

elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

SIGN, SUSPENDED – A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

SIGN, TEMPORARY - An on-premises advertising device not fixed to a permanent foundation, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

SIGN, UNIFIED CENTERS - A common sign indicating the presence of multiple tenants on a property being constructed or managed as a single development. Such developments include, but are not limited to: shopping centers, office parks, and industrial parks.

SIGN, WALL – Any sign attached parallel to, but within twelve (12) inches of, a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

SIGN, WINDOW – Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SITE DEVELOPMENT PLAN - A detailed plan, prepared in accordance with Section 11.8 of this Ordinance, and submitted to the plan commission for approval, which illustrates the proposed development or alteration of a site. Site development plans are required for all uses except single-family residences, two-family residences, and manufactured homes in an approved park.

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 100 feet of horizontal distance.

SLOW BURNING OR 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 (5) minutes to a temperature of 1200° F.

SMOKE - A suspension of fine particles, excluding water droplets, in a gaseous plume, which more or less obscures 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.

SOIL STABILIZATION - Chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise improve its engineering properties.

SPECIAL EXCEPTION USE - The authorization of a use that is so designated as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the Board of Zoning Appeals.

SPECIAL FLOOD HAZARD AREA (SFHA) - Those lands within the jurisdiction of the Town that are subject to inundation by the regulatory flood. The SFHAs of the Town are generally identified as such on the Flood Insurance Rate Map of the Town of Montgomery prepared by the Federal Emergency Management Agency. The SFHAs of those parts of unincorporated Daviess County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the last version of the Flood Insurance Rate Map prepared for the Town of Montgomery by the Federal Emergency Management Agency.

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

STABLE - Any stable for the housing of horses, mules, donkeys or ponies, operated for remuneration, hire, sale, or stabling; or any stable, not related to the ordinary operation of a farm, with a capacity of more than four (4) horses, mules, donkeys or ponies, whether or not the stable is operated for remuneration, hire, sale or stabling.

STATE AGENCY - As used in this Ordinance, the term state agency shall mean and include all state agencies, boards, commissions, departments, and institutions, including state educational institutions of the State of Indiana.

STORAGE SHED or MINI-BARN - An accessory structure used primarily for storage purposes, of a height no greater than seven (7) feet, and the total square footage of which does not exceed 200 square feet.

STORAGE YARD - A parcel of ground used in whole or part for the storage of materials or equipment not including junk occupying more than two hundred and fifty (250) square feet of area which is clean, quiet and free of any objectionable or hazardous element.

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. For the purpose of this ordinance, a basement shall not be considered a story unless it has been subdivided into rooms and used for tenant purpose.

STORY, HALF - That portion of a building under a sloping, gable, hip, or gambrel roof, the wall plates on at least two 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 that is established for public or private use to provide the principal means of access by the motoring public to abutting property. Types of streets include the following:

1. **ALLEY**. A public or private street primarily designed to serve as a secondary access to the side or rear of those properties.
2. **ARTERIAL**. Either a boulevard, primary arterial or secondary arterial as defined in this section.

BOULEVARD (CLASS 8). A divided arterial street or portion thereof which has a landscaped median strip dividing the lanes carrying traffic in opposite directions.

PRIMARY ARTERIAL (CLASS 7). A street intended to move through traffic to and from such major attractors as central business districts, regional shopping center, colleges or universities, military installations, major industrial areas and similar traffic generators within the Town or county, and/or as a route for traffic between communities; a major infra- or inter-city thoroughfare as designated by and shown on the Thoroughfare plan.

SECONDARY ARTERIAL (CLASS 6). A street intended to collect and distribute traffic in a manner similar to primary arterials, except that these streets service minor traffic-generating areas such as community-commercial areas, primary and secondary educational facilities, hospitals, recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterials as designated by and shown on the Thoroughfare Plan.

3. **STREET, DEAD-END**. A local street with only one (1) outlet and not having an appropriate terminus (turnaround) for the safe and convenient reversal of traffic including public safety vehicles.
4. **STREET, FRONTAGE**. A street intended to move traffic from either a residential neighborhood or a commercial or industrial area to an arterial street, with the purpose of controlling the location and spacing of access points to the arterial street and thereby protecting the integrity of the arterial street as a major mover of traffic. A frontage street usually runs parallel to the related arterial street and may have development only along one (1) side.
5. **STREETS, NONRESIDENTIAL**. May be either of the following:

COLLECTOR (CLASS 5). A street intended to move traffic from local streets to secondary arterials in nonresidential areas as designated and shown on the Thoroughfare Plan.

LOCAL SERVICE (CLASS 4). A street intended to provide access to other streets from individual properties in nonresidential areas.

6. STREET, MAJOR. Any arterial or collector street.
7. STREET, PERIMETER. Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.
8. STREET, PLACE. A short residential local service street, cul-de-sac, or court with a maximum development potential of ten (10) residential units.
9. STREET, PRIVATE. A right-of-way or easement for the public use for vehicular and pedestrian traffic which is owned and maintained by a private person or entity and not by a governmental body. Use of a private street may be limited by its owner or owners. Private streets may serve residential or nonresidential properties.
10. STREET, PUBLIC. A right-of-way dedicated for the public use for vehicular and pedestrian traffic to be owned and maintained by the governmental body having jurisdiction. Other ancillary uses such as drainage and/or utility facilities may also be included within public rights-of-way.

11. STREETS, RESIDENTIAL. Any of the streets defined as follows:

COLLECTOR (CLASS 3). A street intended to move traffic from local streets and cul-de-sacs in residential neighborhoods to primary or secondary arterials as designated and shown on the Thoroughfare Plan.

CUL-DE-SAC (CLASS 1). A local street with only one (1) outlet and having an appropriate terminus (turnaround) for the safe and convenient reversal of traffic movement, including public safety vehicles, and intended to provide access to other streets from individual properties in residential neighborhoods.

LOCAL SERVICE (CLASS 2). A street intended to provide access to other streets from individual properties in residential neighborhoods.

STRIP SHOPPING CENTER - A commercial real estate development comprised of four or more retail or commercial stores situated side by side and generally facing a street or highway right-of-way. Any commercial real estate development comprised of less than four (4) retail or commercial stores situated side by side shall be considered as being a "free-standing building".

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

STRUCTURE, PARKING - Any building, or portion thereof, incidental to the primary use of the property, which is non-residential, and which is designed and used for the storage of the class I or class II vehicles belonging to the customers, employees or visitors of the property, but not for the storage of commercial vehicles.

STRUCTURE, PRIMARY - A structure which is the main or principal structure on the lot on which said structure is situated. Also see "building, principal".

SUBDIVIDER - Any person having an interest in land that is the subject of an application for subdivision. Also, a person submitting an application for subdivision.

SUBDIVISION - The Division of land parcels as defined in The Montgomery Subdivision Control Ordinance.

SUPPORT SYSTEM (FOUNDATION) - A combination of footings, piers, caps, plates, and shims, which, when properly installed, support the manufactured or mobile home; footings being the part of the support system which transmit loads to the soil at or below the surface and the frost line; piers and caps being the part of the support system between the footing and the home, exclusive of plates and shims; plates and shims being the cushion of wood or other approved material, which are used to fill the gap between the top of the pier caps and the frame of the home.

SWALE - A low lying stretch of land which gathers or carries surface water runoff.

SWIMMING POOL, PRIVATE - A swimming pool used only by the owner of the pool and the owner's invited guests, and which is an accessory use at a private residence or private commercial operation.

SWIMMING POOL, PUBLIC - A swimming pool for the benefit of the general public, usually operated with a charge for admission; a principal use.

T

TECHNICAL REVIEW COMMITTEE - A panel established by the Town to provide technical knowledge and services to the Plan Commission in the administration of the zoning and subdivision control ordinances.

TEMPORARY STRUCTURE - A structure without any foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

THOROUGHFARE - Public vehicular infrastructure composed of avenues, streets, roads and drives.

THROUGH LOT - See "Lot, Through"

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".

TOWN - The Town of Montgomery, Indiana.

TOWN CENTER - The downtown district centering on the intersection of Church Street and 2nd Street.

TOWNHOUSE - A single-family dwelling unit constructed in a row of attached units that are separated by property lines with open space on at least two (2) sides.

TRADE OR BUSINESS SCHOOL - A school conducted as a commercial enterprise for teaching business or secretarial skills, instrumental music, dancing, barbering or hair dressing, drafting, and the like; or for teaching industrial or technical arts.

TRAFFIC CONTROL DEVICES - All signs, signals, markings and devices placed or erected by authority of the Governing Body, complying with the Indiana Manual of Uniform Traffic Control Devices.

TRAVEL TRAILER - A vehicular, portable structure designed or used as a recreational dwelling, no more than thirty-five (35) feet in length built on a chassis, having a body width not exceeding eight feet and designed to move on the highway, not under its own power.

TRUCK STOP - A site at least 2 acres in size providing specialized facilities for retail fueling services for class III or higher commercial vehicles; the site may include related facilities including but not limited to retail sales of groceries and household items, restaurants, showers and overnight parking. See also Convenience Store, Regional.

TRUCK WASH - An activity conducted for the purposes of cleaning class III or higher commercial vehicles, whether performed automatically, semi-automatically or manually (See also Car Wash).

U

URBAN COLLECTOR - A Street planned to move traffic from Local Streets to Minor Arterial Streets.

USE - The employment or occupation of a Building, Structure or Land for a person's service, benefit or enjoyment.

USE, CONFORMING - A use or activity of a structure or land that is permitted or approved as a special exception use in the district where it is situated and which lawfully conforms to the regulations of that district in which it is located and all other regulations of this Ordinance.

USE, EXISTING - The use of a lot or structure at the time of the enactment of this Ordinance.

USE, NON-CONFORMING - A use or activity of structure or land which lawfully existed prior to the adoption, revision, or amendment of this Ordinance, but which fails by reason of such adoption, revision or amendment to conform to the use district in which it is located.

USE, PRINCIPAL - The primary use to which a property is devoted and as the main purpose for which the property exists. A principal use may be authorized as either a permitted use or a special exception use.

USE, TEMPORARY - A prospective use, intended for limited duration, to be located in a zoning district not permitting such use, and not continuing a nonconforming use or building.

USE VARIANCE - The approval of a use other than that prescribed by this zoning ordinance.

USED CAR LOT - Any lot on which two (2) or more motor vehicles (which have been previously titled in a name other than the manufacturer or dealer) in operating condition are offered for sale or displayed to the public.

UTILITIES - Infrastructure services, including those basic utilities, and the structures necessary to deliver those services. Those services may be provided by a public or private agency. Examples include water, sanitary sewer, electricity, natural gas, and telephone.

V

VARIANCE - A modification of the specific requirements of this Ordinance granted by the Board in accordance with the terms of this Ordinance 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.

VARIANCE, DIMENSIONAL - A specific approval granted by the Advisory Board of Zoning Appeals in the manner prescribed by this Ordinance, to deviate from the development standards (such as height, bulk, area) that this Ordinance otherwise prescribes.

VARIANCE, USE - A modification of the use allowed, with the specific requirements of this Ordinance, 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.

VEHICLE, CLASS I - Any non-commercial vehicle under 26,000 pounds primarily designed and used for private passenger use. These vehicles include passenger cars, light trucks, SUV, etc.

VEHICLE, CLASS II - Any other type of non-commercial vehicle under 26,000 pounds not covered by a Class I Vehicle. These vehicles could include trailers, boats, medium trucks, small box van, etc.

VEHICLE, COMMERCIAL - Any motor vehicle used or designed: (a) for use in pulling, towing, hauling, transporting, or (b) as a temporary or permanent base, platform, or support for equipment, machinery, materials or other goods (including but not limited to stake body trucks, dump trucks, trucks or trailers having dual rear wheels or more than two (2) axles, semi-trailer tractors, semi-trailers and trailers having dual rear wheels or more than one (1) axle or having an overall length of more than twelve (12) feet; (c) passenger vehicles marked by signage, logos or commercial messages. This definition does not apply to motor vehicles which serve as a source of transportation for an individual residing at the premises where the vehicle is stored or parked on a regular basis and is not used in any commercial activity.

VETERINARY CLINIC/ANIMAL HOSPITAL - A place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and recuperation.

VILLAGE GREEN - An open space, centrally located in village, town or development, that is designed and intended for the common use and enjoyment of the residents and occupants of the village, town or development and which may include such structures and improvements as are necessary and appropriate.

VICINITY MAP - A drawing located on a plat which shows by dimensions or other means, the relationship of the proposed subdivision or use to other

nearby developments or landmarks and community facilities and services within Town in order to better locate and orient the area in question.

VIBRATION - Oscillatory motion transmitted through the ground.

VISION CLEARANCE - See Section 6.8 for requirements at corners for a clear vision triangle.

W

WALKWAY/BIKEWAY - A dedicated public way, four (4) feet or more in width, for pedestrian or bike use, whether along the side of a road or not.

WATERCOURSE - A permanent stream, intermittent stream, river, brook, creek, channel or ditch for water, whether natural or man-made.

WETLAND - An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support a prevalence of vegetation typically adapted to life in saturated soil conditions, commonly known as hydrophytic vegetation.

WET BOTTOM BASIN - A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate. A wet bottom basin is typically a body of water with a fixed minimum and maximum water elevation between run-off events.

WHIP ANTENNA - An antenna that is long and thin that transmits and/or receives radio frequency signals in a 360 degree radial pattern.

WILDLIFE - Animals existing in their natural habitats.

WIRELESS COMMUNICATIONS EQUIPMENT BUILDING - See Communications Equipment Building.

WIRELESS COMMUNICATION FACILITIES - A land use facility supporting antennas and microwave dishes that sends and/or receives telecommunication and radio frequencies signals. Communications facilities include structures or towers, and accessory buildings.

WIRELESS COMMUNICATIONS TOWER - See Communications Tower.

WIRELESS COMMUNICATIONS TOWER, HEIGHT OF - The vertical distance measured from the average ground level of the area within the base of the tower, to the highest point on a communications tower, including antennas mounted on the tower.

Y

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

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 and unoccupied other than by accessory buildings which do not occupy more than 30 percent of the required space, and/or by 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 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 90° with the side lot line.

YARD SALE – See Garage or Yard Sale.

Z

ZERO LOT LINE - The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

ZONE "A" – Identified floodplains where the limits of the floodway and floodway fringe have not yet been determined; denoted on the FIRM maps as "Zone A"

ZONE MAP - A Map entitled, "Montgomery, Indiana, Zone Map", and any amendments thereto.

ZONING - A police power measure, enacted by the governing body of local governments, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. The zoning ordinance consists of two parts: a text and a map.

ZONING ADMINISTRATOR - See "*Administrator*"

ZONING DISTRICT - A section of the territory within the Jurisdiction of the Montgomery Town 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.

ZONING INSPECTOR - The Building Commissioner or the duly appointed administrative officer designated to administer the zoning Ordinance.

ZONING PERMIT - A document issued by the Building Commissioner authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.

SECTION 3 ESTABLISHMENT OF ZONING DISTRICTS AND MAP

3.1 ESTABLISHMENT OF DISTRICTS

For zoning purposes, the territory within the Town of Montgomery is hereby divided into 14 classes of Districts, which either exist or are proposed to exist within the Town with the following names and designations:

OS	Open Space
AG	Agriculture
R-1	Residential; single-family, large lot
R-2	Residential; single-family, small to medium lot
R-3	Residential; multi-family
DT	Downtown; preferred business district
GB	General Business
HB	Highway Business
I-1	Industrial; research/office
I-2	Industrial; light
I-3	Industrial; moderate/heavy
PUD	Planned Unit Development
MHP	Mobile Home Park
SU	Special Use (school, church, park, etc)

3.2 APPLICATION OF DISTRICT REGULATIONS

- A) No building, structure, or land shall after the effective date of this Ordinance be used or occupied, erected, constructed, moved, or structurally altered except in conformity with all of the regulations specified for the district in which it is located, and any other regulations required by this Ordinance. However, any such occupation, erection, construction, move, or structural alteration in accordance with complete plans submitted prior to the effective date of this Ordinance and approved under previous ordinances shall be allowed to continue for the time specified and in the manner provided under Indiana Code section 36-7-4-1109.
- B) 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, ground floor area of dwellings, or lot coverage provisions established and specified for the use and the district in which such building is located; or in any other manner contrary to the provisions of this Ordinance. However, any such erection, reconstruction, or structural alteration in accordance with complete plans submitted prior to the effective date of this Ordinance and approved under previous ordinances shall be allowed to continue for the time specified and in the manner provided under Indiana Code section 36-7-4-1109.

- C) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- D) No yard or lot existing at the time of passage of the Ordinance shall be reduced in dimension or area below the minimum requirements set forth in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance. However, any such reduction in dimension in accordance with complete plans submitted prior to the effective date of this Ordinance and approved under previous ordinances shall be allowed to continue for the time specified and in the manner provided under Indiana Code section 36-7-4-1109.

3.3 (Reserved)

3.4 SUBDIVISION OF LAND

The subdivision of land shall be permitted in all districts.

3.5 ZONING ANNEXED AREAS

- A) All territory, which may be annexed to the Town of Montgomery, shall be classified into one or more of the Districts set forth in Section 3.1. Before the Town Council shall consider the Ordinance for annexation, which shall include a description of the District or Districts, the Montgomery Plan Commission shall conduct a public hearing in the manner prescribed in Section 11.6, and make a recommendation on the new zoning classification to the Town Council.
- B) Future annexation shall be guided by the principles and directives of the Comprehensive Plan of the Town of Montgomery, Indiana, as amended, in making zoning district classification recommendations to the Council.

3.6 ZONE MAP

A) OFFICIAL ZONING MAP

The Town is divided into zoning districts as described and defined in this Ordinance and as shown on the Official Zoning Map. The official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

B) VERIFICATION

The Official Zone Map shall be identified by the signature of the President of the Plan Commission and attested by the Administrator, and bearing the

seal of the Town under the following words: "This is to certify that this is the Official Zone Map referred to in the "Town of Montgomery Zoning Ordinance", adopted October 20, 2011.

C) FUTURE MAP AMENDMENTS

In accordance with Section 11.6 of this Ordinance, if changes are made in district boundaries or other matter portrayed on the Official Zone Map, such changes shall be entered on said map promptly after the amendment has been approved by the Council, with an entry on the Official Zone Map as follows: "On (date) by official action of the Council, the following changes were made in the Official Zone Map: (brief description of the nature of the changes)," No amendment to this Section which involves matter portrayed on the Official Zone Map shall become effective until after such change and entry has been made on said map.

D) UNAUTHORIZED CHANGES

No changes of any nature shall be made in the Official Zone Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Section 14 of this Ordinance.

E) LOCATION OF ZONE MAP

Regardless of the existence of purported copies of the Official Zone Map which may from time to time be made or published, the Official Zone Map which shall be located in the office of the Administrator shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town.

F) DAMAGED/ LOST OR DESTROYED MAP

In the event the Official Zone Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Council may direct the Plan Commission to prepare a new Official Zone Map which shall supersede the prior map upon approval by the Council. The new Official Zone Map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original Official Zone Map or any subsequent amendment thereof. The new Official Zone Map shall be identified by the signature of the Plan Commission President attested by the Administrator and bearing the seal of the Town under the following words: "This is to certify that this Official Zone Map supersedes and replaces on this day (date) the Official Zone Map adopted (date of adoption of map being replaced) as part of Ordinance Number (date, number) of the Town of Montgomery, Indiana".

G) PRESERVATION OF ZONE MAP

Unless the prior Official Zone Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

3.7 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zone Map, the following rules shall apply:

A) STREETS

Boundaries indicated as approximately following thoroughfares such as highways, streets, or alleys shall be construed as following the centerlines of such thoroughfares.

B) RAILROAD LINES

Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

C) WATER WAYS

Boundaries indicated as approximately following the center lines of streams, creeks, lakes or other bodies of water shall be construed to follow such center lines. However, where streams and rivers meander from their beds as they existed on the effective date of this ordinance, the boundary shall be construed as following the original stream or riverbed.

D) USE OF SCALE ON ZONE MAP

Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (D) above shall be so construed. Distances not specifically indicated on the Official Zone Map shall be determined by the scale of the map.

E) BOARD OF ZONING APPEALS INTERPRETATIONS

Where physical or cultural features existing on the ground are inconsistent with those shown on the Official Zone Map, or in other circumstances not covered by subsections (A) through (E) herein, the Board of Zoning Appeals shall interpret the district boundaries.

F) VACATIONS AND RELOCATIONS

The vacation or relocation of rights-of-way and lot lines shall not affect the location of district boundaries, provided, however, whenever any right-of-way is vacated by proper authority, the districts adjoining each side

of such vacation shall be extended automatically to the center of such vacation.

G) LINES SPLITTING LOTS

- 1) Where a boundary line of a district divides a lot having frontage on a street so that the front part of the lot lies in one district and the rest of the lot lies in another, use requirements and restrictions that apply to the front part of the lot apply to the entire lot.
- 2) Where a district boundary line divides a lot which does not have frontage on a street or has frontage on more than one street the Board of Zoning Appeals, upon appeal, shall interpret the applicable regulations for either portion of the lot not to exceed 50 feet beyond the district boundary line into the remaining portion of the lot.

SECTION 4

EXPLANATION OF USE CLASSIFICATIONS

4.1 OFFICIAL SCHEDULE OF USES

Primary and accessory uses are permitted or prohibited in the zoning districts established by or under Section 5, Use District Regulations, and as shown in the Schedule of Uses, shall be the determining factor as to whether or not a specific use is permitted, prohibited, or requires a special exception use in each of the zoning districts established by this Ordinance.

4.2 PERMITTED USES

- A) A Principal Use is defined as the primary use to which a property is devoted and as the main purpose for which the property exists. A permitted use may be authorized as either a permitted use or a special exception. Permitted Uses are those uses which are allowed without special permission of the Board of Zoning Appeals, given that they follow the provisions set forth in this Ordinance. Special Exception Uses are only permitted following a public hearing and approval by the Board of Zoning Appeals, as per Section 4.3 of this Ordinance.
- B) In any district, no more than one (1) principal structure and its customary accessory uses shall be located on a single lot; except that primary structures designed and platted as a single unit under single ownership and control, such as a multi-family residential project, business shopping center, or combined industrial operations, may be permissible on a single lot under the terms of this Ordinance.

4.3 SPECIAL EXCEPTION USES

- A) Special Exception Uses are those uses that, because of potential incompatibility and negative impact on the immediate neighborhood, require a greater degree of scrutiny and review of site characteristics and impacts to determine their suitability in a given location. Therefore, the determination of Special Exception Uses as appropriate shall be contingent on their meeting the standards inclusive in this Section, the provisions of their respective zoning districts, and the weighing, in each case, of the public benefit and need against the local impact.
- B) Uses which are considered by the Town of Montgomery to be Special Exception Uses are indicated as such in the Schedule of Uses.

4.4 ACCESSORY USES

A) INTENT

Accessory Uses shall be permitted in all zone districts in accordance with the provisions of this section. Accessory Uses:

- 1) Shall be incidental and subordinate to, and commonly associated with the operation of the principal use of the lot.
- 2) Shall be operated and maintained under the same ownership and on the same lot as the principal use.
- 3) Shall not be permitted prior to the erection and operation of the principal use, unless a temporary Improvement Location Permit is obtained in accordance with Section 4.5.
- 4) Shall be clearly subordinate in height, area, bulk, extent and purpose to the principal use served and shall not exceed the following:
 - a) SETBACK. An accessory building shall not be located closer to any lot line than the minimum setback line of the principal use or closer to the front lot line than the building line of the principal use, unless specified otherwise in this Ordinance.
 - b) AREA. No accessory structure shall have an area greater than fifty percent (50%) of the area of the principal structure or greater than 1000 square feet, whichever is less.
 - c) HEIGHT. No accessory structure shall have a height greater than 35 feet.

B) PERMITTED ACCESSORY USES

- 1) Such appurtenant features as walks, driveways, curbs, drainage installations, mailboxes, lamp posts, bird baths and structures of a like nature, are permitted.
- 2) The keeping of no more than three (5) domestic pets, provided it is not for profit and not construed as a kennel, is permitted. More than five pets shall be considered "Raising or Breeding of Non-Farm Fowl and Animals" and shall be subject to the regulations of such a use.
- 3) Fences, walls and structural screens are permitted when they do not impede intersection visibility. See Section 6.8.
- 4) Such buildings or structures as canopies, porte-cocheres, patios, outdoor fireplaces, bath houses and cabanas, doghouses, children's play equipment, greenhouses, and similar accessory buildings or structures are permitted.

- 5) Off-street motor vehicle parking and loading areas are permitted, as set forth in Section 8.
- 6) Signs, as set forth in Section 9.
- 7) Swimming pools are permitted according to the following:

Private swimming pools shall be surrounded by a self-latching fence at least five (5) feet in height, located at least three (3) feet from the edge of the water on all sides, and maintained so as to prevent access to 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 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.
- 8) Radio and television antennae and satellite dishes, and amateur radio sending and receiving antennae are permitted, subject to the following:
 - a) Satellite dishes and antennae shall be prohibited in any front or side yard (refer to 47 CFR Section 1.4000).
 - b) Ground mounted dishes and antennae shall be placed between the rear of the main structure and the rear property line, set back at least five feet from all property lines. Required yard areas must be met.
 - c) Ground mounted antennae shall not exceed twelve (12) feet in height in any residential district or seventy-five (75) feet in height in any non-residential district, and shall be obscured from the public right-of-way by buildings or landscaping
 - d) Roof or building mounted antennae shall not exceed nine (9) feet in elevation or four (4) feet above the highest building elevation, whichever is less.
 - e) No satellite dish shall exceed six (6) feet in diameter or seven (7) feet in height, unless such dish is mounted on a building, in which case it shall not extend higher than the roof of the building upon which it is mounted.
- 9) Management offices in multi-family dwellings and other facilities normally associated with tenants' convenience, such as vending machines and washing machines are permitted, provided there is no exterior display.
- 10) Child Care Homes.

- 11) Storage areas are permitted only as regulated in Section 5.15(I) of this Ordinance.
- 12) Private residential garages and carports for the storage of motor vehicles are permitted, provided that such structures are accessory to private, residential uses, are used for the storage of motor vehicles, and are clearly accessory and not for commercial purposes.
- 13) Storage or parking of recreational vehicles (including travel trailer, boat trailer and the like) in the open is permitted, 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 along side 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 one (1) recreational vehicles will be permitted to be parked or stored in the open on residential property at any one time, provided, however, that one additional such vehicle is permitted for visitation for fourteen consecutive days and not to exceed twenty eight days in any one year, in accordance with Section 4.5.
 - 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 (c) above.
 - e) Notwithstanding the provisions of (d) above, recreational vehicles may be parked anywhere on the premises for loading or unloading purposes, for not longer than twenty-four (24) hours at one time, and no more often than twice per week, regardless of the number of hours spent parked on the premises.

4.5 TEMPORARY USES

A) INTENT

Temporary Uses shall be permitted in applicable Districts by the grant of a Temporary Improvement Location Permit issued by the Zoning Administrator in accordance with the requirements of this section.

B) GENERAL PROVISIONS

- 1) The duration of the temporary period is stated hereinafter, provided, however, renewal of such Permit may be requested.
- 2) Temporary Uses shall be subject to all the regulations of the applicable District in which they are located.

C) PERMITTED TEMPORARY USES

- 1) Temporary office, model home or model apartment, and incidental signs thereof, both incidental and necessary for the sale, rental, or lease of real property in the Zone District. Maximum time permitted: 18 months. (See Section 9 for further regulations of such incidental signs.)
- 2) Non-commercial concrete batching plant, both incidental and necessary to construction in the Zone District. Maximum time permitted: 18 months.
- 3) Temporary building or yard for construction materials and equipment, both incidental and necessary to construction in the Zone District. Maximum time permitted: 18 months.
- 4) Parking lot designated for a special event in a Zone District. Maximum time permitted: 30 days.
- 5) Temporary signs in connection with a special event. Maximum time permitted: 10 days and for no more than two (2) special events per year. See Section 9 for limitations on temporary signs.
- 6) Announcement signs necessary to explain the character of a building enterprise. Maximum time permitted: 18 months. See Section 9 for limitations on announcement signs.
- 7) Subdivision or development signs, both incidental and necessary to advertise the sale, rental or lease of real property in a District. Maximum time permitted: 18 months. See Section 9.
- 8) Bazaars, carnivals, and similar temporary uses. Maximum time permitted: 10 days.
- 9) Rummage or garage sales. Maximum time permitted: 3 days and no more than four (4) sales per year.
- 10) Sale of Christmas trees, outdoor tent theater, sale of seasonal fruits and vegetables from roadside stands, tent sales. Maximum time permitted: 60 days and no more than four (4) sales per year.
- 11) Parking of recreational vehicles for visitation. Maximum time permitted: 14 days, with a maximum total of 28 days per year.

- 12) Mobile home as a temporary office during the period of construction and development. Maximum time permitted: 18 months.
- 13) Other similar uses deemed temporary by the Board of Zoning Appeals and attached with such time period, conditions and safeguards as the Board may deem necessary.

D) STANDARDS

- 1) Adequate access and off-street parking facilities shall be provided which shall not interfere with traffic movement on adjacent streets.
- 2) No public address systems or other noise producing devices shall be permitted in a residential district.
- 3) Any flood lights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.
- 4) No banners, pennants or unnecessary signs shall be permitted in a residential district.
- 5) The lot shall be put in clean condition devoid of temporary use remnants upon termination of the temporary period.

4.6 NON-CONFORMING STRUCTURES AND USES

A) PURPOSE AND INTENT

1. Within the districts established by this Ordinance or by amendments that may later be adopted, the following may exist:
 - a. Nonconforming lots.
 - b. Nonconforming structures.
 - c. Nonconforming uses of land.
 - d. Nonconforming uses of land and structures in combination.
2. These were lawful before this Ordinance was passed or amended, but they are prohibited, regulated or restricted under the terms of this Ordinance or may be under future amendments hereto. It is the intent of this Ordinance to permit these nonconforming uses to continue until they are removed but not to encourage their survival. It is further the intent of this Ordinance that nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district. Illegal uses existing at the time this Ordinance is enacted shall not be validated by virtue of its enactment.

- B) **ILLEGAL USES.** Illegal uses existing at the time this Ordinance is enacted shall not be validated by virtue of its enactment.
- C) **INCOMPATIBILITY OF NONCONFORMING USES.** Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts in which the use is located. A nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which the use is located.
- D) **AVOIDANCE OF UNDUE HARDSHIP.** To avoid undue hardship, nothing in this Ordinance shall require any change in the plans for the construction or designated Use of a Building for which a Building Permit or Improvement Location Permit has been issued prior to the effective date of adoption or amendment of this Ordinance in accordance with complete plans submitted prior to the effective date of this Ordinance. Any such plans approved under previous ordinances shall be allowed to continue for the time specified and in the manner provided under Indiana Code section 36-7-4-1109.
- E) **SINGLE NONCONFORMING LOTS OF RECORD.**
1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this Ordinance notwithstanding limitations imposed by other provisions of this Ordinance. The lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lots shall conform to the regulations for the district in which the lots are located.
 2. Variances of requirements listed in this Ordinance, other than lot area or lot width, shall be obtained only through action of the Board of Zoning Appeals as provided in Section 11, Administration. (Note: This section shall apply only to single-family residences).
- F) **NONCONFORMING LOTS OF RECORD IN COMBINATION.** If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of the parcel shall be used or sold in a manner which diminishes compliance with the lot width and area requirements established by this Ordinance, nor shall any division of a

parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

- G) **NONCONFORMING USES OF LAND.** Where, at the time of adoption of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as they remain otherwise lawful, subject to the following provisions:
1. No nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
 2. No nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the uses at the effective date of adoption or amendment of this Ordinance.
 3. If any nonconforming uses of land are discontinued or abandoned for more than one (1) year (except when government action impedes access to the premises), any subsequent use of the land shall conform to the regulations specified by this Ordinance for the district in which the land is located.
 4. No structure that is not conforming to the requirements of this Ordinance shall be erected in connection with the nonconforming use of land.
- H) **NONCONFORMING STRUCTURES.** Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not now be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- 1) No nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
 - 2) Should the nonconforming structure or nonconforming portion of the structure be destroyed by any means to the extent of **more than fifty percent (50%)** of the fair market value of the building immediately prior to the damage, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
 - 3) Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- I) **NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION.** If a lawful use involving individual structures or if a lawful structure is in existence on the effective date of adoption or amendment of this Ordinance that would not now be allowed in the district

under the terms of this Ordinance, the lawful use or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 1) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - 2) A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside the building.
 - 3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
 - 4) When a nonconforming use of a structure, or structure and land in combination is discontinued or abandoned for more than one (1) year (except when government action impedes access to the premises), the structure or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.
 - 5) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- J) **REPAIRS AND MAINTENANCE.** On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

SECTION 1

TITLE AND INTERPRETATION

1.1 SHORT TITLE

These regulations shall hereafter be referred to as the "Town of Montgomery Zoning Ordinance".

1.2 AUTHORITY

This Zoning Ordinance is adopted by the Town Council pursuant to its authority under Indiana Code section 36-7-4-600 et. seq., and other state and federal statutes as applicable.

1.3 INTENT AND PURPOSE

The purpose of this Zoning Ordinance is to regulate the use and development of land within the jurisdiction of the Town of Montgomery. It is intended to promote the public health, safety, comfort, morals, convenience, and general welfare, and more specifically to:

- A) Support the goals, objectives and policies of the Montgomery Comprehensive Plan and other plans adopted by the Town;
- B) Guide future growth and development in accordance with the Montgomery Comprehensive Plan;
- C) Reduce traffic congestion in public streets;
- D) Secure safety from fire, flood and other dangers;
- E) Provide adequate light and air;
- F) Prevent the overcrowding of land and avoid undue concentration of population;
- G) Provide for the efficient development of natural resources, agriculture, business and industry;
- H) Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements;
- I) Avoid scattered and uncontrolled development of land that would result in excessive expenditure of public funds for the supply of community services;
- J) Protect the historic and architectural heritage of the town;

- K) Provide for performance standards for the emission of pollutants into the air, water, and ground;
- L) Protect the natural resources of the Town of Montgomery.
- M) Identify the approximate boundaries of zoning districts, by reference to the official zoning;
- N) Prohibit uses, buildings or structures incompatible with stated purpose of such districts;
- O) Create and establish standards to which the uses, buildings or structures within each district shall conform thereby restricting and regulating their location, construction, reconstruction or alteration;
- P) Regulate the intensity of the use of each lot by requiring open space areas around buildings and structures and, to provide adequate safety light and ventilation;
- Q) Designate and define the powers and duties of the bodies and/or officials administering and enforcing this Ordinance and the procedures by which this Ordinance is administered; and
- R) Prescribe penalties for the violation of the Ordinance.

1.4 INTERPRETATION

A) Public Provisions

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall govern.

B) Private Provisions

These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than any easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations or the determinations of the Commission in enforcing these regulations, and the private provisions are not inconsistent with these regulations or determinations thereunder, then the private provisions shall be operative

and supplemental to these regulations, or the determinations made thereunder. Private provisions can only be enforced privately.

1.5 SCOPE OF REGULATIONS

- A) All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter shall be subject to all the regulations of this Ordinance as they apply to the zoning districts in which such buildings or uses of land shall be located.
- B) This ordinance shall not be construed as abating any action now pending under, or by virtue of, the prior existing zoning ordinance; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue; or as affecting the liability of any person, firm, or corporation; or as waiving any right of the Town of Montgomery under any section or provision existing at the time of the effective date of this ordinance; or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Town of Montgomery, except as shall be expressly provided for in this ordinance.
- C) All previously existing uses, lots and structures which do not comply with the regulations in this Ordinance and its amendments, shall be deemed legal nonconforming uses, lots, and structures and shall be subject to the regulations of Section 4.6.

1.6 SEVERABILITY CLAUSE

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof, other than the portion declared to be invalid.

1.7 EXCLUSION

Nothing in this Chapter or in any rules, regulations or orders issued pursuant to this Chapter shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, Plan Commission or Board of Zoning Appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the state or by any state agency, or the use of property owned or occupied by the state or any state agency.

1.8 AMENDMENTS

For the purpose of providing for the public health, safety, and general welfare, the Town Council, on recommendation of the Plan Commission, may from time to time amend the text of this Ordinance and/or the zoning map(s) incorporated by reference in this Section. Public hearings on all proposed amendments shall be held in the manner prescribed by law.

1.9 REPEAL OF PRE-EXISTING ZONING ORDINANCES

All previously enacted zoning and subdivision ordinances are hereby repealed.

1.10 EFFECTIVE DATE

This Ordinance was adopted on October 20, 2011 and became effective on June 4, 2012.

SECTION 5 USE DISTRICT REGULATIONS

5.1 "OS" OPEN SPACE DISTRICT

A) DESCRIPTION OF DISTRICT

The purpose of the "OS" District is to provide areas for public and quasi-public uses, areas for recreation and conservation purposes, and areas suitable for non-commercial recreation. This district also encourages tree preservation and preservation of unique natural features.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses

See Section 4.4.

4) Home Occupation Uses

See Section 6.9

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility Requirements

Well water and septic systems may be utilized in this district, subject to the approval of the Daviess County Health Department of the Indiana State Board of Health.

2) Lot Size

One (1) acre minimum.

- 3) Lot Width
Three hundred (300) feet minimum.
- 4) Yards and Setbacks
A minimum yard setback shall be measured from the property line and shall be provided as follows:
 - a) Front Yard Setback
Fifty (50) feet minimum.
 - b) Side Yard Setback
Twenty (20) feet minimum.
 - c) Rear Yard Setback
Twenty-five (25) feet minimum.
- 5) Maximum Principal Building Height
Thirty-five (35) feet.
- 6) Maximum Accessory Building Height
Twenty-five (25) feet or the height of the principal building, whichever is lower.
- 7) Minimum Primary Structure Floor Area
One thousand five hundred (1500) feet.

5.2 "AG" AGRICULTURAL DISTRICT

A) DESCRIPTION OF DISTRICT

The Agricultural District is composed of land being used for agricultural activities, flood plain, and other rural uses, located near the periphery of the jurisdictional boundary, which is not expected to develop for intensive urban uses within the near future. It is the intent of this district to allow agricultural uses, to conserve the desirable characteristics of the land, to preserve prime agriculture land, and to protect the open area from the encroachment of scattered urban-type uses that may inhibit the overall development in accordance with the Comprehensive Plan.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses

See Section 4.4

Agricultural Users are exempt from Accessory Use Requirements.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility Requirements

Well water and septic systems may be utilized in this district, subject to the approval of the Daviess County Health Department of the Indiana State Board of Health.

2) Lot Size

Twenty (20) acres minimum.

3) Lot Width

Three hundred (300) feet minimum.

4) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

Seventy-five (75) feet minimum.

b) Side Yard Setback

- Twenty (20) feet minimum.
- c) Rear Yard Setback
Twenty-five (25) feet minimum.
- 5) Maximum Principal Building Height
Thirty-five (35) feet.
- 6) Maximum Accessory Building Height
Twenty-five (25) feet or the height of the principal building, whichever is less. Additionally, agricultural uses are exempt from maximum accessory building height regulations.
- 7) Minimum Primary Structure Floor Area
One thousand five hundred (1500) feet.

5.3 "R1" RESIDENTIAL DISTRICT

A) DESCRIPTION OF DISTRICT

The "R1" Single Family Residential District is established to promote neighborhoods by the development of a variety of housing types including large lot single-family dwellings, accessory uses, and limited public and institutional uses that are compatible with the surrounding residential neighborhoods. This is the most restrictive residential district. The development standards in this district provide for a mixture of housing opportunities similar in scale with a density of less than 1.0 dwelling per acre.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district for lots in any subdivision platted and recorded after June 4, 2012.

2) Lot Size

Forty-three thousand, five hundred and sixty (43,560) square feet minimum.

3) Lot Width

One hundred and ten (110) feet minimum.

4) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

<u>Street Classification</u>	<u>Minimum Front Yard Setback</u>
Principal Arterial	Fifty (50) feet minimum
Secondary Arterial	Forty-five (45) feet minimum
Collector	Thirty-five (35) feet minimum
Local Road	Thirty (30) feet minimum
Subdivision Road	Twenty-five (25) feet minimum

b) Side Yard Setback

Fifteen (15) feet minimum.

c) Rear Yard Setback

Twenty-five (25) feet minimum.

5) Maximum Principal Building Height

Thirty-five (35) feet.

6) Maximum Accessory Building Height

Twenty-five (25) feet or the height of the principal building, whichever is lower.

- 7) Minimum Primary Structure Floor Area

Two thousand five hundred (2,500) feet.

5.4 "R2" RESIDENTIAL DISTRICT

A) DESCRIPTION OF DISTRICT

The "R2" Single-Family Residential District is established to promote and maintain neighborhoods by the development of a variety of housing types including medium to small-sized lot single-family dwellings, accessory uses, and limited public and institutional uses that are compatible with the surrounding residential neighborhoods. The development standards and range of permitted uses in this district provide for a mixture of housing opportunities similar in scale to single-family dwellings within a density from 2.0 to 4.0 dwelling units per acre.

B) USES

- 1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

- 2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

- 3) Accessory Uses.

See Section 4.4.

- 4) Home Occupation Uses

See Section 6.9.

- 5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

- 1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district for lots in any subdivision platted and recorded after June 4, 2012.

2) Lot Size

Seven Thousand Two Hundred (7,200) square feet minimum.

3) Lot Width

Sixty (60) feet minimum.

4) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

<u>Street Classification</u>	<u>Minimum Front Yard Setback</u>
Principal Arterial	Fifty (50) feet minimum
Secondary Arterial	Forty-five (45) feet minimum
Collector	Thirty-five (35) feet minimum
Local Road	Thirty (30) feet minimum
Subdivision Road	Twenty-five (25) feet minimum

b) Side Yard Setback

Five (5) feet minimum.

c) Rear Yard Setback

Fifteen (15) feet minimum.

5) Maximum Principal Building Height

Thirty-five (35) feet.

6) Maximum Accessory Building Height

Twenty-five (25) feet or the height of the principal building, whichever is lower.

7) Minimum Primary Structure Floor Area

One thousand two hundred (1,200) feet.

5.5 "R3" RESIDENTIAL DISTRICT

A) DESCRIPTION OF DISTRICT

The "R3" Multi-Family Residential District is established to promote and maintain neighborhoods by the development of a variety of housing types including attached single-family dwellings, two-family dwelling units, multi-family dwellings, accessory uses and limited public and institutional uses that are compatible with the surrounding residential neighborhoods. The development standards and range of permitted uses in this district are designed to encourage clustering in order to promote establishing on-site amenities and to allow multi-family dwelling development with a density of no more than 10 dwelling units per acre.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district for lots in any subdivision platted and recorded after June 4, 2012.

2) Lot Size

Ten thousand (10,000) square feet minimum.

3) Lot Width

Sixty (60) feet minimum.

4) Lot Area

Five thousand (5,000) square feet minimum.

5) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

<u>Street Classification</u>	<u>Minimum Front Yard Setback</u>
Principal Arterial	Fifty (50) feet minimum
Secondary Arterial	Forty-five (45) feet minimum
Collector	Thirty-five (35) feet minimum
Local Road	Thirty (30) feet minimum
Subdivision Road	Twenty-five (25) feet minimum

b) Side Yard Setback

Ten (10) feet minimum.

c) Rear Yard Setback

Fifteen (15) feet minimum.

6) Maximum Principal Building Height

Forty-five (45) feet.

7) Maximum Accessory Building Height

Twenty-five (25) feet or the height of the principal building, whichever is lower.

8) Minimum Primary Structure Floor Area

Eight hundred (800) feet.

5.6 "DT" DOWNTOWN

A) DESCRIPTION OF DISTRICT

The Downtown is established to promote the development of a traditional small town downtown. Generally this district is intended for specialty retail, office, and professional services that are compatible with adjacent residential neighborhoods. More restrictive requirements for landscaping, buffering, and off-street parking are required than for adjacent districts.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district.

2) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

Street Classification

Principal Arterial
Secondary Arterial
Collector
Local Road
Subdivision Road

Minimum Front Yard Setback

Fifty (50) feet minimum
Forty-five (45) feet minimum
Forty (40) feet minimum
Forty (40) feet minimum
Forty (40) feet minimum

b) Side Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district.

c) Rear Yard Setback

Twenty (20) feet minimum for businesses abutting a residential or non-residential use or zoning district.

3) Maximum Building Height

Fifty (50) feet.

4) Minimum Ground Floor Area

Five thousand (5,000) square feet.

5) Minimum Side and Rear Yard Setbacks for Accessory Buildings

Five (5) feet.

D) ADDITIONAL REGULATIONS

1) The conduct of permitted uses herein shall be within completely enclosed buildings, except for accessory off-street parking and loading facilities.

3) All goods produced on the premises as incidental or essential to the principal use shall be sold at retail on the premises where produced.

4) Outside storage is not permitted, however, display of merchandise for sale to the public or sidewalk sales may be permitted by the Board of Zoning Appeals as a temporary use when it meets the following requirements:

a) Only merchandise for sale shall be displayed.

b) Such display shall be limited to directly in front of the commercial establishment offering the items for sale.

c) No merchandise display shall restrict the use of the sidewalk, and there must remain a clear walking path of at least six (6) feet in width.

d) No stacks of merchandise shall be greater than five (5) feet and may not interfere with intersection visibility as defined in Section 6.8, Vision Clearance Areas.

e) No displays using electricity, animation, lights, or noise-making devices will be permitted.

- f) Merchandise may not be displayed for more than three (3) days, and no more than two (2) sidewalk sales shall be permitted each year.
- 5) A single establishment shall not exceed 12,000 square feet in total gross floor area.
- 6) See Section 10 for applicable screening requirements.
- 7) Accessory Buildings customarily incidental to the principal uses and located on the same lot shall not utilize more than forty percent (40%) of their floor area for storage purposes.
- 8) Special provisions for permitted uses within the DT District:

The following uses have special provisions when located in the DT District:

a) Bakeries shall not have a production floor area of more than seven hundred fifty (750) feet.

5.7 "GB" GENERAL BUSINESS DISTRICT

A) DESCRIPTION OF DISTRICT

The "GB" General Business District is established to provide a location for higher volume and higher intensity commercial or office uses than the DT District. This district is for the conduct of retail and personal service enterprises. Because these businesses and offices may be an integral part of the neighborhood and closely associated with residential and other public and institutional uses, more restrictive requirements for setbacks, off-street parking and buffering are required than provided in other districts. Activities in this district are often large space users located along a primary arterial street.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

- 5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

- 1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district.

- 2) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

- a) Front Yard Setback

<u>Street Classification</u>	<u>Minimum Front Yard Setback</u>
Principal Arterial	Fifty (50) feet minimum
Secondary Arterial	Forty-five (45) feet minimum
Collector	Thirty-five (35) feet minimum
Local Road	Thirty (30) feet minimum
Subdivision Road	Twenty-five (25) feet minimum

- b) Side Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district.

- c) Rear Yard Setback

Thirty (30) feet minimum for businesses serviced from rear or ten (10) feet otherwise.

- 3) Building Height

The maximum height of the building is unlimited, provided that the setback for the portion of the building that exceeds fifty (50) feet shall be increased by one (1) foot for each one (1) foot of height above fifty (50) feet until the ultimate height of the building is allowed.

- 4) Minimum Ground Floor Area

Fifteen thousand (15,000) square feet.

- 5) Maximum Lot Coverage

Eighty percent (80%).

- 6) Minimum Side and Rear Yard Setbacks for Accessory Buildings

Ten (10) feet.

D) ADDITIONAL REGULATIONS

- 1) The conduct of permitted uses herein shall be within completely enclosed buildings.
- 2) Accessory uses such as outside storage shall be delineated if not enclosed and may be open to the sky.
- 3) The outdoor storage and display of merchandise permitted above shall not be interpreted as meaning the stock-piling of materials which are not immediately available for purchase.
- 4) Accessory uses within the same building as the principal use shall not occupy an area in excess of thirty percent (30%) of the total floor area in that building.
- 5) See Section 10 for applicable screening requirements.
- 6) Special provisions for permitted uses within the GB District:

The following uses have special provisions when located in the GB District:

- a) Automobile and truck repair shall be conducted entirely within enclosed buildings; and no sales, dead storage, repair work, or dismantling shall take place on the lot.

5.8 "HB" HIGHWAY BUSINESS DISTRICT

A) DESCRIPTION OF DISTRICT

The "HB" Highway Business District is established to provide areas for both small and larger scale retail sales and service establishments which are characterized by outdoor display or sales of merchandise (automobile sales or rental), outdoor activities (commercial recreational enterprises), or those uses requiring extensive land areas. These types of uses tend to draw customers from a regional, rather than a local area. This district should be located on a primary arterial street or similar heavy commercial thoroughfare and should avoid being located adjacent to residential districts. Therefore, traffic flow and off-street parking accommodations must be carefully and strategically planned. Shopping centers, big box retail establishments, office parks and shopping malls are common examples of "HB" district uses.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district.

2) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

<u>Street Classification</u>	<u>Minimum Front Yard Setback</u>
Principal Arterial	Fifty (50) feet minimum
Secondary Arterial	Forty-five (45) feet minimum
Collector	Thirty-five (35) feet minimum
Local Road	Thirty (30) feet minimum
Subdivision Road	Twenty-five (25) feet minimum

b) Side Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district.

c) Rear Yard Setback

Thirty (30) feet minimum for businesses serviced from rear or ten (10) feet otherwise.

3) Building Height

The maximum height of the building is unlimited, provided that the setback for the portion of the building that exceeds fifty (50) feet shall be increased by one (1) foot for each one (1) foot of height above fifty (50) feet until the ultimate height of the building is allowed.

4) Maximum Lot Coverage

Seventy percent (70%).

5) Minimum Side and Rear Yard Setbacks for Accessory Buildings

Ten (10) feet.

D) ADDITIONAL REGULATIONS

- 1) All uses in the HB District are subject to development plan approval according to the provisions of Section 11.
- 2) See Section 10 for appropriate screening requirements.
- 3) Off-street parking spaces and accessory uses such as filling station pumps and islands, signs and light standards, and access drives may be located in the required front yard, but not within the right-of-way, provided that the access drives may connect with the frontal street.
- 4) Entrances and exits shall be located so as to minimize any adverse effect on adjacent properties. Access driveways shall not be wider than thirty (30) feet at their point of intersection with the street, and all developments shall conform to the general provisions for traffic circulation as set forth in the Town of Montgomery Subdivision Control Ordinance.
- 5) The number of off-street parking spaces required shall be determined in accordance with the requirements set forth in Section 8.4.
- 6) Except for the sales of gasoline or oil at filling stations, all sales or displays outside of buildings shall require the approval of the Plan Commission.
- 7) Outside storage, including continued storage of automobiles, trucks, or trailers for hauling purposes, shall not be permitted in the "HB" District.

- 8) Whenever extensive interior driveways are utilized, the building setback from the centerline of the interior road shall meet the local frontage road designation of forty (40) feet landscaped according to the provisions of Section 10.
- 9) More than one (1) principal building and its accessory building(s) or use(s) may be permitted on one lot in the "HB" District, provided the buildings are platted as a single unit under single ownership and control.
- 10) Any other authority required when applicable, such as State Board of Health, State Highway Department, etc., shall accompany the application for any use in the "HB" District.

5.9 "I1" INDUSTRIAL DISTRICT

A) DESCRIPTION OF DISTRICT

The "I1" Warehouse Industrial District is established to encourage development of warehouse, distribution, research facility, testing, laboratories, and administrative facilities. These activities require extensive community facilities, and excellent access to arterial streets or collector streets. Permitted uses in this district may have limited outdoor storage/service areas and may generate heavy traffic, but such operations shall be subject to specific development standards. The uses in this district serve as transitional uses or buffers between commercial and more intense industrial uses.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district.

2) Lot Size

Twenty thousand (20,000) square feet minimum.

3) Lot Width

One hundred (100) feet minimum.

4) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

<u>Street Classification</u>	<u>Minimum Front Yard Setback</u>
Principal Arterial	Fifty (50) feet minimum
Secondary Arterial	Forty-five (45) feet minimum
Collector	Thirty-five (35) feet minimum
Local Road	Thirty (30) feet minimum
Subdivision Road	Twenty-five (25) feet minimum

b) Side Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district and fifty (50) feet minimum for businesses abutting a residential use or zoning district.

c) Rear Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district and fifty (50) feet minimum for businesses abutting a residential use or zoning district.

5) Building Height

The maximum height of the building is unlimited, provided that the setback for the portion of the building that exceeds fifty (50) feet shall be increased by one (1) foot for each one (1) foot of height above fifty (50) feet until the ultimate height of the building is allowed.

6) Maximum Lot Coverage

Seventy percent (70%).

7) Minimum Side and Rear Yard Setbacks for Accessory Buildings

Ten (10) feet.

D) ADDITIONAL REGULATIONS

- 1) All uses in the "I1" District are subject to development plan approval according to the provisions of Section 11.
- 2) A development plan for an Industrial Use shall be accompanied by a "Certificate of Compliance", subscribed by a registered professional engineer or architect certifying that the Use intended will satisfy the performance standards set forth in Section 6.5 of this Ordinance.
- 3) In the "I1" District, it is permissible to erect more than one (1) principal building devoted to an industrial use on a lot, provided the buildings are platted as a single unit under single ownership and control.
- 4) No activity involving the storage, utilization or manufacture of materials or product which decompose by detonation shall be permitted unless specifically approved by the Town Council. 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 lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, TDX, 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 magnesium powder, potassium chlorate, and potassium nitrate; blasting explosive such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, 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.

The restrictions of this subsection shall not apply to (1) the activities of site preparation or construction, maintenance, repair, alteration, modification, or improvement 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; (4) safety or emergency warning signals or alarms necessary for the protection of life, limb, or property.

5.10 "I2" INDUSTRIAL DISTRICT

A) DESCRIPTION OF DISTRICT

The "I2" Light Industrial District is established to encourage development of manufacturing, processing, and wholesale business facilities. It is the intent of this district that the uses permitted will be clean, quiet, free of hazardous or objectionable elements such as noise, dust, smoke, or glare, operated entirely within enclosed structures and generate a low volume of industrial traffic. Uses in this district require excellent access to arterial streets. Permitted uses in this district may have outdoor storage/service areas and may generate heavy traffic, but such operations shall be subject to specific development standards.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district.

2) Lot Size

Twenty thousand (20,000) square feet minimum.

3) Lot Width

One hundred (100) feet minimum.

4) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

<u>Street Classification</u>	<u>Minimum Front Yard Setback</u>
Principal Arterial	Fifty (50) feet minimum
Secondary Arterial	Forty-five (45) feet minimum
Collector	Thirty-five (35) feet minimum
Local Road	Thirty (30) feet minimum
Subdivision Road	Twenty-five (25) feet minimum

b) Side Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district and fifty (50) feet minimum for businesses abutting a residential use or zoning district.

c) Rear Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district and fifty (50) feet minimum for businesses abutting a residential use or zoning district.

5) Building Height

The maximum height of the building is unlimited, provided that the setback for the portion of the building that exceeds fifty (50) feet shall be increased by one (1) foot for each one (1) foot of height above fifty (50) feet until the ultimate height of the building is allowed.

6) Maximum Lot Coverage

Seventy percent (70%).

7) Minimum Side and Rear Yard Setbacks for Accessory Buildings

Ten (10) feet.

D) ADDITIONAL REGULATIONS

1) All uses in the "I2" District are subject to development plan approval according to the provisions of Section 11.

2) A development plan for an Industrial Use shall be accompanied by a "Certificate of Compliance", subscribed by a registered professional engineer or architect certifying that the Use intended will satisfy the performance standards set forth in Section 6.5 of this Ordinance.

- 3) In the "I2" District, it is permissible to erect more than one (1) principal building devoted to an industrial use on a lot, provided the buildings are platted as a single unit under single ownership and control.
- 4) No activity involving the storage, utilization or manufacture of materials or product which decompose by detonation shall be permitted unless specifically approved by the Town Council. 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 lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, TDX, 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 magnesium powder, potassium chlorate, and potassium nitrate; blasting explosive 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.

The restrictions of this subsection shall not apply to (1) the activities of site preparation or construction, maintenance, repair, alteration, modification, or improvement 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; (4) safety or emergency warning signals or alarms necessary for the protection of life, limb, or property.

5.11 "I3" INDUSTRIAL DISTRICT

A) DESCRIPTION OF DISTRICT

The "I3" Heavy Industrial District is established to encourage development of heavy manufacturing and processing facilities which may require substantial amounts of outside storage. Uses permitted in this district generally include those manufacturing and industrial activities which cannot be operated economically without creating some conditions which may be objectionable to the occupants of adjoining properties and for that reason must be grouped in areas where similar industrial uses are now located or where the permitted uses will be best located in accordance with the comprehensive plan. These activities require extensive community facilities, and excellent access to arterial streets. Permitted uses in this district may have extensive outdoor storage/service areas and may generate heavy traffic, but such operations shall be subject to specific development standards. The permitted uses provided for in this district should never be located in close proximity to residential areas.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Appendix B for the Development Standards for this District.

1) Utility requirements

Attachment to public water and sanitary sewer facilities shall be mandatory for all development in this district.

2) Lot Size

Three (3) acres minimum.

3) Lot Width

Two hundred forty (240) feet minimum.

4) Yards and Setbacks

A minimum yard setback shall be measured from the property line and shall be provided as follows:

a) Front Yard Setback

<u>Street Classification</u>	<u>Minimum Front Yard Setback</u>
Principal Arterial	Fifty (50) feet minimum
Secondary Arterial	Forty-five (45) feet minimum

Collector	Thirty-five (35) feet minimum
Local Road	Thirty (30) feet minimum
Subdivision Road	Twenty-five (25) feet minimum

b) Side Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district and one hundred (100) feet minimum for businesses abutting a residential use or zoning district.

c) Rear Yard Setback

Ten (10) feet minimum for businesses abutting a residential or non-residential use or zoning district and fifty (50) feet minimum for businesses abutting a residential use or zoning district.

5) Building Height

The maximum height of the building is unlimited, provided that the setback for the portion of the building that exceeds fifty (50) feet shall be increased by one (1) foot for each one (1) foot of height above fifty (50) feet until the ultimate height of the building is allowed.

6) Maximum Lot Coverage

Seventy percent (70%).

7) Minimum Side and Rear Yard Setbacks for Accessory Buildings

Ten (10) feet.

D) ADDITIONAL REGULATIONS

- 1) All uses in the "I3" District are subject to development plan approval according to the provisions of Section 11.
- 2) A development plan for an Industrial Use shall be accompanied by a "Certificate of Compliance", subscribed by a registered professional engineer or architect certifying that the Use intended will satisfy the performance standards set forth in Section 6.5 of this Ordinance.
- 3) In the "I3" District, it is permissible to erect more than one (1) principal building devoted to an industrial use on a lot, provided the buildings are platted as a single unit under single ownership and control.
- 4) No activity involving the storage, utilization or manufacture of materials or product which decompose by detonation shall be permitted unless specifically approved by the Town Council. 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 lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, TDX, 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 magnesium powder, potassium chlorate, and potassium nitrate; blasting explosive such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, 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.

The restrictions of this subsection shall not apply to (1) the activities of site preparation or construction, maintenance, repair, alteration, modification, or improvement 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; (4) safety or emergency warning signals or alarms necessary for the protection of life, limb, or property.

- 5) Outdoor storage which is used as an accessory use to an industrial use in the "I3" District may be permitted, provided said storage meets the requirements set forth in Section 4.4 and the landscaping requirements set forth in Section 10.11.

5.12 "MHP" MOBILE HOME PARK DISTRICT

A) DESCRIPTION OF DISTRICT

The purpose of the "MHP" Mobile Home Park District is to encourage the development of well-planned mobile home parks, mobile home subdivisions, and related uses. Such districts should abut a major arterial or collector street. Mobile home parks and subdivisions shall comply with all state regulations, as well as those specific in Section 6.14. Notwithstanding any other provision or restriction provided in this Ordinance, the following procedures, standards, and restrictions shall apply to all mobile home developments and no variance shall be permitted therefrom.

B) USES

1) Permitted Uses

See Section 4.2 and Appendix A, Schedule of Uses.

2) Special Exception Uses

See Section 4.3 and Appendix A, Schedule of Uses.

3) Accessory Uses.

See Section 4.4.

4) Home Occupation Uses

See Section 6.9.

5) Temporary Uses

See Section 4.5.

C) DEVELOPMENT STANDARDS

See Section 6.14 for the Development Standards for this District.

1) Utilities

Private water systems and package sewer and septic facilities are not permitted. Attachment to public utilities is mandatory for all development in this district.

D) ADDITIONAL REGULATIONS

1) All uses in the "MHP" District are subject to development plan approval according to the provisions of Section 11.

2) A development plan for a mobile home park shall be accompanied by a "Certificate of Compliance", subscribed by a registered professional engineer or architect certifying that the Use intended will satisfy the performance standards set forth in Section 6.5 of this Ordinance.

3) Outdoor storage is prohibited. Applicant shall provide minimum storage space and requirements for storage building in covenants.

4) Prior to the issuance of a Building Permit, an applicant must file with the Administrator a letter from the Indiana State Board of Health evidencing approval by such board and compliance with the requirements of such board.

5.13 "SU" SPECIAL USE DISTRICT

A) DESCRIPTION OF DISTRICT

The purpose of the "SU" Special Use District is to encourage the development of well-planned special use districts which are of a particular and specific use and of a specialized nature, but only those as provided in this section. The following

procedures, standards and restrictions shall apply to all special use developments and no variance shall be permitted.

B) USES

1) Special Use Districts are hereby established and land within such district classification shall be designated on applicable zoning map by the following district symbols, respectively. The zoning map is hereby incorporated by reference into this section. No use shall be permitted in the Special Use District other than the following uses specified:

Special Use District 1 (SU-1) – Religious Use

Special Use District 2 (SU-2) – School Use

Special Use District 3 (SU-3) – Park

There shall be no special exception uses to Special Use Districts.

C) DEVELOPMENT STANDARDS

1) The corresponding development standard as set forth below shall be utilized for Special Use Districts:

Special Use District	Description of Special Use District	Development Standard
SU-1	Religious Use	GB Regulations
SU-2	School Use	GB Regulations
SU-3	Park	OS Regulations except the minimum lot size shall be 1 acre

D) ADDITIONAL REGULATIONS

1) No commercial use shall be located within two properties of the boundaries of a Park District.

2) Public consumer and educational structures and uses shall be permitted in parks, including but not limited to, museums, auditoriums, theaters, amphitheaters, exhibition halls or exhibition spaces, libraries, civic centers, university or college campus or other educational office complexes, malls, greenways or other appropriate uses and accessory facilities.

3) Sporting activities such as golf courses, tennis courts, swimming pools, marinas and other lake development and recreational public and semi-public commercial and non-commercial uses and accessory facilities shall also be permitted.

4) Pre-existing residential uses may be permitted in the SU-3 Park District.

5.14 "FH" FLOOD HAZARD DISTRICT

A) DESCRIPTION OF DISTRICT

The purpose of the "FH" Flood Hazard District is to guide development in floodplains and flood hazard areas. These overlay districts shall coincide with those established by the Indiana Department of Natural Resources ("IDNR") over which the IDNR exercises primary jurisdiction within the flooding districts under the provisions of I.C. 14-28-1. The Plan Commission reserves the right to place terms and conditions on any permit it issues in the Flood Hazard District which may be more restrictive than those imposed by the IDNR. The Flood Hazard District may stand by itself or may be combined with any district which the Plan Commission deems appropriate.

Generally speaking, all buildings constructed in this district shall be two (2) feet above regulatory flood profile as established by the IDNR. Where the Flood Hazard District overlaps with any other district, the uses permitted by right or by special exception use in the other district shall be constructed to have a flood protection grade at least two (2) feet above regulatory flood profile as established by the IDNR.

The degree of flood protection established in this Section is considered for regulatory purposes and is based upon engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice or debris jams. This Section does not imply that areas outside Flood Hazard Districts as defined herein will be free of flooding or flood damage. This Section does not create any liability on the part of the Town, the IDNR, the state, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this Section, or any administrative decision lawfully made thereunder.

5.15 PROVISIONS RELATING TO SPECIFIC USES

The following uses, due to their unique character and impact on surrounding uses, are subject to the following restrictions in addition to the regulations provided elsewhere in this Ordinance. These provisions shall apply in all zoning districts whether the use is permitted, conditional, accessory, or temporary. Various conditional and permitted uses may also be subject to fencing and screening regulations. See Section 10 for further provisions.

A) ACCESSORY APARTMENTS

- 1) In any residential district, a special exception may be granted for an accessory apartment to be constructed within a single-family detached residence or within the existing accessory structure of such residence, provided such a lot has a minimum area of 10,000 square feet.

- 2) Accessory apartments shall be limited to occupation by family members or domestic employees only.
- 3) The owner(s) of the single-family lot upon which the accessory apartment is located shall occupy at least one (1) of the dwelling units on the premises.
- 4) The minimum floor area for an accessory apartment within a primary dwelling shall be three hundred (300) square feet, but in no case shall it exceed twenty-five percent (25%) of the area of the primary residence in which it is located.
- 5) The minimum floor area for an accessory apartment located in an existing accessory building shall be three hundred (300) square feet, and shall not exceed the area of the existing accessory structure at the time the conditional use was approved.
- 6) No more than one (1) accessory apartment shall be permitted per lot.
- 7) If an accessory apartment is located within the principal building, the only entry to such unit and its design shall be such that the appearance of the buildings will remain as a single-family residence.
 - a) Only one (1) entrance to the principal building shall be visible from the front yard.
 - b) No exterior stairway to the second floor shall be permitted at the front or side of the building.
- 8) Accessory apartments located in existing accessory structures shall be located, designed, constructed, and landscaped in such a manner that, to the maximum extent feasible, the appearance of the property remains as a single-family lot.
- 9) Special Exceptions for accessory apartments shall be obtained from the Board of Zoning Appeals as per Section 11.3 of this Ordinance and must be renewed every five (5) years.

B) AGRICULTURE

Agricultural uses shall be permitted in all zoning districts, provided that when such a use includes stables and animal pens, 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.

C) CONVERSIONS

- 1) It is the purpose of this Ordinance to discourage the conversion of existing dwellings originally designed for occupancy by two (2) families or less to occupancy by more than two (2) families when such conversion is likely to lead to overcrowding, to lack of privacy, to lack of sufficient light and air, to unsafe or unsanitary living conditions, or to inadequate provisions for off-street parking and open space.
- 2) Dwellings initially erected as single- or two-family dwellings may be converted to provide occupancy for two (2) or more units, up to five (5) units, subject to the following conditions:
 - a) Conversions to two- or multi-family dwellings may only take place in a district which permits such a use.
 - b) Only buildings erected more than twenty (20) years before a conversion may be converted to provide occupancy for two (2) or more dwellings.
 - c) Any new dwelling created by conversion shall be completely self-contained and shall conform to all applicable provision portions of the Town Ordinance, including housing and building Ordinances and fire safety and utility programs.
 - d) Each dwelling unit shall have a total floor space of at least three hundred (300) square feet, plus an additional one hundred fifty (150) square feet for each bedroom over one (1).
 - e) No addition shall be made to a dwelling which increases either the lot coverage of the building or the height of the building.
 - f) Parking for converted dwellings shall be provided as required in Section 8.4 for two- and multi-family units. Such parking may only be located behind the converted dwelling and shall be screened from any public street according to the provisions in Section 10.11.
 - g) In connection with such conversion, there shall be no evidence of change in the building to indicate the extra dwelling units, except as may be required by the aforementioned ordinances and programs; all fire escapes or stairways leading to a second or higher floor shall be completely enclosed within the converted building, and; no dwelling shall be so converted unless in connection therewith it be placed in a reasonable state of repair.
- 3) In cases of question as to the applicability of these standards, such proposed conversion shall be deemed an exception and placed before the Board of Zoning Appeals in accordance with Section 11.3.

D) ELDERLY HOUSING

- 1) All elderly housing must meet national Americans with Disabilities (“ADA”) requirements.
- 2) All elderly housing developments, whether independent, semi-independent, or dependent living facilities must meet all ADA requirements. In addition, elderly housing developments shall include at least eight (8) of the following ten (10) components:
 - a) Ramps or elevators in place of steps.
 - b) Non-skid floors.
 - c) Doors of sufficient width to accommodate wheelchairs to all rooms.
 - d) Electric cooking ranges.
 - e) Showers in place of tubs for more than fifty percent (50%) of the units.
 - f) Electric outlets at levels at least 24” above the floor.
 - g) Grab bars around tubs and toilets.
 - h) Central heating.
 - i) Handle-type spigots and door knobs.
 - j) Emergency signals which ring in adjoining apartments or at a central location.
- 3) Independent and semi-independent living facilities shall meet the provisions required for single/two-family or multi-family uses, whichever is applicable, in the district in which they are located.
- 4) Nursing homes (dependent living facilities) must meet the following requirements:
 - a) Minimum Lot Area

Forty thousand (40,000) square feet, but not less than one thousand (1,000) square feet per person cared for at maximum occupancy.
 - b) Minimum Yard Requirements

Front Yard	See district requirements
Side Yard	Thirty (30) feet minimum
Rear Yard	Forty (40) feet minimum

- c) Maximum Building Height
Thirty-five (35) feet.
- d) All nursing homes in the Town of Montgomery shall be licensed by the State Board of Health and shall meet all the requirements of such agency.

E) FILLING STATIONS AND CAR WASHES

1. Those uses considered to be filling stations shall meet the definition provided in Section 2.3. In addition to the uses permitted by the definition, filling stations may include the following services, provided they are accessory to the principal use of the sale of gasoline and other petroleum products:
 - a) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
 - b) Tire servicing and repair, but not recapping or regrooving;
 - c) Replacement of mufflers and tailpipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
 - d) Radiator cleaning and flushing;
 - e) Washing and polishing, and sale of automotive washing and polishing materials;
 - f) Greasing and lubrication;
 - g) Providing and repairing fuel pumps, oil pumps, and lines;
 - h) Minor servicing and repair of carburetors;
 - i) Emergency wiring repairs;
 - j) Adjusting and repairing brakes;
 - k) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
 - l) Sales of cold drinks, packaged foods, ice, tobacco, and similar convenience goods for service station customers, as accessory and incidental to principal operation;
 - m) Rental of hauling vehicles for the moving of household goods, as accessory and incidental to principal operation, but not including

the sale or rental of automobiles, mobile homes or recreational vehicles;

- n) Provision of road maps and other informational materials to customers;
 - o) Provision of restroom facilities.
- 2) The minimum lot area for filling stations and car washes shall be three-fourths (¾) acre.
 - 3) No sales, dead storage, repair work or dismantling shall take place on the lot. All such activities shall be conducted indoors.
 - 4) The minimum distance between ramps or driveways shall not be less than thirty (30) feet.
 - 5) The minimum distance from a ramp or driveway to a road intersection shall be fifty (50) feet.
 - 6) Car wash stacking spaces shall be provided in accordance with Section 8.5.

F) MULTI-FAMILY DEVELOPMENTS

All multi-family developments of more than four (4) units shall require development plan review. In addition to the standard requirements for a developmental plan, the following provisions shall apply to all multi-family developments with more than four (4) dwelling units, except where the use is a residential conversion from a single- or two-family use to a multi-family use. (See Section 5.17(C) for Conversions)

- 1) Location of Buildings
 - a) No separate free-standing building shall be closer than twenty (20) feet to any other building on or off the site or lot.
 - b) The building or buildings shall be so designed or located so that 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.
 - c) In the event that more than one (1) building is proposed, they shall be designed to be located so that not more than two (2) buildings are in a straight, unbroken line.

- d) Each apartment building shall be designed with setbacks or breaks of not less than six (6) feet in all exterior walls for every two (2) building units.

2) Transportation Accessibility

- a) Traffic facilities affording general access to and circulation within the development shall be developed as public streets or private roads; however, access must be perpetually available to residents and emergency vehicles.
- b) Streets within the development shall align and connect with existing streets outside the development and provide for the connection of future developments.
- c) To ensure adequate accessibility for emergency vehicles and school buses, there shall be more than one (1) road access to enter and exit the development.
- d) Developments shall have primary access off a primary or secondary arterial.
- e) The proposed development shall be required to build turning lanes or acceleration lanes into adjacent streets as needed to minimize any traffic impacts from the development.
- f) If a shared access street or road is constructed to serve two (2) or more developments, or a single development with two (2) or more owners, appropriate dedication or easement documents must be submitted to ensure perpetual access to each development.
- g) 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 dwelling unit windows.
- h) Any open-air-street parking area and service facility area shall be screened according to the provisions of Section 10, and buffer areas required by the same Section shall be provided.

3) Development Amenities

In accordance with the development scale below, each multi-family development shall provide the following number of amenities to provide comfort, convenience, or pleasure within the development that will add to the quality of life of the people living there. The number of amenities required is proportional to the size of the development and may include, but is not limited to a clubhouse, gym, swimming pool, tennis court, basketball court, ball field (soccer, baseball, etc.), walking/jogging/biking trail, volleyball court, racquetball court, etc. Picnic/barbecue areas and playgrounds are permitted as amenities in accordance with the following standards. Playground equipment is subjected to approval by the Administrator.

- a) One picnic/barbecue area, that shall include at least one (1) barbecue grill and one (1) picnic table, per fifty (50) dwelling units.
- b) One large playground at least five thousand (5,000) square feet in area per one hundred fifty (150) units. Such equipment should include a designated area mulched with sand, wood chips or grass, swings, slide, merry-go-round, play structure, etc.
- c) One small playground at least two thousand (2,000) square feet in area per fifty (50) dwelling units. Such equipment should include a slide, swings, teeter-totter, etc.

It should be noted that each type of amenity counts as one (1) amenity, regardless of the quantity of the amenity that is provided. For example, if two (2) basketball courts are provided, they count as only one (1) amenity.

Number of Units in Development	Minimum Number of Amenities Provided
1-60	2
61-90	3
91-120	4
121-150	5

4) Lighting

All light sources shall be located and installed in such a way as to prevent lighting from spilling over onto contiguous properties. The following provisions shall apply to all proposed developments in this district.

- a) All on-site lighting of buildings, lawns, and parking areas shall be designed so as to not shine or cause glare in excess of one-half (1/2) foot-candle onto any adjacent building or property or onto any public street or vehicle thereon.

- b) Any lighting facilities shall be so installed as to reflect away from adjoining properties. Covers shall be installed on all lighting fixtures and lamps shall not extend below the bottom of the cover.
- c) Light poles in or within one hundred (100) feet of residential districts shall not exceed twelve (12) feet in height. Additional height may be permitted by the Advisory Plan Commission provided such lights are a sharp cut-off lighting system.
- d) The style and intensity of lighting shall take into consideration not only function and appearance, but also the proper intensity and consistency of the surrounding area.
- e) Reflected glare on nearby buildings, streets, or pedestrian areas shall be avoided by incorporating overhangs and awnings, using non-reflective building materials for exterior walls and roof surfaces, controlling angles of reflection, and placing landscaping and screening in appropriate locations.

G) OPEN-AIR BUSINESSES

Any establishment where the principal use is a drive-through type of business, or is generally characterized by open-air business operations, shall be subject to the following standards:

- 1) Such business uses shall be screened according to the provisions of Section 10.
- 2) Such business uses shall be limited to the characteristics customarily associated with such use and no other.
- 3) Drive-through stacking spaces shall be provided in accordance with Section 8.5.
- 4) All drive-through establishments shall be subject to development plan review and approval by the Administrator prior to the issuance of any building permits. At a minimum, this review shall include off-site and on-site circulation related to the use, including turning movement and compatibility with pedestrian circulation.

H) SHOPPING CENTER

- 1) The conduct of permitted uses herein shall be within completely enclosed buildings, except for accessory off-street parking and loading facilities and drive-through convenience service windows.
- 2) Establishments where the principal use is the drive-through type of business are not permitted.

- 3) All goods produced on the premises as incidental or essential to the principal use shall be sold on the premises where produced.
- 4) Outside storage, vending machines and display of merchandise for sale to the public is not permitted.
- 5) No buildings or paved areas (other than access drives) may be located closer than fifty (50) feet to any area used or zoned for residential purposes, in order to create a greenbelt; and such greenbelt shall be maintained as lawn together with appropriate landscape development and screen planting specified in Section 10.
- 6) A planting screen shall be required according to the provisions of Section 10.11 between the street(s) and parking areas and service areas.
- 7) Permitted Uses
 - a) Business service uses, including banks and financial institutions.
 - b) Clothing service uses, including dry cleaning and laundry receiving stations, Laundromats, alteration shops, tailoring, and shoe repair shops.
 - c) Equipment services, including electrical and household appliance stores, radio, television, and record sales and repairs, sporting goods sales, and hardware stores.
 - d) Food service uses, including grocery, meat and fish markets, delicatessen, eating places, and bakery.
 - e) Personal service uses, including beauty and barber shops, camera and photographic shops, and optician shops.
 - f) Professional office uses, including medical and dental clinics.
 - g) Retail service uses.
 - h) Special service uses, including children's homes, day nurseries, kindergartens, nursing homes, and neighborhood social centers.
 - i) Accessory uses which are incidental to, maintained on the same lot as and commonly associated with the operation of a permitted use.
 - j) Other similar uses, subject to the required development plan review.
- 8) Additional Bulk Requirements for Shopping Centers
 - a) Minimum Development Size: Three (3) acres.