

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

January 19, 2016

President Terry Rodino called the meeting to order at 9:00 a.m. in room 104 in the County Administration Building, 117 North Second Street, Goshen, Indiana. The other two (2) Board members, Frank Lucchese and Mike Yoder, were also present. Others present were Sheriff Brad Rogers; Dawn Truex, 1st Deputy in the county auditor's office; Gordon Lord, County Attorney; and Kathy Erschen, Executive Assistant.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Minutes of the January 4th & 11th, 2016 meetings and placed them on file.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the Allowance of Claims, as presented by the county auditor's office.

Dr. Nafziger, Health Officer, asked for approval of an agreement with the Michigan Public Health Institute for fetal and infant mortality review data systems data use. He said infant mortality has been identified as the number one health priority by the state health department and the county health department has received a small grant to look at fetal infant mortality in Elkhart County. Basically, a social worker will be able to gather data to look at all of the infant deaths we have in the county & that data will be stripped of the personal identifiers. The risk factors will be centralized with the Michigan Department of Public Health. This agreement puts in writing what the expectations with that data & what they are allowed to do with it.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Agreement with the Michigan Public Health Institute as presented by Dr. Nafziger. A copy of the Agreement is on file in the Commissioners' office.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved a contract with Indiana Assessment Service to provide real property assessment consulting service for the county assessor's office at a cost of \$24,500.00 for a year. A copy of the Contract is on file in the Commissioners' office.

Liz Gunden from planning and development presented a request for David E. Berkey & Jennifer L. Berkey, represented by Progressive Engineering, for a zone map change from R-1 to M-1 located on the north side of CR 146, 300 feet west of Main Street (CR 23) in Jackson Township. The Plan Commission has recommended approval of the zone map change. The petitioners own the manufacturing business to the north and would like to use this property for parking and an additional drive area in the future. The existing residence will be used for residential use until their business is ready to expand. There is a renter at the residence & they would like to stay there until the business is expanded. There were no comments from anyone in the audience. On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board closed the public hearing.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the zone map change and adopted an ordinance establishing this zoning change.

The Ordinance is as follows:

ORDINANCE NO. PC 2016-01

AN ORDINANCE TO AMEND ORDINANCE NO. PC 2014-20 KNOWN AS THE ELKHART COUNTY ZONING ORDINANCE BY REZONING THE AREA OF REAL ESTATE HEREINAFTER DESCRIBED FROM R-1 TO M-1.

WHEREAS, David E. Berkey and Jennifer L. Berkey, represented by Progressive Engineering, Inc., submitted an application to rezone real estate hereinafter described from R-1 to M-1 and after proper legal notice a public hearing was held as provided by Law, and the Plan Commission did find that all elements of the Law have been met and did on December 10, 2015, recommend approval of a zone change from R-1 to M-1 and filed their recommendation with the Board of County Commissioners of Elkhart County Indiana.

WHEREAS, David E. Berkey and Jennifer L. Berkey propose to continue to use the existing residence for a residential use until the business of David E. Berkey and Jennifer L. Berkey is ready to expand, and are willing to make a commitment to that effect.

BE IT THEREFORE ORDAINED BY THE COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA THAT:

Legal Description

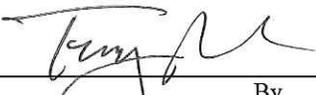
See "EXHIBIT A"

BE rezoned from R-1 to M-1 effective immediately, and the zone maps dated November 18, 2014, and made a part of Section 4.1.2 of the Elkhart County Zoning Ordinance as amended and hereby ordered amended and changed to reflect the said rezoning of said real estate.

BE IT FURTHER ORDAINED BY THE COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA THAT:

David E. Berkey and Jennifer L. Berkey shall be provide a Commitment form to the Elkhart County Plan Commission, within 30 days of the effective date of this Ordinance, that David E. Berkey and Jennifer L. Berkey will continue to use the existing residence for a residential use until the business of David E. Berkey and Jennifer L. Berkey is ready to expand.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA THIS 19TH DAY OF JANUARY, 2016.



 By
Terry Rodino



 By
Mike Yoder



 By
Frank Lucchese

Attest: 

Pauline Graff, Elkhart County Auditor

Ordinance prepared by Liz Gunden. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

EXHIBIT A.

The South 278.60 feet by parallel lines from off the following described Real Estate:

A part of the Southeast Quarter of Section 9, Township 35 North, Range 6 East, Jackson Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at a cross cut in the centerline of the brick pavement of County Road No. 23 that is 4,535.1 feet North 88 degrees and 55 minutes East of the Southwest corner of Section 9, Township 35 North, Range 6 East, Elkhart County, Indiana; thence South 88 degrees 55 minutes West, along the South line of said Section, 185.14 feet to a spike set in the pavement at the place of beginning of this description; thence North 1 degree 34 minutes West 606.95 feet to an iron stake; thence South 89 degrees 13 minutes West 200.3 feet; thence South 1 degree 1 minute East 608 feet to the center of County Highway No. 146; thence North 88 degrees 55 minutes East along the center of said Highway 203.1 feet to the place of beginning.

Jason Auvil from planning and development presented a request for Samuel E. Barkman & Mary E. Barkman, Trustee, Rev. Lv. Trust (Lt. Est.), represented by Brads-Ko Engineering & Surveying, Inc., for a zone map change from A-1 to DPUD A-1/M-1 to be known as Barkman DPUD located on the north side of US 6, 1,600 feet east of CR 100 in Locke Township. The Plan Commission has recommended approval of the request. Barry Pharis from Brads-Ko Engineering & Surveying, representing the petitioner, said the family bought this property in the 1960's with an existing business. They have grown the business & they now have two sons that are married & one son wants to own the business and the other son works the business but doesn't want to own the business but wants to buy the house. It was determined the best way was to create a three lot minor subdivision. Lot 1 is the house, lot 2 is the business & lot 3 is acreage that perhaps the owners will build a smaller home. There were no other comments from anyone in the audience. On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board closed the public hearing.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the zoning map change and adopted an ordinance establishing this zone change.

The Ordinance is as follows:

AN ORDINANCE TO AMEND THE ELKHART COUNTY CODE § 158.01 FOR REAL ESTATE DESCRIBED IN THIS ORDINANCE FROM A-1 TO DETAILED PLANNED UNIT DEVELOPMENT A-1/M-1, TO BE KNOWN AS BARKMAN DPUD; AND BY CHANGING THE ZONE MAPS INCORPORATED BY REFERENCE IN SECTION 4.1.2.A. OF THE ELKHART COUNTY ZONING ORDINANCE

WHEREAS, The Samuel E. Barkman & Mary E. Barkman, Trustees, Rev. Lv. Trust (L.f. est.) submitted a petition to change the zone maps for the real estate described in **SECTION 1** of this ordinance from A-1 to DPUD-A-1/M-1 on **November 2th, 2015**;

WHEREAS, The Staff for the Elkhart County Advisory Plan Commission did cause the publishing of the legal advertisements for the Public Hearing in **The Elkhart Truth** on the 26th day of November 2015 and in **The Goshen News** on the 27th day of November 2015 and did mail as prescribed by Rule and Law the Notice of Public Hearing to all persons of record within 300 feet;

WHEREAS, The Elkhart County Advisory Plan Commission did hold a public hearing as provided by law on the 10th day of December 2015 and did take public input at that meeting;

WHEREAS, The Elkhart County Advisory Plan Commission did give reasonable regard to the criteria established by IC 36-7-4-603 and Section 3.5 Detailed Planned Unit Development of the Elkhart County Zoning Ordinance;

WHEREAS, The petition was sent to the Board of County Commissioners for Elkhart, Indiana with a Favorable Recommendation;

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR ELKHART COUNTY, INDIANA, AS FOLLOWS:

SECTION 1. That the legal description of the real estate attached hereto as **Attachment A** is made a part of this ordinance and incorporated herein by this reference.

SECTION 2. That the real estate described in **SECTION 1** of this Ordinance be rezoned from **A-3** to **DPUD A-1** effective immediately and the zone maps adopted by reference in the Elkhart County Zoning Ordinance for Elkhart County, Indiana be amended and ordered amended and changed to reflect the said rezoning of said real estate.

SECTION 3. That the Detailed Planned Unit Development be granted for the real estate described in **SECTION 1** of this Ordinance. Unless this Ordinance specifies to the contrary, all Development Standards for the A-1 Zoning District detailed in the Elkhart County Zoning Ordinance will be enforced and govern the use of the real estate, though the Development Plan and Site Plan/Support Drawing will supersede all otherwise applicable Use Standards, District Developmental Standards, and General Development Standards under the A-1 zoning district.

SECTION 4. That all Development Plan(s) must be submitted to the Plat Committee of the Elkhart County Advisory Plan Commission for approval as a Secondary Plat; Secondary approval shall be granted only if the Development Plan(s) comply with the provisions of this Ordinance, the Site Plan / Support Drawing, and the Subdivision Control Ordinance. The Development Plan(s) shall be incorporated into this Ordinance by this reference. All Secondary Plats will reference this Ordinance and if the intent of this Ordinance or the Site Plan / Support Drawing is not clear the Secondary Plan may be considered by the County Advisory Plan Commission at a Public meeting.

SECTION 5. That the Site Plan / Support Drawing is made part of this Ordinance by this reference and shall be maintained in the files of the Elkhart County Advisory Plan Commission.

SECTION 6. This Detailed Planned Unit Development Ordinance will limit the use of this real estate to what has been shown on the Site Plan / Support Drawing.

SECTION 7. That the additional documentation and supporting information listed in Section 9 of this Ordinance must be supplied and the conditions specified in Section 9 of this Ordinance must be satisfied prior to any permits for construction being issued.

SECTION 8. That the following specified limitations to this Planned Unit Development have been adopted and imposed:

Noted on Site Plan / Support Drawing

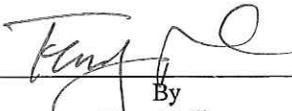
SECTION 9. List of additional documentation, supporting information, and conditions:

Noted on Site Plan / Support Drawing

SECTION 10. In the event any covenant, restriction, provision or section of this Ordinance or any portion thereof is declared invalid or void, such declaration shall in no way affect any other covenant, restriction, or section.

SECTION 11. This Ordinance shall be in full force and effect from and after its passage and approval in according with the law.

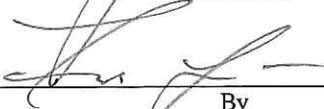
ORDAINED AND ADOPTED THIS 19TH DAY OF JANUARY 2016 BY THE BOARD OF COUNTY COMMISSIONERS, ELKHART COUNTY, INDIANA



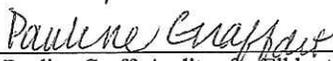
By
Terry Rodino



By
Mike Yoder



By
Frank Lucchese

Attest: 

Pauline Graff, Auditor for Elkhart County

Ordinance prepared by H. Jason S. Auvil. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Attachment A

LEGAL DESCRIPTION

A PART OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 35 NORTH, RANGE 4 EAST, LOCKE TOWNSHIP, ELKHART COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A TWO INCH X TWO INCH COUNTY MONUMENT MARKING THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34, A DISTANCE OF 1318.90 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 00 DEGREES 07 MINUTES 01 SECOND EAST PARALLEL WITH THE WEST LINE OF THE EAST HALF OF SAID NORTHEAST QUARTER, A DISTANCE OF 2073.52 FEET TO A MAG NAIL ON THE CENTERLINE OF U.S. HIGHWAY NO. 6; THENCE NORTH 84 DEGREES 25 MINUTES 50 SECONDS WEST ALONG THE CENTERLINE OF SAID U.S. HIGHWAY NO. 6, A DISTANCE OF 426.65 FEET TO A MAG NAIL ON THE WEST LINE OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 07 MINUTES 01 SECOND WEST ALONG THE WEST LINE OF THE EAST HALF OF SAID NORTHEAST QUARTER, A DISTANCE OF 2034.18 FEET TO A REBAR MARKING THE NORTHWEST CORNER OF THE EAST HALF OF SAID NORTHEAST QUARTER; THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 424.56 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION CONTAINING 20.017 ACRES, MORE OR LESS, BEING SUBJECT TO ALL EASEMENTS, RESTRICTIONS AND PUBLIC RIGHTS OF WAY OF RECORD.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved Secondary approval for Samuel E. Barkman & Mary E. Barkman, Trustee, Rev. Lv. Trust (Lt. Est.), represented by Brads-Ko Engineering & Surveying, Inc., for a DPUD known as Barkman DPUD located on the north side of US 6, 1,000 feet east of CR 100 in Locke Township, as requested by Jason Auvil from planning and development.

Jason Auvil from planning and development presented a request for the Elkhart County Advisory Plan Commission for a Text Amendment to the Elkhart County Zoning Ordinance for property located in the unincorporated areas of Elkhart County, the Town of Bristol, the Town of Middlebury, the Town of Millersburg and the Town of Wakarusa. This is first amendment to the zoning ordinance that was adopted last year. Most of these corrections and changes and some oversights on the original ordinance and it is intended to make amendments each year as needed. Mr. Auvil explained some of the changes and updates to the ordinance. There were no comments from anyone in the audience. On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board closed the public hearing.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board adopted An Ordinance to Amend the Text of the Elkhart County Zoning Ordinance #2014-20 by Amending Multiple Sections Thereof as Detailed in this Ordinance.

The Ordinance is as follows:

Ordinance No. PC ~~2015-~~ 2016-03

AN ORDINANCE TO AMEND THE TEXT OF THE ELKHART COUNTY ZONING ORDINANCE #2014-20 BY AMENDING MULTIPLE SECTIONS THEREOF AS DETAILED IN THIS ORDINANCE.

Whereas, the Elkhart County Advisory Plan Commission did, after proper legal notice, hold a Public Hearing as provided by law on the 10th day of December, 2015, and at that Public Hearing did take and consider public input and review and consider a “red lined” form of the Elkhart County Zoning Ordinance showing proposed text amendments thereto, including both additions and deletions, prepared by the Staff of the Elkhart County Advisory Plan Commission;

Whereas, the Elkhart County Advisory Plan Commission did on the 10th day of December, 2015, grant their approval of the multiple text amendments as set forth in the proposed “red lined” form of the Elkhart County Zoning Ordinance and forwarded their recommendation for the adoption of these multiple text amendments to the Board of Commissioners of Elkhart County, Indiana; and

Whereas, the contents of this Ordinance details the multiple text amendments, including additions and deletions, to the Elkhart County Zoning Ordinance recommended for approval by the Elkhart County Advisory Plan Commission.

NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF ELKHART, INDIANA THAT THE TEXT OF THE ELKHART COUNTY ZONING ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

Section 1. Delete in its entirety the TABLE OF CONTENTS and replace it with the following new text:

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Section 2. In ARTICLE 1 – GENERAL PROVISIONS, delete the reference to “Article 10” and replace it with the reference to “Article 11” in each of the following Sections:

- 1.8.1
- 1.8.2

Section 3. Delete the following text from ARTICLE 2 – DEVELOPMENT REVIEW BODIES:

2.8.2 B. Administration of the Flood Plain Regulations

The Zoning Administrator must act as the Floodplain Administrator and review all development proposals to insure compliance with the intent of the flood insurance program and shall include, but not be limited to the following duties:

1. Ensure that all development activities within the Special Flood Hazard Areas of the jurisdiction of this Ordinance meet the requirements of this Ordinance;
2. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Sec. 7.5.2 of this Ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation);
4. Maintain a record of the surveyor's or engineer's certificate of the "as-built" elevation of the lowest floor (including the basement) of all new and/or substantially improved buildings and the "as built" flood proofed elevation of all buildings subject to Sec. 7.5.3 of this Ordinance constructed in the Special Flood Hazard Area. The surveyor's or engineer certificate is the responsibility of the homeowner to secure;
5. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance;
6. Submit reports as required for the National Flood Insurance Program;
7. Maintain for public inspection and furnish upon request information on regulatory flood data, Special Flood Hazard Area maps, copies of Indiana Department of Natural Resources permits and letters of recommendation, federal permit documents and "as built" elevation and flood proofing data for all buildings constructed subject to this ordinance; and
8. Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Administration.

Section 4. Delete the following text from ARTICLE 3 – DEVELOPMENT REVIEW PROCEDURES:

- 3.2.2 C.1.** Except as modified in subsection D below, the Board of County Commissioners must hold a public hearing and approve, approve with modifications or deny the Zoning Ordinance Text Amendment.

3.2.2 D. Town Council Final Action for Flood Hazard Control

1. After it has approved a Zoning Ordinance Text Amendment related to flood hazard control that specifically and directly impacts an incorporated town within the jurisdiction of this Ordinance, the Board of County Commissioners must forward the Amendment to the appropriate Town Council.
2. The Town Council must hold a public hearing and approve, approve with modifications or deny the Amendment.
3. The Board of County Commissioners may only forward such Amendment to the appropriate Town Council if it takes a positive action on the Amendment.
4. The Amendment may only be finally approved if the appropriate Town Council approves or approves with modifications the Amendment.

3.5.7 Flood Hazard Control Deviations

No deviations from the Flood Hazard Control standards in Sec. 7.5 are permitted. All deviations from Sec. 7.5 must be processed as Developmental Variances in accordance with Sec. 3.7.

3.8.4 Variances in a Flood Hazard Area

- A. The Board of Zoning Appeals may not issue a Variance for a residential use or structure within a floodway.
- B. The Board of Zoning Appeals may issue a Variance from the provisions in Sec. 7.5 for a nonresidential use or structure subject to the following standards and conditions:
 1. Any Variance issued for a nonresidential use or structure in a floodway, flood plain or flood fringe, subject to Sec. 7.5.2, requires a permit from Indiana Department of Natural Resources.
 2. A Variance to the Building Protection Standards of Sec. 7.5.3 may be issued only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
 3. A Variance may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.
 4. The Board of Zoning Appeals must issue a written notice to the recipient of a Variance that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

5. The granting of the requested Variance from the provisions in Sec. 7.5 must not increase flood heights, create additional public expense, create a nuisance, cause fraud or victimization of the public, or conflict with existing laws and ordinances.

3.11.2 A.1. Small Structures

An accessory structure that is not on a permanent foundation and is less than 120 square feet in area does not require an Improvement Location permit.

3.11.5 Improvement Location Permit Required Within a Special Flood Hazard Area

- A. No development is permitted in the Special Flood Hazard Area without first obtaining an Improvement Location Permit. The Zoning Administrator may not issue an Improvement Location Permit if the proposed development does not meet the requirements of this subsection.
- B. The Zoning Administrator must determine if the structure or the site is located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined.
 1. If the structure is in an identified floodway the Zoning Administrator must require the applicant to secure a permit from the Department of Natural Resources for any construction in a floodway. The Improvement Location Permit can only be released if it is as restrictive or more restrictive than the permit issued by the Department of Natural Resources.
 2. If the structure is located in an identified floodway fringe, the Zoning Administrator must issue the Improvement Location Permit provided:
 - a. The provisions contained in Sec. 7.5 of this Ordinance have been met; and,
 - b. That the lowest floor of any new or substantially improved structure must be at or above the Flood Protection Grade.
 3. If the structure is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate). The Zoning Administrator must require the applicant to secure a permit or letter of recommendation approving the proposed development from the Department of Natural Resources. The improvement Location Permit can only be issued if it is as restrictive or more restrictive than the permit issued by the Indiana Department of Natural Resources.

- 3.14.1 B.** The modification of a sign face does not require a sign permit in accordance with this Section, if such modification does not increase the sign area or height or change the sign type.

Section 5. Add the following text to ARTICLE 3 – DEVELOPMENT REVIEW PROCEDURES:

3.2.2 C.1. The Board of County Commissioners must hold a public hearing and approve, approve with modifications or deny the Zoning Ordinance Text Amendment.

3.11.2 A.1. Small Structures

An accessory structure that is not on a permanent foundation and is equal to or less than 120 square feet in area does not require an Improvement Location permit.

3.14.1 B. Notwithstanding A above, the modification of a sign face does not require a sign permit in accordance with this Section, if such modification does not increase the sign area or height or change the sign type.

Section 6. Renumber the following Sections in ARTICLE 3 – DEVELOPMENT REVIEW PROCEDURES as follows:

3.5.8 Effect of Overlay to **3.5.7 Effect of Overlay**

3.5.9 As-Built Drawing Required for Certain DPUDs to **3.5.8 As-Built Drawing Required for Certain DPUDs**

3.8.5 Duration to **3.8.4 Duration**

3.11.6 Duration to **3.11.5 Duration**

Section 7. In ARTICLE 3 – DEVELOPMENT REVIEW PROCEDURES, delete the reference to “Sec. 3.5.9” and replace it with the reference to “Sec. 3.5.8” in the following Section:

3.15.4

Section 8. Delete the following text from ARTICLE 4 – DISTRICT DEVELOPMENTAL STANDARDS:

4.3.5 Seven to One Lot Dimension Ratio

The depth-to-width ratio of the buildable or usable area of a lot must not be greater than three to one. The width of a lot at the required front yard setback shall be at or greater than the development standard for that district. The exception to the depth to width ratio shall be on lots of three acres or more where the lot width at the required setback line is 250 feet or more with no restriction on depth are exempt from this requirement.

4.3.6.C.2.c.iv. The gross floor area of the portion of the addition situated between the existing building line and the required setback is 20 percent or less of the ground floor area of the primary residential structure.

4.3.6 C.2.d.i. The table below establishes the required front setback for a primary structure, accessory structure or fence based on the adjacent road.

4.3.6 C.3.b. For residential uses, except apartments, the minimum rear setback is 20 percent of the depth of the lot, with a minimum setback of 15 feet and a maximum setback of 25 feet. For apartments, the minimum rear setback is 20 percent of the depth of the lot, with a minimum setback of 20 feet.

4.3.8 Minimum Ground Floor Area

Ground floor area is measured as the square-foot 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, and exterior stairways.

4.3.9 Gross Floor Area

Gross floor area of a building or structure is measured as the floor area used or intended to be used for service to the public as customers, patrons, clients, patients or tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise. Gross floor area does not include any area used for:

- A. Storage accessory to the primary use of a building;
- B. Incidental repairs;
- C. Processing or packaging of merchandise;
- D. Show windows, or offices incidental to the management or maintenance of a store or building;
- E. Rest rooms;
- F. Utilities; or
- G. Dressing, fitting or alteration rooms.

4.4.6 B. Structural Restriction

All single- and two-family dwellings must have an average minimum width of 20 feet and must meet the minimum ground floor area required in this Ordinance.

4.4.7 B.1. The Zoning Administrator must maintain a Ponding Soils Map pursuant to the Plan Commission Rules of Procured.

Section 9. Add the following text to ARTICLE 4 – DISTRICT DEVELOPMENTAL STANDARDS:

4.3.5 Seven to One Lot Dimension Ratio

The depth-to-width ratio of the buildable or usable area of a lot must not be greater than seven to one. The width of a lot at the required front yard setback shall be at or greater than the development standard for that district. Lots of three acres or more where the lot width at the required setback line is 250 feet or more with no restriction on depth are exempt from this requirement.

4.3.6.C.2.c.iv. The gross floor area of the portion of the addition situated between the existing building line and the required setback is 20 percent or less of the gross floor area of the primary residential structure.

4.3.6.C.2.d.i. The table below establishes the required front setback for a primary structure or accessory structure based on the adjacent road.

4.3.6 C.8. Backlot Development

- a. New waterfront development including but not limited to, lake front access points, lake front recreational areas, beaches, parks, playgrounds, regardless of whether such areas have been specifically identified as a common area or access point, whether located in a residential subdivision, apartment building development, condominium cooperative, neighborhood association, or associated with an organization, club, retirement community, mobile home park, mobile home subdivision, subdivision (exempt or non-exempt) subject to the provisions of the Subdivision Control Ordinance, multi-family dwelling unit, campground, mixed use developments with a residential component, planned unit development with a residential component, residential development under the horizontal property regime, and platted or exempt residential subdivisions in all zoning districts shall comply with the following linear footage:
 - i. 65 feet of shoreline for the first residential unit;
 - ii. 35 feet of shoreline for the second residential unit; and
 - iii. 20 feet of shoreline for each additional residential unit.

- b. The developer of any property contiguous to a shoreline shall submit with its rezoning, Special Use or development plan application a certified survey depicting the shoreline and calculating the shoreline length, and said application may be granted only after such submission. Additionally, staff shall independently confirm the accuracy of said shoreline length calculation prior to the public hearing for or other determination of said application.
- c. A parcel or lot with shoreline frontage that does not meet the shoreline frontage requirement for the first residential unit but was legally established and recorded prior to February 1, 2016, may be developed in conformity with Section 8.2 of this Ordinance.

4.3.8 Gross Floor Area (GFA)

Gross floor area is measured as the total area of all the floors of a building, including intermediately floored tiers, mezzanine, basements, etc., as measured from the exterior surfaces of the outside walls of the building.

4.3.9 Net Floor Area (NFA)

- A. Net floor area of a residential building is measured as the square foot area used or intended to be used for livable or habitable space. NFA of a residential building does not include:
1. Garages;
 2. Open porches;
 3. Breezeways;
 4. Terraces; and
 5. Exterior stairways.
- B. Net floor area of a non-residential building is measured as the square foot area used or intended to be used for service to the public as customers, patrons, clients, patients or tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise. NFA of a non-residential building does not include any area used for:
1. Accessory storage to the primary use of a building;
 2. Incidental repairs;
 3. Accessory processing or packaging of merchandise;
 4. Show windows, or offices incidental to the management or maintenance of a store or building;
 5. Restrooms;
 6. Utilities; or
 7. Dressing, fitting or alteration rooms.

4.4.6 B. Structural Restriction

All single- and two-family dwellings must have an average minimum width of 20 feet and must meet the minimum gross floor area required in this Ordinance.

4.4.7 B.1. The Zoning Administrator must maintain a Ponding Soils Map pursuant to the Plan Commission Rules of Procedure.

Section 10. Rename the following Sections in ARTICLE 4 – DISTRICT DEVELOPMENTAL STANDARDS as follows:

4.3.2 Minimum Lot Area to **4.3.2 Lot Area**

4.3.3 Minimum Lot Width to **4.3.3 Lot Width**

4.3.4 Minimum Lot Depth to **4.3.4 Lot Depth**

4.3.6 Minimum Setbacks to **4.3.6 Setbacks**

4.3.7 Minimum Building Coverage to **4.3.7 Building Coverage**

4.3.10 Minimum Building Height to **4.3.10 Building Height**

4.3.11 Minimum Density to **4.3.11 Density**

4.3.12 Minimum Common Open Space to **4.3.12 Common Open Space**

Section 11. In ARTICLE 4 – DISTRICT DEVELOPMENTAL STANDARDS, delete the reference to “Article 10” and replace it with the reference to “Article 11” in the following Section:

4.3.14

Section 12. In ARTICLE 4 – DISTRICT DEVELOPMENTAL STANDARDS, delete the phrase “Ground Floor Area” and replace it with the phrase “Gross Floor Area” in the following tables in Section 4.4.4:

Single-Family Detached (w/o public wastewater)
Single-Family Detached (with public wastewater)
Cottage
Zero Lot Line
Single-Family Attached

Section 13. In ARTICLE 5 – USE STANDARDS, modify the text in the Section 5.1.4 USE TABLE as follows:

In Use Category Household Living, under the column Specific Primary Use, delete the text “Modular or double-wide manufactured home” and replace it with “Manufactured (double wide) or modular home.”

In Use Category Retail Sales & Service, for the Specific Primary Use of All Retail Sales & Service (Sales-Oriented), add the text “P” in the columns M-1 and M-2.

In Use Category Retail Sales & Service, for the Specific Primary Use of All Retail Sales & Service (Service-Oriented), add the text “P” in the columns M-1 and M-2.

In Use Category Retail Sales & Service, for the Specific Primary Use of All Retail Sales & Service (Repair-Oriented), add the text “P” in the column M-2.

In Use Category Warehouse & Freight Movement, for the Specific Primary Use of All Warehouse & Freight Movement uses, add the text “S” in the column A-1.

Section 14. In ARTICLE 5 – USE STANDARDS, modify the text in the Section 5.2.2 A. Household Living table as follows:

Under the column Accessory Uses, delete the text “Dock or pier (noncommercial)”, “mobile home (5.3.4)” and “solar panel array (5.5.13)”.

Under the column Accessory Uses, add the text “Manufactured (double-wide) or Modular home”, “Manufactured (single-wide) or Mobile home (5.5.3G)” and “Solar panel array (5.5.13).”

Section 15. In ARTICLE 5 – USE STANDARDS, modify the text in the Section 5.2.2 B. Group Living table as follows:

Under the column Primary Uses, delete the text “Group home for the physically disabled, mentally retarded, or emotionally disturbed that are not considered single-family residences” and replace it with the text “Group home for the physically and/or cognitively disabled, that are not considered single-family residences”

Under the column Uses not Included, delete all the text “Institutions” and replace them with the text “Establishments”

Section 16. In ARTICLE 5 – USE STANDARDS, delete text “Rummage sale (5.5.12)” under the column Accessory Uses in the following tables:

- 5.2.3 A. Community Service
- 5.2.3 B. Day Care
- 5.2.3 C. Educational Facilities
- 5.2.3 E. Medical Facilities
- 5.2.3 F. Parks and Open Areas
- 5.2.3 H. Places of Worship
- 5.2.3 I. Social Service Establishments

Section 17. In ARTICLE 5 – USE STANDARDS, delete text “Dock or pier (noncommercial)” under the column Accessory Uses in the following tables:

- 5.2.3 F. Parks and Open Areas
- 5.2.4 C. Outdoor Recreation
- 5.2.6 A. Agriculture

Section 18. In ARTICLE 5 – USE STANDARDS, add the text “Wholesale and/or retail sales” under the column Accessory Uses in the following tables:

- 5.2.5 B. Light Industrial

Section 19. In ARTICLE 5 – USE STANDARDS, delete in its entirety SEC. 5.4. WIRELESS COMMUNICATION FACILITIES and replace with the following new text:

Sec. 5.4 Wireless Communication Facilities

This section establishes standards for the location of wireless communication facilities.

5.4.1 Applicability

For purposes of this Section, wireless communication facilities includes wireless facilities and wireless support structures as defined in Indiana Code 8-1-32.3-13 and 8-1-32.3-14, respectively. It does not apply to personal television antennas, ham radio or short wave radio antennas, or other communications equipment accessory to residential uses or to the criteria for location without a Special Use Permit as stipulated in Sec. 5.4.4 below.

5.4.2 Special Use Permit Required

A. General

1. A Special Use Permit is required in accordance with Sec. 3.6 for a new wireless support structure or for a “substantial modification” of a wireless support structure as defined in Indiana Code 8-1-32.3-11.
2. As a part of the Special Use Permit application, the petitioner must submit the following:
 - a. A Federal Aviation Administration Form 7460-1, Notice of Proposed Construction or Alteration;
 - b. An engineering report on collapsibility of the wireless support structure;
 - c. A construction plan that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment; and
 - d. Evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable options because collocation:
 - i. Would not result in the same wireless service functionality, coverage, and capacity;
 - ii. Is technically infeasible; or
 - iii. Is an economic burden to the applicant.

B. Ability for Future Co-Location and Height Standards

1. A new wireless communication facility must be designed to allow a minimum co-location of two additional antennas from two additional providers.
2. A wireless communication facility may be constructed to a maximum overall height of 200 feet regardless of the maximum height requirements listed in the zoning district. The measurement of overall height includes the height of a building that a wireless support structure may be mounted upon measured from the grade to the highest point of the wireless support structure.
3. The Board of Zoning Appeals must evaluate the proposed type of construction of the wireless support structure (mono pole, guy wire or free standing) based upon adjacent land uses and character of adjacent properties.
4. The Board of Zoning Appeals may require camouflage on a new wireless support structure. A wireless support structure proposed near an airport or in a designated flight path may need a contrasting color to its surroundings if required by the Federal Aviation Administration.
5. Any wireless support structure 100 feet or less in overall height need not be painted red and white.

C. Setbacks

1. All structures related to the wireless communication facility, excluding fences, must be located a minimum distance from all surrounding property lines or lease lines a distance equal to the height of the wireless support structure, but not less than 50 feet.
2. Wireless support structures must be setback from any residential use a minimum of one and one half times the height of the wireless support structure. This standard does not apply to the residence owned by the person leasing or selling the property for the purposes of locating the wireless support structure.
3. The Board of Zoning Appeals may require a greater setback where a proposed wireless support structure is in close proximity to a concentrated area of residential uses, an airport or heliport, a state or federal highway or a Park and Open Space use.

D. Illumination

Wireless support structures must not be illuminated, except in accordance with state or federal regulations.

E. Staffing and Vehicular Access

Other than periodic visits for maintenance, the wireless communication facility must be unstaffed. To accommodate such visits, ingress and egress must only be from approved access points.

F. Screening

Except as provided in paragraph 4 below, the following screening provisions apply to a wireless communication facility.

1. Except as provided in paragraphs below, woven wire or chain link fences that are 80 percent open or solid fences made from wood or other materials that are less than 50 percent open, must be used to enclose the overall site. Such fences may not be less than six feet in height or more than eight feet in height and must include the use of barbed wire.
2. Screening of ground level compounds such as equipment shelters or backup generators must be provided and maintained with evergreen trees that are a minimum of six feet in height at planting. The trees must be planted in a staggered pattern at a maximum distance of eight feet on center. The screening must be placed in an area between the property line or lease line, and a 10-foot setback.
3. The Board of Zoning Appeals may require enhanced screening when the wireless communication facility is in close proximity to a residential use, a major road, a federal or state highway or a Park and Open Space use.
4. These screening provisions do not apply to wireless communication facilities that are screened to the required height from the public right-of-way and from residential properties by a building, topography or some other type of pre-existing site feature acceptable to the Zoning Administrator.

G. Parking

All driveways and off-street parking areas must be composed of dust proof materials.

H. Signs

The wireless communication facility is limited to one sign, not exceeding five square feet in area, and which must include information required by state or federal regulations.

I. Removal

When the wireless communication facility is no longer required, the landowner or provider must remove it and restore the property to its natural state.

5.4.3 Most Preferred to Least Preferred Locations for Potential Sites

The Board of Zoning Appeals may use the following list of locations, listed from most preferred to least preferred, when reviewing a Special Use Permit request for a new wireless communication facility:

- A. Existing utility towers;
- B. Existing structures;
- C. Manufacturing zoning districts;
- D. Commercial zoning districts;
- E. Agricultural zoning districts;
- F. Residential zoning districts.

5.4.4 Wireless Communication Facilities Permitted by Right

A. Stealth Wireless Communication Antennas

New antennas being placed on existing structures (including but not limited to flag poles, buildings, water towers, light poles, electric towers, church steeples, or silos) do not require a Special Use Permit, but do require an electrical or building permit.

B. Co-Location

New antennas being placed on existing wireless support structures with a valid Special Use Permit do not require a Special Use Permit, but do require an electrical or building permit.

C. Minor Towers

1. Wireless support structures 50 feet or less in overall height do not require a Special Use Permit when proposed outside of a platted residential subdivision and outside of a residential zoning district. Such wireless support structures do require an Improvement Location Permit and a Building Permit.
2. As a part of the Improvement Location Permit and Building Permit application, the petitioner must submit the following:
 - a. A statement that the wireless support structure will not interfere with other communications (such as radio or television);
 - b. An engineering report on collapsibility of the wireless support structure; and
 - c. A letter stating the facility operator will disassemble the wireless support structure and bring the property back to grade when the wireless support structure is no longer in use.

Section 20. Delete the following text from ARTICLE 5 – USE STANDARDS:

5.3.14 Bed and Breakfast Inn

A bed and breakfast inn is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The bed and breakfast inn may have a minimum of seven and a maximum of 14 guest rooms.
 - B. The bed and breakfast inn may provide sleeping accommodations for no more than 30 consecutive days to a particular guest.
 - C. The bed and breakfast inn is limited to one sign not to exceed four square feet.
- 5.5.3 D.** An accessory dwelling unit must have a minimum gross above-ground floor area of 600 square feet and a maximum gross floor area of 1,000 square feet. An accessory dwelling with attached personal storage space may have up to 1,200 square feet gross floor area.
- 5.5.3 G.** For the purposes of this Section, a mobile or manufactured home may not be used as an accessory dwelling unit. A Special Use Permit in accordance with Sec. 3.6 is required.
- 5.5.5 C.** A bed and breakfast homestay is limited to one sign not to exceed four square feet in area.
- 5.5.7 C.** At the close of each sale day, all articles not sold must be removed from the front and side yards.
- 5.5.7 E.** All signs erected for a garage or yard sale must be removed at the conclusion of the sale.
- 5.5.8 E.** Signs advertising the home occupation are prohibited.
- 5.5.9 C.** A home workshop/business is limited to one non-illuminated wall or freestanding sign not to exceed four square feet. If freestanding, the sign must be set back a minimum of 55 feet from the center line of the right-of-way and a minimum of 15 feet from the front property line. The freestanding sign may not exceed four feet in height.

5.5.12 Rummage Sale

A rummage sale is permitted as an accessory use subject to the following standards.

- A. No sale may be conducted for longer than 10 consecutive days or more than 20 days of any calendar year by the same organization or on the same property.
- B. All signs erected for a Rummage Sale must be removed at the conclusion of the sale.

Section 21. Add the following text to ARTICLE 5 – USE STANDARDS:

5.3.14 Bed and Breakfast Inn

A bed and breakfast inn is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The bed and breakfast inn may have a maximum of 14 guest rooms.
- B. The bed and breakfast inn may provide sleeping accommodations for no more than 30 consecutive days to a particular guest.
- C. The property on which a bed and breakfast inn is currently legally operated shall be allowed, in addition to any other sign(s) permitted by this Ordinance, one additional non-illuminated wall or freestanding sign not to exceed four square feet in area.

5.5.3 D. An accessory dwelling unit must have a minimum net above-ground floor area of 600 square feet and a maximum net floor area of 1,000 square feet. Personal storage limitations remain for the entire property.

5.5.3 G. For the purposes of this Section, a manufactured (single-wide) or mobile home may not be used as an accessory dwelling unit except for an infirmed or elderly relative or during construction of a primary dwelling. Once the need is gone; the manufactured (single-wide) or mobile home must be removed from the site. A Special Use Permit in accordance with Sec. 3.6 is required.

5.5.5 C. The property on which a bed and breakfast homestay is currently legally operated shall be allowed, in addition to any other sign(s) permitted by this Ordinance, one additional non-illuminated wall or freestanding sign not to exceed four square feet in area.

5.5.7 A. At the close of each sale day, and at the conclusion of the sale, all articles not sold and any other exterior indication of the sale must be removed from the front and side yards.

5.5.9 C. The property on which a home workshop/business is currently legally operated shall be allowed, in addition to any other sign(s) permitted by this Ordinance, one additional non-illuminated wall or freestanding sign not to exceed four square feet in area. If freestanding, the sign must be set back a minimum of 55 feet from the center line of the right-of-way and a minimum of 15 feet from the front property line. The freestanding sign may not exceed four feet in height.

Section 22. In ARTICLE 5 – USE STANDARDS, delete the word “gross” and replace it with the word “net” in each of the following Sections:

5.3.7 A. & C.

5.3.8 A., B. & D.

- 5.3.9 A. & C.
- 5.3.11 A.
- 5.3.16 A.
- 5.3.24 A.
- 5.5.9 F., G. & H.
- 5.5.10 A. & C.

Section 23. In ARTICLE 5 – USE STANDARDS, delete the reference to “Article 10” and replace it with the reference to “Article 11” in each of the following Sections:

- 5.2.1 A. Approach to Categorizing Uses
- 5.2.4 A. Indoor Recreation

Section 24. Renumber the following Sections in ARTICLE 5 – USE STANDARDS as follows:

- 5.5.8 F to **5.5.8 E**
- 5.5.8 G to **5.5.8 F**
- 5.5.13 Solar Panel Array to **5.5.12 Solar Panel Array**

Section 25. Delete the following text from ARTICLE 6 – SPECIAL PURPOSE AND OVERLAY ZONING DISTRICTS:

6.1.7 Signs

A. General

1. Monument signs, as defined in Sec. 7.4, and wall signs are the only sign types permitted in the E-3 zoning district. All other sign types, whether described in Sec. 7.4 or not, are prohibited.
2. Monument signs must comply with the following standards.

Monument Sign Standards	Requirement
Min. Front Setback (ft. from prop. line)	
Front	30
Side	30
Max. Overall Height (ft.)	8
Max. Overall Width (ft.)	10
Max. Message Height (ft.)	4
Max. Message Width (ft.)	10
Max. Combined Area of All Signs Requiring a Permit	1 sq. ft. per 2 linear ft. of frontage not to

Monument Sign Standards	Requirement
	exceed 200 sq. ft.

3. Wall signs must comply with the following standards.

Wall Sign Standards	Requirement
Max. Height	Not to exceed roof line
Max. Area	Not to exceed 5% of building façade

6.4.3 C. To help reduce conflicts between farmers and non-farm neighbors in the A-3 zoning district, the property owner may post signs on his or her property, outside of the Public Right-of-Way, that identify the area as a Farmland Preservation Zone and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities. Such signs require a sign permit in accordance with Sec. 3.1.4.

6.5.3 Agricultural Use Notice

To help reduce conflicts between farmers and non-farm neighbors in the A-4 zoning district, the property owner may post signs on his or her property, outside of the Public Right-Of-Way, that identify the area as a Concentrated Animal Feeding Protection District and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities. Such signs require a sign permit in accordance with Sec. 3.1.4.

Section 26. Add the following text to ARTICLE 6 – SPECIAL PURPOSE AND OVERLAY ZONING DISTRICTS:

6.1.7 Signs

A. General

1. The sign types permitted in the E-3 zoning district are as set forth in the table found in Sec. 7.4.5 of this Ordinance.

6.4.3 C. To help reduce conflicts between farmers and non-farm neighbors in the A-3 zoning district, the property owner may post signs on his or her property, outside of the Public Right-of-Way, that identify the area as a Farmland Preservation Zone and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities.

6.5.3 Agricultural Use Notice

To help reduce conflicts between farmers and non-farm neighbors in the A-4 zoning district, the property owner may post signs on his or her property, outside of the Public

Right-Of-Way, that identify the area as a Concentrated Animal Feeding Protection District and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities.

Section 27. In ARTICLE 6 – SPECIAL PURPOSE AND OVERLAY ZONING DISTRICTS, delete the word “gross” and replace it with the word “net” in each of the following Sections:

6.1.3 C. & E.

Section 28. In ARTICLE 6 – SPECIAL PURPOSE AND OVERLAY ZONING DISTRICTS, delete the reference to “Article 10” and replace it with the reference to “Article 11” in each of the following Sections:

6.1.9 A.1. & C.

Section 29. In ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS, modify the text in the Section 7.2.4 A. Schedule of Minimum Off-Street Parking Requirements table as follows:

In Use Category Government Facilities, in the second box under the column Specific Use, delete the text “Post Office” and replace it with the text “All other uses”

In Use Category Government Facilities, in the third box under the column Specific Use, delete the text “All other uses”

In Use Category Government Facilities, in the third box under the column Minimum Off-Street Parking Spaces, delete the text “1 per employee on largest shift”

Section 30. Delete the following text from ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS:

7.4.1 A. The purpose of these sign regulations is to protect and promote the public health, safety and general welfare by controlling the type, timing, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in Elkhart County.

7.4.3 A.2. Exemptions

The following signs or sign elements are exempt from the provisions of this Section but are subject to any other applicable laws and regulations:

- a. Address and mailbox numerals;

- b. Governmental signs that the City, Town, county, state or federal government erects in furtherance of their governmental responsibility;
- c. Public notice or warning that a valid and applicable federal, state or local law requires;
- d. Sign inside a building, not attached to a window or the exterior side of a door, and not legible from outside of the building;
- e. Flags, emblems or insignias of a nation, state, political subdivision or organization, or a school or religious group;
- f. Sign located completely within an enclosed building;
- g. Works of art that do not include a commercial message;
- h. Memorial signs or tablets including headstones in cemeteries; and
- i. Agricultural signs that are four square feet or less in area.

7.4.3 B.5. It is prohibited to place a sign, permanent or temporary, in the public right-of-way without permission from the Board of County Commissioners or appropriate legislative body.

7.4.3 C. Non-Commercial Messages Permitted in Substitution

- 1. Any sign allowed under this Section may contain, in lieu of any other copy, any lawful noncommercial message that complies with all other requirements of this Section.
- 2. The right that this subsection creates is one of substitution and not one of addition

7.4.4 A.3. The area for a sign with more than one face is measured by adding together the area of all sign faces, except where the angle at which the two sign faces are placed does not exceed 60 degrees or where the sign faces are parallel and not more than 36 inches apart.

COMMENTARY: It is presumed that where sign faces are placed less than 60 degrees apart, both faces are not readable from any one point.

7.4.7 A. A use with an approved Special Use Permit is allowed signs of the type, size, number and placement as designated by the adopted site plan or approved commitments of the Special Use Permit.

Section 31. In **ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS**, delete the following text from Section 7.4.2 Sign Type Definitions:

SIGN. A name, identification, description, display or illustration affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business.

SIGN, AGRICULTURAL. A sign identifying the farm on which it is placed or advertising the produce or animals raised on the property.

SIGN, CONSTRUCTION. A specific type of freestanding sign intended to provide information about current construction on a site and the parties involved in the project.

SIGN, DIRECTIONAL. A permanent sign that directs the flow of traffic or pedestrians and that contains no commercial message.

SIGN, NAMEPLATE OR IDENTIFICATION. A specific type of wall sign that identifies the occupant, whether persons or a business, and address of a structure.

SIGN, REAL ESTATE. A sign that is used to advertise the sale, lease or rental of property.

SIGN, SUBDIVISION ENTRY. A sign designating the entry into a residential or nonresidential subdivision.

Section 32. Add the following text to **ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS:**

7.4.1 A. The purpose of these sign regulations is to protect and promote the public health, safety and general welfare by controlling the structural type, timing, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in Elkhart County.

7.4.3 B.5 It is prohibited to place a sign in the public right-of-way without permission from the Board of County Commissioners or appropriate legislative body.

7.4.4 A.3 The area for a sign with more than one face is measured by adding together the area of all sign faces.

7.4.7 A. A use with an approved Special Use Permit is allowed sign(s) of the structural type, size, number and placement as designated by the adopted site plan or approved commitments of the Special Use Permit.

Section 33. In **ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS**, add the following text to Section 7.4.2 Sign Type Definitions:

SIGN. Any printed text, pictorial representation, figures, numerals, emblems, devices, objects, designs, descriptions, displays, instructions or other pictorial matter, and displayed by means of paint, bills, posters, panels or other devices erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings or other structure or supports, or piece of land, and which is used to identify, direct, instruct, attract, guide, inform or advertise.

SIGN, YARD. A specific type of freestanding sign, generally with a wire frame or crossbar, not permanently attached to the ground; common types of yard signs are the “H Frame” and “I Frame”.

Section 34. In **ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS**, delete in its entirety **Section 7.4.5. STANDARDS ACCORDING TO SIGN TYPE** and replace it with the following new text:

7.4.5 STANDARDS ACCORDING TO SIGN TYPE

The standards applicable to each permitted sign type are set forth in the table below.

FREESTANDING SIGNS						
Sign Type	District	Area	Height	Permit Required?	Time Limit	Additional Standards
General Freestanding Signs (includes yard signs and any other freestanding signs not otherwise defined)	A-1, R-1, R-2, R-3	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 8 square feet	Maximum height is 4 feet	No	None	All signs must be set back a minimum of 3 feet from any property and right-of-way line
	B, M	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 6x the frontage of the zoning lot; the maximum area for any one freestanding sign shall be no greater than 300 square feet	Maximum height is 40 feet, except in R-4 zoning district, where maximum height is 20 feet	Yes	None	The location of signs may be permitted at the right-of-way line except on a Major Road or a federal or state highway. On such road or highway in the unincorporated areas of the County, sign placement must be a minimum of 55 feet from the centerline, or at the right-of-way line, whichever is greater.
	A-3, A-4	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 2x frontage of zoning lot; the maximum area for any one freestanding sign shall be no greater than 200 square feet	Maximum height is 40 feet	Yes	None	The location of signs may be permitted at the right-of-way line except on a Major Road or a federal or state highway. On such road or highway in the unincorporated areas of the County, sign placement must be a minimum of 55 feet from the centerline, or at the right-of-way line, whichever is greater.

Message Board, Electronic	B, M	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 6x frontage of zoning lot; the maximum area for any one Electronic Message Board sign shall be no greater than 48 square feet	Maximum height is 40 feet.	Yes	None	<p>The intensity of illumination must not change until sunset when it must be reduced to a maximum of 500 NIT until sunrise.</p> <p>NIT is calculated based on the light meter specification of the manufacturer.</p> <p>There must be 300 feet minimum separation between electronic message boards and an existing residence.</p> <p>Flashing is prohibited. The location of sign may be permitted at the right-of-way line except on a Major Road or a federal or state highway. On such road or highway in the unincorporated areas of the County, sign placement must be a minimum of 55 feet from the centerline or at the right-of-way line, whichever is greater.</p>
	Special Use Permit (A, R)	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 6x frontage of zoning lot; the maximum area for any one Electronic Message Board sign shall be no greater than 32 square feet	Maximum height is 20 feet.	Yes	None	<p>The intensity of illumination must not change until sunset when it must be reduced to a maximum of 500 NIT until sunrise.</p> <p>NIT is calculated based on the light meter specification of the manufacturer.</p> <p>There must be 300 feet minimum separation between electronic message boards and an existing residence.</p> <p>Flashing is prohibited.</p> <p>The location of sign may be permitted at the right-of-way line except on a Major Road or a federal</p>

						or state highway. On such road or highway in the unincorporated areas of the County, sign placement must be a minimum of 55 feet from the centerline or at the right-of-way line, whichever is greater.
Monument Signs	B, M, R-4	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 6x the frontage of the zoning lot; Maximum area for any one monument sign shall be no greater than 32 square feet	Maximum height is 4 feet.	Yes	None	Sign must be solid from ground to top and may be illuminated or unilluminated on a base that extends horizontally a minimum of the length of the message area. Only one monument sign permitted per zoning lot. Sign must have a setback 10 feet away from any public right-of-way and property line.
	E-3	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 2x the frontage of the zoning lot, up to a maximum of 200 square feet; maximum area for any one monument sign shall be no greater than 32 square feet	Maximum height is 8 feet.	Yes	No	Sign must be solid from ground to top and may be illuminated or unilluminated on a base that extends horizontally a minimum of the length of the message area. Maximum message area height is 4 feet, maximum message area width is 10 feet. Maximum overall width is 10 feet. Sign must have a setback of 30 feet from front / side property line.

WALL SIGNS

Sign Type	District	Area	Height	Permit Required?	Time Limit	Additional Standards
General Wall Signs	B, M	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 6x frontage of zoning lot; Maximum aggregate area of	Cannot exceed roof line	Yes	None	The sign must not cover wholly or partially any wall opening nor project beyond the ends of top of the wall to which it is attached.

		any one wall sign shall be no greater than 300 square feet.				
	R-4	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 6x frontage of zoning lot; Maximum aggregate of all wall signs on the zoning lot shall be no greater than 64 square feet; Maximum area for any one wall sign shall be no larger than 32 square feet	Cannot exceed roof line	Yes	None	The sign must not cover wholly or partially any wall opening, nor project beyond the ends of top of the wall to which it is attached.
	E-3	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 2x the frontage of the zoning lot, up to a maximum of 200 square feet; Maximum aggregate of all wall signs < 5% of building façade area; maximum area for any one wall sign shall be no larger than 32 square feet	Cannot exceed roof line	Yes	None	The sign must not cover wholly or partially any wall opening, nor project beyond the ends of top of the wall to which it is attached.
Projecting Signs	R-4, B, M	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 6x the frontage of the zoning lot; maximum aggregate area	Cannot exceed roof line of building to which sign attached	Yes	None	The sign must be placed at least 9 feet above finished grade, a maximum of 2 feet from the face of the wall to which it is attached.

		for all projecting signs on the zoning lot shall be no greater than 200 square feet; the maximum area for any one projecting sign is 50 square feet for a horizontal sign and 100 square feet for a vertical sign				
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PORTABLE SIGN						
Sign Type	District	Area	Height	Permit Required?	Time Limit	Additional Standards
Portable Sign	B, M	Maximum aggregate area of all signs on the zoning lot regardless of sign type shall be no greater than 6x the frontage of the zoning lot; the maximum area for any one portable sign is 32 square feet.	6 feet	Yes	Max. 60 days per calendar year Max. 30 consecutive days Min. 15 days between removal and replacement	1 sign permitted per zoning lot. Minimum setback of 5 feet from the public right-of-way and 75 feet from a residentially zoned property. Blinking lights are prohibited.

Section 35. In ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS, delete the word “gross” and replace it with the word “net” in each of the following Sections:

- 7.1.1
- 7.1.3
- 7.2.3 A.1.
- 7.2.4 A.
- 7.2.9 A.1.

Section 36. In ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS, delete the word “GFA” and replace it with the word “NFA” in each of the following Sections:

- 7.1.1
- 7.2.4 A.
- 7.2.9 A.1.

Section 37. In ARTICLE 7 – GENERAL DEVLEOPMENT STANDARDS, delete the reference to “Article 10” and replace it with the reference to “Article 11” in the following Section:

7.3.8 C.1 Outdoor Storage

Section 38. In ARTICLE 7 – GENERAL DEVELOPMENT STANDARDS delete in its entirety SEC. 7.5. FLOOD HAZARD CONTROL.

Section 39. Delete the following text from ARTICLE 8 – NONCONFORMITIES:

8.4.2 D. A legal nonconforming sign may undergo a change in the information on the face of the sign provided that the change does not increase the area of the sign face or change the sign type.

Section 40. Add the following text to ARTICLE 8 – NONCONFORMITIES:

8.4.2 D. A legal nonconforming sign may undergo a change in the information on the face of the sign provided that the change does not increase the area of the sign face or change the sign structural type.

Section 41. In ARTICLE 8 – NONCONFORMITIES, delete the word “gross” and replace it with the word “net” in each of the following Sections:

- 8.3.2 H.
- 8.4.2 B.1.
- 8.5.2 C.

Section 42. Renumber current Article 10 – Definitions, to **ARTICLE 11 – DEFINITIONS**, and renumber the following Sections as follows:

Sec. 10.1. Abbreviations and Acronyms to **Sec. 11.1. Abbreviations and Acronyms**

Sec. 10.2. Definitions to **Sec. 11.2. Definitions**

Section 43. Insert the following text as the new ARTICLE 10 – FLOOD HAZARD AREAS:

ARTICLE 10 FLOOD HAZARD AREAS

Sec. 10.1. Statutory Authorization, Findings of Fact, Purpose, and Objectives.

10.1.1 Statutory Authorization.

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the County Commissioners of Elkhart County does hereby adopt the following floodplain management regulations.

10.1.2 Findings of Fact.

- A. The flood hazard areas of Elkhart County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

10.1.3 Statement of Purpose.

It is the purpose of this Article 10 to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- D. Control filling, grading, dredging, and other development which may increase erosion or flood damage.

- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Make federal flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

10.1.4 Objectives.

The objectives of this ordinance are:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- F. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

Sec. 10.2. Definitions.

For purposes of this Article 10, the word or phrases below are defined as follows. Unless specifically defined below, words or phrases used in this Article 10 shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

- (a) Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.
- (b) Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)
- (c) Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between

one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

- (d) Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
- (e) Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.
- (f) Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

APPEAL. A request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation of the one-percent annual chance flood.

BASEMENT. That portion of a structure having its floor sub-grade (below ground level) on all sides.

BOUNDARY RIVER. The part of the Ohio River that forms the boundary between Kentucky and Indiana.

BOUNDARY RIVER FLOODWAY. The floodway of a boundary river.

BUILDING. See "Structure."

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

D ZONE. Unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

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

- (a) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (d) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

- (e) Mining, dredging, filling, grading, excavation, or drilling operations;
- (f) Construction and/or reconstruction of bridges or culverts;
- (g) Storage of materials; or
- (h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

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

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

ELEVATION CERTIFICATE. A certified statement that verifies a structure's elevation information.

EMERGENCY PROGRAM. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. The Federal Emergency Management Agency.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

FLOOD PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

FLOODPROOFING (DRY FLOODPROOFING). A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

FLOODPROOFING CERTIFICATE. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

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

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRINGE. Those portions of the floodplain lying outside the floodway.

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

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURES. Any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

INCREASED COST OF COMPLIANCE (ICC). The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

LETTER OF FINAL DETERMINATION (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this

six-month period unless the community has previously incorporated an automatic adoption clause.

LETTER OF MAP CHANGE (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

- (a) **LETTER OF MAP AMENDMENT(LOMA).** An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- (b) **LETTER OF MAP REVISION (LOMR).** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- (c) **LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

LOWEST ADJACENT GRADE. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest elevation described among the following:

- (a) The top of the lowest level of the structure.
- (b) The top of the basement floor.
- (c) The top of the garage floor, if the garage is the lowest level of the structure.
- (d) The top of the first floor of a structure elevated on pilings or pillars.
- (e) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - i) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;

- ii) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
- iii) such enclosed space shall be usable solely for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

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

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929 as corrected in 1929. A vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

NON-BOUNDARY RIVER FLOODWAY. The floodway of any river or stream other than a boundary river.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) as adopted in 1993. A vertical control datum used as a reference for establishing varying elevations within the floodplain.

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-PERCENT ANNUAL CHANCE FLOOD. The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

PUBLIC SAFETY AND NUISANCE. Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE. A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

REGULAR PROGRAM. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

REGULATORY FLOOD. The flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal

Emergency Management Agency. The regulatory flood elevation at any location is as defined in 10.3.2 of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

SECTION 1316. That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdiction of the County subject to inundation by the regulatory flood. The SFHAs of Elkhart County are generally identified as such on the Elkhart County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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

STRUCTURE. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated

building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

SUSPENSION. The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

VARIANCE. A grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

ZONE. A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

ZONE A. (see definition for A zone)

ZONE B, C, AND X. Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

Sec. 10.3. General Provisions.

10.3.1 Lands to Which This Ordinance Applies.

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of Elkhart County.

10.3.2 Basis for Establishing Regulatory Flood Data.

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

- A. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Elkhart County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Elkhart County, Indiana and Incorporated Areas dated August 2, 2011 and the corresponding Flood Insurance Rate Map dated August 2, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- B. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Elkhart County, delineated as an "A Zone" on the Elkhart County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- C. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- D. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

10.3.3 Establishment of Floodplain Development Permit.

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

10.3.4 Compliance.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

10.3.5 Abrogation and Greater Restrictions.

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

10.3.6 Discrepancy between Mapped Floodplain and Actual Ground Elevations.

- A. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- B. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- C. If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

10.3.7 Interpretation.

In the interpretation and application of this ordinance all provisions shall be:

- A. Considered as minimum requirements.
- B. Liberally construed in favor of the governing body.
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

10.3.8 Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Elkhart County, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

10.3.9 Penalties for Violation.

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Elkhart County. All violations shall be punishable by a fine not exceeding \$2,500.00 for the first violation and not more than \$7,500.00 for second or subsequent violations.

- A. A separate offense shall be deemed to occur for each day the violation continues to exist.
- B. The Elkhart County Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- C. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Sec. 10.4. Administration.

10.4.1 Designation of Administrator.

The County Commissioners of Elkhart County hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

10.4.2 Permit Procedures.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

A. Application Stage.

1. A description of the proposed development.
2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
3. A legal description of the property site.
4. A site development plan showing existing and proposed development locations and existing and proposed land grades.
5. Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See 10.4.3 F for additional information.)

B. Construction Stage.

Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

C. Finished Construction.

Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the

project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

10.4.3 Duties and Responsibilities of the Floodplain Administrator.

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- A. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- B. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- C. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to 10.5.5 and 10.5.7 A of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- D. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- E. Maintain and track permit records involving additions and improvements to residences located in the floodway.

- F. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- G. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- H. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- I. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- J. Review certified plans and specifications for compliance.
- K. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with 10.4.2.
- L. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with 10.4.2.
- M. Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized County officials shall have the right to enter and inspect properties located in the SFHA.
- N. Stop Work Orders
 - 1. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
 - 2. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- O. Revocation of Permits

1. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
2. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

Sec. 10.5. Provisions for Flood Hazard Reduction.

10.5.1 General Standards.

In all SFHAs and known flood prone areas the following provisions are required:

- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- D. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- I. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- J. Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.
- K. Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
 - 1. The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.
 - 2. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.
 - 3. The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.
 - 4. The fill or structure shall not obstruct a drainage way leading to the floodplain.
 - 5. The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.
 - 6. The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.
 - 7. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

10.5.2 Specific Standards.

In all SFHAs, the following provisions are required:

- A. In addition to the requirements of 10.5.1, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
1. Construction or placement of any structure having a floor area greater than 400 square feet.
 2. Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
 3. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 4. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 5. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
 6. Reconstruction or repairs made to a repetitive loss structure.
 7. Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- B. Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of 10.5.2 D.

- C. Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of 10.5.2 D. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:
1. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in 10.4.3 L.
 2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- D. Elevated Structures. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
 7. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
 8. Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of 10.5.2 D. Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Elkhart County Recorder.
 9. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Elkhart County Recorder.
- E. Structures Constructed on Fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
1. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
 2. The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 5. The top of the lowest floor including basements shall be at or above the FPG.
 6. Fill shall be composed of clean granular or earthen material.

- F. Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
- 1.** These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood:
 - a.** The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - b.** Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 10.5.2 D.
 - c.** Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 - 2.** These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 - a.** The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - b.** Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 10.5.2 D.
 - c.** Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 - 3.** Recreational vehicles placed on a site shall either:
 - a.** be on site for less than 180 days;
 - b.** be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

c. meet the requirements for “manufactured homes” as stated earlier in this section.

G. Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

1. Shall not be used for human habitation.
2. Shall be constructed of flood resistant materials.
3. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
4. Shall be firmly anchored to prevent flotation.
5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
6. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 10.5.2 D.

H. Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

10.5.3 Standards for Subdivision Proposals.

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- E. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- F. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

10.5.4 Critical Facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes

elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

10.5.5 Standards for Identified Floodways.

Located within SFHAs, established in 10.3.2, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources).

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Sec. 10.5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

10.5.6 Standards for Identified Fringe.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Sec. 10.5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

10.5.7 Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

A. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Sec. 10.5 of this ordinance have been met.

B. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Sec. 10.5 of this ordinance have been met.

- C. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

10.5.8 Standards for Flood Prone Areas.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Sec. 10.5.

Sec. 10.6. Variance Procedures.

10.6.1 Designation of Variance and Appeals Board.

The Elkhart County Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

10.6.2 Duties of Variance and Appeals Board.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Elkhart County Circuit or Superior Court.

10.6.3 Variance Procedures.

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- A. The danger of life and property due to flooding or erosion damage.
- B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- C. The importance of the services provided by the proposed facility to the community.
- D. The necessity of the facility to a waterfront location, where applicable.
- E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- F. The compatibility of the proposed use with existing and anticipated development,
- G. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- J. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

10.6.4 Conditions for Variances.

- A. Variances shall only be issued when there is:
 - 1. A showing of good and sufficient cause.
 - 2. A determination that failure to grant the variance would result in exceptional hardship.
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

- B. No variance for a residential use within a floodway subject to 10.5.5 or 10.5.7 A of this ordinance may be granted.
- C. Any variance granted in a floodway subject to 10.5.5 or 10.5.7 of this ordinance will require a permit from the Indiana Department of Natural Resources.
- D. Variances to the Provisions for Flood Hazard Reduction of 10.5.2, may be granted only when a new structure is to be located on a lot of one half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- G. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See 10.6.5).
- H. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See 10.6.5).

10.6.5 Variance Notification.

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

- A. The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- B. Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

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

10.6.6 Historic Structure.

Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.

10.6.7 Special Conditions.

Upon the consideration of the factors listed in Sec. 10.6, and the purposes of this ordinance, the Elkhart County Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Sec. 10.7. Severability.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 44. In new ARTICLE 11 – DEFINITIONS, delete the following text in Sec. 11.2.:

GROUP HOME. A residential facility for both individuals with a developmental disability and individuals with a mental illness.

HOME WORKSHOP/BUSINESS. A gainful occupation which is carried on by an occupant of a dwelling unit, along with a limited number of outside employees, as a use which is secondary to the use of the unit for residential purposes. Retail activity may take place and a sign may exist in association with the business.

Section 45. In new ARTICLE 11 – DEFINITIONS, add the following text in Sec. 11.2.:

AS-BUILT DRAWING. A drawing that shows the actual locations, elevations, dimensions of improvements and construction deviations, compared to an approved plan, on property as sealed and certified by a professional engineer or a registered land surveyor in the State of Indiana.

BACKLOT DEVELOPMENT. The improvement of a property that does not have waterfront access and which uses a parcel or development with shoreline frontage for waterfront access.

DRAINAGE FACILITY. Any improvement on a property constructed to collect and convey stormwater, including, but not limited to, retention and detention areas, swales, tilling or culverts.

GROUP HOME. A residential facility for individuals with physical and/or cognitive disability and/or illness..

HOME WORKSHOP/BUSINESS. A gainful occupation which is carried on by an occupant of a dwelling unit, along with a limited number of outside employees, as a use which is secondary to the use of the unit for residential purposes. Retail activity may take place.

IMPERVIOUS COVERAGE. Any material or structure that fully or predominately prevents absorption of stormwater into the ground.

MIXED USE. A type of development that has both residential and nonresidential uses in the same building or the same general area.

Section 46. In new ARTICLE 11 – DEFINITIONS, delete the word “gross” and replace it with the word “net” in the Sec. 11.1. Abbreviations and Acronyms table, and in Sec. 11.2. in the definitions of **Adult Bookstore, Adult Novelty or Adult Video Store and Adult Entertainment Facility.**

Section 47. In new ARTICLE 11 – DEFINITIONS, delete the word “GFA” and replace it with the word “NFA” in the Sec. 11.1. Abbreviations and Acronyms table, and in Sec. 11.2. in the definitions of **Adult Bookstore, Adult Novelty or Adult Video Store and Adult Entertainment Facility.**

Section 48. In new ARTICLE 11 – DEFINITIONS, delete the reference to “Sec. 7.5” and replace it with the reference to “Article” in Sec. 11.2. in the definition of **Regulatory Flood.**

Section 49. Delete in its entirety the INDEX and replace it with the following new text:

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Section 50. This Ordinance shall be effective on February 1, 2016.

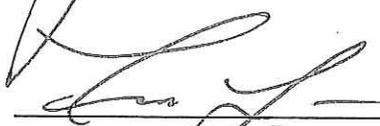
ORDAINED AND ADOPTED THIS 19 DAY OF January, 2016 BY THE
BOARD OF COMMISSIONERS OF ELKHART COUNTY, INDIANA.



By
Terry Rodino



By
Mike Yoder



By
Frank Lucchese

Attest:



Pauline E. Graff
Auditor for Elkhart County

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board accepted the Solid Waste-Landfill report for December 2015 and placed it on file.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved Assurances of Nondiscrimination, Title VI Assurance for the county highway department, as requested by Jeff Taylor, Manager of Transportation.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy L. Erschen

MINUTES

ELKHART COUNTY BOARD OF COMMISSIONERS MEETING

January 25, 2016

President Terry Rodino called the meeting to order at 9:00 a.m. in room 104 in the County Administration Building, 117 North Second Street, Goshen, Indiana. The other two (2) Board members, Frank Lucchese and Mike Yoder, were also present. Others present were Pauline Graff, County Auditor; Tom Byers, County Administrator and Kathy Erschen, Executive Assistant.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board approved the Allowance of Claims and the Payroll Claims, as presented by the county auditor's office.

Jackie Meyers, County Treasurer, presented the financial report for 2015. The county made a total of \$624,677.00 in interest which is an increase of \$88,460 from 2014. The net interest after service charges to bank accounts totaled \$575,113.65. She explained the various CDs she has deposited in various banking institutions & those that matured in 1015.

On a motion made by Mike Yoder, seconded by Frank Lucchese and unanimously carried, the Board approved the financial report for 2015 as presented.

Duane Stoltzfus, 64577 Orchard Drive, Goshen presented a request to have a sidewalk installed along CR 21 to the Goshen Junior High School. He said there is about 100 feet that needs to be completed & it would be much safer for students, bikers, & walkers. His approximate cost is \$28,700. It was suggested that MACOG may have some funds that could be used for such a project. Jay Grossman, county highway engineer, said he will contact the Goshen city engineer and discuss the possibility of the city making an application for some funds from MACOG.

On a motion made by Frank Lucchese, seconded by Mike Yoder and unanimously carried, the Board adjourned their meeting.

Respectfully submitted,
Kathy L. Erschen