conditional Use* will not be injurious to the *use* and enjoyment of other property in the immediate vicinity for the purposes already permitted;

3. The establishment of the *Conditional Use* will not impede the normal and orderly *development* and improvement of surrounding property for *uses* permitted in the *district*;
4. Adequate utilities, access roads, drainage and other necessary facilities have been or are to be provided;
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public *streets*; and
6. The *Conditional Use* will be located in a *district* where such *use* is permitted and that all other requirements set forth in Sec. 8-10 (e), applicable to such *Conditional Use* will be met.

The *Board* shall approve the application for a *Conditional Use* and direct the *Building Commissioner* to issue the *Improvement Location Permit* for such *Conditional Use*, otherwise the *Board* shall direct the *Building Commissioner* to reject the application. The findings of the *Board* and its order to the *Building Commissioner* shall be in writing.

- e. Imposition of Additional Conditions. The *Board* may impose additional conditions to assure that the *Conditional Use* will conform with the intent of this Chapter. These additional conditions may include but are not limited to the following provisions:
  1. Off-street parking and loading areas, with particular attention to the economic, noise, glare or odor effects of the *Conditional Use* on adjoining properties and properties generally in the *district*.
  2. Refuse and service areas.
  3. Special screening and buffering with reference to type, dimensions and character.
  4. *Signs* and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the *district*.
  5. Additional setback distances, *yards* and other open space.
  6. General compatibility with adjoining properties with reference to site development standards designed for their mutual protection and the environmental harmony of the *district*.

- f. More Than One Use Involved. If the nature of the *Conditional Use* involves more than one (1) of those listed, the applicant may apply for an *Improvement Location Permit* for the *Conditional Use* which most closely relates to the primary *use*; provided that the requirements of the related *uses* will be met.
- g. Existing *Conditional Uses*. An Existing Use which is listed herein as a Special Exception and which is located in a *district* in which such Special Exception may be permitted is a Conforming Use provided such *use* meets the minimum *lot* area requirement set forth in Figure 9 herein. An expansion of such Special Exception involving the enlargement of *buildings, structures* and land area devoted to such *use* shall be subject to the requirements and procedure described in this section.
- h. Construction Requirements. Any *person* who is issued an *Improvement Location Permit* for a *Conditional Use* who fails to commence construction within twelve (12) months after such permit is issued or who fails to carry to completion the total *Development Plan* thereof within three (3) years after such construction is begun whichever is later or who fails to conform to the provisions of the *Development Plan* and supporting data finally approved by the *Board* and upon the basis of which such Permit was issued may be required by the *Board* upon its own motion and shall be required by the *Board* upon written petition of any *person* deeming himself aggrieved to show cause why such approval should not be withdrawn and such permit revoked.
- i. Changes. The Holder of an *Improvement Location Permit* for a *Conditional Use* may apply to the *Board* at any time for an alteration, change, amendment or extension of the application or *Development Plan* upon which such permit was based.
  - 1. Upon receipt of such application the *Board* shall proceed as in the case of original applications for an *Improvement Location Permit* for a *Conditional Use*.
  - 2. In the event the *Board* shall approve and order such applications or *Development Plan* changed, altered, amended or extended, it shall notify the *Building Commissioner* who shall issue an amended *Improvement Location Permit* accordingly.
  - 3. A change of Use which does not affect the physical layout of the *Conditional Use* in accordance with the approved *Development Plan* shall require the approval of the *Building Commissioner*, provided that a public hearing is not required.
- j. Temporary Certificates. Whenever a *Conditional Use* has been approved and is of such a nature that the applicant desires to complete the *structures* and improvements

shown in the *Development Plan* by stages, the applicant may make application for a *Temporary Certificate of Occupancy* for any portion of the plan that has been completed.

- k. *Parking Spaces*. The number of *Parking Spaces* to be provided for *Conditional Uses* shall conform to the requirements as set forth in Sec. 8-11.
- l. Drainage, Erosion and Sediment Control. The *Building Commissioner* shall require provision of drainage, erosion and sediment control in accordance with the criteria promulgated in Sec. 8-13.
- m. Other Requirements for *Conditional Uses*. Following are specific requirements for *Conditional Uses*:
  - 1. *Airport* other than public airport
    - A. Fence - five (5) foot wire mesh where accessible to public
    - B. Screen Planting - six (6) feet height by six (6) feet width where *abutting residential use*; tight screen effective at all times of the year.
    - C. Parking - one (1) per employee, plus one (1) per three (3) seats in waiting room.
    - D. Development Plan - *Development Plan* shall be submitted with application.
    - E. *Signs and Lighting* - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
    - F. Height - As required by appropriate State or Federal Agency
  - 2. Artificial Lake of three (3) or more acres
    - A. Fence - Six (6) foot wire mesh fence where available to public
    - B. Development Plan - *Development Plan* to be submitted with application.
  - 3. *Apartment* to be occupied by more than two (2) *families*, but not more than four (4) *families* (other than *Garden Apartment Use*).
    - A. Development Plan - *Development Plan* to be submitted with

application.

- B. Adequacy of Sewers - Approval by Town Board and County Health Department that sewerage system is adequate.
- C. *Lot size and yard requirements* - Same as set forth in this particular *district* in which this Multi-family Dwelling is to be located.
- D. *Parking Spaces* - two (2) per *dwelling unit*.
- E. *Signs and Lighting* - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.

4. *Cemetery*

- A. Minimum lot area: 5 acres
- B. Minimum *yards* - Front - 50 feet; Side (each) - 40 feet; Rear - 40 feet.
- C. Landscape Plan - Plan of Landscape Development to be submitted with application, (may be combined with *Development Plan*)
- D. Screen Planting - six (6) foot height by six (6) foot width -where *abutting residential use*, effective at all times of the year.
- E. Development Plan - *Development Plan* to be submitted with application.
- F. *Signs and Lighting* - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.

5. *Country Club* or Golf Course

- A. *Parking Spaces* - Five (5) spaces for each hole
- B. Development Plan - *Development Plan* to be submitted with application.
- C. *Signs and Lighting* - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
- D. Adequacy of Sewers - Approval by Town Board and *County* Health Department that sewerage system is adequate.



6. *Filling station, Automobile Car Wash and Roadside Restaurant located on Arterial Thoroughfare.*
  - A. Minimum *lot* Area -Three quarters (3/4) of an acre.
  - B. Minimum *Yards* - Same as Local Business Use in respective *district*.
  - C. Landscape Plan - Plan of Landscape Development to be submitted with application. (may be combined with *Development Plan*).
  - D. Fence - Four (4) foot wire mesh *abutting* residential *use*
  - E. Screen Planting - Six (6) foot height by six (6) foot width - where *abutting* residential *use*: tight screen, effective at all times of the year.
  - F. *Parking Spaces* - As determined by the *Board*. The determination shall be based upon the expected number of *Parking Spaces* the particular type of *use* would require to satisfy estimated, peak parking load requirements.
  - G. Development Plan - *Development Plan* to be submitted with application.
  - H. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - I. Dead Storage - No sales, dead storage, repair work or dismantling on the *lot*.
  - J. Adequacy of Sewers - Approval of Town Board and *County* Health Department that sewerage system is adequate.
  - K. Proximity of Use - *use* permitted not closer than two hundred (200) feet to the property line of any tract which is either *used* or intended to be *used* for a public or semi-public *building* or *use*.
7. Garden Apartment Use
  - A. Development Plan - *Development Plan* to be submitted with application.
  - B. Other Requirements - See Sec. 8-14 for additional requirements.

8. Heliport
  - A. Spacing - *use* permitted not closer than two hundred (200) feet to a Residential Use.
  - B. Fence -Four (4) foot wire mesh *abutting* Residential Use.
  - C. *Parking Spaces* - One (1) per employee plus one (1) per three (3) seats in waiting room.
  - D. Development Plan - *Development Plan* to be submitted with application.
  - E. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial Lighting shall be approved by the *Board*.
  - F. Height - As required by appropriate State or Federal agency.
9. *Hospital*
  - A. Minimum *lot* area - three (3) acres
  - B. Minimum *Yards* - Front - sixty (60) feet; Side - thirty (30) feet; Rear -thirty (30) feet *abutting* Residential Use; sixty (60) feet, twenty (20) feet and twenty (20) feet, respectively, *abutting* other *use*.
  - C. *Parking Spaces* - One (1) per four (4) beds, plus one (1) per doctor, plus one (1) per three (3) employees on largest shift.
  - D. Development Plan - *Development Plan* to be submitted with application.
  - E. Height - fifty (50) feet.
  - F. Adequacy of Sewers - Approval by Town Board and *County* Health Department that sewerage system is adequate.
10. *Junk yard*
  - A. Minimum *Yards*- Front- fifty (50) feet, Side- forty (40) feet, Rear- forty (40) feet.

- B. Spacing - *use* permitted not closer than two hundred (200) feet to a Residential Use.
- C. Fence - Solid wall or solid painted fence eight (8) feet high except along railroad right-of-way or eight (8) foot wire mesh fence covered and maintained with tight screen effective at all times.
- D. *Parking Spaces* - One (1) per two (2) employees on largest shift.
- E. *Signs and Lighting* - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.

11. *Mobile Home Park Area*

- A. Development Plan - *Development Plan* to be submitted with application.
- B. Other Requirements - See Sec. 8-15 for requirements.

12. *Nursing Home* or Home for Aged

- A. Minimum *lot Area* - Forty thousand (40,000) square feet, but not less than one thousand (1000) square feet per *person* cared for.
- B. Minimum *Yards* - Front - sixty (60) feet, side - thirty (30) feet, Rear -Forty (40) feet.
- C. Landscape Plan - Plan of Landscape Development to be submitted with application.
- D. Screen Planting - Screen Planting six (6) foot height by six (6) foot width where *abutting* Residential Use; tight screen, effective at all times.
- E. *Parking Spaces* - One (1) per each five (5) patients or occupants, plus one (1) per each staff member or Supervisor Doctor, plus one (1) per each three (3) Employees.
- F. Development Plan - *Development Plan* to be submitted with application.
- G. Height - Maximum height of *structure* thirty-five (35) feet

H. Adequacy of Sewers - Approval by Town Board and *County* Health Department that sewerage system is adequate.

13. *Nursing Home Conversion*

A. Minimum *lot Area* - eight thousand (8000) square feet, but not less than one thousand (1000) square feet per *person* cared for.

B. Minimum *Yards* - Front - as established; Side - ten (10) feet; Rear - ten (10) Feet.

C. Gross Floor Area - Minimum gross floor area of *principal building(s)* over one thousand (1000) square feet.

D. Landscape Plan - Plan of Landscape Development to be submitted with application and may be combined with *Development Plan*.

E. Screen Planting - Six (6) foot height by six (6) foot width where *abutting* Residential Use; Tight screen, effective at all times.

F. *Parking Spaces* - One (1) per each five (5) patients or occupants, plus one (1) per each staff member or Supervisor Doctor, plus one (1) per each three (3) employees.

G. Height - Maximum height of *structure* thirty-five (35) feet.

H. Adequacy of Sewers - Approval of Town Board and *County* Health Department that sewerage system is adequate.

14. *Outdoor Commercial Enterprise*

A. Minimum *Yards* - Front - fifty (50) feet; Side - forty (40) feet; Rear - forty (40) feet.

B. Landscape Plan - Plan of Landscape Development to be submitted with application and may be combined with *Development Plan*

C. Fence - Six (6) foot wire mesh where accessible to public.

D. Screen Planting - Six (6) foot height by six (6) foot width where *abutting* Residential Use; tight screen effective at all times.

E. *Parking Spaces* - One (1) per employee plus one (1) per five hundred

(500) square feet of *use* area.

- F. Development Plan - *Development Plan* to be submitted with application.
- G. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
- H. Height - Maximum height of *structure* fifty (50) feet.
- I. Adequacy of Sewers - Approval of Town Board and *County* Health Department that sewerage system is adequate.

15. Outdoor Theater

- A. Minimum *Yards* - Front - one hundred (100) feet; side - seventy-five (75) feet; rear - forty (40) feet, *abutting* Residential Use; one hundred, thirty (130) and twenty (20) feet, respectively, *abutting* other *use*.
- B. Fence - Four (4) foot wire mesh *abutting* Residential Use.
- C. Development Plan - *Development Plan* to be submitted with application.
- D. *Signs* and Lighting - Outdoor advertising *sign* and outdoor artificial lighting shall be approved by the *Board*.
- E. Theater screen must be turned away from adjoining properties, and the picture must not be visible from the frontal *street*.
- F. Height - Maximum height of *structure* fifty (50) feet.
- G. Adequate Sewers - Approval by Town Board and *County* Health Department that sewerage system is adequate.

16. Penal or Correctional Institutions

- A. Minimum *lot* Area - Forty (40) acres
- B. Minimum *Yards* - Front - one hundred (100) feet, Side - seventy-five (75) feet, Rear - forty (40) feet, *abutting* Residential Use; one hundred (100), thirty (30) and twenty (20) feet respectively, *abutting* other *use*.

- C. Fence - Eight (8) foot wire mesh fence covered and maintained with tight screen, effective at all times.
  - D. *Parking Spaces* - as determined by the *Board*. The determination shall be based upon the expected number of *Parking Spaces* the particular type of *use* would require to satisfy estimated peak parking load requirements.
  - E. Development Plan - *Development Plan* to be submitted with application.
  - F. Height - Maximum height of *structure* fifty (50) feet.
  - G. Adequacy of Sewers - Approval of Town Board and *County* Health Department that sewerage system is adequate.
17. Power Transmission Lines
- A. Development Plan - *Development Plan* to be submitted with application.
18. Private Recreational Development
- A. Minimum *Yards* - Front - fifty (50) feet; Side - forty (40) feet; Rear -forty (40) feet.
  - B. Landscape Plan - Plan of Landscape Development to be submitted with application and may be combined with *Development Plan*
  - C. Screen Planting - Six (6) foot height by six (6) foot width where *abutting* Residential Use; tight screen effective at all times.
  - D. *Parking Spaces* - As determined by the *Board*. The determination shall be based upon the expected number of *Parking Spaces* the particular type of *use* would require to satisfy estimated, peak parking load requirements.
  - E. Development Plan - *Development Plan* to be submitted with application.
  - F. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.

- G. Height - Maximum height of *structures* twenty-five (25) feet.
19. *Private School*, including Kindergarten or Day Nursery
- A. Minimum *lot Area* - Ten thousand (10,000) square feet.
  - B. Minimum *Yards - Front yard* - twenty-five (25) feet; *Side yard* each - ten (10) feet; *rear yard* - ten (10) feet.
  - C. Gross Floor Area - Minimum gross floor area of *principal building(s)* - over one thousand (1,000) feet
  - D. Fence - four (4) foot wire mesh around play area.
  - E. *Parking Spaces* - One (1) per two (2) employee plus one (1) per five hundred (500) children to be accommodated.
  - F. Development Plan - *Development Plan* to be submitted with application.
  - G. *Signs and Lighting* - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - H. Height - Maximum height of *structure* thirty-five (35) feet.
  - I. Adequacy of Sewers - Approval of Town Board and *County* Health Department that sewerage system is adequate.
20. Produce Terminal Wholesale or Truck Freight Terminal
- A. Minimum *lot Area* - Five (5) acres
  - B. Minimum *Yards* - Front - fifty (50) feet; Side - forty (40) feet; Rear - (40) forty feet.
  - C. Screen Planting - Six (6) foot height by six (6) foot width where *abutting* Residential Use; Tight screen effective at all times.
  - D. *Parking Spaces* - One (1) per two (2) employees on largest shift.
  - E. Development Plan - *Development Plan* to be submitted with application.

- F. *Signs and Lighting* - Outdoor *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - G. *Height* - Maximum height of *structure* forty (40) feet.
  - H. *Adequacy of Sewers* - Approval by Town Board and *County* Health Department that sewerage system is adequate.
21. *Professional Office Center*
- A. *Minimum lot Area* - one half ( $\frac{1}{2}$ ) of an acre
  - B. *Minimum Yards* - Front -twenty-five (25) feet; Side - ten (10) feet; Rear - ten (10) feet in the B-1 District, Front - eight (8) feet; Side - ten (10) feet; Rear - ten (10) feet in the B-3 and I-1 Districts; Front - 0 feet; Side - five (5) feet; Rear - ten (10) feet in the B-2 District.
  - C. *Gross Floor Area* - Minimum gross floor area of *principal building(s)* - over one thousand (1,000) square feet.
  - D. *Landscape Plan* - Plan of Landscape Development to be submitted with application.
  - E. *Screen Planting* - Six (6) foot height by six (6) foot width where *abutting* Residential Use; Tight screen effective at all times.
  - F. *Parking Spaces* - three (3) per professional *person* plus one (1) for each employee.
  - G. *Development Plan* - *Development Plan* to be submitted with application.
  - H. *Signs and Lighting* - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - I. *Height* - Maximum height of *structure* twenty-five (25) feet.
  - J. *Adequacy of Sewers* - Approval by Town Board and *County* Health Department that sewerage is adequate.
22. *Public Camp*
- A. *Landscape Plan* - Plan of Landscape Development to be submitted



with application and may be combined with *Development Plan*

- B. Screen Planting - Six (6) foot height by six (6) foot width where *abutting* Residential Use; tight screen effective at all times.
  - C. *Parking Spaces* - As determined by the *Board*. The determination shall be based upon the expected number of *Parking Spaces* the particular type of *use* would require to satisfy estimated, peak parking load requirements.
  - D. Development Plan - *Development Plan* to be submitted with application.
  - E. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - F. Height - Maximum height of *structures* twenty-five (25) feet.
23. Public or Commercial Sanitary Fill
- A. Fence - Four (4) foot wire mesh *abutting* Residential Use.
24. Public or Employee Parking Areas
- A. Minimum *lot* Area - One thousand, five hundred (1,500) square feet.
  - B. Development Plan - *Development Plan* to be submitted with application.
  - C. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - D. Dead Storage - No sales, dead storage, repair work or dismantling on the *lot*.
  - E. Other Requirements - See Sec. 8-10 for special requirements.
25. Public Park or Public Recreational Facility
- A. Landscape Plan - Plan of Landscape Development to be submitted with application and may be combined with *Development Plan*.
  - B. Development Plan - *Development Plan* to be submitted with

- application.
- C. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - D. Adequacy Sewers - Approval by Town Board and *County* Health Department that sewerage is adequate.
26. Radio or Television Transmitting Tower
- A. Development Plan - *Development Plan* to be submitted with application.
  - B. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - C. Height - As required by the appropriate state or Federal agency.
27. Raising and Breeding of Nonfarm Fowl and Animals, Commercially, except Kennel.
- A. Minimum *lot* Area - twenty-five thousand (25,000) square feet.
  - B. Minimum *Yards* - Front - fifty (50)feet; side - forty (40) feet; rear -forty (40) feet.
  - C. Height - Maximum height of *structure* - twenty-five (25) feet.
  - D. Adequacy of Sewers - Approval by Town Board and *County* Health Department that sewerage system is adequate.
28. Seasonal Hunting and Fishing Lodge
- A. *Parking Spaces* - As determined by the *Board*. The determination shall be based upon the expected number of *Parking Spaces* the particular type of *use* would require to satisfy estimated, peak parking load requirements.
  - B. Development Plan - *Development Plan* to be submitted with application.
29. *Shopping Center* Plan

- A. Development Plan - *Development Plan* to be submitted with application.
  - B. See Sec.8-6 for additional requirements.
30. *Special School*
- A. Minimum *lot Area* - Ten thousand (10,000) square feet.
  - B. Minimum *Yards* - Front - twenty-five (25) feet; Side ten (10) feet; Rear - ten (10) feet.
  - C. Fence - Four (4) foot wire mesh around play area.
  - D. *Parking Spaces* - One (1) per employee plus one (1) per six (6) students.
  - E. Height - Maximum height of *structure* - thirty-five (35) feet.
  - F. Adequacy of Sewer - Approval by Town Board and *County* Health Department that sewerage system is adequate.
31. *Bed and Breakfast Home*
- A. Minimum *Yards* - front - twenty-five (25) feet; Side - ten (10) feet; Rear - ten (10) feet.
  - B. Parking Space - one (1) per employee plus one (1) per sleeping accommodation.
  - C. *Signs* and Lighting - Outdoor advertising *signs* and outdoor artificial lighting shall be approved by the *Board*.
  - D. Height - Maximum height of the *structure* - thirty-five (35) feet.
  - E. Adequacy of Sewers - Approval by Town Board and *County* Health Department that sewerage system is adequate.
32. Uses in I-1 Enclosed Industrial District
- A. Development Plan - *Development Plan* to be submitted with application.

- B. Additional Plan - See Sec.8-7 for additional requirements.
33. Uses in the B-3 Roadside Business District
- A. Development Plan - *Development Plan* to be submitted with application.
  - B. Additional Requirements - See Sec. 8-5 for additional requirements.
34. Used and New Farm Machinery Sales Area or *Building*
- A. Development Plan - *Development Plan* to be submitted with application.
  - B. Dead Storage - No dead storage, repair work or dismantling on the *lot*.
  - C. Height - Maximum height of *structure* - thirty-five (35) feet.
  - D. Adequacy of Sewers - Approval by Town Board and *County* Health Department that sewerage system is adequate.
  - E. Special Setback Requirements - Used Machinery may be placed temporarily in the rear of the *building line* in the sales *lot* in the B-3 District, provided that new machinery may be placed temporarily in front of the *building line* but not closer than twenty (20) feet to the *front lot line* in the B-3 District.
  - F. Off-Street Parking - As determined by the *Board*. The determination shall be based upon the expected number of *Parking Spaces* the particular type of *use* would require to satisfy estimated peak parking load requirements.
35. *Restricted Commercial Enterprises* including Confined Feeding Operations.
- A. Development Plan - *Development Plan* shall be submitted with application.
  - B. *Signs* and Lighting - Outdoor advertising *signs* and artificial lighting shall be approved by the *Board*.
  - C. Dead Storage - No sales, dead storage, repair work or dismantling on the *lot*.

- D. Approval is required - Approval by the Indiana Department of Environmental Management is required for all Confined Feeding Operations in accordance with I.C. 13-18-10, et seq.
- E. Special Setback - All *structures* and confined feed *lots* designed to house or contain livestock shall not locate closer than five hundred (500) feet to the property line of any residential *lot of record*, residential *use*, public or semi-public *building* or *use*, provided that no *structure* or confined feed *lot* operation shall be located closer than eighty (80) feet to the *front lot line*. Once this five hundred (500) foot line has been established, future residential *uses* shall respect such distance and not encroach.

36. Wind Energy Conversion System. See Sec. 8-24.

Sec. 8 - 11 Off-Street Parking and Loading

- a. Intent. Accessory off-street parking and loading facilities shall be provided and maintained for all *buildings*, *structures* or *premises used* in whole or in part for purposes permitted by this Chapter in accordance with the provisions of this Section. The regulations of this Section are designed to alleviate or prevent congestion of the public *streets* by establishing minimum requirements for on-site storage of motor vehicles in accordance with the *use* to which the property is occupied.
- b. Scope.
  - 1. No *use* lawfully established prior to the effective date of November 24, 1969 shall be required to provide and maintain the parking and loading requirements herein, provided however, that off-street parking and loading spaces required by any previous ordinances adopted pursuant to the Indiana Planning Statutes shall be continued and maintained.
  - 2. For any *nonconforming use* which is hereafter damaged or partially destroyed and which is lawfully reconstructed, reestablished or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation; provided however, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this chapter for equivalent new *uses*.
  - 3. When the intensity of *use* of any *building*, *structure* or *premises* shall be increased through the addition of *dwelling units*, floor area, beds, seating

capacity or other unit of measurement, parking and loading facilities as required herein shall be provided for such increase in intensity of *use*.

4. Whenever the existing *use* of a *building*, *structure* or *premises* shall hereafter be changed or converted to a new *use* permitted by this Chapter, parking and loading facilities shall be provided as required for such new *use*.
5. Accessory off-street parking or loading facilities in existence on the effective date of the ordinance establishing the *Zoning Code*, shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new *use* under the provisions of this Chapter.
6. Nothing in this Chapter shall be deemed to prevent the voluntary establishment of accessory off-street parking or loading facilities to serve any existing *use* of land or *buildings*, provided that all regulations herein governing the location, design and operation of such facilities are adhered to.
7. Accessory off-street parking and loading spaces shall be provided on the same *lot* as the *use* served, except as otherwise provided in this Chapter and may be situated as one (1) or more individual areas.
8. Accessory off-street parking facilities for separate *uses* may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such *use*, and provided that all regulations governing location of accessory *Parking Spaces*, in relation to the *use* served, are adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one (1) *use* unless otherwise authorized by the *Board*.
9. Accessory off-street parking and loading facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter.
10. Accessory off-street parking facilities required herein shall be utilized solely for the parking of passenger automobiles or light trucks of less than one (1) ton capacity, of patrons, occupants or employees of specified *uses*. Said parking facilities shall not be used for the storage, display, sale, repair, dismantling or wrecking of any vehicle, equipment or material.
11. Required off-street loading and unloading spaces shall not be construed as being part of the required off-street *Parking Spaces*.
12. *loading and unloading berths* shall not be required for Business Uses and

Industrial Uses which demonstrably do not receive or transmit goods or wares by truck delivery.

c. General Provisions.

1. Each required off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, columns, or office or work areas. Such space shall have adequate vertical clearance. For parallel parking, the length of the parking space shall be increased to twenty-four (24) feet.
2. Each required off-street loading space shall be of a size not less than that required for an off-street parking space but scaled larger to delivery vehicles expected to be *used* logically and conveniently located for bulk pickups and deliveries, and accessible to such vehicles when required off-street *Parking Spaces* are filled, provided that for Industrial Uses the off-street area required for the receipt or distribution by vehicles of materials or merchandise is held to be a twelve (12) foot by forty-five (45) foot loading space with a fourteen (14) feet height clearance; provided further that if more than one, berth is provided the minimum dimensions are held to be ten (10) feet by forty-five (45) feet with a fourteen (14) foot height clearance.
3. Except on *lots* occupied by Single Family, Two Family, and Multi-family Dwellings, each off-street parking space shall open directly upon an aisle or driveway at least twelve (12) feet wide or such additional width and design in accordance with the following table, so as to provide safe and efficient means of vehicular access to such parking space. Such aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times. (Angle shall be measured between centerline of parking space and center line of aisle.)
  - A. For a parking angle of 45 degrees, an aisle width of fourteen (14) feet.
  - B. For a parking angle of 60 degrees, an aisle width of eighteen (18) feet.
  - C. For a parking angle of 90 degrees, an aisle width of twenty four (24) feet.
4. All off-street parking or loading facilities shall be designed with appropriate means of vehicular access to a *street* or *alley* in a manner which will least interfere with traffic movement.
5. In determining the minimum required number of off-street parking or loading spaces, the following instructions shall be applicable in such computations:

- A. If the unit of measurement is any fraction of the unit specified in relation to the number of spaces to be provided, said fraction shall be considered as being the next unit and shall be counted as requiring one (1) space.
  - B. In sports arenas, churches and other *places* of assembly in which patrons occupy benches, pews or other similar seating facilities, each twenty-two (22) inches of such seating shall be counted as one (1) seat for the purpose of determining requirements hereunder.
- 6. Accessory off-street parking areas may count toward the open space requirements.
  - 7. Accessory off-street parking and loading areas shall be provided to the rear of the required front *building setback line*, except as specified otherwise by this chapter. When permitted within required setback distances, a landscape screen shall be provided along the property line.
- d. Minimum Parking Requirements
- 1. Automobile Service Sales Room, Business Services, Clothing Services, Equipment Services, Food Services, Personal Services, Retail Service and Retail Stores generally and tavern or Night *Club* - One (1) for each one hundred twenty five (125) square feet of *net floor area*.
  - 2. Billiard Room, Dancing Academy, Sporting Activities, Department Store and *Automobile, Truck or Trailer Rental and Sales Area* - One (1) for each two hundred (200) square feet of *net floor area*.
  - 3. Private *Club* or Lodge - Space to accommodate fifty (50) percent of the active membership at one (1) space per each three (3) members or as determined by the *Board*. The determination shall be based upon what the particular Lodge or *club* Use would require to satisfy estimated peak parking load requirements.
  - 4. Automobile and Truck Repair - One (1) for each two hundred (200) square feet of *net floor area*.
  - 5. Indoor Theater - One (1) for each six (6) seats.
  - 6. Bowling Alley or Roller Rink - Three (3) for each lane plus one (1) for each sleeping unit.



7. *Hotel or Motel* - One (1) for each three (3) employees plus one (1) for each sleeping unit.
8. Veterinary Hospital for Small Animals and *Kennel* - One (1) space for each three (3) animals to be confined in temporary or permanent pens or cages.
9. Radio and Television Studios - One (1) per employee, plus one (1) for each six (6) seats in main auditorium.
10. Newspaper Publishing - One (1) per employee on largest shift.
11. Motor bus or Passenger Station - One (1) for each three (3) employees plus one (1) for each ten (10) seats in waiting room. Other retail *uses* in connection therewith shall provide one (1) space for each two (2) employees.
12. Storage Warehouse or Wholesale Establishment - One (1) for each three (3) employees or occupants. The maximum number of employees or occupants to be used in determining spaces.
13. Residential Uses - As required in the applicable sections of this Chapter.
14. Institutional Uses, including *nursing homes, hospitals* and similar institutions - one (1) parking space for each six hundred (600) square feet of gross floor area, or one (1) space for each four (4) patients' beds, whichever is greater, plus one (1) space for each two (2) employees per lightest working shift.
15. Children's Homes, day nurseries, kindergartens, child caring and similar institutions - One (1) parking space for each six (6) children's beds, plus one (1) space for each two (2) employees per largest working shift.
16. Community centers, public *buildings*, utilities and public service *uses* including libraries, museums and similar *places* of assembly - One (1) parking space for each eight hundred (800) square feet of gross floor area or one (1) space for each two employees per largest working shift, whichever is greater.
17. Philanthropic and charitable institutions - One (1) parking space for each two (2) employees per largest working shift, plus an adequate number of spaces to serve the public.
18. Schools, Public and Private
  - A. Elementary or junior high - at least three (3) *Parking Spaces* shall be

provided for each classroom.

- B. High School - At least six (6) *Parking Spaces* shall be provided for each classroom.
  - C. Sports Arena - At least one (1) parking space shall be provided for each five (5) seats when the facility is of an independent nature. When such facility is utilized in conjunction with a school either the parking requirement based on seating capacity of the largest single facility contained herein or the above requirement based on classroom number shall be applicable, whichever is the greater number of spaces.
- 19. Churches, theaters, auditoriums, assembly halls, undertaking establishments and similar *places* of congregation - One (1) parking space for each five (5) seats in the main sanctuary or room, plus one (1) space for each employee per largest working shift.
  - 20. Boarding schools, vocational and *trade schools*, colleges and similar *educational institutions* - One (1) parking space for each six (6) students based on the number of students attending classes on the *premises* at any one time during a twenty-four (24) hour period.
  - 21. Group Housing, including rooming and *boarding houses*, dormitories, elderly housing, fraternities and sororities -One (1) parking space for each two (2) beds, or each two (2) sleeping units, rooming units or *dwelling units* in the case of elderly housing, plus one (1) space for each employee per largest working shift.
  - 22. Drive-In Establishments - Two (2) *Parking Spaces* for each one hundred (100) square feet of gross floor area, plus one (1) space for each employee per largest working shift.
  - 23. Open air type *business uses*, including auto and boat sales, *kennels*, plant nurseries and commercial amusement establishments - One (1) parking space for each employee per largest working shift, plus an adequate number of spaces to serve the public.
  - 24. Automobile service station *uses* - One (1) parking space for each employee per largest working shift, plus two (2) spaces for each service stall.
  - 25. Commercial, manufacturing and industrial establishments not catering to the retail trade - One (1) parking space for each two (2) employees on the largest

working shift, plus an adequate number of spaces for visitors and company vehicles operating from the *premises*.

26. Amusement establishments, including swimming pools, golf courses, bowling alleys, skating rinks, and similar facilities - One (1) parking space for each fifty (50) square feet of gross floor area or five (5) *Parking Spaces* for each hole, alley, or one hundred (100) square feet of water area whichever is greater.
27. For *uses* not specified in this section or in such instance when the requirement for an adequate number of spaces is unclear or not specified in another part of this chapter for *Conditional Uses*, *Shopping Center Plan*, etc., the number of *Parking Spaces* shall be determined by the *Building Commissioner*, on the basis of similar requirements, the number of *persons* served or employed, and the capability of adequately serving the visiting public. Such determination may be appealed to the *Board*.
28. In the case of conflict between the provisions of this section the higher requirement shall govern.
29. For purposes of determining off-street parking requirements under this section, gross floor area shall mean the total horizontal area of the one (1) or several floors of the *building* or portion thereof devoted to such *use*, including accessory storage areas located within selling or working space such as counters, racks, or closets, and any *basement* floor area devoted to retailing activities, to the production or processing of goods or to offices; provided, however, gross floor area shall not include that area devoted entirely and permanently to storage purposes, parking and loading facilities or space *used* for restrooms, utilities or elevator shafts.

e. Offsite Parking Facilities

1. Required off-street parking facilities shall be provided hereinafter. The *Board* is hereby authorized to grant an offsite parking facility as a *Conditional Use* in accordance with the following conditions.
2. A *Development Plan* for such offsite parking facility shall be filed with the *Board* as a required exhibit accompanying the Special Exception Application and shall be made part of the conditions of any approval therefor. Said *Development Plan* shall demonstrate compliance with all applicable standards of this chapter, shall be amended and reapproved to indicate any change or other modification of *uses* served or number or *Parking Spaces* provided therefor, and shall indicate:

- A. Adjacent *streets, alleys* and *lots*.
  - B. All individual primary *uses* to be served, including the location *use* and number of *Parking Spaces* for each such *use*.
  - C. A layout drawn to scale of aisles and driveways, entrances, exits and turn-off lanes, *Parking Spaces*, setbacks, drainage facilities, and landscaping and buffer screening.
  - D. Type of lighting and pavement proposed and identification *signs* including location, size and design thereof.
- 3. Offsite parking facilities shall be provided with setback distances equivalent to the requirements of the *district*, and ingress and egress points shall be limited to protect the function of adjoining *streets*.
  - 4. Offsite parking facilities shall be encumbered by an instrument duly executed and acknowledged which shall subject said accessory off-street parking facilities to parking *uses* in connection with the primary *use* served. Said instrument shall specify and bind the time period to the anticipated life of the *building* or *use* to which the parking facilities are accessory. Said instrument shall be filed in the applicable *Improvement Location Permit* files of the *Building Commissioner* and placed of public record in the Office of the Benton County Recorder.
  - 5. Offsite parking facilities shall be developed in accordance with the provisions of Sec. 8-11 (f). Further said facilities shall be developed under such conditions imposed by the *Board* as to protect Residential Districts and maintain at a minimum the disturbance to nearby residential *uses*.
- f. Development Standards
- 1. All off-street parking areas for four (4) or more automobiles shall be developed in accordance with the standards of this section, except in the case of Single Family, Two Family, and Multi-family Dwellings, agricultural and rural *uses* and storage of vehicular merchandise not counting toward the minimum requirements as set forth in this chapter.
  - 2. Required off-street parking space shall be so designed, arranged and regulated as to have individual spaces marked, be unobstructed and have access to an aisle or driveway so that any automobile may be moved without moving another and so that no maneuvering directly incidental to entering or

leaving a parking space shall be on any public right-of-way or walkway.

3. Off-street *Parking Spaces* may be open to the sky or enclosed in a *building*. In any instance when a *building* is constructed or *used* for parking facilities on the *lot*, said *building* shall be treated as any major *structure* and subject to all requirements thereof.
4. No repair work, sales or service of any kind shall be permitted in association with accessory off-street parking facilities unless such facilities are enclosed in a *building* and otherwise permitted in the *district*.
5. All open off-street parking areas shall be surfaced with an all-weather paving material capable of carrying a wheel load of four thousand (4,000) pounds or improved with concrete or a compacted macadam base and surfaced with an asphaltic pavement to adequately provide a durable and dust-free surface which shall be maintained in good condition and free of weeds, dirt, trash and debris except that:
  - A. A gravel surface may be *used* for a period not exceeding one (1) year after the date of granting the *Certificate of Occupancy* where ground conditions are not immediately suitable for permanent surfacing as specified above.
  - B. A gravel surface in the area of storage or handling may be *used* permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.
6. Driveway entrances or exits shall be no closer than twenty-five (25) feet to any adjoining residential property line or ten (10) feet to an adjoining nonresidential property line and designed in such a manner as to least interfere with traffic movement. No driveway across public property at the right-of-way line of the *street* shall exceed a width of thirty (30) feet; provided however, two (2) driveways not exceeding thirty (30) feet in width each may constitute a single entrance-exit divider designed driveway, provided further, such driveways shall conform to the requirements of the Town Board or County Commissioners.
7. In any *district*, each *use* which is so located that it fronts upon and provides access to an arterial thoroughfare shall provide a *frontage* land paralleling and adjoining the improved part of the right-of-way at least eleven (11) feet in width for turn traffic entering the *lot*. Such *frontage* land shall be at least one

hundred (100) feet in length, exclusive of the entrance way and taper area, provided however, if the *lot frontage* is too small to meet such requirement, the *frontage* land shall extend the entire width of the *lot*.

8. Any lighting facilities *used* to illuminate off-street parking areas shall be so located, shielded and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with *street* traffic. In no instance shall bare unshaded bulbs be *used* for such illumination.
9. Such parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto either adjacent property or public sidewalks. Further any additional run-off generated by such improved area shall be disposed of in appropriate drainage facilities.
10. Such parking areas shall be so lined or designated as to insure the most efficient *use* of the *Parking Spaces* and provided with bumper guards or wheel guards so located that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required *yard* or onto adjoining property.
11. No *business signs* or advertisements shall be permitted in parking areas, provided however, directional and identification *signs* shall be permitted.
12. Parking areas located in the Business and Industrial Districts shall be provided with a landscape screen not less than four (4) feet in height whenever the parking area is located within one hundred (100) feet of adjoining residential *uses* or fronting upon any adjoining residential *uses*, except as otherwise provided in this chapter.
13. The ground area between the required off-street parking area setback and any *lot* line shall be landscaped with appropriate material to adequately indicate delineation.
14. Parking areas may be provided with a one *story* shelter *building* or guard *building* which shall not exceed one hundred (100) square feet of gross floor area and shall conform to all the structural requirements of the *district*.

g. Loading Requirements

1. Uses and *buildings* with gross floor area of five thousand (5,000) square feet or more shall provide off-street loading spaces in accordance with the following table, provided that loading spaces shall not be required. *Uses*

which do not receive or transmit goods or wares by truck delivery:

- A. Use: Manufacturing, distribution, wholesaling, storage and similar *uses* (Floor Area in square feet/number of loading spaces required)
    - i. 5,000 - 25,000 / 1
    - ii. 25,001 - 60,000 / 2
    - iii. 60,001 - 100,000 / 3
    - iv. Each 50,000 above 100,000 / 1
  - B. Use: Office *buildings*, *hotels* and *motels*, retail sales, *hospitals*, institutions, and similar *uses* (Floor Area in square feet/number of loading spaces required)
    - i. 5,000 - 60,000 / 1
    - ii. 60,001 - 100,000 / 2
    - iii. Each 100,000 above 100,000 / 1
2. Off-street loading areas shall be developed in accordance with the standards in Sec. 8-11 (f), or the regulations of the *district*, whichever is greater.

Sec. 8 - 12 *Accessory Uses*

- a. Intent. *Accessory Uses* shall be permitted in all Zone *districts* in accordance with the provisions of this section. *Accessory Uses* shall:
  - 1. be incidental and subordinate to, and commonly associated with the operation of the principal *use* of the *lot*.
  - 2. be operated and maintained under the same ownership and on the same *lot* as the principal *use*.
  - 3. be clearly subordinate in height, area, bulk, extent and purpose to the principal *use* served.
  - 4. not be located closer to any *lot* line than the minimum setback line required, unless specified otherwise in this chapter.
  - 5. not be permitted prior to the erection and operation of the principal *use*, unless a temporary *Improvement Location Permit* is obtained.
- b. Interpretation. The following are permitted: such appurtenant features as walks, driveways, curbs, drainage installations, mailboxes, lamp posts, bird baths and *structures* of a like nature, and the growing of vegetation and the keeping of domestic pets, provided such operations are not for-profit, and fences, walls and structural

screens when they do not impede intersection visibility.

c. Application of *Accessory Uses*

1. Such *buildings* or *structures* as garages, carports, canopies, portecocheres, patios, outdoor fireplaces, bath houses, cabanas, doghouses, children's play equipment, greenhouses, and similar *accessory buildings* or *structures*.
2. Off-street motor vehicle parking and loading areas, as set forth in Sec. 8-11, provided, however, for residential *uses* not more than one (1) such space shall be provided for a commercial vehicle of more than three (3) tons capacity.
3. *Sign* (nameplate) not exceeding two (2) square feet in area displayed.
4. Swimming pools.
5. Amateur radio sending and receiving antennae, provided the height thereof including masts shall not exceed seventy-five (75) feet measured from finished *lot grade*.
6. Management office in Multi-family Dwelling or *Garden Apartment Use*, and other facilities normally associated with tenants' convenience, such as vending machines and washing machines, provided there is no exterior display.
7. Fall-out shelters.
8. Residential occupancy by domestic employees employed on the *premises*.
9. Foster *family* care where children unrelated to the residents by blood or adoption are cared for, provided that no *sign* shall be displayed.
10. Day care of preschool children unrelated to the residents by blood or adoption when no more than four (4) such children are cared for, provided that at least one (1) additional off-street parking space shall be provided, and that no *signs* shall be displayed.
11. Stables and animal pens, on residential *lots* of at least five (5) acres, provided however, any *structures*, pens or corrals housing animals shall be two hundred (200) feet from an adjoining property line, except where animals are kept in sound-proof air conditioned *buildings*, in which case the required setback line is one hundred (100) feet.



12. Storage areas, as regulated in applicable Sections of this chapter.
13. Private residential garages and carports for the storage of motor vehicles, which are clearly accessory and not for commercial purposes.
14. Storage or parking of *recreational vehicles* in the open subject to the following conditions:
  - A. In any *district* the wheels or any similar transporting devices of any *recreational vehicle* shall not be removed except for repairs, nor shall such vehicle be otherwise permanently fixed to the ground in a manner that would prevent ready removal of said types of mobile *structures*.
  - B. *Recreational vehicles* may be stored or parked by the owner thereof behind or alongside the primary *building* in such a manner that no part of any such vehicle shall project beyond the front or side setback lines of the *lot*.
  - C. Not more than two (2) *recreational vehicles* will be permitted to be parked or stored in the open on residential property at any one time, provided, however, that one (1) additional such vehicle is permitted for visitation for seven (7) consecutive days and not to exceed fourteen (14) days in any one (1) year.
  - D. At no time shall such parked or stored *recreational vehicle* be occupied or *used* for living, sleeping or housekeeping purposes, except as provided for visitations in Sec. 8-12(c)(14)(C) above.
  - E. Notwithstanding the provisions of Sec. 8-12(c)(14) above, *recreational vehicles* may be parked anywhere on the *premises* for loading or unloading purposes, for not longer than a forty eight (48) hour period.

Sec. 8 - 13 Soil Survey, Drainage, Erosion and Sediment Control.

Before an *Improvement Location Permit* or a *Certificate of Occupancy* shall be issued, the *Building Commissioner* shall be satisfied that the proposed *use* meets the applicable criteria set forth herein for the *lot* or tract of land concerning types of soils involved, and the conditions which are requisite to assure proper execution of erosion and sediment control and proper drainage. The *Building Commissioner* shall be guided by the information set forth in the findings in the “National Cooperative Soil Survey” prepared by the USDA Soil Conservation Service in cooperation with the Purdue Experiment Station and the Benton County Soil and Water Conservation District, and the

specifications set forth in Sec. 8-13 (e) herein. The *Building Commissioner* shall also be guided by advice from the USDA Soil Conservation Service, Benton County Soil and Water Conservation District, Benton County Drainage Board, Indiana Department of Natural Resources - Division of Water and other agencies or officials offering technical assistance on the subjects of soils, drainage, erosion and sediment control. The applicant shall provide the information, report, or plan for his application, and any additional expense necessary to ensure adequate information, report, or plan shall be met by the applicant.

a. General

1. Definitions - Unless otherwise expressly stated, the following words, shall, for the purposes of this Section, have the meaning herein stated. Words in the singular number include the plural. Present tense includes the future. The word "*building*" shall be deemed to include the word "*structure*".
  - A. Cut: An excavation. The difference between a point on the original ground and a designated point of lower elevation on the final *grade*. Also, the material removed in excavation.
  - B. Erosion: The removal of surface materials by the action of natural elements.
  - C. Excavation: Any act by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.
  - D. Fill: Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point higher elevation on the final *grade*. The material used to make a fill.
  - E. *Flood Plain*: The area along a natural watercourse which is periodically overflowed by water therefrom.
  - F. Qualifying Tract: Any tract where twenty (20) or more cubic yards of earth is removed.
  - G. Runoff: The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but

runs off the surface of the land.

- H. Runoff from a fully developed area upstream: The surface water runoff that can be reasonably anticipated upon maximum *development* of that area of the watershed located upstream from the subject tract, as permitted by prevailing zoning of the *Comprehensive Plan*.
  - I. Sedimentation: The process by which mineral or organic matter is accumulated or deposited by moving, wind, water, or gravity. Once this matter is deposited (or mains suspended in water) it is usually referred to as "sediment".
  - J. Slope: The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per one hundred (100) feet of horizontal distance.
  - K. Soil Stabilization: Chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise improve its engineering properties.
  - L. Swale: A low lying stretch of land which gathers or carries surface water runoff.
  - M. Top Soil: Surface soils and subsurface soils which presumably are fertile soils and soil material, ordinarily rich in organic matter or humus debris. Top soil is usually found in the uppermost soil layer called the A Horizon.
  - N. Watercourse: A permanent stream; intermittent stream; river; brook; creek; channel or ditch for water whether natural or man-made.
2. No changes shall be made in the contour of the land; or grading, excavating, removal or destruction of the topsoil, trees or other vegetative cover of the land shall be commenced until such time that a plan for minimizing erosion and sedimentation has been reviewed by the *Building Commissioner* or it has been determined that such plans are not necessary.
  3. No *Development Plan* shall be approved unless there has been a plan approved by the *Building Commissioner* that provides for drainage and minimizing erosion and sedimentation consistent with this Section, and an improvement bond or other acceptable securities are deposited with the *Town*

or *County* in the form of an escrow guarantee satisfactory for the planning which will ensure installation and completion.

4. Measures used to control erosion and reduce sedimentation and to provide drainage shall be at a minimum meet the standards and specifications of the Benton County Soil and Water Conservation District. The *Building Commissioner* shall ensure compliance with the appropriate specifications, copies of which are available from the Benton County Soil and Water Conservation District or from the Office of the Benton County Surveyor.

b. Performance Principals

The following measures are effective in minimizing erosion and sedimentation and shall be included where applicable in the control plan:

1. Stripping of vegetation, regarding, or other *development* shall be done in such a way that will minimize erosion.
2. *Development Plans* shall preserve salient natural features, keep cut-fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
3. Whenever feasible, natural vegetation shall be retained, protected, and supplemented.
4. The disturbed area and the duration of exposure shall be kept to a practical minimum.
5. Disturbed soils shall be stabilized as quickly as practicable.
6. Temporary vegetation and mulching shall be used to protect exposed critical areas during *development*.
7. The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the *development*.
8. Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after *development*. Where necessary the rate of surface water runoff will be structurally retarded.
9. Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps, or similar

measures.

c. Grading for Damage

In order to provide more suitable sites for *building* and other *uses*, improve surface drainage, and control erosion, the following requirement shall be met:

1. The location, grading and placement of sub-grade (base) material of all driveway and parking areas shall be accomplished as the first work done on a *Development Plan*.
2. All *lots*, tracts, or parcels shall be graded to provide proper drainage away from *buildings* and dispose of it without ponding, and all land within a *development* shall be graded to drain and dispose of surface water without ponding, except where approved by the *Building Commissioner*.
3. All drainage provisions shall be of such design to adequately handle the surface runoff and carry it to the nearest suitable outlet such as a curbed *street*, storm drain, or natural watercourse. Where drainage swales are used to divert surface waters away from *buildings*, they shall be sodded or planted as required and shall be of such slope, shape and size as to conform with the requirements of the *Town* or Benton County as the case may be.
4. Concentration of surface water runoff shall only be permitted in swales or watercourses.
5. Excavations and fills.
  - A. Cut and fill slopes shall not be steeper than 2:1 unless stabilized by a retaining wall or cribbing except as approved by the *Building Commissioner* when handled under special conditions.
  - B. Provisions shall be made to prevent surface water from damaging the cut face of excavation or the sloping of surface of fills, by installations of temporary or permanent drainage across or above these areas.
  - C. Cut and fills shall not endanger adjoining property.
  - D. Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.
  - E. Fills shall not encroach on natural watercourses or constructed

channels.

- F. Fills placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during period of flooding.
- G. Grading will not be done in such a way so as to divert water onto the property of another land owner without the expressed written consent of the *Building Commissioner*.
- H. During grading operations, necessary measures for dust control will be exercised.
- I. Grading equipment will not be allowed to ford live streams. Provision will be made for the installation of temporary or permanent culverts or bridges.

d. Responsibility.

- 1. Whenever sedimentation is caused by stripping vegetation, regrading or other *development*, it shall be the responsibility of the applicant, *person*, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- 2. Maintenance of all driveways, parking areas, drainage facilities and watercourses within any *Development Plan* area is the responsibility of the applicant, or owner developer.
- 3. It is the responsibility of the applicant and any *person*, corporation, or other entity doing any act on or across a communal stream, watercourse, or swale or upon the *FloodPlain* or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, *FloodPlain* or right-of-way during the pendency of the activity and to return it to its original or equal condition after such activity is completed.
- 4. No applicant and *person*, corporation, or other entity shall block, impede the flow of, alter, construct any *structure*, or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the Benton County Drainage Board or the Indiana Department of Natural Resources, Division of Water, whichever is applicable.

5. Where a *Development Plan Area* is traversed by a watercourse, the total *development* of the water course shall be considered. There shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse, and of such width as will be adequate to preserve natural drainage to the satisfaction of the *Building Commissioner*.
  6. Each applicant, *person*, corporation, or other entity which makes any surface changes shall be required to:
    - A. Collect on-site surface runoff and dispose of it to the point of discharge into an adequate outlet approved by the *Building Commissioner*.
    - B. Handle existing and potential off-site runoff through his *development* by designing to adequately handle storm runoff from a fully developed area upstream.
    - C. Pay his proportionate share of the total cost of off-site improvements to the common natural watercourse, based on a fully developed drainage area.
    - D. Provide and install at his expense, in accordance with the *Building Commissioner* requirements, all drainage and erosion control improvements (temporary and permanent) as required by the Erosion and Sediment Control Plan.
  7. It is the responsibility of the applicant or owner to keep all major streams, not under the jurisdiction of other official agency, open and free flowing.
  8. The applicant or owner will assume the responsibility for maintaining an open and free flowing condition in all minor streams, watercourse and drainage systems, constructed or improved in accordance with *Town* and County design criteria on his property, which are necessary for proper drainage in the discretion of the *Building Commissioner* if adequate right-of-way exists or can be acquired.
- e. Compliance With Regulations and Procedures
1. The design, installation, and maintenance of the required drainage facilities and erosion and sediment control measures shall be in accordance with the "Urban Soil and Water Conservation Guidelines, Specification No.1" adopted by the Benton County Soil and Water Conservation District, Fowler, Indiana, on file in the Office of the Benton County Soil and Water Conservation

District and the Office of the Benton County Surveyor.

2. The approval of plans and specifications for the control of erosion and sedimentation shall be concurrent with the approval of the *development*, and became a part thereof.
3. Permission for clearing and grading prior to the approval of the *Development Plan* may be obtained under temporary easements or other conditions satisfactory to the *Building Commissioner*.
4. In the event the applicant or developer proceeds to clear and grade prior to the approval of the *Development Plan*, without satisfying conditions specified under Sec. 8-13 (e) (3), above, the *Board* may revoke the approval of all plans.

#### Sec. 8 - 14 Garden Apartment Plan.

A *Garden Apartment Use*, which may include Townhouses, may be permitted as a *Conditional Use* by the *Board* on a *lot* (or Tract of Land) in the R-2, R-3, R-4, B-1, and B-3 Districts, in accordance with the requirements of this chapter; provided, that each *Garden Apartment Use* shall have at least twelve (12) *dwelling units*, in accordance with the following additional requirements:

##### a. Area Requirement

1. The minimum land area required for *dwelling units* in a tract proposed for a *Garden Apartment Use* is three thousand nine hundred (3,900) square feet in the R-2, R-3, and B-3 Districts, two thousand seven hundred (2,700) square feet in the B-2 District; per *dwelling unit*.
2. In the event an accessory *dwelling unit* is provided for a caretaker or superintendent the land area requirement for a *dwelling unit* shall apply.

##### b. Lot Width

The minimum *lot* or tract width for a *Garden Apartment Use* shall be two hundred (200) feet in the R-2, R-3, and B-3 Districts, one hundred (100) feet in the R-4 and B-1 Districts, and seventy (70) feet in the B-2 District.

##### c. Front Yard

The minimum *front yard* for a *Garden Apartment Use* shall be eighty (80) feet in the B-3 District, and thirty (30) feet in the R-2, R-3, R-4, B-1 and B-2 Districts.



d. Side Yards

The minimum dimension for each *side yard* shall be twenty per cent (20%) of the required *lot* width.

e. Rear Yard

1. The minimum *rear yard* for a *Garden Apartment Use* shall be thirty (30) feet.
2. *Accessory Uses* may be permitted in the *side yard(s)* and *Rear Yard* and their location shall be subject to the approval of the *Board*.

f. *Building* Height

The maximum *building* height for *Garden Apartment Use* shall be thirty-five (35) feet or two and a half (2-1/2) stories.

g. Parking

Not less than two (2) vehicle *Parking Spaces* shall be provided on the *lot* for a *Garden Apartment Use* for each *dwelling unit*, provided that the *Board* may permit convenient off-site parking for a *Garden Apartment Use* in the B-2 District.

h. Development Plan Required

A *Development Plan* for a *Garden Apartment Use* shall accompany the application for an *Improvement Location Permit*. The *Development Plan* shall meet the following requirements, in addition to the requirements set forth in this *Zoning Code*.

1. The *building* or *buildings* shall be so designed or located so that the distance from any window of any room proposed to be *used* for human habitation shall be not less than forty (40) feet from the wall of any *structure* on the property, such distance to be measured by a line perpendicular to the plane of the surface of said window, except that this distance may be reduced to not less than thirty (30) feet for an exposure where a room is a bathroom or laundry utility room or is *used* as a community or group meeting room or for a similar purpose. No separate free-standing shall be closer than twenty(20) feet to any other *building* on or off of the site or *lot*. Provided that the *Board* may reduce any of these dimensions, if in its judgment, the intent of this Sub-Section is preserved.
2. In the event that more than one (1) *building* is proposed, the buildings shall be designed to be located so that not more than two (2) *buildings* are in a

straight unbroken line. Each *Garden Apartment Use Building* shall be designed with set-backs or breaks of not less than six (6) feet to all exterior walls for every two (2) *building* units.

3. Off-street parking space and adequate space for service facilities, may be provided in the *side yard(s)* or *rear yard* and shall in no event be located in the required *front yard*, provided that no driveway, off-street parking area or Service Facility Area shall be located closer than ten (10) feet to any *side lot line*. The off-street parking areas and Service Facility Areas shall have sufficient lighting facilities, which shall be located and adjusted so that the glare or beam is directed away from any adjoining property, public *street* or *garden apartment use* dwelling windows.
4. Any open-air *street* parking and service facility area shall be suitably screened with shrubbery or trees along all *streets* and adjoining or adjacent property lines on the *lot*. The locations and names of the shrubbery planting shall be indicated on the *Development Plan* or on a separate Landscape Plan which shall become apart of the application. The shrubbery may be planted informally or in a row and may include several varieties and sizes provided that the *Board* shall be satisfied that said shrubbery will screen any parking areas and expected ground activity from the view of *abutting* or opposite properties, and also that vision clearance at access points will be provided for safety purposes.
5. The location of all driveways, parking areas, service facility areas, and *streets* shall be shown on the *Development Plan*. Also, the location, type and size of proposed public water, sewage, drainage facilities shall either be shown on the plan or accompanying drawings.

i. Sewer Statement

A statement from the Town Board and the Benton County Health Department that sewers are adequate for the proposed *Garden Apartment Use* shall accompany the application for an *Improvement Location Permit*.

j. Drainage, Erosion and Sediment Control

The *Building Commissioner* shall require provision of adequate drainage, erosion and sediment control in accordance with the criteria promulgated in Sec. 8-11.

Sec. 8 - 15 B-3 Roadside Business District.

Upon the receipt of an application for an *Improvement Location Permit* for a Local Business Use,

General Business Use or Enclosed Industrial Use proposed to be located in the B-3 Roadside Business District, the permit therefore shall not be granted until a *Development Plan* has been approved as a *Conditional Use* in accordance with the procedure herein, and the basic requirements and provisions of Sec. 8-5, Sec. 8-7, Sec. 8-10 and Figure 2, Figure 3, Figure 4, Figure 5, and Figure 6 pertaining to *Uses* in the B-3 District shall be met where applicable, and the following requirements shall be adhered to in the *Development Plan* for such *use* or *uses* in a B-3 District.

- a. A lawn area at least twenty (20) feet in width and *abutting* the property line on the *lot* in the B-2 District shall be provided and maintained on the particular side(s), or rear of a *lot* where a B-2 District *use* adjoins on A-1 Agriculture District or a Residential District or land being *used* for residential purposes. A planting screen, consisting of suitable shrubbery shall be provided and maintained within any full lawn area so as to provide a tight screen, effective at all times of the year. The locations and name(s) of the shrubbery planting shall be indicated on the *Development Plan* or on a separate Landscape Plan which shall become a part of the application. The shrubbery may be planted informally or in a row and may include several varieties and sizes provided that the *Board* shall be satisfied that said shrubbery will screen any parking areas and expected ground activity from the view of said *abutting* or opposite properties, and also that vision clearance at access points will be provided for safety purposes.
- b. On through *lots*, *front yards* shall be provided on each *Street*.
- c. Off-street *Parking Spaces* and *Accessory Uses* such as *filling station pumps*, *signs* and light standards may be located in the required *front yard* but not within twenty (20) feet of the *front lot line*.
- d. On a *corner lot*, the *Side Yard* dimension shall be eighty (80) feet along the side *street* line, and off-street parking space and *Accessory Uses* are permitted in such a *side yard* in accordance with the requirements set forth in Sec. 8-15 (c).
- e. Entrances and exits shall be located so as to minimize any adverse effect on adjacent properties. Access driveways shall not be wider than forty (40) feet.

Sec. 8 - 16 *Mobile Homes.*

*Manufactured dwellings* and *Mobile Homes* are permitted *uses* in a *Mobile Home Park*.

The *Board* may order an *Improvement Location Permit* issued for a *Mobile Home Park Use* in accordance with the procedures set forth in this Section and Sec. 8-10, *Conditional Uses*, and the provisions of this chapter, upon an affirmative finding by the *Board* that the following additional requirements have been met by the owner or owners, or developer of the tract of land proposed for a *Mobile Home Park Use*, and a *Development Plan* incorporating the substance of these requirements

has been provided:

- a. A *Mobile Home Park* shall contain at least five (5) acres of area, and the condition of the soil and ground water level of the site shall meet the criteria promulgated by the U.S. Department of Agriculture Soil Conservation Service. The site shall not be exposed to objectionable *smoke*, noise, odors or other adverse influences, and no portion of the site subject to unpredictable or sudden flooding, subsidence or erosion, shall be used for any purpose which would expose *persons* or property to hazards.
  1. Exposed ground surfaces in all parts of every *Mobile Home Park* shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
  2. The ground surface in all parts of the Park shall be graded and equipped to drain all surface water in a safe, efficient manner.
  3. A planting screen shall be provided along the side(s) and rear of a *Mobile Home Park*; provided that the *Board* may waive this requirement temporarily or permanently if adequate plantings already exist in the proximity, or if the topography or other conditions warrant. A basket weave or similar type fence or a brick or stone wall may be permitted by the *Board* in lieu of a planting screen. Whenever a *Mobile Home Park* is bounded by more than one (1) *street*, a planting screen shall be provided along such additional *street(s)*.
- b. No part of any Park shall be *used* for nonresidential purposes, except such *uses* that are required for the direct servicing and well being of park residents and for the management and maintenance of the Park; provided, that nothing contained in this Section shall be deemed as prohibiting the sale of a *Mobile Home* located on a *mobile home slab* and connected to the pertinent utilities and is in a *mobile home stand*.
- c. *Side Yards*, each having a minimum of thirty (30) feet in width, and a *Rear Yard* with a minimum depth of thirty (30) feet, and a *Front Yard* with a minimum depth of sixty (60) feet shall be provided for a *Mobile Home Park*, provided that portions of the required *side and rear yards* may be included in adjacent *Mobile Home Stands*.
- d. *Mobile Homes* shall be separated from each other and from other *buildings* and *structures* by at least twenty (20) feet, provided that an accessory *structure* such as an awning, cabana, storage cabinet, carport, windbreak, and porch which has a floor area exceeding twenty-five (25) square feet, and has an opaque roof or top, shall for purposes of all separation requirements, be considered to be part of the *Mobile Home*.
- e. Each *mobile home stand* shall contain a minimum of four thousand (4,000) square

feet in area, and shall be at least thirty (30) feet in width. A paved parking area for two (2) automobiles not less than ten (10) feet by twenty (20) feet each, shall be provided on each *mobile home stand*. The area of the *mobile home stand* shall be improved to provide adequate support for the placement and tie-down of the *Mobile Home*, securing the superstructure against uplift, sliding, rotation and overturning.

1. The *mobile home slab* shall not heave, shift or settle unevenly under the weight of the *Mobile Home* due to frost action, inadequate drainage, *vibration* or other forces acting upon the *structure*.
  2. The *mobile home slab* shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men", eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the *Mobile Home*.
  3. Anchors and tie-downs shall be placed at least at each corner of the *mobile home slab* and each shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.
- f. There shall be a minimum distance of fifteen (15) feet between the *mobile home slab* and *abutting* interior Park drive.
- g. In all Parks accommodating or designed to accommodate more *Mobile Homes*, there shall be one (1) or more recreation areas which shall be easily accessible to all park residents.
1. The size of such recreation areas shall be based upon a minimum of one hundred (144) square feet for each *mobile home stand*. No outdoor recreation area shall contain less than four thousand (4,000) square feet.
  2. Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.
- h. All *Mobile Home Parks* shall be provided with safe and convenient vehicular access from *abutting streets* or roads to each *mobile home stand*. Such access shall be provided by interior private *streets* or driveways or other means. No direct access from a front or side *street* to a *mobile home stand* shall be permitted except via approved entrances and exits.
1. Park entrance shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent *streets*. No parking shall be allowed on the park entrance driveway for a distance of one hundred (100) feet from its point of beginning, unless the Park entrance drive is at least

thirty-six (36) feet wide.

2. Interior driveways shall be surfaced to a width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:
  - A. All Interior driveways, except minor driveways - twenty-eight (28) feet. (Measured from back to back of curb if provided.)
  - B. Minor driveways - twenty (20) feet. (Acceptable only if less than five hundred (500) feet and serving less than fifteen (15) *Mobile Homes*; or of any length if *Mobile Homes* on one (1) side only.)
  - C. Dead end driveways shall be limited in length to one thousand (1,000) feet, and shall be terminated at the closed end with a turn-around having an outside roadway diameter of at least sixty (60) feet.
- i. Interior Driveway Construction and Design Standards:
  1. Pavements: All driveways shall be provided with a smooth, hard and dense surface which shall be durable and well-drained under normal *use* and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Driveway surfaces shall be maintained free of cracks, holes and other hazards.
  2. *Grades*: *Grades* of all driveways shall be sufficient to insure adequate surface drainage, but shall be not more than eight percent (8%). Short runs with a maximum *grade* of twelve percent (12%) may be permitted, provided traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves.
  3. Intersections: Within one hundred (100) feet of an intersection, *streets* shall be approximately right angles. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting *streets*. Intersections of more than two (2) *streets* at one (1) point shall be avoided.
- j. Required Illumination of *Mobile Home Park* Interior Driveway Systems: All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:
  1. All parts of the interior driveways systems: six-tenths (0.6) foot candle.
  2. Potentially hazardous locations, such as major driveway intersections and

steps or stepped ramps: individually illuminated, with a minimum of three-tenths (0.3) foot candle.

k. Walks

1. General Requirements: All *Mobile Home Parks* shall be provided with safe, convenient, all season pedestrian access of adequate width for intended *use*, durable and convenient to maintain, between individual *mobile homes*, the interior driveways and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.
2. Common Walk System: A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3 ½) feet.
3. Individual Walks: All *mobile home slabs* shall be concentrated to common walks or to paved interior driveways. Such individual walks shall have a minimum width of two (2) feet.

1. *Service Buildings*, recreation *buildings* and other community service facilities such as Management offices, repair shops and storage areas; Laundry facilities; indoor recreation areas; and commercial *uses* supplying essential goods or services for the exclusive *use* of the *Mobile Home Park* occupants are permitted in the *Mobile Home Park*. Every *Mobile Home Park* which is provided with a *Community Service Building* shall include sanitary facilities as follows:

1. For each one hundred (100) *Mobile Home Stands* or fractional part thereof, there shall be at least one (1) flush toilet and one (1) lavatory for each sex.
2. The *building* containing such sanitary facilities shall be accessible to all *Mobile Homes* in the Park.

m. Structural Requirements for Service, Recreation or Community *Service Buildings*

1. All portions of the *structure* shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.
2. All rooms containing sanitary or laundry facilities shall:
  - A. Have sound resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bath

tubs, lavatories and other plumbing fixtures shall be constructed of dense, non-absorbent, waterproof material or covered with moisture resistant material.

B. Have at least one (1) window or skylight facing directly to the outdoors. The minimum aggregate gross area of windows for each required room shall be not less than ten percent (10%) of the floor area served by them.

C. Have at least one (1) window which can be easily opened, or a mechanical device which will adequately ventilate the room.

3. Toilets shall be located in separate compartments equipped with self-closing doors. Shower stalls shall be of the individual type. The rooms shall be screened to prevent direct view of the interior when the exterior doors are open.

4. Illumination levels shall be maintained as follows: (1) general seeing takes - five (5) foot candles; (2) laundry room work area - forty (40) foot candles; (3) toilet room, in front of mirrors - forty (40) foot candles.

5. Hot and cold water shall be furnished to every lavatory, sink, bath tub, shower and laundry fixture, and cold water shall be furnished to every water closet and urinal.

n. Barbecue Pits, Fireplaces, Stoves and Incinerators.

Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained and used as to minimize fire hazards and *smoke* nuisance both on the property on which used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense *smoke* or objectionable odors.

o. Refuse Handling

1. The storage, collection and disposal of refuse in the *Mobile Home Park* shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

2. All refuse shall be stored in flytight, watertight, rodent proof containers, which shall be located not more than one hundred and fifty (150) feet from any *mobile home stand*. Containers shall be provided in sufficient number and capacity to properly store all refuse.



3. Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.
4. All refuse containing garbage shall be collected at least twice weekly. Where suitable collection service is not available from municipal or private agencies, the *Mobile Home Park* operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.
5. Where municipal or private disposal service is not available, the *Mobile Home Park* operator shall dispose of the refuse by incineration or transporting to a disposal site approved by the *Health Officer*.
6. Refuse incinerators if provided shall be constructed in accordance with engineering plans and specifications which shall be reviewed and approved by the *Health Officer* or authority having jurisdiction.
7. Incinerators shall be operated only when attended by some *person* specifically authorized by the owner or operator of the *Mobile Home Park*.

p. Electrical Distribution System

1. General Requirements: Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
2. Power Distribution Lines:
  - A. Main power lines not located underground shall be suspended at least eighteen (18) feet above the ground. There shall be a minimum horizontal clearance of three (3) feet between overhead wiring and any *Mobile Home, service building* or other *structure*.
  - B. All direct conductors or cable shall be buried at least eighteen (18) inches below the ground surface and shall be insulated and specially designed for the purpose. Such conductors shall be located not less than one (1) foot radial distance from water, sewer, gas or communication lines.
3. Individual Electrical Connections:

- A. Each *mobile home stand* shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service per outlet shall be 120/240 volts AC, 100 amperes.
  - B. Outlets (receptacles or pressure connectors) shall be housed in a weatherproof outlet box, and shall be located not more than twenty-five (25) feet from the over-current protective device in the *Mobile Home*. A three-pole, four-wire grounding type shall be used.
  - C. Receptacles, if provided, shall be in accordance with American Standard Outlet Receptacle C-73.1.
  - D. Connectors, if not substituted by more than one (1) receptacle shall be provided where the calculated load of the *Mobile Home* is more than one-hundred (100) amperes.
  - E. The *Mobile Home* shall be connected to the outlet box by an approved type of flexible supply cord with a male attachment plug or with pressure connectors.
4. Required Grounding: All exposed non-current carrying metal parts of *Mobile Homes* and all other equipment shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for *Mobile Homes* or other equipment.
- q. Insect and Rodent Control
- 1. Grounds, *buildings* and *structures* shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the *Health Officer*.
  - 2. Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding *places* for flies, mosquitoes and other pests.
  - 3. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other *building* material shall be stored at least one (1) foot above the ground.
  - 4. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any *structure* shall be appropriately screened with

wire mesh or other suitable materials.

5. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

r. Fuel Supply and Storage

1. Natural Gas System

- A. Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
- B. Each *mobile home stand* provided with piped gas shall have an approved manual and shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.

2. Liquefied Petroleum Gas Systems

- A. Liquefied petroleum gas systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
- B. Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
- C. Systems shall have at least one (1) accessible means for shutting off gas. Such means shall be located outside the *Mobile Home* and shall be maintained in effective operating condition.
- D. All LPG piping outside of the *Mobile Homes* shall be well supported and protected against mechanical injury. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in *Mobile Homes*.
- E. Liquefied petroleum gas containers installed on a *mobile home stand* shall be securely but not permanently fastened to prevent accidental over-turning. Such containers shall not be less than twelve (12) nor

more than sixty (60) U.S. gallons gross capacity.

- F. No liquified petroleum gas vessel shall be stored or located inside or beneath any storage cabinet, carport, *Mobile Home*, or any other *structure*, unless such installations are approved by the *Health Officer*.

3. Fuel Oil Supply Systems

- A. All fuel oil systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
- B. All piping from outside fuel storage tanks or cylinders to *Mobile Homes* shall be permanently installed and securely fastened in place.
- C. All fuel oil storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath any *Mobile Home* or less than five (5) feet from any *Mobile Home* exit.
- D. Storage tanks located in areas subject to traffic shall be protected against physical damage.

s. Fire Protection

- 1. *Mobile Home Parks* shall be kept free of litter, rubbish and other flammable materials.
- 2. Portable fire extinguishers rated for Classes B and C fires shall be kept in *service buildings* and at other locations conveniently and readily accessible for use by all occupants and shall be maintained in good operation condition. Their capacity shall not be less than two and one-half (2-1/2) pounds.
- 3. Fires shall be made only in stoves, incinerators and other equipment intended for such purposes.
- 4. Fire hydrants shall be installed if the park water supply system is capable to serve than in accordance with the following requirements.
  - A. The water supply system shall permit the operation of a minimum of two one and one-half (2-1/2) inch hose streams.
  - B. Each of two (2) nozzles, held four (4) feet above the ground, shall deliver at least seventy-five (75) gallons of water per minute at a

flowing pressure of at least thirty (30) pounds per square inch at the highest elevation point of the Park.

5. Fire hydrants, if provided, shall be located within five hundred (500) feet of any *Mobile Home, service building* or other *structure* in the Park.

t. Miscellaneous Requirements

1. Responsibilities of the Park Management

- A. The *person* to whom an *Improvement Location Permit* and a *Certificate of Occupancy* for a *Mobile Home Park* is issued shall operate or cause to operate the Park in compliance with this chapter, I.C. 16-41-27-1, et seq., as amended, and I.C. 22-12-1-1, et seq., as amended, and shall provide adequate supervision to maintain the Park, its facilities and equipment in good repair and in a clean and sanitary condition.
- B. The *park management* shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter.
- C. The *park management* shall supervise the placement of each *Mobile Home* on its *mobile home slab* which includes securing its stability and installing all utility connections.
- D. The *park management* shall maintain a register containing the names of all park occupants identified by *mobile home stand* number of street address. Such register shall be available to any authorized *person* inspecting the Park.
- E. The *park management* shall notify the *Health Officer* immediately of all suspected communicable or contagious disease within the Park.

2. Responsibilities of Park Occupants

- A. The Park occupant shall comply with all applicable requirements of this chapter and shall maintain his *mobile home stand*, its facilities and equipment in good repair and in a clean and sanitary condition.
- B. The Park occupant shall be responsible for proper placement of his *Mobile Home* on its *mobile home slab* and proper installation of all utility connections in accordance with the instructions of the *park*

*management.*

- C. Porches, awnings, and other additions shall be installed only if permitted and approved by the *park management*. Skirtings shall be installed within one (1) year from the location of a *Mobile Home* on a *mobile home slab*. The skirtings shall meet the approval of the *park management*. When installed, skirtings, porches, awnings and other additions shall be maintained in good repair. The space immediately underneath a *Mobile Home* shall be used for storage only if permitted by the *park management*. If permitted, the following conditions shall be satisfied:
  - i. The storage area shall be provided with a base of impervious material.
  - ii. Stored items shall be located so as not to interfere with the underneath inspection of the *Mobile Home*.
  - iii. The storage area shall enclosed by skirting.
- D. The park occupant shall store and dispose of all his rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent-proof, insect-proof and water-tight.
- E. First aid fire extinguishers for Class B and C fires shall be kept at the *premises* and maintained in working condition.
- F. The water supply and sewage disposal shall meet the minimum requirements of the Indiana State Board of Health.

Sec. 8 - 17 Nonconforming Use Specifications.

The lawful *use* of a *Building* or *premises*, existing at the time of the passage of this *Zoning Code*, may be continued although such *use* does not conform with all the provisions of this chapter, subject to the following conditions:

- a. A *Nonconforming Use* may be extended throughout a *Building* provided the size of the *structure* is not increased.
- b. A *Nonconforming Use* may be changed to another *Nonconforming Use* of the same or greater restrictions, provided the size of the *structure* is not increased.
- c. Whenever a *Nonconforming Use* has been changed to a *Conforming Use* or to a *Use*

permitted in a *district* of greater restrictions, it shall not thereafter be changed to a *Nonconforming Use* or a less restricted *district*.

- d. No *Building* shall be erected upon any *premises* devoted to a *Nonconforming Use*, except in conformance with the provisions of this chapter.
- e. The *Board* may authorize, by written permit, in a *district* permitting Residential Use, for a period of not more than one (1) year from the date of such permit, a temporary *building* for *business* or Industrial Use incidental to the residential construction and *development* of said *district*.
- f. Nothing herein contained shall require any change in the plans for the construction or designated *use* of a *building* for which an *Improvement Location Permit* has been heretofore issued, and the construction of which has been diligently prosecuted within ninety (90) days of the date of such permit, and which entire *Building* shall be completed according to such plans filed within three (3) years from the date of passage of this *Zoning Code*.
- g. In the event that a *Nonconforming Use* of any *building* or *premises* is discontinued for a period of one (1) year, the *use* of the same shall thereafter conform to the *uses* permitted in the *district* in which it is located and provided further that any nonconforming *dwelling* which is deficient in *ground floor area*, and which may be removed from a *lot*, shall relocate on a *lot*.
- h. Any *building*, *structure* or *use* of land in the FP Flood Plain District which is not in conformance with this chapter constitutes a *Nonconforming Use*. All applications to repair, extend or enlarge a *Nonconforming Use* in the FP Flood Plain District shall be forwarded to the Indiana Department of Natural Resources for review and comment. All terms and conditions imposed by Indiana Department of Natural Resources shall be incorporated into the issuance of any resulting *Improvement Location Permit* issued by the *Building Commissioner*.
- i. These provisions apply in the same manner to a *use* which may become a *Nonconforming Use* as a result of an amendment to this chapter.

Sec. 8 - 18 Administration by Building Commissioner.

- a. Enforcement Officer - Responsibility of the Building Commissioner.
  - 1. The official assigned to administer and enforce the provisions of this chapter is designated the *Building Commissioner*. He shall be appointed in accordance with the provisions of I.C. 36-7-4-311(b). The authority to perform inspections, review applications, and issue permits may be delegated

to such other officials as authorized by the *Building Commissioner*. In the performance of these functions the *Building Commissioner* and such other officials shall be responsible to the *Commission* and the *Board* for matters pertaining to Planning and Zoning.

2. The Building Commissioner and all other officials duly authorized by the Building Commissioner may issue an Appearance Ticket and Complaint, stating the date and time of violation, the name and address of the person violating this Ordinance, and ordering that person to appear on a certain date and time in Benton Circuit Court in Fowler, Indiana, for the purpose of a trial thereon, if contested. In the event that the person accused of violating this Ordinance wishes to admit the violation, he or she may pay such fine at the Benton County Clerk's Office.

Any costs, billings, or charges incurred in the correction or remediation of any such violation will be billed to the property owner and will be due within thirty (30) days. Any landlord shall be liable for any violation permitted by his or her tenant(s).

In addition to assessing the costs of correcting or remediating any violation, there shall be a penalty as set forth in Section 8-1(l)(4) of the Benton County Zoning Code, as determined by the Court, for each violation of this chapter.

Each day of violation constitutes a separate and distinct violation of this Ordinance. The collection of penalties shall be conducted in any manner permitted by law. This Ordinance shall become effective after it has been published pursuant to law.

3. It is the intent of this chapter that all questions of interpretation of provisions of this chapter be first presented to the *Building Commissioner*. Recourse from the decision of the *Building Commissioner* (on matters pertaining to zoning) shall be only to the *Board*, and recourse from the decision of the *Board* shall be to the courts as provided by law.
  - b. Improvement Location Permits. Within the *jurisdiction of the Commission*, no *structure*, improvement, or *use* of land may be altered, changed, placed, erected, or located on *platted* or unplatted lands, unless the *structure*, improvement, or *use*, and its location, conform with the *Zoning Code*, as amended, and an *Improvement Location Permit* for such *structure*, improvement, or *use* has been obtained from the *Building Commissioner* by the owner(s) of the property or by his agent.
    1. Compliance. The *Building Commissioner* shall issue an *Improvement Location Permit*, upon written application, when the proposed *structure*, improvement or *use* and its location conform in all respects to the *Zoning Code*.



2. Comprehensive Plan. The *Building Commissioner* shall be guided by and give consideration to the policies and directives of the *Comprehensive Plan* prior to the issuance of any *Improvement Location Permit*.
- c. Application for Improvement Location Permit. Any *person*, who shall make application for an *Improvement Location Permit*, shall, at the time of making such application, furnish a site plan or *Development Plan* of the real estate upon which said application for an *Improvement Location Permit* is made at least (5) days prior to the issuance of said *Improvement Location Permit*, which five (5) days period may be waived. Said site plan shall be drawn to scale showing the following items:

1. Legal or site description of the real estate involved including acreage.
2. Location and size of all *buildings* and *structures*.
3. Width and length of all entrances and exits to and from said real estate.
4. All adjacent and adjoining roads or highways.
5. *Lot* number and area in square feet.
6. Actual shape and dimensions of the *lot* to be built upon.
7. *Front, side and rear yard* lines and their distance from the *street* or *lot* Line.
8. Number of *families* or housekeeping units the *building* is designed to accommodate and such other information in regard to the *lot* and neighboring *lots* and their *use* as may be necessary to determine and provide for the enforcement of the provisions of this *Zoning Code*.
9. Any other items required by this *Zoning Code*.

Applications including site plans or *Development Plans* so furnished shall be filed and shall become a permanent record of the *Commission*.

- d. Relocation of Proposed *Building, Structure, or Exit*. The *Building Commissioner* may require the relocation of any proposed *building or structure* or exit or entrance shown on the site plan or the location of new exits or entrances not shown on the site plan before issuing an *Improvement Location Permit* when such action is necessary to carry out the purpose and intent of the *Zoning Code*.
- e. Certificate of Compliance for Industrial Uses. An application for an *Improvement Location Permit* for any *use* subject to the provisions of Sec. 8-7 of this Chapter shall be accompanied by a "Certificate of Compliance" subscribed by a registered professional engineer of the State of Indiana, certifying that the *use* intended will satisfy the performance standards of the enclosed industrial *use*, and in the *district* in which it is to be located. The *Building Commissioner* may take ten (10) days in which to study the application, during which time he may consult with appropriate technical consultants. If, after the ten (10) day period, the *Building Commissioner* has not required any additional information or stated any objection in writing, the *Building Commissioner* shall issue the *Improvement Location Permit*.
- f. Basic Duties of Building Commissioner.

1. Issue in the name of the *Board Improvement Location Permits and Certificates of Occupancy* and maintain records thereof.
2. Conduct inspections of *buildings, structures, and use* of land to determine compliance with the terms of this chapter, and report the findings and violations to the *Commission* and *Board* for the purpose of ordering compliance thereof.
3. Provide interpretation of the *Comprehensive Plan*, Subdivision Control Code, and the *Zoning Code* when necessary, and such technical and clerical assistance as the *Commission* and *Board* may require.
4. Provide and maintain a public information service relative to all matters arising out of the *Comprehensive Plan*, Subdivision Control Code, and the *Zoning Code*.
5. Maintain permanent and current records of the *Comprehensive Plan*, Subdivision Control Code, and the *Zoning Code*, including but not limited to, all maps, amendments, *Improvement Location Permits, Certificate of Occupancy, variances, special exceptions, and appeals*, and applications therefore, and records of hearings thereon.
6. Review all applications for *Improvement Location Permits* and subdivisions to ascertain as to whether the proposed *use* lies in a flood hazard area as defined in this *Zoning Code*. If the proposed *use* is found to lie in such an area, the *Building Commissioner* will enforce the requirements set forth in this *Zoning Code* in the event that any *structures* involved are not directly covered by Chapter 5 of the Benton County Codes relating to Building Construction Rules and Regulations.
7. The *Building Commissioner*, during his review of *Improvement Location Permits* shall assure that all national flood insurance program regulations pertaining to state and federal permits, subdivision review, *mobile home tie-down standards, utility construction, record keeping (including lowest floor elevations), and watercourse alteration and maintenance* have been met.
8. Upon application the *Building Commissioner* may issue a Temporary *Improvement Location Permit* for the display of pennants and other similar attracting devices in connection with a special promotional program for an open-air *business*:
  - A. During a seven (7) consecutive day period related to a special event.

- B. For *use* twice during any twelve (12) month period, in conjunction with a promotional sales or service program, each period not to exceed three (3) weeks in duration, and to be separated from any other such period by not less than four (4) weeks.
- g. Site Plans Must Be Filed for Record. Site plans so furnished shall be filed and shall become permanent public record.
- h. Special Exception. The *Building Commissioner* shall issue an *Improvement Location Permit* for a special exception only following receipt of notice from the *Board* that the application therefore has been approved by the *Board*.
- i. Certificate of Occupancy. No land shall be occupied or *used*, and no *building* hereafter erected, reconstructed, or structurally altered shall be occupied or *used*, in whole or in part, for any purpose whatsoever, until a *Certificate of Occupancy* shall have been issued stating that the *building* and *use* comply with all of the provisions of this *Zoning Code* applicable to the *building* or *premises* of the *use* in the *district* in which it is to be located.
- j. Completion of Improvements. On completion of the improvement covered by the *Improvement Location Permit*, the *Building Commissioner* shall cause an inspection of the *premises*, and, if this inspection shall reveal that the improvement has been completed in substantial conformity with the site plan or *Development Plan* (and certificate of compliance when required, submitted in the application pursuant to Sec. 8-18 (e)) a *Certificate of Occupancy* shall then be issued, provided that compliance with all requirements of Chapter 5 (*Building Code*) and other applicable requirements of the Benton County Code.
- k. Temporary Certificate. A *Temporary Certificate of Occupancy* may be issued by the *Building Commissioner* after application has been made for completed portions of a *Development Plan* which has been approved as a special exception, provided that a *Certificate of Occupancy* is required upon completion of the total *Development Plan*.
- l. Change of Use. No change shall be made in the *use* of land (except an agricultural *use*) or in the *use* of any *building* or part thereof, now or hereafter erected, reconstructed or structurally altered, without a *Certificate of Occupancy* having been issued, and no such certificate shall be issued to make such change unless it is in conformity with the provisions of this *Zoning Code*.
- m. Coincidental Application. A *Certificate of Occupancy* shall be applied for coincidentally with the application for an *Improvement Location Permit* and shall be

issued within ten (10) days after the lawful erection, reconstruction or *structural alteration* of such *building* or other improvement of the land shall be completed.

- n. Certificates of Occupancy Filed for Record. A record of all *Certificate of Occupancy* shall be kept on file in the office of the *Building Commissioner* and copies shall be furnished upon request to any *person* having a proprietary or tenancy interest in the *building* or land affected.
- o. Excavations. No *Improvement Location Permit* shall be issued for excavation or for the erection, reconstruction or *structural alteration* of any *building*, before application has been made for a *Certificate of Occupancy*.
- p. Health Requirements. An application for an *Improvement Location Permit* for any *use* shall not be approved until it has been ascertained by the *Building Commissioner* that the proposed *use* meets the minimum standards for a sewage disposal system and water supply system as required by the *Health Officer*. No *Certificate of Occupancy* shall be issued for a commercial or industrial *structure* or for any other applicable *use* until the plans for such *structure* shall have been approved by the Department of Fire Prevention and Building Services of the State of Indiana.
- q. Time Limit. The work or *use* authorized by an *Improvement Location Permit*, *Certificate of Occupancy* or Permit for a *variance*, *Contingent Use* or other Permit, except for a special exception, must be commenced within six (6) months of the date of issuance of such certificate or permit; otherwise, the same shall lapse and become null and void. All work so authorized shall be completed within twelve (12) months from the issuance of the certificate or permit therefore, except for a special exception and provided that for good cause shown, the *Building Commissioner* can extend the completion of time.
- r. Soil and Drainage Conditions Met. An Application for an *Improvement Location Permit* for any *use* shall not be approved until it has been ascertained by the *Building Commissioner* that the proposed *use* meets the applicable criteria set forth in Sec. 8-13 for the *lot* or tract of land concerning types of soils involved and the conditions which are requisite to assure proper execution of erosion and sediment control and proper drainage. Also, the *Building Commissioner* must be satisfied that any requirements of the County Surveyor, the Indiana Drainage Code, and the respective Town Board have been met before approving applications for *Improvement Location Permits*.
- s. Temporary Improvement Location Permit. A *Temporary Improvement Location Permit* may be issued by the *Building Commissioner* after application has been made for a temporary *use* authorized by this *Zoning Code*. (See Sec.8-12.)

- t. Issuance of Permits. Any permits authorized by the *Building Commissioner*, including but not limited to *Improvement Location Permits*, permitting the erection, alteration or relocation of *structures* and other improvements within the *jurisdiction of the Plan Commission*, shall be issued only if, in addition to satisfying the requirements of the *Zoning Code*, the proposed *street* right-of-way as set forth in the Thoroughfare Plan, existing or proposed, will be protected from encroachment. In this instance, the proposed *street* right-of-way lines will be considered as the front lines of *lots* and tracts bordering such *street*, subject to *building setback lines* as set forth herein.
- u. Erroneously Issued Permits - Restrictive Covenants. The issuance of an *Improvement Location Permit* and/or a *Certificate of Occupancy* in no way validates such a permit or certificate in the event that same is erroneously issued or does not comply with applicable laws and the Benton County Code, or the ordinances of respective participating *Towns*. Furthermore, the issuance of an *Improvement Location Permit* and/or a *Certificate of Occupancy* in no way permits the violation of any restrictive covenants relative to the real estate.
- v. Proper Compliance. The *Building Commissioner* shall review all *development* (and subdivision) proposals to assure compliance with the Flood Plain District requirements of this Chapter. All *development* applications for *uses* located in the Flood Plain District which are not permitted by right will require the review and approval by Indiana Department of Natural Resources prior to the issuance of an *Improvement Location Permit*. The *Building Commissioner* shall forward all these specifications, along with plans and specifications, to Indiana Department of Natural Resources for review and comment.

The *Building Commissioner*, during his review of *Improvement Location Permits*, shall assure that all National Flood Insurance Program regulations pertaining to State and Federal permits, subdivision review, *mobile home* tie-down standards, utility construction, record keeping (including lowest floor elevations), and water course alteration and maintenance have been met.

- w. Certain Requirements Regarding Real Estate Transfers. All offers for the sale of real estate shall be accompanied by a description setting forth the zoning classification and permitted *uses* of the real estate being offered for sale, which description shall be provided by the seller or his agent.

Sec. 8 - 19 Board of Zoning Appeals.

- a. Establishment and membership. A five-member Board of Zoning Appeals is established with membership, appointment, and terms and vacancies as provided in accordance with I.C. 36-7-4-901, et. Seq.

- b. Conflict of interest. A member of the *Board* 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. The *Board* shall enter in its records:
  - 1. The fact that a regular member has such a disqualification; and
  - 2. The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.
- c. Quorum. A quorum consists of a majority of the entire membership of the *Board*.
- d. Official action. Action of the *Board* is not official, unless it is authorized by a majority of the entire membership of the *Board*.

Sec. 8 - 20 Organization and Rules of Board of Zoning Appeals.

- a. Election of officers and employees. At the first meeting of each year, the *Board* shall elect a Chairman and a Vice Chairman from among its members, and it may appoint a Secretary and such employees as are necessary for the discharge of its duties.
- b. Meetings. All meetings of the *Board* shall be open to the public.
- c. Facilities. The *Commission* shall provide for suitable facilities for the holding of *Board's* hearings and for the preserving of records, documents, and accounts.
- d. Minutes. The *Board* shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and records shall be filed in the office of the *Board* and are public records. The *Board* shall in all cases heard by it make written findings of fact.
- e. Rules.
  - 1. The *Board* shall adopt rules, which may not conflict with the *Zoning Code*, concerning:
    - A. The filing of appeals;
    - B. The application for *variances*, *Contingent Uses*, and special exceptions (*Conditional Uses*);
    - C. The giving of notice;

- D. The conduct of hearings; and
  - E. The determination of whether a *variance* application is for a *variance of use* or for a *variance* from the *development* standards (such as height, bulk, or area).
- 2. The *Board* may also adopt rules providing for:
    - A. The allocation of cases filed; and
    - B. The fixing of dates for hearings.
  - 3. Rules adopted by the *Board* shall be printed and be made available to all applicants and other interested *persons*.

Sec. 8 - 21 Powers and Duties of Board of Zoning Appeals.

- a. Appeals jurisdiction. The *Board* shall hear and determine appeals from and review:
  - 1. Any order, requirement, decision, or determination made by an administrative official, or staff member under this *Zoning Code*;
  - 2. Any order, requirement, decision, or determination made by an administrative board or other body except a *Commission* in relation to the enforcement of this *Zoning Code*;
  - 3. Any order, requirement, decision, or determination made by an administrative board or other body except the *Commission* in relation to the enforcement of this *Zoning Code* requiring the procurement of an *Improvement Location Permit* or *Certificate of Occupancy*.
- b. Exceptions and *uses*. The *Board* shall approve or deny all special exceptions (*Conditional Uses*), *Contingent Uses* and exceptions from the terms of this *Zoning Code*, but only in the classes of cases or in the particular situations specified in this *Zoning Code*. The *Board* may impose reasonable conditions as a part of its approval.

Sec. 8 - 22 Variances, Appeals to Board, Hearings, and Findings of Fact.

- a. Variances of *use* from terms of *Zoning Code*. The *Board* shall approve or deny *variances of use* from the terms of this *Zoning Code*. The *Board* may impose reasonable conditions as a part of its approval. A *variance* may be approved under this section 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 this *Zoning Code* will constitute an unnecessary hardship if applied to the property for which the *variance* is sought; and
  5. The approval does not interfere substantially with the *Comprehensive Plan*.
- b. Variances from development standards of *Zoning Code*. The *Board* shall approve or deny *variances* from the *development* standards (such as height, bulk, or area) of the *Zoning Code*. A *variance* may be approved under this section 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; and
  3. The strict application of the terms of the *Zoning Code* will result in practical difficulties in the *use* of the property.
- c. Appeals to Board - Grounds - Transmission of Record - Disposition.
1. An appeal filed with the *Board* must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the *Board* by rule.
  2. The *Building Commissioner*, administrative board, or other body from whom the appeal is taken shall, on the request of the *Board*, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal was taken.
  3. Certified copies of the documents, plans, and papers constituting the record may be transmitted for purposes of Sec. 8-22(c)(2).

4. Upon appeal, the *Board* may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the *Board* has all the powers of the official, officer, board, or body from which the appeal is taken.
  5. The *Board* shall make a decision on any matter that it is required to hear under I.C. 36-7-4-900, et. seq., either:
    - A. At the meeting at which that matter is first presented; or
    - B. At the conclusion of the hearing on that matter, if it is continued.
  6. Within five (5) days after making any decision under I.C. 36-7-4-900, et. seq., shall file in the Office of the Benton County Surveyor a copy of its decision.
- d. Hearing of appeals, exceptions, *uses*, and *variances* - Notice- Costs - Appearances.
1. The *Board* shall fix a reasonable time for the hearing of administrative appeals, exceptions, *uses*, and *variances*.
  2. Public notice in accordance with I.C. 5-3-1-2 and I.C. 5-3-1-4 and due notice to interested parties shall be given at least ten (10) days before the date set for the hearing.
  3. The party taking the appeal, or applying for the exception, *use*, or *variance*, shall be required to assume the cost of public notice and due notice to interested parties. At the hearing, each party may appear in *person*, by agent, or by attorney.
  4. The *Board* shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.
  5. The *Commission Staff* may appear before the *Board* at the hearing and present evidence in support of or in opposition to the granting of a *variance* or the determination of any other matter.
  6. Other *persons* may appear and present relevant evidence.
  7. A *person* may not communicate with any member of the *Board* before the hearing with intent to influence the member's action on a matter pending before the *Board*. Not less than five (5) days before the hearing, however, the *Commission Staff* may file with the *Board* a written statement setting forth any facts or opinions relating to the matter.

8. The *Board* may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than four (4) days before the hearing, the *Board* may also require the petitioner to furnish each adverse party with a copy of the petition and a plot plan of the property involved.
- e. Variances in FP District. Applications for *variances* to the provisions of this Chapter concerning an *Improvement Location Permit* for a *use* located in the FP District shall be forwarded to Indiana Department of Natural Resources for review and comment. All terms and conditions imposed by Indiana Department of Natural Resources shall be incorporated into the issuance of any such Permits. All *variances* shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and issue a written notice to the recipient of a *variance* or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premium.
- f. Findings of Fact. Where a request for a *variance* from this *Zoning Code* is sought, not only must the written determinations be set out as required, but findings of fact which support these determinations must be set out also. The *Board* must specify by factual findings or by a statement of reasons the basis for denial of a *variance* requested by a petitioner.

Sec. 8 - 23 Subdivision Control Code of Benton County, Indiana

- a. Short Title.

This Section shall hereafter be referred to as the "Subdivision Control Code of Benton County, Indiana".

- b. Establishment of Control.

No *plat* or *replat* of a subdivision of land located within the *jurisdiction of the Commission* shall be filed with the Office of the Benton County Surveyor and recorded by the County Recorder unless it has first been granted primary approval and subsequently granted secondary approval by the *Commission*, and such approval shall have been signed and certified on the *plat* by the President of the *Commission*.

- c. Procedure and Fees.

1. A subdivider desiring approval of a *plat* of a subdivision of any land lying within the *jurisdiction of the Commission* shall submit a written application

therefor to the *Plan Commission Staff*. Such application shall be accompanied by the information, requirements and plans set forth in Sec. 8-23 (c)(4), all in accordance with the requirements set forth in Sec. 8-23.

2. Subdivision Must Be Fit. The application shall show the manner in which the *plat* of the subdivision is coordinated with the *Comprehensive Plan* and its provisions, specifically, with relation to the requirements of the Thoroughfare Plan, school and recreational sites, *shopping centers*, community facilities, sanitation, water supply and drainage, and other *developments* existing and proposed in the vicinity; provided however, that no land shall be subdivided for residential *use* unless adequate access to the land over improved *streets* or thoroughfares exists or will be provided by the subdivider, or if such land is considered by the *Commission* to be unsuitable for such *use* by reason of flooding or improper drainage, objectionable earth and rock formation, topography, or any other feature harmful to the health and safety of possible residents and the community as a whole.
3. Fee Required. The application shall be accompanied by a certified check or money order made payable to Benton County, Indiana, in the amount designated for a Subdivision Plat Application in Figure 9, to cover the cost of checking and verifying the *plat*, and the *Building Commissioner* shall surrender the check or money order to the Auditor of Benton County for deposit in the General Fund of the *County*. No part of this filing fee shall be returnable to the applicant.
4. Application for Primary Approval of a Plat of a Subdivision.
  - A. Upon receipt of an application for primary approval of a *plat* of a subdivision, the *Commission Staff* shall review the application for technical conformity with the standards set forth in Sec. 8-23. Within thirty (30) days after receipt, the *Commission Staff* shall announce the date for a hearing before the *Commission* and provide notice as provided herein.
  - B. After the *Commission Staff* has announced a date for a hearing before the *Commission*, it shall:
    - i. Notify the applicant in writing;
    - ii. Give notice of the hearing by publication in accordance with I.C. 5-3-1; and
    - iii. Provide for due notice to interested parties at least ten (10)

days before the date for the hearing.

- C. The subdivider shall provide a *plat* of a subdivision showing the following:
- i. Proposed name of the subdivision.
  - ii. Names and addresses of the owner and the subdivider.
  - iii. *Streets* and rights-of-way, on and adjoining the site of the subdivision, showing the names which for new *streets* shall not duplicate other names of *streets* in the community, except for extensions of existing *streets* which shall meet with the approval of the *Commission*, and including roadway widths, approximate gradients, types and widths of pavement, curbs, walks, crosswalks, sidewalks, tree planting and other pertinent data.
  - iv. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in five thousand (5,000) feet.
  - v. Accurate distances and directions to the nearest established *street* corners or official monuments. Reference corners shall be accurately described on the *plat*.
  - vi. Accurate locations of all existing and recorded *streets* intersecting the boundaries of the tract.
  - vii. *Street* lines with accurate dimensions in feet and hundredths of feet, with angles to *street*, *alley* and *lot* lines.
  - viii. Layout of *lots*, showing dimensions and numbers.
  - ix. Accurate dimensions of easements for utilities and any limitations on such easements, showing widths and purposes of easements.
  - x. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community *use*.
  - xi. Location and size of storm and sanitary sewers and water distribution system.

- xii. Contours at vertical intervals of two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of five (5) feet if the general slope is ten percent (10%) or greater.
  - xiii. *Building setback lines* and dimensions.
  - xiv. Location, type, material and size of all monuments and lot markers.
  - xv. North point, scale and date.
  - xvi. Restrictions of all types which will run with the land and became covenants in the deeds for *lots*.
  - xvii. Certificate for primary approval by the *Commission* to be signed by the President of the *Commission*.
  - xviii. Certificate for secondary approval by the *Commission* to be signed by the President of the *Commission*.
  - xix. Certification by a registered land surveyor and registered professional engineer when required.
  - xx. Certification of dedication of *streets* and other public property.
- D. The subdivider shall submit the following Engineering Plans and Specifications and other required information with the application:
- i. Profiles, typical cross-sections and specifications for proposed *street* improvements.
  - ii. Profiles and locations and other explanatory data concerning the installation of sanitary and storm sewerage systems and water distribution systems.
  - iii. A description of the portion of the overall *plat* of the subdivision intended to be filed for record, including a program for the progressive *development* of the entire area contained in the overall *plat*.

- iv. A statement of the estimated amount of money sufficient to complete the improvements and installations by the subdivider and attested to by a registered land surveyor or a registered professional engineer.
- E. The subdivider shall submit the following supplementary information with the application:
- i. Statement of the proposed *use* of *lots*, stating type of residential *buildings* with number of proposed *dwelling units*, type of *business* or industry, so as to reveal the effect of the *development* on traffic, fire hazards, or congestion of population.
  - ii. Evidence of an adequate source of water supply.
  - iii. A National Cooperative Soil Survey Map from the Benton County Soil and Water Conservation District showing the soil limitations based upon the intended usage of the *development*.
  - iv. A statement concerning the method of controlling erosion before, during and following construction, i.e., temporary seeding, siltration basins, mechanical erosion devices, and other similar means that meet the Benton County Soil and Water Conservation guidelines for urban *development*.
  - v. If private sewage system, a statement from the Benton County *Health Officer* as to whether private septic systems can be used on this property.
  - vi. If a *Flood Plain* is involved, a statement from the Indiana Department of Natural Resources, Division of Water, concerning construction in floodway, including *Flood Plain* high water marks, etc.
  - vii. Other features or conditions which would affect the subdivision favorably or adversely.
- F. The subdivider shall include a location Map with the application which may be prepared by indicating the data by notations on available maps showing:
- i. Subdivision name and location.

- ii. Any thoroughfares related to the subdivision.
  - iii. Existing elementary and high schools, parks, and playgrounds available for serving the area proposed to be subdivided, and other community facilities.
  - iv. Title, scale, north point and date.
- G. The original drawing of the *plat* of the subdivision shall be drawn to a scale of fifty (50) feet to one (1) inch, provided that if the resulting drawing is thirty-six (36) inches in shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used. Three (3) black or blue-line prints shall be submitted, or in order to conform to modern drafting and reproduction methods, three (3) black-line prints and a Mylar film reproducible print shall be submitted. Also, a reduced *plat* on Mylar film with dimensions of fourteen (14) inches by seventeen (17) inches shall be submitted for filing purposes
5. After the Hearing for Primary Approval.
- A. If, after the hearing, the *Commission* determines that the application and *plat* comply with the standards in this *Zoning Code*, it shall make written findings and a decision granting primary approval for the *plat* of the subdivision. This decision shall be signed by the President of the *Commission*.
  - B. If, after the hearing, the *Commission* disapproves the *plat*, it shall make written findings that set forth its reasons and a decision denying primary approval and shall provide the applicant with a copy. This decision shall be signed by the President of the *Commission*.

6. Appeals.

The primary approval or disapproval of a *plat* by the *Commission* or the imposition of a condition on primary approval is a final decision of the *Commission* that may be reviewed by certiorari procedure as provided by I.C. 36-7-4-1016.

7. Secondary Approval.

- A. The *Commission* may grant secondary approval for all or any part of a *plat* of a subdivision which has heretofore been given primary approval by the *Commission*, or the *Commission* may delegate to the



*Commission Staff* the authority to grant such secondary approvals; provided that the secondary approvals may be granted after expiration of the time for appeal herein.

- B. Secondary approval may be granted to a *plat* of a subdivision in which the improvements and installations have not been completed as required by this *Zoning Code*, if the applicant provides a bond or other proof of financial responsibility as prescribed herein that:
  - i. Is an amount determined by the *Commission* to be sufficient to complete the improvements and installations in compliance with this *Zoning Code*; and
  - ii. Provides surety satisfactory to the *Commission*.
- C. Other proof of financial responsibility may take the following forms:
  - i. An arrangement whereby cash would be advanced to the *County* by the subdivider, and subsequently the *County* would release to the subdivider amounts of this money in percentages of the total cost of improvements and installations in the *plat* of a subdivision, when such completed portions of the *plat* have been attested to by a registered professional civil engineer or registered land surveyor, and approved by the *Commission*. Upon completion of all of the improvements and installation in the *plat*, the *County* shall reimburse the subdivider the total balance of the money originally deposited with the *County*; or
  - ii. An arrangement whereby the *County* would have undeniable access to the funds in an escrow account or other type of account held by a bank or other lending institution until all of the improvements and installations in the *plat* of a subdivision have been completed.
- D. No notice or hearing is required for secondary approvals.
- E. A *plat* of a subdivision may not be filed with the Office of the Benton County Surveyor, and the Recorder of Benton County may not record it, unless it has been granted secondary approval and signed and certified by the President of the *Commission*.
- F. The bond referred to in Sec. 8-23 (c)(7)(ii) above will be released

only upon receipt of a certificate by a registered professional civil engineer or a registered land surveyor that all improvements and installations for the *plat* of the subdivision required for its approval have been made or installed in accordance with specifications.

d. Principles and Standards of Design for Subdivisions.

In general, the *plat* of the subdivision shall conform to the principles and standards which are generally exhibited in the *Comprehensive Plan*.

e. *Streets*.

1. The *street* and *alley* layout shall provide access to all *lots* and parcels of land within the subdivision, and where *streets* cross other *streets*, jogs shall not be created. Cul-de-sacs shall not exceed five hundred (500) feet in length unless site topography indicates that longer cul-de-sacs would be appropriate.
2. Proposed *streets* shall be adjusted to the contour of the land so as to produce *useable* lots and *streets* of reasonable gradient.
3. Certain proposed *streets*, where appropriate, shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity.
4. Wherever there exists a dedicated or *platted* portion of a *street* or *alley* adjacent to the proposed subdivision, the remainder of the *street* or *alley* to the prescribed width shall be *platted* within the proposed subdivision.
5. Widths of arterial and feeder *streets* shall conform to the widths specified in the Thoroughfare Plan.
6. The minimum right-of-way of residential *streets*, including marginal access *streets* or cul-de-sacs, shall be sixty (60) feet, Feeder *Streets* shall be seventy (70) feet, and Arterial *Streets* shall be eighty (80) feet, unless otherwise indicated in the *plat*. All cul-de-sacs shall terminate in a circular right-of-way, with a minimum diameter of one hundred (100) feet, or other arrangement for turning of all vehicles conveniently within the right-of-way.
7. *Alleys* shall not be permitted in residential areas but shall be included in commercial and industrial areas where needed to loading and unloading or access purposes, and, where *platted*, shall be at least twenty (20) feet in width.

8. The center lines of *streets* should intersect as nearly at right angles as possible.
9. At intersections of *streets* and *alleys*, property line corners shall be rounded by arcs of at least twenty (20) feet radii or by chords of such arcs.
10. At intersections of *streets*, the property line corners shall be rounded by arcs with radii of not less than fifteen (15) feet or by chords of such arcs.
11. If the smaller angle of intersection of two (2) *streets* is less than sixty (60) degrees, the radius of the arc at the intersection of property lines shall be increased as deemed advisable by the *Commission*.
12. Intersections of more than two (2) *streets* at one (1) point shall be avoided.
13. Where parkways or special types of *streets* are involved, the *Commission* may apply special standards to be followed in the design of such parkways or *streets*.
14. Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way or a highway designated as a "Limited Access Highway" by the appropriate highway authorities, provision shall be made for a marginal access *street* or a parallel *street* at a distance acceptable for the appropriate *use* of the land between the highway or railroad and such *streets*.
15. Horizontal visibility on curved *streets* and vertical visibility on all *streets* must be maintained along the center lines as follows:
  - A. Arterial *streets*: Five Hundred (500) Feet
  - B. Feeder *streets* and parkways: Three Hundred (300) Feet
  - C. Residential *streets*: One Hundred Fifty (150) Feet
16. Curvature measured along the center line shall have a minimum radius as follows:
  - A. Arterial *streets*: Five Hundred (500) Feet
  - B. Feeder *streets* and parkways: Three Hundred (300) Feet
  - C. Residential *streets*: One Hundred fifty (150) Feet

17. Between reversed curves on arterial *streets*, there shall be a tangent of not less than one hundred (100) feet, and on feeder and residential *streets* such tangent shall be not less than forty (40) feet.
  18. Maximum *grades* for *streets* shall be as follows:
    - A. Arterial *streets*: Not greater than six per cent (6%)
    - B. Feeder and residential *streets* and *alleys*: Not greater than ten percent (10%)
  19. The minimum *grade* of any *street* gutter shall not be less than five-tenths percent (0.5%).
  20. Proposed *streets* that are extensions of or in alignment with existing *streets* shall bear the same name as that borne by the existing *streets*.
  21. Only one (1) *street*, driveway or point of vehicle access shall be permitted from a subdivision onto arterial or feeder *street*; provided however that any such *street*, driveway or point of vehicle access shall not be allowed if unreasonably harmful to the health, safety, and general welfare of the public. Two (2) or more *streets*, driveways or points of vehicle access may be permitted if they do not impair the public health, safety and general welfare.
- f. Blocks.
1. *Blocks* should not normally exceed twelve hundred and fifty (1,250) feet in length unless unusual circumstances justify greater lengths.
  2. *Blocks* shall be of sufficient width to permit two (2) tiers of *lots* of appropriate depth, except where an interior *street* parallels a limited access highway or an arterial *street* or a railroad right-of-way.
  3. In *blocks* of over seven hundred (700) feet in length, the *Commission* may require at or near the middle of the *block*, a public walk connecting adjacent *streets* or other public areas. Such walks shall be at least four (4) feet in width of right-of-way and shall be intended for the *use* of pedestrians only.
- g. Lots.
1. All *lots* shall abut on a *street*.
  2. Side lines of *lots* shall be approximately right angles to straight *streets* and approximately on radial lines on curved *streets*. Some variation from this rule

is permissible, but pointed or very irregular *lots* should be avoided.

3. Double *frontage lots* should not be *platted*, except that where desired along arterial *streets*, *lots* may face an interior *street* and back on such thoroughfares. In that event, a planting strip or a planting screen at least twenty (20) feet in width shall be provided along the back of the *lot*.
4. Widths and areas of *lots* shall be not less than that provided in the *Zoning Code* for Single Family Dwellings for the *district* in which the subdivision is located, except that when a water main supply system or a sanitary sewer system is not available, the larger *lot* area necessary to install a private water supply or private sewage disposal on the *lot* in accordance with the State Board of Health of the State of Indiana regulations shall become the required minimum *lot* area.
5. Wherever possible, unit *shopping centers*, based upon sound *development* standards, should be designed in contrast to the *platting* of *lots* for individual commercial *use*.
6. Corner residential *lots* shall be wider than normal in order to permit appropriate setbacks from both *streets*. Interior residential *lots abutting* a *corner lot* shall be wider than the average *interior lot* in order to permit a wider *side yard* adjacent to the *corner lot*.

h. Easements.

Where *alleys* are not provided, easements for utilities shall be provided. Such easements shall have minimum widths of ten (10) feet, and where located along *lot* lines, one-half ( $\frac{1}{2}$ ) of the width shall be taken from each *lot*. Before determining the location of easements, the plan shall be discussed with the local public utility companies to assure their proper placing for the installation of such services.

i. Building Setback Lines.

*Building setback lines* shall be as provided in the *Zoning Code*.

j. Public Open Spaces.

Where sites for parks, schools, playgrounds or other public *uses* are located within the subdivision area as shown in the *Comprehensive Plan*, the *Commission* may request their dedication for such purpose, or their reservation for a period of one (1) year following the date of the secondary approval of the *plat* of the subdivision. In the event a governmental agency concerned passes a resolution expressing its intent to acquire the land so reserved,

the reservation period shall be extended for an additional six (6) months.

k. Standards of Improvements.

Before secondary approval may be granted, the *plat* of the subdivisions shall conform to the following standards of improvements which shall be installed under the supervision of an inspector whose qualifications meet the approval of the Benton County Surveyor, and the cost of such inspection shall be borne by the subdivider.

l. Monuments and Markers.

1. Monuments and markers shall be placed so that the center of the bar or marked point coincide exactly with the intersection of lines to be marked and shall be set so that the top of the monument or marker is level with the finished *grade*.

A. Monuments shall be set:

- i. At the intersection of all lines forming angles in the boundary of the subdivision.
- ii. At the intersection of *street* property lines.

B. Markers shall be set:

- i. At the beginning and ending of all curves along *street* property lines.
- ii. At all points where *lot* lines intersect curves, either front or rear.
- iii. At all angles in property lines of *lots*.
- iv. At all other *lot* corners or boundary angles not established by a monument.

- C. Monuments shall be of stone or concrete with minimum dimensions of four (4) inches by four (4) inches by thirty-six (36) inches, set vertically in place. They shall be marked on top with a brass plug, or iron or copper dowel, at least three-eighths (3/8) inch thick, set flush with the top of the monument, deeply scored with across. Markers shall consist of iron pipes or steel bars at least thirty-six (36) inches long and not less than five-eighths (5/8) inch in diameter.

m. *Streets.*

1. *Streets* and *alleys*, where provided shall be completed to *grades* shown on plans, profiles, and cross-sections provided by the subdivider and prepared by a registered professional engineer and approved by the *Commission*.
  - A. The *streets* shall be graded, surfaced and improved to the dimensions required by the cross-section, and the work shall be performed in the manner prescribed in "Standard Specifications for Road and Bridge Construction" (latest issue) of the State Highway Commission of Indiana. *Streets* shall be surfaced to the following minimum widths.
  - B. Residential *Streets* shall be surfaced to a minimum width of thirty-two (32) feet, measured back-to-back of curbs. *Streets* classified as "Arterial" or "Feeder *Street*" as set forth in Sec. 8-3(c) shall be surfaced to a minimum width of thirty-six (36) feet, measured back-to-back of curb. In the event curbs are not provided, the *streets* shall be surfaced to minimum widths of thirty-two (32) feet and thirty-six (36) feet, respectively.
  - C. *Alleys* shall be surfaced to a minimum of sixteen (16) feet. Cul-de-sac turn-arounds shall be paved to within five (5) feet of the right-of-way with a minimum eighty (80) foot radius.
  - D. In a subdivision, the *streets* shall be surfaced with Portland Cement Concrete or a flexible pavement and constructed in accordance with design characteristics at least equal to those given below.
  - E. In a subdivision, the *streets* shall be surfaced with a minimum of ten (10) inches of compacted aggregate laid on prepared subgrade constructed in accordance with "Section C-9 Compacted Aggregate Base" in "Standard Specifications for Road and Bridge Construction" (latest issue) of the State Highway Commission of Indiana.
  - F. The following specifications shall be considered as minimum requirements for any road that is to be added to the Benton County highway system. The *Commission* may require additional improvements if in its opinion they are necessary for the health, safety, and general welfare of the public.

DESIGN CHARACTERISTICS OF STREET PAVEMENT

Kind of Pavement	Arterial		Type of Street <sup>1</sup>
	Primary	Feeder	
CONCRETE			
Balanced Design Thickness <sup>2</sup>	9" - 6" - 9"	9" - 6" - 9"	9" - 6" - 9"
Uniform Design	7 1/4"	7 1/4"	7 1/4"
FLEXIBLE <sup>3</sup>			
Compacted Base Material (Crushed Stone No. 2 and 53 Mix) Thickness	8"	8"	8"
Crusher Run Material (Fine Surfacing Aggregate) Thickness	<u>2"<sup>4</sup></u>	<u>2"<sup>4</sup></u>	<u>2"<sup>4</sup></u>
Total	10"	10"	10"

G. The subdivider shall have his engineer prepare plans and specifications for roads and drainage. These shall be presented to the Benton County Highway Engineer as early as possible, whereupon the engineer will check the plans and specifications, and, if he finds that they comply with the law and good engineering practices, he will recommend their approval. The *County* Highway Engineer will inspect the work at three stages: first, after the base has been

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<sup>1</sup>Residential and Alley.

<sup>2</sup>Intersections to be of uniform design using edge thickness.

<sup>3</sup>For intersections and parking strips on residential *streets*, use feeder *street* design characteristics.

<sup>4</sup>Penetrated with Asphaltic Penetration Material to provide a hard dustproof surface.



compacted; second, after the surface has been placed; and third, after all work has been completed.

- H. There will be no charge to the owner for services rendered by the *County* Highway Engineer, and the owner will receive a written approval when each of the first two (2) stages of work are satisfactorily completed.
- I. No roads will be accepted into the Benton County Highway system until after the *plat* of the subdivision has been recorded in the Benton County Recorder's Office.
  - i. The minimum width of right-of-way shall be sixty (60) feet. Additional right-of-way may be required if the side ditch is more than thirty (30) inches below the crown of the road surface or if the crown of the road is more than two (2) feet below the adjacent *lot*.
  - ii. The *Commission* may require the subdivider to provide *street* surfacing on *streets* which are proposed to be extensions of existing paved *streets*, and which exceed the minimum dimensions set forth above, to the full width. Each course shall be compacted with a ten (10) ton roller or equivalent.
  - iii. Adequate drainage shall be provided by constructing side ditches, cross pipes, and driveway pipes, together with an outlet ditch.
  - iv. The road base shall consist of a foundation course of compacted dense-graded aggregate constructed on a prepared subgrade in compliance with the Standard Indiana State Highway Specifications. The base shall conform in all respects with the size of aggregate, thickness and typical cross-section set out elsewhere in these specifications.
    - (1) The aggregate used for the base may be crushed stone, crushed gravel, or slag and must meet the specifications for size and gradation of No. 53 aggregate mixed with No. 2 aggregate.
    - (2) The subgrade shall be shaped and compacted in such a manner that it will not be torn up when the aggregate is being placed.

- (3) The No. 53 aggregate mixed with No. 2 aggregate shall be placed to sufficient depth to provide a depth of ten (10) inches after it has been shaped and compacted.
- v. The road surface shall not be constructed until after the Benton County Highway Engineer has inspected the base. After the Engineer has checked the size of aggregate, depth, width, and compaction of the base and found it to be satisfactory, he will give written approval of the base.
  - (1) The owner shall inform the Benton County Highway Engineer as to the name and address of the contractor who is going to construct the surface.
  - (2) The Engineer will inspect the equipment and materials the contractor intends to use, and if they are found to be satisfactory, he will give his approval.
- vi. All unsightly and objectionable materials shall be removed from the right-of-way before acceptance. All trees, brush, and stumps shall be removed from the edge of pavement to the back of the side ditch slope. In no case will trees be permitted closer than six (6) feet to the edge of the road surface. The entire right-of-way shall be in neat and presentable condition.
- vii. Following are typical cross-sections of rights-of-way and road surfaces:



viii. The design characteristics of *street* pavement for arterial, feeder, residential, and *alley streets* shall be submitted by a set of construction drawings which must be approved by the Benton County Highway Engineer and the *Commission* at the hearing for primary approval.

J. Drainage Facilities. Prior to the construction of *street* or *alley* surfaces and pavements, adequate drainage facilities shall be installed by the subdivider, according to plans furnished by the subdivider, prepared by a registered professional engineer or a registered land surveyor and approved by the *Commission*. A storm drainage analysis based upon a five-year, one-hour rainfall shall be used as the basis for the drainage system. A copy of the analysis is to be submitted to the *Commission* with the drainage facility plans. Pipe used for drainage shall be of coated corrugated metal, concrete or vitrified clay of an approved design, size and strength to meet the requirements of the specific conditions which may be encountered. Minimum diameters of pipe to be used shall be as follows:

- i. Roadway cross-drains: 18"
- ii. Entrance culverts: 18"
- iii. Perforated under-drains: 18"

The plans for the installation of a storm drainage system shall be provided by the subdivider and approved by the Town Board of Trustees of any affected *Town* and by the *Plan Commission*. Upon completion of the storm sewer installation, the plans for such system as built shall be filed with the *Commission*.

n. Sewers.

1. (a) The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with one (1) of the three (3) following procedures:

A. Public Collection System. In all cases where such is possible the developer shall construct a sanitary sewer system connected to a municipal sewer. The plans for the system shall be approved by the Town Board of Trustees of the affected *town* and the *Commission*, and shall be designed and constructed in accordance with the Town

Specifications.

- i. The plans for the system shall be approved by the affected municipality and the *Commission* and shall be designed and constructed in accordance with the municipal specifications.
    - ii. Service laterals shall be installed between the *street* main and the property line before the *street* is paved.
  - B. Local Treatment System. Where it is not possible to connect the subdivision sanitary sewer system to the municipal sewer, the subdivider shall construct a local treatment system consisting of the necessary house laterals, service mains, and interceptors required to conduct the subdivision's sanitary sewage to a single treatment facility. All aspects of such system, including the treatment facility, shall be designed and constructed by the subdivider in accordance with the requirements of the State Board of Health of the State of Indiana and the Benton County *Health Officer*.
  - C. Private Disposal System. Where alternatives (A) and (B) above are not practical, the *Commission* may permit the subdivider to install on each *lot* an individual sewage disposal system consisting of a septic tank and tile absorption field or other approved disposal system. Such systems shall be designed and constructed by the subdivider in accordance with the regulations of the State Board of Health of the State of Indiana and the Benton County *Health Officer*. In no case, however, shall private disposal systems be permitted where rock or impervious clay conditions exist which would prevent percolation of effluent.
2. The plans for the installation of the sanitary sewage facilities shall be provided by the subdivider, prepared by a registered professional engineer, and approved by the State Board of Health of the State of Indiana and the Benton County *Health Officer*. Upon the completion of sanitary sewer installations, two (2) sets of the as-built plans for such system shall be filed with the *Commission*.
  3. In this Section, entitled "Sewers," and the next Section, entitled "Water," the phrase "the subdivider shall provide" shall be interpreted to mean that the subdivider shall install the facility referred to, or whenever a private sewage disposal system or an individual water supply is to be provided, that the subdivider shall require, as a condition of the sale of each *lot* or parcel in the subdivision, that the facilities referred to in these Sections shall be installed

by the subdivider of the *lots* in accordance with these regulations.

o. Water.

1. The subdivider shall provide the subdivision with a complete water main supply system, which shall be connected to a municipal or community water utility system; except, that when such water supply is not available, the subdivider shall provide an individual water supply on each *lot* in the subdivision in accordance with requirements of the State Board of Health of the State of Indiana and the Benton County *Health Officer*.
2. The plans for the installation of a water main supply system shall be provided by the subdivider and approved by the Town Board of Trustees of the affected *town* and the *Commission*. The plans for the water main system shall include fire hydrant locations. Construction of water mains and house services to be placed within the improved portion of the *street* right-of-way shall be completed prior to the placement of the surface improvements. Upon the completion of the water supply installation two (2) sets of the plans for such system shall be filed with the *Commission*.

p. Improvement Credit Procedure.

Improvements required herein to be installed by the subdivider, which are of a public utility nature - specifically in sections entitled “*Streets*,” “*Sewers*” and “*Water*,” may provide benefits to other properties in the vicinity of land to be subdivided. Upon the installation of such improvements which cross or adjoin other properties, and can be used by such properties the subdivider and the *County* may, by contract, agree that upon the connection or use of the installation made by the subdivider by others, within a period of ten (10) years following their installations, the new user or users shall pay to the *County* a fee in an amount agreed upon by the subdivider and the *County*, the amount of such fee to be credited and paid to the subdivider.

q. Curb and Gutter.

1. The installation of curb and gutter shall be optional to the subdivider.
2. If curbs are constructed they shall be constructed as one of the standard curbs as designated below. Rolled curb may be constructed monolithically with the pavement. All concrete used in the curb and gutter shall meet State Highway Commission Specifications.

SUBDIVISION CONTROL CODE

Curb and Gutter Detail - Types A., B., & C.  
Using Portland Cement Concrete

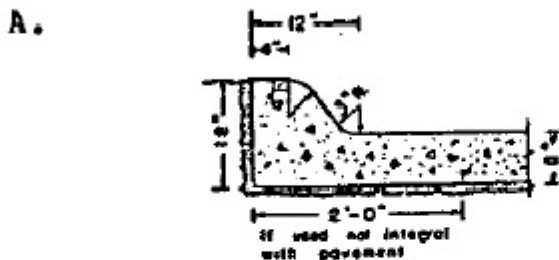
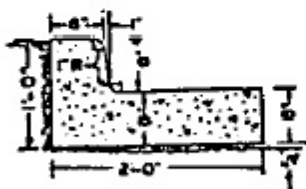


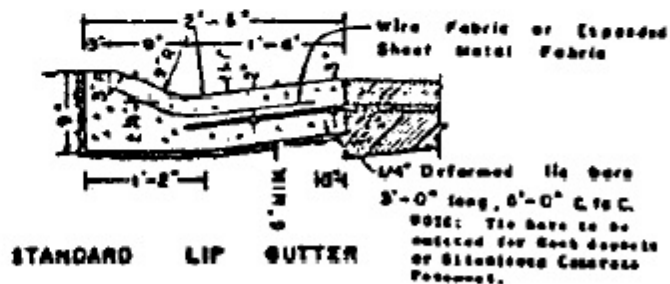
FIGURE 2

Integral or Rolled Curb Gutter



Combined Curb & Gutter

C.



STANDARD LIP GUTTER

Standard Lip Gutter

r. Sidewalks.

1. The installation of sidewalks shall be optional to the subdivider.
2. When sidewalks are provided they shall be constructed on both sides of the *street* one (1) foot from the property line to a width of four (4) feet and a depth of at least four (4) inches, complying with the Indiana State Highway Commission Standards for "Cement Concrete Sidewalk" or with asphaltic concrete.
3. If sidewalks are not provided, the *street grade* shall be completed so that additional grading would not be necessary for any future provision of sidewalks.

4. Crosswalks within *blocks*, as required herein, shall be improved with a four (4) foot walk of Portland Cement or Asphaltic Concrete at least four (4) inches thick.

s. Street Signs.

In a subdivision, the subdivider shall provide the subdivision with acceptable street signs at the intersections of all *streets*.

t. Plat Certificates and Deed of Dedication.

The following forms shall be used in *plats*:

1. Commission Certificate for Primary Approval.

UNDER AUTHORITY PROVIDED BY THE INDIANA ADVISORY PLANNING LAW, UNDER I.C., 36-7-4 ET SEQ., ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO, AND AN ORDINANCE ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, INDIANA, THIS PLAT WAS GIVEN APPROVAL BY THE BENTON COUNTY ADVISORY PLAN COMMISSION, AS FOLLOWS:

Approved by the Benton County Advisory Plan Commission at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BENTON COUNTY ADVISORY PLAN COMMISSION

(SEAL)

\_\_\_\_\_  
President

2. Commission Certificate for Secondary Approval.

UNDER AUTHORITY PROVIDED BY THE INDIANA ADVISORY PLANNING LAW, I.C., 36-7-4, ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO, AND AN ORDINANCE ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, INDIANA, THIS PLAT WAS GIVEN SECONDARY APPROVAL BY THE BENTON COUNTY ADVISORY PLAN COMMISSION AS FOLLOWS:

Approved by the Benton County Advisory Plan Commission at a meeting held on the



\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BENTON COUNTY ADVISORY PLAN COMMISSION

(SEAL)

\_\_\_\_\_  
President

3. Surveyor's Certificate.

(A Certificate shall also be provided for any work in a *plat* prepared by a Registered Professional Engineer)

"I \_\_\_\_\_ (Name) \_\_\_\_\_, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA:

THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED BY ME ON \_\_\_\_\_ (Date) \_\_\_\_\_; THAT ALL THE MONUMENTS SHOWN THEREON ACTUALLY EXIST; AND THAT ALL OTHER REQUIREMENTS SPECIFIED HEREIN, DONE BY ME, HAVE BEEN MET.

(SEAL)

\_\_\_\_\_  
(Signature)

4. Plan Commission Staff Certificate.

THE BENTON COUNTY ADVISORY PLAN COMMISSION STAFF HAS REVIEWED THE APPLICATION FOR THIS PLAT FOR TECHNICAL CONFORMITY WITH THE STANDARDS FIXED IN THE SUBDIVISION CONTROL CODE, IN ACCORDANCE WITH THE PROVISIONS OF THE INDIANA ADVISORY PLANNING LAW, I.C. 36-7-4-707, AND HEREBY CERTIFIES THAT THIS PLAT MEETS ALL OF THE MINIMUM REQUIREMENTS IN THE CODE OF ORDINANCES OF BENTON COUNTY, INDIANA.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BENTON COUNTY ADVISORY PLAN COMMISSION STAFF

\_\_\_\_\_

Building Commissioner of Benton County

u. Deed of Dedication.

Each *plat* of a subdivision submitted to the *Commission* for approval shall carry a Deed of Dedication in substantially the following form:

"We the undersigned \_\_\_\_\_ (Names) \_\_\_\_\_, owners of the real estate shown and described herein, do hereby certify that we have laid off, *platted* and subdivided, and hereby layoff, *plat* and subdivide, said real estate in accordance with the within *plat*.

This subdivision shall be known and designated as \_\_\_\_\_ (Name) \_\_\_\_\_, a subdivision of or an addition to \_\_\_\_\_ (Name) \_\_\_\_\_, Indiana. All *streets* and *alleys* shown and not heretofore dedicated, are hereby dedicated to the public.

*Front and side yard building setback lines* are hereby established as shown on this *plat*, between which lines and the property lines of the *street* there shall be erected or maintained no *building* or *structure*.

There are strips of ground \_\_\_\_\_ (Number) \_\_\_\_\_ feet in width as shown on this *plat* and marked "Easement," reserved for the *use* of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved.

No permanent or other *structures* are to be erected or maintained upon said strips of land, but owners of *lots* in this subdivision shall take their titles subject to the rights of the public utilities.

(Additional dedications and protective covenants, or private restrictions, would be inserted here upon the subdividers initiating or the recommendations of the *Commission*; important provisions are those specifying the *use* to be made of the property and, in the case of residential *use*, the minimum habitable floor area.)

The foregoing covenants (or restrictions), are to run with the land and shall be binding on all parties and all *persons* claiming under them until January 1, 20\_\_\_\_, (a twenty-five (25) year period is suggested), at which time said covenants, (or restrictions), shall be automatically extended for successive periods of ten (10) years unless changed by vote of a majority of the then owners of the *building* sites covered by these covenants, or restrictions, in whole or in part. Invalidation of any one (1) of the foregoing covenants, or restrictions, by judgment or court order, shall in no way affect any of the covenants, or restrictions, which shall remain in full force and effect.

Witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

State of Indiana        )  
                                  ) SS:  
County of Benton        )

Before me, the undersigned Notary Public, in and for the County and State, personally appeared \_\_\_\_\_(Name)\_\_\_\_\_ and \_\_\_\_\_(Name)\_\_\_\_\_, and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

(SEAL) \_\_\_\_\_  
(Notary Public)  
County of Residence: \_\_\_\_\_

My Commission expires \_\_\_\_\_

v. Covenant Required for Subdivisions located in A-1 Agriculture Districts

Subdivisions located in the A-1 Agriculture District shall include the following covenant on the *plat* of the Subdivision:

"The owner of the herein described real estate (Name of Addition), for himself, and for all future owners and occupants of said Real Estate, or any parcel or subdivision thereof, for and in consideration of the right to develop the Real Estate for other than Agricultural *uses*, hereby:

First, acknowledges and agrees that the (name of addition) is in or adjacent to an area Zoned for agricultural *uses*, which *uses* include, but are not limited to, production of crops, animal husbandry, land application of animal waste, the raising, breeding and sale of livestock and poultry, including *confinement feeding operations*, use of farm machinery, and sale of farm products;

Second, waives any and all objections to any such agricultural *uses* on any real estate Zoned for such *uses* within two (2) miles of any boundary of the (name of addition), whether such

*uses* currently exist, are enlarged, or changed in *use* in the future to another agricultural *use*;

Third, agrees that such agricultural *uses*, whether currently existing or hereafter established, enlarged or changed, do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily injury to third party, or directly endanger human health; and

Fourth, agree that this covenant is for the benefit of the *Commission* and all *persons* engaged in agricultural *uses* within two (2) miles of any boundary of the (name of addition) and is enforceable by any of the foregoing; together with such other covenants as may be required by this Chapter".

w. Variance.

Where the subdivider can show that a provision of this Chapter of the *Zoning Code* would cause unnecessary hardship if strictly adhered to, and where, in the opinion of the *Commission*, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of such provision, the *Commission* may authorize a *variance*. Any *variance* thus authorized is required to be entered in writing in the minutes of the *Commission*, and the reasoning on which the departure was justified shall be set forth.

#### Sec. 8 - 24 Wind Energy Conversion Systems

a. Purpose. This *Zoning Code* is adopted for the following purposes:

1. To assure that any *development* and production of wind-generated electricity in Benton County is safe and effective;
2. To facilitate economic opportunities for local residents;
3. To provide a regulatory scheme for the construction and operation of Wind Energy Facilities in the county, subject to reasonable restrictions, this will preserve the public health and safety.

b. Definitions.

1. APPLICANT: means the entity or *person* who submits to the *County*, pursuant to Sec. 8-24 (e), an application for the siting of any WECS or Substation or thereafter operates or owns a WECS.
2. FINANCIAL ASSURANCE: means reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.

3. OPERATOR: means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
4. OWNER: means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any *person* holding a security interest in the WECS(s) solely to secure an extension of credit, or a *person* foreclosing on such security interest provided that after foreclosure, such *person* seeks to sell the WECS(s) within one year of such event.
5. PROFESSIONAL ENGINEER: means a qualified individual who is licensed as a professional engineer in any state in the United States.
6. PRIMARY STRUCTURE: means, for each property, the *structure* that one (1) or more *persons* occupy the majority of time on that property for either *business* or personal reasons. Primary *Structure* includes *structures* such as residences, commercial *buildings*, *hospitals*, and day care facilities. Primary *Structure* excludes *structures* such as hunting sheds, storage sheds, pool houses, unattached garages and barns.
7. SUBSTATION: means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
8. SWITCHING STATION: shall be an apparatus/*structure* in the system similar to a substation but not necessarily increasing voltage into the grid.
9. WECS PROJECT: means the collection of WECSs and Substations as specified in the siting approval application pursuant to Sec. 8-24 (e).
10. WECS TOWER: means the support *structure* to which the nacelle and rotor are attached, free standing or guyed *structure* that supports a wind turbine generator.
11. WECS TOWER HEIGHT: means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
12. WIND ENERGY CONVERSION SYSTEM ("WECS"): means all necessary devices that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, WECS

foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s), switching stations, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WECS project.

c. Applicability.

This Section governs the siting of WECSs and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECSs with an aggregate generating capacity of Three (3) megawatts (MW) or less who locate the WECS(s) on their own property must obtain a *variance*. WECS may be sited and operated in all Benton County townships.

d. Prohibition.

No entity shall construct or operate a wind energy conversion system (WECS) without having fully complied with the provisions of this *Zoning Code*.

e. Application Requirements.

1. Prior to the construction of a WECS, the Applicant shall obtain approval for the following:
  - A. An Application for a *Conditional Use* from the *Board* to permit a WECS in any Zone other than R-1, R-2, R-3 or R-4 (Residential) Zoned land, as described below and in Sec. 8-10(c) of the *Zoning Code* (the “*Zoning Code*”),
  - B. A Request for *Variance* for any *variances* anticipated on the WECS Project, as described below and in Sec. 8-22, and
  - C. An *Improvement Location Permit* from the *Building Commissioner*, as described below and in Sec. 8-18(b).
2. The Application for a *Conditional Use*.
  - A. The application shall be filed with the Board and include a WECS Project summary, including, to the extent available:
    - i. A general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the

maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and (2) a description of the Applicant, Owner, and Operator, including their respective *business structures*.

- ii. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with WECS on their properties, if known.
  - iii. A topographic Map of the project site and the surrounding area which shall encompass an area at least a quarter (1/4) mile radius from the proposed project site with contours of not more than five (5) foot intervals.
  - iv. A site plan at an appropriate scale showing (standard sheet of thirty six (36) inches by twenty four (24) inches and individual tower site not greater than one (1) inch equals twenty (20) feet): the proposed location of the wind energy facility (including planned locations of each WECS Tower, guy lines and anchor bases (if any); WECS access roads; Substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: Primary *Structures* within one quarter (1/4) of one (1) mile of any WECS; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) time the WECS Tower Height of any WECS Tower; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U. S. Army Corps of Engineer requirements and guidelines.
  - v. Location of all existing underground utility lines associated with the WECS site.
- B. In determining whether to approve the Application for *Conditional Use*, the BZA shall determine whether the Application satisfies each of the six (6) criteria set forth in Sec. 8-10(d) of the *Zoning Code*, and make written findings thereof.
- C. The *Conditional Use* granted by the Board for a WECS Project shall be valid for a period of one (1) year, after which the *Conditional Use*

shall terminate and be of no further force or effect if construction in earnest of the approved WECS has not commenced. The Applicant shall be granted a one (1) year extension to two (2) years from the date of the BZA approval if the Applicant presents its request for an extension to the BZA and provides a report to the BZA which shows the progress made on the WECS Project. Thereafter, an additional extension shall be at the BZA's discretion.

- D. The fee for the Application for a *Conditional Use* shall be payable at the time of submission of the Application and is set forth in Figure 9. Fifty percent (50%) of the fee shall be applied toward fees for *Improvement Location Permits*. In the event that the *Improvement Location Permit* fees are less than \$10,000.00, the *County* shall retain the unused *Improvement Location Permit* fees. The Application fee shall be used to defray the costs associated with the Application for a *Conditional Use*, including professional fees and expenses.

3. The Application for Variance.

- A. Contemporaneously with the Application for a *Conditional Use*, the Applicant shall submit an Application for *Variance* for any *variances* sought as part of the WECS Project. A single Application for *Variance* may be submitted for all *variances* sought.
- B. In determining whether to approve the Application for *Variance*, the Board shall determine whether the Application satisfies each of the five (5) criteria set forth in Sec. 8-22(a) of the *Zoning Code*, and make written findings thereof.
- C. The fee for any *variances* is included in the Application fee.

4. The Application for Improvement Location Permit.

- A. The Applicant shall apply to the *Building Commissioner* for an *Improvement Location Permit*, as described in Sec. 8-22(a) of the *Zoning Code*. In addition to the information required on the *Improvement Location Permit* Application, the Applicant shall provide the following information to the *Building Commissioner* prior to the issuance of an *Improvement Location Permit*:
  - i. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS.



- ii. Location of all underground utility lines associated with the WECS site.
  - iii. Dimensional representation of the structural components of the tower construction including the base and footings.
  - iv. Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.
  - v. Manufacturer's specifications and installation and operation instructions or specific WECS design information.
  - vi. Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for *structure* as defined by the International Code Council.
  - vii. All turbines shall be new equipment commercially available. Used, experimental or proto-type equipment still in testing shall be approved by the Board as per the normal special exception process.
  - viii. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the *Building Commissioner*.
  - ix. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Board.
  - x. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.
  - xi. A revegetation plan for restoring areas temporarily disturbed during construction.
  - xii. A fire protection plan for construction and operation of the facility.
  - xiii. Any other item reasonably requested by the Board.
- B. A drainage plan for construction and operation must be developed

and approved by the Benton County Drainage Board.

- C. An erosion control plan must be developed in consultation with the Benton County Soil and Water Conservation District.
- D. Each WECS Tower shall require an *Improvement Location Permit*. The fee for each *Improvement Location Permit* is set forth in Figure 9, which shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of *Improvement Location Permits*.

f. Design and Installation.

1. Design Safety Certification.

- A. WECSs shall conform to applicable industry standards. Applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party.
- B. Following the granting of siting approval under this *Zoning Code*, a Professional Engineer shall certify, as part of the *Improvement Location Permit* application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

2. Controls and Brakes.

All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

3. Electrical Components.

- A. All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards.
- B. Electrical Collection Cables.

All WECS electrical collection cables between each WECS shall be located underground unless they are located on public or utility rights-of-way or with prior *County* approval. All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the land owner or the land owner's designate until the same reach the property line or a substation adjacent to the property line.

4. Color.

- A. Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.
- B. The Applicant for the WECS shall comply with all applicable FAA requirements.

5. Warnings.

- A. A reasonably visible warning *sign* concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
- B. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of not less than fifteen (15) feet from the ground.

6. Climb Prevention. All WECS Tower designs must include features to deter climbing or be protected by anti-climbing devices such as:

- A. Fences with locking portals at least six feet high;
- B. Anti-climbing devices fifteen (15) feet vertically from the base of the WECS Tower; and
- C. Locked WECS Tower doors.

7. Blade Clearance.

The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

8. Noise and *Vibration*.

See Sec. 8-7(d)(7) for Noise and *Vibration* standards applicable to Wind Energy Conversion Systems.

9. Utility Interconnection.

The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations applicable to WECS.

10. Waste Management.

All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All HAZARDOUS WASTE generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.

11. Lighting.

- A. Except with respect to lighting required by the FAA all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the Wind farm Facilities.
- B. Any WECS thereof declared to be unsafe by the Benton County Building Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the County Ordinances governing the removal of Nuisances.

12. Compliance with Additional Regulations: Nothing in this Section is intended to preempt other applicable state and federal laws and regulations.

g. Setbacks.

- 1. No WECS shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the *County*.
- 2. Installation of any WECS may not be nearer than three hundred fifty (350)

feet or one and one-tenth(1.1) times the height of the WECS tower height, whichever is greatest, to any property lines, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Distance shall be measured from the center of the foundation at the base of the tower. New *structures* built adjacent to wind power facilities shall maintain these same minimum setback requirements. Participating landowners within the area comprising the wind energy conversion system may waive property line setbacks with written approval from all landowners sharing such property line.

3. Except as provided herein the setback distance for turbines with a rated capacity of one megawatt (1.0 MW) or less shall be one thousand (1,000) feet or more from any existing or occupied residence and turbines with a greater rated capacity shall be set back one thousand (1,000) feet or more from any existing or occupied residence or from the boundary of any to which as of the date of approval of the WECS is in a *platted* subdivision and shall be setback from a property line one and one-tenth (1.1) times the height of the turbine with the blade tip at its highest point. Distance shall be measured at the time of application for *Improvement Location Permit* from the center of the foundation at the base of the tower. A turbine with a capacity of one megawatt (1.0 MW) or less may be placed as near as six hundred (600) feet from an occupied residence with the prior written approval of the owner. The setback distance will be followed except in specific instances allowed by the *Board*.
4. The setback distance for the WECS will be fifteen hundred (1500) feet from any *platted* community under the zoning jurisdiction of a municipality. Distance shall be measured from the center of the foundation at the base of the WECS to the closest Corporate Limit boundary line.

h. Use of Roads/Services.

An Applicant, Owner, or Operator proposing to *use* any *County* road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, maintenance or decommissioning of the WECS(s) or Substation(s), shall prior to construction or decommissioning:

1. Identify all such public roads and services;
2. Roads.
  - A. Any proposed routes that will be *used* for construction and maintenance purposes shall be identified. If the route includes a

public road, it must be approved by the Benton County Highway Supervisor. The Supervisor shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.

- B. Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Benton County Highway Supervisor. The Supervisor may choose to require either remediation of road repair upon completion of the project or are authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a Professional Engineer may be required by the Supervisor to insure the *County* that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.
- C. Newly constructed WECS access roads may not impede the flow of water.
- D. Dust Control. Reasonable dust control measures will be required by the *County* during construction of the WECS.

3. Sewer and Water.

Any facility shall comply with existing septic and well regulation as required by the Benton County Health Department and the State of Indiana Department of Public Health.

4. Drainage Repair.

All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to near original condition, and so as not to impede the natural flow of water. All repairs must be completed within a reasonable amount of time.

i. Operation.

1. Maintenance / Inspection.

- A. The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the *County*. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the

*County* reasonably requests.

- B. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with the *Building Commissioner* to determine whether the physical modification requires re-certification.
- C. The *Building Commissioner* staff, along with licensed third party professionals retained by the *County* for the specific purpose of conducting inspections of the WECS shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or operator, or his agent, on the *premises* where a WECS has been constructed, to inspect all parts of said WECS installation and to require that repairs or alterations be made. The owner or operator of a WECS may retain a licensed third party professional engineer familiar with WECS systems to prepare and submit to the *Building Commissioner* staff a written report which addresses the repairs or alterations requested, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within thirty (30) days after receiving notice from the *Building Commissioner* staff that repairs or alterations are requested, or within a longer period of time mutually acceptable to both parties. The *Building Commissioner* staff will consider any such written report and determine whether the repairs or alterations should be made as originally requested or as suggested in the written report. In the event of a dispute between the *Building Commissioner* staff and the owner or operator, or a third party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the *Building Commissioner* shall be final.
- D. Inspections, at a fee to be determined from time to time by the *Commission* and paid by the applicant, may be made by the *Building Commissioner*, or by a qualified inspector for equipment of this type selected by the *Building Commissioner*, no more than once annually to certify the safety and maintenance of the WECS and accessory *structures*.

2. Interference.

If, after construction of the WECS, the Owner or Operator receives a written

complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the Owner or Operator shall take reasonable steps to respond to minimize the complaint.

3. Coordination with Local Fire Department.

- A. The Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.
- B. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.
- C. Nothing in this Sec. shall alleviate the need to comply with all other applicable fire laws and regulations.

4. Materials Handling, Storage and Disposal.

- A. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
- B. All hazardous materials or waste related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

j. Liability Insurance.

The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage and name Benton County as an additional insured with limits of at least two million dollars (\$2,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate with a deductible of no more than five thousand dollars (\$5,000).

k. Decommissioning Plan.

Prior to receiving siting approval under this Section, the *County* and the Applicant, Owner, and/or Operator must formulate a Decommissioning Plan to ensure that the WECS Project is properly decommissioned. The Decommissioning Plan shall include:

- 1. Assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. Applicant's obligations with respect to



decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of forty-eight inches (48”) beneath the soil surface, and restoration of the area occupied by the project improvements to as near as practicable to the same condition that existed immediately before construction of such improvements. Prior to issuance of an *Improvement Location Permit*, the Applicant shall provide a contractor cost estimate for demolition and removal of the WECS facility and will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the *County*, for the cost of decommissioning each tower to be constructed under that *Improvement Location Permit*, which security shall be released when such tower is properly decommissioned as determined by the *Building Commissioner*. In the event of abandonment by the owner or operator, the Applicant will provide an affidavit to the *Building Commissioner* representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.

2. The Applicant’s, Owner’s, or Operator’s failure to materially comply with any of the above provisions shall constitute a default under this Section.
  3. Prior to implementation of the existing *County* procedures for the resolution of such default(s), the appropriate *County* body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
  4. If the *County* determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing *County* ordinance provisions addressing the resolution of such default(s) shall govern.
1. Requirements of these ordinances may be waived by the *Board* upon application and after public hearings.

RESIDENTIAL USES AND REQUIREMENTS

Figure 1, page 1

Type of Residential Use

Requirements	Single-Family Dwelling	Two-Family Dwelling	Multi-Family Dwelling*	Garden Apartment Use**
District in which use is permitted	A-1, R-1, R-2, R-3, R-4, B-1, B-2, B-3, I-1	R-2, R-3, R-4, B-1	B-1 & B-2	R-2, R-3, R-4, B-1, B-2 & B-3
Minimum lot width (or in the case of a Garden Apartment Use, the size of the tract) in square feet per dwelling unit in districts indicated	A-1, I-1..... 40,000 R-1, B-3..... 20,000*** R-2..... 8,712 R-3..... 7,200 R-4, B-1 & B-2..... 6,500	R-2..... 4,356 R-3..... 3,600 R-4, B-1 & B-2..... 3,250	B-1 & B-2..... 1,500	B-3..... 6,000 R-2, R-3..... 3,000 R-4, B-1 & B-2..... 1,500
Minimum lot width (or in the case of a Garden Apartment Use, the width of the tract) in feet in districts indicated	A-1, I-1..... 150 R-1, B-3..... 100 R-2..... 66 R-3..... 60 R-4, B-1 & B-2..... 50	R-2..... 66 R-3..... 60 R-1, B-1 & B-2..... 50	B-1 & B-2..... 60	R-1, B-2..... 200 R-2, R-3..... 100 R-4, B-1 & B-2..... 70
Maximum Building Height in feet and stories in districts indicated	A-1, I-1, R-1, R-2, R-3, B-3, 25' or 2 stories R-4, B-1 & B-2... 35' or 2 1/2 stories	R-2, R-3..... 25' or 2 stories R-4, B-1 & B-2 35' or 2 1/2 stories	B-1 & B-2..... 35' or 2 1/2 stories	R-1, R-2, R-3, R-4, B-1, B-2 & B-3... 35' or 2 1/2 stories
Minimum Front Yard in feet	A-1, B-3 & I-1... 80' R-1..... 40' R-2, R-3, R-4, B-1 & B-2..... 25'	A-1, B-3 & I-1... 80' R-1..... 40' R-2, R-3, R-4, B-1 & B-2..... 25'	B-1 & B-2..... 25'	R-1, B-3..... 80' R-2, R-3..... 60' R-4, B-1 & B-2.....

\*\* See notes page 205

Requirements	Type of Residential Use			
	Single-Family Dwelling	Two-Family Dwelling	Multi-Family Dwelling*	Garden Apartment Use**
Minimum Side Yard (one or two) in per cent of actual lot width	10% of the required minimum lot width	10% of the required minimum lot width	10% of the required minimum lot width	15% of the required minimum lot (or tract) width
Minimum Side Yards (both or two) in per cent of actual lot width	20%	20%	20%	30%
Minimum Rear Yard in feet	20'	20'	15'	R-1, R-2, R-3, B-3...30' R-4, B-1, & B-2... 20'
Minimum ground floor area in square feet in districts indicated	<p>One Story</p> <p>A-1..... 720 R-1, R-2, R-3, R-4, B-2 &amp; B-3... 664</p> <p>Over One Story</p> <p>ALL..... 650</p>	<p>One Story</p> <p>R-2, R-3..... 1,260 R-4, B-1..... 960</p> <p>Over One Story</p> <p>R-2, R-3..... 720 R-4, B-1 &amp; B-2 600</p>	<p>No ground floor area minimum, but each dwelling unit shall have at least 500 square feet gross floor area</p>	<p>No ground floor area minimum</p>
Minimum ground floor area is at least equal to minimum ground floor area requirement for one story dwelling	Provided gross floor area is at least equal to minimum ground floor area requirement for one story dwelling	Provided gross floor area is at least equal to minimum ground floor area requirement for one story dwelling	Provided gross floor area is at least equal to minimum ground floor area requirement for one story dwelling	Provided gross floor area is at least equal to minimum ground floor area requirement for one story dwelling

\*\* See notes page 205

RESIDENTIAL USES AND REQUIREMENTS

Figure 1, page 3

Type of Residential Use

Requirements	Single-Family Dwelling	Two-Family Dwelling	Multi-Family Dwelling*	Garden Apartment Use**
Number of vehicle parking spaces to be provided on the lot	One	Two	One per each dwelling	1 space for each one bedroom or efficiency dwelling unit 1 1/2 spaces for each two bedroom dwelling unit 2 spaces for each three or more bedroom dwelling unit
Vision clearance on corner lot	Yes	Yes	Yes	Yes

\* An existing house may be converted and used as a Multi-Family Dwelling in the R-4 District in accordance with the requirements for a Multi-Family Dwelling in the B-1 District, and in accordance with the requirements for a Conditional Use.

\*\* A Garden Apartment Use may be permitted in accordance with the requirements set forth herein, and in accordance with the requirements for a Conditional Use.

\*\*\* The Minimum Lot Size and the Minimum Lot Width in the R-1 District may be reduced to 12,000 square feet and 70 feet, respectively, where the following utility systems are installed and utilized: A. Approved Sanitary Sewer System, and B. Approved public or community water supply system.

**NOTE:** The setback requirements for uses in the I-1 Enclosed Industrial District shall be the same as those required for uses in the B-2 General Business District wherever the I-1 District is located within an incorporated area, unless the I-1 District is located with frontage along a State or Federal Highway.  
(Benton County, Indiana 1971)

BUSINESS USES AND REQUIREMENTS

Figure 2

Requirements	Type of Business Use	
	Local Business	General Business
District(s) in which use is permitted	B-1, B-2 & B-3	B-2 & B-3
Minimum front yard in feet	B-1..... 15 B-2..... None B-3..... 80	B-2..... None B-3..... 80
Minimum side yard in feet along the side street line of a corner lot where block is adjoined by a residence district	B-1..... 10 B-3..... 20	B-2..... 10 B-3..... 20
Minimum side yard in feet where a business district adjoins a residence district within the block frontage	B-1 & B-2.. 5 B-3..... 20	B-2..... 5 B-3..... 20
Minimum side yard in blocks not including a residence district (in feet)	B-1..... 5 B-2..... None B-3..... 10	B-2..... None B-3..... 10
Maximum building height in feet in districts indicated	B-2..... 60' or 5 stories B-1 & B-3.. 35' or 2 1/2 stories	B-2..... 60' or 5 stories B-3..... 35' or 2 1/2 stories
Minimum rear yard in feet	B-1 & B-2.. 10 B-3..... 20	B-2..... 10 B-3..... 20
Vision clearance on corner lots	B-1 & B-3.. Yes B-2..... No	B-2..... No B-3..... Yes

\* Business Uses proposed to be located in the B-3 District must adhere to the requirements set forth herein for a Conditional Use.

NOTE: The setback requirements for uses in the I-1 Enclosed Industrial District shall be the same as those required for uses in the B-2 General Business District wherever the I-1 District is located within an incorporated area, unless the I-1 District is located with frontage along a State or Federal Highway.

Figure 3

BUSINESS USES - LOADING AND UNLOADING BERTHS REQUIRED

Type of Use	Gross Floor Area (Square Feet)	Loading and Unloading Berths Required
Retail Stores	3,000 to 15,000	1
Department Stores	15,000 to 40,000	2
Wholesale Establishments, Storage Uses and Other Business Uses	Each 25,000 Additional	1 Additional
Office Buildings	100,000 or less	1
	100,001 to 336,000	2
	Each 200,000 Additional	1 Additional

BUSINESS USES - PARKING SPACES REQUIRED

Type of Use	Number of Parking Spaces Required
Automobile Service Sales Room, Business Services, Clothing Services, Equipment Services, Food Services, Personal Services, Retail Service and Retail Stores generally, and Tavern or Night Club	One for each 125 square feet of net floor area
Billiard Room, Dancing Academy, Department Store and Automobile, Truck or Trailer Rental and Sales Area	One for each 200 square feet of net floor area
Private Club or Lodge	Space to accommodate 50 per cent of the active membership at one space per each three (3) members, or as determined by the Board. The determination shall be based upon the expected number of parking spaces the particular Lodge or Club Use would require to satisfy estimated peak parking load requirements
Automobile and Truck Repair	One for each 200 square feet of net floor area
Indoor Theater	One for each 6 seats
Bowling Alley or Roller Rink	Three for each lane plus one for each 6 spectator seats
Hotel or Motel	One for each 3 employees plus one for each sleeping unit
Veterinary Hospital for Small Animals and Kennel	One space for each 3 animals to be confined in temporary or permanent pens or cages
Radio and Television Studios	One per employee plus one for each 6 seats in main auditorium
Newspaper Publishing	One per employee on largest shift

BUSINESS USES - PARKING SPACES REQUIRED

Type of Use	Number of Parking Spaces Required
Motor Bus or Passenger Station	One for each 3 employees plus one for each ten seats in waiting room. Other retail uses in connection therewith shall provide one space for each 2 employees
Storage Warehouse or Wholesale Establishment	One for each 3 employees or occupants. The maximum number of employees or occupants to be used in determining spaces
Any Business Use not specifically stated or implied in this chapter	As determined by the Board. The determination shall be based upon the expected number of Parking Spaces the particular type of Business Use would require to satisfy estimated peak parking load requirements



ENCLOSED INDUSTRIAL USES AND REQUIREMENTS

Figure 5

Requirement	Type of Use Enclosed Industrial*	
District(s) in which use is permitted	B-1, B-3 & I-1	
Minimum front yard in feet	B-2.....	None
	B-3.....	80
	I-1 (opposite B-2).....	None
	I-1 (opposite other Districts..	80
Minimum side yard in feet along the side street line of a corner lot where block is adjoined by a residence district	B-2.....	10
	B-3 ' I-1.....	20
Minimum side yard in feet where a business district adjoins a residence district within the block frontage	B-2.....	5
	B-3 & I-1.....	20
Minimum side yard in blocks not including a residence district (in feet)	B-2.....	None
	B-3 ' I-1.....	10
Minimum side yard in feet, if provided	B-2.....	5
Vision clearance on corner lots	B-2.....	No
	B-3 & I-1.....	Yes
Maximum Building Height in feet or stories in Districts indicated	I-1.....	100' or 8 stories
	B-2.....	60' or 5 stories
	B-3.....	35' or 2 1/2 stories
Minimum rear yard in feet	B-2.....	10'
	B-3 & I-1.....	15'

\* Enclosed Industrial Uses proposed to be located in the B-3 District must adhere to the requirements set forth herein for a Conditional Use. Open Storage may be permitted by the Board of Zoning Appeals in the I-1 District in accordance with the requirements for a Conditional Use.

NOTE: The setback requirements for uses in the I-1 Enclosed Industrial District shall be the same as those required for uses in the B-2 General Business District wherever the I-1 District is located within an incorporated area, unless the I-1 District is located with frontage along a State or Federal Highway.

Figure 6

ENCLOSED INDUSTRIAL USES - LOADING AND UNLOADING BERTH REQUIREMENTS

Gross Floor Area of Industrial Use in Square Feet	Number of Berths Required
15,000 or Less	1
15,001 to 40,000	2
40,001 to 100,000	3
Each 40,000 Additional	1 Additional

CONTINGENT USES AND REQUIREMENTS

Type of Use	District(s) in Which Use is Permitted	Number of Parking Spaces To be Provided
Boarding or Lodging House	R-4 & B-1	One for each three Occupants
Church or Temple	All, except FP (Ord. No. 1985-1, §11, 6-17-1985)	One for each 6 seats in main auditorium
Educational Institution	All, except I-1 and FP (Ord. No. 1985-1, §11, 6-17-1985)	One for each 3 members of staff plus one for each 8 seats in auditorium
Farmstead	All, except FP (Ord. No. 1985-1, §11, 6-17-1985)	
Home Occupation	All	One additional
Lodge or private Club (which is of a non-commercial character)	R-4, B-1 & B-2	One for each 125 square feet of floor area of building(s)
Mortuary	All, except A-1, R-1, I-1 and FP (Ord. No. 1985-1, §11, 6-17-1985)	One for each 6 seats in main auditorium
Municipal or governmental building or use	All, except FP (Ord. No. 1985-1, §11, 6-17-1985)	One for each 125 square feet of floor area of building(s)
Power Substation or Telephone Exchange	All, except FP (Ord. No. 1985-1, §11, 6-17-1985)	One per 2 employees or combined employment of the two largest successive shifts

CONTINGENT USES AND REQUIREMENTS

Type of Use	District(s) in Which Use is Permitted	Number of Parking Spaces To be Provided
Public Utility Installation Terminal Facility	I-1	One per 2 employees or combined employment of the two largest successive shifts
Professional Office in residence	All	Two additional
Temporary Sign, pertaining to lease, hire or sale of a building or premises	All	Not applicable
Sewage Treatment or Disposal Plant	All	One per 2 employees or combined employment of the two largest successive shifts

CONTINGENT USES - MAXIMUM HEIGHT

Figure 8

District in Which Use is Permitted	Maximum Building Height in Feet
A-1, R-1, R-2, R-3	25' or 2 stories
R-4, B-1 & B-3	35' or 2 1/2 stories
B-2 & I-1	60' or 5 stories

**Figure 9**  
(As Amended April 15, 2008)

**A. Fees Relating to Chapter 5 of the Benton County Code**

**Permit/Inspection Fee Rate Schedule**

<u>Type of Construction</u>	<u>Permit/Inspection Fee</u>
New Construction:	\$.10 per sq. ft., Min. \$100/Max. \$200
Modular Home:	\$100
Addition Remodel:	\$.10 per sq. ft., Min. \$50/Max. \$200
Accessory Buildings, Porches, Patios:	\$35
Garages:	\$.10 per sq. ft., Min. \$50/Max. \$100
Decks, Balconies:	\$35
Multi-Family Dwellings, Hotels and Motels:	\$50 per unit, no max.
Business (General):	\$.10 per sq. ft., Min. \$300/Max. \$4,000
Business (Agricultural): including permanent structures for commodity storage	\$95 + \$.01 per sq. ft. of total floor area
Pole buildings and clear-span buildings	\$95 + \$.01 per sq. ft. of total floor area
Industrial:	\$100 + .5% of total construction cost, Max. \$5,000.00
Temporary:	\$35
Signs:	\$35
Educational:	\$95 + \$.01 per sq. ft. of total floor area
Re-inspection:	\$35

Electrical:	\$35
Septic:	\$35
Wind Energy Conversion Systems (WECS) Improvement Location Permit	\$1,700.00 per megawatt (MW) capacity, which will be prorated for fractional MW capacity
Wind Energy Conversion Systems (WECS) Application Fee	\$20,000.00

**B. Fees Relating to Chapter 8 of the Benton County Code**

<u>For Each Permit</u>	<u>The Fee Shall Be</u>
Improvement Location Permit	\$ 15.00
Temporary Improvement Permit	15.00
Certificate of Occupancy	5.00
Temporary Certificate of Occupancy	5.00
Request for Variances Special Exception/Conditional Use	150.00
Request for Exceptions and Temporary Uses	25.00
Applications for Petitions to Change Zone Map Classification	150.00
Applications for Petitions to Change Zoning Code Text	150.00
Applications for Petitions to Change in Development Plan (which previously has been approved)	50.00
Applications for Petitions to Appeals from Decision of Building Commissioner	50.00
Application for Primary Approval of Plat of a Subdivision	25.00 plus \$5.00 per lot for the 1st 20 lots, and \$3.00 per lot in excess of 20 lots, as shown on the plat of the subdivision

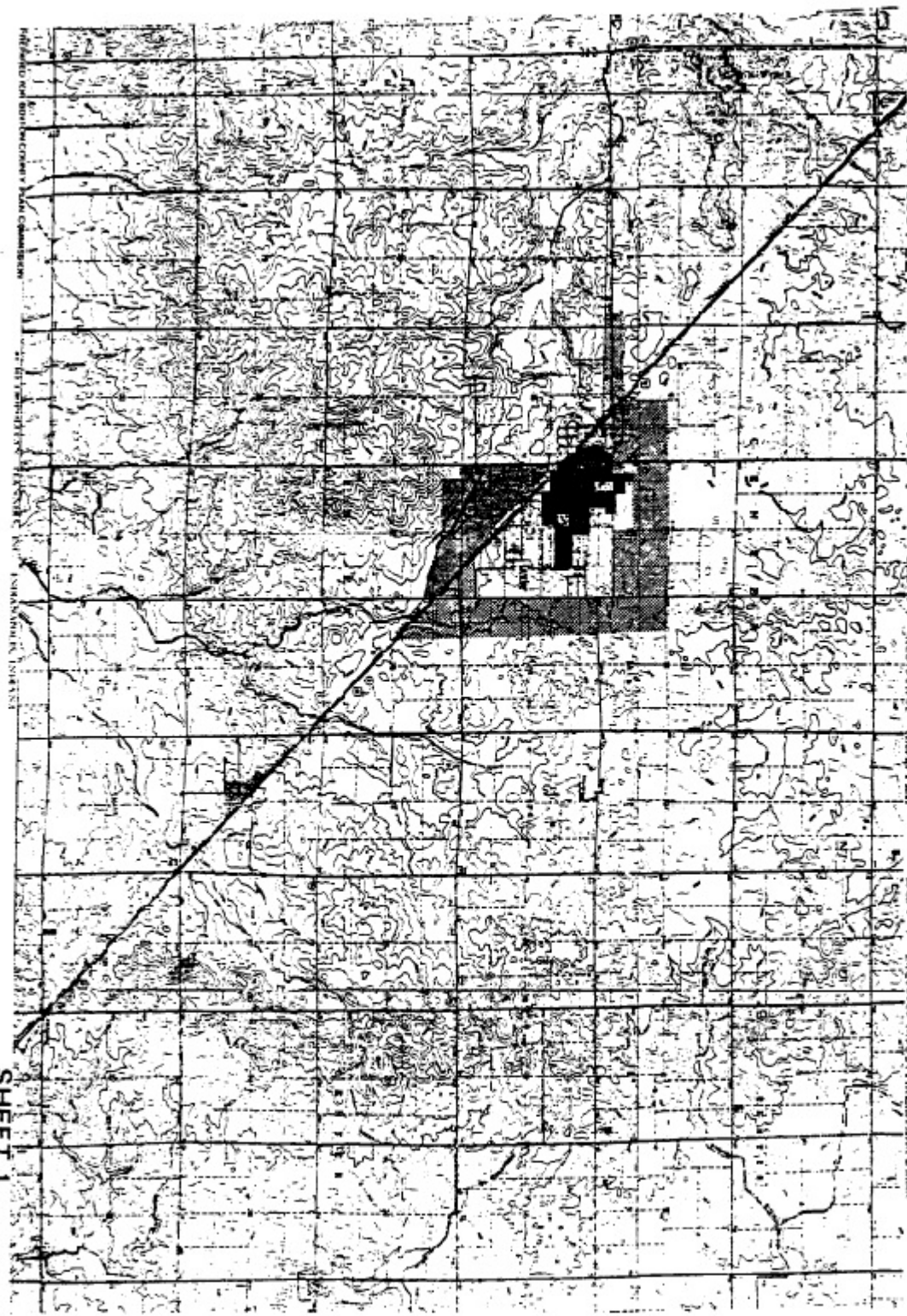
# CENTER TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971

- LEGEND OF DISTRICTS
- A-1 AGRICULTURE (1000 sq. ft. - 10000)
  - R-1 SUBURBAN RESIDENCE (4000 sq. ft. - 10000)
  - R-2 RESIDENCE (4000 sq. ft. - 10000)
  - R-3 RESIDENCE (1000 sq. ft. - 10000)
  - R-4 RESIDENCE (1000 sq. ft. - 10000)

- B-1 LOCAL BUSINESS (1/4 SECTION)
- B-2 GENERAL BUSINESS (1/4 SECTION)
- B-3 ROADSIDE BUSINESS (1/4 SECTION)
- I-1 ENCLOSED INDUSTRIAL (1/4 SECTION)



SHEET 1

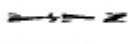
FIGURE 10



# BOLIVAR TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

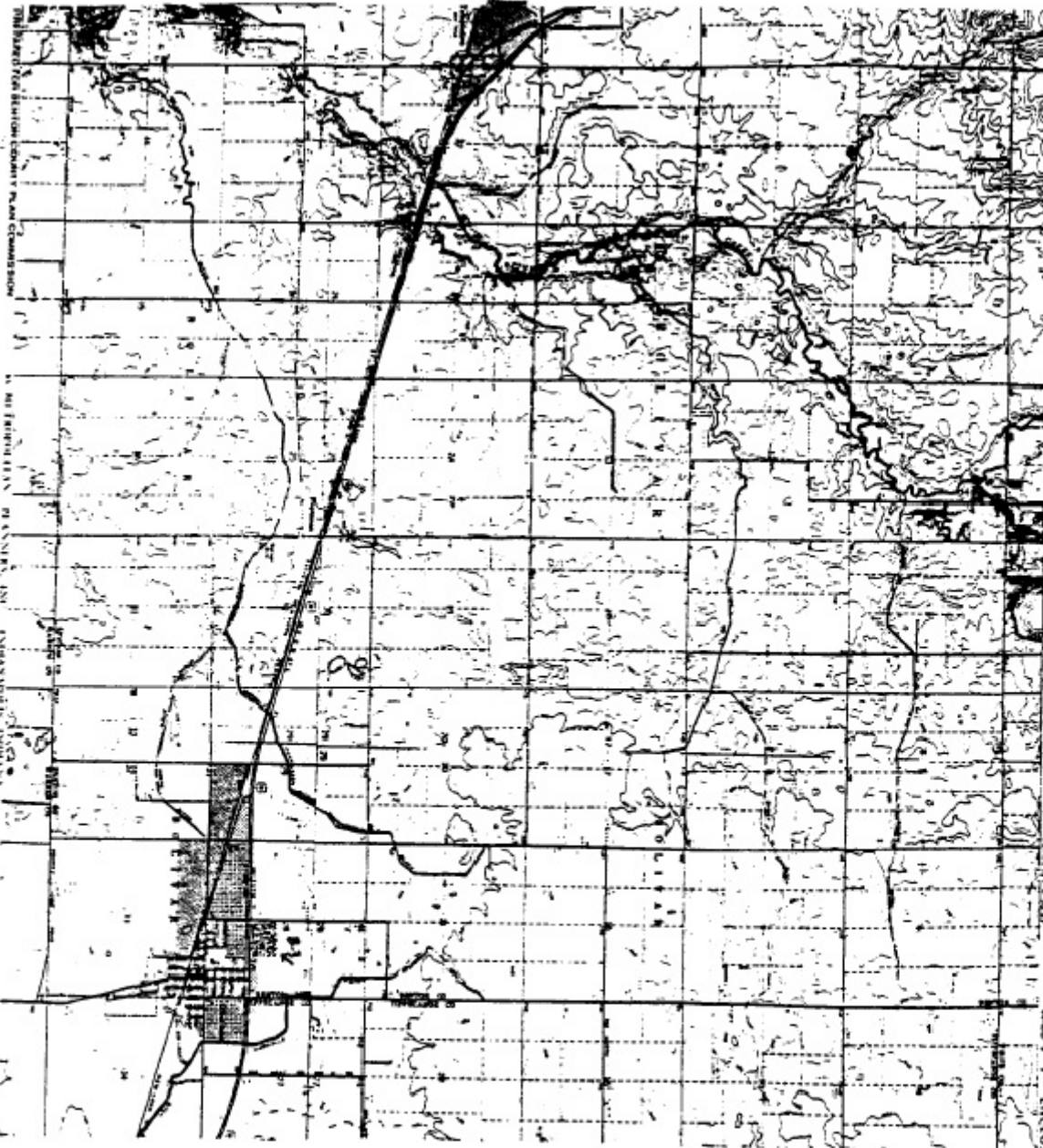
SCALE: 1 INCH = 4000 FEET

1971



## LEGEND OF DISTRICTS

- (---) A-1 AGRICULTURE (1000' x 1000')
- (---) R-1 SUBURBAN RESIDENCE (1000' x 1000')
- (---) R-2 RESIDENCE (1000' x 1000')
- (---) R-3 RESIDENCE (1000' x 1000')
- (---) R-4 RESIDENCE (1000' x 1000')
- (---) D-1 LOCAL BUSINESS (100' x 100')
- (---) D-2 GENERAL BUSINESS (100' x 100')
- (---) D-3 ROADSIDE BUSINESS (100' x 100')
- (---) I-1 ENCLOSED INDUSTRIAL (100' x 100')



SHEET 2

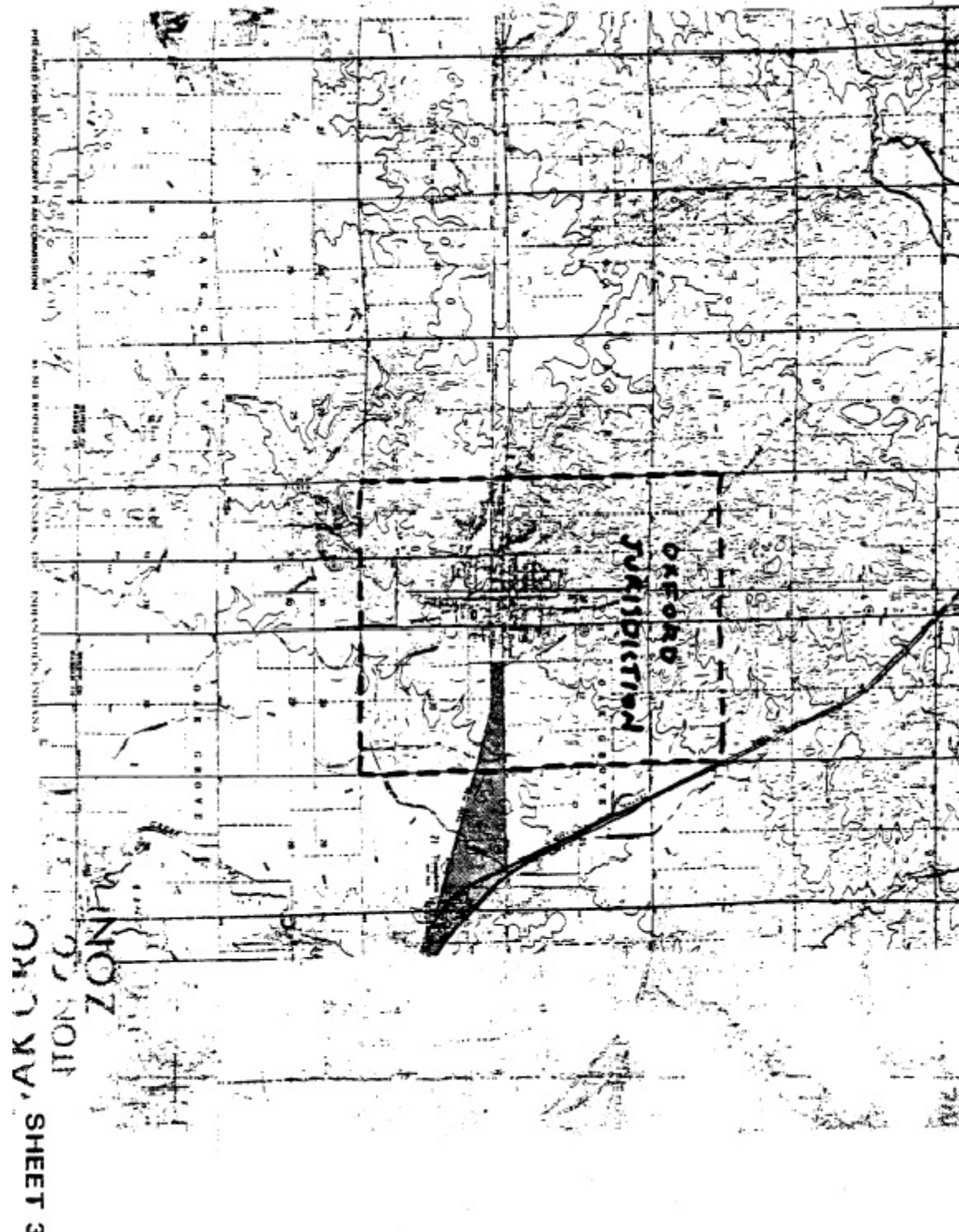
# OAK GROVE TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971

## LEGEND OF DISTRICTS

- |  |   |  |  |
|--|---|--|--|
|  | A-1 AGRICULTURE (1000 sq. ft. - 10000 sq. ft.)        |  | D-1 LOCAL BUSINESS (1000 sq. ft. - 10000 sq. ft.)      |
|  | R-1 SUBURBAN RESIDENCE (1000 sq. ft. - 10000 sq. ft.) |  | D-2 GENERAL BUSINESS (1000 sq. ft. - 10000 sq. ft.)    |
|  | R-2 RESIDENCE (1000 sq. ft. - 10000 sq. ft.)          |  | D-3 ROADSIDE BUSINESS (1000 sq. ft. - 10000 sq. ft.)   |
|  | R-3 RESIDENCE (1000 sq. ft. - 10000 sq. ft.)          |  | I-1 ENCLOSED INDUSTRIAL (1000 sq. ft. - 10000 sq. ft.) |
|  | R-4 RESIDENCE (1000 sq. ft. - 10000 sq. ft.)          |  |  |



OAK GROVE TOWNSHIP  
BENTON COUNTY, INDIANA  
SHEET 3

# GRANT TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

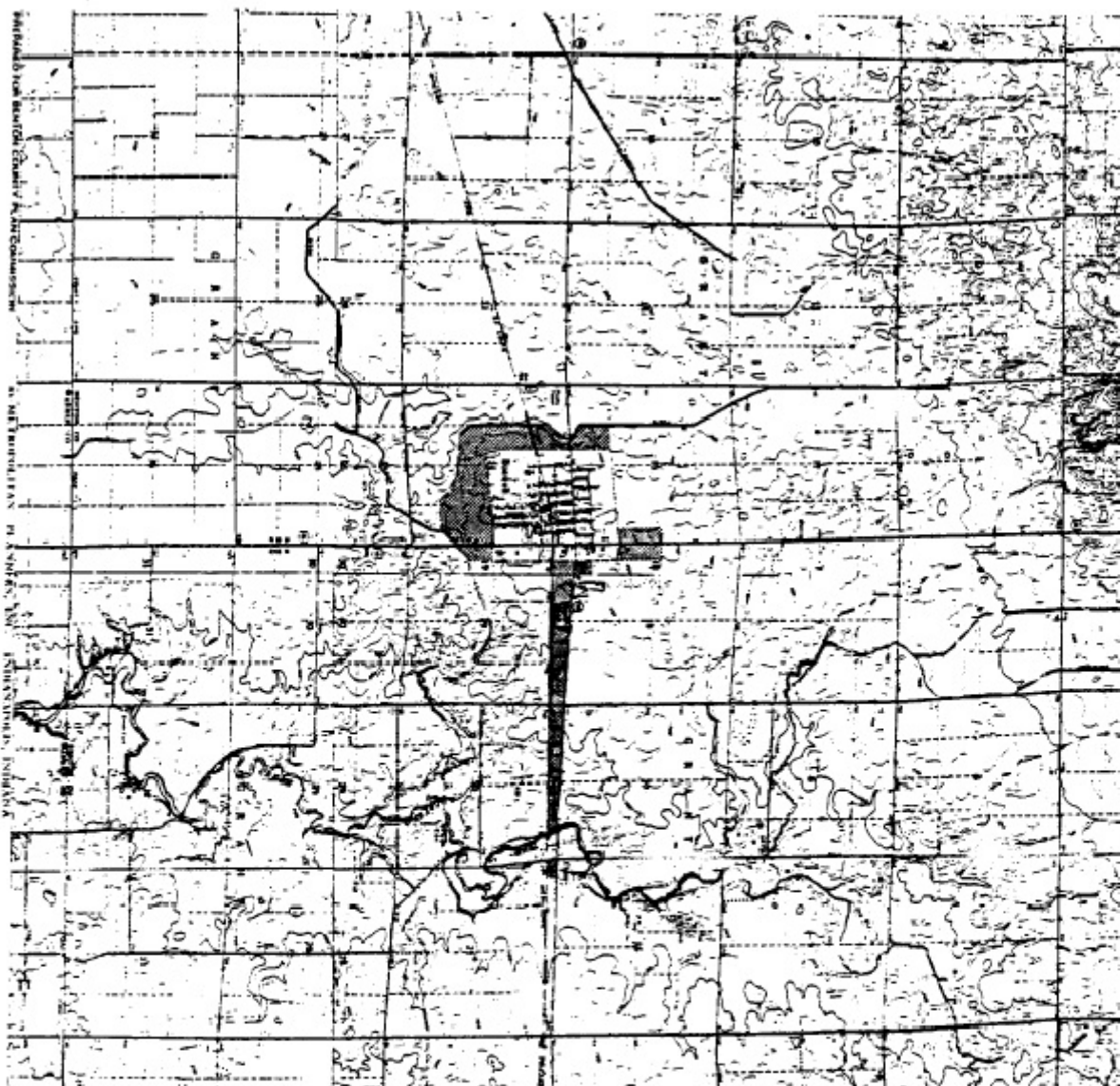
SCALE: 1 INCH = 4000 FEET

1971



## LEGEND OF DISTRICTS

- A-1 AGRICULTURE (1000'± - 1000')
- R-1 SUBURBAN RESIDENCE (1000'± - 1000')
- R-2 RESIDENCE (1000'± - 1000')
- R-3 RESIDENCE (1000'± - 1000')
- R-4 RESIDENCE (1000'± - 1000')
- D-1 LOCAL BUSINESS (1000'± - 1000')
- D-2 GENERAL BUSINESS (1000'± - 1000')
- D-3 ROADSIDE BUSINESS (1000'± - 1000')
- I-1 ENCLOSED INDUSTRIAL (1000'± - 1000')



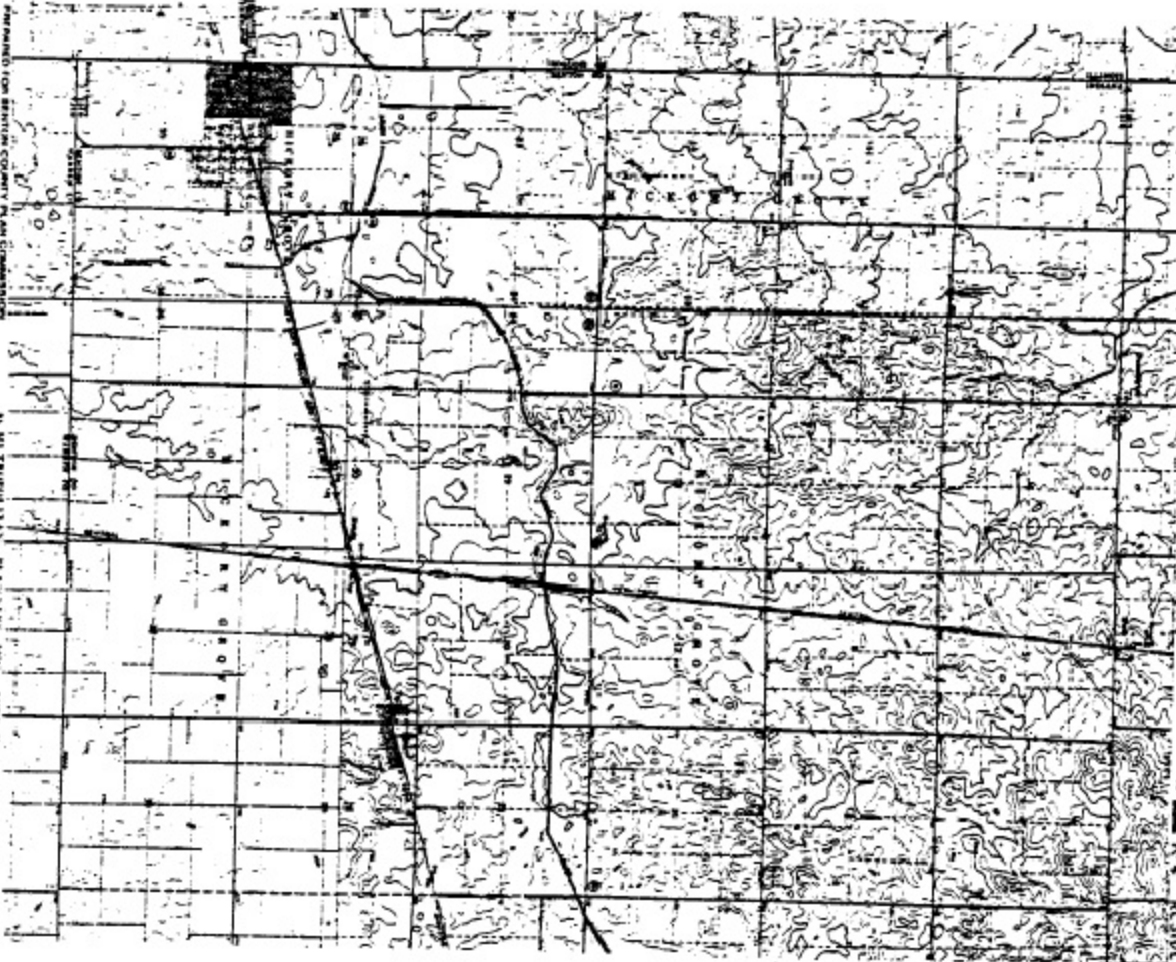
# HICKORY GROVE TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971

## LEGEND OF DISTRICTS

- A-1 AGRICULTURE (zone 45 - 50)
- R-1 SUBURBAN RESIDENCE (zone 45 - 50)
- R-2 RESIDENCE (zone 45 - 50)
- R-3 RESIDENCE (zone 45 - 50)
- R-4 RESIDENCE (zone 45 - 50)
- D-1 LOCAL BUSINESS (zone 45 - 50)
- D-2 GENERAL BUSINESS (zone 45 - 50)
- D-3 ROADSIDE BUSINESS (zone 45 - 50)
- I-1 ENCLOSED INDUSTRIAL (zone 45 - 50)












PREPARED FOR BENTON COUNTY PLANNING COMMISSION  
 BY THE TERRITORIAL PLANNING BOARD, INDIANA

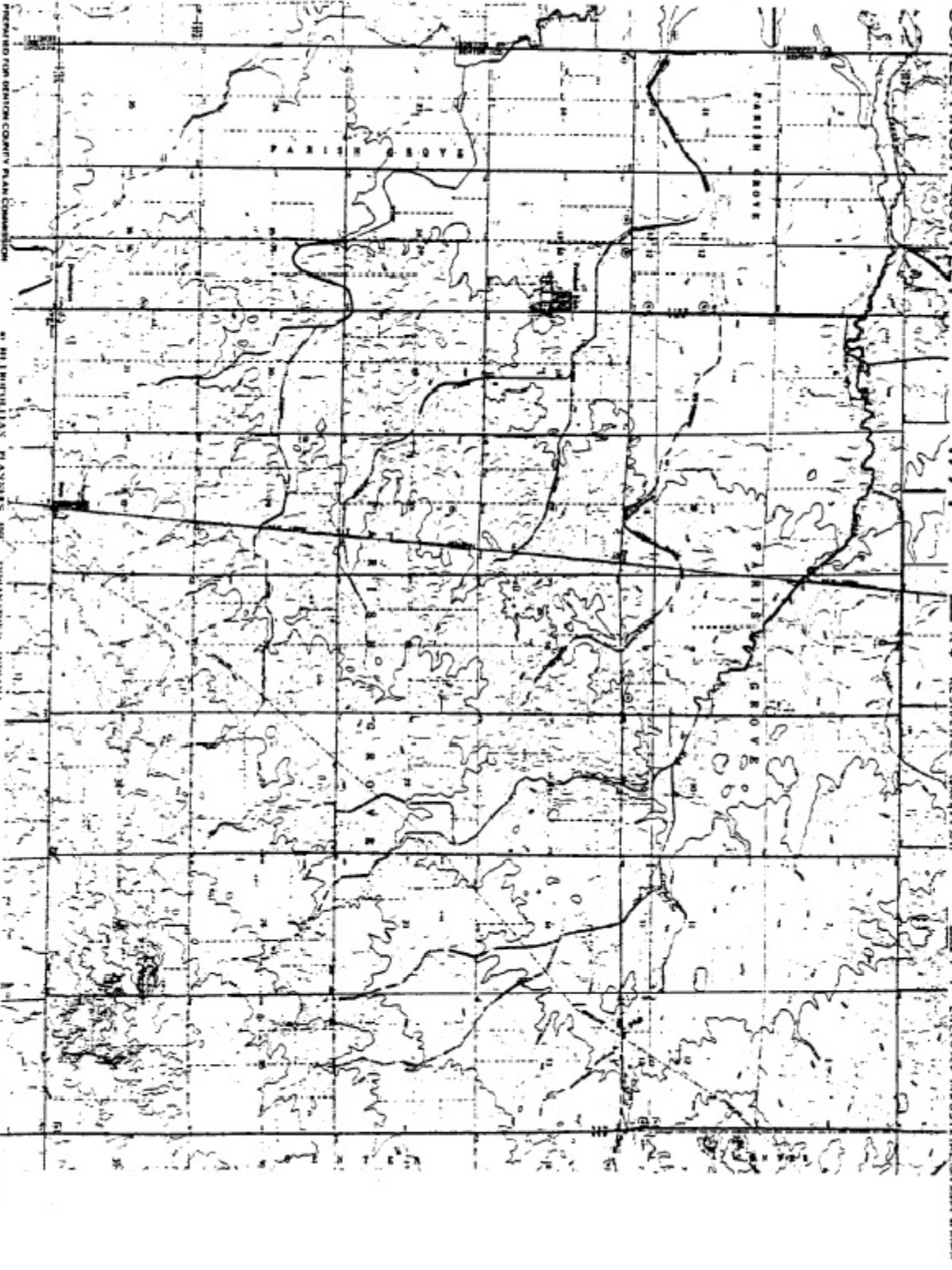
# PARISH GROVE TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971

## LEGEND OF DISTRICTS

- |   |                                      |   |                                       |
|---|--------------------------------------|---|---------------------------------------|
|    | A-1 AGRICULTURE (1000' x 100')       |  | B-1 LOCAL BUSINESS (500' x 100')      |
|    | R-1 SUBURBAN RESIDENCE (100' x 100') |  | B-2 GENERAL BUSINESS (50' x 100')     |
|   | R-2 RESIDENCE (500' x 100')          |  | B-3 ROADSIDE BUSINESS (100' x 100')   |
|  | R-3 RESIDENCE (500' x 100')          |  | I-1 ENCLOSED INDUSTRIAL (100' x 100') |
|  | R-4 RESIDENCE (500' x 100')          |   |                                       |



PREPARED FOR BENTON COUNTY PLANNING COMMISSION

BY HILBERT PLANING, INC. INDIANAPOLIS, INDIANA

SHEET 6

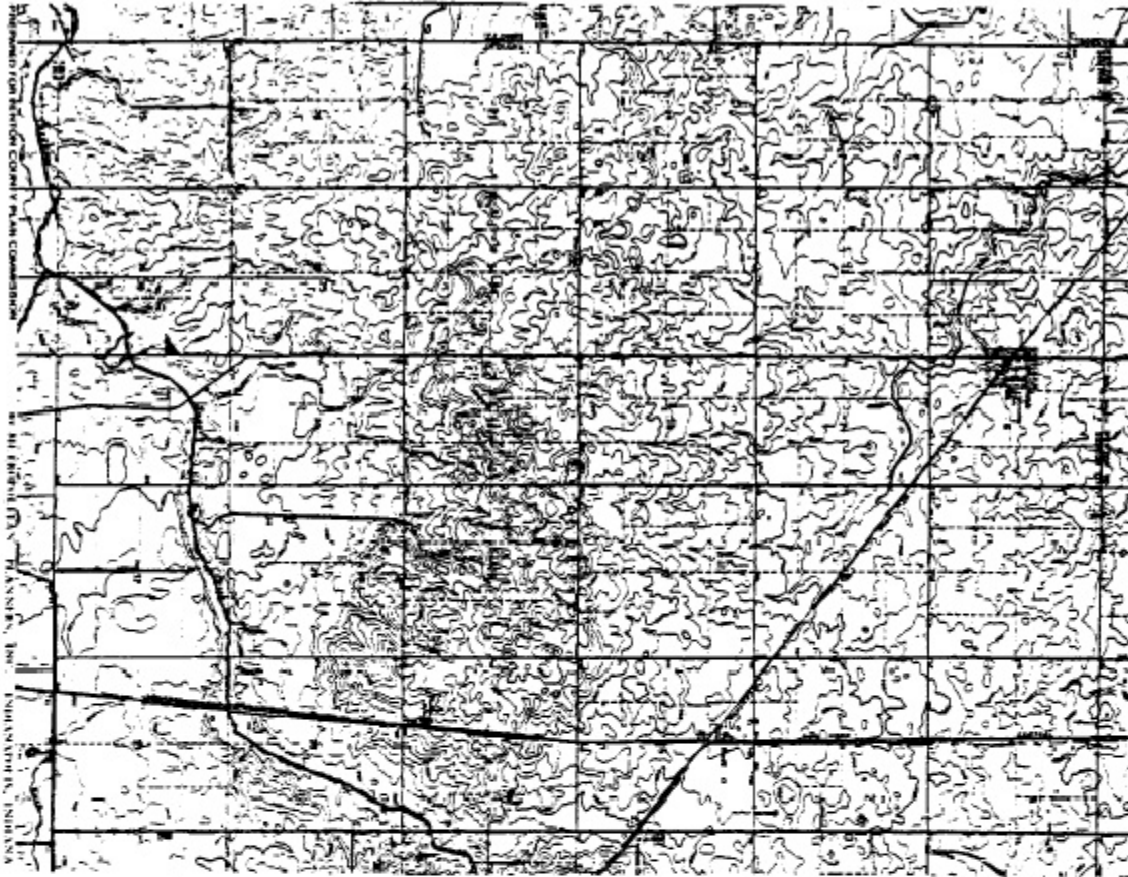


# YORK TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971










- LEGEND OF DISTRICTS**
- A-1 AGRICULTURE (5000 ± a.c.)
  - R-1 SUBURBAN RESIDENCE (400 ± a.c.)
  - R-2 RESIDENCE (400 ± a.c.)
  - R-3 RESIDENCE (1000 ± a.c.)
  - R-4 RESIDENCE (5000 ± a.c.)
  - B-1 LOCAL BUSINESS (50 ± a.c.)
  - B-2 GENERAL BUSINESS (50 ± a.c.)
  - D-3 ROADSIDE DISTRICT (1000 ± a.c.)
  - I-1 ENCLOSED INDUSTRIAL (5000 ± a.c.)

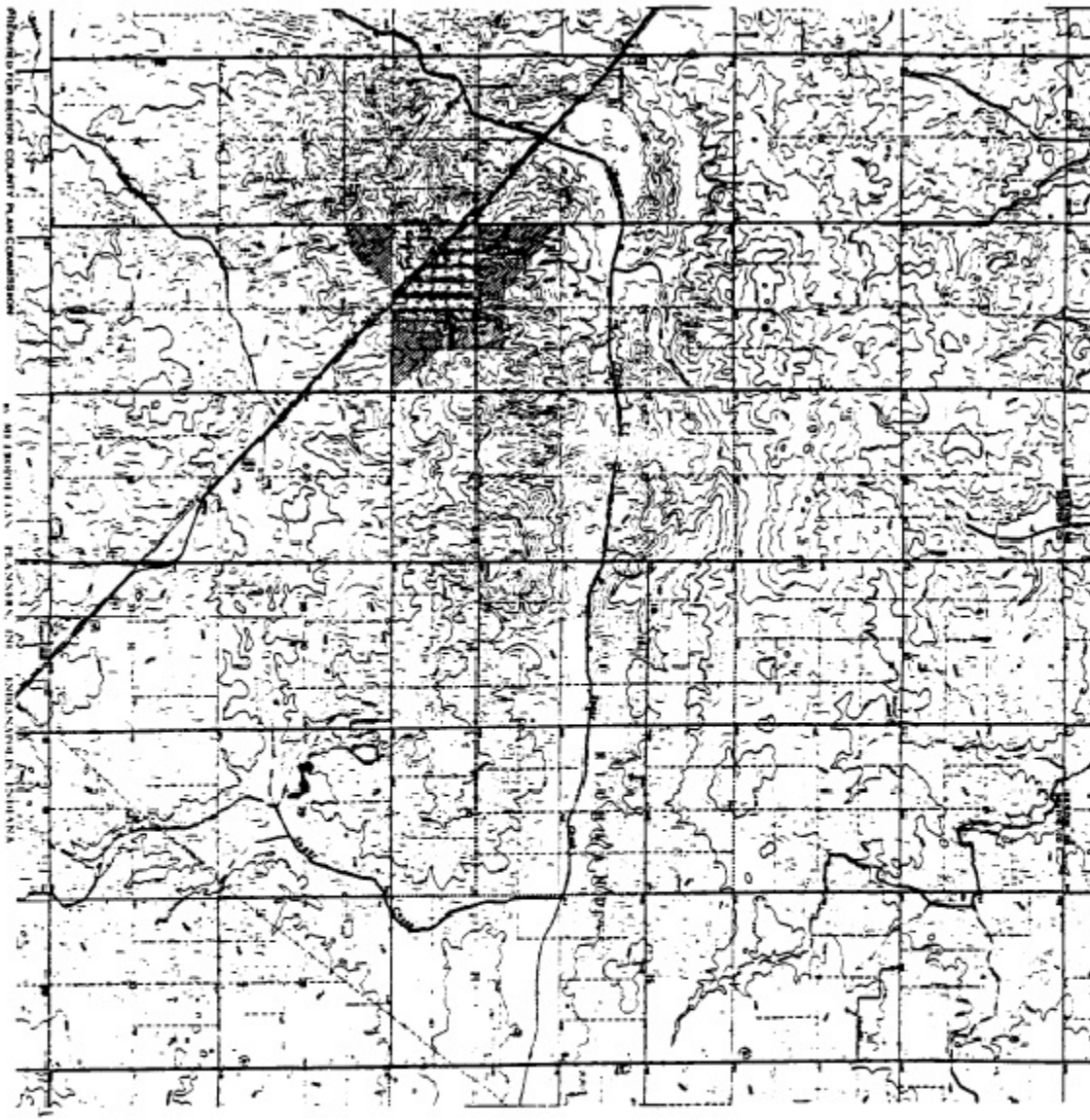


# RICHLAND TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971










- N
- LEGEND OF DISTRICTS
-  A-1 AGRICULTURE (Zone 4-1-011)
  -  R-1 SUBURBAN RESIDENCE (Zone 4-1-011)
  -  R-2 RESIDENCE (Zone 4-1-011)
  -  R-3 RE-SIDENCE (Zone 4-1-011)
  -  R-4 RE-SIDENCE (Zone 4-1-011)
  -  D-1 LOCAL BUSINESS (Zone 4-1-011)
  -  D-2 GENERAL BUSINESS (Zone 4-1-011)
  -  D-3 ROADSIDE BUSINESS (Zone 4-1-011)
  -  I-1 ENCLOSED INDUSTRIAL (Zone 4-1-011)

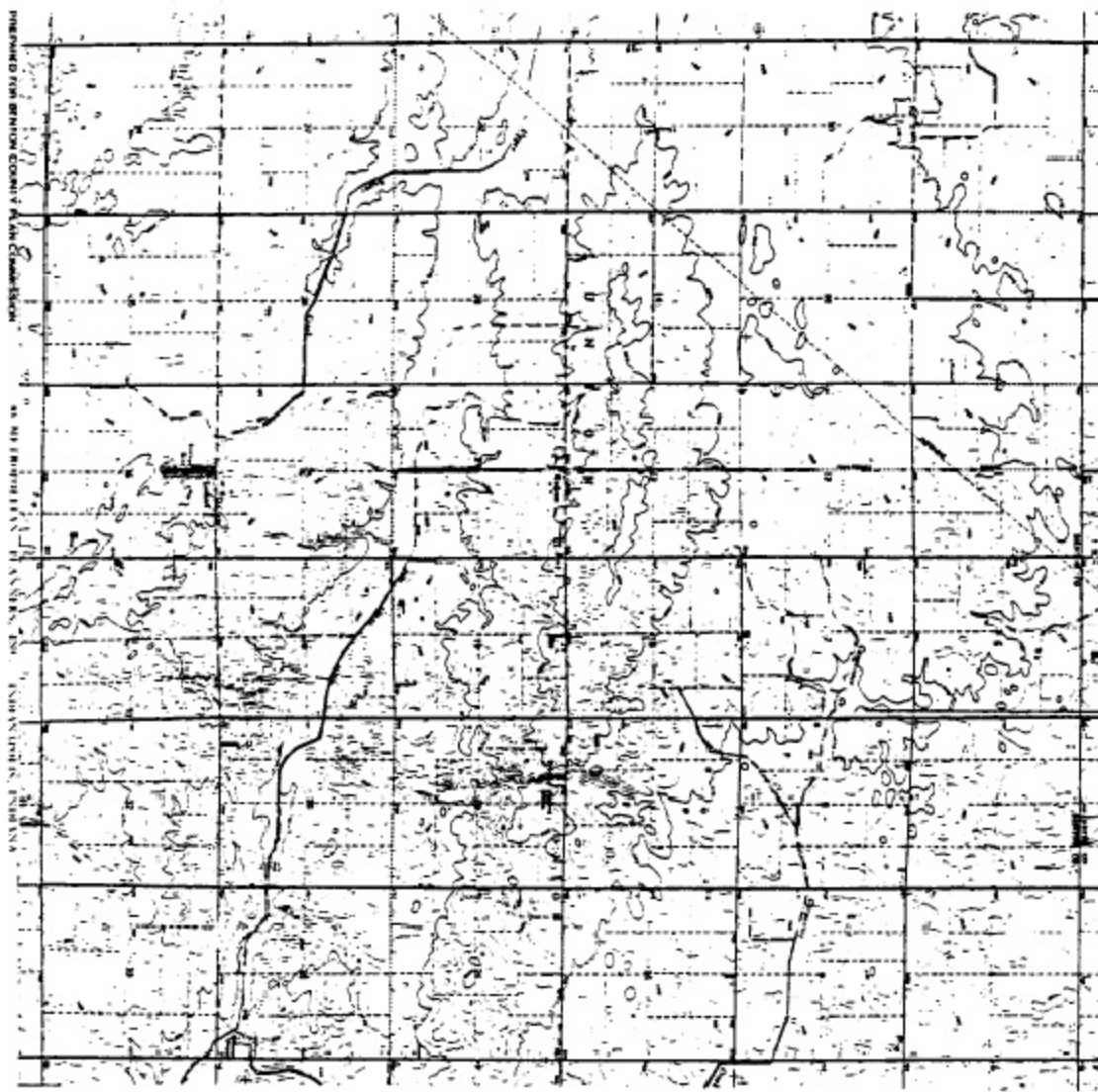


# UNION TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971

- N
- LEGEND OF DISTRICTS
-  A-1 AGRICULTURE (Gen. Ord. 19-1971)
  -  R-1 SUBURBAN RESIDENCE (Gen. Ord. 15-1971)
  -  R-2 RESIDENCE (Ord. 9-1968)
  -  R-3 RESIDENCE (Gen. Ord. 1971)
  -  R-4 RESIDENCE (Gen. Ord. 1971)
  -  B-1 LOCAL BUSINESS (Ord. 1971)
  -  B-2 GENERAL BUSINESS (Ord. 1971)
  -  B-3 ROADSIDE BUSINESS (Ord. 1971)
  -  I-1 ENCLOSED INDUSTRIAL (Ord. 1971)



PREPARED FROM BENTON COUNTY PLANNING COMMISSION  
 AS AN INSTRUMENT OF ZONING  
 INDIANA, INDIANA

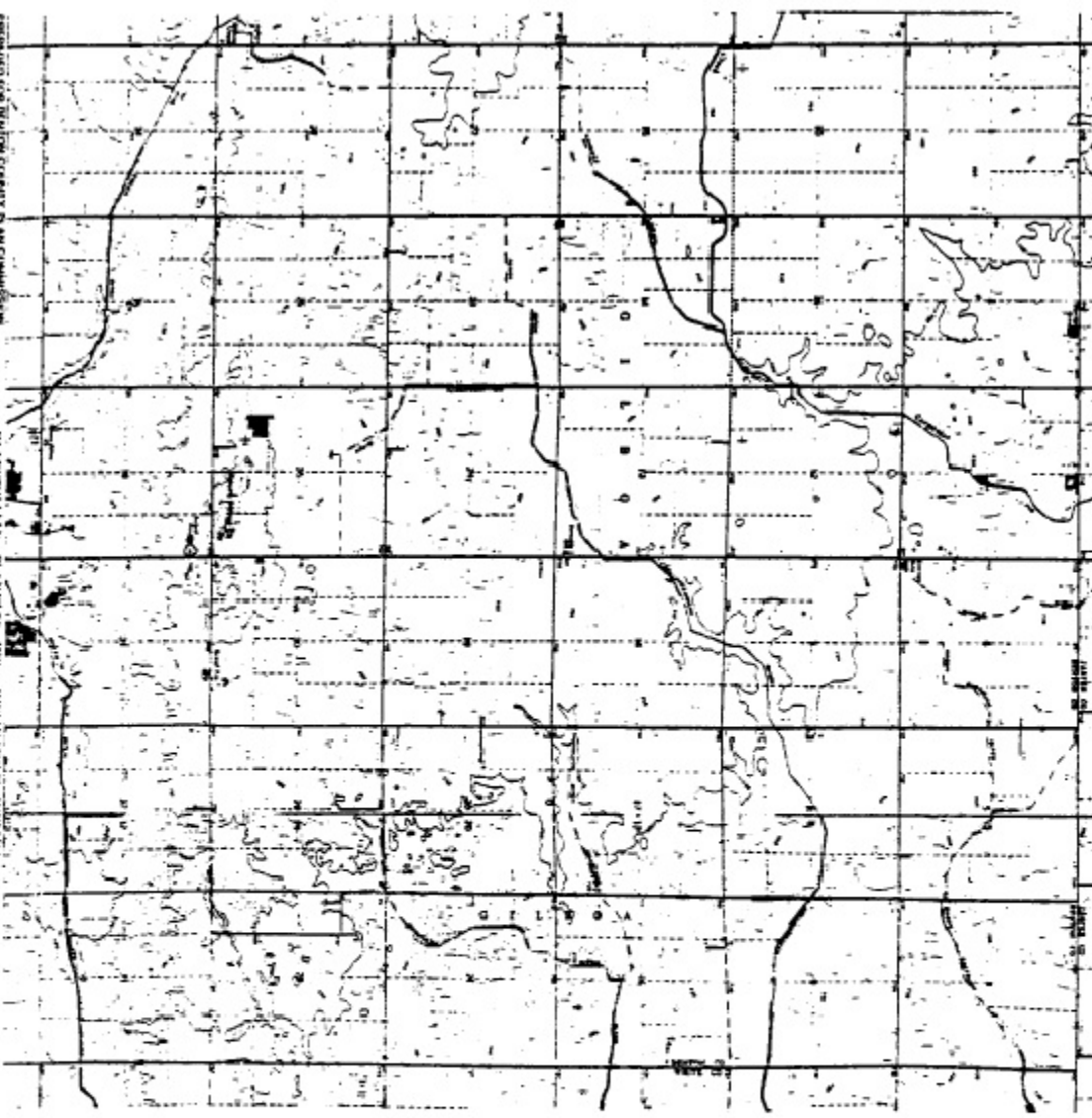
SHEET 9



# GILBOA TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971



## LEGEND OF DISTRICTS

- A-1 AGRICULTURE (zoned R-1 - 1000)
- R-1 SUBURBAN RESIDENCE (zoned R-1 - 1000)
- R-2 RESIDENCE (zoned R-2 - 1000)
- R-3 RESIDENCE (zoned R-3 - 1000)
- R-4 RESIDENCE (zoned R-4 - 1000)
- D-1 LOCAL BUSINESS (zoned D-1 - 1000)
- D-2 GENERAL BUSINESS (zoned D-2 - 1000)
- D-3 ROADSIDE BUSINESS (zoned D-3 - 1000)
- I-1 ENCLOSED INDUSTRIAL (zoned I-1 - 1000)

PREPARED FROM THE ZONING PLAN COMMISSION  
 BY THE BENTON COUNTY PLANNING COMMISSION  
 IN 1971

# PINE TOWNSHIP BENTON COUNTY, INDIANA ZONE MAP

SCALE: 1 INCH = 4000 FEET

1971



## LEGEND OF DISTRICTS

- 1-1 A-1 AGRICULTURE (Acres 100-1000)
- 2-1 R-1 SUBURBAN RESIDENCE (Acres 10-100)
- 3-1 R-2 RESIDENCE (Acres 1-10)
- 4-1 R-3 RESIDENCE (Acres 1/4-1)
- 5-1 R-4 RESIDENCE (Acres 1/4-1/2)
- 6-1 D-1 LOCAL BUSINESS (Acres 1-10)
- 7-1 D-2 GENERAL BUSINESS (Acres 1/4-1)
- 8-1 D-3 ROADSIDE BUSINESS (Acres 1/4-1)
- 9-1 I-1 ENCLOSED INDUSTRIAL (Acres 100-1000)



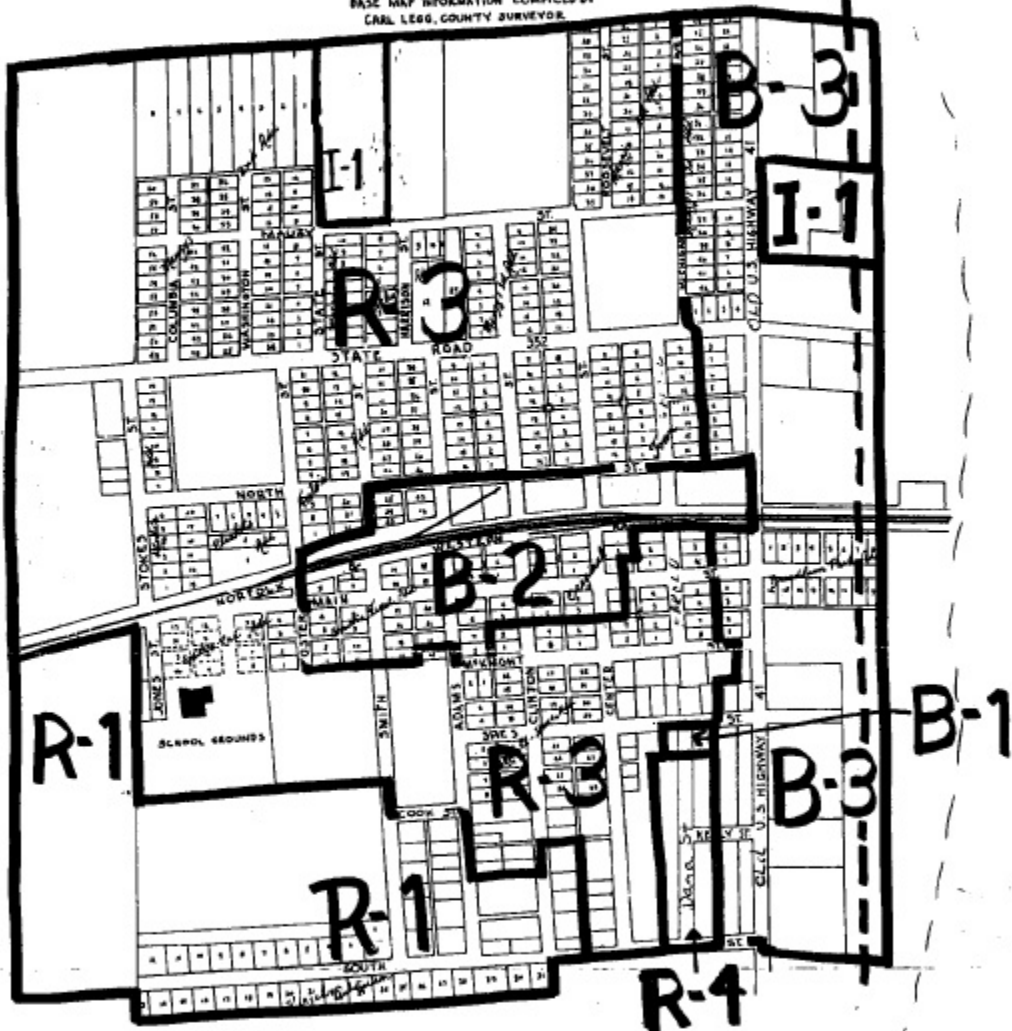
TOWN OF  
BOSWELL  
BENTON COUNTY  
INDIANA

# ZONE MAP



SCALE IN FEET  
BASE MAP INFORMATION COMPILED BY  
CARL LEGG, COUNTY SURVEYOR

U.S. 41



LEGEND OF DISTRICTS

- |  |  |
|--|--|
| A-1 AGRICULTURE (40000 sq. ft. x 150 ft.)                                    | B-1 LOCAL BUSINESS (15 ft. Setback)                    |
| R-1 SUBURBAN RESIDENCE (20000 sq. ft. x 120 ft.)<br>(12000 sq. ft. x 70 ft.) | B-2 GENERAL BUSINESS (No Setback)                      |
| R-3 RESIDENCE (7200 sq. ft. x 60 ft.)  | B-3 ROADSIDE BUSINESS (80 ft. Setback)                 |
| R-4 RESIDENCE (6500 sq. ft. x 50 ft.)  | I-1 ENCLOSED INDUSTRIAL (10 ft. Setback - No Business) |

METROPOLITAN PLANNERS, INC., PLANNING CONSULTANTS, INDIANAPOLIS

**SHEET 12** 1971

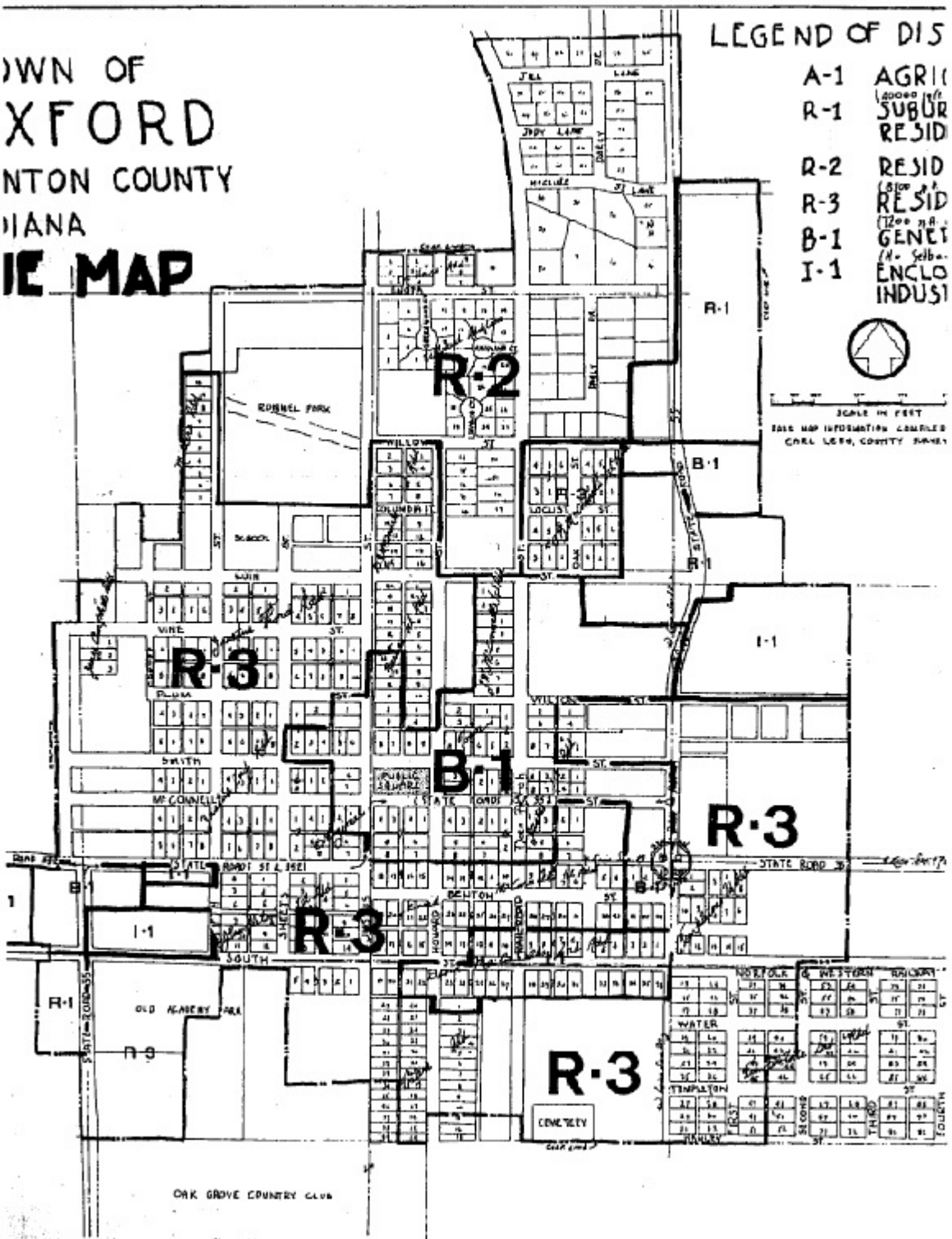
TOWN OF  
**XFORD**  
 MONTGOMERY COUNTY  
 INDIANA  
**ZONING MAP**

**LEGEND OF DIS**

- A-1 AGRIC (100000 sq ft)
- R-1 SUBUR RESID (10000 sq ft)
- R-2 RESID (8100 sq ft)
- R-3 RESID (12000 sq ft)
- B-1 GEN (No Sub-)
- I-1 ENCL (INDUST)



SCALE IN FEET  
 THIS MAP INFORMATION COMPILED  
 CARL LORR, COUNTY SURVEYOR

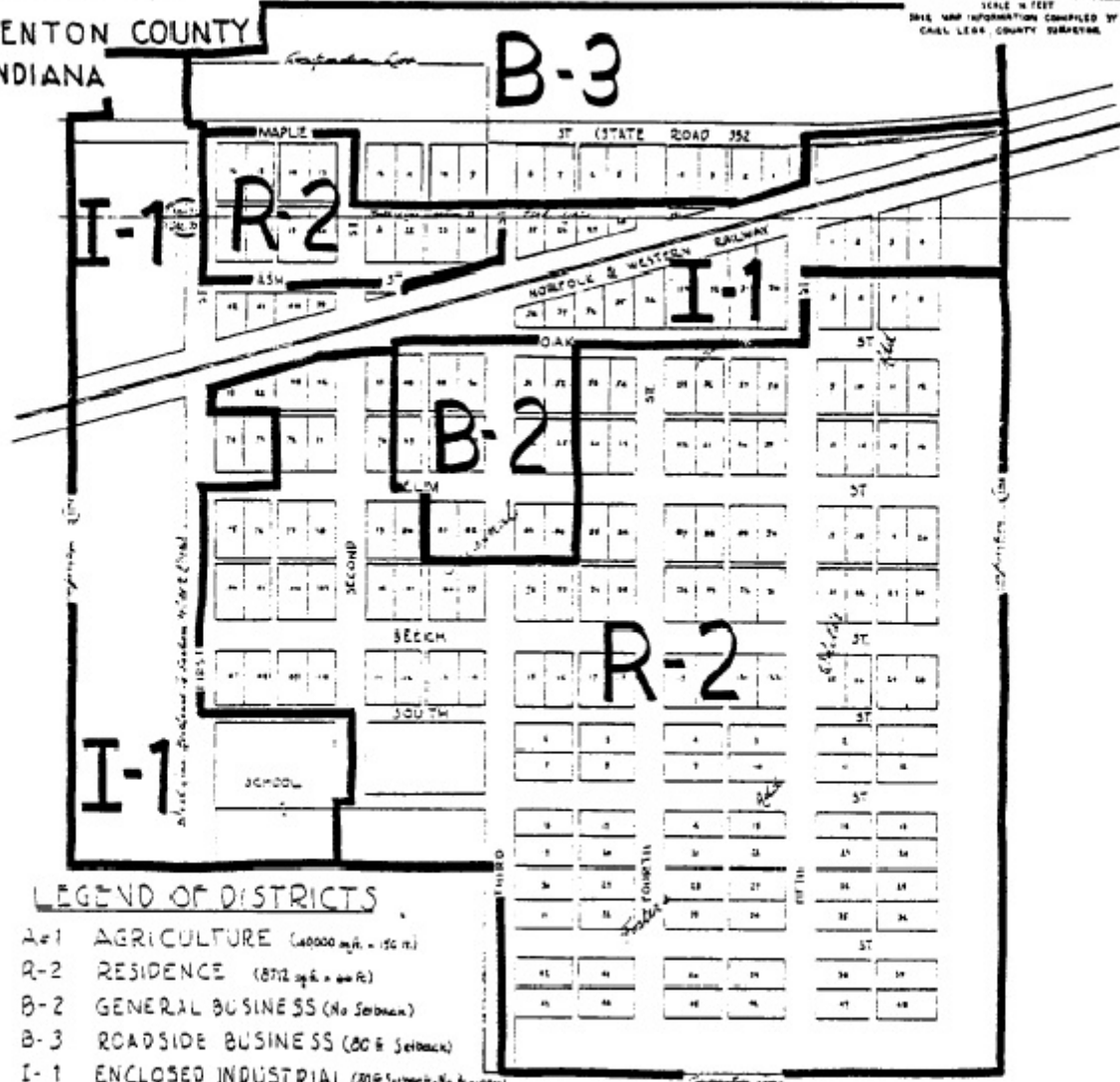
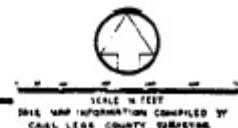


AN PLANNERS, INC., PLANNING CONSULTANTS, INDIANAPOLIS

TOWN OF  
AMBIA

BENTON COUNTY  
INDIANA

# ZONE MAP



### LEGEND OF DISTRICTS

- I-1 AGRICULTURE (40000 sq ft. - 150 ft.)
- R-2 RESIDENCE (8712 sq ft. - 40 ft.)
- B-2 GENERAL BUSINESS (No Setback)
- B-3 ROADSIDE BUSINESS (80 ft. Setback)
- I-1 ENCLOSED INDUSTRIAL (20 ft. Setback - No Height)

METROPOLITAN PLANNERS, INC. PLANNING CONSULTANTS, INDIANAPOLIS

SHEET 14

