CITY OF MARTINSVILLE, IN

"ARTESIAN MINERAL WATER"

est. 1822

ROOTED IN HISTORY, EMBRACING THE FUTURE

MARTINSVILLE ZONING & SUBDIVISION ORDINANCE NO. 2001-1478 NOVEMBER 19, 2001

AMENDED AUGUST 16, 2004 ORDINANCE NO. 2004-1530

AMENDED MAY 4, 2009 - HISTORIC DISTRICT, CHAPTER 15 - ORDINANCE 2009-1626

AMENDED JULY 18, 2011 - MISCELLANEOUS DEFINITIONS, DEVELOPMENT STANDARDS AND FILING PROCEDURES - ORDINANCE 2011-1655

AMENDED DECEMBER 16, 2013 RURAL RESIDENTIAL & TABLE 2a ORDINANCE 2013-1685

ZONING ORDINANCE OF MARTINSVILLE INDIANA

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BE IT ORDAINED under authority of Indiana Code 36-7-4-1 through 1213 and 1400 through 1523, and all acts amendatory thereto:

CHAPTER 1 – TERMINOLOGY

SECTION 1.0 – TITLE

AN ORDINANCE FOR THE DEVELOPMENT THROUGH PLANNING AND ZONING OF THE AREA WITHIN THE JURISDICTION OF THE PLAN COMMISSION OF THE CITY OF MARTINSVILLE, INDIANA.

SECTION 1.1 – SHORT TITLE

This ordinance may be cited as the "Zoning and Subdivision Control Ordinance of Martinsville, Indiana."

SECTION 1.2 – INTERPRETATION

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience, and general welfare.

It is not the intent of this ordinance, nor should it be the result of this ordinance that any usage of land existing at the time or prior to the passage of this ordinance, which was illegal or unlawful under former zoning ordinances or regulations, should become legal or lawful under the terms of this ordinance.

SECTION 1.3 – NON-INTERFERENCE WITH GREATER RESTRICTIONS OTHERWISE IMPOSED.

It is not the intention of this ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, nor to interfere with, abrogate, or annul any ordinances, other than those expressly repealed hereby, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this ordinance, or which shall be adopted or approved, except that, where this ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family, than are required or imposed by such easements, covenants or agreements between parties, or by such ordinances, rules, regulations, or permits, the provisions of this ordinance shall control.

SECTION 1.4 – GENERAL DEFINITIONS

For the purpose of this ordinance, certain terms or words used herein shall be interpreted or defined as follows. Words used in the present tense include the future tense the terms "shall" and "must" are always mandatory. Definitions which contain provisions that, allow, restrict, prohibit, modify or require specific action with respect to: land uses; development standards; Commission or Board procedures; subdivision of land or any other act are enforceable under this section the same as if cited in the text of the body of this document and shall apply throughout this ordinance.

ACCESSORY BUILDING: A subordinate building located on the same lot as a principal building which does not alter or change the character of the premises and which is not used for human occupancy.

ACTS: The Advisory Planning Act, 36-7-4. 1 through 1200, and 1400 through 1500 series and all acts amendatory thereto.

ADVERTISING STRUCTURE: Any outdoor structure designed for the purpose of advertising or making known any service or commodity that is not available upon the property on which the structure is located including billboards of any size or shape. Also included in this definition is any semi-trailer, motor home, or similar vehicle, licensed or unlicensed, that remains in the same location for more than 90 days, which has prominently displayed, visible to the public, a sign, message, logo, design or any other written or graphic message to announce, advertise or make known any off premises, retail, commercial, industrial, or business use or service, including political campaign advertising. Advertising Structures must meet the requirements of Section 3.7-E.

AIRCRAFT: A weight-carrying machine or structure for flight in or navigation of the air that is to be supported by the air either by the buoyancy of the structure or by the dynamic action of the air against its surfaces.

AIRPORT: Any area which is used or intended to be used for the taking off and landing of aircraft and any appurtenance areas which are used or intended to be used for airport building or facilities, including open spaces, taxiways, and tie-down areas.

ALLEY: A right-of-way other than a street, road, crosswalk or easement designed to provide a secondary means of access for the special accommodation of the property it reaches.

ALTERATIONS: See "Structural Alterations".

APARTMENT HOUSE: A building designed to house three (3) or more families and used exclusively for residential purposes.

APPLICANT: The owner or owners of real estate who makes application to the Plan Commission or Board of Zoning Appeals of the City of Martinsville, Indiana for action by said commission or board affecting the real estate owned thereby.

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

AUTOMOBILE SERVICE STATION: Any building, structure, or land used for the dispensing, sale at retail of any automobile fuels, oils, or accessories, including lubrication and replacement or installation of minor parts or accessories, but not including major repair work such as motor replacement, transmission replacement, body or fender repair, or spray painting.

BLOCK: An area that abuts a street and lies between two intersecting streets or barriers such as railroad rights-of-way or watercourses.

BOARD: The Board of Zoning Appeals of the City of Martinsville, Indiana.

BOARDING HOUSE: A building, not available to transients, in which meals are regularly provided for compensation for at least three persons.

BUFFER ZONE: All that area outside the corporate limits of the City of Martinsville that is within the zoning jurisdiction of the City as provided by statute and as defined by ordinance of Common Council of the City of Martinsville.

BUILDING: A roofed structure for the shelter, support, enclosure, or protection of persons, animals, or property.

BUILDING, ACCESSORY: See ACCESSORY BUILDING

BUILDING INSPECTOR: An employee of the City Superintendent who is empowered to inspect and approve Improvement Location Permits.

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

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

BUILDING HEIGHT OF: The vertical distance measured from the ground elevation to the highest point of the roof for a flat roof; to the deck line of a mansard roof; to the height of the highest eave of a gable, hip and gambrel roofs.

BUILDING, PRINCIPAL or PRIMARY: A building in which the principal use of the lot or premises on which it is located is conducted, including a building that is attached to such a building in a substantial way, such as by a roof. With respect to residential uses, the principal building shall be the main dwelling.

BUILDING AREA: The horizontal projected area of the buildings on a lot or premises including accessory buildings but excluding open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two feet.

BUILDING LINE (SETBACK LINE): The line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way line.

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

CARPORT: Same as Private Garage.

CAR WASH: Is a building, or portion thereof, where mechanical devices of any type wash, automobiles, trucks, or other self-powered vehicles.

CELLULAR TOWER, CELLULAR SITE or COMMUNICATIONS TOWER: The tower, building and other improvements constructed, placed, installed and maintained for the purpose transmitting, retransmitting or broadcasting any electromagnetic (radio) signal, analog or digital, for use of mobile or portable communication devices, including television and radio, of any kind and including tower to tower transmitting.

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

CERTIFICATE OF OCCUPANCY: A certificate stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this ordinance.

CITY: The incorporated City of Martinsville, Indiana.

CITY COUNCIL: Referred to herein as simply the City Council or "Council" is the legislative body of the City and is responsible for approving ordinances including ordinances that may be presented for zoning map changes.

CITY ENGINEER: An Indiana licensed engineer designated by the City to furnish engineering consultation in the administration of these regulations. The City Engineer is a member of the Plan Commission.

CITY SUPERINTENDENT: An employee of the City of Martinsville who is empowered by the Martinsville Plan Commission to administer and enforce the Zoning Ordinance including Subdivision Control and Building Codes.

CLINIC: Establishments in which patients are admitted for medical, dental, or optometric study or treatment and in which the services of at least two physicians, dentists, optometrists, osteopaths, or chiropractors are provided.

COMMISSION: A planning commission serving s single government jurisdiction established as defined under I.C. 36-7-1-2 as amended. The Martinsville Plan Commission Is an Advisory Plan Commission.

COMMITMENT(S): The Plan Commission or Board of Zoning Appeals may require or allow the landowner to make binding written commitment(s) as a requirement for approval of any zoning change, special exception, special use or subdivision.

COMPREHENSIVE PLAN: Inclusive physical, social, and economic plans and policies in graphic and written statement form for the development of the City of Martinsville prepared and adopted by the Commission pursuant to the I.C. 36-4-4-500 series and including any part of such plan and/or policies separately adopted and any amendments to such plan and/or policies, or parts thereof. It does not include the implement ordinances such as the zoning ordinance and subdivision control ordinance.

CONDOMINIUM: Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all occupants, such as yards, foundations, basements, floors, walls, hallways, stairways, elevators, and all other related common elements, together with individual ownership in fee of a particular unit or portion of such building, which building shall be the same as a dwelling, either single, double, or multi-family, as the case may be.

CONVENIENCE STORE: A retail business that offers to the public readily consumable items. Included in this definition is the dispensing of vehicle fuel and other vehicle fluids that are prepackaged and removed from the premises. Not include are any type of vehicle repair or servicing except for dispensing of vehicle fuel.

COOPERATIVE: A building or land in which an individual owns stock in a corporation with the right through a proprietary lease to occupy a portion of the land or part of the building, which building shall be the same as a dwelling, building, which building shall be the same as a dwelling, either single, double, or multi-family, as the case may be.

COUNTY: The County of Morgan, Indiana.

DAY CARE CENTER or DAY NURSERY: Any institution operated for the purpose of providing care and maintenance to six (6) or more unrelated children separated from their parents or guardians or a person in loco parentis (one who acts in place of parents) during a part of the day for two or more consecutive weeks excepting a school or other bona fide educational institution.

DEMOLITION OF STRUCTURE: The intentional destruction, demolition or removal of a structure including, houses, garages, sheds, office buildings, foundations and basements, factories, warehouses, radio cellular or microwave towers, chimneys, water towers or tanks, underground storage tanks, septic tanks, cisterns, wells (gas, oil or water).

DESIGNATED OFFICIAL: The member of the City of Martinsville Advisory Plan Commission designated by Commission rules as the required signatory for the execution of secondary (final) plat approval. The Secretary of the Advisory Plan Commission of the City of Martinsville when necessary shall attest to the signature of the Designated Official.

DETACHED BUILDING: A building that has no structural connection with another building.

DEVELOPER: Any person, whether the landowner or landowner's agent, engaged in developing a lot or group of lots or structures for use or occupancy. If other than the record landowner is the developer then the Developer shall have the written authorization of the landowner to make any application, commitment or submittal to the Commission or Board.

DISTRICT: A section of the jurisdictional area 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.

DRIVES, (PRIVATE): Vehicular driveways, paved or unpaved, which are wholly within private property except where they intersect with public streets within public rights-of-way.

DRIVE-IN RESTAURANT: An establishment selling foods, frozen desserts, or beverages to consumers, the establishment being designed, intended, or used for the consumption of such items on the premises outside of the building in which they were prepared.

DWELLING: A building or part of a building that is used primarily as a place of abode, but not including a hotel, motel lodging house, boarding house, tourist home, or mobile home as defined in this ordinance. Use of any other structure, travel trailer, camper, tent, garage or similar structures as a dwelling for a period of more than fourteen (14) days in any calendar year is prohibited unless it is in a district where such use is specifically permitted.

DWELLING, DOUBLE: A two family dwelling that is a single building designed to house two families living side by side and used exclusively for residential purposes.

DWELLING DUPLEX: A two family dwelling that is a single building designed to house two families living one above the other and used exclusively for residential purposes.

DWELLING, MULTI-FAMILY: A building or portion thereof designed for more than two families and used exclusively for residential purposes.

DWELLING, SINGLE FAMILY: A detached building designed for, or occupied by, one family exclusively for residential purposes.

DWELLING UNIT: A dwelling or part of a dwelling used by one family as a place of abode.

EASEMENT: An authorization grant made by a property owner for use by another of any designated part of his property for a clearly specified purpose such as utilities, drainage, signs, landscaping, etc.

EASEMENT, ACCESS OR INGRESS/EGRESS: An easement for the purpose of providing access, both vehicular and pedestrian, to and from, lots or parcels, that do not have direct access to a public street or road. For the purpose of this ordinance an easement that provides access to four or fewer, parcels or lots, shall be not less than thirty (30) feet in width.

FAMILY: One or more person living as a single housekeeping unit, but not including a group occupying a hotel, motel, club, nursing home, dormitory, fraternity or sorority house.

FARM, CONFINEMENT FEEDING: The confined feeding of livestock and poultry on a tract or contiguous tracts of land for food or pleasure purposes in lots, pens, sheds and buildings where food is supplied to the animals by means other than grazing. A confinement feeding operation shall mean the confined feeding of:

1. 300 or more head of cattle.
2. 600 or more head of swine, sheep or goats.
3. 1,500 or more head of poultry.
4. 10 or more head of horses or mules.

And/or any confinement feeding that exceeds per acre per year for the entire farm:

1. 3 or more head of cattle.
2. 20 or more head of swine.
3. 150 or more head of poultry.
4. 10 or more head of sheep or goats.
5. 4 or more head of horses or mules.

And/or any area wherein 5 square feet or less of feed lot area is provided per laying hen, or 8 square feet or less per hog weighing less than 225 pounds, or 15 square feet or less per lamb or ewe, or 50 square feet or less per heifer or steer, or 100 square feet or less per beef and/or dairy cow or bull, provided that this definition shall not apply to operations involved in the processing of products of confinement feeding operations.

FARM, GENERAL: Land used for agricultural operations and production of agricultural products including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock as defined herein. Also, the processing and sale of farm products produced on the land by the resident owner or tenant. Not included in this definition is the slaughtering of animals for commercial or retail sales or confined feeding operations. Unless otherwise allowed in this ordinance, keeping or maintaining livestock and poultry in any district other than "Agricultural" is prohibited.

FILLING OR SERVICE STATION: Means the same as "Automobile Service Station."

FLOOD OR FLOODING: Means a general or temporary condition of partial or compete inundation of normally dry land areas from: (a) the overflow of inland waters and/or (b) the unusual and rapid accumulation of run-off of surface water from any source.

FLOODWAY: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood, without cumulatively increasing the water surface elevation more than one tenth of a foot.

FLOODWAY FRINGE: Means that area of the flood plain subject to inundation by the regulatory or base flood but located outside the floodway.

FLOOD PLAIN: Means that area subject to inundation by the regulatory or base flood but for which the floodway, fringe delineation's have not been provided.

GARAGE, PRIVATE: An accessory building for storage of residential vehicles.

GARAGE, AUTOMOBILE REPAIR: A building other than a public or private garage, used for the care, repair, or equipment of automobiles.

GARAGE, PUBLIC: Any garage, other than a private garage, for the parking of vehicles.

GARAGE SALE: The organized sale, barter or exchange, of new or used merchandise, household items, clothing, furniture, appliances, vehicles, equipment or any similar items from any structure, yard, sidewalk or driveway within any residential district or any other district where retail sales are prohibited. Garage sales, yard sales and similar activities may be held in a residential district, by an individual, not for commercial or business purpose, provided said sales do not take place at the same address or location

more than four (4) days in any ninety (90) day period and provided safe and adequate parking is available as determined by the Martinsville Police Department or Morgan County Sheriff. Sale days more frequent than allowed by this definition or if unsafe or congested traffic conditions occur as a result of a sale then there would be a violation of this ordinance and the violating party would be subject to the remedies and penalties of Chapter 12 herein.

GARAGE, TRUCK REPAIR: A building, other than a public or private garage, used for the care, repair, or equipment of trucks over one ton, or, when such vehicles are parked or stored for remuneration, hire or sale.

GRANDFATHER CLAUSE: A traditional or common use term for a non-conforming use. See Chapter 8 for non-conforming use restrictions.

GREATER ZONING CLASSIFICATION: Any zoning classification with a lower density.

GROUND FLOOR AREA-RESIDENTIAL: The square floor area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground level, exclusive of open porches, breezeways, terraces, garages, carports, and exterior stairways. In the case of a bi-level type structure where the level above the grade line contains complete living facilities including living, cooking and sleeping areas, that level may be used to compute the ground floor area. The average width (*defined as*: *total ground floor area, exclusive of garage, patio, porch or deck, divided by the overall length of longest side of the dwelling.*) of any structure to be used as a residential building shall **be not less than 18 feet.** This provision does not apply to mobile or manufactured homes within a mobile home park or planned unit development approved for mobile homes.

HARDSHIP: A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this ordinance; any result of land division requiring variance from the development standards of this ordinance in order to render that site buildable.

HOME DAY CARE or HOME NURSERY: Any in home or residence used for the purpose of providing care and maintenance to not more than five (5) unrelated children separated from their parents or guardians or a person in loco parentis (one who acts in place of parents) during a part of the day for two or more consecutive weeks.

HOME OCCUPATION, CUSTOMARY: An occupation carried on by an occupant at his or her place of residence which occupation shall be subordinate and incidental to the residential use of said residence, provided that: There shall be no external evidence of the occupation other than one non-lighted identification sign not exceeding 3 square feet in area to be placed flat against the residence where the occupation is conducted; that there is no commodity or service sold upon the premises except that which is produced thereon; there shall be no traffic congestion or traffic hazard created by the home occupation; only the occupant or members of his or her family, normally residing on said premises, handle all the work and does not employ others at the residence or elsewhere in said occupation; no external changes, additions, enlargements, or exterior alterations relating in any way to the home occupation shall be permitted; there shall be no physical expansion of utilities or community facilities beyond that normal to the residential use of the property; and that said home occupation shall be terminated upon transfer of said property to any person other than a member of the immediate family residing on the property.

HOTEL OR MOTEL: A building or group of buildings in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradiction to a boarding house or lodging house.

IMPROVEMENT LOCATION PERMIT: A permit that states that the proposed erection, construction, enlargement, or improvement of property or structures referred to therein complies with the provisions of the Zoning Ordinance.

INDUSTRIAL PARK: A tract of land that is planned and developed as a distinctive unit featuring landscaped open spaces and well designed structures to be used for research, offices, experimental and testing laboratories, light industrial storage and distribution facilities, and for necessary uses to the convenience of employees, and is controlled by an organization guaranteeing the continued maintenance of all commonly used areas and installations.

INSTITUTION: Any home, orphanage, or other facility maintained or conducted by any group of persons, a firm, association, corporation or governmental body engaged in receiving and caring for dependent, neglected, handicapped or permanently disabled persons, or children in danger of becoming delinquent or in operating for gain a private business of boarding children who are unattended by parents or guardians, or dependent mentally ill.

JOINT OWNERSHIP: Joint ownership among persons shall be constructed as one and the same owner for the purpose of imposing subdivision regulations.

JUNKYARD: Any lot, parcel or tract of real estate, platted, or unplatted, at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including but not limited to used or salvaged rope, bags, paper matter; and property used for the dismantling, wrecking, storage, sale or dumping of two or more inoperative motor vehicles or their parts. This shall not include tractors, combines, pickers, disks, plows or other similar farm machinery that is owned by a farm operator and is used for parts replacement for machinery currently being used in the farming operation.

JURISDICTIONAL AREA: The incorporated area within the City of Martinsville Indiana and any or all of the unincorporated territory (buffer zone) within two miles of the city boundaries lying within Morgan County as designated on the map entitled "Jurisdictional Area" or "Buffer Zone", together with the legal description of said area, recorded in the Office of the Recorder of Morgan County, Indiana and is by reference hereby made a part of this ordinance.

KENNEL: Any lot or premises on which more than five (5) or more dogs or cats that are commonly kept as household pets. Exception: a litter of pups or kittens not over five (5) months old.

LIMITED ACCESS HIGHWAY: A highway to which abutting properties are denied access.

LIVESTOCK: Animals commonly maintained, raised or kept on a farm including, cattle, horses, swine, goats, sheep and poultry. Also, included in the definition are fish or other aquatic animals such as shrimp or prawns raised in ponds or lakes for commercial purposes.

LOADING AND UNLOADING BERTHS: The off-street area required for the receipt or the distribution, by vehicle, of material or merchandise which in this ordinance is held to be a 12 foot by 75 foot loading space with a 14 foot height clearance.

LODGING HOUSE: Means the same as "Boarding House."

LOT: Any lot, parcel, or tract, of land abutting upon a street or on a recorded easement that has a separate and distinct legal description. A lot will have a unique parcel number in the records of the Auditor of

Morgan County, Indiana. In determining lot area, no part thereof shall be included that is within the limits of a dedicated street or within the limits of a private access easement.

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

LOT, COVERAGE: The percentage of the lot area covered by all buildings on the premises.

LOT, ELEVATION: For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the walls adjoining the street. For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets shall determine the ground level.

LOT, INTERIOR: A lot other than a Corner Lot or Through Lot.

LOT (or parcel) OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded in the Office of the County Recorder of Morgan County, Indiana, or a parcel of land, having a separate and distinct legal description, the deed of which has been recorded in the Office of the County Recorder of Morgan County, Indiana, and existed prior to passage of this ordinance.

LOT, THROUGH: A lot having frontage on two parallel or approximately parallel streets.

LOT, WIDTH: The dimension of a lot, measured between side lot lines on the minimum building line as established by this ordinance.

LOT LINE, FRONT: Any property line separating the lot from the street or access easement. Also, the front of a lot shall be determined by the principal direction in which the front of the primary structure faces. The City Superintendent shall determine which face of the building is the front of the primary structure.

LOT LINE, REAR: A lot line which is opposite and most distant from the front lot line, and in the case of an irregular or triangular shaped lot, the line that, for its entire length is completely within the lot and parallel with and at the maximum distance from the front lot line.

LOT LINE, SIDE: Any lot boundary that is not a front lot line or a rear lot line. In no instance shall the sideline be closer than the sidelines for that district.

MANUFACTURED HOME: Means a dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with "Federal Manufactured Housing Construction and Safety Standards Law of 1974: (42 USC 5401 et seq.).

MINERAL EXTRACTION: Mining, quarrying, or the removal of rock, sand, gravel or other earth material.

MOBILE HOME: Means a transportable structure larger than three hundred twenty (320) square feet, designed for use as a year-round residential dwelling.

MOBILE HOME PARK: Any area of land that has one owner upon which two (2) or more manufactured homes or mobile homes are supported by wheels or a foundation.

MODULAR HOME: Any structure designed to move on the highway and manufactured to be used as a dwelling under the laws of the State of Indiana.

OFFICIAL THOROUGHFARE PLAN: A plan for major streets and highways which sets forth the location, alignment, dimensions, identification, and classification of existing dimensions, identification, and classification of existing and proposed streets, highways, and other thoroughfares.

OVERLAY DISTRICT: A district that places additional conditions or restrictions on use, development, or improvement of land in the base or underlying district. An overlay district cannot be subdivided or developed. However the underlying district can be subdivided, developed or improved as long as such division, development and improvements are in conformance with the overlay district conditions and restrictions and provided that said uses, development or improvements are not prohibited by the restrictions of the overlay district.

OWNER: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PARCEL: A piece of land having a legal description formally set forth in a conveyance together with a description of its location, shape, and size in order to make possible its easy identification.

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

PARKING SPACE: A space other than on a street or alley, designed for use or used for the temporary parking of a motor vehicle, and being not less than nine (9) feet wide and twenty (20) feet long exclusive of passageways.

PERSON: Any individual, corporation, firm, partnership, association or organization, or any other group that acts as a unit.

RECREATIONAL VEHICLE: A portable or self-propelled vehicular structure designed as a temporary dwelling for travel and vacation use which:

EITHER

1. Is identified on the unit by the manufacturer as a recreational vehicle; and
2. Is not more than the statutory body width for highway purposes as determined by the Bureau of Motor Vehicles; and
3. Is of any weight provided its body length does not exceed thirty-two (32) feet;

OR

1. Is a structure mounted on an automobile or truck; and
2. Is designated use for sleeping or temporary habitation.

REGISTERED LAND SURVEYOR: A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

REGISTERED PROFESSIONAL ENGINEER: An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

SALVAGE YARD: See "JUNKYARD"

SETBACK: The distance from the respective lot line beyond which buildings may be placed. Also, buildings shall not be placed closer to the respective lot line than the setback distance.

SIGN: Any outdoor structure designed for the purpose of advertising or making known any service or commodity that is available upon the property on which the structure is located either attached to a building, painted on a building or freestanding. This definition also includes logos, trademarks, and corporate insignias but does not apply to color schemes.

SIGN, FREESTANDING: Any outdoor structure designed for the purpose of advertising or making known any service or commodity that is available that stands apart from any building or structure and has attached its own support structure whether stationary or portable.

SIGN, POLITICAL: See "Advertising Structure" defined.

SPECIAL EXCEPTION: The authorization of a use, that the Board specifically authorizes being permitted in the district concerned if it meets special conditions, and upon application.

STOCKYARD: Any parcel, lot or tract where, in any 30 day period, a total of more than; 150 head of cattle; 300 head of swine, sheep or goats; 750 head of poultry ;or 10 head of horses, pones or mules, are confined in a building or held in pens for the purpose of sale, transfer, auction, shipping or slaughter, or any operation where livestock is purchased for the purpose of resale within 30 days.

STREET: A right-of-way established for or dedicated to the public use that affords the principal means of access to abutting properties. A Street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, place, or other appropriate name.

STREET DEAD-END: A local street with only one outlet and not having an appropriate terminus (turn around) for the safe and convenient reversal of traffic including public safety.

STREET PRIVATE: A right-of-way or easement for the public use for vehicular and pedestrian traffic that is owned and maintained by a private person or entity and not by a governmental body. Its owner or owners may limit use of a private street. Private streets may serve residential or nonresidential properties.

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 right-of-way.

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, roof, electrical systems, plumbing systems or mechanical equipment.

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

SUBDIVISION: A division of any parcel of land into two or more parcels, sites, or lots, **any one of which is less than 20 acres in area** for the purpose of transfer of ownership, sale, or building development. Also , the improvement of one or more parcels of land, not under one ownership, for construction of residential, business, industrial or commercial structures or groups of structures the development of which requires land for streets, open spaces, common areas or creation of easements for access, drainage or public utilities to service the varied facilities. Subdivision of land is permitted in every zoning district, except overlay districts. In overlay districts subdivision of the land in the underlying district is permitted.

Exemption from platting requirements: For the purposes of these regulations the following are not considered a subdivision and therefore are exempt from the platting requirements of this ordinance:

1. An allocation of land in the settlement of an estate of a descendant or a court decree for the distribution of property.

2. The unwilling sale of land as a result of legal condemnations as defined and provided under Indiana Law.

3. Widening of existing street right-of-way by a government entity for the public good.

4. Land acquisition for street or public mass transit system right-of-way by a government entity for the public good.

5. The exchange of land for the purpose of straightening property boundary lines which does not result in the change of the present land usage.

6. A division of land for the sale or exchange of parcels between adjoining land owners, provided that no additional building sites are created other than for accessory buildings.

SUPERINTENDENT: See City Superintendent.

SWIMMING POOL: Any structure, facility or container, above ground, on ground, or in-ground, temporary or permanent, which has been constructed, installed or erected for the purpose of providing a swimming or bathing facility. However, for the purpose of this ordinance any such structure that has a maximum sidewall height of 2 feet or less is not a swimming pool.

THOROUGHFARE: Shall have the same definition as "Street."

TOURIST HOME: A building in which one but not more than five guest rooms are used to provide or offer overnight accommodations to transient guests for compensation.

TRADE OR BUSINESS SCHOOL: A secretarial or business school whether private or public, or a school for the teaching of music, dancing, barbering, hair dressing, drafting, industrial or technical arts.

TRAVEL TRAILER PARK: An area, premises, space or place, including service buildings thereon, in which parking or rental space for trailers on a temporary basis is provided to the public for compensation.

TRUCK SERVICE CENTER: An occupancy which provides especially for the servicing of trucks, with incidental operations similar to those permitted for "Automobile Service Center."

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

UTILITIES: Any entity, public or private, that provides an essential or desired service to the public that is delivered via wires, cables, pipes, ducts, conduits, or mains. Including but not limited to: sanitary sewers, water, telephone, electric, natural gas, cable television, internet service or any other service provided to the public that the Plan Commission determines is a utility.

VARIANCE, DEVELOPMENT: A specific approval granted by the Board of Zoning Appeals in the manner prescribed by the City of Martinsville Zoning Ordinance, to deviate from the development standards, such as height, bulk, setback or area, that the zoning ordinance otherwise prescribes.

VARIANCE, DIMENSIONAL: See Variance, Development.

VARIANCE, USE: The approval of a "use" other than that prescribed by the City of Martinsville Zoning Ordinance, as specifically approved by the Board of Zoning Appeals.

VISION CLEARANCE: A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of 3 and 12 feet above established street grade, determined by a diagonal line, connecting two points measured 25 feet equidistant from the right-of-way corner along each right-of-way line. Further no structure, landscaping or fence shall be erected or maintained on any lot or parcel that, in the opinion of the City Engineer, would restrict sight distance such that there would be a danger to vehicles or pedestrians using streets, roads, sidewalks, alleys or other public rights-of-way that adjoin the property (see Section 3.3 (M))

WAIVER: A specific approval granted by the Plan Commission that permits a deviation from the development standards of this ordinance, including the subdivision control section (Chapter 14). Waivers must be made in writing at the time application is made for PUD or subdivision primary plat approval including minor plats. Waiver request must be specific as to the development standard to be waived and the extent of the variation desired.

WELLHEAD PROTECTION AREA (OVERLAY): Areas near wellfields used to supply water for public purposes wherein certain potentially hazardous land uses near such wellfield areas shall be regulated and restricted to a greater extent than the underlying zoning.

WORK STATION: An area in a business or industrial use classification specifically equipped for the occupancy of one employee to conduct their work activity.

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 steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the street right-of-way line and the building line.

YARD, REAR: A yard extending across the full width of the lot between the rear of the main building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than 30% of the required space, the depth of which is the least distance between the rear lot line and the rear of such main building.

YARD SALE: See GARAGE SALE

YARD, SIDE: A yard between the main building and the side lot line, extending from the front yard or 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 degrees with the side lot line, from the nearest point of any building.

ZONING COMMITMENT: See COMMITMENT(S)

ZONING MAP: The map entitled "Martinsville Zoning Map," dated as may be applicable, and any amendments thereto, as shown on the primary Martinsville Zoning map on display in the Martinsville City Hall.

CHAPTER 2 – DISTRICTS

SECTION 2.0 – ESTABLISHMENT OF DISTRICTS

The Jurisdictional Area is hereby classified and divided into districts designated as follows:

District Designation	Primary Use
FP	Flood Plain Overlay
AG	Agricultural/Residential
OS	Open Space
R1	Residential Single Family
R2	Medium Density Residential
R3	High Density Residential
B1	Professional Business
B2	Local Business
B3	General Business
B4	Heavy Business
I1	Light Industrial
I2	Medium Industrial
I3	Heavy Industrial
I4	Special Industrial
W1	Wellhead Protection 1-year travel
W2	Wellhead Protection 5-year travel

In general, uses allowed in a zoning district are allowed in higher zoning districts of the same type. Example: R1 use is allowed in R2 residential districts; B1 uses are allowed in B2 and B3 business districts; I1 uses are allowed in I2 districts. This shall be the interpretation used in this ordinance with the following restrictions: Single-family residential use (R1) **are prohibited** in High Density Residential (R3) District; B1, B2 and B3 uses **are prohibited** in B4 district. All business (B) uses are allowed in a PUD-Business district if specifically approved as part of the PUD plan; I1, I2 and I3 uses **are prohibited** in Special Industrial (I4) district; Where a use is allowed in more than one zoning type the lower uses cannot be extended into the higher zoning type beyond that which is allowed in Table 1. Example: Table 1 allows for a specific use in B3, B4 and I1 districts this use **shall not** be extended into any higher Industrial districts; a specific use is allowed in R3 and B2 districts, this use **shall not** be allowed into any higher business districts. A use that requires a Special Exception is restricted to those districts specifically shown in Table 1.

SECTION 2.1 DESCRIPTION OF ZONING DISTRICTS

FP-FLOOD PLAIN OVERLAY DISTRICT

This is an overlay district and is designated to be located in all areas that are defined as being within the flood plain and identified in the City Ordinance For Flood Hazard Areas (Ordinance No. 96-1381, see Appendix `C'), and all amendments thereto, as flood plain. In general, these lands are in an Agricultural District (AG) and will consist of land adjacent to streams or other natural drainage channels or areas that are low lying, difficult to drain, and subject to flood. Any ground shown as a flood plain fringe (those areas outside the Floodway) in the Federal Emergency Management Agency (FEMA), Flood Insurance Rate Maps (FIRM), as defined in the Flood Hazard Ordinance, and all amendments thereto, which is filled to a level two (2) feet above the one hundred year flood elevation (Base Flood Elevation (BFE)) with a structural compacted fill in accordance with FEMA requirements shall no longer be considered in the flood plain overlay district, provided the owner of the property requests the Plan Commission to remove the overlay designation. Procedure for removal shall be the same as filing for a petition for zoning

change. A letter of map revision by fill (LOMR-F) that has been approved by FEMA must accompany the zoning change application.

A. Representative Principal Uses: Agriculture, including customary agricultural buildings and structures, but not including permanent dwellings, nurseries, structures and greenhouses. Ordinance No. 96-1381, see Appendix `C' and revision, shall control construction or improvement of buildings.

B. Special Exception Uses: Recreational uses that do not require permanent structures such as baseball or football fields, parks, riding stables, fishing lakes, boat docks. Also, Gravel pits, mines, and stone quarries, provided that all other ordinances are met and necessary State and Federal Permits are obtained.

AG-AGRICULTURAL DISTRICT

This district is designed to recognize the existence of agriculture as the dominant land use, with ancillary residential use.

A. Representative Uses: Agriculture and agricultural buildings, provided that livestock shall not be held in a confined feeding operation, as defined in Section 1.4 of this ordinance, within 1,320 feet of any lot in an area zoned R1, Residential, R2 Residential or R3, Residential as defined in this ordinance. Public parks, playgrounds, orchards, nurseries and greenhouse operations shall also be allowed in this district. Residential uses that comply with Section 3.3 and the AG district of Table 2a-c of said section.

B. Right to Farm: Nothing in this ordinance shall require existing farming operations, as of the effective date of this ordinance, to alter, change or relocate their operations to comply with the setback or outside storage provisions established herein. Confined feeding shall not be permitted except as provided in Subsection A above.

C. Special Exceptions: The following uses shall be allowed by special exception: Campgrounds, residential country clubs, gravel and mining operations (so long as all other ordinances, state and local) and standards are met, churches, schools, cemeteries, airports, swimming clubs, stables, and similar recreational uses.

D. Restrictions: Livestock confinement operations and stockyards as defined in this Ordinance.

O. S. - OPEN SPACE

This district is designed to recognize the need for parks, recreation areas, nature areas, for the purpose of buffering zoning districts for recreation, and aesthetic purposes.

A. Representative Uses: Parks, Planting strips of trees and flowers.
B. Special Exceptions: None
C. Restrictions: None

RURAL RESIDENTIAL DISTRICTS
RR(a), RR(b) and RR(c)

Rural Residential (RR) District Defined:

This district is generally a transitional district between urban residential areas and traditional agricultural districts. Typically this district is used for land where difficult terrain or other topographical features make small lot, high density, residential developments impractical. This district may also be characterized by land that is less suitable for row crop cultivation and may be partially or fully timbered. Generally these districts are located in areas where sanitary sewers are not available and therefore lots must be larger to accommodate on site waste disposal systems.

Primary use for land in these districts is for single-family residential consisting of one detached dwelling per lot. Other uses by right in these districts are: crop cultivation; keeping a limited number of livestock in a manner that is in keeping with good animal husbandry practice (see Animal Unit Equivalents (AUE) table); timber harvesting and tree farm.

Rural Residential Single-Family sub-districts shall be defined as follows:

RR(a): to be defined as, single-family, rural residential estates having a minimum lot area of ten (10) acres. Livestock may be kept with restrictions on the number of animals.

RR(b): to be defined as, single-family, rural residential estates having a minimum lot area of five (5) acres. Livestock, except swine, may be kept with restrictions on the number and type of animals.

RR(c): to be defined as, single-family, rural residential estates having a minimum lot area of one-acre if sanitary sewers are available and two (2) acres if on site waste disposal system is required. Livestock, except swine, may be kept with restrictions on the number and type of animal.

A. Representative Uses: Single-family residential, consisting of one-family, detached dwellings. Limited farming operations including keeping of livestock are permitted.

B. Special Exceptions: Large Animal Veterinarian; Commercial Truck Farm; Commercial Greenhouse; Public Park or Public Recreation Area; Daycare and Group Home. A special exception is also required for any use related to religious activities.

C. Restrictions and Development Standards: See Section 3, Table 2a, Table AUE and Section 3.3 (A-P)

RESIDENTIAL DISTRICTS
R1, R2 and R3

R1 - RESIDENTIAL SINGLE FAMILY

This is a single family dwelling district that shall include areas that should be residential in character. The classifications within the R1 zoning district shall vary in minimum lot size and ground floor area of structure based upon density and compatibility with the area and the master plan for the City of Martinsville.

Residential Single Family classifications shall be defined as follows:

R1 (a) to be defined as low density single family residential.

R1 (b) to be defined as medium low-density single family residential.

R1 (c) to be defined as medium high-density single family residential.

R1 (d) to be defined as high-density single family residential.

A. Representative Uses: Single family residential, consisting of one-family, detached dwellings. Other uses would include public parks, playgrounds, and related noncommercial recreational areas.

B. Special Exceptions: Church, Synagogue, Temple without school, and See Table 1

C. Restrictions and Development Standards: See Section 3, Tables 1, 2a, Parking Table 3a and Section 3.3 (A-P)

R2 - RESIDENTIAL

This district is designated to recognize two family residential units in those areas that should be residential in character. This area shall be more densely developed than the R1 districts but not as densely developed as the R3 districts.

R2 shall be defined as an area for two family dwelling units.

A. Representative uses: Two family dwelling units, parks and playgrounds.

B. Special Exceptions: R1 uses are permitted which meet the minimum development standards as shown in Table 2a. Church, Synagogue, Temple without school, and See Table 1

C. Restrictions and Development Standards: Height regulations, lot area, frontages, and setbacks. See Section 3, Table 1, 2a, Parking Table 3a, and Section 3.3 (A-P).

R3 – RESIDENTIAL

This district designates the most densely developed multi-family residential units. It includes multi-family uses, consisting of three or more units with minimum lot size based on the number of dwelling units in a building. The requirements as to minimum size of lots and ground floor area of buildings are less than those specified for the other residential uses.

A. Representative Uses: Multi-family residential uses consisting of units of three dwellings per unit or greater, parks and playgrounds, and other similar recreational uses.

B. Special Exceptions: See use listings, Table 1.

C. Restrictions and Development Standards: See Section 3, Table 1, Table 2a, Parking Table 3a and Section 3.3 (A-P).

BUSINESS DISTRICTS
B1, B2, B3 and B4

The four business district classifications are established to provide adequate areas for the variety of business and commercial land uses that will be needed to serve present and future residents of the jurisdictional area.

B1 – PROFESSIONAL BUSINESS DISTRICT

This district is located in areas where professional offices should be maintained
Without opening the area to higher business uses that would not be compatible with adjacent land uses.

A. Representative Uses: Attorneys' offices, dentists' offices, counseling offices, insurance offices, optometrists, and psychiatrists.

B. Special Exceptions: See use listings, Table 1.

C. Restrictions: (1) Hours of operation open to clients and public from 8:00 a.m. to 8:00 p.m. (2) See Section 3.7 for sign restrictions and provisions.

D. Development Standards: Height regulations, lot area, frontage, setbacks, yard requirements, parking and Loading. (See Section 3, Table 2b, Parking Table 3b and Section 3.3 (A-Q)).

B2 – LOCAL BUSINESS

This district is designed and located in areas adjacent to residential neighborhoods to accommodate the primary needs of that locality. This district should place convenience and necessity facilities close to consumers in limited areas.

A. Representative Uses: Retail business establishments such as appliance stores, auto accessory stores, bakeries, small grocery store and convenience market, book or stationery store, café or restaurant, camera or photographic supply, laundromats, laundry, candy or ice cream store, delicatessen, offices, drugstore, fabric shop, floor covering store, florist shop, gift shop, haberdashery or women's ready-to-wear shop, hardware or paint store, hobby shop, jewelry store, meat market, shoe store, variety store, bank branch, funeral home, barber shop, beauty shop, church and schools.

B. Special Exception: See use listings, Table 1.

C. Restrictions: Total primary building floor area **shall not exceed nine thousand (9000) square feet**. Outside storage must be screened from public view with approved permanent screening. Pods, trailers and other similar enclosures, used for storage for more than ten (10)

consecutive calendar days, are prohibited. Merchant can display retail items not manufactured on site, not including inventory, on the outside. See Section 3.7 for sign restrictions and provisions.

D. Development Standards: Height regulations, lot area, frontage, setbacks, yard requirements, parking, and Loading. (See Section 3, Table 2b, Parking Table 3b and Section 3.3 (A-Q)).

B3 – GENERAL BUSINESS DISTRICT

This district is designed to include areas suitable for most other types of business and higher volume retail sales uses not included in the B1 or B2 business districts.

A. Representative Uses: Wholesale businesses, motels, hotels, drive-in eating establishments, shopping centers, shopping malls, strip business centers, taverns, restaurants, gasoline stations, golf driving range, skating rink, bowling alley, nightclub and similar enterprises, carpenter shop, electrical or heating shop, dry cleaning shop, sign painting shop, church, mini warehouses.

B. Special Exceptions: The following uses shall be by special exception only: The automobile repair, tire stores, truck repair, trailer repair, trailer sales, farm implements sales, automobile sales, and body shops. Also, see use listings, Table 1.

C. Restrictions: See Section 3.7 for sign restrictions and provisions. Outside display allowed for retail sales items not manufactured on site and not inventoried outside. Outside storage allowed but must be screened from public view with approved permanent screening. Pods, trailers and other similar enclosures, used for storage for more than ten (10) consecutive calendar days, are prohibited.

D. Development Standards: Height regulations, yard requirements, lot area, frontages, and setbacks, parking and loading. (See Section 3, Table 2b, Parking Table 3b and Section 3.3 (A-Q)).

B4 – HEAVY BUSINESS

This district is designed to include areas that have heavy outdoor display of vehicles or equipment for retail sales, heavy vehicle repair, and facilities that require large buildings for recreational use or large outdoors recreational facilities.

A. Representative Uses: automobile repair; tire stores with service centers, truck repair, trailer repair, trailer sales, farm implement repair and dealers, automobile sales and service body shops, lumberyards, kennel, and large indoor and outdoor commercial recreational facilities. Also, see use listings, Table 1.

B. Special Exceptions: See Table 1.

C. Restrictions: See Section 3.7 for sign restrictions and provisions.

D. Development Standards: Height regulations, yard requirements, lot area, frontages, and setbacks, parking and loading. (See Section 3, Table 2b, Parking Table 3b and Section 3.3 (A-Q)).

INDUSTRIAL DISTRICTS
I1, I2, I3 and I4

I1 – LIGHT INDUSTRIAL

This district is designed and located in areas most suitable for light industrial uses because of their location near necessary infrastructure and buffering from residential land uses. This district shall consist of various types of storage, manufacturing, and fabricating done in an enclosed facility.

A. This shall consist of uses such as block plants, lumber companies. The above types of uses shall be allowed unless the business utilizes techniques that are more consistent with the definitions set out in I2, Medium Industrial District, or any other industrial district.

B. Special Exceptions: See use listings, Table 1.

C. Restrictions: All outside storage must be screened. The business hours of any light industrial use shall be no greater than 6:00 a.m. through 12:00 midnight. The business should not use hazardous materials; create any type of noise, air, or water pollution, based upon state standards, conducted within fifty feet of a residential property line. The sign requirements for I1 shall be the same as set out for B3.

D. Development Standards: Building Height regulations, lot area, frontage, setbacks, yard requirements, loading, and area per building. (See Section 3, Table 2b and 2c, Table 3b and Section 3.3 (A-Q) and Section 3.5)

I2 – MEDIUM INDUSTRIAL

This district is designed and located in areas that generate a high volume of traffic, need 24-hours of operation, and which, because of their nature, require additional buffering from residential uses.

A. All uses that fit within the above definition.

B. Special Exceptions: See use listings, Table 1.

C. Restrictions: All outside storage must be fenced. Any business that stores, creates, or uses any types of hazardous materials requiring evacuation in the event of an accident (as set by State Hazards Waste Standards of the Indiana Department of Environmental Management.)

D. Development Standards: Building Height regulations, lot area, frontage, setbacks, yard requirements, loading, and area per building. (See Section 3, Table 2b and 2c, Table 3b and Section 3.3 (A-Q) and Section 3.5)

I3 – HEAVY INDUSTRIAL

This district is designed for industrial uses that are not confined to a building but use hazardous materials that create water pollution, noise pollution, or air pollution, which require on-site treatment, that need unlimited outside storage, and unlimited hours of operation. This zone should be located where significant buffering from non-industrial land uses can be provided to protect the health, safety, and values of neighboring properties.

A. Proposed Uses: All uses which fit within the above definition.

B. Special Exceptions: See use listings, Table 1.

C. Restrictions: Minimum lot size of five (5) acres. All the uses under I-3 shall have a minimum fence of five (5) feet, (monitored gates not required) surrounding the actual use. All outside storage shall be fenced and secured separately, and any business that stores, creates, or uses any types of hazardous materials requiring evacuation in the event of an accident (as set by State Hazards Waste Standards.) shall be fenced and secured.

D. Development Standards: Building Height regulations, lot area, frontage, setbacks, yard requirements, loading, and area per building. (See Section 3, Table 2b and 2c, Table 3b and Section 3.3 (A-Q) and Section 3.5)

I4 – SPECIAL INDUSTRIAL

This district is to be used for hazardous industrial uses that should be located in areas where extensive buffering and special access can be provided and would be required to protect, not only immediately adjacent land uses, but also the community in general.

A. Representative Uses: All uses that would fall under the above definition. For a example, laboratories that use gene-splicing techniques, industries using or manufacturing nuclear materials, excepting limited uses by medical facilities.

B. Special Exceptions: See use listings, Table 1.

C. Restrictions: No use to be conducted within one thousand (1,000) feet from any area zoned Flood Plain, Agricultural, Residential, or Business Use. The use areas must be secured by fence no less than six (6) feet in height and surrounding the entire use area with monitored gates at all access points. All outside storage shall be fenced. All state standards shall be met regarding air, water, noise and other waste pollution.

D. Development Standards: Building Height regulations, lot area, frontage, setbacks, yard requirements, loading, and area per building. (See Section 3, Table 2b and 2c, Table 3b and Section 3.3 (A-Q) and Section 3.5)

SECTION 2.2 WELLHEAD PROTECTION OVERLAY DISTRICTS W1 and W5

Because of the risk that certain chemicals pose to ground water quality, it is recognized that further regulation of use and storage of chemicals related to land use activities is essential in order to preserve public health, welfare, and economic vitality of the City of Martinsville planning area. Areas near wellfields used to supply water for public purposes wherein certain potentially hazardous land uses near such wellfield areas shall be regulated and restricted to a greater extent than the underlying zoning. Therefore the following regulations shall apply to all land within the Wellfield Protection Overlay Districts, with exceptions of single and multi-family residential land uses.

A. Applicability of Regulation: No building, structure, premises or part thereof shall be constructed, erected, enlarged, extended, or relocated except in conformity with these regulations and for uses permitted herein and until a proposed site and development plan has been filed and the City Superintendent has issued an improvement location permit.

B. Exemption To Development and Site Plan Requirements: In W1 and W5 overlay districts a site and development plan is not required if the existing or proposed use is entirely:

1. For single or multi-family residential use (R1, R2 and R3)

2. For professional business offices (B1)

3. Other business uses where, in their normal course of business the threshold amounts of substances hazardous to drinking water as determined by EPA or IDEM are: in overlay district W1, less than one (1) gallon of liquids in the aggregate or six (6) pounds of water soluble solids in the aggregate and in overlay distract W5 less than 100 gallons of liquids in the aggregate or 600 pounds of water soluble solids in the aggregate, are stored or used on site at any one time.

C. In determining the threshold amount of hazardous substances the following are Exempt:

1. Liquids required for normal operation of a motor vehicle in use in that vehicle.

2. Reasonable quantities of substances, stored in their original container, used for routine building and yard maintenance stored inside a facility.

3. Substances contained within vehicles for bulk deliveries to the site.

4. Beverages and food use at restaurants, supermarkets, convenience stores, and other retail food establishments.

5. Discharge of uncontaminated public water supply water, ground water, and/or surface water.

6. Substances, which are packaged in pre-sealed containers, sold at retail establishments.

7. Substances utilized for the production and treatment of public water supply.

8. Substances, which because of their inherent properties are determined from time-to-time by the City Superintendent to pose no significant threat to ground water.

D. In addition to a site and development plan the following uses require application to the Plan Commission, in compliance with Chapter 10 of this ordinance and a specific finding by an affirmative vote of the Plan Commission that the proposed use would not be detrimental to the public water supply within Wellhead Protection Overlay areas regardless of the underlying zoning:

1. All business, industrial or commercial uses that do not meet the requirements of Section 2.2 (B)(3) and the hazardous substances are not exempt under Section 2.2 (C).

2. Any proposed use that requires the installation of an underground storage tank, holding tank, septic tank, grease trap or any other similar underground facility.

3. Car, truck, or vehicles wash.

4. Animal feedlots, confinement areas and stockyards or slaughterhouse, including meatpacking.

5. Mineral, aggregate, metals, clays or any other type of mining. Any type of mineral extraction associated with the removal of sand and gravel shall meet the following requirements:

(a) Removal of sand and gravel material below the normal ground water level shall be accomplished using dragline, floating dredge or an alternative "wet" excavation method.

(b) There shall be no de-watering of sand and gravel mining sites.

(c) No form of solid waste, sludge or any other form of waste material of any kind, including but not limited to construction/demolition including milled or broken asphalt and concrete pavement, debris, shall be used, stockpiled, stored or kept on the site. Clean natural earth fill materials may be used without restriction.

(d) All fuels, oils, lubricants, hydraulic fluids, petroleum products or similar materials on the site must be stored using secondary containment facilities.

6. Wastewater treatment facilities.

7. Solid waste storage, disposal, or transfer stations.

E. The following uses are prohibited within the Wellhead Protection Overlay areas W1 and W5:

1. Open storage of salts, tars, and petroleum products, wood treated with preservatives, pesticides, fertilizers, appliances or any other items or product where rain or other environmental action would wash a hazardous substance on or into the soil.

2. Junk or salvage yards.

3. Hazardous chemical transfer or transport stations, other than bulk deliveries to retail or industrial facilities.

4. Warehousing of hazardous chemicals or substances where the warehoused materials exceed in overlay district W1, more than one (1) gallon of liquids in the aggregate or six (6) pounds of water soluble solids in the aggregate and in overlay distract W5 more than 100 gallons of liquids in the aggregate or 600 pounds of water soluble solids in the aggregate, are warehoused at any one time unless the hazardous chemicals or substances are stored in an area that has secondary containment capable of containing 110 percent of the aggregate amounts of liquid and solid hazardous substances.

5. Explosives of any kind.

6. De-watering of sites except for: prevention of damage to structures; to protect ground water quality; and the temporary de-watering for the construction of sewers and other underground facilities, including foundations.

7. Injection wells of any kind except for the following: non-contact air conditioning (heating and cooling) return flow wells; non-contact cooling water return flow wells; barrier recharge wells used to replenish the water in an aquifer or to improve ground water quality provided the injected fluid does not contain potential ground water contaminants; and non-contact wells associated with recovery of geothermal energy, aquaculture and production of electric power.

F. Existing Use Expansion: Where an existing use is being expanded, the site and development plan shall generally describe the entire site but only the expansion development will be subject to regulation.

G. Commitments: The Plan Commission may permit or require commitments as a requirement for approval of any development listed in Subsection D above.

H. Permitted Uses: All uses permitted in the applicable underlying zoning district, subject to the requirement, restrictions, limitations, and prohibitions given in Subsections A, B, C, D, E and F above, shall be those allowed in W1 and W2 overlay districts.

I. Site and Development Plan Requirements & Supporting Information: The site and development plan submitted to the City Superintendent for issuance of a Improvement Location Permit and/or to the Plan Commission in support of a proposed use listed in Subsection D above shall include the following:

1. Any existing uses.

2. Setbacks

3. Landscaping, screens, walls, fences

4. Wastewater disposal facilities

5. Vicinity Map (U.S.G.S. 7.5 minute quadrangle preferred)

6. Brief history of site of new building, addition or other structures and improvements (usage, historical environmental concerns, abandoned wells, underground storage tanks, septic tanks, holding tanks)

7. Site map (drawn to scale not to exceed 1 inch = 100 feet) to include:

   (a) All existing and proposed structures

   (b) Paved and non-paved areas.

   (c) Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention/detention basins/ditches/french drains/ dry wells, etc. (both existing and proposed)

   (d) Floor drain locations and outlets

   (e) Chemical/product storage locations

   (f) Waste storage areas

   (g) Liquid transfer areas

   (h) Site surface water bodies (streams, rivers, lakes, ponds ditches)

   (i) Underground storage tanks (existing and proposed)

   (j) Aboveground storage tanks (existing and proposed), if applicable

8. Description of proposed operations, including chemicals/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures, heating source (oil/gas/electric), liquid transfer/loading areas

9. Methods and locations of receiving, handling, storing, and shipping chemicals/products and waste.

10. Response measures and reporting

11. Description of slopes near containment vessels and waste storage areas.

J. Site and development plans must be certified by a technically qualified person competent to evaluate environmental containment facilities and contamination risk to ground water quality. Examples of technically qualified person include professional engineers, certified professional geologists and environmental scientists with specialized training and experience in hydrogeology, contaminant transport, and hazardous materials management provided the technically qualified person is licensed by the State of Indiana in the case of professional engineers and geologists and by a nationally recognized certifying body or federal agency in the case of environmental scientists. Certification shall be to the City of Martinsville and shall state that the site and development plan meets the requirements of this ordinance and that the facilities when properly constructed and maintained will meet EPA and IDEM guidelines of containment of hazardous substances and that the risk to groundwater contamination is within established EPA and IDEM guidelines.

K. The Board of Zoning Appeals shall not approve any petition that amends, abrogates or alters the requirements, standards or uses contained in Wellhead Protection Overlay areas W1 and W5.

SECTION 2.3 – ZONING MAPS AND MAP REVISIONS OR AMENDMENTS

The zoning maps, as adopted by the City Council of the City of Martinsville dated May 7, 2001, and as might be amended or revised from time to time, are hereby declared to be a part of these regulations, which show the boundaries of, and the area covered by the districts. Notations, reference, indications and other matters shown on the zoning maps are as much a part hereof as if they were fully described herein, said zoning map shall be on display in the Martinsville City Hall for viewing by the general public.

A. Boundaries of the district established by this section are as shown on the zoning maps, which are a part of this ordinance.

B. When the exact boundaries of a district are uncertain, they shall be determined by use of the scale of the zoning map.

C. When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated.

D. In the case of further uncertainty, the Board shall interpret the intent of the zoning maps as to the location of the boundary in question.

E. In the event of annexation of lands to the town, the zoning classification existing at the time of annexation shall remain until changed by amendment procedures.

F. Any request for zoning map revisions of amendments (rezoning) shall be by application to the Plan Commission under the provisions of Chapter 10 of this ordinance. The application shall be specific as to the current zoning district and the proposed zoning district together with any commitments.

G. Application for zoning map revisions of amendments (rezoning) can only be made for parcels of record in their entirety, unless the portion to be rezoned and the remaining portion of the record parcel are both 20 acres or greater in area. If either the portion to be rezoned or the remaining

portion of the record parcel is less than 20 acres then, prior to rezoning, successful subdivision of the land is required in accordance with Chapter 14 of this ordinance.

H. Where the zoning district of a parcel is **not shown** on the zoning map the City Superintendent shall determine the appropriate district from documentation of a previously approved zoning change by the City of Martinsville or Morgan County Plan Commission as converted to current districts in accordance with Section 2.4. Where no documentation can be produced the Martinsville Plan Commission may establish an appropriate district based upon use of a parcel or portions of a parcel on the date the parcel was included in the Buffer Zone. If the zoning district cannot be determined under the above-cited conditions the land shall be considered to be in an Agricultural (AG) district until changed through petition to the Plan Commission by the owner.

SECTION 2.4 – CONVERSION OF FORMER DISTRICTS

This table shall be used to convert former zoning districts to current zoning districts. A landowner whose land was zoned under the former ordinance who disagrees with this conversion may appeal to the Martinsville Board of Zoning Appeals. The Board may change the former district to any appropriate district in this ordinance and may impose additional restrictions of use and development standards as necessary to assure compatibility with existing area conditions and/or future development. Use of this table is restricted to the determination of the zoning district of a lot or parcel that has not been previously changed by a zoning map amendment. Existing use of a parcel that is not a permitted use within the converted zoning district is considered non-conforming and will require application to the plan commission for consideration of the appropriate zoning district. Further, any improvement to land or buildings must comply with all provision of this ordinance.

DISTRICT DESIGNATION	FORMER DISTRICT
FP – Flood Plain Overlay	F-1 - Flood Plain
AG – Agricultural/Residential	A-1 – Agricultural
OS – Open Space	C-1 – Conservation
R1 – Residential Single Family Low Density R1(a), R1(b), R1(c) and R1(d)	R-1 – One Family Residence; R-5 – Rural One & Two Family where existing lots are less than 40,000 sft on septic and 22,500 sft on sanitary sewers.
R2 – Medium Density Residential (Two Dwelling units per lot)	R-2 – One & Two Family Residence; R-5 – Rural One & Two Family where existing lots are 40,000 sft, or more, on septic and 22,500 sft, or more, on sanitary sewers
R3 – High Density residential	R-3 – One to Six Family Residence; R-4 – Multi-Family Residence; R-6 Rural Multi-Family Residence
B1 – Professional Business	B-1 – Retail Business; where use at time of adoption is for professional business
B2 – Local Business	B-1 & B-2 – Retail and General Business; where area of existing retail building is 9000 sft or less; except where use at time of adoption is for professional business
B3 – General Business	B-2 – General Business; where area of existing retail building is greater than 9000 sft.; except professional uses.
B4 – Heavy Business	B-3 – Interchange Business
I1 – Light Industrial	I-1 – Light Industrial
I2 – Medium Industrial	I-2 - Medium Industrial
I3 – Heavy Industrial	I-2 – Medium Industrial
I4 – Special Industrial	No District
P.U.D. – Planned Unit Development	P.U.D. Planned Unit Development & R-7 Mobile Home

CHAPTER 3 – AUTHORIZED USES and REQUIREMENTS

SECTION 3.0 – TABLE OF PRIMARY USES BY ZONING DISTRICT

TABLE 1, *Primary Authorized Uses by Zoning District,* follows. Section 3 continues following the table.

TABLE 1 – PRIMARY AUTHORIZED USES BY ZONING DISTRICT

THIS TABLE IS SUBJECT TO DEFINITIONS OF CHAPTER 2, WHICH OUTLINES ZONING DISTRICTS.
(An "S" where shown in these tables indicates that the proposed use is only allowed with the granting of a "Special Exception" per Chapter 5 of this ordinance.)

I. RESIDENTIAL USES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Boarding or lodging															
Customary home occupation															
Home day care or home nursery															
Day care center and day nursery				S			S								
Single family dwelling															
Two family dwelling															
Multi-family dwelling									S						
Nursing home							S								
Orphanage															
Mobile home park															

II. RETAIL TRADE - GENERAL

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Department store															
Electrical supply store															
General Merchandise and Connivance Stores															
Hardware store															
Lumber and building materials dealer									S						
Paint, glass and wallpaper store															
Plumbing, heating & air-conditioning dealer															
Variety stores															
Farm implements and equipment										S					

III. RETAIL TRADE – FOOD STORES UNDER 9000 SQUARE FEET

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Bakeries															
Candy, nut and confectionery															
Dairy products															
Delicatessen															
Fruits and vegetables															
Grocery															
Health foods															
Ice cream															
Meat and fish															

IV. RETAIL TRADE – FOOD STORES OVER 9000 SQUARE FEET

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Bakeries															
Dairy products															
Delicatessen															
Fruits and vegetables															
Grocery															
Health foods															
Ice cream															
Meat and fish															

V. RETAIL TRADE - APPAREL

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Apparel shop															
Children's wear															
Custom tailoring															
Family clothing															
Furriers															
Men's clothing															
Shoes															
Women's clothing															

VI. RETAIL TRADE - FURNITURE

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
China, glassware and metal ware															
Drapery, curtains and upholstery															
Floor coverings															
Furniture															
Household appliances															
Music and records															
Radio and television shop															

VII. RETAIL TRADE – EATING PLACES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Cafeteria															
Carry out restaurant															
Dinner theater															
Drive-in restaurant									S						
Lunch room															
Night club															
Restaurant															
Tavern-Bar (Primary sales in NOT food)															

VIII. AUTOMOTIVE SERVICES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Automatic car wash															
Automotive parts supply															
Automobile repair										S					
Automobile sales										S					
Automobile service station															
Body & Painting shop										S					
Mobile home, travel trailer & camper sales										S					
Motor cycle & motor bike sales										S					
Parking garage															
Parking lot															
Passenger car rental										S					
Storage & dismantling of disabled vehicles															
Tire, battery and accessory dealers															

Truck rental and leasing										S						
Truck repair										S						
Truck sales										S						
Truck service center																

IX. STORE

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Antique store								S							
Bait Store															
Bicycle shops															
Boat sales															
Book & stationary store															
Camera & photographic supply															
Drug store															
Farm & garden supply									S						
Florist								S							
Gift, novelty and souvenir shop															

IX. STORE CONTINUED

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Hobby, toy and game store															
Jewelry store															
Liquor store															
Monument sales															
News dealer															
Pet shop															
Pharmacy															
Sporting goods															
Studio business															
Tobacco store															
Trading stamp store															

X. FINANCE AND INSURANCE

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Agricultural credit institution															
Banks and branch banks															
Bond and mortgage companies															
Installment sales and finance companies															
Insurance agents, brokers & service								S							
Personal finance companies															
Savings & loan associations															
Stock brokers & dealers								S							

XI. MISCELLANEOUS REPAIR

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Small Engine, Lawn Mower & Appliance Repair & Sales															
Electrical repair shop															
Re-upholstery and furniture															
Watch, clock and jewelry repair															

XII. MISCELLANEOUS SERVICE

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Advertising agencies															
Blueprinting and photocopying															
Commercial testing laboratories												S	S	S	
Detective agency & protective service								S							
Kennel									S	S					
Private employment agencies															
Stenographic service															
Temporary help service								S							
Sign manufacturing and installation															
Veterinary clinic		S		S											
Dog and Cat grooming		S													

XIII. PERSONAL SERVICES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Auto license bureau															
Barber shop															

Beauty shop															
Clothing rental															
Coin operated laundry & dry cleaning															
Diaper service															
Dressmaker								S							
Mortuary															
Photographic studio															
Reducing & health salon															
Shoe repair															
Tailoring & pressing shop															

XIV. MEDICAL SERVICES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Blood banks															
Clinic															
Convalescent homes															
Hospitals															
Medical and dental laboratories															
Medical and dental office								S							
Optometrist								S							

XV. LEGAL SERVICES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Attorney															
Legal clinic															

XVI. AMUSEMENT AND RECREATION SERVICES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Amusement arcade															
Billiard & pool establishment															
Bowling lanes															
Dance hall, studio & school															
Fairgrounds															
Golf & country club	S														
Lodge or private club		S													
Motion picture theater									S						

Museum and art gallery									S						
Outdoor commercial recreational enterprise		S	S												
Outdoor theater		S													
Public camp ground or travel trailer park		S	S												
Public golf course	S	S													
Auto Race track															
Horse Race track and Indoor commercial recreational enterprise															
Riding stable	S														
Seasonal hunting and fishing lodge		S													
Shooting range	S														
Skating rink		S													
Stadium, coliseum or athletic field	S	S	S												
Tennis club		S	S												

XVII. EDUCATIONAL SERVICES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Art and music schools		S													
Colleges and universities		S													
Elementary and secondary schools		S													
Junior colleges and technical schools		S							S						
Library and information center															
Trade or business school															

XVII. GOVERNMENT

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Municipal or government building															
Penal or correctional institution															
Police or fire station															
Postal station															
Public owned park or recreational facility				S											

XIX. TRANSPORTATION, COMMUNICATION AND UTILITES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Airport or heliport															
Cellular (analog or digital) or Microwave tower	S	S								S	S	S	S	S	S
Public water well, water station filtration plant, reservoir and storage tanks									S	S					

Radio or television station or studio																
Radio or television tower	S	S								S	S	S	S	S	S	
Mass transit station																
Telegraph office																
Telephone exchange or public utility station																
Transmission lines for utilities			S		S	S	S	S	S	S	S	S	S			

XX. NON-PROFIT MEMBERSHIP ORGANIZATION

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Business association								S							
Charitable institution		S						S							
Church, Synagogue or Temple, w/o a school (See Ed. Services for Schools)		S		S	S	S	S	S			S				
Civic, social & fraternal organization								S							
Labor union								S							
Political organization								S							
Religious organization		S						S	S						

XXI. MISCELLANEOUS PERSONAL SERVICES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Accounting, auditing & bookkeeping															
Engineering & architectural services								S							
Real estate service															

XXII. USES NOT ELSEWHERE LISTED

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Cemetery			S												
Crematory		S													
Home professional office								S							
Hotel or motel															
Shopping Center, Shopping Mall, Strip Business Center															
Tourist home		S				S	S	S	S						
Veterinary hospital		S													
Newspaper publishing															

XIII. INDUSTRIAL USES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Anhydrous ammonia or similar liquefied fertilizer, storage and distribution															
Auction sales yard (excluding livestock)															
Commercial facility for breeding non-farm fowl and animals		S													
Contractors storage															
Fuel dealers															
Industrial park															
Junk yard															
Linen supply										S					
Liquefied petroleum gas and bottled gas dealers															
Manufacturing, use or storage of explosives															
Material storage (open)															
Petroleum tank farm														S	
Commercial slaughter house															
Truck freight terminal												S			
Grain elevator										S	S				
Warehouse										S	S				
Wholesale business										S					
Wholesale produce terminal															
Mineral extraction	S	S											S		
Public or private sanitary landfill															
Mini warehouse									S						

XIV. AGRICULTURAL USES

	FP	AG	OS	RR	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
Commercial greenhouse				S											
Farm, confinement feeding		S													
Farm, general															
Hay, grain and feed store															
Plant nursery				S											
Roadside produce stand															
Storage building for Agricultural Products. Retail sale in B3 & B4										S					
Sale barn for livestock		S													

SECTION 3.1 – RESIDENTIAL USES AND REQUIREMENTS

Residential and related uses are permitted in the districts indicated in Section 3, Table 1, when complying with the requirements of Table 2a, and the provisions and exceptions of Section 3.3; or when in an approved planned development under Chapter 6. Use of any structure, travel trailer, camper, tent, garage or similar structures as a dwelling or residence, or is intended to be used as such, for a period of more than fourteen (14) days in any calendar year is prohibited unless it is in a district where such use is specifically permitted. Further, occupancy of any single dwelling unit by more than four (4) unrelated adults, as their place of residence, at any time is prohibited. The relationship of any adult to the principal owner or occupant other than the following is considered unrelated: husband, wife, son, daughter, stepson, stepdaughter, mother, father, grandmother, or grandfather.

SECTION 3.2 – BUSINESS AND INDUSTRIAL REQUIREMENTS

The business, industrial and commercial uses listed in Table 1 are permitted in the districts indicated in Section 3 when complying with the requirements of Tables 2b and 2c together with the provisions and exceptions of Section 3.3 and 3.4; or when in an approved plan development under Chapter 6 and when complying with all construction safety regulations of the State of Indiana.

SECTION 3.3 – PROPERTY DEVELOPMENT STANDARDS

A. USE

No building or land shall be used and no building shall be erected, reconstructed or structurally altered which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which such building or land is located.

B. ACCESSORY BUILDINGS AND USES

1. Accessory uses as listed below are permitted in all districts and may be installed in any required yard, provided they otherwise comply with all other requirements of this ordinance.

   (a) Bird baths and bird houses
   (b) Curbs
   (c) Fences and hedges
   (d) Lamp posts
   (e) Mail boxes
   (f) Name plates
   (g) Parking spaces
   (h) Retaining walls
   (i) Trees, shrubs, etc.
   (j) Utility installations for local service
   EXCEPT, substations, regulators, booster stations, lift stations or any other utility facility that requires an area, above ground, that exceeds 150 square feet shall be submitted for approval per this ordinance. However a transportation, transmission, storage and distribution facility of any utility that is regulated by the Indiana Utility Regulatory Commission (IURC) is exempt from this section under Indiana Law.
   (k) Walks

2. Accessory buildings shall not be erected prior to the principal building except buildings used for farming purposes or where there is common ownership with adjoining lot which has a principle building already constructed on the one lot.

3. All accessory buildings located on a lot or parcel of land shall conform to the setback requirements for that district listed in Section 3, TABLES 2a, 2b and Section 3.3, depending upon the primary use of the lot or parcel of land concerning which Section shall be applicable.

4. In residential districts and B1 zoning districts no accessory building shall be located in front of the primary structure.

5. In all residential and B1 zoning districts accessory buildings shall not exceed 12 feet in height above ground at the lowest eave. Accessory buildings area shall be restricted to the maximum lot coverage per Table 2a-1. **Only one (1) accessory building per lot is allowed in residential and B1 zoning districts.** Further, a garage or other accessory building that is not an integral part of the principal building and is only attached to the principal building by a breezeway, porch, patio or other similar construction shall be considered a separate accessory building and shall conform to all provisions, restriction and limitations for said buildings.

6. Non-permanent building/carport: In all residential and B1 zoning districts **only one** mini-barn type storage building and one open sided carport structure, not constructed on a permanent foundation, is allowed per lot (these structures are considered non-permanent and therefore not accessory buildings). The maximum area for a mini-barn type storage structure and carport is 200 square feet. All such structures shall meet the setback requirements for accessory buildings in the respective district. Any structure/building exceeding 200 square feet in ground coverage shall be placed on a permanent foundation and are accessory buildings and shall conform to the requirements for accessory buildings. Total area of all accessory buildings, and non-permanent structures/buildings, are subject to the area restriction of lot coverage per Table 2a-1.

7. No permits are required for structures 200 square feet or less not placed on a permanent foundation. Any structure larger than 200 square feet shall be constructed on a permanent foundation and the necessary permits shall be obtained. However, all structures must meet the setback requirements of the zoning district in which they are located.

C. BUILDING ON STREET OR EASEMENT

Every primary building hereafter erected shall be located on an individual lot which fronts on a public street, or private access easement not less than thirty (30) feet in width, unless the easement was created prior to the effective date of this ordinance.

D. MINIMUM LOT AREA

Except as hereafter provided, no building or structure shall be erected or located on a lot unless such lot conforms with the lot area regulations of the district in which it is located except that lots of record or individually held prior to the passage of this ordinance may be smaller in area than the figure prescribed. For the purpose of this ordinance the area of a lot that borders an access (ingress/egress) easement shall be the net area of the lot, which is the gross area less that portion lying within the access easement or easements in the case of a corner lot.

E. MINIMUM LOT WIDTH

A minimum lot width of 65 feet is required at the front **building line** in all residential districts. In business and industrial districts the minimum lot width, per Table 2b, shall be measured along the arc of the front **lot line**. In no case shall the front width of a lot be less than thirty (30) feet at the right-of-way line, access easement line, or street line.

F. GROUND FLOOR AREA

The ground floor area requirements for dwellings, as set forth in the districts shall apply. Dwellings shall not be changed except in conformity with these regulations. See Section 3.3(B) for accessory building floor area.

G. BUILDING HEIGHT

All buildings hereafter designed or erected and existing buildings that may be reconstructed, altered, moved, or enlarged shall comply with the height regulations and exceptions of the district in which it is located. See Section 3.3(B) for accessory building height.

H. YARD SETBACKS

1. In measuring a front yard or side yard adjoining a street, it shall be the perpendicular distance between the right-of-way line of said street and a line through the corner or face of the building closest to and drawn parallel with the right-of-way line excluding any architectural features.

2. Architectural features (cornices, chimneys, eaves, sills, canopies or other similar features) may extend into the required side yard not more than two feet, provided that the width of said yard is not reduced to less than five feet and may project into a required front or rear yard not more than three feet.

3. An open platform, porch or landing which does not extend above the level of first floor of the building may extend or project into any required yard not more than four feet.

4. Where 50% or more of the lots in a one block area are occupied by buildings, the average setbacks of such buildings (including front, side and rear setbacks) determines the dimensions of the set-backs in the lot, provided that if there are no other buildings within 330 feet of the proposed building in either direction, then the standard set-back lines for the district shall apply. Where 50% or more of the lots in a one block area are occupied by accessory buildings, the average setbacks of such buildings determines the dimensions of the setbacks for the accessory buildings in that block, provided that if there are not other buildings within one block or 330 feet of the proposed building in either direction, then the standard setback lines for the district shall apply.

5. Front yard or building setback lines in subdivisions recorded prior to the adoption of this ordinance establish the front setback provided the line is clearly shown or there is a written statement on the plat giving the setback. After the adoption of this ordinance, no subdivision shall be platted with a front setback distance less than the required front yard of the district in which it is located. Where there is not a platted subdivision of record the minimum setback in all districts, as measured from the physical centerline of existing public streets, roads or highways shall be sixty-five (65) feet. However, where the street, road, or highway has a right-of-way that was established by dedication, deed or easement the minimum setback shall be forty (40) feet from the right-of-way line. **This subsection does not apply to subdivision plats where a different setback is clearly shown provided the Commission has approved the subdivision.** The minimum forty (40) foot setback may be reduced in accordance with the provisions of Subsection 4 above.

6. Any building, which is reconstructed upon the same site of a prior structure within twelve (12) months from the removal of the prior structure, shall not require a variance as to the development standards of this ordinance regarding setback.

7. Any new structure which meets the setback standards of fifty (50%) percent of the existing structures in the adjoining area, that being one block each side or 330 feet each side of said structure, shall not require a variance of the setback development standards of this ordinance. Except, the Plan Commission may require division of land platted under the Subdivision Control Ordinance, Chapter 14, to have setbacks in compliance with **Table 2a-c**.

8. Side yard setback shall be as shown in Table 2a and 2b. The minimum distance between primary structures in R1 and R2 districts is twelve (12) feet. The minimum side yard distance between primary structures, located on one lot, in all other districts is twenty (20) feet. However, where building codes require a greater distance the greater distance shall apply.

9. Rear yard setback shall be as shown in Table 2a and 2b. The minimum rear yard distance between primary structures in R1 and R2 districts is 60 feet. The minimum rear yard distance between primary structures, located on one lot, in all other districts is forty (40) feet. However, where building codes require a greater distance the greater distance shall apply.

10. In all districts, except residential and B1, the minimum distance between accessory structures, located on one lot, is twenty (20) feet. However, where building codes require a greater distance the greater distance shall apply. See Section 3.3 (B)(5) for residential and B1 restrictions.

I. EXISTING STRUCTURES DESTROYED

When an existing building does not meet the development standards, for the district in which it is located, is damaged or destroyed by fire, explosion, act of God, or other catastrophic or accidental circumstances it may be restored or reconstructed provided that the ground floor area does not exceed that of the original structure and further that all development standards of this ordinance shall be met to the maximum extent possible but in no case shall the deviation be less than was required by the original structure. The City Superintendent shall determine what is the maximum extent to which the development standards can be met. Structures that were located in a flood plain may only be reconstructed as provided under the Flood Hazard Ordinance, Appendix 'C'.

J. CUL-DE-SAC - LOT WIDTH & SETBACKS

On a cul-de-sac in residential districts, the lot width shall be measured along the line of an arc parallel with the lot line at the prescribed front setback. Provided the lot width along the arc is a minimum of 65 feet and further that the front setback is not less than thirty (30) feet. In business and industrial districts the measured length along the arc of the front lot line shall determine the minimum lot width required in Table 2b.

K. LOT COVERAGE and GREEN SPACE

1. All buildings hereafter erected and existing buildings that may be reconstructed altered, moved or enlarged shall not exceed the maximum percentage of lot coverage allow by this ordinance for the district in which the buildings are located.

2. In Business and Industrial districts A landscape strip of grass, trees and shrubs, not less than five (5) feet in width for lots up to 1.50 acres in area and ten (10) feet in width for lots 1.50 acres or larger in area shall be maintained between the property line and the nearest impervious surface (curb, parking lot, buildings, private sidewalk etc.) around the entire perimeter of the parcel except where access drives are located.

L. RESTRICTIONS ALONG STREAMS

1. No permanent structures may be erected and, if erected in violation of this section, no such structures may be used if the location is within 75 feet of the center line of any legal tile ditch, or within 75 feet of the existing top edge of any legal open ditch as determined by the Morgan County Drainage Board.

2. No authorization of use, under this ordinance, includes the authority to discharge liquid or solid wastes into public waters except as permitted under the Stream Pollution Control Law of the State of Indiana. Stream Pollution Control Board of the State of Indiana must approve plans and specifications for proposed public or district sewage or other waste treatment and disposal facilities, except when connecting to city sewers.

M. VISION CLEARANCE

Every property owner shall maintain a triangular space at each corner of their land where streets, roads, alleys, or access easements used by vehicles or pedestrians intersect that is free from any kind of obstruction to vision between the heights of 3 and 12 feet above established street grade, as determined by a diagonal line, connecting two points measured 25 feet equidistant from the right-of-way or easement corner along each right-of-way or easement line. Further no structure, landscaping or fence shall be erected or maintained that, in the opinion of the City Engineer, would restrict sight distance at an intersection such that there would be a danger to vehicles or pedestrians using the streets, roads, alleys or access easements that adjoin the property. Further, in no case shall a fence, wall, barrier, or other obstruction, with the exception of mailboxes with breakaway post, be placed within five feet of the edge of pavement of any public street, road, or alley. The preceding provisions shall also apply to private access easement(s), created by description or platting, which is used to provided ingress and egress to two or more parcels or lots.

N. SIDEWALKS

The improvement of any lot, by the construction of buildings or parking lot(s), shall include construction of sidewalks and curbs in accordance with Chapter 14 and Appendix `E' of this ordinance. Sidewalks shall be placed the entire length of the lot on each street side. City Superintendent or City Engineer will direct where the sidewalk(s) and curb are to be placed.

O. EXTERIOR LIGHTING

Exterior lighting, whether for area lighting, security, or signage, shall be hooded, screened or otherwise shielded and arranged such that it does not directly pose a hazard or nuisance to traffic on adjacent streets. Further no exterior lighting shall be used that will produce a direct glare or concentrate light onto adjacent property or be a nuisance to adjoining residential uses. The City Superintendent or his appointed agent shall be the sole determiner of what constitutes unacceptable glare, concentrated light, or a lighting nuisance.

P. OFF STREET PARKING

To reduce traffic problems and hazards by eliminating unnecessary on-street parking, every use of land must include on-premises parking sufficient for the needs normally generated by the use, as provided by this section. Parking spaces or bays contiguous to the street or within street right-of-way, required by the subdivision control ordinance (Chapter 14) or other ordinances, are in addition to the spaces herein required.

1. As used in this section, the term "parking space" means an area, not including any part of a street or alley, designed or used for the temporary parking of motor vehicles. The term "parking area" means

a group of parking spaces, or an open area, not including any part of a street or alley, designed or used for the temporary parking of motor vehicles.

2. Parking spaces shall be as provided in **TABLE 3**.

3. Each of the parking spaces required by this section must be at least 9 feet wide and 20 feet long, exclusive of pedestrian passageways.

4. The parking spaces prescribed by this section for a business or an industrial use must be located on the premises. Open parking areas for business, industrial or commercial uses must be paved with a hard or dust proof surface.

5. A group of business or industrial uses may provide a joint parking area if the number of spaces in the area at least equals the aggregate of the spaces required for the several uses.

6. All areas shall be surfaced, striped, and channelized as required by the Commission and shall be maintained in good condition. Parking stalls shall be marked and the access lanes shall be clearly defined, including directional arrows to guide internal movements. All parking lots and loading areas shall be suitably graded, surfaced, and drained in accordance with the standards approved by the Commission. Wheel stops, marked off spaces, and directional signs, where necessary, shall be required. Adequate fire lanes and emergency access shall be provided.

7. Where parking areas abut another property, public right-of-way or access easement, there shall be a concrete curb or barrier, not less than six (6) inches in height, securely installed and maintained to prevent any portion of a vehicle from extending past the edge of pavement. In all districts no pavement for parking areas, streets or driveways shall be constructed closer than five (5) feet to any property line except for the access drive(s) to the property.

8. Where such parking area abuts a residential district, there shall be a border of appropriate landscaping, including fencing, not less than 5 feet in height along the residential boundary. Such landscaping shall be maintained in good condition. Landscaping shall be designed to prevent nuisance from lights or noise to abutting properties and shall be approved by the Commission.

9. Lighting, where provided to illuminate parking areas, shall conform to Section 3.3(O) of this ordinance.

10. In no case shall parking spaces be so arranged that ingress and egress from a parking space require backing into a public or private pedestrian access way, or backing out of a public alley.

11. In no case shall any property owner cause a condition to exist due to the use of his property that will create a traffic condition to occur that will be dangerous to the public safety within the public rights-of-way or interfere with the use and enjoyment of surrounding properties.

12. In a platted residential subdivision recorded in the office of the Morgan County Recorder, or in a multi-family apartment development, parking of commercial vehicles having a gross vehicle weight of more than 9000 pounds is prohibited.

13. In business and industrial districts when parking areas are constructed or enlarged, sidewalks shall be installed along the public street sides of the lot or parcel in accordance with Chapter 14 and Appendix "E" of this ordinance.

Development Standards, TABLES 2a through 2c

TABLE 2a

AGRICULTURAL and RESIDENTIAL DISTRICTS - DEVELOPMENT STANDARDS

(THIS TABLE REPLACES "TABLE 2a" IN PREVIOUS ZONING ORDINANCE AND THE AG, R1, R2 AND R3 DISTRICTS OF "TABLE 2a-1" OF ORDINANCE NO. 2011-1655. ALSO SEE SECTION 3.3, SUBSECTIONS A through P, OF REVISED ZONING ORDINANCE NO. 2004-1530 FOR ADDITIONAL REQUIREMENTS

ZONING DISTRICT	AG	RR(a)	RR(b)	RR(c)	R1(a)	R1(b)	R1(c)	R1(d)	R2	R3
Minimum Lot Area with Sanitary Sewer	20 Ac	10 Ac	5 Ac	1 Ac	16,000 sft	13,000 sft	10,000 sft	8,000 sft	10,000 sft	10,000 sft (1)
Minimum Lot Area without Sanitary Sewer	20 Ac	10 Ac	5 Ac	2 Ac	2 Ac	2 Ac	2 Ac	2 Ac	2 Ac	NA
Max. Lot Depth to Width Ratio (2)	8	6	6	4	3	3	3	3	3	2
Max. Dwelling Units per Lot	1	1	1	1	1	1	1	1	2	3+
Max. Building Height in feet	50	40	30	30	30	30	30	30	30	30
Max. Lot Coverage "Primary Building" % / sft	NA	NA	NA	15% 6,500	30% 4,800	30% 3,900	30% 3,000	30% 2,400	35% 3,500	NA (3)
Max. Lot Coverage "All Buildings" % / sft (4)	NA	NA	NA	30% 13,000	40% 6,400	40% 5,200	45% 4,500	45% 3,600	4,500	NA (3)
Max. Percent Lot Coverage "All Improvements" (5)	NA	NA	20	30	60	60	60	60	60	70
Min. Living Area, Ground Floor – Single Story sft (6)	1,600	1,600	1,600	1,600	1,600	1,400	1,200	1,000	540	540
Min. Living Area, Ground Floor - Multi Story sft (6)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	900	450	450
Min. Lot Width at Front Lot Line in feet	250	200	150	100	65	65	65 (7)	65 (7)	65 (8)	65 (8)
Min. Lot Width at Front Setback Line in feet	330	250	200	150	90	80	70	65	80	90
Front Setback - Primary Building in feet (9)	95 / 70	95 / 70	85 / 60	75 / 50	65 / 40 (10)	65 / 40 (10)	65 / 30	65 / 30	65 / 40	65 / 40
Rear Setback - Primary Building in feet	100	90	80	70	40	40	30	30	30	30
Side setback - Primary Building in feet	50	40	30	20	10	10	6	6	10	10
Max. Number of Accessory Building(s)	NA	3	2	1	1	1	1	1	1	NA (11)
Max. Size Accessory Building(s) sft (12)	NA	3,000	2,500	2,000	1,000	1,000	800	600	800	NA (11)
Max. Height Accessory Building in feet (13)	NA	40	30	16	10	10	10	10	10	10
Front Setback - Accessory Building	In all districts, no portion of an accessory building shall be closer to the front Lot line than the front of the primary structure.									
Rear & Side setback - Accessory Building in feet	50	40	30	20	10	10	6	6	6	20
Max. Animal Unit Equiv. (AUE) per Acre (See AUE Table for additional restrictions)	NA	1.0	1.0 (14)	0.5 (14)	(15)	(15)	(15)	(15)	(15)	(15)

TABLE 2a - Table Notes

1) The minimum lot area shall be 3,000 sft per dwelling unit but not less than 10,000 sft per lot.
2) Upon findings of the Plan Commission, width to depth ratio may be exceeded for reasons of topography, retention ponds, ravines or other natural features. However, in all such cases the rear setback line shall be measured from the inside edge of any easement at the rear of the lot.
3) In R3 Districts there may be several multi-unit dwelling buildings, however the R3 lot must contain a minimum of 3,000 sft of area for each dwelling unit. Also, 3,000 sft of lot area shall be included for each additional non-dwelling building, for example club house, activities building or maintenance building.
4) "All Buildings" includes Primary Building, Accessory Buildings, and non-permanent buildings such as mini-barns and metal carports.
5) "All Improvements" includes permanent structures, primary buildings, accessory buildings, and non-permanent buildings such as mini-barns and metal carports. Also, any impervious surface, including but not limited to: paved, gravel, or crushed stone driveways and parking areas; sidewalks, patios, decks, swimming pools, and similar improvements.
6) "Ground Floor Living Area" shall not include garage, basement, decks, patios or porches. Further, the average width (*defined as: total ground floor area, exclusive of garage, decks patios or decks, divided by the overall length of the longest side of the dwelling.)* of any structure to be used as a residential dwelling shall be not less than 18 feet. This provision does not apply to mobile or manufactured homes within a mobile home park or planned unit development (PUD) approved for mobile or manufactured homes.
7) If lot fronts on a cul-de-sac the Minimum Lot Width at the front lot line may be reduced to 40 feet.
8) If lot fronts on a cul-de-sac the Minimum Lot Width at the front lot line may be reduced to 50 feet.
9) The first number is the front setback distance, in feet, as measured from the pavement centerline of the road, street or access easement on which the lot fronts. The second number is the front setback distance, in feet, as measured from the right-of-way line of a road, street or access easement that has been established by a recorded plat or the action of state or local government. The distance that places the primary structure the greatest distance from the centerline of the road, street or access easement shall control.
10) Front Setback may be reduced to 30 feet if a 32 foot wide street pavement is provided.
11) For R3 Districts additional non-dwelling buildings, for example club house, activities building or maintenance building may be allowed provided the lot area requirements are met per Note 3 above.
12) The size shown is for one accessory building. If more than one accessory building is allowed then the total area of all accessory buildings shall not exceed the maximum size of a single building multiplied by the number of accessory buildings allowed. For example, District RR(a) allows three (3) accessory buildings, of 3,000 sft for a total of 9,000 sft. Owner may elect to construct one building of that size or another option would be to construct one at 2,000 sft and another of 7,000 sft which is permitted as the total area of accessory buildings did not exceed 9,000 sft.
13) Height of accessory building shall be measured from the finished floor elevation of the ground floor to bottom of the ceiling joist of the highest story or bottom of the lowest chord of a truss roof.
14) Swine of any type are prohibited. Also, see AUE Table for the maximum number of each type of animal allowed per acre.
15) All animals, except household pets, are prohibited. See zoning ordinance for definitions and other restrictions.

TABLE AUE (ANIMAL UNIT EQUIVALENT)

TYPE OF ANIMAL	ANIMAL UNIT EQUIVALENTS (AUE)	NUMBER OF ANIMALS EQUIVALENT TO ONE ANIMAL UNIT	MAXIMUM NUMBER PERMITTED PER ACRE
Mature Cow	1.00	1.0	2
Heifer	0.70	1.0	3
Calf	0.20	5.0	5
Swine (Over 300 pounds)	0.40	2.0	1
Swine (Between 55 & 300 pounds)	0.30	3.0	2
Swine (Under 55 pounds)	0.05	20.0	4
Horse / Mule	1.00	1.0	2
Pony	0.70	1.0	3
Sheep / Goats and Lambs	0.10	10.0	5
Chickens/Turkeys/Ducks	0.03	33.0	25
Rabbits	0.02	50.0	40
Animal not listed	Average weight of the animal in pounds divided by 1,000 pounds		

In calculating the number of animals permitted the number shall be round down to the nearest whole number.

Examples of How to Calculate the Maximum Number of Animals Permitted in a Rural Residential Zoning District:

Example 1: A 7.00 acre lot is located in an RR(b) zoning district and the owner wants to have some cows but he also has three (3) horses and 40 chickens. How many cows can he have and still have the three (3) horses and 40 chickens?

From Table 2a the maximum AUE per acre for the RR(b) district is 1.00. Since there is 7.00 acres the total allowable AUE for the lot is (1.00 x 7.00) = 7.00 AUE.

The AUE Table shows that each horse and cow has an AUE of 1.00 and chickens have an AUE of 0.03. Calculate the total AUE for 40 chickens (40 x 0.03) = 1.2; Calculate the total AUE for 3 horses (3 x 1.00) = 3.00. Total AUE for the chickens and horses is (1.20 + 3,00) = 4.20. The remaining AUE that can be used for additional animals is (7.00 – 4.20) = 2.80. A mature cow has an AUE of 1.00 therefore the number of mature cows allowed is (2.80 / 1.0) = 2.80. Rounding to the next lower whole number the maximum number of cows allowed is two (2).

Example 2: A 1.60 acre lot is located in an RR(c) zoning district and the owner wants to have 50 chickens and some sheep. If she has 50 chickens how many sheep can she have?

From Table 2a the maximum AUE per acre for the RR(c) district is 0.50 and given a lot size of 1.60 acres the total AUE permitted on the lot is (0.50 x 1.60) = 0.80 AUE.

The AUE Table shows that the AUE for one chicken is 0.03. Since the owner wants 50 chickens the total AUE is (0.03 x 50) = 1.50 which exceeds the allowable AUE of 0.80 for the 1.60 acre lot. Therefore 50 chickens are not allowable.

How many chickens are allowed? The number of allowed chickens is (0.80/0.03) = 26.67. Rounding to the next lower whole number shows that 26 chickens are allowed.

The owner now wants to have one sheep and reduce the number of chickens. One sheep has an AUE of 0.10 so the AUE available for chickens is (0.80 – 0.10) = 0.70. The number of permitted chickens is calculated as (0.70 / 0.03) = 23.2. Rounding to the next lower whole number shows that 23 chickens are allowed.

Example 3: A 14.50 acre lot is zoned RR(a). Husband and wife owners want to raise heifer cattle, hogs and chickens but primarily heifers. The wife needs to have a minimum of 100 laying hens. They both agree that they want two (2) hogs to butcher. How many heifers are permitted on the 14.50 acres?

From Table 2a the maximum AUE per acre for the RR(a) district is 1.00 and given the lot size of 14.50 acres the total AUE permitted is (14.50 x 1.0) = 14.50 AUE.

The AUE Table shows the AUE for one chicken is 0.03 and for one hog (55 lbs to 300 lbs) is 0.30. Therefore for 100 chickens and two (2) hogs the total AUE is (100 x 0.03) + (2 x 0.30) = 3.60 AUE. Given a total AUE for the lot is 14.50 then the balance that can be used for heifers is (14.50 – 3.60) = 10.90 AUE. Heifers have an AUE of 0.70 therefore the number of heifers allowed is (10.90 / 0.70) = 15.57. Rounding to the next lower whole number shows that 15 heifer cattle are allowed.

TABLE 2a-1 OF SECTION 3.3 OF ZONING ORDINANCE AS AMENDED PER ORDINANCE 2011-1655						
DESCRIPTION OF RESTRICTION (Excludes downtown district and existing improvements as of June 6, 2011)	**THIS COLUMN APPLIED TO AGRICULTURAL (AG) ZONING DISTRICT AND HAS BEEN REPLACED BY TABLE 2a OF ORDINANCE 2013-1685**	**B1** Lot Size 10,000 sq ft or less	**B1** Lot Size 10,001 sq ft to 20,000 sq ft	**B1** Lot Size 20,001 sq ft to 30,000 sq ft	**THIS COLUMN APPLIED TO RESIDENTIAL ZONINING DISTRICTS 2 AND 3 (R2 & R3) AND HAVE BEEN REPLACED BY TABLE 2a OF ORDINANCE 2013-1685**	**B1 -** Lot Size greater than 30,001 sq ft
Lot Coverage by Primary Structure (Building)		30% (3,000 sft max.)	30% (3,000 to 6,000 sft)	30% with a maximum of 8,000 sft		40% maximum
Lot Coverage by Accessory Buildings including non-permanent storage buildings (mini-barns) & carports		10% (1,000 sft max.)	10% with 1,500 sft max.	10% with 2,500 sft max.		10% maximum
Lot Coverage by **All Improvements** including, permanent structures, accessory buildings, and non-permanent storage buildings (mini-barns)/carports. Also, impervious surfaces including but not limited to: driveways, patios, decks, sidewalks, swimming pools, parking areas, and similar improvements		60% (6,000 sft max.)	60% (6,000 to 12,000 sft)	60% (12,000 to 18,000 sft)		80% maximum

TABLE 2b

BUSINESS - INDUSTRIAL SETBACK, HEIGHT & COVERAGE REQUIREMENTS

(Also see Section 3.3(A through Q) for additional requirements)

DISTRICT IN WHICH USE IS PERMITTED	B1	B2	B3	B4	I1	I2	I3	I4
Minimum Lot Width at Street Line	50'	50'	50'	50'	50'	50'	50'	50'
Maximum Building Height (See definitions)	30'	40'	40'	50'*	40'	50'*	75'*	75'*
Minimum Front Yard Abutting								
Arterial street	40'	40'	40'	40'	40'	40'	40'	40'
Feeder street	40'	40'	40'	40'	40'	40'	40'	40'
Residential street	40'	40'	40'	40'	40'	40'	40'	40'
Minimum Side and Rear Yard								
When adjoining a residential district	20'	20'	20'	30'	40'	50'	100'	200'
When not adjoining residential district	20'	20'	20'	20'	20'	20'	20'	50'
Max. Percent Lot Coverage, All Improvements	70	80	90	90	90	90	90	90

*The setback requirements shall be not less than one foot of setback for every foot of building height over 50 feet not to exceed 75 feet. These specifications are subject to all other standards required in other sections of this ordinance that may be greater.

BUSINESS – INDUSTRIAL, LOT AREA, WIDTH/DEPTH & BUILDING COVERAGE

(Also see Section 3.3(A through Q) for additional requirements)

DIST. IN WHICH USE IS PERMITTED	B1	B2	B3	B4	I1 & I2	I3 & I4
Minimum lot area **WITH** sanitary sewers (See Note 1 Below)	10,000	10,000	14,000	16,000	24,000	5 acres
Minimum lot area **WITHOUT** sanitary sewers (See Note 1 Below)	43,560	43,560	43,560	43,560	43,560	5 acres
NOTE 1: Minimum Lot Area - Lot must be of sufficient area to meet off street parking requirements and meet all other requirements.						
Maximum lot depth to width ratio	3.0/1	2.0/1	2.0/1	2.0/1	2.0/1	2.0/1
Minimum ground floor area						
One story	1,200	1,200	1,200	1,600	2000	5000
Two story	800	800	800	1,000	2000	5000
Maximum percentage of lot coverage by **ALL BUILDINGS**						
WITH sanitary sewer	25	35	40	40	50	50
WITHOUT sanitary sewer	15	25	25	25	25	25

TABLE 2c
INDUSTRIAL USES – MINIMUM AREA PER BUILDING

DISTRICT WHICH USE IS PERMITTED	I1	I2	I3	I4
Minimum lot area for each building (in square feet) (double required area if buildings are not connected to sanitary sewers)	6000	6000	20,000	30,000

TABLE 3a
Residential Parking Requirements Per Dwelling Unit

A. **R1 and R2 uses** – Two parking places for the first bedroom and an additional parking place for each additional bedroom.

B. **R3** – Two parking places for the first bedroom and an additional parking space for each additional two bedrooms.

TABLE 3b
Business, Industrial and Non-residential Parking Requirements

USES	REQUIRED PARKING SPACES
Airport or heliport	1 per 2 employees plus 1 per 4 public seats
Artificial lake of 3 acres or more or private Swimming pool (not private residential)	1 per 2 users
Automobile or trailer sales area	1 per 4,000 sq. ft. used for retailing
Automobile sales and repair (indoor)	1 per 200 sq. ft. of floor area
Banks, business office, professional offices, similar business uses, postal stations, telegraph offices and similar service uses	The greater of 1 per work station plus, 1 per 300 sq. ft. of floor area
Boarding or lodging house or fraternity, sorority, or student cooperative house	1 per each rental unit
Bowling lanes	3 per lane plus 1 per 6 spectator seats
Business uses not otherwise listed	As determined by the Board 1 per 2 employees plus 1 per 4 seats
Church or temple	1 per 4 seats in the main auditorium
Clinic	1 per employee plus 5 per doctor
College, university, trade or business school	As determined by the board
Confinement feeding operation	1 per employee
Country Club of golf course	1 per employee plus 3 per golf hole
Dancing academy	1 per 200 sq. ft. of floor area
Fairgrounds	As determined by the Board
Greenhouse or nursery	1 per 300 sq. ft. of floor area
Facilities for raising or breeding non-farm fowl or animals (commercial)	1 per employee plus 2
Sale barn for livestock resale	1 per employee plus 1 per 125 sq. ft. of sales area
Home professional office	2 in addition to residence requirements
Hospital	1 per 2 beds plus 1 per doctor plus 1 per employee plus 1 per hospital vehicle
Industrial park	1 per employee on largest shift

Industrial uses generally	1 per employee
Junk yard	1 per employee plus 1 per 300 sq. ft. of floor area
Kindergarten or day nursery	1 per employee plus 1 per 5 children
Mortuary	1 per 4 seats in the main auditorium
Motel	1 per sleeping room plus 1 per employee
Nursing home or home for the age member	1 per employee or staff
Large indoor or outdoor comm. recreational facility	1 per employee plus 1 per 500 sq. ft. of area
Penal or correctional institution	1 per employee plus 1 per 10 inmates
Police station or fire station	1 per employee on shift plus 5
Private club or lodge	As determined by Board
Private recreational development	1 per 2 customers or members plus 1 per employee
Public camp	1 per camp site plus 1 per cabin
Public library, museum, or municipal or government building	1 per 300 sq. ft. of floor area
Radio or TV tower or station	1 per employee per shift plus 5
Railroad operation use	1 per employee where headquartered plus 5
Railway station or motor bus station	1 per 5 seats in waiting room plus 1 per employee of connected retail use
Retail stores generating light auto traffic including but not limited to the following: Apparel shop, flower shop, hardware store, stationer, news dealer, record shop, photo studio, cold storage locker service, roadside sales stand, electrical appliance shop, radio or television shop, dressmaker, millinery, tailor and pressing shop, shoe repair, dry cleaning shop, laundry agency and similar uses	1 per 300 sq. ft. of floor area open to the public.
Retail stores generating heavy auto traffic including, but not limited to the following: Department store, retail showroom, drugstore, barber shop, beauty shop, reducing salon, restaurant, deli, bakery, meat market, supermarket, self service laundry, billiard room, tavern, night club and similar uses	1 per 150 sq. ft. of floor area open to the public.
Riding stable	1 per 5,000 sq. ft. of lot area
School	1 per staff member plus 1 per auditorium seats
Shopping center	1 per 200 sq. ft. of floor area open to the public
Slaughter house	1 per employee plus 5
Stadium or coliseum	1 per employee plus 1 per 2 seats
Telephone exchange or public utility substation	1 per employee at or working out of the site
Theater (indoor)	1 per 2 seats
Theater (outdoor)	1 per employee
Tourist home	1 per employee plus 1 per sleeping accommodation
Travel trailer park	1 per employee plus 2 per travel trailer stand
Truck freight terminal	1 per employee plus 5
Veterinary hospital for small animals or kennel	1 per seat plus 1 per employee
Warehouse or grain elevator	1 per employee plus 5
Wholesale produce terminal	1 per employee plus 5

Q. LOADING AREA (DOCKS)

1. Business uses, except those that do not receive or transport goods in quantity by truck delivery, shall be provided with loading berths (which, if open, shall be paved with a hard or dustproof surface) as shown on the following table:

USE	GROSS FLOOR AREA (SFT)	NUMBER OF DOCKS
Retail stores, department stores, wholesale establishments, storage, warehousing, and other business uses	3,000 to 15,000 Each additional 15,000 or fraction	1 1 additional
Office building	25,000 to 100,000 100,000 to 350,000 Each 200,000 or fraction over 35,000	1 2 1 additional
Commercial facility for breeding non-farm fowl or animals	All	1
Commercial greenhouse	Under 15,000 Over 15,000	1 2
Hospital	All	1
Stadium or coliseum	All	2
Industrial uses	Under 15,000 15,000 to 40,000 40,000 to 100,000 each additional 40,000	1 2 3 1 additional

2. For the following uses, any loading berths that are provided must be at least 200 feet from the nearest residential use:
   (a) Airport
   (b) Mineral extraction or borrow pit
   (c) Outdoor commercial recreational enterprise
   (d) Penal institution
   (e) Livestock sale barn
   (f) Truck freight terminal
   (g) Warehouse or grain elevator

SECTION 3.4 – IMPROVEMENTS ON PUBLIC RIGHT-OF-WAY

No improvements or construction of any kind or nature shall be performed on public right-of-way, City or County, without the proper permits and the express approval of the City Superintendent, City Engineer or County Engineer. All improvements or construction on public right-of-way must meet the standards of design and material quality approved by the City or County. In the City of Martinsville all improvements constructed on City right-of-way must meet the standards and specifications for design and materials adopted by the Martinsville Board of Public Works and Safety. Any landowner, person, corporation or other legal entity that places, or causes to be placed, improvements on public right-of-way without proper permits and approvals, or does not construct the improvements in accordance with approved design standards and material quality shall be a violation of this ordinance and will subject the landowner and/or offending party to the remedies and penalties provisions of Chapter 12 of this ordinance. Any improvements constructed in violation of this ordinance shall be completely removed from the public right-of-way and any disturbed areas restored to their original condition. The landowner and/or person causing the violation shall pay all cost of removal and restoration.

SECTION 3.5 – ADDITIONAL BUSINESS AND INDUSTRIAL USES REQUIREMENTS

The following performance standards shall apply to all business and industrial uses, in addition to the other requirements of this ordinance.

A. ODOR

No business or industrial use in any district may release and objectionable or offensive odor that is detectable at the property line.

B. TOXIC MATERIALS

No materials toxic to persons or injurious to property shall be permitted to escape beyond the building in which it occurs.

C. LIGHTING AND HEAT

No business or industrial use may cause heat at the property line so intense as to be a public nuisance or hazard. Lighting and glare, regardless or the source, shall meet the requirements of Section 3.3(O) of this ordinance.

D. VIBRATION

At no time shall vibration, shaking or tremors produced by equipment or processes from any industrial use or source become detectable at the property line. (Excluded are background vibrations produced by sources not under the control of this ordinance such as the operation of motor vehicles or temporary construction activity).

E. NOISE AND SOUND

At no property line of any business or industrial use may the sound level of any business or industrial use (excluding background noises produced by sources not under the control of this ordinance such as the operation of motor vehicles) exceed 70 decibels. Noise is to be muffled as not to be objectionable due to intermittence, frequency, or shrillness.

F. EXCEPTIONS

Section 3.5A to 3.5E inclusive do not apply to:

1. Site preparation or construction, maintenance, repair, alteration, or improvement of buildings, structures, equipment, or other improvements on or within the lot lines; and

2. The operation of motor vehicles or other facilities for the transportation of personnel, materials or products; and

3. Safety or emergency warning signals or alarms necessary for the protection of life, limb or property.

G. SPECIAL RESTRICTIONS

1. Any business or industrial operation or activity must, in addition to the above conform to the Indiana Air Pollution Control Law and any applicable acts of the federal government. Where the requirements of this ordinance are more restrictive, they shall take precedence.

2. A letter of approval is required from the Indiana Administration Building Council stating that construction plans for a proposed building or structure to be used for business or industrial use meets all required construction codes and safety codes of the State of Indiana shall be submitted with the application for an "Improvement Location Permit".

H. VIOLATION

Failure to comply with this section shall result in a fine in accordance with PENALTY FEE TABLE – APPENDIX 'B' with violations to be filed by the City Superintendent in the Martinsville City Court. Violations may also be treated the same as any other violation of this zoning ordinance and can be enforced at the discretion of the Plan Commission. All other legal remedies provided by law shall also be available to the Plan Commission and the City of Martinsville.

SECTION 3.6 – MANUFACTURED HOMES

A. DEFINITIONS

For the purpose of this ordinance, the following definitions shall apply:

1. "Manufactured Home" means a dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction Safety Standards Law of 1974 (42 USC 5401 et seq.).

2. "Underlying Floor Space" means that space between the bottom of the floor joist and the earth.

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

4. "Mobile Home" means a transportable structure larger than three hundred twenty (320) square feet designed for use as a year-round residential dwelling.

B. MANUFACTURED HOME PROVISIONS

In accordance with the provisions of Indiana Code 36-7-4-1106, the establishment, location, and use of "Manufactured Homes" as permanent residences shall be permitted in any zone permitting installation of a dwelling unit, subject to requirements and limitations applying generally to such residential use in the district and provided such homes shall meet the following requirements and limitations;

1. The homes shall meet all requirements applicable to single family dwellings and posses all necessary improvement location, building and occupancy permits and other requirements of this ordinance that apply to single-family dwelling structures.

2. The homes shall contain not less than **one thousand (1000) sq. ft.** of occupied space, be manufactured after January 1, 1981 and the average width (*defined as*: *total ground floor area, exclusive of garage, patio, porch or deck, divided by the overall length of longest side of the dwelling.*) shall be not less than 18 feet. The manufactured home will be attached to the ground with a tie down system as shown in accordance with the manufactures "Manufactured Home Foundation Plan" or in compliance with the design of an Indiana Registered Professional Engineer however in no case shall the tie down system be less than that required by the manufacture.

3. The manufactured home will be placed on a permanent foundation, including concrete footings at least thirty inches (30) in depth below grade. Piers must be of permanent concrete construction.

4. The manufactured home will be permanently skirted with masonry material or commercial skirting designed for that purpose.

5. Wheels, axles, and tongues shall be removed.

6. The home shall be connected to sanitary sewers or to an on site waste water disposal system approved by the Morgan County Board of Health. Proof that an on site waste water disposal system will be approved or sanitary sewers are available shall be submitted to the City Superintendent prior to the granting of a building permit.

7. The home shall have a roof composed of a material customarily used on site-built residential dwellings, such as asbestos, fiberglass, shake, asphalt, or tile, which shall be installed upon a surface appropriately pitched for the materials used.

8. The manufactured home shall have siding materials meeting one of the following standards:

   (a) Residential horizontal aluminum lap siding;
   (b) Residential horizontal vinyl lap siding;
   (c) Cedar or other wood siding;
   (d) Any other approved siding materials that are aesthetically compatible to the area and proper building standards so as not to be detrimental to adjacent property values.

C. MOBILE HOMES (Permanent Occupancy – Park Site)

Mobile homes or manufactured homes may be permanently occupied when located in a mobile home park developed in accordance with **Chapter 6, Planned Unit Developments**, of this ordinance with the exception that all specific development standards set out under Section 3.3 shall be met and where the standards set out in Chapter 6 are in conflict with Section 3.3 herein, the standards set out in Section 3.3 shall prevail as to the required standards of the ordinance with the exception of lot size which shall be controlled by the following section "Minimum Lot Area".

D. MINIMUM LOT AREA

1. Mobile home parks of manufactured housing parks shall have sufficient room for 50 units with initial development of ten (10) acres.

2. An individual home lot within a mobile home park established under the provisions of this section shall be not less than 5,000 square feet for a single width structure (14 feet or less) and 7,000 square feet for a double width structure (over 14 feet) exclusive of thoroughfares and walkways.

E. GROUND FLOOR AREA

No mobile home shall be established, altered, or erected so that its ground floor area is less than 950 square feet excluding all porches, canopies, and storage areas.

F. BUILDING HEIGHT

No building or structure may be established, altered, or erected so as to have a height greater than 30 feet. No accessory building shall exceed 16 feet in height or 1200 square feet in ground floor area.

G. GENERAL REQUIREMENTS

1. Yards and distances between structures:

   (a) The minimum distance between mobile home stands on opposite sides of a street shall be 60 feet.

   (b) The minimum distance between a mobile home stand and a street pavement, common parking area, a common walk or other common area or another mobile home shall be 8 feet.

   (c) The minimum distance between a mobile home stand the:

      I. Side and rear property line of the mobile home park: 25 feet

      II. Front street right-of-way line or easement line when abutting:
         a. Arterial street: 60 feet
         b. Feeder street: 50 feet
         c. Residential street: 40 feet

2. Streets

   (a) Streets shall be provided on the site where necessary to furnish principal traffic ways for convenient access to the mobile home stands and other important facilities on the property. Streets shall be privately owned and maintained.

   (b) The street system shall provide convenient circulation by means of minor streets and properly located collector streets. Closed end or dead end streets shall be provided with adequate paved vehicular turning or backing space. A turning circle shall have a paved surface of at least 84 feet in diameter, exclusive of curbs. Dead end streets shall not exceed 500 feet in length measured from the center point of the turning circle to the intersection of the centerline of a dead end and a through street.

   (c) Pavements shall be of adequate width to accommodate the expected parking and traffic load in accordance with the type of street with 12 feet minimum moving lane widths and 8 feet minimum lane widths for parallel parking.

   (d) One lane minor streets are prohibited.

   (e) Streets shall be adapted to the topography and shall have suitable alignment and gradient for safety of traffic in accordance with Section 14.7(B) of this ordinance. Storm water system shall be designed in accordance with the City of Martinsville or Morgan County, Stormwater and Erosion Control Management Plan Ordinance and Design Manual.. Each home shall be connected to sanitary sewers.

   (f) Street intersections shall generally be at right angles. Offsets at intersections and intersections of more than two streets at one point shall be avoided.

   (g) The street improvements shall extend continuously from the existing improved street system to provide suitable access to the mobile home stands and other important facilities on the property, to provide adequate connections to existing or future streets at the boundaries of the property, and to provide convenient circulation of vehicles.

   (h) Curbs and gutters along all streets are required.

(i) Street base and pavement shall be constructed in accordance with the standards established for residential streets in the Section 14.8 (C).

(j) Buffering will be provided as required by the Commission and per Chapter 3.8 of this ordinance but not less than fifty (50) feet from any existing R1 or I use.

3. Driveways

(a) Driveway shall be provided on the site where necessary for convenient access to service entrances of buildings, to delivery and collection points for refuse and other material, and elsewhere as needed.

(b) Four parking spaces shall be provided for each mobile home stand. The spaces shall be provided either in common facility within 100 feet of the stand, in a parking lane along the abutting interior access street or within the stand. Street parking shall count as two spaces per stand fronting on the parking lane.

4. Walk

(a) Paved pedestrian sidewalks shall be provided in a continuous arrangement, throughout the park. Where possible, walks leading to frequently use public facilities should be through interior areas removed from the vicinity of streets. Public pedestrian sidewalks shall be constructed of concrete at least five (5) feet in width and 4 inches in thickness.

(b) Individual walks shall be provided from a public walk, street or parking area to the individual mobile home stands. These walks shall be at least three feet in width and should be paved with a suitable material for use in all weather conditions.

5. Screen Planting and Fences

(a) Fences or free standing walls shall be installed where necessary around laundry areas, refuse collection points, sanitary facilities, sewage disposal facilities and playgrounds for screening and protection of the residents.

(b) Screening, fencing and walls shall be set back from sidewalks and streets so as not to interfere with convenient and safe use of these facilities. Vision clearance at street intersections shall be maintained.

6. Sanitary and Trash Facilities

The mobile home park shall be provided with a complete sanitary sewer system, which shall connect with an existing approved sanitary sewer outlet or shall be provided with a separate treatment plant to be provided by the Developer in accordance with and approved by the **Indiana State Board of Health** (see regulation HSE 14, Indiana State Board of Health). Further the Park Developer shall provide enclosed and screened contains or dumpsters for solid waste in accordance with State Board of Health rules and Section 3.10 of this ordinance.

H. OTHER PERMITTED USES:

Non-residential occupancy, mobile homes, trailers, or vans may be utilized as contractors' offices, watchmen's shelters, or tool and equipment storage only on construction sites and only during the period of active construction on the project. Persons seeking such uses shall notify the City Superintendent, in writing, of the location and anticipated duration of use. Such use shall not exceed a period of 18 months without the express written approval of the City Superintendent.

Other use of mobile home and manufactured housing not meeting the requirements set out above shall be permitted only upon the granting of a special exception by the Board of Zoning Appeals as provided for in this ordinance.

SECTION 3.7 – SIGNS AND ADVERTISING STRUCTURES

A. DEFINITIONS:

Sign: See Section 1.4, General Definitions.

Sign, Freestanding: See Section 1.4, General Definitions.

Advertising Structure: See Section 1.4, General Definitions.

B. PURPOSE AND INTENT

The City of Martinsville recognizes that signs are a major means of outdoor advertising for local businesses and provide directions and other information for drivers and pedestrians. The City also recognizes that signage significantly affects the quality of our visual environment. The goals of this sign ordinance are therefore to:

1. Promote conscientious use of signs by local businesses, government bodies and other entities to permit maximum legibility and effectiveness of signs.

2. Prevent over-concentration, excessive size and improper placement of signs in order to promote an atmosphere of small town charm with positive esthetics.

C. GENERAL PROVISIONS

1. Signs and advertising structures may be maintained in the districts where such uses are permitted after having secured an Improvement Location Permit approving the location, size and design of said sign or advertising structure except in the case where said sign or advertising structure is specifically excluded from the requirements of an Improvement Location Permit by the provisions of this section, subject to the following general requirements:

2. Signs and advertising structures shall conform to the regulations for this district in which they are located, as established by this section.

3. The area of a sign or advertising structure shall be calculated by multiplying its maximum vertical and horizontal dimensions, excluding support structure.

4. No sign or advertising structure shall be erected at the intersection of any streets in such a manner so as to obstruct free and clear vision of operators of motor vehicles, or at a location where, by reason of its position, shape or color, it may interfere with or obstruct the vision of, or be confused with any authorized traffic sign, signal or device, or make use of any word, phrase, symbol or character in such a manner as to interfere with or confuse traffic.

5. Lights used to illuminate signs or advertising structures shall be so installed so as to concentrate the illumination on the sign or advertising structure and so as to minimize glare upon a public street or adjacent property. Signs and advertising structures are also subject to the requirements of "The Highway Advertising Control Act of 1967," as amended. All signs and advertising

structures shall conform to the provisions of said Act. If this section and the Act are in conflict, the requirements of the more restrictive shall apply.

6. Exempt Signs. The following types of signs shall be exempted from requirements of this subsection:

   (a) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, and names of occupants of premises.

   (b) Flags and insignia of any government except when displayed in connection with commercial promotion.

   (c) Legal notices, identification information, or directional signs erected by or at the direction of governmental bodies.

   (d) An integral decoration or architectural feature of a building, except letters, trademarks, moving parts or moving lights.

   (e) Signs directing and guiding traffic in parking on private property, but bearing no advertising matter or logos.

   (f) Permanent entrance signs to residential subdivisions or PUDs when the Commission, as part of plat approval for the development, approves the sign.

   (g) Signs that identify a family farm, family farming operation or advertising farm products for sale on the farm are exempt provided the total area of sign(s) do not exceed 64 sft.

D. SIGNS

Signs are permitted in all districts subject to the restrictions of the district in which the sign is located as established by this section, plus the following general requirements that shall also apply to all signs.

1. Whenever this section limits the area of any sign, a double-faced sign may be erected having the allowed sign area on each side of the structure, provided that the maximum dimensions between the two faces of the sign shall not exceed two feet. No sign shall be located closer than 30 feet from an abutting residential use.

2. Signs may be placed on the surface of a building provided the area in square feet does not exceed three times the length of the wall (Ex.: wall length is 60 feet maximum sign area is 180 square feet). Total area of signs on buildings may not exceed that allowed in the district in which the building is located. Any sign that is proposed for a wall that faces and is within 200 feet of a residential use shall required application be made to the Board of Zoning Appeals for approval of the sign or signs and method of lighting.

3. No part of any sign, whether freestanding or attached to a building, shall exceed the height requirements of the district as established in Chapter 3 of this ordinance or 40 feet whichever is less.

4. Any projecting wall sign with its advertising surface at an angle to a wall facing a street shall be deemed to be a freestanding sign. No such sign shall project beyond the right-of-way line of any adjacent street. Said signs shall have at least 8 feet of clearance above the ground.

5. The minimum setback of freestanding signs from street rights-of-way shall be not less than those given in the following table as measured to the nearest edge of the sign:

AREA OF SIGN PER FACE	MINIMUM SETBACK
12 square feet or less	5 feet
12.1 to 50 square feet	10 feet
50.1 to 128 square feet	20 feet
128.1 to 256 square feet and shopping center signs	50 feet
Over 256 square feet are prohibited except for shopping center signs	Prohibited

6. No freestanding sign shall be erected or maintained on or within any easement or right-of-way, whether public or private, without the express written approval from the person or agency empowered to grant such approval.

7. Where a use has been permitted in a district by special exception, the sign requirements for the district in which it has been allowed to be located shall determine the requirements for size, location, placement and erection of signs for the special exception use.

8. No sign shall be erected or maintained at any location where, by reason of its position, wording, illumination, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal or devise.

9. No sign shall contain or make use of any phrase, symbol, shape, form or character in such a manner as to interfere with, mislead, or confuse moving traffic.

10. No exterior sign shall be permitted to display flashing, intermittent, revolving, or animated lighting or illumination, or any illumination that simulates or displays motion. LED signs, and similar electronic displays are permitted provided the display does not flash, show animation or change screen message less than eight (8) second intervals. LED signs and electronic displays are not allowed on advertising structures.

11. All signs not expressly exempted or permitted by this ordinance are prohibited. Also, prohibited are off premises signs of any type or size that are attached to utility poles, fence post, trees, light post, traffic signal post or poles, or any structure within public right of way.

12. No part of any sign that is attached to the exterior wall of a building shall be erected to a height in excess of six (6) feet above the roof or parapet line of such building.

13. No illuminated sign shall be permitted within fifty feet (50) of any residential district unless the illumination of such sign is so designed that it does not reflect or shine light onto such property.

14. No part of any freestanding sign shall be erected to a height greater than that specified for other structures in the district in which the sign is located; roof top sign structures shall not exceed more than six (6) feet above the roof line nor shall such sign structures extend beyond or overhang any exterior wall of the building upon which they are secured.

15. A minimum setback of freestanding signs from street rights-of-way shall not be less than those given in the table in Item 5 above.

E. ADVERTISING STRUCTURES

Advertising structures are permitted **ONLY** in B3, B4 and Industrial districts, subject to the restrictions of that district as established by this section, plus the following general requirements that shall apply to all advertising structures:

1. No advertising structure shall be located closer than 1,000 feet in any direction from any other advertising structure on the same side of the road, street, or highway.

2. No advertising structure shall be located closer than 500 feet to any access ramp of a limited access highway nor closer than 500 feet to the intersection of two or more state highways. The distance to the access ramp shall be measured from the point where the pavement widening begins.

3. No advertising structure shall be placed within 500 feet of any dwelling or land platted and recorded for residential use, or any school, church, place of public assembly or park unless the property owner waives this requirement as it applies to his or her property.

4. An advertising structure may contain no more than two displays per facing, the maximum combined area of which shall not exceed 512 square feet. No advertising structure excluding supports and frames shall exceed 16 feet in height or 32 feet in length.

5. The height of any advertising structure, including supports and frame, shall not exceed 40 feet measured from either the ground elevation at its base or from the elevation of an adjacent road, street or highway whichever is higher. A minimum of 8 feet of open space between the bottom of the display and the ground directly below the display is required.

6. Each advertising structure shall be set back at least 50 feet beyond the street or highway right-of-way, measured from the closest edge of the advertising structure.

7. No advertising structure shall be erected or maintained on or within an easement or right-of-way, public or private, without the express written approval from the person or agency empowered to grant such approval.

8. An Improvement Location Permit shall be required for the erection of an advertising structure. The application for the Improvement Location Permit shall include a plot plan certified by a registered Land Surveyor, showing the exact location of the proposed advertising structures, intersections, residences, etc. that are affected by the proposed structure and regulated by this section. The application for an Improvement Location Permit shall include a notarized statement to be submitted to the Morgan County Assessor showing the party responsible for future tax assessments due on the advertising structure.

F. SPECIFIC SIGN REGULATIONS BY DISTRICT

1. FP, AG, R1, R2, R3 and B1 Districts

   (a) Signs shall be permitted in these districts subject to the conditions of Subsection C. and D. of this section. In addition, the following conditions shall apply:

      I. One non-lighted, ground mounted, sign for each street frontage shall be permitted. Maximum area per sign shall be 12 square feet. Maximum height of sign is 6 feet. Signs shall pertain only to products for sale, events occurring or services rendered upon the premises. **Except**, freestanding signs are prohibited in R1 and R2 Districts.

II. Signs mounted or attached to the building are permitted as provided in item III below.

III. One non-lighted nameplate for each street frontage shall be permitted. Maximum area per nameplate shall be 6 square feet. Nameplates shall display only the name of the property owner or lessee, the name of the property and the address of the property. Free standing name plates shall be set back a minimum of 5 feet from the right-of-way line of any adjacent street.

IV. "For Rent" and For Sale" signs shall be permitted. Not more than two such signs not exceeding 6 square feet per sign shall be permitted on any lot or parcel.

V. Total area of signs freestanding and attached or mounted on buildings shall not exceed 24 square feet. An Improvement Location Permit for the above-mentioned signs is not required.

(b) Advertising structures are prohibited. .

2. B2 Districts

(a) Signs shall be permitted in this district subject to the conditions of Subsection C. and D of this section. In addition, the following conditions shall apply:

I. A maximum of two freestanding signs shall be permitted per lot, out-lot or parcel. The signs may be lighted. The total area of all freestanding signs shall not exceed 192 square feet. Maximum height of freestanding Signs is 32 feet. Signs mounted or attached to the building are permitted provided the total area of the sign(s) in square feet does not exceed three times the length of the wall in lineal feet (Ex.: wall length 20 feet maximum sign area is 60 square feet). Further the total area of all signs, freestanding and those attached or mounted on buildings, shall not exceed 372 square feet.

II. Small vertical directional signs each not to exceed 8 square feet in area may be attached to a building structure to aid customers and suppliers in locating garbage entrances, delivery points, etc. No Improvement Location Permit shall be required for such signs.

III. "For Rent" and "For Sale" signs shall be permitted. Not more than two such signs not exceeding 12 square feet per sign shall be permitted on any lot, building or occupancy. No Improvement Location Permit shall be required for such temporary signs.

IV. One temporary sign, not exceeding 32 square feet, for the purpose of advertising a special event, such as a "Grand Opening," "Special Sale" or for the purpose of advertising the business until a permanent sign is erected, shall be permitted per business provided the temporary signage does not exceed a collective 30 days out of a calendar year. No Improvement Location Permit shall be required for such temporary signs.

(b) In addition to the two signs allowed in (a)(I) above, Shopping Centers or multi-business buildings shall be allowed one multi-listing sign consisting of a directory sign for each business no greater than 16 square feet per business, plus space for the shopping center name not to exceed 128 square feet. Total area of all signs on the structure shall not exceed 192 square feet. The sign structure shall not exceed 32 feet in height.

(c) Advertising structures are prohibited.

3. B3, B4, I1, I2, I3 and I4 Districts

(a) Signs shall be permitted in these districts subject to the conditions of Subsection C, D, and E of this section. In addition, the following conditions shall apply:

I. A maximum of three freestanding signs shall be permitted on each lot, out-lot, or parcel. The total area of all freestanding signs shall not exceed 256 square feet. Signs mounted or attached to the building are permitted provided the total area of the sign(s) in square feet does not exceed three times the length of the wall in lineal feet (Ex.: wall length 96 feet maximum sign area is 288 square feet). Further the total area of all signs, freestanding and those attached or mounted on buildings, shall not exceed 512 square feet. Maximum height of freestanding signs is 40 feet.

II. Shopping Centers or multi-business buildings shall be allowed one multi-listing sign consisting of a directory sign for each business no greater than 48 square feet per business, plus space for the shopping center name not to exceed 256 square feet. Total area of all signs on the structure shall not exceed 384 square feet. The sign structure shall not exceed 50 feet in height.

III. Small vertical directional signs each not to exceed 8 square feet in area may be attached to a building structure to aid customers and suppliers in locating garage entrances, delivery points, etc. No Improvement Location Permit shall be required for such signs.

IV. "For Rent" and "For Sale" signs shall be permitted. Not more than two such signs not exceeding 24 square feet per sign shall be permitted on any lot, building or occupancy. No Improvement Location Permit shall be required for such signs.

V. One temporary sign, not exceeding 32 square feet, for the purpose of advertising a special event, such as a "Grand Opening," "Special Sale" or for the purpose of advertising the business until a permanent sign is erected, shall be permitted per business provided the temporary signage does not exceed a collective 30 days out of a calendar year. No Improvement Location Permit shall be required for such temporary signs.

(b) Advertising structures are permitted.

4. SUMMARY OF SPECIFIC REGULATIONS BY DISTRICT

DISTRICT	Max. No. Freestanding	Max. Area Per Sign	Max. Area On Building	Max. Total All Signs	Max. Area Shop Cen.	Max. Height	Lighted
AG*, R1, R2, R3, B1	1 per St. frontage **	12 sft	6 sft per business	24 sft	Not Allowed	6 ft.	No
B2	2	192 sft total for 2	3 x front	372 sft	192 sft	32 ft.	Yes
B3, B4, I1, I2, I3, I4	3	256 sft total for 3	3 x front	512 sft	384 sft	40 ft. ***	Yes

The area of a Shopping Center or Multi-Business signs is in addition to the total area of all signs.

* See Section 3.7(C)(6) for exempt signs in AG District.

** **Freestanding signs are not permitted in R1 and R2 Districts.**

*** Maximum height of shopping center or multi-business sign in these districts is 50 feet.

G. FEE FOR IMPROVEMENT LOCATION PERMIT FOR SIGNS

Fees are due at the time of applying for the Improvement Location Permit and should be paid at the Office of City Superintendent and in accordance with FEE PAYMENT TABLE-APPENDIX 'A' under

signs or advertising structure. Failure to comply with this section shall result in a fine in accordance with PENALTY FEE TABLE – APPENDIX `B' with violations to be filed by the City Superintendent in the Martinsville City Court. Violations may also be treated the same as any other violation of this zoning ordinance and can be enforced by any discretion of the Plan Commission.

SECTION 3.8 - OUTLINE OF BUFFER REQUIREMENTS

A. DEFINITION

1. A buffer is any physical barrier, whether naturally occurring or man-made, that has the year-round effect of protecting one land use by mitigating the potentially negative effects of another.

2. A protected use is any land use that needs to be protected from potentially negative effects of another use.

3. An intruding use is any land use that needs to provide buffering to mitigate potentially negative effects it may have on another use.

B. REASONS FOR BUFFERS

1. Visual appearance,
2. Noise level,
3. Odor and
4. Public health and safety,
5. Density.

C. CHART OF BUFFERING

Minimum buffering requirements in terms of distance are given in the "CHART OF BUFFERING DISTANCES" on the following page. These distances shall be applied to all incompatible adjacent land uses as noted.

D. SPECIAL EXCEPTIONS

In applying the requirements of the chart, attention should be focused on the actual use in a proposed zone if the use involves a special exception. Appropriate buffering should be determined by the requirements of the zone in which the special exception use would normally be located. See "CHART OF BUFFERING DISTANCES" on the following page.

E. EFFECTIVENESS OF BUFFERS

The goal of these buffering requirements is to describe the minimum buffering required to protect one use from the potentially negative effects of an intruding use. Attention should be given to:

1. Distance between incompatible uses
2. Width of buffer,
3. Height of buffer and
4. Substance of material used to buffer

Consideration must be given to the specific use within a particular intruding zone, as not all uses in a given zone will have the same negative effects on surrounding land uses. Different kinds of buffers will be required by different intruding uses to effectively buffer protected uses.

The performance standard of the buffer should be that the protected use should be no more affected by the intruding use's presence as it would be by the presence of any use that would not require a buffer.

F. EXAMPLES OF BUFFERS

In general, natural buffers are preferred over man-made buffers.

1. Natural buffers include:

   (a) Topographical variations, including hills and ravines
   (b) Vegetation, including evergreen trees and dense growths of deciduous trees and hedges
   (c) Bodies of water, including creeks, ponds and lakes
   (d) Combinations of the above, including landscaped mounds
   (e) Judicious site planning with regard to prevailing wind directions

2. Man-made buffers include:

   (a) Intervening non-intruding land uses.
   (b) Fences.
   (c) Pools.

The appropriateness and adequacy of a proposed buffer should be evaluated in terms of its effectiveness at mitigating anticipated negative effects of an intruding use. If equivalent effectiveness can be obtained with alternative buffering methods not listed above, they should be looked upon with favor by the governing body.

CHART OF BUFFERING DISTANCES REQUIRED
(in feet)

Buffering distance required from protected use (top of chart) to negative impact use (down side of chart)

	AG	R1	R2	R3	B1	B2	B3	B4	I1	I2	I3	I4
AG												
R1												
R2												
R3	50	20										
B1												
B2	20	20										
B3	50	50	20									
B4	50	50	50	50								
I1	50	50	50	50	20							
I2	100	100	100	100	50	20						
I3	←		500		→	200	100					
I4	←					1000					→	

All distances are minimums. All distances are measured from the perimeter of the *actively used area* within the zone requiring the buffer to the property line of the zone that needs to be protected. "*Actively used area*" shall include all buildings, outside storage areas, outdoor utility generation and transforming areas, delivery driveways and other outdoor areas actively used for the business or industry. "*Actively used area*" shall not include lawns, landscaped areas or employee drives and parking lots.

SECTION 3.9 - SCREENING, FENCING and OUTSIDE STORAGE

A. INDUSTRIAL

1. Outside storage shall be enclosed within a fenced area.

2. Outside storage shall not encroach upon parking areas or boundaries to the extent that parking ordinance requirements as set out in this ordinance are not being complied with.

3. Outside storage shall not be visible to the public excepting industrial classifications I2, I3 or I4.

4. Outside storage, finished or raw materials shall not exceed the height of the enclosed fence in any zoning classification excepting areas zoned I2, I3, or I4.

B. BUSINESS

1. Bulk storage shall not be in front of the building structure.

2. Package display storage shall be permitted in front of the building structure.

3. Outside storage is prohibited in B1 District and must be screened from public view in B2 and B3 Districts.

4. The following shall be excepted in business zoning classification from the outside storage provisions of the ordinance provided the stored merchandise, supplies, or stock is permitted within the district:

   (a) Merchandise or supplies that have been delivered less than 12 hours.

   (b) Seasonal garden or landscaping merchandise for retail sale.

   (c) Seasonal nursery stock for retail sale.

   (d) Dumpsters or other trash containers provided they are screened from public view.

   (e) Items for retail sale that by law are prohibited from being stored inside a building such as propane cylinders or flammables. However, any such items must be stored in a locked, fenced and screened area in approved containers and the total area for storage of such items shall not exceed 72 square feet.

   (f) Items that are permitted in a specific business district but by there nature are stored outside including but not limited to: Automobile, truck, trailer or farm implement sales or similar types of retail sales.

C. RESIDENTIAL

1.All storage shall be in an enclosed structure, with the exception of licensed and operable: vehicles, boats, camping trailers, and travel trailers. Also, excepted are stacked firewood, trash receptacles and operational mowing and lawn equipment.

2. Maximum height of any fence in a Residential or B1 zoning district is six (6) feet.

3. No fence shall be placed on public right-of-way or placed at a location that violates Section 3.3(M) of this ordinance.

D. SCREENING, FENCING, and TEMPORARY STORAGE CONTAINERS

1. In all zoning districts screening and fencing, type, height, materials and location must be included as part of any Improvement Location Permit Plan. Screening and fencing type, height, materials and location is subject to approval of the City which reserves the right to require any changes it deems necessary for protection of adjacent properties or the public.

2. Pods, trailers and other temporary enclosures and commercial type containers are prohibited in Residential and B1 zoning districts except when moving into or out of a house or business in which case the use of temporary enclosures shall not exceed 30 calendar days.

3. In all business and industrial zoning districts, where outside storage is permitted and screening and/or fencing is required, screening and fencing type, height, materials and locations is subject to the approval of the City which can require any changes the City believes are needed for the protection of adjacent properties or the public. Further, screening and/or fencing of outside storage is required for any business or industrial use that adjoins a residential district. Screening or fencing of business or industrial storage shall not exceed twelve (12) feet in height on any side that joins a residential use. Pods, trailers and other similar enclosures, used for any type of storage for more than ten (10) consecutive calendar days, are prohibited.

4. During declared emergencies, or in the event of destruction of a building by fire or natural disaster, a property owner may request the placement of temporary storage enclosures during the period of active cleanup and reconstruction of the building. Persons seeking such uses shall notify the City Superintendent, in writing, of the necessity for temporary storage. The request shall include the location and anticipated duration for use of the temporary storage enclosures. The City Superintendent shall grant the request only upon a finding that the need arises from a declared emergency or destruction of a building by fire or natural disaster and that the placement of the temporary storage enclosures will not constitute a hazard to the public, will not be placed on public right-of-way or cause undue hardship to adjoining property owners. Such temporary storage enclosures use shall not exceed a period of 12 months unless the City Superintendent finds that the conditions for which the use was original approved still exist and grants an extension which shall not exceed six (6) months.

SECTION 3.10 – OUTSIDE TRASH AND DEBRIS PROHIBITED

A. In order to promote and protect a healthy and safe environment for every citizen and to retain property values throughout the planning area of the City of Martinsville the following, shall be enforced to prohibit trash, junk, including unlicensed vehicles, garbage and debris:

1. In every district, except where specifically permitted as a primary use or by special exception, junk, trash, debris, scrap, garbage, or discarded material of any kind, including yard waste, vehicles having outdated license plates, and unused or inoperable appliances shall **NOT** accumulate, pile, gather or be stored in sight of the public, including being seen from adjacent property, except as allowed herein. Not included are materials, supplies, merchandise or equipment used for manufacturing, wholesale distribution, retail sales or other permitted use provided they are screened from the public in compliance with Section 3.9, or they are within a district that permits unscreened outside storage. Nothing in this subsection shall be construed to allowed outside storage in a district where it is prohibited or restricted

2. In Multi-family Residential, Mobile Home Parks, Business and Industrial Districts, junk, trash, garbage, debris or other items to be discarded shall be placed in a weather proof commercial dumpster or other type of commercial weather proof waste container, of adequate size to prevent

overflowing, and the dumpster or container shall be emptied or removed from the property weekly.

3. In Residential Districts, except multi-family and Mobile Home Parks, junk, garbage, debris, including yard waste, or other items to be discarded, shall be placed curbside for pickup **NOT** more than 24 hours prior to the scheduled time for pickup by the City Sanitation Department or commercial waste hauler. All garbage placed curbside for pickup shall be in animal proof containers or other type of container that is approved by the City. Other debris, scrap or discarded materials, placed curbside for pickup, that is loose in nature shall be in an appropriate container to prevent spilling or scattering. Outside storage of any kind, except as provided in Section 3.9, is prohibited.

4. In Agricultural District outside, unscreened, storage of inoperable farm equipment and machinery, used as spare parts in the farm operation, together with limited quantities of scrap metals and lumber, used to make repairs on the farm, are permitted provided the storage is more than 660 feet from any residential district. Nothing in this section shall require an existing farm operation to remove or relocate its present storage location to comply with this ordinance. However if the existing location is within 660 feet of a residential district the storage area shall not be increased in size or moved closer to the residential district. Nothing in this ordinance shall require a farm operation to remove or relocate its storage area to accommodate a new residential district.

5. In all districts dumpsters or containers used for receiving debris for construction, remodeling, repair or demolition, including clearing and removal of trash, junk, and debris that had accumulated prior to passage of this ordinance, are permitted provide they are removed from the property at least monthly and shall be used only during the period work is progressing. However, in no case shall the term of use be longer than 180 days without the express permission of the City Superintendent.

B. Finding of a violation of this section shall result in a penalty under PENALTY FEE TABLE – APPENDIX `B' Item (f). Each day that a violation continues shall be considered a separate offense. A violation shall subject the landowner to the remedies and penalties provisions of Chapter 12 of this ordinance.

SECTION 3.11 – STORMWATER & EROSION CONTROL

The Developers, lot owners, and permit holders of any lot shall be responsible for stormwater and erosion control during any construction phase or development of the lot. The Developer, permit holder, and lot owner shall be each jointly and severally responsible for keeping soil, construction and other erosion debris off of the streets of Martinsville or Morgan County. The Developer, permit holder, and lot owner shall be each jointly and severally responsible for keeping soil and other construction debris and other erosion debris out of storm sewers shown on the plat or storm sewers which are owned by or dedicated to the City of Martinsville or Morgan County. Prior to beginning **ANY** construction activity that is subject to the City of Martinsville or Morgan County Stormwater and Erosion Control Management Plan Ordinance the Developer, Owner or Subdivider shall obtain a Stormwater and Erosion Control Plan Approval permit from the Office of the City Engineer if within the city limits or the Morgan County Drainage Board if outside the city limits.

A. All developers shall be required to file copies of these permits with the City Superintendent prior to beginning construction or filing of the final plat for approval.

B. Failure to comply with the provisions of the City, County and State permits will subject the Developers, Owners or Subdivides to delay of final plat approval until such time as any violations are corrected or remedied.

SECTION 3.12 – CELLULAR, MICROWAVE & COMMUNICATION TOWERS

A. Cellular and microwave towers are permitted only by Special Exception only in AG, B2, B3, B4, I1, I2, I3, and I4 Districts.

B. The Commission may require commitments from the tower owner including but not limited to: landscaping; installation of an America flag with lighting; fencing; screening; require the tower and equipment be painted or finished in specific colors.

C. The Commission shall require the applicant to provide written evidence that there is no other existing tower, within the proposed service area, on which the applicant can co-locate their facility.

D. Tower owners shall be required to allow other communication companies to lease space for equipment on the tower at reasonable market rates.

E. Tower owner is required to obtain a "Tower Permit" from the Office of the City Superintendent and pay the fee per FEE TABLE – APPENDIX 'A'. The permit must be renewed bi-annually.

F. If the tower owner fails to comply with commitments required by the Commission, including maintenance of commitment items including but not limited to: fences, landscaping screening and finishes, the City Superintendent shall notify the tower owner, in writing, of their failure to meet commitments and shall order the tower owner to rectify the deficiencies within 10 days of notice. If the tower owner does not comply with the order the Superintendent shall file the violation in the Martinsville City Court. Violation will carry the penalties per item (e), Industrial Violation, of the PENALTY FEE TABLE - APPENDIX `B' of this ordinance. If after a period of 30 days the tower owner has not complied with the order the Superintendent may revoked the "Tower Permit".

G. Tower Company may appeal a revocation of a permit to the Commission. Upon appeal the Commission may impose additional commitments or penalties, require the tower to be removed at the owner's expense, or order the Superintendent to reinstate the permit.

SECTION 3.13 - DEMOLITION OF STRUCTURES

A. The intentional destruction, demolition or removal of a structure including, houses, garages, sheds, office buildings, foundations and basements, factories, warehouses, radio cellular or microwave towers, chimneys, water towers or tanks, underground storage tanks, septic tanks, cisterns, wells (gas, oil or water) is prohibited unless a "Demolition Permit" is obtained from the Office of the City Superintendent.

B. Prior to beginning demolition the owner or owner's agent shall obtain all necessary Federal and State permits. Proof of obtaining the required permits must be provided to the City Superintendent when making application for a demolition permit.

C. Applicant for a demolition permit shall provide the following:

1. Name, address and telephone number of the landowner and demolition contractor.

2. Traffic control plan.

3. Proof of disconnection of utilities by the various utility companies (electric, gas, water, sewer, telephone, cable)

4. Proof of notification of proposed demolition to the police and fire departments having jurisdiction, which shall include the name and phone number of the contractor and landowner and the scheduled date for demolition to begin.

5. Name and location of site (if site is a private landfill a map to the site is required) where rubble, debris and other materials will be disposed of (debris must be disposed of in a public IDEM approved landfill or a private landfill which has DNR and IDEM approval).

6. Schedule for completion of all work.

7. Plan for reclamation of the site including but not limited to: backfill material, final grades, mulch seeding or sodding, erosion control and restoration of sidewalks, curbs, streets or any other damage to infrastructure on public right-of-way.

D. A permit fee in the amount shown in FEE TABLE – APPENDIX `A' shall be paid.

E. The City Superintendent shall require the posting of a performance surety (cash, certified check or bond) in an amount of not less than $2000 or more than $10,000. The amount of surety shall be determined by the City Superintendent based upon the size, type, and location of structure to be removed and the potential for damage to public infrastructure from demolition activities.

F. Any person(s), company, corporation, partnership or contractor that seeks a demolition permit shall carry general liability insurance in an amount of not less than $1,000,000 and provide proof of insurance to the City Superintendent at the time of permit application.

G. Demolition work, other than disconnection of utilities, shall not begin for 72 hours after issuance of the "Demolition Permit" to allow police and fire department personnel to take any needed precautions.

H. Violation of this Section will subject the landowner to the enforcement provisions of Chapter 12, Remedies and Penalties, of this ordinance.

CHAPTER 4 – SPECIAL USES

SECTION 4.0 – SPECIAL USE PROCEDURE

The Special Uses listed in this chapter shall meet the following requirements of this chapter as well as all other chapters of this ordinance. In a district in which the specified use is allowed by right, the Building Inspector shall ascertain that the specifications of this chapter are met. In a district in which Special Exception allows the specified use, the Board shall ascertain that the specifications of this chapter are met prior to approval of the Special Exception.

SECTION 4.1 – SPECIAL USES – ALL DISTRICTS

These uses are permitted in any district but are subject to the requirements of this chapter:

A. Artificial lake of 3 or more acres

B. Mineral extraction

C. Railroad right-of-way and necessary uses

D. Sewage disposal plant (primary use)

E. Transmission lines for gas, oil, electricity, and other utilities, including substations, regulators, booster stations and lift stations that require an area, above ground, exceeding 150 square feet.

SECTION 4.2 – MINIMUM LOT AREA – SPECIAL USES

A lot on which one of the following uses is located may not be smaller in area than the area prescribed for that use on the following table. For uses not listed, the requirements of the district in which the use is located shall apply.

USE	MINIMUM LOT AREA
Airport	80 acres
Auction sales yard (excluding livestock)	20 acres
Cemetery	20 acres
Commercial facility for raising and breeding non-farm fowl or animals	3 acres
Day care center and home day nursery	110 sq. ft. per child
Heliport	2 acres
Hospital	5 acres
Junk yard	10 acres
Kennel	3 acres
Travel trailer park	5 acres
Penal or correctional institution	80 acres
Public or commercial campground	10 acres
Public or commercial wastewater treatment plant	3 acres
Public or commercial sanitary land fill	10 acres
Slaughterhouse	5 acres

SECTION 4.3 – SETBACKS – SPECIAL USES

The following uses are subject to the special setbacks prescribed by the following table. If a use does not appear, or if a figure does not appear for a particular use, the standard setback for the district shall apply.

Use	Front	Side	Rear
Anhydrous ammonia or similar fertilizer, commercial storage and distribution	100	100	100
Bottled gas storage and distribution	100	100	100
Commercial facility for raising and breeding non-farm fowl and animals	100	100	100
Junkyard or salvage yard	100	100	100
Travel trailer park	100	40	40
Petroleum tank farm	100	100	100
Public or commercial campground	100	40	40
Public or commercial water supply treatment facility	100	50	50
Public or commercial sanitary landfill	300	300	300
Public or commercial wastewater treatment plant	300	300	300
Riding stables	100	100	100
Sale barn for livestock resale	100	100	100
Slaughterhouse	100	100	100
Warehouse (grain elevator)	100	100	100

SECTION 4.4 – MINIMUM DISTANCE FROM RESIDENTIAL DISTRICT SPECIAL USES

The following uses shall be located **not closer than 1320 feet** to Residential, Business, I1 or I2 Districts:

A. Commercial storage and distribution of anhydrous ammonia or similar liquid fertilizer.

B. Farm confined feeding operations.

C. Junk or salvage yards

D. Manufacturing of, storage, of or use of explosives

E. Penal or correctional institutions.

F. Petroleum product tank farm.

G. Liquefied gas bulk storage

SECTION 4.5 – FENCES AND WALLS – SPECIAL USES

The following uses shall be fenced or walled as prescribed by the table below unless a waiver is specifically granted by the Commission or Board:

USE	REQUIRED ENCLOSURE
Airport	5 foot woven wire fence
Auction sales yard (excluding livestock)	6 ft. solid fence except when adjoining AG, B3 & I Dis.
Automatic car wash	6 foot solid fence when adjoining R1 & R2 District
Junk yard	Solid wall or fence sufficient to hide from view
Kindergarten or day nursery	4 foot chain link fence
Outdoor commercial recreational enterprises	5 foot woven wire fence
Swimming pool	Protective fence or barrier not less than 60 inches in height in accordance with 675 IAC 20-4-27(c), except a power safety pool cover shall be capable of supporting a prone adult at its center.
Slaughterhouse	Solid wall or fence sufficient to hide from view

SECTION 4.6 – RESIDENTIAL USE SCREENING ABUTTING SPECIAL USES

Any of the following uses shall be screened from abutting residential districts. If the Commission approves a residential use abutting one of the following uses the Developer of the residential district so approved shall be required to construct the screening and provide for its maintenance. The Commission shall determine the type and dimensions of screening as a requirement for zoning or plat approval

1. Airport or heliport
2. Artificial lake of 3 or more acres
3. Automatic car wash
4. Cemetery or crematory
5. Clinic
6. Commercial facility for raising and breeding non-farm fowl and animals
7. Country club or golf course
8. Drive-in restaurant
9. General industry

10. Hospital
11. Industrial park
12. Junk yard
13. Kennel
14. Kindergarten or day nursery
15. Light industry
16. Mineral extraction, borrow pit, top soil removal and their storage areas
17. Outdoor commercial recreational enterprise
18. Police station or fire station
19. Private recreational development
20. Private swimming pool (non residential)
21. Public or commercial campground
22. Public or commercial sanitary fill or garbage disposal plant (also along abutting street)
23. Public or commercial wastewater treatment plant
24. Race track
25. Riding stable
26. Shopping center
27. Shooting range (outdoor)
28. Slaughterhouse (also along abutting street)
29. Trailer park
30. Truck freight terminal
31. Truck service terminal
32. Warehouse (grain elevator)
33. Wholesale produce terminal

CHAPTER 5 – SPECIAL EXCEPTION PROCEDURES

SECTION 5.0 – REGULATIONS and PROCEDURES

A. The Special Exceptions listed in the districts (see Section 3.0, Table 1) and their accessory buildings and uses may be permitted by the Board in the districts indicated therein, in accordance with the procedures set forth in this chapter.

B. Upon receipt of an application for a Special Exception, the Board shall refer the application to the Commission for investigation as to the manner in which the proposed location and character of the Special Exception will affect the Master Land Use Plan. The Commission shall report the results of its study to the Board within 90 days following receipt of the application. If no such report is filed with the Board within the time period the Board shall proceed to process the application.

C. The Board shall then proceed with a hearing on the application in the manner prescribed in Chapter 11 of this Ordinance. Following the hearing and upon an affirmative finding by the Board, **in writing**, that:

1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare; **AND**

2. The Special Exception will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted; **AND**

3. The establishment of the Special Exception will not impede or substantially alter the normal and orderly development and improvement of surrounding property for uses permitted in the district; **AND**

4. Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided; **AND**

5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public roads; **AND**

6. The Special Exception will be located in a district where such use is permitted and all other requirements in this ordinance, which are applicable to such Special Exception, will be met.

Having met **all of the above requirements** the Board shall order the City Superintendent to issue an Improvement Location Permit for the use as approved by the Board.

D. An existing use which is listed herein as a Special Exception, and which is located in a district in which such Special Exception may be permitted, is a conforming use. Any expansion of the Special Exception involving the enlargement of the buildings, structures, or land area devoted to such use shall be subject to the procedures described in this section.

E. The filing fee for a Special Exception shall be as shown in the FEE TABLE – APPENDIX 'A'.

CHAPTER 6 – PLANNED UNIT DEVELOPMENTS

SECTION 6.0 – INTENT OF DISTRICTS

The purposes of these regulations are to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and intent of the Zoning Ordinance. The use of Planned Unit Development (PUD) Zoning Classifications shall be encouraged when the use of such regulations promotes a harmonious variety of uses, and/or foster the creation of attractive, healthful, efficient and stable environments for living, shopping or working.

The PUD regulations and procedures may apply to the redevelopment of presently developed lands, or the development of open or vacant developments and their relationship with other surrounding uses and the overall characteristics of the area in which located.

PUD regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life.

Planned Development projects should also encourage a more efficient use of land that reflects the changes in the technology of land development so that resulting economies may accrue to the benefit of the community at large.

To enhance the purpose and intent of the PUD, the provisions of Section 3.3, Property Development Standards, of this Ordnance may be modified by specific finding of the Plan Commission that the proposed PUD provides and allows for a deviation(s) in the standards consistent with the Ordinance, the intent of which will allow more development resulting in economies that accrue to the benefit of the community at large through the use of a PUD. Under this provision the Commission shall consider and apply the buffering requirements set out in Section 3.8 when considering a PUD.

SECTION 6.1 – CLASSIFICATIONS OF PLANNED UNIT DEVELOPMENT

The general character of the dominant use of the development, as provided by this Ordinance, shall identify PUD proposals reviewed by the Commission. Such proposals shall be classified by the following designations:

A. "PUD-R – Planned Unit Development – Residential

Any development consisting of not less than three (3) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development are used for residential purposes or those accessory purposes customarily related to residential use.

B. "PUD-B" – Planned Unit Development – Business

Any development consisting of not less than four (4) acres in which all of the interior floor area of all buildings to be included in the development is to be used for business and commercial purposes.

C. "PUD-I" – Planned Unit Development – Industrial

Any development consisting of not less than five (5) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development are used for industrial or manufacturing purposes or such accessory uses customarily relating to industrial uses with the balance of such interior floor area, if any, being intended for such commercial uses as reasonably relate to the support or convenience of the intended industrial uses or their occupants.

D. "PUD-E" – Planned Unit Development

A development not otherwise distinguishable under any previous classification, containing less than the minimum land area and/or less than the stated minimum proportions of any single dominant use or function, and in which the proposed uses of interior and exterior spaces require unusual design flexibility to achieve a completely logical and complementary conjunction of uses and functions.

SECTION 6.2 – ORGANIZATION OF PROPOSALS

Any person, corporation, partnership or association having an ownership interest in a proposed development, or any group of owners united in interest, acting jointly, and in pursuance to an agreement to carry out the proposal in separate ownership may propose a PUD District in accordance with the procedures hereinafter established, where such proposal intends to act as developer or sponsor of the development if the zoning change is adopted and indicates the requisite capabilities to carry out such proposal. A parcel, or site proposed for PUD need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately abut in accordance with a single, unitary plan, and in which the separate owners have given their express intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the Plan Commission.

SECTION 6.3 – FILING PROCEDURE

A. The authorization of a PUD shall be subject to the procedures expressed herein:

B. Submission of a petition and all other documents required for rezoning for the appropriate PUD classification, which petition shall be signed by the owner or owners of all real estate involved in the petition for the PUD, or which petition shall have attached thereto the notarized consent of all such owners to the filing of such Petition, and to the change to a PUD classification of their real estate included.

C. The petition, which shall include a preliminary plan and plat for any area proposed for development as a PUD, shall be filed with the Commission. The preliminary plan and plat shall include:

1. Proposed layout of streets, open space and other basic elements of the plan to include Identification of the approximate location and types of building; approximate size and height; their use categories within the area; and including proposed densities of said uses and lot dimensions if applicable. Individual lots need not be shown but may be created individually as part of the approval of the Final Detailed Plan. If individual buildings are not shown the plan must have minimum development standards for front, side and rear yards setbacks, maximum land coverage by buildings and parking lots, maximum height of buildings, surface type of driveways and parking area, proposed street standards with typical sections. The proposed land use for each area or area(s) of the PUD must be given in adequate detail for the Commission to make a determination as to the compatibility of uses within the PUD and with uses on the perimeter of the PUD. Where individual lots are not shown the Commission can require that a typical lot development plan be placed on the preliminary plan plat.

2. Proposals for handling traffic including street standards and typical sections, parking, sidewalks, water supply, sewage disposal, storm drainage, retention/detention basins and systems, tree preservation and removal, landscaping, lighting, signage and other pertinent development features that may not be specific to an individual lot but will apply to the development as a whole.

3. A separate location map to scale shall show the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land.

4. The condominium declaration (if applicable), a document creating an owners association and any covenants to be made a part of the PUD as well as the order and estimated time of development.

5. Provide a statement of the proposed order of development for the major elements of the project, including whether the development will be accomplished in phases or sections and if so the order and content of each phase or section.

6. A statement certified by a registered engineer or registered land surveyor stating that development has or will be designed in accordance with the City of Martinsville or Morgan County, Stormwater and Erosion Control Management Plan Ordinance and Design Manual.

D. The Developer shall provide the subdivision with a water system, fire hydrants, and sanitary sewers if the subdivision is located within the corporate limits of the City of Martinsville. PUDs outside the corporate limits of the City of Martinsville shall be served by a water utility and sanitary sewers whenever possible. Spacing and location of any fire hydrants shall be based upon the recommendation of the respective fire chief of the area being served.

E. The preliminary plan shall be presented at a scale ratio not to exceed 100'= 1". The preliminary plan may include any additional graphics, which will explain the features of the development. Four (4) copies of the preliminary plan shall be given to the City Superintendent and a certified letter sent to all checkpoint agencies advising them that the preliminary plan is available for review at the Office of the City Superintendent, City Hall, Martinsville, Indiana, giving a brief detailed description of the proposed plan, including estimates of the number of employees, households and type of traffic related to the development. It shall also be provided to the following checkpoint agencies for their review and comment:

1. Martinsville City Superintendent

2. Martinsville Police Department and Sheriff's Department when outside of the City of Martinsville's city limits

3. Metropolitan School District of Martinsville and any other school district which is affected

4. Morgan County Soil and Conservation District

5. Morgan County Highway Department

6. Martinsville Fire Department and an other fire department which is also included in the area served

F. After filing, the Commission shall meet with the petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide comments. After such consultation the petitioner may make modifications to the petition.

G. After the meeting described in Subsection (F) above and after making any modifications to the proposed preliminary plans the petitioner shall file four (4) copies of the "Final Proposed Preliminary Plan: which shall include:

1. All documents included in the preliminary plan.

2. An index identifying all documents included in the preliminary plan

3. A cover sheet indicating that it is the Final Proposed Preliminary Plan indicating the date and zoning case number;

4. All documents therein reduced to a size no larger than 8 1/2 X 14 inches except for the maps, sketches, and plat (if any).

SECTION 6.4 – PRELIMINARY PLAN HEARING

A. Filing for a public hearing on the preliminary plan shall be in accordance with all provision, conditions, and limitations of Chapter 10 of this ordinance.

B. The petition, as modified, shall then be heard by the Commission as a petition for zoning map amendment and subject to the procedures applicable thereto. The Commission may recommend approval or disapproval of the plan and may impose any reasonable condition(s) with its affirmative recommendation. If disapproval is recommended, the application shall not be certified to the City Council of the City of Martinsville. If approval is recommended, four (4) copies of the preliminary plan shall be stamped "Approved Preliminary Planned Development" and be signed by the Chairman and Secretary of the Plan Commission. One copy shall be permanently retained in the office of the City Superintendent, one copy to the City Engineer, one copy shall be returned to the petitioner and one copy and all conditions shall be certified as described in (C) below.

C. The approved preliminary PUD shall then be certified to the City Council of the City of Martinsville for adoption as a PUD District pursuant to the laws governing proposals to change zoning maps. Upon adoption by the legislative body, the petitioner shall prepare his final detailed plan.

SECTION 6.5 – APPROVAL OF FINAL DETAILED PLAN

A. Before any development or site improvement takes place, the petitioner shall file with the Commission four (4) sets of final detailed plan specifying the location, composition, and engineering

design of all lots, storm drainage, sanitary sewage, water supply facilities, public or private street, recreation facilities, site perimeter treatment, landscaping, plat and other site development features including locations of buildings. The petitioner shall also file the original of all signed and notarized documents pertaining to restrictive covenants, condominium declaration and/or the creation authority to review or act thereon, except as to enforcement, except as to an amendatory ordinance, and except as hereafter provided for. All infrastructure plans shall be approved by the City Engineer prior to approval of any Final Detailed Plan.

B. The Approved Preliminary Plan may provide for development of the property involved in phases or sections. If such phasing or sections is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed plans that correspond to the phases or sections involved. Such partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire PUD. A fee, per FEE TABLE APPENDIX `A' shall be paid for **each** phase, section or portion of the preliminary plan for which final detailed plan approval is requested.

C. The approved final detailed plan or phase thereof shall be stamped "Approved Final Detailed Planned Unit Development" and be signed by the Chairman and Secretary with one copy permanently retained in the office of the City Superintendent following recordation.

D. Unless extended by the Commission pursuant to Section 6.10(A), approval of the first phase or section of the final detailed plan shall be obtained within two (2) years and approval of all other phases or sections of the final detailed plan shall be obtained within six (6) years after adoption of the PUD District by the City Council of the City of Martinsville. Prior to approval of any phase of section of the final detailed plan, performance and maintenance surety shall be provided for all infrastructure of the phase or section in accordance with Section 14.5(A).

E. If the zoning district is in place but no Final Detailed Plan has been approved within two (2) years after adoption of the PUD district, the Commission may initiate an amendment to the zoning map to change the district designation of the land.

F. In the exercise of continuing jurisdiction, the Commission may from time to time approve only minor modifications of the approved Final Detailed PUD in a manner consistent with the approved Preliminary PUD. Such modifications shall not include any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in type of use, or any change in access points.

G. Approval of a Final Detailed Plan shall expire two (2) years after the date of the final approval of the phase or section of the plan unless that phase or section is 50 percent (50%) completed in terms of public improvements including streets, parks, walkways, utility installations, and sanitary sewers. The Commission upon a recommendation of the City Superintendent shall make determination of the amount of completion. Following expiration of the final detailed plan, the City shall declare the surety to be in default and cause all public improvements to be installed according to the final detailed plans.

SECTION 6.6 – COVENANTS AND MAINTENANCE OF FACILITIES

A. All covenants, when required by the Commission, shall be set forth in detail and shall provide for a provision for the release of such restriction by execution of a document so stating and suitable for recording, signed by the Commission Chairman and Secretary upon authorization by the Commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Commission and shall be specifically enforceable by the Commission.

B. The Commission may require the recording of covenants for any reasonable public or semi-public purpose, including, but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other public and semi-public purposes. Such covenants may provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specified period of time, the covenants shall automatically terminate. If such termination occurs, the petitioners shall then submit for approval by the Commission a modified final detailed plan for such land, otherwise consistent with the approved Preliminary PUD.

C. The Commission may require the recording of covenants for any other reasonable purpose, including, but not limited to, imposing standards for development of property in a PUD. Such development standards may include, but are not limited to, requirements as to the following:

1. Lot area
2. Floor area
3. Ratios of floor space to land area.
4. Area in which structures may be built ("Buildable Area")
5. Open Space.
6. Setback lines and minimum rear yards.
7. Building separations.
8. Height of structures.
9. Signs.
10. Off-street parking and loading space.
11. Design standards (including landscaping requirements).
12. Phasing of development.

D. Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities including private streets jointly shared by such property owners if such facilities are a part of the Planned Development, and, in such instance legal assurances shall be provided and recorded which show that the private organization is self-perpetuating.

E. Common facilities, which are not dedicated to the public, shall be maintained to standards assuring continuous and adequate maintenance. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

F. All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

SECTION 6.7 - RECORDING

All approved Final Detailed PUD plans, plats, and modifications thereof shall be recorded in the Office of the Morgan County Recorder within two (2) years after approval, but not before completion of all infrastructure or improvements or submittal of a performance bond in an amount equal to 100 percent of the cost of any uncompleted work. Failure to so record shall automatically void the approval of the Final Detailed Planned Unit Development.

Upon completion of all development, where the exact measurements as to the location of buildings or structures erected during the development are deemed desirable for public record by recording thereof, the developer may submit a copy of the approved Final Detailed PUD to the Commission as an amended approved Final Detailed PUD with the exact measurements thereon shown, and upon being satisfied that the measurements are substantially the same as indicated on the original approved Final Detailed PUD, shall re-approve, date and sign said amended approved Final Detailed PUD, which the developer shall then record.

SECTION 6.8 - PERMIT

An improvement location permit shall be issued for any phase or section of a PUD District upon application showing full compliance with the approved Final Detailed PUD for that phase or section.

SECTION 6.9 - CONSTRUCTION

A. No construction or installation work shall be done on any public improvements until the petitioner has, at least forty-eight (48) hours in advance, notified the appropriate Governmental Inspector of his intention to begin such work, in order that inspections may be made as the work progresses.

B. All development shall be in conformity with the approved and recorded Final Detailed PUD and any material deviations from the approved and recorded Final Detailed PUD shall be subject to appropriate enforcement action as provided for in this ordinance.

SECTION 6.10 – EXTENSION, ABANDONMENT and EXPIRATION

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

B. Upon the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Final Detailed PUD for twelve (12) consecutive months), or upon the expiration of two (2) years from the approval of a Final Detailed PUD for a development which has not been completed, an amendment may be initiated as provided by law to the zoning category or categories which the legislative body deems appropriate.

SECTION 6.11 – RULES OF PROCEDURE

All proceedings brought under this section shall be subject to the Rules of Procedure of the Plan Commission, where not inconsistent with the procedure otherwise stated herein.

SECTION 6.12 – LIMITATION OF REZONING

Except as provided in Section 6.5(E) and 6.10(B), the Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a PUD before completion of the development.

CHAPTER 7 – ADULT ENTERTAINMENT ACTIVITIES – SPECIAL RESTRICTIONS

SECTION 7.0 – DEFINITIONS AND RESTRICTIONS

Adult Entertainment Activities, as herein defined, shall be subject to the restrictions, requirements and conditions contained herein. The restrictions, requirements and conditions set forth in this section are in addition to any and all other zoning requirements contained in this ordinance.

A. DEFINITIONS. For the purpose of this ordinance, the following definitions shall apply:

1. Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities as hereinafter described or an establishment with a segment or section devoted to the sale or display of such material.

2. Adult Motion Picture Theater: An establishment for fifty or more persons having as a substantial or significant portion of its use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as hereinafter relating to sexual activities, as hereinafter described for observation by persons therein.

3. Adult Mini-Motion Picture Theater: An establishment with a capacity for less than fifty (50) persons having as a substantial or significant portion of its use the presentation of materials having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities as hereinafter described for observation by persons thereinafter.

4. Adult Stage Show Theater: An establishment used for presenting live performances of human and/or animals having as a dominant theme or characterized or distinguished by an emphasis on matter depicting or relating to sexual activities, as hereinafter described, for observation by persons therein.

5. Cabaret: An establishment which features as entertainers and/or waiters and/or bartenders, male or female impersonators and/or persons either male or female, who expose to public view of the patrons of said establishment at any time the bare female breast below a point immediately above the areola, human genitals, pubic region and/or buttocks and/or human or simulated male genitals in a discernable turgid state, even if completely and opaquely covered.

6. Massage Parlor: Is an establishment that provides services for treating the human body by rubbing, stroking, and kneading, tapping or similar treatment with the human hand. (This would exclude chiropractic treatment and physical therapy by a licensed chiropractor or licensed physical therapist, respectively.)

7. Bath House: An establishment for providing bathing, sauna, steam room and/or lavatory facilities for male and/or female persons which promotes its services by using and/or advertising the use of homosexual attendants.

8. Taxi Dance Hall: An establishment operated as a public dance hall where dance partners, either male or female, are available for hire for a monetary consideration payable either by the dance or as part of an entrance fee or membership fee.

9. Adult Amusement Arcade: An establishment customer-operated motion picture devises peep shows and/or similar devices.

10. Other Definitions:

    (a) Churches: A building for religious and public worship.

    (b) Park: A tract of land for public use that has been designated on the City of Martinsville zoning use maps as a public area.

    (c) Residential Neighborhoods: Any residential use within the City of Martinsville or the buffer zone of the City of Martinsville with a zoning classification of R1, R2, or R3 or a Mobile Home Park.

11. Specified Sexual Activities: For the purpose of this section, "Specified Sexual Activities" is defined as:

    (a) Human genitals in a state of sexual stimulation or arousal: or

    (b) Acts of human masturbation, sexual intercourse or sodomy; or

    (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

13. Specified Anatomical Areas: For the purpose of this section, "Specified Anatomical Areas" is defined as:

    (a) Less than completely and opaquely covered: (1) human genitals or pubic regions; (2) buttock; (3) female breast below a point immediately above the top of the areola; and

    (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

B. <u>DISTANCE RESTRICTIONS, REQUIREMENTS and CONDITIONS</u>

1. Schools, Parks, Churches, Residential, Agriculture, and Public Areas: The public entrance to an establishment engaging in adult entertainment activities shall not be located within two-thousand (2000) feet of any building containing a school, church, public park, public mall or park-like area of public open space, or residential use. Such distance shall be measured along a straight line from the nearest property line of the real estate on which said building or public park-like areas is located to the entrance of such establishment engaging in an adult entertainment activity.

2. Other Adult Entertainment Uses, Hotels, Motels and Transportation Depots: The Public entrance to an establishment engaging in adult entertainment activities shall not be located within one thousand (1,000) feet of the entrance of a similar adult activity establishment, nor within two thousand (2,000) feet of the nearest property line of the real estate on which any hotel, motel, convention facility or transportation depot is located.

3. Restrictions and establishments engaging in adult entertainment activities, except as otherwise provided by laws which may be more restrictive, may not have any signs with wording or pictorial or representational mater which is distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities as herein defined.

C. PUBLIC DISPLAY - PROHIBITED ACTIVITIES AND ANATOMICAL AREAS

1. Materials offered for sale from adult news racks shall not be displayed or exhibited in a manner, which exposes to public view any pictures or illustrations of human genitals or specified sexual activities.

2. Adult bookstores and adult motion picture theaters shall not display or exhibit any material depicting human genitals or specified sexual activities in a manner which exposes said material to the view of persons outside the building in which said bookstore or motion picture theaters are located.

SECTION 7.1 - RESTRICTIONS, REQUIREMENTS AND CONDITIONS.

A. An establishment engaging in adult entertainment activities, except as otherwise provided by laws which may be more restrictive, may not have more than one outside flush to the wall, fascia style sign, not to exceed in size three (3) feet in length (horizontal to the ground) with no flashing lights and with no lettering, wording or pictorial or representational matter which is distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities as herein defined.

B. An establishment engaging adult entertainment activities may not display its stock in trade or activities in such a manner as to be subject to public view from outside the establishment, including but not limited to view from public sidewalks, streets, arcades, hallways or pass ways.

C. An operator engaging in adult entertainment activities may not permit a person less than eighteen (18) years of age to enter his establishment.

D. An operator engaging in adult entertainment activities shall, at all times, cause the entrance of his establishment to be so attended as to insure compliance with the requirements contained in Section C.

E. An Adult Amusement Arcade, except as otherwise provided by law which may be more restrictive, shall meet the following requirements:

1. Any wall or partition which is situated so as to create a room, enclosure or both in which any amusement device is located shall be constructed of not less than one hour fire-resistive material.

2. The width of the aisles in any room where an amusement device is located shall be more than forty-two (42) inches.

3. There shall be no fewer than two doorways of a width no less than thirty-six (36) inches which provide ingress or egress from any room in which an amusement device is located, provided, however, that one (1) doorway shall be sufficient in the event the Fire Chief should so determine. Doorway or doorways shall be unlocked during business hours.

4. Over every doorway, which provides egress from any room in which an amusement device is located there shall be maintained an internally illuminated exit sign with letters at least five (5) inches in height.

5. Each amusement device located in such establishment shall be situated so as to permit the person using the device to have a constantly unobstructed view of the doorway or doorways, which provide ingress or egress from the establishment.

6. All requirements of the Indiana Department of Fire and Building Services.

7. A light level of no less than ten (10) foot candles floor level shall be maintained in every portion of said establishment to which the public is admitted.

8. The numbers of persons in any room or partitioned portion of a room where amusement devices are located shall not exceed one person per thirty (30) square feet. The maximum occupancy load permitted in any amusement devices are located shall be conspicuously posted by the operator, and shall remain posted, at the entrance of said room.

9. The number of amusement devices shall not exceed the maximum occupancy load permitted in any room or partitioned portion of a room in which an amusement device is located. The maximum number of amusement devices permitted in any room or partitioned portion of a room shall be conspicuously posted by the operator, and shall remain posted, at the entrance of said room.

SECTION 7.2 - ADMINISTRATION OF ORDINANCE.

The City Council is empowered to enact whatever rules and regulations are necessary for the orderly and complete administration of the ordinance.

SECTION 7.3 - LICENSING.

A. The operator of an establishment engaging in an adult entertainment activity shall be required to make application for a license with the Council through the Clerk/Treasurers office after the effective date of this ordinance. Such application shall be in writing, under oath, and shall be in the form prescribed by the City Council for the City of Martinsville and shall contain the following information together with such further information as the Council may require:

1. The name and location of the establishment;

2. The names and addresses of the applicants, owners of the establishment, and if a corporation, the names and addresses of the directors and the names and addresses of shareholders owning capital stock therein, and if a partnership, the names and addresses of the partners;

3. The names and addresses of any owners of the property on which the establishment is located;

4. The names and addresses of any rental agency of the property on which the establishment is located;

5. The nature of the activity or activities to be engaged at such location;

6. The name and address of any person the applicant wants mail notice to be given in case of violation or other matters affecting the license hereunder.

7. The application shall include a photograph or drawing of any signs displayed or proposed to be displayed on the exterior of the establishment and a statement of the dimension of such signs.

8. A Certificate of Occupancy issued through the Martinsville Plan Commission, certifying the business is in compliance with the applicable zoning laws, shall accompany such application.

9. The application shall include a Certificate from the Fire Chief of the jurisdiction having authority that all applicable fire regulations have been met and, in the case of an adult amusement arcade, that all requirements of this ordinance have been met.

B. The Council will cause the premises to be inspected after such application has been received and shall issue a license forthwith if all restrictions, requirements and conditions, and all applicable requirements of law and ordinance have been met. The Building Inspector for the City of Martinsville shall be empowered to inspect for purposes of this section of the ordinance. However, the granting of a license does not certify compliance with all applicable laws nor does it stop the City from enforcement of all applicable laws. If inspection reveals failure to comply with any restrictions, requirements or conditions, the Trustees, through the Building Inspector, shall notify the applicant in writing of the fact, stating what failures have been discovered and allow a reasonable time to correct such defects and informing the applicant of the procedure if the applicant does not agree with the Councils' decision which shall be an appeal directly to the Circuit Court of Morgan County.

C. The Council may permit such variance or deviation from the regulations of this ordinance as will effectuate the purpose and intent of this ordinance.

D. After the effective date of this ordinance, no operator shall maintain, operate or conduct an establishment engaging in adult entertainment activities unless such person has made application and obtained a license.

E. After the effective date of this ordinance, upon receipt of notice, no owner shall permit adult entertainment activities to operate on his property without a license.

F. All licenses shall be for the calendar year January 1 to December 31, or the remaining portion of such calendar year. An annual license fee shall be paid in the amount listed in FEE TABLE APPENDIX `A'.

G. Annual fees may be prorated at the rate of $1/12^{th}$ of the annual license fee for the remaining full months of the current calendar year.

H. Application for renewal of a license shall be made on or before October 1 of each year and accompanied by the annual fee as listed in FEE TABLE APPENDIX `A'. Such application shall also contain any changes in the information required by Subsection A above which have occurred since the previous application.

I. A license may be transferred to a new owner or operator or to a new location by a license holder by giving written notice to the Council fourteen (14) days before the effective day of such transfer, and upon filing therewith the complete information required in Subsection A above for the new owner or operator, and upon the finding by the Council that such new owner or operator or location is qualified under this ordinance. The fee for a licensed transfer shall as listed in FEE TABLE APPENDIX `A'.

J. The City Council shall have the power to revoke said license for the failure to comply with restrictions, requirements and conditions set forth in Section 7 herein.

CHAPTER 8 – NON-CONFORMING USE

SECTION 8.0 – NON-CONFORMING USE SPECIFICATIONS

The lawful use of a building or premises, or land, existing at the time of the effective date of this ordinance, may be continued although such use does not conform to all the provisions of the district in which it is located, except as hereinafter provided.

A. A non-conforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law.

B. A non-conforming use may be changed to another non-conforming use of the same classification, provided no structural changes are made. Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a zoning classification of greater restrictions, it shall not thereafter be changed to a non-conforming use of a less restricted zoning classification.

C. No building shall be erected or an existing building expanded upon any premises devoted to a non-conforming use, except in conformance with this ordinance.

D. Nothing herein contained shall require any change in the plans, construction, or intended use of a building for which the Improvement Location Permit has been legally issued prior to the effective date of this ordinance.

E. In the event that a non-conforming use of any building or property is discontinued for a continuous period of one (1) year, the use of said building or property shall thereafter conform to the uses permitted in the district in which it is located.

F. When a building containing a non-conforming use is damaged or destroyed by fire, explosion, act of God, or other catastrophic circumstances it may be restored or reconstructed provided that the ground floor area and total useable area does not exceed that of the original structure and further that all development standards of this ordinance shall be met to the maximum extent possible but in no case shall the deviation be less than was required by the original structure. The City Superintendent shall determine what is the maximum extent to which the development standards can be met.

G. These provisions apply in the same manner to a use that may become a non-conforming use due to a later amendment to this ordinance.

H. A change of use must meet all applicable City ordinances in addition to the requirements of this ordinance.

SECTION 8.1 – INCOMPATIBILITY OF NONCONFORMING USES

Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts in which such use is located. A nonconforming use of a structure, a nonconforming use of land, or 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 such use is located.

SECTION 8.2 – AVOIDANCE OF UNDUE HARDSHIP

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or development on which actual construction was lawfully

begun prior to the effective date of adoption or amendment of this ordinance and upon which actual construction has been carried on diligently. Where demolition or removal of an existing building has been substantially completed preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

CHAPTER 9 – IMPROVEMENT LOCATION PERMIT

SECTION 9.0 – APPLICABILITY

A. The City Superintendent or his appointed agent, being the authorized representative of the Commission, shall be responsible for the issuance of Improvement Location Permits for any alteration to the condition of land and/or structures thereon including: construction, alteration or addition to buildings, driveways, parking areas, signs, drainage, area lighting, swimming pools, or any permanent improvements, within all zoning districts in the jurisdiction of the Commission. Any persons making said alterations must obtain an Improvement Location Permit for said alterations from the Superintendent, prior to the start of any construction.

B. The filing fee for an Improvement Location Permit is shown on FEE TABLE APPENDIX `A', which is hereby established as a part of this Chapter. However, no fee is charged for the permit for improvements to individual lots in R1 and R2 districts.

SECTION 9.1 – CERTIFICATE OF OCCUPANCY

A. Application for a Building Permit shall be made concurrently with the Improvement Location Permit if construction or alteration of a building is proposed.

B. No land shall be occupied or used and no building hereafter erected, altered or reconstructed shall be occupied or used, in whole or in part, for any purpose whatsoever, until an Improvement Location Permit has been issued by the City Superintendent, or his agent, stating that the use complies with all of the provisions of this ordinance.

C. Upon notice by the Owner or his/her agent that all improvements are complete the Superintendent shall, within ten (10) business days, inspect the property for compliance and issue the Certificate of Occupancy provided said improvements have been completed in compliance with the permit and all provisions of this ordinance. The Superintendent shall notify the owner of any deficiencies. After correction of the deficiencies the owner must request a re-inspection and pay the re-inspection fee per Appendix `A'. The Superintendent shall have ten (10) business days in which to re-inspect the property.

SECTION 9.2 – DOCUMENTATION

Upon application for an Improvement Location Permit, the applicant must furnish the following information:

A. The applicant must furnish a copy of a dimensioned site plan, prepared by an Indiana Registered Land Surveyor or Indiana Professional Engineer, drawn to scale, showing the following unless a waiver is granted per Item 10:

   1. Show owners name and address.

2. Provide the legal description of the property including bearing notations and lengths and if in a platted subdivision provide a copy of the recorded subdivision plat.

3. Show existing and proposed improvements including, but not limited to: buildings, signs, utilities, driveways, parking areas, areas of grass or lawn, fences, wells, sewage facilities and finger systems, area lighting and any other existing or proposed improvements that might impact drainage, erosion, access, setback, lot coverage or any other requirement of this ordinance.

4. Provide existing and proposed elevations of the building site including the proposed elevation of the first floor of the structure. Also show existing and proposed drainage patterns, storm structures and retention/detention areas with capacity calculations.

5. Show any rivers, streams, creeks or ditches on or within 75 feet of the property. Also show all floodways and floodway fringes that impact or may impact the property and the 100-year base flood elevation if buildings are to be constructed within the floodway fringe.

6. Show all easements of record, including but not limited to: utility, drainage and access. Show all proposed easements including utility, drainage, access or any other easements required for by the zoning ordinance or any other ordinance of the City, or by any Act of the Legislature of the State of Indiana.

7. Show any platted easements, setback lines or rights-of-way.

8. Show the existing land use of the parcel and adjoining parcels.

9. Show all adjacent streets including all required easements thereto and also the location and size of ingress and egress points from the property.

10. The City Superintendent may waive the requirement that the site plan be prepared by a surveyor or engineer if the proposed improvements are of such a minor nature that a professionally prepared site plan is not warranted. **A PROFESSIONALLY PREPARED SITE PLAN IS REQUIRED FOR A NEW PRINCIPAL BUILDING AND CANNOT BE WAIVED.** However, for accessory buildings and building additions in Agricultural (AG), Rural Residential (RR(a)-(c)) (*Rural Residential zoning districts were created after Section 9.2 was amended. As these districts are a transition between agricultural and residential districts it is the intent that amended Section 9.2(A)(10) should also apply to RR districts)*, and Single and Two Family Residential (R1 & R2) Districts the professionally prepared site plan requirement may be waived under the following conditions:

    a) The distance from each side of the proposed accessory building or addition to the nearest lot line is not less than 1-1/2 times respective setback required for the district.
    b) There is no evidence of utility use or easements within or near the required setback.
    c) City Superintendent and City Engineer agree a professional site plan is not needed to protect the interest of the public or City.

B. The City Superintendent shall keep plans for a period of three years.

C. All required special use requirements per Chapter 4, such as fencing, screening. etc., shall be shown on the site plan required under Subsection A.

D. The applicant shall present written approval of the proposed structure from any agency, commission, board, or other department of the State of Indiana and/or Federal Government having jurisdiction over the proposed structure prior to issuance of the Improvement Location Permit.

E. The applicant shall present written approval for proposed wastewater disposal (septic or sewage) facilities from the City of Martinsville, Morgan County Health Department, or Indiana Department of Health, and Indiana Department of Environmental Management whichever is applicable.

F. The applicant shall present written approval from the proper jurisdiction for any proposed means of ingress and egress including driveway permits.

G. The The applicant shall submit three (3) complete sets of construction plans for the proposed improvements. Additionally, if a professionally prepared site plan is required then the site plan shall also be submitted as an electronic file in a format approved by the City Engineer.

H. As a condition of issuing an Improvement Location Permit, the City Superintendent, or his agent may require the relocation, elimination or addition of any drainage structures, entrance or exit, pavement turn lands and tapers, passing blisters or traffic devices, if the Superintendent or City Engineer determines it is necessary for the public health, safety or welfare.

I. An Improvement Location Permit for a Special Exception may not be issued until the Board has approved the application.

SECTION 9.3 – INDUSTRIAL USES: CERTIFICATE OF COMPLIANCE

If an application for an Improvement Location Permit relates to an industrial use, a Certificate of Compliance must accompany it, certified by a Registered Professional Engineer or Architect of the State of Indiana, stating that the design will meet the performance standards established by Section 3.5 of this ordinance. After a (10) ten business day period has elapsed during which the Superintendent or his agent has not required additional information a permit shall be issue provided all other requirements of this have been met. The Superintendent may waive the requirements of this section on a case-by-case basis.

SECTION 9.4 – EXPIRATION OF IMPROVEMENT LOCATION PERMIT

A. If a person to whom an Improvement Location Permit has been issued fails to begin construction within twelve months after the permit is issued; fails to complete fifty (50) percent of the total plan within twenty-four (24) months; or 100 percent of the improvements within thirty-six months after the permit is issued, then said Improvement Location Permit shall be automatically revoked and becomes void.

B. Upon application by the holder of an Improvement Location Permit for a Special Exception, the Board may change the plan on which the permit is based. The Board shall handle the application as if it were an original application for an Improvement Location Permit for a Special Exception. The filing fee for a Special Exception shall be collected as established in Chapter 5. If the Board approves the application, it shall notify the City Superintendent who shall issue an amended permit reflecting the approved change.

SECTION 9.5 – RECORDS

The City Superintendent shall keep a record of each Improvement Location Permit and each Certificate of Occupancy. Upon request, a copy shall be furnished to any person having a proprietary, contract, financial, fee or other similar legal interest in the premises concerned.

SECTION 9.6 - NOTICES

During the course of all construction and as a prerequisite to obtaining the certificate of occupancy under this chapter, it shall be the responsibility of the owner of the property to give the City Superintendent or

his agent 48-hour notice prior to all required inspections. Failure to give notice to the Superintendent for appropriate inspections required to establish that any structure meets the building code and the requirements of this ordinance, may result in a fine as listed in PENALTY FEE TABLE - APPENDIX 'B' and in the event of more than three violations of this section during the construction process, the Superintendent shall void the improvement location permit. Violations shall be enforced through the Martinsville City Court with any appeal to the Morgan Circuit or Superior Court. All court costs and cost of litigation and attorney fees shall be the responsibility of the violating party.

CHAPTER 10 – COMMISSION and BOARD FILING PROCEDURES

SECTION 10.0 – FILING PROCEDURES

A. NOTICE PROCEDURE FOR ALL PUBLIC HEARINGS: All petitions before the Martinsville Plan Commission and Board of Zoning Appeals shall be filed at the Office of the City Superintendent at least **twenty (20)** calendar days prior to the date of public hearing at which the petitions are to be heard and must be on file prior to the date any public notices are sent out. Petition shall include three copies of any plans, plats or exhibits. Petitioner is responsible for cost and preparation of: all filing documents; legal notice; notice to adjacent owners; notice to agencies; notice to commission and board members; placement of "Notice of Public Hearing"; plans, plats and exhibits; and all other requirements for filing and presentation of a petition before the Commission or Board.

B. LIMIT ON SUBSEQUENT FILING OF PETITIONS: Any petition to the Commission or Board that has been denied shall not be again presented to the Commission or Board for a period of one-year from the date of denial unless the subsequent petition has substantial and material changes from the denied petition. Change in ownership, in and of itself, is not a substantial or material change with respect to filing of a petition.

C. NOTICE OF PUBLICATION: Legal notice in a newspaper of general circulation in the City of Martinsville shall be published at least **fifteen (15)** days prior to the hearing date and proof of publication shall be made by an affidavit of the publisher attached to a copy of the notice taken from the paper in which it was published. Such affidavit shall include the name of the newspaper and the time of publication. Proof of publication shall be returned to the City Superintendent not later than **two (2) business days** prior to the public meeting.

D. PROPERTY NOTICE POSTING: : Petitioner shall post on the land that is the subject of the petition before the Commission or Board a "Notice of Public Hearing" The notice will be provided by the City Superintendent at the time of application. Notice shall be prominently located and easily visible from the road or street at the address of the property and shall remain until final action by the Commission or Board.

E. NOTICE TO ADJACENT OWNERS: Additional notice shall be given to all adjacent landowners who are within two parcels in depth or six hundred sixty (660) feet from the subject property, whichever is least. Such notification shall be made at least **fifteen (15)** days prior to the hearing date and be made by certified or registered mail, return receipt requested. For purposes of this notice requirement, where the petitioner owns any of the adjacent parcels of ground, the subject property shall be deemed to include such adjacent land owned by the petitioner. For the purpose of determining the names and addresses of the legal adjacent property owners the records in the bound volumes of the most recent tax assessment records as they appear in the offices of the Morgan County Auditor shall be deemed to be the true names and addresses of persons entitled to be notified.

PUBLICATION AND NOTICE TO ADJACENT LAND OWNER SHALL STATE:

1. The location, by address with distance and direction to nearest intersecting streets, together with legal description of the land involved in the petition.

2. That the petition may be examined in the City Superintendent's Office, during regular business hours at City Hall, 59 So. Jefferson St., Martinsville, Indiana.

3. The docket number and the specific request set out in the petition. For a zoning map a change the current zoning classification and the proposed district being requested, and in the case of a variance, special exception or other matter, sufficient detail shall be included for the public to determine the extent of proposed change, modification or use.

4. The time and location that said petition has been set for public hearing and which body, Commission or Bard, will hear the petition.

F. NOTICE TO CHECKPOINT AGENCIES: Notice shall also be provided to the following checkpoint agencies stating that plans are available for their review and comment at the Office of the City Superintendent. The notice shall state specifically the nature of the development, the number of employees or potential households and traffic impact. Notice shall be sent by certified mail, return receipt requested, or hand delivered with proof of delivery to the following not less than **fifteen (15)** days prior to the hearing:

1. Martinsville Police Department or Morgan County Sheriff
2. Metropolitan School District of Martinsville
3. Morgan County Soil and Conservation District
4. Morgan County Highway Engineer
5. Martinsville Fire Department and any other Fire Departments having jurisdiction
6. Morgan County Board of Health if the development is to be serviced by individual waste treatment (septic) systems.

G. NOTICE TO COMMISSION & BOARD MEMBERS: Each member of the Plan Commission or Board of Zoning Appeals, as the case may be, shall be sent by regular mail at their address as provided by the Commission, not less than **fifteen (15)** calendar days prior to the hearing, a notice per Section C above. Also, the notice to Commission or Board members shall contain any exhibits, plans or other documents that were filed with the application. Further, should any meeting of the Commission or Board be continued to allow the Petitioner more time to gather additional information then any documents or exhibits that Petitioner wishes to present at the next meeting shall be mailed, **ten (10)** calendar days in advance of the continued meeting date, to the City Superintendent and the respective Commission or Board members. In the event that the Petitioner fails to provide the necessary information in a timely manner, the Commission or Board may continue the hearing until the information is provided or deny the petition.

H. AFFIDAVIT OF NOTICE: The Petitioner shall furnish evidence of compliance of the notice requirements by filing a notarized statement with the Board or Commission as is appropriate. Said notice shall list names and addresses of the property owners to whom the notices sent out and the return receipts of postal registrations shall be attached to the affidavit in the same order as the property owners are listed on the affidavit and returned to the Office of the City Superintendent not less than **two (2) business days** prior to the Public Meeting.

I. PLAN COMMISSION MEETING DATE: The Plan Commission meets on the fourth Tuesday of each month at 7:00 p.m., unless otherwise posted, and conducts hearings for zoning map changes, subdivision plats, minor plats, and planned unit developments. The regular meeting of the Plan Commission shall be in session until 10:30 p.m. At the discretion of the Chairman the meeting can

continue for the completion of an item past 10:30 p.m. In the event there are additional items still scheduled on the agenda, those items that have not been heard shall be continued until the following Tuesday at 7:00 p.m. at the Martinsville City Hall at which time the Plan Commission shall re-convene without additional notices being required and the continued items shall then be heard.

J. Proposed Forms for Rezoning, Minor Plats, Subdivisions, Planned Unit Development, Board of Zoning Appeals Variance applications, Model Permits, and Special Exceptions are all on file with the Office of the City Superintendent for the City of Martinsville.

K. All filing fees are posted with the Clerk/Treasurers Office and shall be paid prior to the acceptance of the petition for zoning map change, variance, plat, planned unit development, subdivision plat, minor plat, model permit or special exception. All filing fees are non-refundable.

L. Filing forms, example letter to adjacent property owners, petition application, and affidavit of notice of public hearing can be obtained from the Office of the City Superintendent, City Hall, 59 South Jefferson St., P.O. Box 1415, Martinsville, Indiana 46151.

SECTION 10.1 – SPECIAL MEETING - PLAN COMMISSION

Whenever a petitioner desires to have a special meeting of the City of Martinsville Plan Commission the petitioner must request said special meeting at a regular scheduled meeting of the Commission. If the Chairman of the Commission approves a special meeting then the Chairman will schedule said special meeting on an agreed date with the petitioner. In addition to meeting all the filing, application, notice, fees, and other requirements of this ordinance the petitioner shall pay a non-refundable special meeting fee in the amount shown in the FEE TABLE – APPENDIX 'A' of this ordinance.

CHAPTER 11 – BOARD OF ZONING APPEALS ESTABLISHMENT AND FILING PROCEDURES

SECTION 11.0 – MEMBERS, ORGANIZATION, JURISDICTION, RULES

There is hereby re-established the advisory board of zoning appeals to be known as the Board of Zoning Appeals of the City of Martinsville, Indiana. The Board of Zoning Appeals shall be a continuation of the present Board of Zoning Appeals of the City of Martinsville heretofore established under the advisory plan law, being Indiana Code Section 36-7-4-900, as added amendment 1981, Public Law 309 Section 23.

A. MEMBERSHIP: The Board of Zoning Appeals shall be established pursuant to Indiana Code. The terms of office of each member shall, likewise, be as set out under the Indiana Code for an advisory board of zoning appeals.

B. TERRITORIAL JURISDICTION: The Board of Zoning Appeals shall have jurisdiction over all the land subject to the zoning ordinance as shown in the zoning maps.

C. ORGANIZATION: At the first meeting of the calendar year, the Board shall elect from its members a chairperson and vice-chairperson and secretary consistent with state law, recording secretary and such employees as it considers necessary to discharge its duties.

D. SUBJECT MATTER JURISDICTION: The Board of Zoning Appeals shall have exclusive jurisdiction for

1. **Use variance** under Indiana Code 36-7-4- 918.4 and all acts amendatory thereto.

2. **Development standards variance** under Indiana Code 36-7-4-918.5 and all acts amendatory thereto.

3. **Special exception** request pursuant to this ordinance.

4. **Appeals** as provided by statute, including requirements for procurement of improvement location or occupancy permits or any ordinance adopted under I.C. 36-7-4 or any prior zoning statute, and any other appeals authorized by statute.

5. Appeals of decisions of the City Superintendent concerning zoning or development standards.

6. Other request that are directed to the Board by this ordinance.

E. RULES AND BY-LAWS: The Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code 36-7-4-916 and any and all by-laws concerning organization, forms for applications, filing requirements, other than as to the place of filing as herein provided for, procedures for notice and conduct of meetings. If no formal by-laws are adopted, the chairperson shall have the right to set out the procedures for conducting the meetings.

F. FACILITIES AND FUNDING: The City of Martinsville shall provide suitable facilities for meetings of the Board of Zoning Appeals hearings and the storage of its recorded documents and accounts, and in its annual budget to provide sufficient funds for the functioning of said board and its staff.

G. HEARINGS: All hearings shall be open to the public. The Board shall keep minutes of its meetings, keep records of all examinations and other official actions, making the findings in writing and shall record the vote of each question. Minutes and records shall be filed in the office of the City Superintendent and made available to the public.

SECTION 11.1 – BOARD OF ZONING APPEALS - HEARINGS AND NOTICES

A. Upon application for a Variance or Special Exception the Board shall hold a public hearing.

B. Notice for public hearings of the Board of Zoning Appeals shall be the same as a petition before the Plan Commission. Public notice and filing procedures shall meet the requirements of Section 10.0 (A through H and J through L) of this ordinance.

C. Date and Time of Meeting: The Board of Zoning Appeals meets on the fourth Tuesday of each month at 6:00 p.m., unless otherwise posted, and shall conduct hearings for variances, special exceptions and appeals of decisions of the Superintendent and Building Official.

SECTION 11.2 CONDITIONS

A. The Board may permit or require the owner of a parcel of property to make written commitment or commitments concerning the use or development of that parcel or may impose conditions upon that grant of variance.

B. A variance granted by the Board shall run with the land until such time as:

1. The **USE** for which the variance was granted **ceases** for a period of one (1) year or more.

2. **Change of ownership** of the land on which a **USE** variance was granted.

3. The **property conforms** to the ordinance as written in both use and development standards.

C. The Board may approve a variance of **USE *ONLY*** upon a determination **in writing** that:

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

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

3. The need for the variance arises from some condition peculiar to the property involved, **AND**;

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought, **AND**;

5. The approval does not interfere substantially with the comprehensive plan adopted under IC 36-7-4-500

D. The Board may approve a variance from **DEVELOPMENT STANDARDS *ONLY*** upon a determination **in writing** that:

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

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

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the "practical difficulties" standard.

SECTION 11.3 – APPEALS

A. Any person who is adversely affected by a zoning decision of the City Superintendent in enforcing this ordinance may appeal the decision to the Board. The filing fee for appeals is established in FEE TABLE APPENDIX `A'.

B. On appeal under Subsection "A" above, the Board may make any decision that the City Superintendent might have made regarding zoning matters.

C. All appeals from the decision of the Board of Zoning Appeals shall be made pursuant to Indiana Code Section 36-7-4-1000 through 36-7-1020 and all amendments thereto.

SECTION 11.4 – ENFORCEMENT

A. Enforcement shall be under the terms and conditions of Chapter 12, Remedies and Penalties, of this ordinance.

SECTION 11.5 – AMENDMENTS

All amendments to this ordinance shall be in accordance with Section 46 through 50, of Chapter 138 of the Acts of the Indiana General Assembly of 1957 and all Acts amendatory thereto.

SECTION 11.6 – USES NOT LISTED

It is recognized that in the development of a zoning ordinance, not all uses of land can be listed, nor can all future uses be anticipated. A "use" may have been omitted from the list of those specified as permissible in the various districts established by this ordinance, or questions may arise concerning words that are synonymous. In such instances the following procedures shall apply.

A. When classification of use is appealed or referred to the Board it shall be the duty of the Board to ascertain all pertinent facts concerning said use and set forth in writing its findings and the reasons for designating a specific classification for such use.

   1. Applicant shall file a request with the City Superintendent for a decision by the Board. The Board may also initiate an application. An applicant who requests a use classification by the Board must follow the filing procedures of Section 10.0 (A to F and I to K).

   2. The Board shall render a decision not less than thirty days after such application is made, and shall notify the applicant and any person requesting such notice of such decision.

B. In classifying a use the Board shall first make a finding that all of the following conditions exist:

   1. That investigation has disclosed the nature of the subject use and its operations are compatible with the uses permitted in the district wherein it is proposed to be located; and

   2. That the subject use is similar to one or more uses permitted in the district within which it is proposed to be located; and

   3. That the subject use will not cause substantial injury to the values of property in the neighborhood or district within which it is proposed to be located; and

   4. That the subject use will be so designed, located, and operated that the public health, safety and general welfare will be protected.

C. The Board shall classify such use as to permitting such use by right or permitting such use subject to Special Exception.

D. In no instance shall the Board determine that a use be permitted in a district when such use is specifically listed as first permissible in a less restricted district.

E. Uses classified pursuant to this section shall be regarded as listed uses.

SECTION 11.7 – SPECIAL MEETING - BOARD OF ZONING APPEALS

Whenever a petitioner desires to have a special meeting of the City of Martinsville Board of Zoning Appeals the petitioner must request said special meeting at a regular scheduled meeting of the Board. If the Chairman of the Board approves a special meeting then the Chairman will schedule said special meeting on an agreed date with the petitioner. In addition to meeting all the filing, application, notice, fees, and other requirements of this ordinance the petitioner shall pay a non-refundable special meeting fee in the amount shown in the FEE TABLE – APPENDIX `A' of this ordinance.

CHAPTER 12 – REMEDIES AND PENALTIES

SECTION 12.0 – GENERAL

Action on the violation of provisions of this ordinance and rights of injunction against such violation shall be as set out below and shall also include any and all remedies set out under Indiana Code 36-7-4 and all acts amendatory thereto. Further, when the City Superintendent is informed of a violation of this ordinance he or his appointed agent shall notify the landowner of record, by personal service or certified mail, return receipt requested, at the address on file in the tax records of the Office of the Auditor of Morgan County, on whose land the violation exist and give the landowner ten 10 days from the date of receipt of notice to eliminate the violation. If the landowner is making continuous and steady progress on elimination of the violation the City Superintendent may allow a reasonable extension of time for achievement of compliance. Failure to comply with this section shall result in a fine in accordance with PENALTY FEE TABLE – APPENDIX `B' with violations to be filed by the City Superintendent in the Martinsville City Court. Violations may also be treated the same as any other violation of this zoning ordinance and can be enforced at the discretion of the Plan Commission or Board of Zoning Appeals. All other legal remedies provided by law shall also be available to the Plan Commission and the City of Martinsville.

A. PENALTIES: Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith or with any of the requirements thereof or who shall build, reconstruct or structurally alter any building or land improvement without the required permits and inspections, shall for each and every violation of noncompliance be guilty of a misdemeanor and, upon conviction, shall be fined not less than those sums listed under PENALTY TABLE APPENDIX `B', and each day that such violation of noncompliance shall be permitted to exist shall constitute a separate offense.

B. REMEDIES: The Plan Commission, the Board of Zoning Appeals, City Superintendent, Building Inspector, or any designated enforcement official, or any person or persons, firm or corporation, jointly or severally, may institute a suit for injunction in the Circuit or Superior Courts of Morgan County to restrain an individual or government unit from violating the provisions of this ordinance. The Plan Commission or Board of Zoning Appeals may also institute a suit for mandatory injunction directing an individual or corporation or a governmental unit to remove a structure erected in violation of the provisions and requirements of this ordinance, or to enforce any other provision of this ordinance, and said violation being declared to be a common nuisance and as such may be abated in such a manner as nuisances are now or may hereinafter be abated under existing law. The above remedies and penalties are cumulative and the Commission and Board shall have the option of taking any of the above actions it chooses without waiving the right to any other action available and shall also have the right to proceed with all other remedies that are available under the law.

C. STOP WORK, RESTRAINING ORDER, ENFORCEMENT OF STAY

1. When the City Superintendent, Building Inspector or their authorized representative finds work is being performed that is not in compliance with the requirements of this ordinance or issued permits they shall immediately notify the person in charge or the work and the landowner of the violation(s). If after notification of the violation(s) the work is not corrected or the violation(s) continue then, in addition to the penalties of Section `A' above, a "STOP WORK ORDER" shall be issued. The "STOP WORK ORDER" shall be displayed prominently at the premises of the violation. All work shall stop immediately except in the case where the Superintendent or Inspector has determined that stopping work would cause imminent peril to life or property. If so determined then work may proceed until life and property are no longer in imminent peril after which all work must cease. No work shall be performed except that which is necessary to correct the cause of the violation and then only after 48 hours notification to the Superintendent or

Inspector, as the case may be, that the necessary work to correct the violation is being taken. Only work on correction of the violation shall be allowed until a re-inspection can be performed. If work is proceeding after issuance of a stop work order in defiance of this section the Superintendent or Inspector, as officers of the Plan Commission, may seek injunctive relief in any court of jurisdiction. A stop work order may be appealed to the Board of Zoning Appeals as an appeal under Section 11.3 of this ordinance.

2. The Appellant, Board, City Council, City Superintendent, Building Inspector or any other resident of the City of Martinsville or buffer zone, may appeal any decision of the Board of Appeals to the Circuit or Superior Court of Morgan County, Indiana. The court may stay or uphold the decision of the Board, impose a permanent injunction or any other appropriate remedy allowed by law.

3. Police power of the municipality may be used to give effect to any order of the City Superintendent, Building Inspector, Plan Commission or Board of Zoning Appeals until stayed or overruled by order of the Circuit or Superior Court of Morgan County,.

D. ATTORNEY'S FEES: Notwithstanding anything contained in this Ordinance to the contrary or appearing contrary, and in addition and supplementary to other provisions of this Ordinance, if the Plan Commission, Board of Zoning Appeals, City of Martinsville, City Superintendent or Building Inspector is required to utilize the services of the Commission, Board or City attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this Ordinance before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Plan Commission, Board of Zoning Appeals, City, Superintendent or Inspector is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding, the respondent, defendant or party investigated for a violation shall pay the Commission's, Board's, Superintendent's or Inspector's or City's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Ordinance, unless such attorney fees or costs are specifically waived by the City Council of the City of Martinsville.

E. COSTS ON APPEAL: As to any appeal from a decision of the Board of Zoning Appeals, the costs of appeal, including any investigation or transcripts, shall not be allowed against the Board of Zoning Appeals or City of Martinsville, unless the court makes a specific finding that the Board acted with gross negligence or in bad faith in making the decision brought up for review.

F. No Improvement Location Permit required by this ordinance or Building Permit required under the Martinsville Building Code shall be issued on any property subject to this ordinance in violation of the provisions of this ordinance.

G. The City Superintendent, Building Inspector, or their appointed agent(s), are hereby authorized to go onto private property for the purpose of conducting inspections required by this Ordinance or any order of the Plan Commission or Board of Zoning Appeals, or required to determine if this Ordinance is being violated, or required to enforce this Ordinance. Such inspection(s) shall occur at reasonable times and shall be conducted in a manner not to disturb the peace.

CHAPTER 13 – INTERPRETATION, CONFLICT, SEPARABILITY & EFFECTIVE DATE

SECTION 13.0 – INTERPRETATION

In their interpretation and application the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

SECTION 13.1 – CONFLICT - PUBLIC & PRIVATE PROVISIONS

The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provisions of the law. Where any provision of these regulations imposes a restriction 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 control. 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 than such easement, covenant, or other private agreement or restriction, the requirement of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restrictions impose duties and obligations more restrictive, or to a higher standard than the requirements and standards of this ordinance, or the determinations of the Commission in enforcing this ordinance, and such private provisions, covenants or restrictions are not inconsistent with this ordinance or the determinations of the Commission, then such private provisions shall be operative and supplemental to these regulations and any determinations made there under. Generally, private provisions can only be enforced privately unless a public agency such as the City Council or Plan Commission has been made a party to such agreements. Not withstanding the foregoing, neither the Commission or it's representative shall knowingly issue any permit that would result in a direct violation of a covenant or restriction that was recorded with, and a part of, the platting of a subdivision approved by the Commission or any other duly authorized government agency. However, if a permit is issued, neither the Commission or it's representative, is libel or responsible, in any form or manor, for the resulting violation of the private covenants or restriction.

SECTION 13.2 – SEPARABILITY

If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

SECTION 13.3 – SAVING PROVISION

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing Subdivision Control Ordinance and Zoning Ordinance, or a discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or waiving any right of the City of Martinsville under any section or provision existing at the time of the effective date of this ordinance, or as vacating or nulling any rights obtained by any person, firm, or corporation, by lawful action of the City of Martinsville except as shall be expressly provided for in this ordinance.

SECTION 13.4 – EXCLUSION

Nothing in this ordinance or in any rules, regulations or orders issued pursuant to this ordinance 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 of Indiana or by any state agency, or the use of property owned or occupied by State of Indiana or any state agency. As used in this section, 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.

SECTION 13.5 – EFFECTIVE DATE AND REVISION

A. EFFECTIVE DATE: This ordinance was originally adopted on November 19, 2001 as Ordinance 2001-1478.

B. REVISION: Ordinance 2001-1478 is hereby revised and amended per a recommendation of the Martinsville Plan Commission at a public hearing held July 27th, 2004 and adopted by the Common Council of the City of Martinsville as Ordinance 2004-1530 on August 16th, 2004 and is effective upon passage.

C. Where conflicts arise between the above cited ordinances and this zoning ordinance the more restrictive shall apply.

CHAPTER 14 - SUBDIVISION CONTROL

BE IT ORDAINED UNDER AUTHORITY OF IC-36-7-4, STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO:

SECTION 14.0 – ESTABLISHMENT OF CONTROL

Any parcel of land which is divided, and is a subdivision as defined in Section 1.4 of this ordinance, shall be divided and platted in accordance with the provisions of this chapter. No plat or replat of a subdivision of land located within the jurisdiction of the Martinsville Plan Commission shall be recorded until it shall have been approved by such Commission, and such approval shall have been entered in writing on the plat by the Chairman and Secretary of the Commission.

SECTION 14.1 – DEFINITIONS

For the purpose of this ordinance, the definitions shall be the same as those found in Section 1.4 of the Zoning Ordinance of Martinsville, Indiana.

SECTION 14.2 – PROCEDURE

A developer or landowner desiring approval of a plat of a subdivision of any land lying within the jurisdiction of the Commission shall submit a written application to the Commission. Such application shall be accompanied by the information, requirements and plans set forth hereafter, all in accordance with the requirements set forth in this ordinance.

Ordinance 2011-1655 revised notice and filing procedures. It requires that public notice and filing procedures shall meet the requirements of Section 10.0 (A through H and J through L) of this ordinance.

SECTION 14.3 – PRIMARY (preliminary) PLAT APPROVAL

A. PRIMARY APPROVAL FOR SUBDIVISION

1. The Owner or Developer shall provide a plan of the subdivision that shall show the manner in which the proposed subdivision is coordinated with the Master Plan and its provisions. Specifically, with relation to the requirements of the thoroughfare plan; school and recreational sites; shopping centers; community facilities; sanitation; water supply; drainage; and other developments existing or proposed, in the vicinity. However, no land shall be subdivided for residential, business or industrial use until the Developer has given sufficient evidence, as determined by the Commission: that there is adequate and safe access to the land over existing improved streets and roads or that such adequate and safe access will be provided by the Developer; that flooding and drainage problems do not exist on the land or can be eliminated; that adequate sanitary and water systems are available to service the subdivision or can be provided; that the land is free from objectionable earth and rock formation, topography or such objectionable features can be eliminated; and that any other feature harmful to the health and safety of possible residents and the community as a whole has been or can be eliminated. In making a determination of suitability for subdividing the Commission shall be the sole judge of the acceptability and adequacy of the evidence presented.

2. The Developer shall provide a location map of appropriate scale (which may be prepared by indicating the data by notations on available maps) showing:

(a) Title of map, scale, north arrow and date of submittal.

(b) Subdivision name and location.

(c) State highways, arterial streets, major and minor collectors, and feeder streets related to the subdivision.

(d) Existing elementary and high schools, parks and playgrounds, and other community facilities that will be serving the proposed subdivision.

B. PLAT REQUIREMENTS:

1. Proposed name of the subdivision shall be shown and shall not be the same an any other subdivision in Morgan County unless a subsequent phase of an existing subdivision.

2. Names and addresses of the Owner, Developer and the planner, land planning consultant, engineer or surveyor who prepared the plat.

3. A plat shall show accurate boundary lines, with dimensions and angles that provide a survey of the tract together with those requirement of 865 IAC 12 or a recording reference to a boundary survey of the perimeter of the subdivision performed in accordance with 865 IAC 12.

4. An accurate distance and direction from the proposed subdivision perimeter to the nearest intersections of existing streets shall be shown.

5. Accurate metes and bounds description of the boundary of the tract.

6. Source of title to the land to be subdivided as shown by books of the County Recorder as of the date of making application.

7. Show street names with a statement that the Morgan County Highway Department or 911 Coordinator has approved names.

8. Complete curve notes for all curves included in the plan.

9. Street lines with accurate dimensions in feet and hundredths of feet, with angles or bearings to street, alley and lot lines if applicable.

10. Lot numbers

11. Lot dimensions in feet and hundredths thereof and angles or bearings in degrees, minutes and seconds of arc.

12. Show accurate locations of easements for utilities, drainage, signs, and landscaping together with any limitations on such easements. All plats shall have easements for utilities and drainage.

13. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.

14. Building setback or front yard lines and dimensions.

15. Location, type, material and size of all monuments and lot markers. Monuments shall require caps with surveyors name and license number

16. Information on type and location of all infrastructures to serve the subdivision including: streets and roads, sidewalks, sanitary system, water system, storm drainage, recreation facilities, street lighting, landscaping and signage. Detailed construction plans are required for all subdivisions. Plans must be reviewed and released for construction by the City Engineer prior to secondary plat approval. The Commission reserves the right to require detailed construction plans prior to approval of any primary plan or plat.

17. Restrictions of all types, which will run with the land and become covenants in the deeds for lots must be submitted with the primary plat at time of making application.

18. North point, scale and date.

19. Certification by a registered land surveyor in accordance with Section 14.9(B) of this ordinance shall appear on the plat.

20. Dedication of public streets, to the City of Martinsville, Board of Public Works or Morgan County Commissioners as applicable. Any dedication of land other than for public streets must have the express approval of the Board of Public Works or County Commissioners. Streets to be dedicated must meet all standards of construction and right-of-way width established in this ordinance or as the City or County might require.

21. Certificate for approval by the Commission in accordance with Section 14.9(A).

22. A statement in writing from the Morgan County Health Department, or Indiana Department of Health, if the proposed subdivision would be served by individual sewage systems. The statement shall indicate that the minimum requirements for approval of septic systems by the Health Department can be met for the individual lots in the subdivision.

23. The Developer shall provide the subdivision with a complete water supply system or show to the Plan Commission an individual water supply on each lot in accordance with minimum requirements of the Morgan County Health Department.

24. A statement in writing from the Morgan County Highway Department, if the subdivision is to be outside the corporate limits of the City, Indicating that the proposed streets will meet the minimum standards adopted by Morgan County. Regardless of any other standard, all streets, in or outside the corporate limits, must, as a minimum, meet the standards set by this ordinance.

25. The original drawing of the plat of the subdivision shall be drawn to a scale of 50 feet to 1 inch, provided that if the resulting drawing would be over 36 inches in longest dimension a scale of 100 feet per 1 inch may be used and filed in sections. Four blue or black line prints and a reproducible velum or mylar shall be submitted.

26. All drainage and utility easements shall be separate if open drainage is being used. Where a county road is involved or a road not dedicated to the City, then sewer easements shall be provided along with other utility easements.

27. The application shall be accompanied by the non-refundable fee prescribed in the FEE TABLE – APPENDIX `A'. Said fee shall be paid to the Clerk/Treasurer of the City of Martinsville.

28. A statement certified by a registered engineer or registered land surveyor stating that development has been designed in accordance with the City of Martinsville or Morgan County, Stormwater and Erosion Control Management Plan Ordinances and Design Manual.

29. Provide a traffic plan or statement that shall address the impact the proposed development will have on existing street safety, capacity and any other traffic concerns of the City or County Engineer. Proof shall be submitted of having obtained a driveway permit from the Morgan County Highway Department for each proposed street that is to be connected to an existing county road.

C. After an application for approval of a plat of a subdivision has been filed, the Commission, or its appointed representative(s), shall review the proposed plat for the sole purpose of determining whether to allow the plat and accompanying data to be formally filed with the Commission, or whether to return the documents to the Developer with comments for change. Unless and until the Commission, or its appointed representative(s), formally accepts a plat for filing, it shall not be considered as actually filed for the purposes of proceeding to the succeeding steps toward plat approval as hereinafter set forth. The filing of a plat grants no proprietary rights to the applicant in the proposed subdivision and in no way is binding upon the Commission as to what terms and conditions will apply before plat approval is granted, if any. It being the purpose of such filing to advise both the Commission and the interested public as to what the applicant or Developer is proposing in order to have the appropriate issues addressed in public hearing on the proposed subdivision. The Developer may request that the Commission allow the submittal of a primary plat that meets the requirements of Section 6.3(C) & (D) and with the following additional requirements, conditions and restrictions:

1. It is a single use development. Example all R1(a) or all R1(d) or all B1or all I2, etc;

2. Items 1-9 and 12-29 of Section 14.3(B) are provided on a plat suitable for approval by the Commission;

3. The maximum number of lots, minimum lot area, minimum lot width and depth, and a typical lot diagram are given on the plat;

4. Provide a schedule or timetable for completion of the development that, at a minimum, must give the estimated number of lots to be secondary (final) platted each year.

5. A written commitment by the landowner and developer shall appear on the plat stating that the final plat will comply with all provisions and development standards for the zoning district and classification of the land on which the development is contemplated;

6. A written commitment and agreement that, in addition to a subdivision platting fee based upon the maximum number of lots shown, the Developer will pay an additional fee in an amount equal to the zoning application fee for a Minor Plat for **EACH** Secondary (final) Plat that is placed on the agenda for approval of the Commission;

7. A written commitment that the provisions of this ordinance relating to construction drawing plan approval, surety and construction of infrastructure will be completed and complied with prior to submittal for Secondary Plat approval of any section(s), block(s) or lot;

8. On the secondary (final) plat the relationship, graphically and by dimensions, will be shown to the perimeter of the development and to prior approved lots within the development.

D. Within 30 days of accepting a filing application, the Commission shall set a date for a hearing and notify the applicant of the hearing date.

SECTION 14.4 – HEARING NOTICE REQUIREMENTS

A. NOTICE OF PUBLICATION FOR PRIMARY PLAT HEARING: After notification by the Commission of the date of public hearing for the Primary Plat the applicant shall place legal notice, in a newspaper of general circulation in the City of Martinsville, which shall be published at least **fifteen (15)** days prior to the hearing date and proof of publication shall be made by an affidavit of the publisher attached to a copy of the notice taken from the paper in which it was published. Such affidavit shall include the name of the newspaper and the time of publication. Proof of publication shall be returned to the City Superintendent not less than **two (2) business days** prior to the public meeting.

B. NOTICE TO ADJACENT OWNERS OF PRIMARY PLAT HEARING: Additional notice shall be given to all adjacent landowners who are within two parcels in depth or six hundred sixty (660) feet from the subject property, whichever is least. Such notification shall be made at least **fifteen (15)** days prior to the hearing date and be made by certified or registered mail, return receipt requested. For purposes of this notice requirement, where the petitioner owns any of the adjoining parcels of ground, the subject property shall be deemed to include such adjoining land owned by the petitioner. For the purpose of determining the names and addresses of the legal adjacent property owners the records of the most recent tax assessment records as they appear in the offices of the Morgan County Auditor shall be deemed to be the true names and addresses of persons entitled to be notified.

PUBLICATION AND NOTICE TO ADJACENT LAND OWNER SHALL STATE:

1. The location, by address with distance and direction to nearest intersecting streets, together with legal description of the land involved in the petition.

2. That the petition may be examined in the City Superintendent's Office, during regular business hours at City Hall, 59 So. Jefferson St., Martinsville, Indiana.

3. The docket number and the specific request set out in the petition with sufficient detail for the public to determine the extent of the proposed development. At a minimum, the acreage to be developed, number of lots and typical lot size shall be included.

4. The time and location that said petition has been set for public hearing by the Commission.

C. NOTICE TO CHECKPOINT AGENCIES: Notice shall also be provided to the following checkpoint agencies stating that plans are available for their review and comment at the Office of the City Superintendent. The notice shall state specifically the nature of the development, the number of employees or potential households and traffic impact. Notice shall be sent by certified mail, return receipt requested, or hand delivered with proof of delivery, to the following not less than **fifteen (15)** days prior to the hearing:

    1. Martinsville Police Department or Morgan County Sheriff
    2. Metropolitan School District of Martinsville
    3. Morgan County Soil and Conservation District
    4. Morgan County Highway Engineer
    5. Martinsville Fire Department and any other Fire Departments having jurisdiction
    6. Morgan County Board of Health if the development is to be serviced by individual waste treatment (septic) systems.

D. NOTICE TO COMMISSION & BOARD MEMBERS Each member of the Plan Commission or Board of Zoning Appeals, as the case may be, shall be sent by regular mail at their address as

provided by the Commission, not less than **fifteen (15)** day prior to the hearing a notice per Section B above.

E. AFFIDAVIT OF NOTICE: The Petitioner shall furnish evidence of compliance of the notice requirements by filing a notarized statement with the Board or Commission as is appropriate. Said notice shall list names and addresses of the property owners to whom the notices sent out and the return receipts of postal registrations shall be attached to the affidavit in the same order as the property owners are listed on the affidavit and returned to the Office of the City Superintendent not less than **two (2) business days** prior to the Public Meeting.

F. With every plat filing the Developer shall specify the type of surety (cash, bond, or non-revocable letter of credit) and the name of the surety company or bank providing letter of credit, for the surety required for performance and maintenance for all infrastructure required to be constructed as part of primary plat approval.

G. If, after the hearing, the Commission determines that the application and plat comply with the standards in this ordinance, it shall make written findings and a decision granting primary approval to the plat. This decision must be signed in the appropriate space upon the plat by the Chairman of the Commission and attested to by the Secretary of the Commission.

H. If the Primary Plat is approved by the Commission the Developer shall cause complete design plans for all infrastructure to be prepared by an Indiana Registered Professional Engineer or, if no water system or sanitary lift stations are required, by an Indiana Registered Land Surveyor. All required Federal, Indiana and Local permits must be obtained. Prior to beginning any infrastructure work three complete sets of plans shall be submitted to the City Engineer for his comment and approval. Developer shall amend or revised the design plans to comply with the City Engineer's comments. After revision the Developer shall again submit three complete sets of plans together with copies of all required Federal, State and Local permits to the City Engineer. If complete design plans are not submitted to the City Engineer within one (1) year after primary plat approval by the Commission then the plat is void. It the primary plat was approved showing, sections, blocks or phases only design plans for the first section need be submitted within one (1) year.

I. If, after the hearing, the Commission determines that the application and plat do not comply with the standards in this ordinance, it shall make written findings and a decision denying primary approval to the plat. The Commission will provide a copy of its findings to the applicant and any interested party requesting such information. This decision must be signed by the Chairman of the Commission and attested to by the Secretary of the Commission.

J. If infrastructure construction has not begun within two (2) years from the date of design plan approval by the City Engineer, per sub-section (H) above, then the entire primary plat is void. When a primary plat was approved showing sections, blocks or phases construction on a subsequent section, block, or phase must begin within four (4) years of the date of recording of the Secondary (final) plat of the previous section, block or phase. The Commission may void any primary plats, sections, blocks, or phases where construction has not begun within these time limits.

SECTION 14.5 – SECONDARY (final plat) APPROVAL

A. Prior to submitting a secondary (final) plat for approval the following conditions and requirements apply:

1. Infrastructure shall be constructed to include, but not limited to: site grading, streets, sidewalks, curbs, and gutters, sanitary sewer, storm drainage system including retention/detention systems, street signs, street lighting, public water system, fire hydrants, and any and all other

improvements outlined and shown on the plat or that are required by the Commission or City and County Engineer. Including having passed all material and performance test for streets, sanitary sewers and lift stations, water system including fire hydrants and pumping stations, storm sewer system together with all testing required by Indiana Department of Environmental Management, City of Martinsville, Morgan County or a private utility.

2. Any portion of infrastructure, as listed in Subsection (A)(1) above, that is not completed prior to a request to the Commission to approve a Secondary (Final) Plat shall be guaranteed via a performance surety (bond, cash, certified check or irrevocable letter of credit). The surety shall be in an amount equal to 100 percent of the uncompleted work, including testing. The cost of the uncompleted work shall be determined by bids from qualified contractors and approved by the City Engineer or in the absents of bids an estimate of the remaining cost of construction by the City Engineer.

3. The Secondary Plan (final plat) shall not be approved until all infrastructures has been completed, tested and accepted by the City and/or County, or a performance surety has been posted with the City or County in an amount equal to 100 percent of the cost of any uncompleted construction, including testing. Further, if all infrastructure has been completed a three year maintenance surety equal to twenty (20) percent of the total cost of construction is required. If all construction is not completed, in addition to the performance surety, proof of ability to obtain maintenance surety is required.

4. Four copies of Secondary Plat (final plat) meeting all the requirements of Section 14.3(B) together with said plat drawn on mylar or velum, suitable for recording, shall be submitted to the City Superintendent at least **fifteen (15) days** prior to any scheduled hearing or approval.

B. If the infrastructure required in Section 14.5(A)(1) has not been completed and accepted by the City within two (2) years after recording of the Secondary (final) Plat or at any time the Commission determines that the Developer is unable or unwilling to complete the infrastructure then the Commission may call in the performance surety and cause the infrastructure to be completed to the satisfaction of the City Engineer.

C. The Developer, in writing, shall notify the City Superintendent when all improvements and installations have been completed in accordance with the provisions of the plat that was approved by the Commission. The Commission may release the Developers performance surety under the following conditions:

1. Certification to the Commission by the City Engineer that all the requirements of the plat and approved design plans have been met.

2. Complete as-built design plans, on velum or mylar, have been submitted by the Developer and accepted by the City Engineer.

3. A three-year maintenance surety to the City of Martinsville or Board of County Commissioners of Morgan County, as the case may be, has been posted.

D. Where applicable, a separate performance and maintenance surety for construction on county right-of-way may be furnished to the Morgan County Commissioners in amount not less than stated above.

E. Upon the acceptance of all streets and other improvements in the subdivision by the Board of Public Works and Safety of City of Martinsville, Indiana, or by the Board of County Commissioners of Morgan County, Indiana, as the case may be, the three-year maintenance surety may be released and the surety discharged from further obligation.

F. The Commission may grant secondary approval of a plat under this section or may delegate to the City Superintendent the authority to grant such approvals. No notice or hearing is required. A plat of a subdivision may not be filed with the auditor, and the recorder may not record it, unless it has been granted secondary approval and signed and certified by the appropriate official of the Commission. The filing and recording of the plat is without legal effect unless approved by the Commission or its designated delegate.

G. All plats shall be filed with the Martinsville Plan Commission in recordable form along with the recording fee made payable to the Morgan County Recorder in the appropriate amount. The City Superintendent shall check the final document for recording to make sure it complies with the approved plat. The City Superintendent shall arrange for the recording of the plat within ten days from the date of receipt said plat. **Any subdivision secondary (final) plat that is not recorded in the records of the Recorder of Morgan County within one-year from date of approval by the Commission is void.**

H. Filing and recording of the plat is without legal effect unless approved by the Commission or it's designated delegate.

SECTION 14.6 – MINOR PLAT - SUBDIVISION

A. GENERAL: After a determination by the Plan Commission that a new dedicated road (to the County or the City) is not necessary and/or adequate access to a public road can be provided, the Owner or Subdivider may apply for a minor plat. A minor plat is limited to division of the original or parent parcel into not more than four (4) parcels, including any remainder of the original (parent) parcel. An original or parent parcel is a parcel of land with a separate legal description shown on the plat books of the Auditor of Morgan County and given as a separate legal description in an instrument of conveyance in the Office of the Recorder of Morgan County as of May 7, 2001. For Minor Plats the Commission may waive primary plat submittal and proceed with Secondary Plat (final plat) approval provided all provision of this section have been met.

B. PLAT REQUIREMENTS AND SUBMITTALS

1. On the face of the plat shall appear the name and address of the Owner and Developer and the name, address and Indiana registrations number of the engineer and surveyor who prepared the plat.

2. A plat shall show accurate boundary lines, with dimensions and angles that provide a survey of the tract together with those requirement of 865 IAC 12 or a recording reference to a boundary survey of the perimeter of the minor plat performed in accordance with 865 IAC 12.

3. Accurate distances and directions to the nearest streets intersecting the boundaries of the tract that is subdivided shall be given.

4. Accurate metes and bounds, description of the boundary of the tract.

5. Show accurate locations of easements for access, utilities, drainage, signs, and landscaping together with any limitations on such easements. Easements for utilities and drainage shall be provided if required by the Commission or City/County Engineer.

6. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.

7. Show street names with a statement that the Morgan County Highway Department or 911 Coordinator has approved names.

8. Building setback or front yard lines and dimensions. All setbacks shall be measured from the property line, or access easement line, whichever provides the greater setback.

9. Show existing: buildings; driveways; septic systems, utility transmission lines; existing easements; lakes, ponds, streams; and public streets and roads together with dedicated right-of-way.

10. Provide four copies of complete plans and specifications for the improvements that are required by this ordinance. The City Engineer or Commission may require a topographic survey to show that there is adequate drainage, septic system sites, access or other matters that could be a concern for safety, health and welfare of the community. The City Engineer may waive the requirement for detailed construction plans for minor plats.

11. Restrictions of all types that will run with the land and become covenants in the deeds for lots shall be shown on the plat or referenced by recording reference.

12. North point, scale and date.

13. Certification by a registered land surveyor in accordance with Section 14.9(B) of this Subdivision Control section shall appear on the plat.

14. Certificate for approval by the Commission in accordance with Section 14.9(A).

15. A statement in writing from the Morgan County Health Department or Indiana Department of Health, if the proposed subdivision would be served by individual sewage systems. The statement shall indicate that the minimum requirements for approval of Septic systems by the Health Department can be met for the individual lots in the subdivision.

16. Notice to the public shall be made in compliance with Section 14.4(A to E). At the hearing, the Plan Commission may make Secondary Plat (final plat) approval or, if additional time is needed, the public hearing can be continued, as the Plan Commission deems necessary.

17. The original drawing of the plat of the subdivision shall be drawn to a scale of 50 feet to 1 inch, provided that if the resulting drawing would be over 36 inches in longest dimension a scale of 100 feet per 1 inch may be used and filed in sections. Four blue or black line prints and a reproducible velum or mylar shall be submitted.

18. If construction drawing or minor plat plan requires improvements on public right-of-way or other infrastructures improvements that will be dedicated to the City or County or if such improvements are required by the Commission then surety must be provided in accordance with Section 14.5(A to E) above.

19. The application shall be accompanied by the non-refundable fee prescribed in the FEE TABLE – APPENDIX `A'. Said fee shall be paid to the Clerk/Treasurer of the City of Martinsville.

20. The subdivision shall not have a common drive unless a covenant for perpetual maintenance is shown on the face of the plat that will be presented for approval of the Plan Commission.

21. A statement certified by a registered engineer or registered land surveyor stating that the development has been designed in accordance with the City of Martinsville or Morgan County, Stormwater and Erosion Control Management Ordinances and Design Manual and if a permit is

required under the relative ordinance then a copy of the Stormwater and Erosion Control Management Plan Approval permit.

22. All drainage and utility easements shall be separate if open drainage is being used. Where a county road is involved or a road not dedicated to the City, then the City Engineer may require separate easements for future sanitary sewers in addition to other utility easements.

23. Any plat that adjoins a county road must designate and grant a dedicated right-of-way to Morgan County. Width of the right-of-way to be dedicated shall be determined by the Morgan County Highway Engineer. In no case shall the dedicated right-of-way be less than 25 feet. Developer shall provide a letter from the Morgan County Highway Engineer stating the required right-of-way width to be dedicated. Proof shall be submitted of having obtained a drive permit from the Morgan County Highway Department for each proposed street that is to be connected to an existing county road.

24. **Any minor plat that is not recorded in the records of the Recorder of Morgan County within one-year from date of approval by the Commission is void.**

SECTION 14.7 – PRINCIPLES AND STANDARDS OF DESIGN

The plat of the subdivision shall conform to the following principles and standards of design:

A. GENERAL: The subdivision plan shall conform to the principles and standards of this ordinance.

B. STREETS

1. The streets shall provide access to all lots and parcels of land within the subdivision, and where street intersect, offsets of less than 200 feet shall be avoided.

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

3. Streets shall intersect the boundary of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity. The Commission or City Engineer can require streets to be constructed to the boundary of the subdivision as needed to provide for future access to adjacent lands. Frontage roads may be used as collector streets when the Commission or City Engineer determines it is in the best interest of the overall flow of traffic.

4. Wherever an existing dedicated or platted street, or portion thereof as in a half right-of-way, is adjacent to the proposed subdivision or dead ends at the subdivision boundary, additional right-of-way shall be platted to provide the street or alley the full right-of-way width as, required by this ordinance, to the next intersecting street.

5. The minimum right-of-way width for residential streets, minor access streets or residential streets ending in a cul-de-sac is 60 feet; minimum right-of-way width for feeder, minor collectors and industrial streets is 70 feet; minimum right-of-way width for arterial street or major collectors is 80 feet. Cul-dc-sac diameter for all residential streets is 110 feet and for all business and industrial streets is 120 feet. Minimum right-of-way transition radius from street to cul-de-sac is 50 feet. For minor plats, subdivision of land containing four and fewer lots including the residual of the parent parcel, an access (ingress/egress) easement shall be provided that is not less than thirty (30) feet in width. In major subdivisions the streets must be dedicated to the public and provision made for acceptance of the streets by the governing public agency. In minor subdivisions, the streets may be privately maintained by the various lot owners, provided the

dedication of the plat contains specific provisions for perpetual maintenance and repair of the streets, including drainage items.

6. Alleys shall be prohibited, except as provided in 4 above.

7. The centerlines of streets should intersect as nearly at right angles as possible but in no case less than 75 degrees.

8. At intersections of streets, property line corners shall be rounded by arcs of not less than a 25-foot radius or by chords of such arcs.

9. Streets from opposite directions shall intersect at a common point (4-way or 3-way intersection). Streets intersections shall not be less than 200 feet, when measured between centerlines, for residential streets; not less than 400 feet for intersection with a feeder or minor collector street; not less than 600 feet between intersections for a major collector, arterial street; and not less than that required by the Indiana Department of Transportation between intersections with state highways.

10. Where parkways or special types of streets are involved, the Commission may apply another standard to be followed in their design.

11. Horizontal visibility of curved streets and vertical visibility on all streets must be maintained along the center lines as follows:

    (a) Arterial or major collector streets: 500 feet
    (b) Feeder streets and minor collectors: 300 feet
    (c) Residential streets: 150 feet

12. Curvature measured along the center line shall have a minimum radius as follows:

    (a) Arterial or major collector streets: 500 feet
    (b) Feeder streets and minor collectors: 300 feet
    (c) Residential streets: 200 feet

13. Between reverse curves arterials, collectors and feeder streets a tangent of not less than 100 feet shall be provided. On residential streets no tangent section is required.

14. Maximum grades for streets shall be as follows:

    (a) Arterial streets and Major Collectors, not greater than 6%
    (b) Feeder streets and Minor Collectors, not greater than 8%
    (c) Residential streets, and minor plat access, not greater than 10%

15. Cul-de-sac length: Maximum length of a cul-de-sac, dead end street or access easement is 800 feet. The length shall be measured from the centerline of the nearest dedicated or public cross street.

C. LOTS

1. All lots shall front on a public street or road. However, lots in minor plats may front on an access (ingress/egress) easement.

2. Sidelines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but pointed or very irregular lots should be avoided.

3. Double frontage lots should not be platted.

4. Widths and areas of lots and building setback lines shall be not less than that provided in the Zoning Ordinance of Martinsville for dwellings for the district in which the subdivision is located.

5. Wherever possible, unit-shopping centers, based upon sound development standards, should be designed in contrast to the platting of lots for individual commercial use.

6. Corner residential lots shall be wider than normal in order to permit appropriate setbacks from both streets.

D. EASEMENTS, UTILITY:

Easement for utility shall be provided. This easement area for utilities shall not include the paved surfaces. Such easements shall have minimum widths of 20 feet, or greater where needed, and where located along lot lines, one-half of the width shall be taken from each lot. Before determining the location of easements, the plan shall be discussed with local utility companies to assure their proper placing for the installation of such services to allow necessary room for the placement of all possible utilities.

E. PUBLIC OPEN SPACES:

1. Where sites for parks, schools, playgrounds or other public uses are located within the subdivision area as shown on the Master Plan, the Commission may request their dedication for such purposes, or their reservation for a period of one year following the date of the approval of the plat. In the event a governmental agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period shall be extended for an additional six months.

2. All public open spaces dedicated to the public shall be granted access through an easement or direct access to a public right-of-way.

SECTION 14.8 – STANDARDS OF IMPROVEMENTS

The plat of subdivision shall conform to the following standards of improvements:

A. MONUMENTS

1. Shall be placed so that the center of the monument shall marked to coincide exactly with the intersection of lines to be monumented, and shall be set so that the top of the monument is level with the finished grade. The monument shall have caps with the surveyor's name and license number.

2. Monuments shall be set:

   (a) At the intersection of all lines forming angles on the perimeter of the subdivision.
   (b) At the intersection of street centerlines
   (c) Centerline of streets at the beginning and end of curves
   (d) Centerline of street tangent sections at intervals not to exceed 500 feet

(e) At any other location required by Indiana Code

3. Monuments interior to the subdivision shall be at a minimum 1" galvanized iron pipe or 5/8" diameter reinforcing bar, 30 inches in length, except in pavement where the length may be 8 inches, with a cap embossed with the surveyor's name and registration number. On the perimeter of the subdivision monuments shall be 1" galvanized iron pipe or ¾" diameter reinforcing bar with a cap embossed with the surveyor's name and registration number. Perimeter monuments shall be 36 inches in length and set in concrete.

B. SURVEY STANDARDS

Survey of the subdivision and subdivision perimeter shall be in accordance with 865 IAC 12 (Rule 12). It is required that if all of the information required by Rule 12 is not shown on the face of the subdivision plat then a separate perimeter survey in compliance with said rule must be recorded in the Office of the Recorder of Morgan County and the recording information placed on the face of the subdivision plat.

C. STREETS

1. Streets shall be completed to grades shown on plans, profiles, and cross-sections provided by the Developer, and prepared by a registered professional engineer or registered land surveyor. Prior to beginning construction and secondary plat approval the City Engineer shall approve all construction and site plans.

2. The streets shall be graded, surfaced, and improved to the dimensions required by the cross-sections and the work shall be performed in the manner prescribed in "Standard Specifications" (latest issue), of the Indiana Department of Transportation.

   (a) In a subdivision proposed to have residential streets and containing an average of less than three (3) lots per acre, excluding streets, open areas, common areas, retention/detention areas, parks or other similar non-building areas, the street pavement shall be a minimum width of 28 feet, exclusive of curbs or curbs & gutter.

   (b) In a subdivision proposed to have residential streets and containing an average of three (3) or more lots per acre, excluding streets, open areas, common areas, retention/detention areas, parks or other similar non-building areas, the street pavement shall be a minimum width of 32 feet, exclusive of curbs or curbs & gutter.

   (c) Streets in a business or industrial development and feeder or minor collectors shall be a minimum width of 32 feet, exclusive of curbs or curbs & gutter.

   (d) Arterial or major collectors shall be a minimum width of 36 feet, exclusive of curbs or curbs & gutter.

   (e) In residential districts the minimum radius of cul-de-sac pavement, exclusive of curbs or curb & gutter, is 42 feet. In business and industrial districts the minimum radius of cul-de-sac pavement, exclusive of curbs or curb & gutter, is 48 feet. The minimum radius for the transition from back of curb on street to back of curb on the cul-de-sac is 60 feet for all districts.

3. Materials and construction methods employed for construction of infrastructure within existing right-of-way or proposed right-of-way shall meet the requirements of the Indiana Department of Transportation, Standard Specifications (latest edition) in addition to those requirements contained in this ordinance.

4. Developer shall provide pavement tapers, turn lanes and passing lanes, including any additional right-of-way, if in the opinion of the County or City Engineer, traffic counts, visibility, or other safety considerations warrant them.

5. The City Superintendent shall be notified 48 hours prior to beginning paving operations so that a representative of the City or County, as the case may be, can make any necessary inspections. Any failure by the Developer or his subcontractor to comply with the design standards of this ordinance and the specifications approved by the Commission shall be grounds for issuance of a cease and desist order and notice of corrective actions to be taken. Failure to make necessary corrections shall be grounds for suit against the performance surety posted by the Developer by the City or the County, as the case may be, to properly install and complete the streets in question. The responsibility for the compliance with these provisions shall be solely that of the Developer shown on such performance surety as the principal obligor.

STREET PAVEMENT STANDARD

Residential Street Typical Section:

- Six (6) inches of wire or fiber reinforced Portland Cement Concrete on eight (6) inches of No. 8 Crushed Stone Subbase **OR;**
- 110 lbs/syd of No.11 Bituminous Surface on 330 lbs/syd of No. 8 Bituminous Base or Binder on eight (8) inches of Compacted Aggregate Base No. 53 **OR;**
- 110 lbs/syd of No.11 Bituminous Surface on 220 lbs/syd of No. 9 Bituminous Binder on 440 lbs/syd of No. 5 or 5D Bituminous Base.

Feeder, Minor Collector, Business or Light Industrial Street Typical Section:

- Eight (8) inches of wire or fiber reinforced Portland Cement Concrete on six (6) inches of No. 8 Crushed Stone Subbase **OR;**
- 165 lbs/syd of No. 11 Bituminous Surface on 440 lbs/syd of No. 5 or 5D Bituminous Base on eight (8) inches of Compacted Aggregate Base No. 53 **OR;**
- 110 lbs/syd of No. 11 Bituminous Surface on 880 lbs/syd of No. 5 or 5D Bituminous Base placed in two (2) lifts.

Arterial, Major Collector or Heavy Industrial Street Typical Section:

- Nine (9) inches of wire or fiber reinforced Portland Cement Concrete on six (6) inches of No. 8 Crushed Stone Subbase **OR;**
- 110 lbs/syd of No.11 Bituminous Surface on 220 lbs/syd No. 9 Bituminous Binder on 440 lbs/syd No. 5 or 5D Bituminous Base on eight (8) inches of Compacted Aggregate Base No. 53 **OR;**
- 110 lbs/syd of No.11 Bituminous Surface on 220 lbs/syd of No. 9 Bituminous Binder on 880 lbs/syd of No. 5 or 5D Bituminous Base placed in two (2) lifts.

5. Prior to placing the street surfaces, adequate subsurface drainage for the street shall be provided by the Developer. Subsurface drainage pipe shall be coated corrugated steel pipe, PVC or HDPE or other approved pipe not less than 6 inches in diameter approved by the City Engineer. Upon

the completion of the street improvements, as-built drawings shall be filed with the City Superintendent.

6. Pavement for private access roads (as would be allowed in minor plats) shall be a minimum of 20 feet in width and constructed of a minimum of ten (10) inches of compacted aggregate (four (4) inches of No. 53 or No. 8 crushed stone on six (6) inches of No. 2 crushed stone or equivalent) on prepared, well-drained, compacted subgrade.

D. SANITARY SEWERS

Within the municipal limits of the City of Martinsville or where sanitary sewers are within 300 feet of the perimeter of the proposed development the Developer shall provide the subdivision with a complete sanitary sewer system, which shall connect to the City sewers at an approved location. Where connection to City sewers is not possible, one of the following methods of sewage disposal shall be used:

1. A complete sanitary sewer system to convey the sewage to a treatment plant shall be provided by the Developer in accordance with the minimum requirements of the Morgan County Health Department, the Indiana State Board of Health, and/or the Indiana Stream Pollution Control Board.

2. The Morgan County Board of Health shall approve each lot for an individual on site sewage disposal system.

Sanitary sewer system plans shall meeting the requirements of the City of Martinsville shall be provided by the Developer and submitted to the City Engineer and Indiana Department of Environmental Management for approval. The design shall give consideration to service extensions into adjacent areas. Upon the completion and testing of the sanitary sewer system, as-built plans for the sanitary sewers shall be submitted to the City Engineer.

In this section SEWERS, and the next section WATER, the phrase "the Developer shall provide" shall be interpreted to mean that the Developer shall install the facility referred to, or, whenever a private sewage disposal system or an individual water supply is to be provided, that such facilities referred to in these sections shall be installed by the Developer of the lots in accordance with these regulations.

E. WATER SYSTEM

Within the municipal limits of the City of Martinsville or where adequate public water mains are within 500 feet of the perimeter of the proposed development the Developer shall provide the subdivision with a complete water supply system. Where connection to a municipal or public water system is not available, the Developer shall provide one of the following:

1. A complete community water supply system shall be provided in accordance with the minimum requirements of the Indiana State Board of Health and Indiana Department of Environmental Management.

2. An individual water supply on each lot in the subdivision in accordance with the minimum requirements of the Morgan County Board of Health

Water system plans shall meeting the requirements of the City of Martinsville or the public water company who is supplying the water shall be provided by the Developer and submitted to the City Engineer or public water company and Indiana Department of Environmental Management for approval. The design shall give consideration to service extensions into adjacent areas. Upon the completion and testing of the water system, as-built plans for the sanitary sewers shall be submitted to the City Engineer or public water company.

F. STORM DRAINAGE SYSTEM

The Developer shall provide the subdivision with an adequate storm water collection system in conformance with the City of Martinsville and/or Morgan County, Stormwater and Erosion Control Management Plan and Design Manual.

G. CURB and GUTTER

Curb or Curb & Gutter are required to be installed on each side of the street in all subdivisions except minor subdivisions. The curb and/or curb & gutter shall be of one of the construction types shown in APPENDIX 'E' – STANDARD DETAILS.

H. SIDEWALKS

1. Sidewalks shall be installed on both sides of all streets in any subdivision.

2. Sidewalks shall be installed in all B and P.U.D.-C zoning classifications as determined by the Commission.

3. When sidewalks are installed, they should be constructed of Portland cement concrete at least 4 inches thick and 5 feet wide and placed 1.0 feet from the street right-of-way line.

4. Sidewalks shall also be required where necessary to accommodate present and future pedestrian traffic as determined by the Commission.

5. Sidewalk specifications:

   (a) Sidewalks shall be constructed to provide a minimum of five (5) feet planting strip between the back of curb and the sidewalk.

   (b) On all arterial and feeder streets the planting strip shall be a minimum of seven (7) feet between the back of curb and the sidewalk.

   (c) Where it is not possible to meet the requirements of Subsection (a) and (b) above the Developer shall provide an alternate method of sidewalk placement and obtain approval of the Commission.

   (d) Sidewalks are required in all developments whether in residential, business or industrial districts as determined by Commission.

I. STREET SIGNS

The Developer shall provide the subdivision with standard City street signs at the intersection of all streets unless an alternate design or type is approved by the Commission.

J. STREET LIGHTS

The Developer shall provide the subdivision with street lights, the quality and location of which shall be determined by the Commission. The streetlights shall not be required in the buffer zone. The street lights provided shall be with the approval of the City when the subdivision is located on a dedicated street and the Developer shall cover all expenses for installation of the lights

K. FIRE HYDRANTS

The Developer shall provide the subdivision with fire hydrants if the subdivision is located within the corporate limits of the City of Martinsville. Subdivisions outside the corporate limits of the City of Martinsville served by a water utility shall, likewise, provide fire hydrants. Spacing and location of the fire hydrant shall be based upon the recommendation of the respective fire chief of the area being served.

SECTION 14.9 – PLAT CERTIFICATES AND DEDICATION

The following forms shall be used in platting:

A. COMMISSION CERTIFICATE

UNDER AUTHORITY PROVIDED BY IC-36-7-4 ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO, AND BY AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARTINSVILLE, INDIANA, THIS PLAT WAS GIVEN APPROVAL BY THE PLAN COMMISSION OF THE CITY OF MARTINSVILLE AS FOLLOWS:

Adopted by the Martinsville Plan Commission at a public meeting

held on the_____ day of _____ , 20XX

Martinsville Plan Commission Primary Approval

By: _____
Chairman

_____
Secretary

Martinsville Plan Commission Secondary Approval

By: _____

B. SURVEYOR'S CERTIFICATE

SURVEYOR'S SUBDIVISION CERTIFICATION

I, *Name of Surveyor*, an Indiana Registered Land Surveyor, hereby certify that, to the best of my information, knowledge and belief, this plat represents a subdivision of land in accordance with the City of Martinsville Zoning and Subdivision Control Ordinances. That the perimeter of said subdivision was surveyed in accordance with Indiana Administrative Code 865-1-12 and that all information required by said rule, including surveyor's report, is shown hereon or is given in a separate boundary survey that has been recorded in the Office of the Recorder of Morgan County as Instrument Number _____ . Further, that all monuments required by 865 IAC 1-12 and this ordinance have been set or will be set prior to the transfer of any lot in this subdivision.

Certified this _____day of _____, 20XX.

SEAL OF SURVEYOR

_____
Signature of Land Surveyor

C. DEDICATION OF PLAT AND PUBLIC LANDS

1. Each final plat submitted to the Commission for approval shall carry a deed of dedication in substantially the following form:

"We, the undersigned owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance with the within plat.

This subdivision shall be known as _____ ,

An addition to _____. All streets shown and not heretofore dedicated are hereby dedicated to the public.

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

There are strips of ground as shown on this plat and marked "Easement", reserved for the use of utilities, except transmission lines or main, for the installation of water and sewer mains, pipes, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the utilities.

(Insert similar language for drainage easements.)(If access easements are used a dedication of the access easement to the various lot owners must be given.)
(If the subdivision is to have private streets provisions must be made in the covenants for perpetual maintenance of said streets.)

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

The foregoing covenants, (or restrictions), are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 20__.
(A 25 year period is suggested), at which time said covenants, (and/or restrictions), shall be automatically extended for successive periods of 10 years unless changed by vote of a majority of the then owners of the buildings covered by these covenants, or restrictions in whole or in part. Invalidation of any one of the foregoing covenants or restrictions, by judgment or court order shall in no way affect any of the other covenants or restrictions, which shall remain in full force and effect. The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns.

SECTION 14.10 – INTERPRETATION, CONFLICT AND SEPARABILITY

In their interpretation and application the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

A. PUBLIC PROVISIONS: These regulations and ordinance are not intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation. If these regulations imposes a restriction different

from any other ordinance, rule or regulation, or other provision of law, those provisions that are more restrictive or impose higher standards shall control.

B. PRIVATE PROVISION: 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 than such easement, covenant, or other private agreement or restriction, the requirement of these regulations shall govern. Where the provisions of the easements, 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, or the determinations of the Commission in enforcing these regulations, and such private provisions are not inconsistent with these regulations and such private provisions are not inconsistent with these regulations or determinations there under, then such private provisions shall be operative and supplemental to these regulations and determinations made there under. Generally private provisions can only be enforced privately unless a public agency such as the City Council or Plan Commission has been made a party to such agreements.

C. SEPARABILITY: If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have rendered and shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

D. ACCEPTANCE OF STREETS AND INFRASTRUCTURE
Regardless of any other provisions of this ordinance, neither the City of Martinsville or Morgan County, Indiana are required to accept for maintenance or repair any street or road, platted or unplatted, until all other infrastructure associated with the development, such as sanitary sewers and water system, has been accepted by the City or County, as the case may be. After acceptance of other infrastructure the City or County may accept dedication of the streets and roads provided that:

1. A deed of dedication, executed by the owner, has been prepared for all proposed public right-of-way in which streets and roads have been constructed;
2. That there exist no know violations of this ordinance and the appropriate maintenance surety have been submitted;
3. There is a written acceptance of the deed of dedication by the City or County;
4. The completely executed deed of dedication is recorded in the Office of the Recorder of Morgan County.

SECTION 14.11 – SAVING PROVISION AND EXCLUSION

A. SAVING PROVISION: This ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing Subdivision Control Ordinance and Zoning Ordinance, or as a discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or waiving any right of the City of Martinsville under any section or provision existing at the time of the effective date of this ordinance, or as vacating or nullifying any rights obtained by any person, firm, or corporation, by lawful action of the City of Martinsville except as shall be expressly provided for in this ordinance.

B. EXCLUSION: Nothing in this ordinance or in any rules, regulations or orders issued pursuant to this ordinance 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 of Indiana or by any state agency, or the use of property owned or occupied by this section, 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.

SECTION 14.12 – EFFECTIVE DATE

A. EFFECTIVE DATE: This ordinance was originally adopted on November 19, 2001 as Ordinance 2001-1478.

B. REVISION: Ordinance 2001-1478 is hereby revised and amended per a recommendation of the Martinsville Plan Commission at a public hearing held July 27th, 2004 and adopted by the Common Council of the City of Martinsville as Ordinance 2004-1530 on August 16th, 2004 and is effective upon passage.

C. Where conflicts arise between the above cited ordinances and this zoning ordinance the more restrictive shall apply.

CHAPTER 15 – HISTORIC DOWNTOWN DISTRICT

SECTION 1 - PURPOSE AND INTENT

The Historic Downtown District is established to provide for the unique needs of the downtown business area of Martinsville as follows:

A. Protect and enhance Martinsville's core downtown business district, which contains many unique and historic structures;
B. Promote high density development of mixed uses with storefront retail, professional office, and residential dwelling uses;
C. Incorporate development and design that is pedestrian-oriented.

SECTION 2 - BOUNDARIES

The Historic Downtown District shall comprise nine (9) square blocks bounded by the south side of Pike Street on the north, the west side of Sycamore Street on the east, the north side of Jackson Street on the south, and the east side of Mulberry Street on the west.

SECTION 3 – PERMITTED BUSINESS USES

A. A large variety of uses including public, cultural, commercial, professional, and residential is encouraged in the Historic Downtown District. Representative permitted uses include:

Amusements, indoor	Artisan and craft shop	Art gallery
Artist studio	Barber/beauty shop	Bed and breakfast
Cellular phone/pager service	Community center	Computer sales and service
Cultural center	Financial institution	Fitness/training center
Government facility	Hotel and motel	Library
Lodge and private clubs	Medical care clinic	Museum
Newspaper publishing	Office, business/professional	Park
Photographic studio	Police, fire, or rescue station	Post office
Radio/TV station and studio	Residential dwelling, multi-family	Residential dwelling, single family
Restaurant, dine-in or carryout	Retail store	School/education/training center
Shoe repair	Social service office	Tailor/seamstress
Tanning salon	Tavern	Theater
Transportation terminal		

B. Prohibited uses:
Adult entertainment
Retail store, lingerie

C. Other uses shall require approval of the Plan Commission.

SECTION 4 – PERMITTED RESIDENTIAL USE

A. Residential dwelling units are permitted above street level and at the rear of the ground floor.

B. A ground floor rear residential unit shall not be placed such that the business use of the ground floor area, at the front of the building, is less than one thousand (1,000) square feet.

C. Condominiums are permitted subject to the same restrictions that apply to residential uses. Further, Indiana Condominium Statute IC 32-25 shall apply to the creation of condominium units.

SECTION 5 - DEVELOPMENT STANDARDS FOR NEW BUILDINGS

A. Lots shall not be subdivided, except as provided in Section 4 for the creation of residential condominium units.

B. If a building is destroyed, the replacement building shall have not less than the same ground floor area as the previous building, except twenty four (24) feet of even width off of the rear of the lot may be used for parking.

C. Minimum ground surface area: 760 square feet

D. Front and side setbacks: 0 (zero) feet

E Minimum rear setback: 0 (zero) feet

F Maximum percent coverage of all improvements: 100%

G. Maximum building height shall not exceed the height of the original building.

H. Building fronts shall meet the sidewalk across entire width of the building. Street level of the front of the building must be a continuous storefront, except traditional piers and recessed entries are permitted.

I. Street level, front facades shall include windows, signs, and architectural details that are suitable for pedestrian viewing.

J. Street level storefronts shall be a minimum 75% glass.

K. Any new building or reconstruction of an existing building that has sustained more than 40% damage shall be subject to approval by the Plan Commission or any other agency with jurisdiction.

SECTION 6 – EXTERIOR DESIGN STANDARDS

In order to maintain and promote the unique historic character of downtown Martinsville and to foster economic revitalization, the following design and visual compatibility standards shall apply to the exterior of every building in the district:

A. General Requirements:

1. A building exterior shall not be altered where the defining characteristics of the structure are lost or substantially changed.

2. The removal or alteration of any historic material or distinctive architectural features is prohibited unless no other practical alternative is available.

3. Because each building is a physical record of its time, place, and use, any change that creates a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, is prohibited.

4. Because a building changes over time, those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a building shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities.

7. Chemical or physical treatments such as sandblasting and high pressure water washing that cause damage to historic materials are prohibited.

8. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the building.

9. New additions and adjacent or related new construction shall be done in such a manner that if removed in the future, the essential form and integrity of the building would be unimpaired.

10. Lost or missing historic features are not required to be replaced.

B. Specific Requirements:

1. All replacements of historic elements such as windows shall conform to the size, style, and shape of the original. Where practical, the use of like material is required.

2. Brick, wood, metal, stone, and other original building materials shall be preserved and retained, and not covered with non-historic material such as vinyl.

3. Paint colors, awning styles and colors, and signage must evoke historicity and be visually compatible with other colors, awnings, and signage in the Historic Downtown District.

SECTION 7 – EXTERIOR PROPERTY MAINTENANCE

The exterior of all buildings shall be maintained to meet the applicable requirements established under state statute for buildings so as to prevent the loss of historic material and the deterioration of important character defining details and features. Historic buildings shall be maintained to meet all applicable requirements established under statute and City ordinance for buildings.

A. Walls:

1. All walls, including parapet walls at the roofline, shall be structurally sound.

2. Brick shall be adequately and appropriately tuck pointed and secure.

3. Masonry repairs shall not be done in such a way as to harm or destroy historic materials.

   a. Replacement mortars shall have a 1:3 lime binder to sand ratio.
   b. Replacement joints must match historic joints in color and tooling.
   c. Substitute masonry units shall be compatible to the historic units in color, permeability, and compressive strength. Hard, modern brick and cinder block is generally not suitable, unless used as original construction material.

4. Unpainted brick shall not be painted.

5. Metal cornices and brackets, corbelled brick cornices, and other decorative elements shall be retained and maintained.

6. Painted brick shall be in good repair, free of flaking and chipping.

7. Paint colors shall accentuate the historic character of the Historic Downtown District. Compatible and complementary paint colors shall be used throughout the Historic Downtown District.

8. All exterior building walls shall be free of plant growth, with the exception of container plants.

B. Roofs:

1. Roofs shall be leak-free and sound.

2. Roofs shall maintain the same appearance from the street as the original roof.

3. If roofs are visible from the street, roofing material must be appropriate to the historic character of the building and the Historic Downtown District.

4. Gutters shall be installed as necessary, but shall be as unobtrusive as possible. Constructed, or box gutters, shall be in good repair.

C. Windows:

1. Street level storefronts shall be a minimum 75% glass unless verifiable historic evidence for a building shows otherwise.

2. Replacement windows, when necessary, shall fit the original openings.

3. Replacement windows, when necessary, shall be of the same style as the originals, as verified by existing windows or historic photographs, or shall be compatible with the style of building as it currently exists, or shall be compatible with the proposed remodeling.

4. Existing original openings shall not be filled or covered.

5. Transoms above display windows and doors, and sidelights, shall not be filled or obscured.

6. Window glass shall be secure.

7. Only clear glass is permitted, unless a substitute material is approved by the Plan Commission or any other agency with jurisdiction.

8. Sills and lintels shall be in good repair.

9. Shutters are prohibited.

D. Approvals:

1. Any building construction, reconstruction or exterior structural alteration, including but not limited to masonry repair and tuck pointing, awnings, windows, doors, storefront, and signage, is subject to approval by the Plan Commission or any other agency with jurisdiction.

2. Regular, ongoing, normal preventive maintenance, including but not limited to caulking, glazing, replacing nonstructural glass, and painting (See Section 7.a.7) , shall not require approval by the Plan Commission or any other agency with jurisdiction. Any work that impacts public safety, such as placement of ladders, scaffolding, man lift, or dumpster, shall require consultation with the City Superintendent before the commencement of such work.

SECTION 8 – DEMOLITION

The issuance of a demolition permit by the City Superintendent shall require the approval of the Plan Commission, except when there is an imminent threat to public health or safety as determined by the Fire Chief or City Engineer. The following conditions and standards shall apply to any entity requesting demolition of a building.

A. A building shall only be demolished if it is deemed a hazard and threat to public, health, safety and welfare by a professional engineer hired by the owner or by the City.

B. A demolition permit shall not be issued without the approval of the Plan Commission or any other agency having jurisdiction.

C. The Plan Commission or any other agency with jurisdiction may allow a demolition permit to be issued only after the property owner has established all of the following:

1. That a good faith effort has been made to sell or otherwise dispose of such property to any public agency or private person which gives a reasonable assurance of its willingness to preserve and restore such property. Such documented evidence shall be provided at the property owner's expense and shall include:

   a. Offering price;
   b. Date the offer of sale began;
   c. Name and address of listing agent, if any;
   d. A copy of an advertisement which offers the property for sale to run in the same manner as set forth in Indiana Code 5-3-1-1 et seq. In addition, the owners of all property within the Downtown Historic District as determined by the most recent real estate tax lists shall receive written notice of the hearing on the proposed demolition; and
   e. An appraisal of the property's fair market value by a licensed real estate appraiser.

D. Filing Procedure for Plan Commission Approval for demolition of a building or portion of a building shall be as follows:

1. Make application to the City Superintendent not less than 90 days prior to the Plan Commission meeting date for which a demolition public hearing is desired and pay a non-refundable application fee which shall be in an amount equal to the fee for a use or development variance.

2. Place in a newspaper of general circulation two legal notices advising of the public hearing before the Plan Commission. First notice shall appear not less than 60 days prior to the hearing date and the second notice shall appear not less than 30 days prior to the hearing date. The notices shall contain the following information:

   a. Owner's name and address;
   b. Address of the property for which a demolish permit is being requested;
   c. Legal description of the property;
   d. Date of the public hearing;
   e. Location and time of the public hearing; and
   f. Statement that the purpose of the public hearing is for the plan commission to receive public comment on the proposed demolition.

3. Not less than 30 days prior to the hearing date send notice of the public hearing, containing the same information as listed in Items 2 (a-f) above, via certified mail return receipt requested, to all property owners within the boundaries of the Historic Downtown District and the following persons or agencies:

   a. Mayor of the City of Martinsville;
   b. Martinsville Fire Chief;
   c. Martinsville City Engineer;
   d. Martinsville Chamber of Commerce;
   e. Morgan County Historic Preservation Society;
   f. Historic Landmarks Foundation of Indiana;
   g. Martinsville Main Street program; and
   h. Department of Natural Resources, Division of Historic Preservation and Archeology.

4. Not less than 60 days prior to the hearing date, place a placard, provided by the City Superintendent, in a conspicuous location on the front of the building that will advise the public of the proposed hearing on demolition of the building.

E. During 90 days between the time application is made for demolition and the public hearing by the Plan Commission, the owner of a property proposed for demolition shall pursue and give due consideration to all possible alternatives to demolition, and shall make a good faith effort to accommodate reasonable requests from any interested parties for information about or access to the building for the purpose of evaluating alternatives to demolition.

F. Any demolition permit issued pursuant to this chapter shall be valid for a period of six months from the date of issuance. If the demolition has not commenced within this six-month-period, then the owner shall be required to apply for a new permit and satisfy all notification requirements.

G. If the Plan Commission approves application for a demolition permit, then the City Superintendent shall issue a demolition permit pursuant to Section 3.13 of the Martinsville Zoning Ordinance. Applicant shall pay the permit fee and furnish the bond as required by Section 3.13.

SECTION 9 - SIGNS

The number, size, design, and placement of signs have significant influence on the character and function of the Historic Downtown District. In order to promote public safety, limit clutter and confusion, allow businesses to effectively communicate with the public, and to protect and enhance the physical

appearance and scenic value of the Historic Downtown District, the following sign regulations shall apply:

A. Permanently affixed exterior signs shall pertain only to products for sale, events occurring, or services rendered upon the premises.

B. One square foot of sign shall be permitted for each ten square feet of building face fronting on a public street or for each one linear foot of property fronting on a publicly maintained right-of-way, whichever is greater. The name of a business on an awning constitutes a sign and as such shall apply to the total square area of allowable signage.

C. Free-standing stationary and portable signs, with the exception of sidewalk signs are not allowed. Sidewalk signs shall conform to the following requirements:

1. Sign shall have a maximum face area of six square feet per side.
2. Sign shall have a maximum width of 2 ¾ (two and three-fourths) feet measured from the extreme outside limits of the sign, including legs.
3. Sign shall have a maximum height of 4 ½ (four and one half) feet measured from the sidewalk to the top of the sign.
4. Sign shall not be placed on the sidewalk so as to hinder pedestrians.
5. Only one sign per business.
6. Sign shall be taken in every night.

D. One temporary sign or banner, not exceeding 32 square feet, for the purpose of advertising a special event, such as a "Grand Opening" or "Special Sale," or for the purpose of advertising the business until a permanent sign is erected, shall be permitted per business, provided the temporary signage does not exceed a collective 30 days out of a calendar year. No Improvement Location Permit shall be required for such temporary signs.

E. Wall-mounted signs shall not extend more than three feet over the public sidewalk and the bottom of said signs shall be a minimum of eight feet above the sidewalk. Signs that extend over a public street or alley pavement or curb are prohibited.

G. No sign shall be erected or painted on a roof, the only exception being the historic "*Martinsville City of Mineral Water*" sign, as it presently appears and is located.

H. No sign shall be painted directly on a building surface.

I. Signs shall not be placed on a building so as to obscure any window or door opening.

J. Restoration of existent historic advertising murals is permitted. Murals or other public art shall be compatible with the Historic Downtown District and shall not be injurious to the public health, safety morals and general welfare of the community and in addition must be approved by the Plan Commission or any other agency with jurisdiction.

K. All signs must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety.

SECTION 10 - PARKING

A. Buildings shall not be demolished for the specific purpose of providing parking.

B. All parking surfaces must be of asphalt, concrete or approved permeable asphalt, concrete, open grid concrete pavers, or similar pavement system that provides reduced stormwater runoff.

C. Parking lot surfaces must be well-maintained. All landscaping, including plants, must be maintained. Dead plants or vegetative materials must be removed and replaced.

D. One on-street parking space is permitted for each owner occupied residential unit.

E. One off-street parking space must be provided for each bedroom in a non-owner occupied residential unit.

SECTION 11 – USE OF PUBLIC RIGHT-OF-WAY & EXTERIOR LIGHTING

A. Sidewalks, street curbs and gutters, and planting beds shall be maintained in good condition. All landscaping, including plants, must be maintained. Dead vegetative materials must be removed and replaced.

B. Private dumpsters and other refuse receptacles shall not be placed on sidewalks, except trash receptacles may be placed curb side no earlier than 6:00 p.m. on the date preceding the scheduled day for collection, and receptacles shall be removed from the curb not later than 6:00 p.m. the day of collection.

C. Retail merchandise displayed on sidewalks is permitted only during the hours that the business is open. Merchandise shall not block or impede pedestrian passage.

D. Exterior lighting, whether for area lighting, security, or signage, shall be hooded, screened or otherwise shielded and arranged such that it does not directly pose a hazard or nuisance to traffic on adjacent streets. Further, no exterior lighting shall be used that will produce a direct glare or concentrate light onto adjacent property or be a nuisance to adjoining residential uses. The City Superintendent or his appointed agent shall be the sole determiner of what constitutes unacceptable glare, concentrated light, or a lighting nuisance.

SECTION 12 – PARKS & OUTSIDE RECREATION

A. Any use of land for parks or outside recreation is prohibited unless specifically approved by the Plan Commission or any other agency having jurisdiction.

SECTION 13 – PUBLIC BUILDINGS AND POSTAL FACILITIES

If public buildings are required to be constructed, remodeled, or expanded in the Historic Downtown District, the controlling government agency shall cooperate to make the exterior of the building and the site conform to the general historic nature of the district while still retaining the public function for which the building is needed. The following restrictions shall apply:

A. The exterior of building(s) and structure(s) shall be designed and landscaped to be in general conformity with the exterior of existing buildings in the Historic District. Architectural and landscaping plans shall require the approval of the Plan Commission or any other agency having jurisdiction.

SECTION 14 – PERMIT AND FEES

A. A permit is required to construct, alter, change, improve or repair any lot, building or sign in the "Historic Downtown District."

B. An application for said permit shall be submitted to the City Superintendent for review and processing.

C. A permit fee shall be paid in accordance with the FEE TABLE - Appendix 'A' of the zoning ordinance. Said permit fee shall be in the same amount as required for an Accessory Building, Table Item (e).

SECTION 15 – REMEDIES AND PENALTIES

A. This section shall be the same as Chapter 12, Section 12.0 of the City of Martinsville Zoning Ordinance.

B. The penalty of violation of this Chapter, "Historic Downtown District" shall be the same as a violation of Development Standards, Table Item (b), in the PENALTY FEE TABLE – Appendix 'B' of the zoning ordinance.

ORDINANCE NO. 2011-1655

FEE AND PENALTY TABLE
APPENDIX `A' & `B'

A. The filing fee hereinafter specified shall accompany applications and petitions filed pursuant to the provisions of these regulations.
B. Filing fees may be returned if the building inspector is unable to approve the issuance of a building permit because of technical defects, also filing fees may be returned if the applicant withdraws the application prior to permit issuance or prior to a hearing, but in no case shall filing fees be returned after a permit has been issued or after a hearing has been held.
C. If construction of a structure begins prior to the issuance of all applicable permits, the permit fee for said application shall be double the normal fee specified herein. Any excavations of foundation materials shall constitute beginning of construction.

BUILDING PERMITS, LICENSE FEES and OTHER PERMITS

FEES LISTED IN THIS TABLE SUPERSEDE THE FEES GIVEN IN THE MARTINSVILLE BUILDING CODE ORDINANCE NO. 96-1389

(a)	New Single Family Residential	$ 200.00	Plus $0.10 per sq. ft. over 1500 sq. ft.
(b)	Duplex or Two Family Residential	$ 300.00	
(c)	Multi-Family	$ 300.00	Per project Plus $75.00 per living unit
(d)	New Business, Industrial, Commercial	$ 400.00	Plus $0.10 per sq. ft.
(e)	Accessory Building	$ 100.00	
(f)	Swimming Pool	$ 100.00	
(g)	Electrical – Residential	$ 75.00	$50.00 for upgrade, relocation or extension
(h)	Electrical – Business, Industrial, Commercial	$ 150.00	$100.00 for upgrade, relocation or extension
(i)	Addition or Remodel (residential)	$ 100.00	For every two units if multi-family
(j)	Addition (business, industrial, commercial)	$ 300.00	Plus $0.10 per sq. ft.
(k)	Signs	$ 100.00	
(l)	Advertising structures	$ 400.00	
(m)	Re-inspection	$ 50.00	
(n)	Remodel Business, Industrial, Commercial	$ 200.00	Plus $0.10 per Sq. Ft.
(o)	Under Ground Tanks	$ 200.00	Per tank
(p)	Adult Entertainment	$ 1000.00	
(q)	Adult Entertainment Renewal	$ 500.00	
(r)	Adult Entertainment Transfer	$ 1000.00	
(s)	Imp. Loc. Permit – Residential	$ 50.00	
(t)	Imp. Loc. Permit – Multi-Family	$ 200.00	$100.00 If Permit Obtained Under (c)
(u)	Imp. Loc. Permit – Business Commercial	$ 300.00	$200.00 If Permit Obtained Under (d)
(v)	Imp. Loc. Permit – Industrial Commercial	$ 400.00	$300.00 If Permit Obtained Under (d)
(w)	Imp. Loc. Permit – Subdivision or PUD	$ 400.00	$300.00 If Stormwater & Erosion Control Management Plan Permit Obtained
(x)	Imp. Loc. Permit – Wellhead Protection Area	$ 400.00	In Addition to any other permit
(y)	Cellular or Microwave Tower Permit	$ 500.00	Renewal required every two years.
(z)	Demolition Permit	$ 100.00	
(hd)	Historic District	$ 50.00	Permit for Historic Building Maintenance

Moving or changing the location of an existing structure carries the same as fees for new construction. Re-inspection fee will be invoked any time the inspector has to return to the site due to the work not being completed, corrections required, or access not available.

ZONING APPLICATIONS

(a)	Amend Zoning Map (rezoning)	$ 400.00	+ Recording fee
(b)	Use or Development Variance	$ 300.00	
(c)	Special Exception & Wellhead Overlays	$ 400.00	
(d)	Subdivision Plat – Major	$ 500.00	+ $40.00 per lot
(e)	Planned Unit Development Final Detailed Plat, Per Section or Phase (Requires Prior Rezoning)	$ 500.00	+ $40.00 per lot or $100 per acre
(f)	Subdivision Plat – Minor	$ 400.00	No per lot fee
(g)	Special Meeting Plan Commission	$ 750.00	If approved by Chairman
(h)	Special Meeting Board of Zoning Appeals	$ 350.00	If approved by Chairman
(i)	Appeal of City Superintendent Zoning Decision	$ 200.00	See Section 11.3

PENALTY FEE TABLE – APPENDIX `B'

PENALTIES LISTED IN THIS TABLE SUPERSEDE THE PENALTIES GIVEN IN THE MARTINSVILLE BUILDING CODE ORDINANCE NO. 96-1389.

(a)	Signs, Section 3.7	Not less than $100.00 or more than $500.00 per day
(b)	Development Standards	Not less than $100.00 or more than $500.00 per day
(c)	Building Code Residential	Not less than $100.00 or more than $500.00 per day
(d)	Building Code Business, Industrial, Commercial	Not less than $200.00 or more than $1,000.00 per day
(e)	Industrial Violation, Section 3.4	Not less than $500.00 or more than $1,000.00 per day
(f)	Any Other Zoning Violation	Not less than $100.00 or more than $1,000.00 per day