

ARTICLE VIII

PROVISIONS GOVERNING INDUSTRIAL DISTRICTS

**Purpose:** the purpose of the I-1 Light Industrial District is to provide for storage, and any manufacturing use not normally creating a nuisance discernible beyond its property.

The purpose of the I-2 Heavy Industrial District is to provide for industrial uses not allowed in any other district providing that, within this district, uses of a hazardous nature or those producing extensive smoke or odor shall not be located so that the general hazard or nuisance affects a large segment of the county.

Section 81. **USES PERMITTED IN THE I-1 LIGHT INDUSTRIAL DISTRICT**

- 81.01. Aircraft factory or hangar, not including wind tunnel and testing field.
- 81.02. Boat building.
- 81.03. Box factory.
- 81.04. Building materials sales establishment and storage area./
- 81.05. Building-mover and wrecker's establishment.
- 81.06. Cleaning and dyeing establishment.
- 81.07. Contractor's equipment storage.
- 81.08. Dispensary, only with emergency facilities incident to an industry.
- 81.09. Distribution plant, including parcel delivery, ice and cold-storage plant, bottling plant, and food commissary or catering establishment.
- 81.10. Feed mixing plant.
- 81.11. Foundry, casting of only lightweight non-ferrous metal.
- 81.12. Grain elevator.
- 81.13. Iron, steel, or other metal fabrication (no foundry or drop hammer and no punch press over 50 ton capacity).
- 81.14. Laboratories - experimental, photo or motion picture, film or testing.
- 81.15. Laundry.
- 81.16. Light industrial uses that are not obnoxious or offensive by reason of the emission of odor, dust, smoke, noise, gas, fumes,

cinders, vibration, refuse matter or water-carried waste, including retail sale of products when such sale is clearly incidental and essential to the permitted industrial use.

- 81.17. Lumber storage, millwork.
- 81.18. Machine shop.
- 81.19. Machinery repairing and display.
- 81.20. Manufacture, fabrication, and maintenance of electric and neon signs, billboards, commercial advertising structures, light sheet metal products including heating and ventilating ducts and equipment; cornices, eaves and the like, and also including plumbing, heating or electrical contracting business.
- 81.21. Manufacturing, fabricating, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, yarns, wood and paint not employing a boiling process.
- 81.22. Manufacture, fabricating, compounding, canning, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, soft drinks, toiletries and food products, not including the following: fish and meat products, sauerkraut, vinegar and yeast, except in conjunction with a general food products manufacturing company; and not including the rendering of fats and oils or slaughter of animals.
- 81.23. Manufacture of: appliances, electrical or mechanical; instruments, electronic, musical, precision or the like; machines, electric or mechanical, for home or office and the like, phonographs, radios, telephones or other instruments or machines for receiving, reproducing or transmitting sound; watches and clocks, toys, novelties and rubber and metal hand stamps.
- 81.24. Planing mill.
- 81.25. Printing, lithographing, type composition, ruling and binding establishment.
- 81.26. Processing, canning, packaging, or treatment of fish and meat products, sauerkraut, vinegar, yeast but not including the following: fish smoking, curing or canning; rendering of fats and oils; or slaughter of animals.
- 81.27. Public utility facilities and installations for electricity, gas, oil, steam, telegraph, telephone (including telephone exchange building) and water; (not including railroads).

- 81.28. Railroad or other mass transportation company freight and/or passenger and supporting facilities, limited receiving and distribution yards, right-of-way, trackage and sidings, with accessory poles and overhead wires, signal or other operating devices, shelters, and comfort stations incident to the use thereof, including private off-street turn-around and layover areas for mass transit vehicles and parking areas for buses, car houses, yards, and headquarters for operating and maintenance employees.
- 81.29. School, industrial trade, when not objectionable due to noise, odor, vibration, dust, smoke, or other similar causes.
- 81.30. Solid fuel such as coal, coke and wood, storage and sales.
- 81.31. Stable.
- 81.32. Stone or monument works.
- 81.33. Structure or equipment for landing, mooring, or boat docking.
- 81.34. Veterinary establishment.
- 81.35. Wholesale business.
- 81.36. Accessory use and structure customarily incident to any of the above uses, located within the buildable area of the lot, unless otherwise specified and including:
  - 81.361. Fence or enclosure wall.
  - 81.362. Loading space.
  - 81.363. Lunchrooms for employees.
  - 81.364. Minor garage or minor parking area.
  - 81.365. Recreation area, non-profit.
  - 81.366. Signs, related to or advertising the use being conducted on the premises.

Section 82. **USES PERMITTED IN THE I-2 HEAVY INDUSTRIAL DISTRICT**

Only the following uses shall be permitted:

- 82.01. Aircraft factory, landing field, or hangar.
- 82.02. Alcohol manufacture.
- 82.03. Ammonia, bleaching powder or chlorine manufacture.
- 82.04. Asphalt manufacture or refining.
- 82.05. Blast furnace or coke oven.

- 82.06. Boat building.
- 82.07. Boiler works.
- 82.08. Box factory.
- 82.09. Brick, tile or terra cotta manufacture.
- 82.10. Building materials sales establishment and storage area.
- 82.11. Building-mover and wrecker's establishment.
- 82.12. Concrete or cement products manufacture.
- 82.13. Contractor's equipment storage.
- 82.14. Distribution plant, including parcel delivery, ice and cold storage plant, bottling plant and food commissary or catering establishment.
- 82.15. Drop forge industry manufacturing forgings with power hammers.
- 82.16. Feed mixing plant.
- 82.17. Grain elevator.
- 82.18. Hospital, only with emergency facilities incident to an industry.
- 82.19. Iron or steel or other metal manufacture or processing, foundry or fabrication plant and heavy weight casting, including galvanizing and other treatment.
- 82.20. Laboratories - experimental, photo or motion picture, film or testing.
- 82.21. Landscape gardener's sales area or business.
- 82.22. Lumber storage, millwork and sales.
- 82.23. Machinery repairing, sales and display.
- 82.24. Machine shop.
- 82.25. Manufacture, fabrication and maintenance of electric and neon signs, billboards, commercial advertising structures, sheet metal products including heating and ventilating ducts and equipment; cornices, eaves and the like, and also including plumbing, heating, or electrical contracting business.
- 82.26. Manufacturing, fabricating, compounding, assembling or treatment of bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, yarns and wood, or articles of merchandise made therefrom.

- 82.27. Manufacture, fabricating, compounding, canning, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, soft drinks, toiletries and food products, including fish and meat products, sauerkraut, vinegar and yeast, but not including the following: fish smoking, curing or canning; rendering of fats and oils; or slaughter of animals.
- 82.28. Manufacture of: appliances, electrical or mechanical; instruments, electronic, musical, precision or the like; machines, electric or mechanical, for home or office and the like; phonographs, radios, telephones or other instruments or machines for receiving, reproducing, or transmitting sound; watches and clocks, toys, novelties, and rubber and metal hand stamps.
- 82.29. Planing mill.
- 82.30. Printing, lithographing, type composition, ruling and binding establishment.
- 82.31. Public utility facilities and installations for electricity, gas, oil, steam, telegraph, telephone (including telephone exchange building), and water.
- 82.32. Quarry, gravel pit, stone mill or slag crusher.
- 82.33. Railroad or other mass transportation company freight and/or passenger facilities, right-of-way, trackage and sidings, with accessory poles and overhead wires, signal or other operating devices, shelters and comfort stations incident to the use thereof, including private off-street turn-around and layover areas for mass transit vehicles and parking areas for buses, car houses, repair shops, yards and headquarters for operating and maintenance employees.
- 82.34. Railroad repair shop, receiving, distribution, and classification yards and supporting facilities.
- 82.35. Rock, sand, slag or gravel distribution.
- 82.36. Rolling mill.
- 82.37. School for industrial trades.
- 82.38. Solid fuel such as coal, coke and wood, storage and sales.
- 82.39. Stable.
- 82.40. Stone or monument works.
- 82.41. Stove or shoe polish manufacture.
- 82.42. Structure or equipment for landing, mooring or other like purposes and the use of the same for land or water transportation interchange.

- 82.43. Tool manufacture.
- 82.44. Truck terminals.
- 82.45. Veterinary establishment.
- 82.46. Wholesale business.
- 82.47. Wool pulling or scouring.
- 82.48. Accessory use and structure customarily incident to any of the above uses including:
  - 82.481. Fence or enclosure wall.
  - 82.482. Loading space.
  - 82.483. Lunchrooms for employees.
  - 82.484. Offices.
  - 82.485. Parking garage.
  - 82.486. Recreation area, non-profit.
  - 82.487. Signs related to or advertising the use being conducted on the premises.
- 82.49. Any use permitted in the I-1 Light Industrial District.

Section 83. **SPECIAL EXCEPTIONS IN THE I-1 AND I-2 DISTRICTS**

- 83.01. Any public building erected and used by a department of a municipal, county, state, or federal government.
- 83.02. Areas for the dumping or disposal of trash or garbage by the land fill process.
- 83.03. Automobile sales, servicing, painting, upholstering, tire retreading or recapping, battery manufacturing and automobile and gasoline service station.
- 83.04. Automobile wrecking and salvage operations if located not less than 400 feet from any R-District; provided such operation is conducted within an area enclosed on all sides with a tight painted fence not less than eight feet high and provided further that such operation shall not be visible from the nearest street or road.
- 83.05. Broadcasting towers, transmitting and relay stations.
- 83.06. Chemical Manufacture.
- 83.07. Commercial amusement or recreational development for temporary or seasonal periods.
- 83.08. Extraction of gravel, sand, clay, dirt, topsoil, coal, oil, and other natural resources.

83.07.1  
 Ethanol and  
 Similar  
 Bio Processing  
 Plants

- 83.09. Hospitals, clinics and institutions, except institutions for criminals and those for persons that are insane or have contagious diseases; provided, however, that such buildings may occupy not over 50% of the total area of the lot or tract and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all minimum yard lines heretofore established an additional distance of not less than two feet for each foot of building height. Specific requirements for these buildings in any district regulations shall take precedence over the above regulations.
- 83.10. Killing, dressing, storing and/or packaging of poultry, rabbits, swine, sheep and cattle.
- 83.11. Parking lots on land not more than 300 feet from the boundary of any commercial, business, or industrial district under such conditions as will protect the character of surrounding property.
- 83.12. Storage and distribution of any merchandise or material other than: explosives or inflammables, garbage, offal or dead animals, paper, exclusive of rolled newsprint and other similar rerolled paper, petroleum and petroleum by-products in excess of an amount necessary for use on the premises, and rags, metal, or junk.
- 83.13. Storage of explosives or inflammables and/or the distribution of Anhydrous Ammonia not in excess of that determined by the Board of Appeals to be not hazardous.
- 83.14. Transfer stations and recycling centers for temporary storage, sorting and transfer of trash, garbage, junk and offal, but not to include dead animals or hazardous materials, hazardous chemicals and hazardous waste, and provided the storage, sorting and transfer of such items is conducted in a totally enclosed structure or building where such items are obscured from the public view.
- 83.15. Any land use or application not otherwise specifically provided for elsewhere in the Zoning ordinance which is similar in nature to the uses listed in the Zoning Ordinance for I-1 and I-2 Districts. Such use shall include any land use or application which has the potential for creating smoke, noise or offensive odors which are expected to emanate beyond confines of the property on which the use is to occur. The Board of Zoning Appeals shall determine whether or not a particular land use is industrial in nature if not specifically listed in the zoning ordinance.

Section 84. **REQUIRED LOT AREA AND LOT WIDTH IN INDUSTRIAL DISTRICTS**

Each use to be established in the I-1 or the I-2 District shall provide a minimum lot area of 5,000 square feet and a minimum lot width of 50 feet.

Section 85. **BUILDING HEIGHT REGULATION IN INDUSTRIAL DISTRICTS**

No building in the I-1 or I-2 Districts shall exceed 50 feet in height unless the front, side, and rear yards required in Section 85 are increased five feet for every five feet or fraction thereof of additional height over 50 feet.

Section 86. **YARDS REQUIRED IN INDUSTRIAL DISTRICTS**

All structures to be constructed, altered, or moved, in the I-1 and I-2 Districts shall provide yards of the following minimum depths.

- 86.01. Front Yard - 100 feet.
- 86.02. Unless otherwise stated - Side Yard - 35 feet except where a side yard abuts a residential district in which case a side yard of 75 feet shall be provided.
- 86.03. Rear Yard - 25 feet.
- 86.04. Parking lots may extend 60 feet into a front yard and 20 feet into the side and rear yards providing the parking lot is adequately screened with plant material from adjoining property or streets.

Section 87. **OFF-STREET PARKING AND LOADING**

There shall be provided in the I-1 and I-2 Districts adequate off-street parking in accordance with the schedule in Article II, and off-street loading in accordance with the off-street loading portion of Article VII, Section 77.

ARTICLE IX

PLANNED UNIT DEVELOPMENT PLAN

**Purpose:** the purpose of this section is to provide regulation for Planned Unit Developments (PUD), which are of a significantly different character than traditional land developments. Specific standards and exceptions have been developed to govern the actions and recommendations of the Plan Commission regarding such developments.

Section 91. **GENERAL**

It shall be the policy of Warren County to promote progressive development of land and construction thereon by encouraging planned unit developments to achieve:

- 91.01. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks, and area requirements.
- 91.02. A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services.
- 91.03. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns.
- 91.04. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets.
- 91.05. A development pattern in harmony with land use density, transportation facilities, and community facilities objectives of the comprehensive plan.

Section 92. **PLANNED UNIT DEVELOPMENT RESTRICTIONS**

Whenever there is a conflict or difference between the provisions of this section and those of the other sections of this ordinance, the provisions of this section shall prevail. Subjects not covered by this section shall be governed by the respective provisions found elsewhere in this ordinance.

A planned unit development shall conform to the following:

- 92.01. The number of dwelling units erected shall not exceed the number permitted by the regulations of the district in which it is located unless a density increase is permitted.
- 92.02. All uses that may be allowed within the land use district may be permitted within a PUD.

- 92.03. Up to 10% of the gross land area in a residential district may be directed to commercial, industrial, public and quasi-public uses that are not allowed within the land use district, provided there is a favorable finding by the Plan Commission:
- 92.031. That the uses permitted by such exceptions are necessary or desirable and are appropriate with respect to the primary purpose of residential development.
- 92.032. That the uses are not of such nature or so located as to exercise a detrimental influence on the development nor on the surrounding neighborhood.
- 92.033. That the uses are intended to serve principally the residents of the PUD.
- 92.034. That the uses are planned as an integral part of the PUD.
- 92.035. That the uses be located and so designed as to provide direct access to a collector or an arterial street without creating traffic congestion or hazard.
- 92.04. A minimum parcel area of ten acres is required for PUD.
- 92.05. There shall be at least 10% of the land area in the development provided for park and recreational purposes which shall not be covered by buildings, parking lots, driveways, or streets. No more than 50% of this useable open space shall be covered by water.
- 92.06. If any open space or recreational facility is to be used solely by the residents of the project, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly maintained and operated.
- 92.07. All utilities, including communication and electric systems, shall be placed underground within the limits of the development. Appurtenances to these systems which can be effectively screened may be excepted.
- 92.08. The design and designation of private streets shall be subject to the approval of the Plan Commission and the Engineer.
- 92.09. The development plan shall include a common water supply and distribution system, either public or private, which shall meet the approval of the Plan Commission and County Engineer and shall be built at no expense to the local government.
- 92.10. The development plan shall include a sanitary sewer system connected to a public sewer system, if available within a reasonable distance from the project, or it shall provide for

a central collection and treatment system in accordance with the requirements of the Plan Commission and County Engineer.

- 92.11. The plan of the project may provide for the integral and harmonious design of buildings in commercial and industrial areas, and the parcels shall be developed in parklike surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas, and other such features from the adjoining and surrounding residential areas.
- 92.12. No building is permitted to exceed the height limit of the district in which it is located by more than 10%.
- 92.13. All previously noted parking standards shall remain in effect for all PUD's.
- 92.14. Non-residential areas must be developed in equal ratio to residential areas. This is required to avoid the total development of residential structures without the accompanying services.

#### Section 93. INCREASED RESIDENTIAL DENSITY THROUGH DESIGN INCENTIVES

To provide for an incentive for quality PUD, the Plan Commission may authorize an increased residential density of up to 20% of the allowable number of dwelling units. In allowing for density increase, the Commission shall be guided by the following criteria:

- 93.01. If open space provided exceeds 20% of land area, additional 5% increase in residential density allowed.
- 93.02. If land donated or dedicated for public purposes such public buildings, schools, and parks, additional 5% increase in residential development allowed.
- 93.03. If there is significant landscaping, screening, and site planning in development, additional 5% increase in residential development allowed.
- 93.04. If community facilities and amenities as trails, lakes, plaza fountains, tennis courts, etc. are provided in PUD, additional 5% increase in residential development allowed.

#### Section 94. PROCEDURE FOR APPROVAL OF PUD

- 94.01. Submit a preliminary site plan in triplicate to the Plan Commission in sketch form which includes, but is not restricted to, the following information:
  - 94.011. Location and boundaries of tract to be developed, showing the general layout of streets and the existing and proposed zoning of all areas.

- 94.012. Tentative placement of all improvements on the site, showing how recommendations of this ordinance and any requirements of the Board of Zoning Appeals and/or Plan Commission have been utilized.
- 94.013. General proposals on densities on both residential and other uses. (To allow for sufficient flexibility, the Commission may allow minor shifts in use locations and densities, provided, however, that the general overall plan is adhered to.)
- 94.014. Proposed schedule for the development of the site.
- 94.02. If the Plan Commission after public hearing approves the preliminary development plan, the plan, together with the recommendations of the Plan Commission, shall be embodied in a report to the Board of Zoning Appeals and the County Commissioners stating the reasons for the approval of the plan and application, and specific evidence and facts showing that the proposed PUD plan has considered and made provision for the following essential elements:
- 94.021. That the appropriate use of property adjacent to the area included in the plan will be fully safeguarded.
- 94.022. That the plan is consistent with the intent of this ordinance to promote public health, safety, and the general welfare.
- 94.023. That the tract, collectively, meets the minimum space requirements for the specific district(s).
- 94.03. The Plan Commission shall give notice of acceptance or rejection of the proposal within 60 days. Reasons for rejection, along with suggestions for revisions, shall be given. The developer may resubmit plans after the suggested corrections or additions are made.
- 94.04. The developer shall submit a final site plan.
- 94.05. The Plan Commission shall give notice of acceptance or rejection of the final proposal within 60 days. Reasons for rejection, along with suggestions for revisions, shall be given along with any rejection by the Commission. Developer may resubmit plans after corrections. After final approval, developer may proceed with construction.

ARTICLE X

SPECIAL EXCEPTIONS

- Section 101. The Board of Zoning Appeals, after a public hearing, shall grant an application for a special exception provided the applicant has submitted to the Board a written application for a special exception setting forth the name, address and phone of the applicant (and owner, if other than the applicant), a legal description of the property, and a description of the special exception applied for.
- Section 102. Prior to approval of any application for a special exception, the Board of Zoning Appeals must first make the following findings of fact based upon evidence presented to the Commission at the hearing:
- 102.1. The special exception is a listed special exception within the Ordinance for the particular zoning classification of the subject real estate;
- 102.2. Approval of the special exception will not have a substantial adverse impact upon the character of the neighborhood, traffic conditions, public utilities and such other matters as relate to the public health, public safety and general welfare;
- 102.3. Approval of the special exception will not otherwise frustrate the purposes of the Ordinance or the Comprehensive Plan adopted by the County;
- Section 103. A special exception is for a specific use and does not constitute a special exception for any other use.
- Section 104. In granting a special exception, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this ordinance. Such conditions may include but shall not be limited to requiring the applicant to enter into a written commitment reciting the description of the real estate and the nature of the restriction or commitment. The written commitment may be recorded in the office of the Recorder of Warren County, IN and the recording fee shall be paid by the applicant.
- Section 105. A violation of a written commitment entered into by the applicant shall be deemed as a violation of the Ordinance and shall be subject to the same fines, penalties and enforcement measures as any other violation of the Ordinance.

## ARTICLE XI

### MOBILE HOME GUIDELINES

Section 111. The provision of mobile homes shall be treated as a special exception in each of the three residential districts, as well as the Agricultural District. As such, the following procedures will be followed:

- 111.01. Within 30 days after application for the special permit, a notice of public hearing shall be published in a newspaper having county-wide circulation stating time and location of a public hearing and the nature of the request for which the hearing is held.
- 111.02. Concurrent with the newspaper publication, all adjacent landowners will be notified by certified mail as to the mobile home location request.
- 111.03. At least five days prior to the public hearing, all letters of objection will be required to be filed in the office of the Zoning Administrator.
- 111.04. A special exception to locate a mobile home, regardless of age or size, is a permit for that specific mobile home approved and does not permit the location of any other mobile home.

Section 112. All mobile homes will be governed by the following construction control standards.

- 112.01. All mobile homes shall require a special exception. No mobile home which is over ten years old may be moved into Warren County for residential purposes without also obtaining a variance from the Board of Zoning Appeals. Proof of age must be established with the title or certificate of origin.
- 112.02. All mobile homes shall be mounted on a suitable foundation, such as a concrete pad or runner pad.
- 112.03. All mobile homes shall be securely anchored to the permanent foundation.
- 112.04. All mobile homes shall, within 60 days of its placement, have skirting around the entire unit. Such skirting shall reach from the ground to the bottom of the mobile home and shall be placed on all sides of the unit.
- 112.05. Each mobile home shall have provisions for the covered storage of personal goods and articles stored outside the unit.

Section 113. All mobile homes will additionally be required to meet the guidelines of the particular zoning district in which they are located. This shall not include, however, the guidelines related to gross floor area.

Instead , the gross floor area for all mobile homes shall be a minimum of 720 sq. ft.

Section 114. The provision of mobile homes in the four (4) Incorporated Towns of Williamsport, West Lebanon, Pine Village and State Line, in the County of Warren, shall be governed by the following regulations as previously approved by their respective Town Boards.

- 114.01. That no additional mobile homes be placed in the Towns of Williamsport, West Lebanon, Pine Village or State Line other than in a mobile home park as approved by the State of Indiana by Acts 195, Chapter 321, as amended.
- 114.02. That any existing mobile homes may be replaced within 6 months by mobile homes of equivalent or better size and quality.
- 114.03. That existing mobile homes of dilapidated condition may be razed and replaced therewith a mobile home of good condition and quality, provided that the existing mobile home exists at the time of application for the mobile home.
- 114.04. That mobile homes be located only on improved streets with required sanitary facilities and city water.

ARTICLE XII

SETBACK REGULATIONS

Section 121. Except within the C-1 Commercial Districts, no building, structure, concrete or masonry wall, shall be erected or structurally altered so that any part thereof is nearer than 50 feet to the right-of-way of any federal highway route, nearer than 75 feet to the centerline of any state route, or nearer than 60 feet to centerline of any other public road. If there is conflict between the setback regulations and the yard regulations, the more restrictive regulations shall govern.

Except within the C-1 Commercial Districts, no obstructions of any kind to visibility shall be erected at the street intersections within a triangle formed by extending lines 75 feet from the centerline intersection in each direction.

121.01. Locations for advertising signs and billboards must be approved for line of sight safety by the County Highway Department. If compliance with the setback regulations is not originally required, a waiver shall be given stating that if the necessity for compliance arises, the company constructing the sign will move it without expense to the county.

121.02. This regulation shall not be interpreted to reduce the buildable width or depth of a lot in a single ownership subdivided and recorded by law at the time of the passage of this ordinance to less than 35 feet. In locations where the building line restrictions set forth herein will create an undue hardship or in locations wherein the majority or existing buildings are not in conformity with these restrictions, appeals may be made for a variation in which the setback regulation may be modified.

## ARTICLE XIII

### BOARD OF ZONING APPEALS

#### Section 131. CREATION, MEMBERSHIP, AND OFFICERS

A Board of Zoning Appeals is hereby authorized to be established. Such Zoning Board shall consist of five (5) members appointed as follows: one citizen member appointed by the Area Plan Commission from its membership; one citizen member who is not a member of the Area Plan Commission appointed by the Executive of the Town of Williamsport; one citizen member who is a member of the Area Plan Commission and one citizen member who is not a member of the Area Plan Commission appointed by the County Commissioners; and, one citizen member who is not a member of the Area Plan Commission appointed by the executive of the second largest participating town.

In the event a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. Each appointing authority may designate an alternate member to participate in any hearing where a regular member has been disqualified because of a conflict of interest. A conflict of interest occurs whenever a member has a direct or indirect financial interest in the outcome of a matter before the Board.

Terms shall expire on the first day of January of the first, second, or third year, respectively, following appointment. Thereafter, as terms expire, each new appointment shall be for a term of four years. At the first meeting of each year, the Board of Zoning Appeals shall elect a chairman and vice-chairman. All members of the Board of Appeals shall serve without compensation.

#### Section 132. GENERAL PROCEDURE

A majority of the entire membership of the Board of Zoning Appeals shall constitute a quorum. No action of the board is official, however, unless concurred in by a majority of the entire membership of the board. The Board of Zoning Appeals may appoint a secretary and such employees as are necessary for the discharge of its duties and within its budget fix their compensation.

The Plan Commission shall provide suitable offices for the holding of Board of Zoning Appeals' hearings and the preservation of records, documents, and accounts. The county council shall appropriate such funds to the Area Plan Commission as are necessary to carry out the duties of the Board of Zoning Appeals. The members of the Board of Zoning Appeals shall serve without salary or reimbursement for travel expenses.

The Board of Zoning Appeals shall adopt general rules governing the filing of appeals, the publication of notices, the application for variances and exceptions, and the conduct of hearings. The Board shall keep minutes of its proceedings, investigations, and other official actions and in all cases heard by it, prepare findings and record the

vote on all actions taken. All minutes and records shall be filed in the office of the Board and shall be public records.

Section 133. **APPEALS: HOW TAKEN**

- 133.01. Any person aggrieved by any officer, department, board, or bureau of the county may appeal to the Board of Zoning Appeals to review any order, requirement, decision, or determination made by the Zoning Administrator.
- 133.02. Such appeal shall be made by filing with the Zoning Administrator and the Board of Appeals, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals papers constituting the record upon which the action appealed from was taken.
- 133.03. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a Circuit or Superior Court of the county in which the premises affected are situated, on notice to the officer or board from whom the appeal is taken, and the owner of the premises affected, and on due cause shown.
- 133.04. The Board of Zoning Appeals shall fix a reasonable time for the hearing of an appeal. Public notice shall be given of the hearing and due notice shall be given additionally to the affected parties as determined by the Board. The Board of Zoning Appeals shall require the party making the appeal to assume the cost of public notice and due notice to interested parties. Upon the hearing, any party may appear in person, by agent, or by attorney. The executive director or his representative may appear before the Board in any appeal, variance, or exception proceeding and present facts and arguments relating to the matter at issue.

Section 134. **POWERS OF THE BOARD OF APPEALS**

The Board of Appeals shall have the following powers:

134.01. **Interpretation and Administrative Review.**

To hear and decide appeals where it is alleged that there is an error in any action by the Zoning Administrator or other administrative official in carrying out the provisions of this ordinance; and for the interpretation of the Zoning Maps.

134.02. **Variances.** To hear and decide on applications for variances in cases where there are practical difficulties or

particular hardship in the way of carrying out the provisions of this ordinance other than use. Nothing contained herein shall be construed to give the Board of Zoning Appeals the power to grant a use variance from a zoning classification or district. Any such use variance must be sought through a re-zoning application unless the use is a listed special exception within the zoning classification.

A variance from the terms of this ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Administrator and the Board of Zoning Appeals containing:

- 134.021. Name, address, and phone number of applicants.
- 134.022. Legal description of property.
- 134.023. Description of nature of variance requested, including a site diagram.
- 134.024. A narrative statement demonstrating that the requested variance conforms to the following standards:
  - a. That special conditions and circumstances exist which are unique to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b. That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
  - c. That granting the variance will not be injurious to the public health, safety, morals and general welfare of the community and will not substantially adversely affect the use and value of the adjacent properties;
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings.
  - e. In granting a variance, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this ordinance, including but not limited to requiring the applicant to enter into a written commitment reciting the legal description and the nature of the restriction or commitment, which written commitment may be recorded in the Office of the Recorder of Warren County, IN. The recording fee for any written commitment shall be paid by the applicant. Violation of any of these conditions or safeguards shall be deemed as violation of this ordinance.

A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed by Subsection 134.024 of this section have been met by the applicant.

All final administrative decisions of the Board of Appeals shall be subject to judicial review as provided by Statute.

ARTICLE XIV

AREA PLAN COMMISSION

Section 141. PROCEEDINGS OF THE AREA PLAN COMMISSION

The Plan Commission shall continue to operate under its existing rules of operation. Meetings shall be held monthly, and special meetings may be called by at least two members of the Commission upon written request to the Secretary. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be of public record and be immediately filed in the office of the Commission.

Section 142. DUTIES OF THE AREA PLAN COMMISSION

- 142.01. Initiate proposed amendments to this ordinance.
- 142.02. Review all proposed amendments to this ordinance and make recommendations to the Board of County Commissioners or appropriate legislative bodies.
- 142.03. Review all planned unit developments and grant primary and secondary approval for the same.
- 142.04. Review all proposed subdivision developments and make recommendations to the Board of County Commissioners or appropriate legislative bodies.
- 142.05. Review all rezoning requests and make recommendations to the Board of County Commissioners or appropriate legislative bodies.
- 142.06. Initiate legal action to enforce the provisions of the Zoning Ordinance.

Section 143. MEMBERSHIP OF THE AREA PLAN COMMISSION

The Area Plan Commission shall consist of seven (7) members as follows: the County Superintendent of Schools; the County Agricultural Agent; the County Surveyor; one citizen member who is a resident of the unincorporated area of the County, appointed by the County Commissioners; one citizen member who is a resident of the unincorporated area of the County, appointed by the County Council; one citizen member appointed by the Town Board of Williamsport; and, one member appointed by the Advisory Council on Town Affairs from its membership.

In the event a vacancy occurs among the members of the Area Plan Commission, the appointing authority shall appoint a member for the

unexpired term of the vacating member. A member of the Area Plan Commission may not participate in any decision in which the member has a direct or indirect financial interest. When an initial term of office of a citizen member expires, each new appointment shall serve a term of four years. No citizen member may hold other executive or appointive office.

Section 144. **GENERAL PROCEDURE OF THE AREA PLAN COMMISSION**

A majority of the entire membership of the Area Plan Commission shall constitute a quorum. No action of the Area Plan Commission is official unless it is authorized by a majority of the entire membership of the Commission at a regular or special meeting. At the first regular meeting of each year, the Commission shall elect a president and a vice-president from its membership. The vice-president shall act as president during any absence of the regular president.

Section 145. **ADVISORY COUNCIL ON TOWN AFFAIRS**

There is hereby created the Advisory Council on Town Affairs. The legislative bodies of the Towns of Pine Village, State Line and West Lebanon shall each select one of its members to serve on the Advisory Council. Meetings shall occur in the Town Hall of the largest of those towns. At the first meeting of the Advisory Council, a chairman shall be elected from its membership. The Advisory Council shall also elect a representative to serve on the Area Plan Commission.

The Advisory Council shall adopt its own rules and regulations for meetings. The purpose of the Advisory Council is to provide a forum for the various Town Boards to discuss their concerns and to provide a voice on the Area Plan Commission for those Towns not otherwise represented on the Commission.

ARTICLE XV

PUBLIC HEARING BY THE BOARD OF ZONING APPEALS

Section 151. INITIATION OF PUBLIC HEARING

The Board of Zoning Appeals shall hold a public hearing within 45 days after the receipt of an application for an appeal from the Building Commissioner or a variance from an applicant. However, the public hearing shall not be held sooner than 15 days after its receipt.

Section 152. NOTICE OF PUBLIC HEARING IN NEWSPAPER

Before holding the public hearing required in Section 151, notice of such hearing shall be given in the newspaper of general circulation of the county at least 15 days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.

Section 153. NOTICE TO PARTIES IN INTEREST

Before holding the public hearing required in Section 151, written notice of such hearing shall be mailed by the Applicant, by certified mail, at least ten days before the date of the hearing to each person who owns an interest in real estate, abutting the property involved in such petition including owners of real estate at corners, across streets, alleys or easements, as well as others who may share a common boundary; all other persons who in the opinion of the applicant have an interest in the outcome of the petition; and any owner of real estate who did not join as an original petitioner or who did not file a waiver of notice of hearing prior to the date of public hearing.

Section 154. ACTION BY BOARD OF ZONING APPEALS

Within 30 days after the public hearing required in Section 151, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 134.024(e), or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding that the reason set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure.

ARTICLE XVI

PERMITS, FEES, AND PENALTIES

Section 161. PERMITS PROCEDURE

- 161.01. Applications for permits shall be filed in written form with the Zoning Administrator and shall state the legal description of the property, the name and address of the owner, the applicant, the contractor, estimated costs, and shall describe the uses to be established or expanded, and shall give such information as may be required by this ordinance for its proper enforcement.
- 161.02. All applications shall be accompanied by a dimensioned drawing of the building plot showing the location of buildings and structures, lot area to be used, auto parking area, and water supply and sewage disposal facilities.
- 161.03. Concrete, stone, wood, masonry, or other fences in a required front yard, exceeding 48 inches in height, and which cannot be viewed through, shall require permits. The Zoning Administrator shall require permits for any fences or other structures within the sight triangle established by the center of intersection and two points 75 feet from it, each point being on the centerline of an intersection road, and shall deny permits for those which could obstruct vision in said sight triangle.
- 161.04. Each permit issued for a main building, accessory structures or buildings, shall be posted in plain sight on the premises for which it is issued, until completion of construction or occupancy.
- 161.05. Any work or change in use authorized by permit but not substantially started within 90 days shall require a new permit. A permit shall be revoked by the Zoning Administrator when he shall find from personal inspection or from competent evidence that the rules or regulations under which it has been issued are being violated.
- 161.06. All applications and a copy of all permits issued shall be systematically filed and kept by the Zoning Administrator in his office for ready reference.
- 161.07. To partially defray the costs of administering the ordinance, a fee shall be charged for each permit and collected by the County Treasurer, who shall account for the same to the County of Warren. Such fees are as follows:
- 161.071. A fee of Ten Dollars (\$10.00) shall be paid and collected upon the first One Thousand Dollars

(\$1,000.00) expended for proposed construction, reconstruction, or structural alteration.

- 161.072. An additional fee of Two Dollars (\$2.00) per thousand dollars or fraction thereof shall be paid and collected in excess of One Thousand Dollars (\$1,000.00) expended for proposed construction, reconstruction, or structural alteration.
- 161.08. No permit shall be required for:
- 161.081. Routine maintenance or repair of buildings, structures, or equipment, such as repainting or re-roofing a building.
- 161.082. Construction of a service connection to a municipally owned and operated utility.
- 161.09. Failure to obtain a building permit shall be a violation of this ordinance and will be punishable under the provisions of Section 162 of this ordinance.
- 161.10. Building permits of occupancy issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use or arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangements, or construction. Any use, arrangement, or construction contrary to that authorized shall be deemed a violation of this ordinance and be punishable under the provisions of Section 162 of this ordinance.
- 161.11. Any person may notify the Zoning Office whenever an alleged violation of this ordinance occurs. The complaintant shall state fully and accurately the causes and basis thereof, and be filed with and recorded by the Zoning Administrator. The Zoning Administrator shall investigate within two (2) working days and take action upon such complaint as provided in this ordinance.

#### Section 162. PENALTIES FOR VIOLATION OF ORDINANCE

Any structure erected, raised, or converted, or premises used, in violation of this ordinance is a common nuisance; and each person in possession and the owner of the structure, land, or premises may be held liable. Each day of a continued violation shall constitute a separate offense.

Penalty - A person who violates this ordinance commits a Class C infraction, punishable by a fine not to exceed Five Hundred Dollars (\$500.00) per day for each such violation.

Section 163. SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Area Plan Commission shall, by ordinance or resolution, establish a schedule of fees, charges, and expenses and a collection procedure for building permits, amendments, appeals, variances, conditional use permits, plan approvals, and other matters pertaining to the administration and enforcement of this ordinance requiring investigations, legal, advertising, postage, and other expenses. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

All applications for variances, planned unit developments, special use permits, plan approval, and other matters relative to the administration and enforcement of this ordinance shall require a Twenty Dollar (\$20.00) filing fee; provided, however, a Twenty-Five Dollar (\$25.00) filing fee shall be required for all applications for amendment of the zoning ordinance.

No petition shall be considered by the Plan Commission or Board of Zoning Appeals without the fees having been paid in advance. The fees shall include the costs for all mailing and legal advertising costs. No fees for special permits shall be refunded.

Refiling of applications after being denied by the Area Plan Commission and/or Board of Zoning Appeals shall be accepted only after a ninety (90) days waiting period and shall include all applicable fees and charges.

Section 164. An application may be dismissed if an applicant fails to appear without prior notification.

ARTICLE XVII

ADMINISTRATION

Section 171. ENFORCEMENT OF THE ORDINANCE

It shall be the duty of the Zoning Administrator, designated by the County Commissioners, to enforce this ordinance. He shall receive applications required by this ordinance, issue permits, and furnish the prescribed certificates. He shall examine areas for which permits have been issued, and shall make necessary inspections to see that the provisions of this ordinance are being upheld. He may be provided with the assistance of the County Sheriff and local Town Marshalls in enforcing orders and the County Attorney in prosecuting violations.

For the purpose of this ordinance, the Zoning Administrator shall have the following duties:

- 171.01. Upon finding that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation.
- 171.02. Order discontinuance of illegal uses of land, buildings, or structures.
- 171.03. Order removal of illegal buildings or structures or illegal additions or structural alterations.
- 171.04. Order discontinuance of any illegal work being done.
- 171.05. Take any other action authorized by this ordinance to ensure compliance with or to prevent violation(s) of this ordinance. This may include the issuance of and action on building and certificate of occupancy permits and such similar administration duties as are permissible under the law.

ARTICLE XVIII

BUILDINGS UNDER CONSTRUCTION

Section 181. To avoid undue hardship, nothing in this ordinance shall be deemed to require change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, providing that work shall be diligently carried on until completion of the building involved.

ARTICLE XIX

AMENDMENTS

The Board of Commissioners and/or the participating legislative bodies may amend, supplement, change, modify, or repeal the regulations, restrictions, and boundaries as herein contained.

Section 191. PROCEDURE

Amendments to the zoning ordinance may be proposed by:

- (1) A member of a participating legislative body, to that body;
- (2) An Area Plan Commission to a participating legislative body in the county; or
- (3) By petition of the owners of property of 50% or more of the area involved in the petition, either to the body having legislative authority over the land, or to the Area Plan Commission.

Any proposed ordinance for the amendment, supplement, change, or repeal of the zoning ordinance shall be referred to the Commission for consideration and report before any final action is taken by a legislative body.

Prior to the adoption of a zoning ordinance amendment, the Commission shall give ten days notice by publication in a newspaper of general circulation within the county and hold a public hearing.

Upon the adoption of the Zoning Ordinance by the Commission, and amendments thereto, the secretary shall certify a copy of the ordinance, maps, and reports to each participating legislative body, and recommend the adoption of that portion of the proposal which is within the authority of the legislative body to adopt.

ARTICLE XX

LEGAL STATUS PROVISIONS

Section 201. INTERPRETATION IN CASE OF CONFLICT  
WITH OTHER ORDINANCES AND PRIVATE DEEDS

In the interpretation and application of this ordinance, the provisions contained herein shall be held to be minimum requirements, adopted for the promotion of public health, morals, safety, and general welfare.

Any existing ordinance or part thereof which conflicts with the whole or any part of this ordinance is hereby repealed.

In the case of any direct conflict between procedures under this ordinance and the whole or part of any existing or future state statute, the state statute shall apply.

In the case of any conflict between this ordinance, or part thereof, and the whole or part of any existing or future private covenants or deeds, the most restrictive shall apply.

Section 202. VALIDITY

If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of the ordinance which is not in itself invalid or unconstitutional.

Section 203. EFFECTIVE DATE

This ordinance shall be in force and effect from and after the passage, approval, and publication as required by law.

APPROVED BY THE COUNTY COMMISSION OF THE COUNTY OF WARREN, INDIANA - APRIL 6, 1998

APPROVED BY THE TOWN COUNCILS OF THE TOWNS OF:

WILLIAMSPORT	PINE VILLAGE	WEST LEBANON	STATE LINE
April 4, 1998	April 7, 1998	April 13, 1998	May 12, 1998