

# ZONING ORDINANCE OF MOORESVILLE INDIANA

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**BE IT ORDAINED** under authority of Indiana code 36-7-4-1 through 1213 all acts amendatory thereto:

## **CHAPTER 1 – TERMINOLOGY**

### **SECTION 1.0 – TITLE**

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

### **SECTION 1.1 – SHORT TITLE**

This ordinance may be cited as the “Zoning Ordinance of Mooresville, Indiana.”

### **SECTION 1.2 – INTERPRETATION**

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

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

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

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other agreements between parties, nor to interfere with, abrogate, or annul any ordinances, other than those expressly repealed hereby, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this ordinance, or which shall be adopted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

### **SECTION 1.4 – GENERAL DEFINITIONS**

For the purpose of this ordinance, certain terms or words used herein shall be interpreted or defined as follows. Words used in the present tense include the future tense the term “shall” is always mandatory.

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

**ACTS:** The Advisory Planning Act, 36-7-4. 1 through 1213 and all acts amendatory thereto.

**ADVERTISING STRUCTURE:** Any outdoor structure designed for the purpose of advertising or making known any service or commodity that is not available upon the property on which the structure is located. This shall include all billboards.

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

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

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

**ALTERATIONS:** See “Structural Alterations”.

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

**APPLICANT:** The owner or owners of real estate who makes application to the Plan Commission of the Town of Mooresville, Indiana for action by said commission affecting the real estate owned thereby.

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

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

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

**BOARD:** The Board of Zoning Appeals of the Town of Mooresville, Indiana.

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

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

**BUILDING INSPECTOR:** The employee or officer of the Plan Commission who is empowered to inspect and approve Improvement Location Permits.

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

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

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

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

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

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

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

**CARPORT:** Same as Private Garage.

**CAR WASH:** A building, or portion thereof, where automobiles, trucks, or other self-powered vehicles are washed by mechanical devices of any type.

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

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

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

**COMMISSION:** A planning Commission Serving A Single Government Jurisdiction Established As Defined Under The I.C. 36-7-1-2 As amended. The Mooresville Plan Commission Is an Advisory Plan Commission.

**COMPREHENSIVE PLAN:** Inclusive physical, social, and economic plans and policies in graphic and written statement form for the development of the Town of Mooresville prepared and adopted by the Commission pursuant to the I.C. 36-4-4-500 series and including any part of such plan and/or policies separately adopted and any amendments to such plan and/or policies, or parts

thereof. It does not include the implement ordinances such as the zoning ordinance and subdivision control ordinance.

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

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

**COUNTY:** The County of Morgan, Indiana.

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

**DAY NURSERY:** Any institution operated for the purpose of providing care and maintenance to children separated from their parents or guardians or a person in loco parentis during a part of the day for two or more consecutive weeks excepting a school or other bona fide educational institution.

**DESIGNATED OFFICIAL:** The member of the Town of Mooresville Advisory Plan Commission designated by Commission rules as the required signatory for the execution of secondary plat approval. The signature of the Designated Official shall be attested to by the Clerk/Treasurer of the Town of Mooresville when necessary.

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

**DEVELOPER:** Any person engaged in developing a lot or group of lots or structures for use or occupancy.

**DISTRICT:** A section of the jurisdictional area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings and land, and open spaces about buildings, are herein established.



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

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

**DWELLING:** A building or part of a building that is used primarily as a place of abode, but not including a hotel, motel lodging house, boarding house, tourist home, or mobile home as defined in this ordinance.

**DWELLING, DOUBLE:** A two family dwelling designed to house two families living side by side and used exclusively for residential purposes.

**DWELLING DUPLEX:** A two family dwelling designed to house two families living one above the other and used exclusively for residential purposes.

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

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

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

**EASEMENT:** An authorization grant made by a property owner for use by another of any designated part of his property for a clearly specified purpose.

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

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

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

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

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

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

**FARM:** An area used for agricultural operations including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry except as defined under “Farm, Confinement Feeding”, and not including the raising and breeding of dogs or other small animals commonly kept as household pets; or the processing of farm products produced on the farm by the resident owner or tenant, but not including commercial or custom slaughtering.

**FILLING OR SERVICE STATION:** Means the same as “Automobile Service Station.”

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

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

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

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

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

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

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

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

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

**GROUND FLOOR AREA:** The square floor area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground level, exclusive of open porches, breezeways, terraces, garages, carports, and exterior stairways. In the case of a bi-level type structure where the level above the grade line contains complete living facilities including living, cooking and sleeping areas, that level may be used to compute the ground floor area.

**HARDSHIP:** A perceived difficulty with regard to one’s ability to improve land stemming from the application of the development standards of this ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on

a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this ordinance; any result of land division requiring variance from the development standards of this ordinance in order to render that site buildable.

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

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

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

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

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

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

**JURISDICTIONAL AREA:** The incorporated area within the town of Mooresville Indiana and any or all of the unincorporated territory within two miles of the town boundaries lying within Morgan County as designated on the map entitled "Jurisdictional Area" which is attached and hereby made a part of this ordinance.

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

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

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

**LODGING HOUSE:** Means the same as “Boarding House.”

**LOT:** Any parcel, tract or area of land abutting upon a street. The lot may be a single parcel separately described in a deed or plat which is recorded in the Office of the County Recorder, or it may include parts of, or a combination of, a group of parcels that are adjacent to each other that are to be used as one. In determining lot area and boundary lines, no part thereof shall be included that is within the limits of a street.

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

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

**LOT, GROUND LEVEL:** For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the walls adjoining the street. For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.

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

**LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the Office of the County Recorder of Morgan County, Indiana, or a parcel of land, the deed of which has been recorded in the Office of the County Recorder of Morgan County, Indiana, prior to passage of this ordinance.

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

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

**LOT LINE, FRONT:** Any property line separating the lot from the street.

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

**LOT LINE, SIDE:** Any lot boundary line not a front lot line or a rear lot line, but in no instance shall the side line be closer than the side lines for that district.

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

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

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

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

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

**NIGHTCLUB** – A club, both private and public, that is 2,500 sq. feet or greater, provides entertainment and may or may not serve food, drinks or beverages.

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

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

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

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

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

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

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

**EITHER**

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

**OR**

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

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

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

**SIGN:** Any outdoor structure designed for the purpose of advertising or making known any service or commodity that is available upon the property on which the structure is.

**FREE-STANDING SIGN:** Any outdoor structure designed for the purpose of advertising or making known any service or commodity that is available that stands apart from any building or structure and has attached to it its own support structure for keeping the sign in place.

**SPECIAL EXCEPTION:** The authorization of a use, designated as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the Board.

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

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

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

**STREET PUBLIC:** A right-of-way dedicated for the public use for vehicular and pedestrian traffic to be owned and maintained by the governmental body having jurisdiction. Other ancillary uses such as drainage and/or utility facilities may also be included within public right-of-way.

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

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

**SUBDIVISION:** A division of any parcel of land into two or more parcels, sites, or lots, any one of which is less than 20 acres in area for the purpose of transfer of ownership or building development; or

The improvement of one or more parcels of land not under one ownership for residential, commercial or industrial structures or groups of structures involving the subdivision and allocation of land as streets or other open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public utilities and facilities. Exemption from platting requirements: For the purposes of these regulations, the following are exempt as implying subdivision, and thereby exempt from the platting requirements of this ordinance:

1. An allocation of land in the settlement of an estate of a descendant or a court decree for the distribution of property.
2. The unwilling sale of land as a result of legal condemnations as defined and allowed in the Indiana State Law.
3. Widening of existing streets to conform to the Comprehensive Plan.
4. The acquisition of street rights-of-way by a public agency in conformance with the Comprehensive Plan.
5. The exchange of land for the purpose of straightening property boundary lines which does not result in the change of the present land usage.
6. A division of land for the sale or exchange of tracks between adjoining land owners, provided that no additional building sites other than for accessory buildings are created by the division.

**THOROUGHFARE:** Shall have the same definition as “Street.”

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

**TOWN:** The incorporated Town of Mooresville, Indiana.

**TOWN COUNCIL:** Referred to herein as simply the Town Council or “Council” so as to not be confused with the Plan Commission, referred to herein as simply as the “Commission” or the Advisory Board of Zoning Appeals, referred to herein as simply the “Board” with Town Council referring to the Town Council of the Civil Town of Mooresville.

**TOWN ENGINEER:** A licensed engineer designated by the town to furnish engineering consultation in the administration of these regulations.

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

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

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

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

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

**VARIANCE, USE:** The approval of a “use” other than that prescribed by the Town of Mooresville Zoning Ordinance, as specifically approved by the Advisory Board of Zoning Appeals.

**VISION CLEARANCE ON CORNER LOT:** A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of 3 and 12 feet above established street grade, determined by a diagonal line, connecting two points measured 15 feet equidistant from the right-of-way corner along each right-of-way line.

**WAIVER:** A specific approval granted by the Advisory Plan Commission in the manner prescribed by the Town of Mooresville Subdivision Control Ordinance otherwise prescribes.

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

**YARD, FRONT:** A yard extending across the full width of the lot, unoccupied other than steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the street right-of-way line and the building line.

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

**YARD, SIDE:** A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest point of any building.

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



## CHAPTER 2 – DISTRICTS

### SECTION 2.0 – ESTABLISHMENT OF DISTRICTS

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

<u>District Designation</u>	<u>Primary Use</u>
FP	Floor Plain
AG	Agricultural/Residential
OS	Open Space
R1	Residential Single Family
R2	Medium Density Residential
R3	High Density Residential
B1	Professional Business
B2	Local Business
B3	General Business
I1	Light Industrial
I2	Medium Industrial
I3	Heavy Industrial
I4	Special Industrial

### SECTION 2.1 – DESCRIPTION OF ZONING DISTRICTS

#### **I. FP-FLOOD PLAIN**

This district is designed to be located in all areas which are defined as being within the flood plain and identified in the Town Ordinance No. 18-1979, and all amendments thereto, as flood plain. In general, it should consist of those areas adjoining streams or other natural drainage channels or areas which are low lying, difficult to drain, and subject to flood. Any ground listed as a flood plain area in the federal flood plain maps, as defined in Ordinance 18-1979, and all amendments thereto, which is filled to a level above the one hundred year flood elevation and shall no longer be considered in the flood plain district, and owner of the property shall have the option of requesting the Plan Commission to rezone said property with proper notice and at a public hearing, by filing for a petition for rezoning.

- A. Representative Principal Uses: Agriculture, including customary agricultural Buildings and structures, but not including permanent dwellings, nurseries, structures and greenhouses.
- B. Special Exception Uses: Baseball or football fields, parks, riding stables, fishing lakes, boat docks, other recreational uses that do not require permanent structures. Gravel pits, mines, and stone quarries, provided that all other ordinances (state and local) and standards are met.

## **II. AG-AGRICULTURAL DISTRICT**

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

- A. Representative Uses: Agriculture and agricultural buildings, provided that livestock shall not be held in a confined operation within 1,320 feet of any lot in an area zoned R-1, Residential, R-2 Residential or R-3, Residential as defined in this ordinance. Public parks, playgrounds, orchards, nurseries and greenhouse operations shall also be allowed in this district.
- B. Special Exceptions: The following uses shall be allowed by special exception: Campgrounds, residential country clubs, gravel and mining operations (so long as all other ordinances, state and local) and standards are met, churches, schools, cemeteries, airports, swimming clubs, stables, and similar recreational uses.
- C. Restrictions: i.e., livestock and confinement operations as defined in this Ordinance.

## **III. O.S. - OPEN SPACE**

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

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

## **IV. R-1 - RESIDENTIAL SINGLE FAMILY**

This is a single family dwelling district which shall include areas which should be residential in character. The classifications within the R-1 zoning district shall vary in minimum lot size and ground floor area of structure based upon density and compatibility with the area and the master plan for the Town of Mooresville.

Residential Single Family classifications shall be defined as follows:

- R-1 (a) to be defined as low density residential.
- R-1 (b) to be defined as medium low density residential.
- R-1 (c) to be defined as medium high density residential.

- A. Representative Uses: Single family residential, consisting of one-family, detached dwellings. Other uses would include public parks, playgrounds, and related noncommercial recreational areas, churches.
- B. Special Exceptions: None.
- C. Restrictions: See Section 3 Tables 1 and 3a, also Parking Table 4a.

## **V. R-2 - RESIDENTIAL**

This district is designated to recognize two family residential units in those areas which should be residential in character. This area shall be more densely developed than the R-1 districts but not as densely developed as the R-3 districts.

R-2 shall be defined as an area for two family dwelling units.

- A. Representative uses: Two family dwelling units, parks, churches, playgrounds.
- B. Special Exceptions: R-1 uses are permitted which meet the minimum development standards as shown in Table 3a.
- C. Restrictions: Height regulations, lot area, frontages, setbacks. See Section 3 and Table's 1 and 3a, also Parking Table 4a.

**VI. R-3 – RESIDENTIAL**

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

- A. Representative Uses: Multi-family residential uses consisting of units of three dwellings per unit or greater, churches, parks and playgrounds, and other similar recreational uses, schools, kindergartens or day nurseries, nursery schools.
- B. Special Exceptions: See use listings.
- C. Restrictions: See Section 3 and Table 1 and Table 3a, also Parking Table 4a.

**B-1, B-2, B-3**

**INTRODUCTION TO COMMERCIAL DISTRICTS**

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

**VII. B-1 – PROFESSIONAL BUSINESS DISTRICT**

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

- A. Representative Uses: Attorneys' offices, dentists' offices, counseling offices, insurance offices, optometrists, psychiatrists, churches.
- B. Special Exceptions: See use listings.
- C. Restrictions: (1) Hours of operation open to clients and public from 8:00 a.m. to 8:00 p.m. (2) size of signs: No greater than two feet by three feet. No lighted signs and no freestanding signs.
- D. Height regulations, lot area, frontage, setbacks, yard requirements and parking (set parking out per given use as shown in this ordinance). (See Section 3 and Table 3b, also Table 4a, Parking.)

**VIII. B-2 – LOCAL BUSINESS**

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

- A. Representative Uses: Retail business establishments such as appliance stores, auto accessory stores, bakeries, small grocery store and convenience market, book or stationery store, café or restaurant, camera or photographic supply,
- B. Laundromats, laundry, candy or ice cream store, delicatessen, offices, drugstore, fabric shop, floor covering store, florist shop, gift shop, haberdashery or women's ready-to-wear shop, hardware or paint store, hobby shop, jewelry store, meat market, shoe store, variety store, bank branch, funeral home, barber shop, beauty shop, churches and schools.
- C. Special Exception: See use listings.
- D. Restrictions: Total square footage no greater than five thousand square feet. Outside storage must be screened from public view. Merchant can display retail items not manufactured on site, not including inventory, on the outside. Sign restrictions: Limit of two signs, no greater than fifty square feet each. No blinking signs. No freestanding signs. See Section 3 and Table 3b, also Table 4a, Parking.

### **IX. B-3 – GENERAL BUSINESS DISTRICT**

This district is designed to include areas suitable for most other types of business and higher volume retail sales uses not included in the B-1 or B-2 business districts.

- A. Representative Uses: Wholesale businesses, motels, hotels, drive-in eating establishments, shopping centers, taverns, restaurants, gasoline stations, golf driving range, skating rink, bowling alley, and similar enterprises, carpenter shop, electrical or heating shop, dry cleaning shop, sign painting shop, mini warehouses.
- B. Special Exceptions: The following uses shall be by special exception only: The automobile repair, tire stores, truck repair, trailer repair, trailer sales, farm implements sales, automobile sales, body shops and nightclubs. Also, see use listings.
- C. Restrictions: No blinking or moving signs or signs which change colors, one freestanding sign allowed per acre of ground or less which shall stand no higher than thirty-five feet. The gross area in square feet of all signs on a business shall have no more than three signs plus the freestanding sign. Outside display allowed for retail sales items not manufactured on site and not inventoried outside. Outside storage allowed but must be screened from public view.
- D. Height regulations, yard requirements, lot area, frontages and setbacks, parking by square footage. (See Section 3 and Table 3, 3b and see also Parking Table 4b.)

### **X. I1 – LIGHT INDUSTRIAL**

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

- A. This shall consist of uses such as block plants, lumber companies. The above types of uses shall be allowed unless the business utilizes techniques that are more consistent with the definitions set out in I-2, Medium Industrial District, or any other industrial district.
- B. Special Exceptions: None.
- C. Restrictions: All outside storage must be screened. The business hours of any light industrial use shall be no greater than 6:00 a.m. through 12:00 a.m. The business should not use hazardous materials; create any type of noise, air or water pollution, based upon state standards, conducted within fifty feet of a residential property line. The sign requirements for I-1 shall be the same as set out for B-3.

- D. Building Height regulations, lot area, frontage, setbacks, and yard requirements. (See Section 3 and Table 3, 3c, and Parking Table 4b.)

### **XI. I-2 – MEDIUM INDUSTRIAL**

This district is designed and located in areas which generate a high volume of traffic, need operating hours in excess of 6:00 am. through 12:00 a.m., and which, because of their nature, require additional buffering from residential uses.

- A. All uses that would fit within the above definition.
- B. Special Exceptions: None.
- C. Restrictions: All outside storage must be fenced. Any business that stores, creates, or uses any types of hazardous materials requiring evacuation in the event of an accident (as set by State Hazards Waste Standards of the Indiana Department of Environmental Management.)
- D. Building height regulations, lot area, frontage, setbacks and yard requirements. (See Section 3 and Table 3, 3c, and Parking Table 4b.)

### **XII. I3 – HEAVY INDUSTRIAL**

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

- A. Proposed Uses: All uses which fit within the above definition.
- B. Special Exceptions: None.
- C. Restrictions: Minimum lot size of ten (10) acres. All the uses under I-3 shall have a minimum fence of five (5) feet, (monitored gates not required) surrounding the actual use. All outside storage shall be fenced and secured separately, and any business that stores, creates, or uses any types of hazardous materials requiring evacuation in the event of an accident (as set by State Hazards Waste Standards.) shall be fenced and secured. (See also Table 3, 3c and Parking Table 4b.)

### **XIII. I-4 – SPECIAL INDUSTRIAL**

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

- A. Representative Uses: All uses which would fall under the above definition. For an example, laboratories that use gene-splicing techniques, industries using or manufacturing nuclear materials, excepting limited uses by medical facilities.
- B. Special Exceptions: None.
- C. Restrictions: No use to be conducted within one thousand (1,000) feet from any area zoned Flood Plain, Agricultural, Residential, or Business Use. The use areas must be secured by fence no less than five (5) feet in height and surrounding the entire use area with monitored gates at all access points. All outside storage shall be fenced. All state

standards shall be met regarding air, water, noise and other waste pollution. (See Table 3, 3c, and Parking Table 4b.)

- D. Building height regulations, lot area, frontage, setbacks, and yard requirements. Also see Section 3 and Table 2c.

## SECTION 2.2 – ZONING MAPS

The zoning maps, which accompany and are hereby declared to be a part of these regulations, show the boundaries of and the area covered by the districts. Notations, reference, indications and other matters shown on the zoning maps are as much a part hereof as if they were fully described herein; said zoning map shall be on display in the Mooresville Town Hall for viewing by the general public.

- A. Boundaries of the district established by this section are as shown on the zoning maps, which are a part of this ordinance.
- B. When the exact boundaries of a district are uncertain, they shall be determined by use of the scale of the zoning map.
- C. When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated.
- D. In the case of further uncertainty, the Board shall interpret the intent of the zoning maps as to the location of the boundary in question.
- E. In the event of annexation of lands to the town, the zoning classification existing at the time of annexation shall remain until changed by amendment procedures.

## CHAPTER 3 – AUTHORIZED USES AND REQUIREMENTS

Subject to definitions of Chapter II Outline Zoning District

TABLE 1 – AUTHORIZED USES

SECTION 3.0

PRIMARY USE

FP-AG-OS-R1-R2-R3-B1-B2-B3-I1-I2-I3-I4

I. RESIDENTIAL USES

Boarding or lodging						X													
Customary home occupation				X	X														
Day care center and home day nursery						S		X											
Single family dwelling		X		X	X														
Two family dwelling					X														
Multi-family dwelling						X		S											
Nursing home						S		X											
Orphanage						X													
Mobile home park						X													

II. RETAIL TRADE – GENERAL

Department store								X	X										
Electrical supply store								X	X										
General Merchandise								X	X										
Hardware store								X	X										
Lumber and building materials dealer								S	X	X									
Paint, glass and wallpaper store								X	X										
Plumbing, heating & air-conditioning dealer								X	X										
Variety stores								X	X										
Farm implements and equipment									X	X									

III. RETAIL TRADE – FOOD STORES UNDER 5000 SQUARE FEET

Bakeries								X	X										
Candy, nut and confectionery								X	X										
Dairy products								X	X										
Delicatessen								X	X										
Fruits and vegetables								X	X										
Grocery								X	X										
Health foods								X	X										
Ice cream								X	X										
Meat and fish								X	X										

IV. RETAIL TRADE – FOOD STORES OVER 5000 SQUARE FEET

Bakeries									X				
Dairy products									X				
Delicatessen									X				
Fruits and vegetables									X				
Grocery									X				
Health foods									X				
Ice cream									X				
Meat and fish									X				

V. RETAIL TRADE – APPAREL

Apparel shop									X	X			
Children's wear									X	X			
Custom tailoring									X	X			
Family clothing									X	X			
Furriers									X	X			
Men's clothing									X	X			
Shoes									X	X			
Women's clothing									X	X			

VI. RETAIL TRADE – FURNITURE

China, glassware and metal ware									X	X			
Drapery, curtains and upholstery									X	X			
Floor coverings									X	X			
Furniture									X	X			
Household appliances									X	X			
Music and records									X	X			
Radio and television shop									X	X			

VII. RETAIL TRADE – EATING PLACES

Cafeteria									X	X			
Carry out restaurant									X	X			
Dinner theater										X			
Drive-in restaurant										X			
Lunch room									X	X			
Night club										X			
Restaurant									X	X			
Tavern										X			



VIII. AUTOMOTIVE SERVICES

Automatic car wash									S	X			
Automotive parts supply									X	X			
Automobile repair									S	X			
Automobile sales									S	X	X		
Automobile service station									X	X			
Body & Painting shop									S	X	X		
Mobile home, travel trailer & camper sales									S	X	X		
Motor cycle & motor bike sales									S	X	X		
Parking garage									X	X			
Parking lot									X	X			
Passenger car rental									S	X			
Storage & dismantling of disabled vehicles												X	
Tire, battery and accessory dealers									S	X	X		
Truck rental and leasing									S	X	X		
Truck repair									S	X	X		
Truck sales									S	X	X		
Truck service center									S	X	X		

IX. STORE

Antique store									S	X	X		
Bait store										X	X		
Bicycle shops										X	X		
Boat sales										X	X		
Book & stationary store										X	X		
Camera & photographic supply										X	X		
Drug store										X	X		
Farm & garden supply										S	X		
Florist									S	X	X		
Gift, novelty and souvenir shop										X	X		
Hobby, toy and game store										X	X		
Jewelry store										X	X		
Liquor store										S	X		
Monument sales										X	X		
News dealer										X	X		
Pet shop										X	X		
Pharmacy										X	X		
Sporting goods										X	X		
Studio business										X	X		
Tobacco store										X	X		
Trading stamp store										X	X		

PRIMARY USE

FP-AG-OS-R1-R2-R3-B1-B2-B3-I1-I2-I3-I4

X. FINANCE AND INSURANCE

Agricultural credit institution								X	X					
Banks and branch banks								X	X					
Bond and mortgage companies								X	X					
Installment sales and finance companies								X	X					
Insurance agents, brokers & service							S	X	X					
Personal finance companies								X	X					
Savings & loan associations								X	X					
Stock brokers & dealers							S	X	X					

XI MISCELLANEOUS REPAIR

Electrical repair shop								X	X					
Re-upholstery and furniture								X	X					
Watch, clock and jewelry repair								X	X					

XII. MISCELLANEOUS SERVICE

Advertising agencies								X	X					
Blueprinting and photocopying								X	X					
Commercial testing laboratories										S	S	S	X	
Detective agency & protective service							S	X	X					
Kennel		X						X	X					
Private employment agencies								X	X					
Stenographic service							S	X	X					
Temporary help service							S	X	X					
Sign manufacturing and installation								X	X					
Veterinary clinic		S						X	X					
Dog grooming		S						X	X					
								X	X					

XIII. PERSONAL SERVICES

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

PRIMARY USE

FP-AG-OS-R1-R2-R3-B1-B2-B3-I1-I2-I3-I4

XIV. MEDICAL SERVICES

Blood banks								X	X					
Clinics								X	X					
Convalescent homes								X	X					
Hospitals									X					
Medical and dental laboratories								X	X					
Medical and dental office								S	X	X				
Optometrist								S	X	X				

XV. LEGAL SERVICES

Attorney								X	X	X				
Legal clinic									X	X				

XVI. AMUSEMENT AND RECREATION SERVICES

Amusement arcade									X	X				
Billiard & pool establishment									X	X				
Bowling lanes										X				
Dance hall, studio & school									X	X				
Fairgrounds		X												
Golf & country club	S	X	X											
Lodge or private club		S							X	X				
Motion picture theater									S	X				
Museum and art gallery									S	X				
Outdoor commercial recreational enterprise		X	S											
Outdoor theater		S								X				
Public camp ground or travel trailer park		S	S											
Public golf course	S	S	X											
Race track											X			
Riding stable	S	X												
Seasonal hunting and fishing lodge		S	X											
Shooting range	S	X												
Skating rink		S	X											
Stadium, coliseum or athletic field	S	S	S								X			
Tennis club		S	S							X	X			

XVII. EDUCATIONAL SERVICES

Art and music schools		S							X	X				
Colleges and universities		S							X	X				
Elementary and secondary schools		S							X	X				
Junior colleges and technical schools		S							S	X				
Library and information center									X	X				
Trade or business school									X	X				

PRIMARY USE

FP-AG-OS-R1-R2R3-B1-B2-B3 -I1 -I2- I3 -I4

XVIII. GOVERNMENT

Municipal or governmental building								X	X	X	X			
Penal or correctional institution										X				
Police or fire station		X					X	X	X	X				
Postal station									X					
Public owned park or recreational facility	X	X	X											

XIX. TRANSPORTAION, COMMUNICATION AND UTILITIES

Airport or heliport			S							X	X	X	X	X
Microwave tower	S	S							S	S	S	S	S	S
Public water well, water station filtration plant, reservoir and storage tanks	S	X							X					
Radio or television station or studio									S	X				
Radio or television tower	S	X								S	S	S	S	S
Mass transit station									S	S	X			
Telegraph office									X	X				
Telephone exchange or public utility station									X	X				
Transmission lines for utilities	S	S		S	S	S	S	S	S	S	S	S	S	S

XX. NON-PROFIT MEMBERSHIP ORGANIZATION

Business association							S	X	X					
Charitable institution		S						X	X					
Church or temple		S	X	X	X	X	X	S						
Civic, social & fraternal organization							S	X	X					
Labor union							S	X	X					
Political organization							S	X	X					
Religious organization		S					S	S						

XXI. MISCELLANEOUS PERSONAL SERVICES

Accounting, auditing & bookkeeping							S	X	X					
Engineering & architectural services							S	X	X					
Real estate service							X	X	X					

XXII. USE NOT ELSWHERE LISTED

Cemetery		X	S											
Crematory		S												
Home professional office						S	X	X						
Hotel or motel										X				
Planned shopping center										X				
Tourist home		S		S	S	S		S	X					
Veterinary hospital		X						X	X					
Newspaper publishing								X	X					



**SECTION 3.1 – RESIDENTIAL USES AND REQUIREMENTS**

Residential and related uses are permitted in the districts indicated in Table 1, Section 3.0, when complying with the requirements of Table 3a, and the provisions and exceptions of Section 3.3; or when in an approved planned development under chapter 6.

**SECTION 3.2 – COMMERCIAL AND INDUSTRIAL REQUIREMENTS**

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

**SECTION 3.3 – PROPERTY DEVELOPMENT STANDARDS**

**I. USE**

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

**II. ACCESSORY USES**

- A. Accessory uses, such as the following, are permitted in all districts and, with the exception of buildings, may be installed in any required yard.

- Bird baths and bird houses
- Buildings (such as private garages, sheds, etc.)
- Curbs
- Fences and hedges
- Lamp posts
- Mail boxes
- Name plates
- Parking spaces
- Retaining walls
- Trees, shrubs, etc.
- Utility installations for local service
- Walks

- B. Accessory buildings shall not be erected prior to the principal building except buildings used for farming purposes or where there is common ownership with adjoining lot which has a principle building already constructed on the one lot.
- C. All accessory buildings located on a lot or parcel of land shall conform to the setback requirements for that district listed in Section 3.1, tables 2a, 2b and 2c and Section 3.2 Table 3, depending upon the primary use of the lot or parcel of land concerning which Section shall be applicable.
- D. No accessory building shall be located in front of the primary structure in a residential district.
- E. No permits are required for structures 200 square feet or less not placed on a permanent foundation.
- F. There shall be no permit requirement for above ground pools.

### **III. LOTS**

Every primary building hereafter erected shall be located on an individual lot which fronts on a street or access road.

### **IV. MINIMUM LOT AREA AND WIDTH AT BUILDING LINE**

Except as hereafter provided, no building or structure shall be erected or located on a lot unless such lot conforms to the lot area regulations of the district in which it is located except that lots of record or individually held prior to the passage of this ordinance may be smaller in area than the figure prescribed.

A minimum lot width of 65 feet is required at the building line in all districts.

### **V. GROUND FLOOR AREA**

The ground floor area requirements for dwellings, as set forth in the districts shall apply. Dwellings shall not be changed except in conformity with these regulations.

### **VI. BUILDING HEIGHT**

All buildings hereafter designed or erected and existing buildings which may be Reconstructed, altered, moved or enlarged shall comply with the height regulations and exceptions of the district in which it is located.

### **VII. YARDS**

- A. In measuring a front yard or side yard adjoining a street, it shall be the perpendicular distance between the right-of-way line of said street and a line through the corner or face of the building closest to and drawn parallel with the right-of-way line excluding any architectural features.
- B. Architectural features (cornices, chimneys, eaves, sills, canopies or other similar features) may extend into the required side yard not more than two feet, provided that the width of said yard is not reduced to less than five feet and may project into a required front or rear yard not more than three feet.
- C. An open platform, porch or landing which does not extend above the level of first floor of the building may extend or project into any required yard not more than four feet.
- D. Where 50% or more of the lots in a one block area are occupied by buildings, the average setbacks of such buildings (including front, side and rear setbacks) determines the dimensions of the set-backs in the lot, provided that if there are no other buildings within 330 feet of the proposed building in either direction, then the standard set-back lines for the district shall apply.

Where 50% or more of the lots in a one block area are occupied by accessory buildings, the average setbacks of such buildings determines the dimensions of the setbacks for the accessory buildings in that block, provided that if there are not other buildings within one block or 330 feet of the proposed building in either direction, then the standard setback lines for the district shall apply.

- E. Front yard or building setback lines established in subdivisions recorded prior to the adoption of this ordinance establish the front yards in such subdivision, provided that after the adoption of this ordinance, no subdivision shall be platted with building setback lines less than the required front yard of the district in which it is located.
- F. Any building which is reconstructed upon the same site of a prior structure within twelve months from the removal of the prior structure shall not require a variance as to the development standards of this ordinance regarding setback.
- G. Any new structure which meets the setback standards of fifty (50%) percent of the existing structures in the adjoining area, that being one block each side or 330 feet each side of said structure, shall not require a variance of the setback development standards of this ordinance, excluding the subdivision control ordinance, as to the setback requirements.

### **VIII. CUL DE SAC SETBACKS**

Cul de sac setbacks shall be measured at the arc of the building line so long as the lot width at this distance is a minimum of 65 feet.

### **IX. LOT COVERAGE**

All buildings hereafter erected and existing buildings which may be reconstructed altered, moved or enlarged shall not exceed the maximum lot coverage regulations of the district in which they are located.

### **X. RESTRICTIONS ALONG STREAMS**

- A. No permanent structures may be erected and, if erected in violation of this section, no such structures may be used if the location is within 75 feet of the center line of any legal tile ditch, or within 75 feet of the existing top edge of any legal open ditch as determined by the Morgan County Drainage Board.
- B. No authorization of use, under this ordinance, includes the authority to discharge liquid or solid waste into public waters except as permitted under the Stream Pollution Control Law of the State of Indiana. Plans and specifications for proposed public or district sewage or other waste treatment and disposal facilities must be approved by the Stream Pollution Control Board of the State of Indiana, except when connecting to city sewers.



**TABLE 3**  
**COMMERCIAL AND INDUSTRIAL USES AND REQUIREMENTS**  
**DISTRICT IN WHICH USE IS PERMITTED**

	<b><u>B2</u></b>	<b><u>B3</u></b>	<b><u>I1</u></b>	<b><u>I2</u></b>	<b><u>I3</u></b>	<b><u>I4</u></b>
Minimum lot width	50'	50'	50'	50'	50'	50'
Maximum height of buildings (see definitions)*	40'	40'	75'	75'	75'	75'
Minimum front yard abutting						
Arterial street	40'	40'	40'	40'	40'	40'
Feeder street	40'	40'	40'	40'	40'	40'
Residential street	40'	40'	40'	40'	40'	40'
Minimum side and rear yard						
Adjoining residential district	20'	20'	40'	40'	40'	40'
Not adjoining residential district	10'	10'	10'	10'	10'	10'
Maximum lot coverage in percentage	50'	90'	90'	90'	90'	90'

\* The setback requirements shall be not less than one foot of setback for every foot of building height over 40 feet not to exceed 75 feet. These specifications are subject to all other standards required in other sections of this ordinance which may be greater.

**TABLE 3a**  
**RESIDENTIAL USES AND REQUIREMENTS**  
**DISTRICT IN WHICH USE IS PERMITTED**

	<b><u>AG</u></b>	<b><u>R1(a)</u></b>	<b><u>R1(b)</u></b>	<b><u>R1(c)</u></b>	<b><u>R2</u></b>	<b><u>R3</u></b>
Minimum lot with sanitary sewer sq. ft.	24,000	16,000	14,000	12,000	10,000	10,000
	Minimum 3,000 per unit					
Minimum lot with out sanitary sewer sq. ft	2 ACRES	2 ACRES	2 ACRES	2 ACRES	2 ACRES	2 ACRES
	Minimum 5,000 per unit					

**AMENDMENT TO ZONING ORDINANCE**

**TABLE 3A**  
**RESIDENTIAL USES AND REQUIREMENTS**

Minimum lot size per residential use – 2 acres in Districts A (agricultural), R-1A, R-1B, R-1C, R-2 and R-3. In addition, each lot must have an approved site for two (2) complete septic systems. Each system must have the approval of the County Board of Health with the alternate site being required for a new system in the event of failure of the first system. Each lot shall have a soil analysis and site approval by the County Board of Health. Each system shall be designed and approved by the Morgan County Board of Health for a minimum of a three (3) bedroom home on each of the sites. Each of the septic sites shall be preserved by way of a recorded easement as a septic site that cannot have any land disturbed and shall remain and be preserved as stated in the recorded easement along with all perimeter drain outlets which must be shown and included in the easement area.

TABLE 3B  
COMMERCIAL DISTRICTS

DISTRICT IN WHICH USE IS PERMITTED

	<b><u>B-1</u></b>	<b><u>B-2</u></b>	<b><u>B-3</u></b>		
Minimum lot area with Sanitary sewers	21,780	12,500	10,000		
Minimum lot without Sanitary sewer	1 ACRE	1 ACRE	1 ACRE		
Minimum lot width	<u>2.5</u>	2.0	2.0		
(maximum depth)	1	1	1		
Maximum height of buildings (see definitions)	40'	40'	40'		
Minimum ground floor area					
One story	1,200	1,200	1,200		
Two story	800	800	800		
Minimum front yard abutting					
Arterial street	40'	40'	40'		
Feeder street	40'	40'	40'		
Residential street	40'	40'	40'		
Minimum side yard					
Individual	12'	10'	6'		
Combined	30'	25'	16'		
Minimum rear yard	40'	20'	12'		
Maximum lot coverage as percentage of total of all buildings					
With sanitary sewer	25	35	40		
Without sanitary sewer	15	25	25		
Requirement of minimum of 65 foot width at the building line.					
	AG	R1(a)	R1(b)	R1(c)	R2
Minimum lot width(maximum depth)	2.5	2.5	2.5	2.5	2.5
(minimum depth)	1	1	1	1	1
Maximum height of buildings (see definition)	40'	40'	40'	40'	40'
Minimum ground floor area					
One story	1100	2000	1400	1200	540
Two story minimum ground floor	825	1200	1050	900	450

ACCESSORY USE REQUIREMENTS RESIDENTIAL

(A) SETBACKS	SQ. FT.	FRONT	REAR	SIDE
Residential 1 (a) – (c)				
Primary		40'	30'	6'
Accessory	<600 sq. ft.	40'	5'	5'
All others	>600 sq. ft.	40'	20'	10'

(B) R-2

Primary		40'	30'	10'
Accessory	<600 sq. ft.	40'	5'	5'
All others	>600 sq. ft.	40'	20'	10'

(C) R-3

Primary		30'	20'	10'
Accessory	<600 sq. ft.		5'	5'
All others	>600 sq. ft.		20'	10'

Agricultural

Primary		40'	40'	12'
Accessory	<600 sq. ft.	40'	5'	5'
All others	>600 sq. ft.	40'	20'	10'

TABLE 3C

INDUSTRIAL USES

DISTRICT WHICH USE IS PERMITTED	I-1	I-2	I-3
Minimum lot area per building unit with sewers (in square feet)	3500	3000	3000

Upon the findings of the Plan Commission, width to depth ratio may be exceeded for reasons of topography, such as retention ponds; ravines or other natural features. However, the rear line shall start at the edge of drainage easements.

**XI. OFF STREET PARKING**

- A. To reduce traffic problems and hazards by eliminating unnecessary on-street parking, every use of land must include on-premises parking sufficient for the needs normally generated by the use, as provided by this section. Parking spaces or bays contiguous to the street, required by the subdivision or other ordinances, are in addition to the not in place of the spaces herein required.
- B. As used in this section, the term “parking space” means an area, not including any part of a street or alley, designed or used for the temporary parking of motor vehicles. The term “parking area” means a group of parking spaces, or an open area, not including any part of a street or alley, designed or used for the temporary parking of motor vehicles.
- C. Parking spaces shall be as provided in Table 4.

- D. Each of the parking spaces required by this section must be at least 9 feet wide and 20 feet long, exclusive of pedestrian passageways.
- E. The parking spaces prescribed by this section for a business or an industrial use must be located on the premises.
- F. Open parking areas for business uses must be paved with a hard or dust proof surface.
- G. A group of business or industrial uses may provide a joint parking area if the number of spaces in the area at least equals the aggregate of the spaces required for the several uses.
- H. All areas shall be surfaced, striped, and channelized as required by the Commission and shall be maintained in good condition. Parking stalls shall be marked and the access lanes shall be clearly defined, including directional arrows to guide internal movements. All parking lots and loading areas shall be suitably graded, surfaced, and drained in accordance with the standards approved by the Commission. Wheel stops, marked off spaces, and directional signs, where necessary, shall be required. Adequate fire lanes and emergency access shall be provided.
- I. Where such parking area abuts another property, there shall be a concrete curb or barrier, not less than 6 inches in height, securely installed and maintained as a safeguard to abutting properties or public rights-of-ways. The barrier shall be not less than 3 feet from any property line on the subject property.
- J. Where such parking area abuts a residential district, there shall be a border of appropriate landscaping, including fencing, not less than 5 feet along the residential boundary. Such landscaping shall be maintained in good condition. Landscaping shall be designed to prevent nuisance from lights or noise to abutting properties and shall be approved by the Commission.
- K. Lighting, where provided to illuminate such parking areas, shall be hooded and so arranged so as not to cause a nuisance to traffic on adjacent thoroughfares or properties.
- L. In no case shall parking spaces be so arranged that ingress and egress from a parking space requires backing into a public or private pedestrian access way, or from a public alley.
- M. In no case shall any property owner cause a condition to exist due to the use of his property that will create a traffic condition to occur that will be dangerous to the public safety within the public rights-of-way or interfere with the use and enjoyment of surrounding properties.
- N. In a platted subdivision recorded in the office of the Morgan County Recorder, or in a multi-family apartment development, no parking of commercial vehicles of over one and one-half tons capacity shall be allowed.

**TABLE 4A****Residential Parking Requirements Per Dwelling Unit****NOTES:**

A. R-1 and R-2 uses – two parking places for the first bedroom and one additional parking place for each additional bedroom.

R-3 – two parking places for the first bedroom and one additional parking space for each additional two bedrooms.

**TABLE 4B**

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

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



**XII. LOADING**

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

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

B. For the following uses, any loading berths that are provided must be at least 200 feet from the nearest residential use:

- Airport
- Mineral extraction or borrow pit
- Outdoor commercial recreational enterprise
- Penal institution
- Livestock sale barn
- Truck freight terminal
- Warehouse or grain elevator

**XIII. SIDEWALKS**

When parking areas are constructed, sidewalks shall be installed adjoining said lots in all business and industrial use areas with said walks to meet the standards set out in the Subdivision Control Ordinance of the Civil Town of Mooresville. The sidewalks shall be installed on all adjoining streets to the parking lot unless the parking area is fenced and completely off of the town right-of-way.

## SECTION 3.4 – REQUIREMENTS FOR INDUSTRIAL USES

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

### **I. ODOR**

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

### **II. TOXIC MATERIALS**

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

### **III. GLARE AND HEAT**

No industrial use may cause heat at the property line so intense as to be a public nuisance or hazard. No glare shall be seen from any street or residential area.

### **IV. VIBRATION**

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

### **V. NOISE AND SOUND**

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

### **VI. EXCEPTIONS**

Sections 3.4A to 3.4E inclusive do not apply to:

- A. Site preparation or construction, maintenance, repair, alteration, or improvement of buildings, structures, equipment, or other improvements on or within the lot lines; and
- B. The operation of motor vehicles or other facilities for the transportation of personnel, materials or products; and
- C. Safety or emergency warning signals or alarms necessary for the protection of life, limb or property.



## **VII. SPECIAL RESTRICTIONS**

- A. Any industrial operation or activity must, in addition to the above conform to the Indiana Air Pollution Control Law and any applicable acts of the federal government. Where the requirements of this ordinance are more restrictive, they shall take precedence.
- B. A letter of approval from the Indiana Administration Building Council stating that construction plans for a proposed building or structure to be used for industrial use meets all required construction codes and safety codes of the State of Indiana shall be submitted with the application for an improvement Location Permit.

## **VIII. VIOLATION**

Violation of this section shall result in any of the penalties set out under Chapter 11 “Remedies and Penalties of the Ordinance”. All other legal remedies provided by law shall also be available to the Plan Commission and the Town of Mooresville.

### **SECTION 3.5 – MANUFACTURED HOMES**

#### **I. DEFINITIONS**

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

- A. “Manufactured Home” means a dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction Safety Standards Law of 1974 (42 USC 5401 et seq.).
- B. “Underlying Floor Space” means that space between the bottom of the floor joist and the earth.
- C. “Occupied Space” means the total area of earth horizontally covered by the structure, excluding accessory structure such as, but not limited to, garages, patios and porches.
- D. “Mobile Home” means a transportable structure larger than three hundred twenty (320) square feet, designed to be used as a year-round residential dwelling.

#### **II. INDIANA CODE PROVISIONS**

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

- A. The homes shall meet all requirements applicable to single family dwellings and possess all necessary improvement location building and occupancy permits and other requirements of this ordinance that apply to single family dwelling structures.
- B. The homes shall contain more than eleven hundred (1100) sq. ft. of occupied space and be manufactured after January 1, 1981. The manufactured home will be attached to the ground with a tie down system as shown in the “Manufactured
- C. Home Foundation Plan: or in the alternative, one meeting the minimum standards shown in the attached Exhibit “A” which is an exhibit applicable to this section.

- D. The manufactured home will be placed on a permanent foundation, including concrete footings at least thirty (30) inches in depth below grade. Piers must be of permanent concrete construction.
- E. The manufactured home will be permanently skirted with masonry material or commercial skirting designed for that purpose.
- F. Wheels, axles and tongues shall be removed.
- G. Sanitary facilities approved by the appropriate agency or local government or County shall be installed prior to the granting of an occupancy permit.
- H. The home shall have a roof composed of a material customarily used on site-built residential dwellings, such as asbestos, fiberglass, shake, asphalt, or tile, which shall be installed upon a surface appropriately pitched for the materials used.
- I. The manufactured home shall have siding materials meeting one of the following standards:
  - 1. Residential horizontal aluminum lap siding;
  - 2. Residential horizontal vinyl lap siding;
  - 3. Cedar or other wood siding;
  - 4. Any other approved siding materials which are aesthetically compatible to the area and proper building standards so as not to be detrimental to adjoining property values.

### **III. MOBILE HOMES (Permanent Occupancy – Park Site)**

Mobile homes or manufactured homes may be permanently occupied when located in a mobile home park developed in accordance with Chapter 6 of this ordinance with the exception that all specific development standards set out under Section 3.5 shall be met and where the standards set out in Chapter 6 are in conflict with Section 3.5 herein, the standards set out in Section 3.5 shall prevail ask the required standards of the ordinance with the exception of lot size shown on page 48.

#### A. MINIMUM LOT AREA

- 1. Mobile home parks of manufactured housing parks shall have sufficient room for 50 units with initial development of ten (10) acres.
- 2. An individual home lot within a mobile home park established under the provisions of this section shall be not less than 5,000 square feet for a single width structure (14 feet or less) and 7,000 square feet for a double width structure (over14 feet) exclusive of thoroughfares and walkways.

#### B. GROUND FLOOR AREA

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

#### C. BUILDING HEIGHT

No building or structure may be established, altered or erected so as to have a height greater than 40 feet.

#### D. GENERAL REQUIREMENTS

- 1. Yards and distances between structures:
  - a) The minimum distance between mobile home stands on opposite sides of a street shall be 60 feet.
  - b) The minimum distance between a mobile home stand and a street pavement, common parking area, a common walk or other common area or another mobile home shall be 8 feet.
  - c) The minimum distance between a mobile home stand and the park:
    - (1) Side and rear property line: 25 feet

- (2) Front property line abutting:
  - (a) Arterial street: 60 feet
  - (b) Feeder street: 50 feet
  - (c) Residential street: 40 feet

## 2. Streets

- a) Streets shall be provided on the site where necessary to furnish principal traffic ways for convenient access to the mobile home stands and other important facilities on the property. Streets shall be privately owned and maintained.
- b) The street system shall provide convenient circulation by means of minor streets and properly located collector streets. Closed end or dead end streets shall be provided with adequate paved vehicular turning or backing space. A turning circle shall have a paved surface of at least 80 feet in diameter. Dead end streets shall not exceed 500 feet in length measured from the center point of the turning circle to the intersection of the centerline of a dead end and a through street.
- c) Pavements shall be of adequate width to accommodate the expected parking and traffic load in accordance with the type of street with 12 feet minimum moving lane widths and 8 feet minimum lane widths for parallel parking.
- d) One lane minor streets are prohibited.
- e) Streets shall be adapted to the topography and shall have suitable alignment and gradient for safety of traffic, satisfactory surface and ground water drainage, and proper functioning of sanitary and storm sewers.
- f) Street intersections shall generally be at right angles. Offsets at intersections and intersections of more than two streets at one point shall be avoided.
- g) The street improvements shall extend continuously from the existing improved street system to provide suitable access to the mobile home stands and other important facilities on the property, to provide adequate connections to existing or future streets at the boundaries of the property, and to provide convenient circulation of vehicles.
- h) Curbs and gutters along all streets are required.
- i) Street base and pavement shall be constructed in accordance with the standards established in the Subdivision Control Ordinance.
- j) Buffering will be provided as required per Chapter 3.8 of this ordinance from any existing adjoining use of "R-1" or "I".

## 3. Driveways

- a) Driveway shall be provided on the site where necessary for convenient access to service entrances of buildings, to delivery and collection points for refuse and other material, and elsewhere as needed.
- b) Four parking spaces shall be provided for each mobile home stand. The spaces shall be provided either in common facilities within 100 feet of the stand, in a parking lane along the abutting interior access street or within the stand. Street parking shall count as two spaces per stand fronting on the parking lane.

## 4. Walks

- a) Paved pedestrian sidewalks shall be provided in a continuous arrangement, throughout the park. Where possible, walks leading to frequently used public facilities should be through interior areas removed from the vicinity of streets. Public pedestrian sidewalks shall be at least four feet in width and paved with a suitable material for use in all weather conditions.

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

5. Screen Planting and Fences

- a) Fences or free standing walls shall be installed where necessary around laundry areas, refuse collection points, sanitary facilities, sewage disposal facilities and playgrounds for screening and protection of the residents.
- b) Screening, fencing and walls shall be set back from sidewalks and streets so as not to interfere with convenient and safe use of these facilities. Vision clearance at street intersections shall be maintained.

6. Sanitary Facilities

The mobile home park shall be provided with a complete sanitary sewer system, which shall connect with an existing approved sanitary sewer outlet or shall be provided with a separate treatment plant to be provided by the developer in accordance with and approved by the **Indiana State Board of Health** (see regulation HSE 14, Indiana State Board of Health).

**OTHER PERMITTED USES:**

Non-residential occupancy, mobile homes, trailers, or vans may be utilized as contractors' offices, watchmen's shelters or tool and equipment storage only on the site and only during the period of active construction of improvement projects.

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

**SECTION 3.6 – SIGNS AND ADVERTISING STRUCTURES**

**I. DEFINITIONS:**

“Sign” means any structure which advertises a product or activity that is available on the property on which the structure is located.

“Fixed sign” means any sign, whether stationary or portable, which is not attached to a building.

“Advertising structure” means any outdoor structure that advertises a product, event or activity not connected with the property on which the structure is located.

**II. PURPOSE AND INTENT**

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

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

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

### **III. GENERAL PROVISIONS**

#### **A. GENERAL REQUIREMENTS**

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

1. Signs and advertising structures shall conform to the regulations for this district in which they are located, as established by this section.
2. The area of a sign or advertising structure shall be calculated by multiplying its maximum vertical and horizontal dimensions.
3. No sign or advertising structure shall be erected at the intersection of any streets in such a manner so as to obstruct free and clear vision of operators of motor vehicles, or at a location where, by reason of its position, shape or color, it may interfere with or obstruct the vision of, or be confused with any authorized traffic sign, signal or device, or make use of any word, phrase, symbol or character in such a manner as to interfere with or confuse traffic.
4. Lights used to illuminate signs or advertising structures shall be so installed so as to concentrate the illumination on the sign or advertising structure and so as to minimize glare upon a public street or adjacent property.

Signs and advertising structures are also subject to the requirements of “The Highway Advertising Control Act of 1967,” as amended. All signs and advertising structures shall conform to the provisions of said Act. Should this section and the Act be in conflict, the requirements of the more restrictive shall apply.

5. Exempt Signs. The following types of signs shall be exempted from requirements of this subsection: i) signs not exceeding one square foot in area and bearing only property numbers, post box numbers, and names of occupants of premises. ii) flags and insignia of any government except when displayed in connection with commercial promotion; iii) legal notices, identification information, or directional signs erected by or at the direction of governmental bodies; iv) integral decoration or architectural features of buildings, except letters, trademarks, moving parts or moving lights; v) signs directing and guiding traffic in parking on private property, but bearing no advertising matter or logos.

#### **B. SIGNS**

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

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

3. Signs may be painted on the surface of a building, provided that when such a sign is located so that it faces a residential use, the sign and method of lighting shall be approved by the Board. Not more than 400 square feet of total sign area shall be permitted on any one building wall.
4. No part of any sign, whether freestanding or attached to a building, shall exceed the height requirements of the district as established in Chapter 3 of this ordinance or 40 feet, whichever is less.
5. Any projecting wall sign with its advertising surface at an angle to a wall facing a street shall be deemed to be a vertical sign. No vertical sign shall project beyond the curb of any adjacent street. All vertical signs shall have at least 8 feet of clearance above the ground.
6. The minimum setback of freestanding signs from street rights-of-way shall be not less than those given in the following table:

AREA OF SIGN PER FACE	MINIMUM SETBACK
5 square feet	5 feet
5 to 14.9 square feet	10 feet
15 to 49.9 square feet	20 feet
50 to 99.9 square feet	30 feet
100 or more square feet	60 feet

7. No free standing sign shall be erected or maintained on or within any easement or right-of-way, whether public or private, without special permission in writing from the person entitled to grant such permission.
8. Where a use has been permitted in a district by special exception, the restrictions for the district in which it has been allowed to be located shall determine the restrictions for the special exception use.
9. No sign shall be erected or maintained at any location where, by reason of its position, wording, illumination, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal or devise.
10. No sign shall contain or make use of any phrase, symbol, shape, form or character in such a manner as to interfere with, mislead, or confuse moving traffic.
11. No exterior sign shall be permitted to display flashing, intermittent, revolving, or animated lighting or illumination, nor any illumination which simulates or displays motion.
12. All signs not expressly exempted or permitted by this ordinance are prohibited.
13. In any district, the provisions of this subsection shall apply.

**C. ADVERTISING STRUCTURES**

Advertising structures are permitted only in Industrial and B-3 districts, subject to the restrictions of that district as established by this section, plus the following general requirements that shall apply to all advertising structures:

1. No advertising structure shall be located closer than 1,000 feet in any direction from any other advertising structure on the same side of the road, street or highway.
2. No advertising structure shall be located closer than 500 feet to any access ramp of a limited access highway nor closer than 500 feet to the intersection of two or more

state highways. The distance to the access ramp shall be measured from the point where the pavement widening begins.

3. No advertising structure shall be placed within 500 feet of any dwelling or land platted and recorded for residential use, or any school, church, place of public assembly or park unless the property owner waives this requirement as it applies to his or her property.
4. An advertising structure may contain not more than two displays per facing, the maximum combined area of which shall not exceed 128 square feet. No advertising structure excluding supports and frames shall exceed 8 feet in height or 16 feet in length.
5. The height of any advertising structure including supports and frame shall not exceed 40 feet measured from either the grade at its base or from the adjacent highway grade, whichever is higher. A minimum of 5 feet of open space between the bottom of the display and the finish grade is required.
6. Each advertising structure shall be set back at least 10 feet beyond the street or highway right-of-way, measured from the closest edge of the advertising structure.
7. No advertising structure shall be erected or maintained on or within an easement or right-of-way, public or private, without special permission in writing from the person entitled to grant such permission.
8. An Improvement Location Permit shall be required for the erection of an advertising structure. The application for the Improvement Location Permit shall include a plot plan certified by a registered Land Surveyor, showing the exact location of the proposed advertising structures, intersections, residences, etc. that are affected by the proposed structure and regulated by this section. The application for an Improvement Location Permit shall include a notarized statement to be submitted to the Morgan County Assessor showing the party responsible for future tax assessments due on the advertising structure.

#### **IV. SPECIFIC REGULATIONS BY DISTRICT**

##### **A. FP, AG, R1, R2, R3 and B1 Districts**

1. Signs shall be permitted in these districts subject to the conditions of subsection III. a. and b. of this section. In addition, the following conditions shall apply:
  - a) One non-lighted sign for each street frontage shall be permitted. Maximum area per sign shall be 6 square feet. Signs shall pertain only to products for sale, events occurring or services rendered upon the premises.
  - b) One non-lighted name plate for each street frontage shall be permitted. Maximum area per name plate shall be 2 square feet. Name plates shall display only the name of the property owner or lessee, the name of the property and the address of the property. Free standing name plates shall be set back a minimum of 5 feet from the right-of-way line of any adjacent street.
  - c) "For Rent" and For Sale" signs shall be permitted. Not more than two such signs not exceeding 6 square feet per sign shall be permitted on any lot or parcel. An Improvement Location Permit for the above mentioned signs shall not be required.
2. Advertising structures are not permitted.

A. B2. Districts

1. Signs shall be permitted in this district subject to the conditions of subsection III. A. and B. of this section. In addition, the following conditions shall apply:
  - a) A maximum of two signs shall be permitted. The signs may be lighted. Maximum area per sign shall be 50 square feet.
  - b) Small vertical directional signs not to exceed 6 square feet in area may be attached to a building structure to aid customers and suppliers in locating garbage entrances, delivery points, etc. No Improvement Location Permit shall be required for such signs.
  - c) "For Rent" and "For Sale" signs shall be permitted. Not more than two such signs not exceeding 12 square feet per sign shall be permitted on any lot, building or occupancy. No Improvement Location Permit shall be required for such temporary signs.
  - d) Up to 30 days of temporary signage for the purpose of advertising a special event, such as a "Grand Opening," or for the purpose of advertising until a permanent sign is erected shall be permitted annually per business operator. No Improvement Location Permit shall be required for such temporary signs.
2. Advertising structures are not permitted.
3. Shopping Centers or multi-business structures shall be allowed one multi-listing sign consisting of a directory sign for each business no greater than 2 feet by 4 feet per business (or 8 square feet per business), plus space for center structure, no greater than 32 square feet and no higher than 40 feet in a B3 or I classification.

B. B3, I1, I2 and I3 Districts

1. Signs shall be permitted in these districts subject to the conditions of subsection III. A. B. of this section. In addition, the following conditions shall apply:
  - a) A maximum of three fixed signs shall be permitted. Additionally, a maximum of one freestanding sign per acre shall be permitted. The signs may be lighted. The total area for all signs measured in square feet shall not exceed two times the total building frontage measured in lineal feet.
  - b) Small vertical directional signs not to exceed 6 square feet in area may be attached to a building structure to aid customers and suppliers in locating garage entrances, delivery points, etc. No Improvement Location Permit shall be required for such signs.
  - c) "For Rent" and "For Sale" signs shall be permitted. Not more than two such signs not exceeding 24 square feet per sign shall be permitted on any lot, building or occupancy. No Improvement Location Permit shall be required for such signs.
  - d) Up to 30 days of temporary signage for the purpose of advertising a special event, such as a "Grand Opening," or for the purpose of advertising until a permanent sign is erected shall be permitted annually per business operator. No Improvement Location Permit shall be required for such temporary signs.
2. Advertising structures are permitted.



**C. SUMMARY OF SPECIFIC REGULATIONS BY DISTRICT**

District/ Type of sign	Max# of signs	Max sq. ft. per sign	Max total sq. ft.	Lighted signs
FP,AG,R1,R2R3,B1	1 per street frontage	6	6	No
B2	2	50	100	Yes
B3,I1,I2,I3 Fixed	3		128	Yes
Freestanding	1 per acre			Yes
Total			2 x building frontage in lineal feet	

**SECTION 3.7**

**I FEES**

Fees are due at the time of applying for the Improvement Location Permit and should be paid at the Mooresville Town Hall, 26 South Indiana Street, at the office of the Clerk-Treasurer. Failure to comply with this section shall result in a fine of not less than \$25.00 nor greater than \$250.00 with violations to be filed by the Building Inspector in the Mooresville Town Court. Violations may also be treated the same as any other violation of this zoning ordinance and can be enforced by any discretion of the Plan Commission.

**SECTION 3-8**

**I BUFFER REQUIREMENTS**

**A. DEFINITION**

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

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

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

**B. REASONS FOR BUFFERS**

1. visual appearance,
2. noise level,
3. odor and
4. public health and safety,
5. density.

Minimum buffering requirements in terms of distance are described on the following chart. These distances shall be applied to all incompatible adjacent land uses as noted.

### C. SPECIAL EXCEPTIONS

In applying the requirements of the chart, attention should be focused on the actual use in a proposed zone if the use involves a special exception. Appropriate buffering should be determined by the requirements of the zone in which the special exception use would normally be located. As shown in the chart on Page 47.

### D. EFFECTIVENESS OF BUFFERS

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

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

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

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

### E. EXAMPLES OF BUFFERS

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

Natural buffers include:

1. Topographical variations, including hills and ravines.
2. Vegetation, including evergreen trees and dense growths of deciduous trees and hedges.
3. Bodies of water, including creeks, ponds and lakes.
4. Combinations of the above, including landscaped berms.
5. Judicious site planning with regard to prevailing wind directions.

Man-made buffers include:

1. Intervening non-intruding land uses.
2. Fences.
3. Pools.

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

**SECTION 3.9 OUTSIDE STORAGE**

**A. INDUSTRIAL**

1. Outside storage shall be enclosed within a fenced in area.
2. Outside storage shall not encroach upon parking areas or boundaries to the extent that parking ordinance requirements as set out in this ordinance are not being complied with.
3. Outside storage shall not be visible to the public excepting industrial classifications I-2, I-3 or I-4.
4. Outside storage, finished or raw materials shall not exceed the height of the enclosed fence in any zoning classification excepting areas zoned I-2, I3, or I-4.

**B. BUSINESS**

1. Bulk storage shall not be in front of the building structure.
2. Package display storage shall be permitted in front of the building structure.
3. The following uses shall be accepted in business zoning classification from the outside storage provisions of the ordinance:

**C. RESIDENTIAL**

All storage shall be in an enclosed structure, with the exception of vehicles, boats, firewood, trash receptacles, operational mowing and lawn equipment (campers included).

**CHART  
BUFFERING DISTANCES REQUIRED  
(in feet)**

	Buffer Required of											
	FP	AG	R1	R2	R3	B1	B2	B3	I1	I2	I3	I4
FP												
AG												
R1					20							
R2												
R3		50										
B1												
B2												
B3		50	50									
I1		50	50	50	50							
I2		100	100	100	100							
I3	←			500			→	250				
I4	←			1000	1000							→

All distances are minimums. All distances are measured from the perimeter of the actively used area within the zone requiring the buffer to the property line of the zone which needs to be protected.

“Actively used area” shall include all buildings, outside storage areas, outdoor utility generation and transforming areas, driveways and other outdoor areas actively used for the business or industry. “Actively used area” shall not include lawns, other landscaped areas or parking lots.

### SECTION 3.10 EROSION CONTROL

The Developers, lot owners, and permit holders of any lot shall be responsible for erosion control during any construction phase or development state of the lot. The Developer, permit holder, and lot owner shall be each jointly and severally responsible for keeping soil, construction and other erosion debris off of the streets of Mooresville or to Morgan County. The Developer, permit holder, and lot owner shall be each jointly and severally responsible for keeping soil and other construction debris and other erosion debris out of storm sewers shown on the plat or storm sewers which are owned by or dedicated to the Town of Mooresville or Morgan County. In the event the Town of Mooresville or Morgan County is damaged by soil erosion on their right of way, street, drainage easement, or in their storm sewer, they shall have the option of having the debris removed and charge anyone or all of the following: lot owner, builder or developer, for this expense. The Town of Mooresville or Morgan County shall also have the option of giving the developer, permit holder, or lot holder a written notice to have the debris removed within twenty-four hours. In the event the debris is not removed within twenty-four hours. They shall be cited into the Mooresville Town Court by a civil summons issued by the Town Building Inspector as being in violation of this ordinance. In the event the Town of Mooresville does remove the debris and passes the charge on to the lot owner, builder, or Developer for the removal expense and the expense is not paid within thirty days then they shall be cited in the Mooresville Town Court as being in violation of this ordinance. Any Developer, owner, or permit holder found in violation of this ordinance shall be fined in an amount of not less than \$1.00 nor greater than \$500.00 for a violation of the ordinance along with being assessed all costs for the clean up of the street or storm sewer and any additional damage created by said violation shall be passed on to the violating party to hold harmless both the Town of Mooresville and Morgan County for all damages created by the violation of this ordinance.

All developers shall be required to show the Plan Commission compliance with the State of Indiana's local erosion control commonly known as Rule 5 of 327 IAC 15, STORM WATER RUN-OFF associated with construction activity by showing copies of the plan filed with the State and certifying the date of the filing. This shall be done prior to final plat approval.

## CHAPTER 4 – SPECIAL USES

### SECTION 4.0 – SPECIAL USE PROCEDURE

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

### SECTION 4.1 – SPECIAL USES – ALL DISTRICTS

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

Artificial lake of 3 or more acres  
Mineral extraction  
Railroad right-of-way and necessary uses  
Sewage disposal plant (primary use)  
Transmission lines for gas, oil, electricity and other utilities

### SECTION 4.2 – MINIMUM LOT AREA – SPECIAL USES

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

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

SECTION 4.3 – SETBACKS – SPECIAL USES

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

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

SECTION 4.4 – MINIMUM DISTANCE FROM RESIDENTIAL DISTRICT SPECIAL USES

The following uses may not be located closer to the AG and R Districts than 1320 feet:

- Anhydrous ammonia or similar liquid fertilizer,  
commercial storage and distribution
- Farm, confinement feeding
- Junk yard
- Manufacturing of, storage, of or use of explosives
- Penal or correctional institutions
- Petroleum product tank farm
- Liquefied gas bulk storage

SECTION 4.5 – FENCES AND WALLS – SPECIAL USES

The following uses shall be fenced or walled as respectively prescribed by the table below at the direction of the Board:

USE	ENCLOSURE
Airport	5 foot woven wire fence
Auction sales yard (excluding livestock)	Adequate to protect abutting property
Automatic car wash	6 feet solid fence
Junk yard	Solid wall or fence sufficient to hide from view
Kindergarten or day nursery	4 feet chain link fence
Outdoor commercial recreational enterprises	5 feet woven wire fence
Private swimming pool	Protective fence or barrier, a minimum height of 60"
Slaughterhouse	Solid wall or fence sufficient to hide from view

SECTION 4.6 – SCREEN PLANTING ABUTTING RESIDENTIAL USE SPECIAL USES

- Airport or heliport
- Artificial lake of 3 or more acres
- Automatic car wash
- Cemetery or crematory
- Clinic
- Commercial facility for raising and breeding non-farm fowl and animals
- Country club or golf course
- Drive-in restaurant
- General industry
- Hospital
- Industrial park
- Junk yard
- Kennel
- Kindergarten or day nursery
- Light industry
- Mineral extraction, borrow pit, top soil removal and their storage areas
- Outdoor commercial recreational enterprise
- Police station or fire station
- Private recreational development
- Private swimming pool (non residential)
- Public camp
- Public or commercial sanitary fill or garbage disposal plant  
(also along abutting street)
- Public or commercial sewage disposal plant

Race track  
Riding stable  
Shopping center  
Shooting range (outdoor)  
Slaughterhouse (also along abutting street)  
Stadium or coliseum  
Telephone exchange or public utility substation (also along abutting street)  
Travel trailer park  
Truck freight terminal  
Truck service terminal  
Warehouse (grain elevator)  
Wholesale produce terminal



## **CHAPTER 5 – SPECIAL EXCEPTION PROCEDURES**

- A. The Special Exceptions listed in the districts (see Table 1, section 3.0) and their accessory buildings and uses may be permitted by the Board in the districts indicated therein, in accordance with the procedures set forth in this chapter.
- B. Upon receipt of an application for a Special Exception, the Board shall refer the application to the Commission for investigation as to the manner in which the proposed location and character of the Special Exception will affect the Master Land Use Plan. The Commission shall report the results of its study to the Board within 90 days following receipt of the application. If no such report is filed with the Board within the time period the Board shall proceed to process the application.

The Board shall then proceed with a hearing on the application in the manner prescribed in Chapter 10 of this Ordinance. Following the hearing and upon an affirmative finding by the Board that:

- 1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare; and
- 2. The Special Exception will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted; and
- 3. The establishment of the Special Exception will not impede or substantially alter the normal and orderly development and improvement of surrounding property for uses permitted in the district; and
- 4. Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided; and
- 5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public roads; and
- 6. The Special Exception will be located in a district where such use is permitted and all other requirements in this ordinance which are applicable to such Special Exception will be met.

The Board shall order the Building Inspector to issue an Improvement Location Permit for the use as approved by the Board.

- C. An existing use which is listed herein as a Special Exception, and which is located in a district in which such Special Exception may be permitted, is a conforming use. Any expansion of the Special Exception involving the enlargement of the buildings, structures, or land area devoted to such use shall be subject to the procedures described in this section.
- D. The filing fee for a Special Exception shall be as shown in Table 2 which is hereby established and made a part of this section.

## **CHAPTER 6 – PLANNED UNIT DEVELOPMENTS**

### **SECTION 6.0 INTENT OF DISTRICTS**

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

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

Planned Unit Development regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life. Planned Development projects should also encourage a more efficient use of land which reflects the changes in the technology of land development so that resulting economies may accrue to the benefit of the community at large.

To enhance the purpose and intent of the planned unit development, the provisions of Section 3 of this Ordinance under Section 3.3 Property Development Standards, may be modified by specific finding of the Plan Commission that the Development “planned unit development” allows for a deviation in the standards consistent with the Ordinance and the Ordinance intent of more development resulting in economies that accrue through the benefit of the community at large through the use of a planned unit development.

Buffering requirements set out in Section 3.8 are applicable to the type of use that is requested.

### **SECTION 6.1 CLASSIFICATIONS OF PLANNED UNIT DEVELOPMENT**

Upon preliminary review of a Planned Unit Development proposal by the Commission as provided by this Ordinance, such proposal shall be identified by the general character of the dominant use of the development. Such proposals shall be classified by the following designations:

- A. “PUD-R – Planned Unit Development – Residential  
Any development consisting of not less than three (3) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development are used for residential purposes or those accessory purposes customarily related to residential use.
- B. “PUD-C” – Planned Unit Development – Commercial  
Any development consisting of not less than four (4) acres in which all of the interior floor area of all buildings to be included in the development is to be used for commercial purposes.
- C. “PUD-I” – Planned Unit Development – Industrial  
Any development consisting of not less than five (5) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development are used for industrial or manufacturing purposes or such accessory uses customarily relating to industrial uses with the balance of such interior floor area, if any, being intended for such

commercial uses as reasonably relate to the support or convenience of the intended industrial uses or their occupants.

D. "PUD-E" – Planned Unit Development

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

## SECTION 6.2 ORGANIZATION OF PROPOSALS

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

## SECTION 6.3 FILING PROCEDURE

- A. The authorization of a Planned Unit Development shall be subject to the procedures expressed herein:
- B. Submission of a petition and all other documents required for rezoning for the appropriate PUD classification, which petition shall be signed by the owner or owners of all real estate involved in the petition for the Planned Unit Development, or which petition shall have attached thereto the notarized consent of all such owners to the filing of such Petition, and to the change to a PUD classification of their real estate included.
- C. The petition, which shall include a preliminary plan and plat for any area proposed for development as a Planned Unit Development shall be filed with the Commission. The preliminary plan and plat shall include:
  1. Proposed layout of streets, open space and other basic elements of the plan to include;
  2. Identification of location and types of structures and their use categories within the area, including proposed densities of said uses, lot dimensions, elevations, buildings and structures; location, size and heights.
  3. Proposals for handling traffic, parking, water supply, sewage disposal, storm drainage, tree preservation and removal, landscaping, lighting, signage and other pertinent development features.
  4. A separate location map to scale shall show the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land.

5. The condominium declaration (if applicable), a document creating an owners association and any covenants to be made a part of the Planned Unit Development as well as the order and estimated time of development.
6. A statement of the proposed order of development of the major elements of the project, including whether the development will be accomplished in phases, and, if so, the order and content of each phase.
7. A statement certified by a registered engineer or registered land surveyor stating that the development will not increase the downstream hydraulic peak of the waterway in which watershed the property is located for a fifty year storm frequency.

FIRE HYDRANTS

The sub divider shall provide the subdivision with fire hydrants if the subdivision is located within the corporate limits of the Civil Town of Mooresville. Subdivisions outside the corporate limits of the Town of Mooresville served by a water utility shall, likewise, provide fire hydrants. Spacing and location of the fire hydrant shall be based upon the recommendation of the respective fire chief of the area being served.

- D. The preliminary plan shall be presented in triplicate and to a scale ratio not to exceed 100’= 1”. The preliminary plan may include any additional graphics which will explain the features of the development. A copy of the preliminary plan shall be given to the Building Inspector and a certified letter sent to all checkpoint agencies advising them that the preliminary plan is available for review at the Clerk-Treasurer’s Office, 26 South Indiana Street, Mooresville, Indiana, giving a brief detailed description of the proposed plan, including estimates of the number of employees, households and type of traffic related to the development. It shall also be provided to the following checkpoint agencies for their review and comment:

Building Inspector  
 Director of Public Works  
 Mooresville Police Department and Sheriff’s Department when outside of the Town of  
 Mooresville’s city limits  
 Mooresville Consolidated School Corporation and any other school district which is affected  
 Morgan County Soil and Conservation District  
 Morgan County Highway Department  
 Mooresville Fire Department and an other fire department which is also included in the area  
 served

- E. After filing, the Commission shall meet with the petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide comments. After such consultation the petitioner may make modifications to the petition.
- F. After the meeting described in (E) above and after making any modifications to the proposed preliminary plans the petitioner shall file in triplicate a “Final Proposed Preliminary Plan: which shall include:
  1. all documents included in the preliminary plan.

2. An index identifying all documents included in the preliminary plan
3. A cover sheet indicating that it is the Final Proposed Preliminary Plan indicating the date and zoning case number;
4. All documents therein reduced to a size no larger than 8 1/2 X 14 inches except for the maps, sketches and plat (if any).

#### SECTION 6.4 PRELIMINARY PLAN HEARING

- A. The petition, if and as modified, shall then be heard by the Commission as a petition for zoning map amendment and subject to the procedures applicable thereto. The Commission may recommend approval or disapproval of the plan and may impose any reasonable condition(s) with its affirmative recommendation. If disapproval is recommended, the application shall not be certified to the Town Council of the Town of Mooresville. If approval is recommended, the preliminary plan shall be stamped "Approved Preliminary Planned Development" and be signed by the President and Secretary of the Plan Commission. One copy shall be permanently retained in the office of the Plan Commission, one copy shall be returned to the petitioner and one copy and all conditions shall be certified as described in (B) below.
- B. The approved preliminary Planned Unit Development shall then be certified to the Town Council of the Town of Mooresville for adoption as a Planned Unit Development District pursuant to the laws governing proposals to change zoning maps. Upon adoption by the legislative body, the petitioner shall prepare his final detailed plan.

#### SECTION 6.5 APPROVAL OF FINAL DETAILED PLAN

Proposed layout of streets, open space and other basic elements of the plan to include;

Yards and distance between buildings, walls and fences, (including location, height, and materials), Off-Street Parking (including location, number and size of spaces and dimensions of parking area, internal circulation pattern), Access (pedestrian, vehicular, service), Signs (location, size, and height), Loading (location, dimensions, number of spaces, internal circulation), Lighting (location and general nature; hooding devices), Common Facilities and open spaces, Fire Hydrants, Sewage (approval of the appropriate agencies for sewage disposal facilities), Drainage (approval of the appropriate agencies of surface drainage facilities).

- A. Before any development or site improvement takes place, the petitioner shall file with the Commission three sets of final detailed plan specifying the location, composition, and engineering features of all lots, storm drainage, sanitary sewage, water supply facilities, public or private street, recreation facilities, site perimeter treatment, landscaping, plat and other site development features including locations of buildings. The petitioner shall also file the original of all signed and notarized documents pertaining to restrictive covenants, condominium declaration and/or the creation authority to review or act thereon, except as to enforcement, except as to an amendatory ordinance, and except as hereafter provided for.
- B. The Approved Preliminary Plan may provide for development of the property involved in phases. If such phasing is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed plans which correspond to the phases involved.

Such partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire Planned Unit Development.

- C. The approved final detailed plan or phase thereof shall be stamped “Approved Final Detailed Planned Unit Development” and be signed by the President and Secretary with one copy permanently retained in the office of the Commission following recordation.
- D. Unless extended by the Commission pursuant to section 6.11 (A), approval of the first phase of the final detailed plan shall be obtained within one (1) year and approval of the balance of the final detailed plan shall be obtained within two (2) years after adoption of the Planned Unit Development District by the Town Council of the Town of Mooresville.
- E. If the zoning district is in place but no final detailed plan has been approved, the Commission may initiate an amendment to the zoning map relating to said land.
- F. In the exercise of continuing jurisdiction, the Commission may from time to time approve only minor modifications of the approved Final Detailed Planned Unit Development in a manner consistent with the approved Preliminary Planned Unit Development. Such modifications shall not include any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in type of use, or any change in access points.
- G. Approval of a final detailed plan shall expire after a period of two (2) years from the approved phasing of the preliminary plan unless the development is 50 percent (50%) completed in terms of public improvements including streets, parks, walkways, utility installations and sanitary sewers. Determination of the amount of completion shall be made by the Commission upon a recommendation of the Building Inspector. Following expiration of the final detailed plan, the Town of Mooresville shall declare the bond to be in default and cause all public improvements to be installed according to the final detailed plans.

## SECTION 6.6 COVENANTS AND MAINTENANCE

- A. All covenants, when required by the Commission, shall be set forth in detail and shall provide for a provision for the release of such restriction by execution of a document so stating and suitable for recording, signed by the Commission President and Secretary upon authorization by the Commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Commission and shall be specifically enforceable by the Commission.
- B. The Commission may require the recording of covenants for any reasonable public or semi-public purpose, including, but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other public and semi-public purposes. Such covenants may provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specified period of time, the covenants shall automatically terminate. If such termination occurs, the petitioners shall then submit for approval by the Commission a modified final detailed plan for such land, otherwise consistent with the approved Preliminary Planned Unit Development.
- C. The Commission may require the recording of covenants for any other reasonable purpose, including, but not limited to, imposing standards for development of property in a Planned Unit Development. Such development standards may include, but are not limited to, requirements as to the following:
  - 1. Lot area

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

- D. Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities including private streets jointly shared by such property owners if such facilities are a part of the Planned Development, and, in such instance legal assurances shall be provided and recorded which show that the private organization is self-perpetuating.
- E. Common facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.
- F. All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

## SECTION 6.7 RECORDING

All approved Final Detailed Planned Unit Development Plans and Plats and modifications thereof shall be recorded in the Office of the Morgan County Recorder within two (2) years after approval, but before any improvement (as defined under Improvement Location Permit) takes place. Failure to so record shall automatically void the approval of the Final Detailed Planned Unit Development.

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

### SECTION 6.8 PERMIT

An improvement location permit shall be issued for a Planned Unit Development District upon application showing full compliance with the approved Final Detailed Planned Unit Development.

### SECTION 6.9 CONSTRUCTION

- A. No construction or installation work shall be done on any public improvements until the petitioner has, at least forty-eight (48) hours in advance, notified the appropriate Governmental Inspector of his intention to begin such work, in order that inspections may be made as the work progresses.
- B. All development shall be in conformity with the approved and recorded Final Detailed Planned Unit Development and any material deviations from the approved and recorded Final Detailed Planned Unit Development shall be subject to appropriate enforcement action as provided for in this ordinance.

### SECTION 6.10 EXTENSIONS, ABANDONMENT, EXPIRATION

- A. Extensions of the time for accomplishing any matters set forth herein may be granted by the Commission at a public hearing for good cause shown.
- B. Upon the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Final Detailed Planned Unit Development for twelve (12) consecutive months), or upon the expiration of two (2) years from the approval of a Final Detailed Planned Unit Development for a development which has not been completed, an amendment may be initiated as provided by law to the zoning category or categories which the legislative body deems appropriate.

### SECTION 6.11 RULES OF PROCEDURE

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

### SECTION 6.12 LIMITATION OF REZONING

The Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a Planned Unit Development before completion of the development.



## CHAPTER 7 – ADULT ENTERTAINMENT ACTIVITIES – SPECIAL RESTRICTIONS

### SECTION 7.0 DEFINITION, DISTANCE RESTRICTION AND PUBLIC DISPLAY

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

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

1. Adult Bookstore. An establishment having as a substantial or significant portion of its stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities as hereinafter described or an establishment with a segment or section devoted to the sale or display of such material.
2. Adult Motion Picture Theater. An establishment for fifty or more persons having as a substantial or significant portion of its use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, as hereinafter relating to sexual activities, as hereinafter described for observation by persons therein.
3. Adult Mini-Motion Picture Theater. An establishment with a capacity for less than fifty (50) persons having as a substantial or significant portion of its use the presentation of materials having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities as hereinafter described for observation by persons thereafter.
4. Adult Stage Show Theater. An establishment used for presenting live performances of human and/or animals having as a dominant theme or characterized or distinguished by an emphasis on matter depicting or relating to sexual activities, as hereinafter described, for observation by persons therein.
5. Cabaret. An establishment which features as entertainers and/or waiters and/or bartenders, male or female impersonators and/or persons either male or female, who expose to public
6. view of the patrons of said establishment at any time the bare female breast below a point immediately above the areola, human genitals, pubic region and/or buttocks and/or human or simulated male genitals in a discernable turgid state, even if completely and opaquely covered.
7. Massage Parlor. An establishment that provides services for treating the human body by rubbing, stroking, kneading, tapping or similar treatment with the human hand. (This would exclude chiropractic treatment and physical therapy by a licensed chiropractor or licensed physical therapist, respectively.)
8. Bath House. An establishment for providing bathing, sauna, steam room and/or lavatory facilities for male and/or female persons which promotes its services by using and/or advertising the use of homosexual attendants.
9. Taxi Dance Hall. An establishment operated as a public dance hall where dance partners, either male or female, are available for hire for a monetary consideration payable either by the dance or as part of an entrance fee or membership fee.

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

B. Other Definitions.

1. Churches. A building for religious and public worship.
2. Park. A tract of land for public use which has been designated in the Town of Mooresville's zoning use maps as a public area.
3. Residential Neighborhoods. Any residential use within the Town of Mooresville or the buffer zone of the Town of Mooresville with a zoning classification of R-1, R-2, or R-3 or a Mobile Home Park.
4. Specified Sexual Activities. For the purpose of this section, "Specified Sexual Activities" is defined as:
  - a) Human genitals in a state of sexual stimulation or arousal: or
  - b) Acts of human masturbation, sexual intercourse or sodomy; or
  - c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
5. Specified Anatomical Areas. For the purpose of this section, "Specified Anatomical Areas" is defined as:
  - a) Less than completely and opaquely covered: (1) human genitals or pubic regions; (2) buttock; (3) female breast below a point immediately above the top of the areola; and
  - b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

C. Distance Restrictions, Requirements and Conditions.

1. Schools, Parks, Churches, Residential, Agriculture, and Public Areas. The public entrance to an establishment engaging in adult entertainment activities shall not be located within three hundred (300) feet of any building containing a school, church, public park, public mall or park-like area of public open space, or residential use. Such distance shall be measured along a straight line from the nearest property line of the real estate on which said building or public park-like areas is located to the entrance of such establishment engaging in an adult entertainment activity.
2. Other Adult Entertainment Uses. Hotels, Motels and Transportation Depots. The Public entrance to an establishment engaging in adult entertainment activities shall not be located within one thousand (1,000) feet of activity establishment, nor within one thousand (1,000) feet of the nearest property line of the real estate on which any hotel, motel, convention facility or transportation depot is located.
3. Restrictions and establishments engaging in adult entertainment activities, except as otherwise provided by laws which may be more restrictive, may not have any signs with wording or pictorial or representational mater which is distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities as herein defined.

D. Public Display of “Specified Sexual Activities” and “Specified Anatomical Areas” Prohibited.

1. Materials offered for sale from adult news racks shall not be displayed or exhibited in a manner which exposes to public view any pictures or illustrations of human genitals or specified sexual activities.
2. Adult bookstores and adult motion picture theaters shall not display or exhibit any material depicting human genitals or specified sexual activities in a manner which exposes said material to the view of persons outside the building in which said bookstore or motion picture theaters are located.

SECTION 7.1 RESTRICTIONS, REQUIREMENTS AND CONDITIONS.

- A. An establishment engaging in adult entertainment activities, except as otherwise provided by laws which may be more restrictive, may not have more than one outside flush to the wall, fascia style sign, not to exceed in size three (3) feet in length (horizontal to the ground) with no flashing lights and with no lettering, wording or pictorial or representational matter which is distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities as herein defined.
- B. An establishment engaging adult entertainment activities may not display its stock in trade or activities in such a manner as to be subject to public view from outside the establishment, including but not limited to view from public sidewalks, streets, arcades, hallways or pass ways.
- C. An operator engaging in adult entertainment activities may not permit a person less than eighteen (18) years of age to enter his establishment.
- D. An operator engaging in adult entertainment activities shall, at all times, cause the entrance of his establishment to be so attended as to insure compliance with the requirements contained in Section C.
- E. An Adult Amusement Arcade, except as otherwise provided by law which may be more restrictive, shall meet the following requirements:
  1. Any wall or partition which is situated so as to create a room, enclosure or both in which any amusement device is located shall be constructed of not less than one hour fire-resistive material.
  2. The width of the aisles in any room where an amusement device is located shall be more than forty-two (42) inches.
  3. There shall be no fewer than two doorways of a width no less than thirty-six (36) inches which provide ingress or egress from any room in which an amusement device is located, provided, however, that one (1) doorway shall be sufficient in the event the Fire Chief should so determine. Doorway or doorways shall be unlocked during business hours.
  4. Over every doorway which provides egress from any room in which an amusement device is located there shall be maintained an internally illuminated exit sign with letters at least five (5) inches in height.
  5. Each amusement device located in such establishment shall be situated so as to permit the person using the device to have a constantly unobstructed view of the doorway or doorways which provide ingress or egress from the establishment.
  6. Indiana Department of Fire and Building Services requirements.

7. A light level of no less than ten (10) foot candles floor level shall be maintained in every portion of said establishment to which the public is admitted.
8. The numbers of persons in any room or partitioned portion of a room where amusement devices are located shall not exceed one person per thirty (30) square feet. The maximum occupancy load permitted in any amusement devices are located shall be conspicuously posted by the operator, and shall remain posted, at the entrance of said room.
9. The number of amusement devices shall not exceed the maximum occupancy load permitted in any room or partitioned portion of a room in which an amusement device is located. The maximum number of amusement devices permitted in any room or partitioned portion of a room shall be conspicuously posted by the operator, and shall remain posted, at the entrance of said room.

### SECTION 7.2 ADMINISTRATION OF ORDINANCE.

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

### SECTION 7.3 LICENSING.

- A. The operator of an establishment engaging in adult entertainment activities shall be required to make application for a license with the Council through the Clerk/Treasurers office after the effective date of this ordinance. Such application shall be in writing, under oath, and shall be in the form prescribed by the Town Council for the Civil Town of Mooresville and shall contain the following information together with such further information as the Trustees may require:
  1. The name and location of the establishment;
  2. The names and addresses of the applicants, owners of the establishment, and if a corporation, the names and addresses of the directors and the names and addresses of shareholders owning capital stock therein, and if a partnership, the names and addresses of the partners;
  3. The names and addresses of any owners of the property on which the establishment is located;
  4. The names and addresses of any rental agency of the property on which the establishment is located;  
The nature of the activity or activities to be engaged at such location.
  5. The name and address of any person the applicant wants mail notice to be given in case of violation or other matters affecting the license hereunder.
  6. The application shall include a photograph or drawing of any signs displayed or proposed to be displayed on the exterior of the establishment and a statement of the dimension of such signs.
  7. Such application shall be accompanied by a Certificate of Occupancy issued through the Mooresville Plan Commission, certifying the business is in compliance with the applicable zoning laws.
  8. The application shall include a Certificate from the Fire Chief Authority having jurisdiction that all applicable fire regulations have been met and, in the case of an adult amusement arcade, that all requirements of this ordinance have been met.

- B. The Council will cause the premises to be inspected after such application has been received and shall issue a license forthwith if all restrictions, requirements and conditions, and all applicable requirements of law and ordinance have been met. The Building Inspector for the Civil Town of Mooresville shall be empowered to inspect for purposes of this section of the ordinance. However, the granting of a license does not certify compliance with all applicable laws nor does it stop the Town from enforcement of all applicable laws.
- C. If inspection reveals failure to comply with any restrictions, requirements or conditions, the Trustees, through the Building Inspector, shall notify the applicant in writing of the fact, stating what failures have been discovered and allow a reasonable time to correct such defects and informing the applicant of the procedure if the applicant does not agree with the Councils' decision which shall be an appeal directly to the Circuit Court of Morgan County.
- D. The Council may permit such variance or deviation from the regulations of this ordinance as will effectuate the purpose and intent of this ordinance.
- E. After the effective date of this ordinance, no operator shall maintain, operate or conduct an establishment engaging in adult entertainment activities unless such person has made application and obtained a license.
- F. After the effective date of this ordinance, upon receipt of notice, no owner shall permit adult entertainment activities to operate on his property without a license.
- G. All licenses shall be for the calendar year January 1 to December 31, or the remaining portion of such calendar year. The annual license fee shall be Five Hundred Dollars (\$500.00).
- H. Annual fees may be prorated at the rate of Fifty Dollars (\$50.00) per month for the remaining full months of the current calendar year but not to exceed Five
- I. Hundred Dollars (\$500.00). Application for renewal of a license shall be made on or before October 1 of each year and accompanied by the annual fee of Five Hundred Dollars (\$500.00). Such application shall also contain any changes in the information required by Subsection A above which have occurred since the previous application.
- J. A license may be transferred to a new owner or operator or to a new location by a license holder by giving written notice to the Council fourteen (14) days before the effective day of such transfer, and upon filing therewith the complete information required in Subsection A above for the new owner or operator, and upon the finding by the Council that such new owner or operator or location is qualified under this ordinance. The fee for a licensed transfer shall be One Hundred Dollars (\$100.00).
- K. The Trustees shall have the power to revoke said license for the failure to comply with restrictions, requirements and conditions set forth in Section 7 herein.

## **CHAPTER 8 – NON-CONFORMING USE**

### **SECTION 8.0 – NON-CONFORMING USE SPECIFICATIONS**

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

- A. A non-conforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law.
- B. A non-conforming use may be changed to another non-conforming use of the same classification, provided no structural changes are made. Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a zoning classification of greater restrictions, it shall not thereafter be changed to a non-conforming use of a less restricted zoning classification.
- C. No building shall be erected or an existing building expanded upon any premises devoted to a non-conforming use, except in conformance with this ordinance.
- D. Nothing herein contained shall require any change in the plans, construction or intended use of a building for which the Improvement Location Permit has been legally issued prior to the effective date of this ordinance.
- E. In the event that a non-conforming use of any building or property is discontinued for a continuous period of one year, the use of said building or property shall thereafter conform to the uses permitted in the district in which it is located.
- F. When a building containing a non-conforming use is damaged by fire, explosion, act of God, or other catastrophic circumstances to less than 1 ½ times its current assessed value, it shall not be restored except in conformity with the regulations of the district within which it is located.
- G. These provisions apply in the same manner to a use which may become a non-conforming use due to a later amendment to this ordinance.
- H. A change of use must meet all applicable Town ordinances in addition to the requirements of this ordinance.

### **SECTION 8.1 – INCOMPATIBILITY OF NONCONFORMING USES**

Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts in which such use is located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

## SECTION 8.2 – AVOIDANCE OF UNDUE HARDSHIP

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or development on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual construction has been carried on diligently. Where demolition or removal of an existing building has been substantially completed preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

## **CHAPTER 9 – IMPROVEMENT LOCATION PERMIT**

### **SECTION 9.0 – APPLICABILITY**

- A. The Building Inspector, or his agent, shall be responsible for the issuance of all Improvement Location Permits for an alteration to the condition of land, structures thereon, within the Jurisdiction Area of the Commission. Any persons making said alterations must obtain an Improvement Location Permit for said alterations from the Commission prior to the start of any construction.
- B. The filing fee for an Improvement Location Permit is shown on Table 2, which is hereby established as a part of this Section.

### **SECTION 9.1 – CERTIFICATE OF OCCUPANCY**

- A. Certificate of Occupancy shall be applied for concurrently with the Improvement Location Permit.
- B. No land shall be occupied or used and no building hereafter erected, altered or reconstructed shall be occupied or used, in whole or in part, for any purpose whatsoever, until a Certificate of Occupancy has been issued by the Building Inspector, or his agent, stating that the use complies with all of the provisions of this ordinance.
- C. The Certificate of Occupancy shall be issued within five days of the completion of the improvements authorized by the Improvement Location Permit, provided said improvements are in compliance with all provisions of this ordinance.

### **SECTION 9.2 – DOCUMENTATION**

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

- A. The applicant must furnish a copy of a dimensioned site plan drawn to scale and certified by a Registered Land Surveyor or Registered Professional Engineer showing the following:
  - 1. The owners name and address.
  - 2. The legal description of the property including bearing notations and lengths.
  - 3. Existing and proposed structures on the property including wells, sewage facilities and finger systems.
  - 4. Existing and proposed elevations of the building site including the proposed elevation of the first floor of the structure.
  - 5. All easements required by the Zoning Ordinance or any other ordinance of the Town, or by any Act of the Legislature of the State of Indiana.
  - 6. All adjacent streets including all required easements thereto and also the location and size of ingress and egress points from the property.
  - 7. A statement certifying that the development will not increase the downstream hydraulic peak of the waterway in which watershed the property is located.
- B. Plans so furnished shall be kept by the Building Inspector for a period of three years.
- C. All required special use requirements, such as fencing, screening, etc., shall be shown on the site plan required under subsection A.



- D. The applicant shall present written approval of the proposed structure from any agency, commission, board, or other department of the State of Indiana having jurisdiction over the proposed structure from any agency, commission, board, or other department of the State of Indiana having jurisdiction over the proposed structure prior to issuance of the Improvement Location Permit.
- E. The applicant shall present written approval of the proposed sewage facilities from the Town of Mooresville or the Morgan County Health Department, whichever is applicable.
- F. The applicant shall present written approval from the proper jurisdiction for any proposed means of ingress and egress.
- G. The applicant shall submit one complete sets of construction plans for the proposed improvements. The plans must be certified by the Building Inspector as meeting all building and mechanical codes required by local or State law prior to issuance of the Improvement Location Permit.
- H. As a condition of issuing an Improvement Location Permit, the Building Inspector, or his agent may require the relocation of any structure or of any entrance or exit, or the inclusion of an entrance or exit not shown on the plan, if the requirement is necessary in the interest of the public welfare.
- I. An Improvement Location Permit for a Special Exception may not be issued until the application has been approved by the Board.

### SECTION 9.3 – INDUSTRIAL USES: CERTIFICATE OF COMPLIANCE

If an application for an Improvement Location Permit relates to a light or general industrial uses, it must be accompanied by a Certificate of Compliance, subscribed by a Registered Professional Engineer of the State of Indiana, stating that the use will meet the performance standards established by this ordinance. After a ten day period has elapsed during which the Commission or its agent has not required additional information or objected in writing, he shall issue the permit.

### SECTION 9.4 – EXPIRATION OF IMPROVEMENT LOCATION PERMIT

- A. If a person to whom an Improvement Location Permit has been issued fails to begin construction within twelve months after the permit is issued, or fails to complete fifty percent of the total plan within twenty-four months after the permit is issued, said Improvement Location Permit shall be null and void.
- B. Upon application by the holder of an Improvement Location Permit for a Special Exception, the Board may change the plan on which the permit is based. The Board shall handle the application as if it were an original application for an Improvement Location Permit for a Special Exception. The filing fee for a Special Exception shall be collected as established in Chapter 5. If the Board approves the application, it shall notify the Building Inspector who shall issue an amended permit reflecting the approved change.

### SECTION 9.5 – RECORDS

A record of each Improvement Location Permit and each Certificate of Occupancy shall be kept by the Building Inspector. Upon request, a copy shall be furnished to any person having a proprietary or possessory interest in the premises concerned.

## SECTION 9.6 - NOTICES

During the course of all construction and as a prerequisite to obtaining the certificate of occupancy under this chapter, it shall be the responsibility of the owner of the property to give the building inspector 48 hour notice prior to all required inspections. Failure to give notice to the building inspector for appropriate inspections required to establish that any structure meets the building code shall result in a fine of not less than \$25.00 nor more than \$250.00 and in the event of more than three violations of this section during the construction process, the building inspector shall void the improvement location permit. Violations shall be enforced through the Mooresville Town Court with any appeal to the Morgan Circuit or Superior Court. All court costs and cost of litigation and attorney fees shall be the responsibility of the violating party.

## FILING PROCEDURES

- A. Notice Procedure For All Public Hearings. All petitions before the Mooresville Board of Zoning Appeals and Plan Commission shall be filed in triplicate at the Clerk/Treasurers Office at least ten days prior to the date of public hearing at which the petitions are to be heard and must be on file prior to the date any public notices are sent out.
- B. Notice of Publication. Legal notice in a newspaper of general circulation in the Town of Mooresville shall be published at least ten (10) days prior to the hearing date and proof of publication shall be made by an affidavit of the publisher attached to a copy of the notice taken from the paper in which it was published. Such affidavit shall include the name of the newspaper and the time of publication. Proof of publication shall be returned to the Plan Commission five days prior to the public meeting.
- C. Notice to Adjoining Land Owners: Additional notice shall be given to all adjoining landowners who are within two parcels in depth or six hundred sixty (660) feet from the subject property, whichever is least. Such notification shall be made at least ten (10) days prior to the hearing date and be made by certified or registered mail. For purposes of this notice requirement, where any of the adjoining parcels of ground are owned by the petitioner, the subject property shall be deemed to include such adjoining land owned by the petitioner.

For the purpose of determining the names and addresses of the legal adjoining property owners the records in the bound volumes of the most recent tax assessment records as they appear in the offices of the Morgan County Auditor shall be deemed to be the true names and addresses of persons entitled to be notified.

Such notice shall state:

1. The location and legal description of the land involved in the petition.
2. That the petition may be examined in the Mooresville Town Hall.
3. The docket number and the specific request set out in the petition (in the event it is a re-zoning the specific type of classification being requested, and in the case of a variance, special exception or other public hearing the specific request being petitioned for).
4. The time and location said petition has been set for public hearing along with the Board the Petition will be heard by.

- D. Affidavit of Notice. The Petitioner shall furnish evidence of compliance of the notice requirements by filing a notarized statement with the Board or Commission as is appropriate. Said notice shall list names and addresses of the property owners to whom the notices sent out and the return receipts of postal registrations shall be attached to the affidavit in the same order as the property owners are listed on the affidavit and returned to the Clerk/Treasurer's office at least five days prior to the Public Meeting.
- E. Plan Commission. The Plan Commission meets on the fourth Thursday of each month at 7:00 p.m. unless otherwise posted and hears rezones, subdivision plats, minor plats, and planned unit developments.  
The regular meeting of the Plan Commission shall be in session until 10:30 p.m. At the discretion of the Plan Commission the meeting can continue for the completion of an item past 10:30 p.m. In the event there are additional items still scheduled on the agenda, those items that have not been heard shall be continued until the following Thursday at 7:00 p.m. at the Mooresville Town Hall at which time the Plan Commission shall re-convene without additional notices being required and the continued items shall then be heard.
- F. Board of Zoning Appeals. The Board of Zoning Appeals meets on the second Thursday of each month at 7:00 p.m. unless otherwise posted and hears variances, special exceptions and appeals of decisions of the Building Official.
- G. Proposed Forms for Rezoning, Minor Plats, Subdivisions, Planned Unit Development, Board of Zoning Appeals Variance applications, Model Permits, and Special Exceptions are all on file with the Clerk/Treasurer's Office for the Town of Mooresville.
- H. All filing fees are posted with the Clerk/Treasurers Office and shall be paid prior to the acceptance of the petition for re-zoning, variance, plat, planned unit development, subdivision plat, model permit or special exception.
- I. Appendage Forms: Letter to adjoining property owners; Petition; Affidavit of Notice of Public Hearing; Schedule of Filing Fees.

## **CHAPTER 10 – BOARD OF ZONING APPEALS**

### **SECTION 10.0 – BOARD OF ZONING APPEALS: ESTABLISHMENT AND ORGANIZATION**

There is hereby re-established the advisory board of zoning appeals to be known as the Board of Zoning Appeals of the Civil Town of Mooresville, Indiana. The Board of Zoning Appeals shall be a continuation of the present Board of Zoning Appeals of the Town of Mooresville heretofore established under the advisory plan law, being Indiana Code Section 36-7-4-900, as added amendment 1981, Public Law 309 Section 23.

- A. Membership. The Board of Zoning Appeals shall be established pursuant to Indiana Code. The terms of office of each member shall, likewise, be as set out under the Indiana Code for an advisory board of zoning appeals.
- B. Territorial Jurisdiction. The Board of Zoning Appeals shall have jurisdiction over all the land subject to the zoning ordinance as shown in the zoning maps.
- C. Organization. At the first meeting of the calendar year, the Board shall elect from its members a chairperson and vice-chairperson and secretary consistent with state law, recording secretary and such employees as it considers necessary to discharge its duties.
- D. Subject Matter Jurisdiction. The Board of Zoning Appeals shall have exclusive jurisdiction for
  - 1. variance use under Indiana Code 36-7-4- 918.4 and all acts amendatory thereto;
  - 2. variance request from the development standards under Indiana Code 36-7-4-918.5 and all acts amendatory thereto;
  - 3. special exception request pursuant to this ordinance;
  - 4. appeals as provided by statute, including requirements for procurement of improvement location or occupancy permits or any ordinance adopted under I.C. 36-7-4 or any prior zoning statute, and any other appeals authorized by statute;
  - 5. other request directed by this ordinance.
- E. Rules and By-laws. The Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code 36-7-4-916 and any and all by-laws concerning organization, forms for applications, filing requirements, other than as to the place of filing as herein provided for, procedures for notice and conduct of meetings. If no formal by-laws are adopted, the chairperson shall have the right to set out the procedures for conducting the meetings.
- F. Facilities and Funding. The Town of Mooresville shall provide suitable facilities for meetings of the Board of Zoning Appeals hearings and the storage of its recorded documents and accounts, and in its annual budget to provide sufficient funds for the functioning of said board and its staff.
- G. Hearings. All hearings shall be open to the public. The Board shall keep minutes of its meetings, keep records of all examinations and other official actions, making the findings in writing and shall record the vote of each question. Minutes and records shall be filed in the office of the Clerk-Treasurer and made available to the public.

## SECTION 10.1 – BOARD OF ZONING APPEALS: HEARINGS AND NOTICES

Upon application for a Special Exception, Variance or appeals of a decision of the Building Inspector, the Board shall hold a public hearing. Public notice setting the time and place shall be given at least ten days prior to the date of the hearing in a newspaper of general circulation in the Town. Letters to all property owners within 660 feet of the subject property shall be mailed by registered mail at least ten days prior to the hearing and shall contain the same information as the published legal notice. If adjoining property is the same ownership, it shall be counted as part of the petitioner's property. The cost of such notice shall be borne by the person applying or appealing.

The Civil Town of Mooresville or Morgan County shall be notified through the building inspector's office of any variance request that affects drainage, road or streets, or any other dedicated right-of-way or easement of the Town of Mooresville or in the buffer zone that affects Morgan County in a similar manner.

## SECTION 10.2 CONDITIONS

- A. The Board may permit or require the owner of a parcel of property to make written commitment or commitments concerning the use or development of that parcel or may impose conditions upon that grant of variance.
- B. A variance granted by the Board shall run with the land until such time as: a) the use of the variance ends, or in the case of a variance from use until a change in ownership at which time the variance ends, or b) the property conforms with the ordinance as written or c) ownership at which time the variance ends.

## SECTION 10.3 – APPEALS

- A. A decision of the Building Inspector enforcing this ordinance may be appealed to the Board by any person who is adversely affected by the decision. The filing fee shall be as established by the Plan Commission.
- B. On appeal under subsection A, the Board may make any decision that the Building Inspector might have made.
- C. All appeals from the decision of the Board of Zoning Appeals shall be made pursuant to Indiana Code Section 36-7-4-1000 through 36-7-1020 and all amendments thereto.

## SECTION 10.4 – ENFORCEMENT

- A. Any person may be sued in a court of proper jurisdiction (where not specified by Indiana Code, in the Morgan Circuit or Superior Courts) to enjoin the violation of this ordinance.
- B. The Commission or the Board may by mandatory injunction in a court of proper jurisdiction require the removal of a structure erected in violation of this ordinance or proceed to enforce any violation of this ordinance or ruling of the Board of Zoning Appeals.
- C. A use that violates this ordinance shall be treated as if it was a common nuisance, and it may be abated in the same manner as such a nuisance.

- D. The above remedies are cumulative and the Commission and Board shall have the option of taking any of the above actions it chooses without waiving the right to any other action available and shall also have the right to proceed with all other remedies which are available under the law.

#### SECTION 10.5 – AMENDMENTS

All amendments to this ordinance shall be in accordance with Section 46 through 50, of Chapter 138 of the Acts of the Indiana General Assembly of 1957 and all Acts amendatory thereto.

#### SECTION 10.6 – USES NOT LISTED

It is recognized that in the development of a zoning ordinance, not all uses of land can be listed, nor can all future uses be anticipated. A “use” may have been omitted from the list of those specified as permissible in the various districts established by this ordinance, or questions may arise concerning words which are synonymous. In such instances the following procedures shall apply.

- A. When classification of use is appealed or referred to the Board it shall be the duty of the Board to ascertain all pertinent facts concerning said use and set forth in writing its findings and the reasons for designating a specific classification for such use.
  - 1. Applicant shall file a request with the Commission for a decision by the Board. The Board may also initiate an application.
  - 2. The Board shall render a decision not less than thirty days after such application is made, and shall notify the applicant and any person requesting such notice of such decision.
- B. In classifying a use the Board shall first make a finding that all of the following conditions exist:
  - 1. That investigation have disclosed that the subject use and its operations are compatible with the uses permitted in the district wherein it is proposed to be located; and
  - 2. That the subject use is similar to one or more uses permitted in the district within which it is proposed to be located; and
  - 3. That the subject use will not cause substantial injury to the values of property in the neighborhood or district within which it is proposed to be located; and
  - 4. That the subject use will be so designed, located, and operated that the public health, safety and general welfare will be protected.
- C. The Board shall classify such use as to permitting such use by right or permitting such use subject to Special Exception.
- D. In no instance shall the Board determine that a use be permitted in a district when such use is specifically listed as first permissible in a less restricted district.
- E. Uses classified pursuant to this section shall be regarded as listed uses.

## **CHAPTER 11 – REMEDIES AND PENALTIES**

Action on the violation of provisions of this ordinance and rights of injunction against such violation shall be as set out below and shall also include any and all remedies set out under Indiana Code 36-7-4 and all acts amendatory thereto.

### A. Penalties

Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith or with any of the requirements thereof or who shall build, reconstruct or structurally alter any building in approved there under shall for each and every violation of noncompliance be guilty of a misdemeanor and, upon conviction, shall be fined not less than Ten Dollars (\$10.00) and not more than One Thousand Dollars (\$1,000.00), and each day that such violation of noncompliance shall be permitted to exist shall constitute a separate offense.

### B. Remedies

The Plan Commission, the Board of Zoning Appeals, the Building Inspector, or any designated enforcement official, or any person or persons, firm or corporation, jointly or severally, may institute a suit for injunction in the Circuit or Superior Courts of Morgan County to restrain an individual or government unit from violating the provisions of this ordinance. The Plan Commission or Board of Zoning Appeals may also institute the suit for mandatory injunction directing an individual or corporation or a governmental unit to remove a structure erected in violation of the provisions of this ordinance or the requirements thereof, or to enforce any other provision of this ordinance, and said violation being declared to be a common nuisance and as such may be abated in such a manner as nuisances are now or may hereinafter be abated under existing law.

### C. Stay of work pending appeal, Restraining Order and Enforcement of Stay.

1. When an appeal from the decision of an official or board has been filed with the Board of Zoning Appeals, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the Board of Zoning Appeals, that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by restraining order.
2. After notice to the officer or board and to the owner of the premises affected and after due cause is shown, the Circuit or Superior Court of the county in which the premises affected are located may grant the restraining order.
3. After the owner of, or a person in charge of the work on, the premises affected has received notice that an appeal has been filed or board charged with the enforcement of an ordinance may order the work stayed and call on the police power of the municipality to give effect to that order.

### D. Attorney's Fees. Notwithstanding anything contained in this Ordinance to the contrary or appearing to be to contrary, and in addition and supplementary to other provisions of this Ordinance, if the Board of Zoning Appeals or the Town of Mooresville is required to utilize the services of the Town attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this Ordinance before any board or a court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or Town is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding, the respondent,

defendant or party investigated for a violation shall pay the Town's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Ordinance, unless such attorney fees or costs are specifically waived by the Town Council of the Town of Mooresville.

- E. Costs on Appeal. As to any appeal from a decision of the Board of Zoning Appeals, costs may not be allowed against the Board of Zoning Appeals, unless it appears to the court that the Board acted with gross negligence or in bad faith in making the decision brought up for review.
- F. No Improvement Location Permit or Building Permit required under the Uniform Building Code or this ordinance shall be issued on any property subject to this ordinance in violation of the provisions of this ordinance.
- G. The Building Inspector or any person or persons assisting the Building Inspector in the application and enforcement of this Ordinance is hereby authorized to go onto private property for the purpose of conducting inspections required by the Ordinance or any order of the Plan Commission and Board of Zoning Appeals, or required to determine if this Ordinance is being violated, or required to enforce this Ordinance. Such inspection or inspections shall occur at reasonable times and shall be conducted in a manner not to disturb the peace.

#### INTERPRETATION, CONFLICT AND SEPARABILITY

In their interpretation and application the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

#### CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS

##### PUBLIC – PROVISIONS

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

- A. Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive than such easement, covenant, or other private agreement or restriction, the requirement of these regulations shall govern. Where the requirement of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these standards than the requirements of these regulations, or the determinations of the Commission in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations there under, then such private provisions shall be operative and supplemental to these regulations and determinations made there under. Generally, private provisions can only be enforced privately unless a public agency such as the Town Council or Plan Commission has been made a party to such agreements.
- B. Reparability. If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent circumstances is



adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

- C. Saving Provision. This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing Subdivision Control Ordinance and Zoning Ordinance, or a discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or waiving any right of the Town of Mooresville under any section or provision existing at the time of the effective date of this ordinance, or as vacating or nullifying any rights obtained by any person, firm, or corporation, by lawful action of the Town of Mooresville except as shall be expressly provided for in this ordinance.
- D. Exclusion. Nothing in this ordinance or in any rules, regulations or orders issued pursuant to this ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, plan commission or board of zoning appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana or by any state agency, or the use of property owned or occupied by State of Indiana or any state agency. As used in this section, the term “state agency” shall mean and include all state agencies, boards, commissions, departments, and institutions, including state educational institutions of the State of Indiana.

Effective Date. This ordinance takes effect upon the date of passage by the Civil Town of Mooresville by its Town Council.

## **SUBDIVISION CONTROL ORDINANCE**

**BE IT ORDAINED UNDER AUTHORITY OF IC-36-7-4, STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO:**

### **SECTION 1 – ESTABLISHMENT OF CONTROL**

No plat or replat of a subdivision of land located within the jurisdiction of the Mooresville Plan Commission shall be recorded until it shall have been approved by such Commission, and such approval shall have been entered in writing on the plat by the President and Secretary of the Commission.

### **SECTION 2 – DEFINITIONS**

For the purpose of this ordinance, the definitions shall be the same as those found in Section 1.4 of the Zoning Ordinance of Mooresville, Indiana.

### **SECTION 3 – PROCEDURE**

A sub divider desiring approval of a plat of a subdivision of any land lying within the jurisdiction of the Commission, shall submit a written application here fore to the Commission. Such application shall be accompanied by the information, requirements and plans set forth hereafter, all in accordance with the requirements set forth in this ordinance.

### **SECTION 3A - PRIMARY APPROVAL FOR SUBDIVISION**

1. The owner or sub divider shall provide a plan of the subdivision which shall show the manner in which the proposed subdivision is coordinated with the Master Plan and its provisions; specifically, with relation to the requirements of the Thoroughfare Plan; school and recreational sites; shopping centers; community facilities; sanitation; water supply and drainage; and other developments existing and proposed, in the vicinity; provided, however, that no land shall be subdivided for residential use unless adequate access to the land over improved streets or thoroughfares exists or will be provided by the sub divider, or if such land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formation, topography, or any other feature harmful to the health and safety of possible residents and the community as a whole.
2. The sub divider shall provide the following:
  - a) Location map (which may be prepared by indicating the data by notations on available maps) showing:
    - (1) Subdivision name and location.

- (2) Any thoroughfares related to the subdivision.
- (3) Existing elementary and high schools, parks and playgrounds serving the area proposed to be subdivided, and other community facilities.
- (4) Title, scale, north point and date.

b) A plat showing:

- (1) Proposed name of the subdivision.
- (2) Names and addresses of the owner, sub divider and the planner, land planning consultant, engineer or surveyor who prepared the plat.
- (3) Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot in five thousand feet.
- (4) Accurate distances and directions to the nearest streets intersecting the boundaries of the tract to be subdivided.
- (5) Accurate metes and bounds description of the boundary of the tract.
- (6) Source of title to the land to be subdivided as shown by books of the County Recorder.
- (7) Street names.
- (8) Complete curve notes for all curves included in the plan.
- (9) Street lines with accurate dimensions in feet and hundredths of feet, with angles to street, alley and lot lines.
- (10) Lot numbers and dimensions.
- (11) Accurate locations of easements for utilities and any limitations on such easements, all plats must have utility easements.
- (12) Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
- (13) Building setback or front yard lines and dimensions.
- (14) Location, type, material and size of all monuments and lot markers. Monuments shall require caps with surveyors name and license number.
- (15) Plans and specifications for the improvements required in this ordinance.
- (16) Restrictions of all types which will run with the land and become covenants in the deeds for lots.
- (17) North point, scale and date.
- (18) Certification by a registered land surveyor.
- (19) Certification of dedication of streets and other public property.
- (20) Certificate for approval by the Commission.
- (21) A statement in writing from the Morgan County Health Department, if the proposed subdivision will be served by individual sewage systems. The statement shall indicate that the minimum requirements for approval of septic systems by the Health Department can be met for the individual lots in the subdivision.
- (22) The sub divider shall provide the subdivision with a complete water supply system or show to the Plan Commission an individual water supply on each lot in accordance with minimum requirements of the Morgan County Health Department.
- (23) A statement in writing from the Morgan County Highway Department, if the subdivision is to be outside the corporate limits of the Town, indicating that the proposed streets within the subdivision will meet the minimum standards adopted by Morgan County and that all roads must

meet at a minimum the standard set by the Town of Mooresville, including those in the buffer zone area.

- (24) The original drawing of the plat of the subdivision shall be drawn to a scale of 50 feet to 1 inch, provided that if the resulting drawing would be over 36 inches in longest dimension. A scale of 100 feet per 1 inch may be used and filed in sections, or, in order to conform to modern drafting and reproduction methods, three black line prints and a reproducible print shall be submitted.
- (25) All drainage and utility easements shall be separate if open drainage is being used. Where a county road is involved or a road not dedicated to the town, then sewer easements shall be provided along with other utility easements.
- (26) The application shall be accompanied by a certified check or money order in the amount specified in the fee schedule which is
- (27) attached hereto and made a part hereof. Said check or money order shall be drawn in favor of the Town of Mooresville.
- (28) A statement certified by a registered engineer or registered land surveyor stating that development will not increase the downstream hydraulic peak of the waterway in which watershed the property is located for a fifty year storm frequency.

c) A statement or plan of traffic access and impact on the area.

- (1) After an application for approval of a plat of a subdivision has been filed, the Commission shall review the proposed plat for the purpose solely of determining whether to allow the plat and data to be formally filed with the Commission of record or whether to return such items to the Sub divider with suggestions for changes. Unless and until the Commission formally accepts a plat for filing, it shall not be considered as actually filed for the purposes of proceeding to the succeeding steps toward plat approval as hereinafter set forth. The filing of a plat grants no proprietary rights to the applicant in the proposed subdivision and in no way is binding upon the Commission as to what terms and conditions will apply before plat approval is granted, if any, it being the purpose of such filing to advise both the Commission and the interested public as to what the applicant or sub divider is proposing in order to appropriately hold a public hearing on the proposed subdivision.
- (2) Every plat filing shall specify the proposed type of bond which shall be posted with the Secondary Approval, if approved, the type of surety and where known, the name of the surety to cover both the performance requirements of this ordinance as well as the three year maintenance period for all systems to be installed by the sub divider period for all systems to be installed by the sub divider in accordance with the provisions of this ordinance.

Notice shall also be provided to the following checkpoint agencies for their review and comments stating specifically the nature of the development, the number of employees or potential households and traffic impact directing the same by proof of receipt of these documents; to the Director of Public Works, Mooresville Police Department, Mooresville Consolidated School Corporation, Morgan County Soil and Conservation District,

Morgan County Highway Department, Morgan County Sheriff, Mooresville Fire Department and other Fire Departments in the jurisdiction that is affected by the development. The Building Inspector shall receive all of the above information and be given the same notice, the Building Inspector also shall receive a copy of the plat and construction drawings.

- (3) Within 30 days of accepting an application, the Commission shall set a date for a hearing, notify the applicant, and applicant shall notify by general publication any person or governmental unit having a probable interest in the proposed plat. The cost of the publication of the Notice of Hearing shall be paid by the applicant.
- (4) The applicant shall give notice to all adjacent property owners within 660 feet of the boundaries of the subject property but not more than two properties removed from the subject property by registered mail at least ten days prior to the hearing and shall contain the same information as the published legal notice. The cost of such notice shall be borne by the applicant.
- (5) If, after the hearing, the Commission determines that the application and plat comply with the standards in this ordinance, it shall make written findings and a decision granting primary approval to the plat. This decision must be signed in the appropriate space upon the plat by the President of the Commission and attested to by the Secretary of the Commission.
- (6) If, after the hearing, the Commission determines that the application and plat do not comply with the standards in this ordinance, it shall make written findings and a decision denying primary approval to the plat. The Commission will provide a copy of its findings to the applicant and any interested party requesting such information. This decision must be signed by the President of the Commission and attested to by the Secretary of the Commission.

### SECTION 3B - SECONDARY APPROVAL FOR SUBDIVISION

A bond shall be posted running in favor of the Town of Mooresville or Morgan County Commissioners, which ever is applicable. The faithful completion of all streets, sidewalks, curbs, and gutters, sewer facilities, storm drainage, street signs and lighting, fire hydrants, and any and all other improvements outlined and shown on the plat, and accompanying data required by this ordinance, including but not limited to as built plans being filed with the Plan Commission.

1. The faithful completion of all streets, sidewalks, curbs and gutters, sewer facilities, storm drainage, street signs and lighting, fire hydrants, and any and all other improvements outlined and shown on the plat and accompanying data including but not limited to as built plans being filed required by this ordinance.
2. The completion of such improvements within two years from the date of such bond.
3. In a penal sum to be fixed and approved by the Commission but in no case shall such penal sum be less than 100% of the total estimated cost of all improvements and installations provided in the final plat.

Upon satisfactory completion of the improvements within a two year period of the improvements covered by such completion bond, the Commission shall be notified by the sub divider, in writing, that all improvements and installations have been completed in accordance with the provisions of the plat which was approved by the Commission; such completion bond, after inspection by the Commission and certification that all the requirements of the plat have been met, may be released by the Commission upon receipt by the Commission of a three year maintenance bond conditioned upon the following:

1. Running to and in favor of the Civil Town of Mooresville Indiana or the Board of County Commissioners of Morgan County, Indiana, as the case may be.
2. In a penal sum of not less than 20% of the performance bond amount for the subdivision for all improvements whether under the jurisdiction of the Town or the County to assure and guarantee the maintenance of all improvements and installations, during such three year period, including sewers and lift stations, pumps, motors, connections and main lines installed in the subdivision, street lights, hydrants and signs for traffic control.
3. The amount for maintenance other than streets mentioned above shall be set by the Commission but in no event shall the penal sum of such maintenance bond covering additional installations be less than 20% of the original subdivision bond filed to guarantee the completion of the proposed subdivision with improvements.
4. Where applicable, the acceptance and release of the performance bond by the Morgan County Commissioners.

Upon the acceptance of all streets and other improvements in the subdivision by the Town Council of the Civil Town of Mooresville, Indiana, or by the Board of County Commissioners of Morgan County, Indiana, as the case may be, the three year maintenance bond may be released and the surety discharged for all time of further obligation.

The Commission may grant secondary approval of a plat under this section or may delegate to the staff the authority to grant such approvals. No notice or hearing is required. A plat of a subdivision may not be filed with the auditor, and the recorder may not record it, unless it has been granted secondary approval and signed and certified by the appropriate official of the Commission. The filing and recording of the plat is without legal effect unless approved by the Commission or its designated delegate.

All plats shall be filed with the Mooresville Plan Commission in recordable form along with the filing fee made payable to the Morgan County Recorder in the appropriate amount. The Mooresville Plan Commission shall check the final document for recording to make sure it complies with the approved plat signed by the Plan Commission. The Mooresville Plan Commission shall arrange for the recording of the plat within ten days from the receipt of the same.

Filing and recording of the plat is without legal effect unless approved by the Commission or its designated delegate.

Filing Procedures – See attached

### SECTION 3C - MINOR PLAT APPROVAL.

After a determination by the Plan Commission that a dedicated road (to the County or the Town) is not necessary and adequate access to a public road can be provided the owner or sub divider can apply for a minor plat in the event the ground will not be subdivided into any more than four (4) parcels total. In determining the number of four (4) parcels prior ownership and prior subdivisions of this ground will be included back to the date of this ordinance to insure that the subdivision control ordinance is not being circumvented for major plat approvals by such transfers.

The sub divider shall provide the following:

1. Name and address of the owner/sub divider and engineer or surveyor who prepared the plat.
2. Accurate boundary lines, with dimensions and angles which provide a survey of the tract.
3. Accurate distances and directions to the nearest streets intersecting the boundaries of the tract to be subdivided.
4. Accurate metes and bounds, description of the boundary of the tract.
5. Accurate locations of easements for utilities and any limitations on such easements. Utility easements must be provided.
6. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
7. Building setback or front yard lines and dimensions. All setback measurements shall be measured from the actual property line or access easement line, whichever provides the greater setback.
8. Plans and specifications for the improvements required in this ordinance.
9. Restrictions of all types which will run with the land and become covenants in the deeds for lots.
10. North point, scale and date.
11. Certification by a registered land surveyor.
12. Certificate for approval by the Commission.
13. A statement in writing from the Morgan County Health Department, if the proposed subdivision will be served by individual sewage systems. The statement shall indicate that the minimum requirements for approval of
14. septic systems by the Health Department can be met for the individual lots in the subdivision.
15. The above information shall also be provided to the following checkpoint agencies with notice evidencing the receipt of the same by a certified letter, return receipt, or written acknowledgment of receipt and also a copy of a notice to them advising them of the date of the hearing and their right to provide written comments or to be present:

Building Inspector, Director of Public Works, Mooresville Police Department, Mooresville Consolidated School Corporation, Morgan County Soil and Conservation District, Morgan County Highway Department, Morgan County Sheriff, Mooresville Fire Department, any other Fire Department in the jurisdiction serving the property, (construction drawings shall be provided along with the plat to the Building inspector and Director of Public Works).

1. The application shall be accompanied by a certified check or money order in the amount specified in the fee schedule which is attached hereto and made a part hereof. Said check or money order shall be drawn in favor of the Town of Mooresville.
2. The sub divider shall not have a common drive unless a covenant for maintenance is filed with the plat and recorded with the plat after approval.
3. For a minor plat bonds will not be required unless public improvements are shown. Then regular plat bonding requirements shall be met. There shall be one public hearing, as set out in paragraph 5 and 6 of this section, requiring a filing of an application and a notice by publication along with adjacent property owners within six hundred sixty feet (660) feet of the boundary of the subject property but not; more than two properties removed from the subject property, by registered mail, at least ten (10) days prior to the hearing, with the cost of this to be borne by the applicant. At the hearing, final approval can be made by the Plan Commission or, if additional time is needed, the public hearing can be continued as the Plan Commission determines necessary.
4. A statement certified by a Registered Engineer or Registered Land Surveyor stating that the development will not increase the downstream hydraulic peak of the waterway in which water shed the property is located for a 50 year storm frequency.
5. All drainage and utility easements shall be separate if open drainage is being used. Where a county road is involved or a road not dedicated to the town, then sewer easements shall be provided along with other utility easements.
6. Any plat that adjoins a county road must designate and grant a dedicated 25 foot right-of-way to Morgan County unless the County waives the same in writing.
7. A statement certified by a registered engineer or registered land surveyor stating that the detention and retention areas for on site post-development for one hundred year storm frequency.

#### SECTION 4 – PRINCIPLES AND STANDARDS OF DESIGN

The plat of the subdivision shall conform to the following principles and standards of design:

##### SECTION 4A – GENERAL

The subdivision plan shall conform to the principles and standards which are generally exhibited in the Master Plan.

##### SECTION 4B - STREETS

1. The streets shall provide access to all lots and parcels of land within the subdivision, and where streets cross other streets, jogs shall not be created.
2. Proposed streets shall be adjusted to the contour of the land so as to produce useable lots and streets of reasonable gradient.
3. Certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity. Frontage roads to be used as collector streets when it is necessary for traffic control in the area.



4. Wherever there exists a dedicated or platted portion of a street adjacent to the proposed subdivision, the remainder of the street or alley to the prescribed width shall be platted within the proposed subdivision as a minimum to the next intersecting street.
5. The minimum right-of-way of residential streets, marginal access streets or cul-de-sacs shall be 50 feet. All cul-de-sacs shall terminate in a circular right-of-way with a minimum diameter of 100 feet, or other arrangement for the turning of all vehicles conveniently within the right-of-way.
6. Alleys shall be prohibited, except as provided in 4 above.
7. The center lines of streets should intersect as nearly at right angles as possible.
8. At intersections of streets, property line corners shall be rounded by arcs of at least 20 feet radii or by chords of such arcs.
9. If the smaller angle of intersection of two streets is less than 75 degrees, the radius of the arc at the intersection of property lines shall be determined as deemed advisable by the Commission.
10. Intersections of more than two streets at one point shall be avoided.
11. Where parkways of special types of streets are involved, the Commission may apply special standards to be followed in their design.
12. Horizontal visibility of curved streets and vertical visibility on all streets must be maintained along the center lines as follows:
  - a) Arterial streets: 500 feet
  - b) Feeder streets and parkways: 300 feet
  - c) Residential streets: 150 feet
13. Curvature measured along the center line shall have a minimum radius as follows:
  - a) Arterial streets: 500 feet
  - b) Feeder streets and parkways: 300 feet
  - c) Residential streets: 200 feet
14. Between reversed curves on arterial or feeder streets there shall be a tangent of not less than 100 feet.
15. Maximum grades for streets shall be as follows:
  - a) Arterial streets, not greater than 6%.
  - b) Feeder and residential streets, not greater than 8%.

#### SECTION 4C – LOTS

1. All lots shall abut on a street.
2. Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but pointed or very irregular lots should be avoided.
3. Double frontage lots should not be platted.
4. Widths and areas of lots and building setback lines shall be not less than that provided in the Zoning Ordinance of Mooresville, Indiana for dwellings for the district in which the subdivision is located.

5. Wherever possible, unit shipping centers, based upon sound development standards, should be designed in contrast to the platting of lots for individual commercial use.
6. Corner residential lots shall be wider than normal in order to permit appropriate setbacks from both streets.

#### SECTION 4D - EASEMENTS

Easement for utility shall be provided. This easement area for utilities shall not include the paved surfaces. Such easements shall have minimum widths of 20 feet with up to 30 feet to be granted where it is needed, and where located along lot lines, one-half of the width shall be taken from each lot. Before determining the location of easements, the plan shall be discussed with local utility companies to assure their proper placing for the installation of such services to allow necessary room for the placement of all possible utilities.

#### SECTION 4E - PUBLIC OPEN SPACES

Where sites for parks, schools, playgrounds or other public uses are located within the subdivision area as shown on the Master Plan, the Commission may request their dedication for such purposes, or their reservation for a period of one year following the date of the approval of the plat. In the event a governmental agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period shall be extended for an additional 6 months.

All public open spaces dedicated to the public shall be granted access through an easement or direct access to a public right-of-way.

#### SECTION 5 – STANDARDS OF IMPROVEMENTS

The plat of subdivision shall conform to the following standards of improvements:

#### SECTION 5A - MONUMENTS AND MARKERS

1. Shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade. The monument or marker shall specify the surveyor's name on the monument and will require caps with the surveyor's name and license number.
2. Monuments shall be set:
  - a) At the intersection of all lines forming angles in the boundary of the subdivision.
  - b) At the intersection of street property lines.
3. Markers shall be set:
  - a) At the beginning and ending of all curves along street property lines.

- b) At all points where lot lines intersect curves, either front or rear.
  - c) At all angles in property lines of lots.
  - d) At all other lot corners not established by a monument.
4. Monuments shall be of stone, pre cast concrete, or concrete poured in place with minimum dimensions of four inches by four inches by thirty-six, set vertically in place. They shall be marked on top with an iron dowel set flush with the top of the monument. Markers shall consist of iron pipes or steel bars at least 36 inches long, and not less than five-eighths inch in diameter.

#### SECTION 5B - STREETS

1. Streets shall be completed to grades shown on plans, profiles, and cross-sections provided by the sub divider, and prepared by a registered professional engineer and approved by the Commission.
2. The streets shall be graded, surfaced and improved to the dimensions required by the cross-sections and the work shall be performed in the manner prescribed in "Standard Specifications" (latest issue), of the Indiana Department of Transportation.
  - a) In a subdivision proposed to have residential streets and containing an average of more than two lots per gross acre, or in a subdivision proposed to have a street or streets which are extensions of existing paved streets which are surfaced to a width of at least 26 feet, the street shall be surfaced to a minimum of at least 26 feet, not including the raised portions of curbs.
  - b) In a subdivision proposed to have residential streets and containing an average of two or less lots per gross acre, the streets shall be surfaced to a minimum width of 24 feet, not including the raised portions of curbs.
3. The street surface shall be of Portland cement or a flexible pavement and shall be constructed in accordance with the requirements of Figure 2, and to current Specifications.
4. The President and Building Inspector of the Mooresville Plan Commission shall be notified when paving operations will begin so that a representative of the Town or County, as the case may be, can make any necessary inspections. Any failure by the sub divider or his subcontractor to comply with the design standards of this ordinance and the specifications approved by the Commission shall be grounds for issuance of a cease and desist order and notice of corrective actions to be taken. Failure to make necessary corrections shall be grounds for suit against the performance bond posted by the sub divider by the Town or the County, as the case may be, to properly install and complete the streets in question. The responsibility for the compliance with these provisions shall be solely that of the subdivider shown on such performance bond as the principal obligor.

FIGURE 2

TYPE OF STREET

PAVEMENT

**Residential:**

Seven inches reinforced Portland cement concrete on 6 inches granular (“B” borrow) sub base; or

110 lbs./sq. yd. Of # 11 bituminous surface on 330 lbs./sq. yd. Of bituminous base on eight inches of compacted aggregate base; or

110 lbs./sq. yd. Of #11 bituminous on 220 lbs./sq. yd. Bituminous base on 440 lbs./sq. yd. Bituminous base.

**Feeder:**

Eight inches reinforced Portland cement concrete or eight inches granular (“B” borrow) sub base; or

165 lbs./sq/ yd/ bituminous #11 surface on 440 lbs./sq. yd. Bituminous base on 8 inches compacted aggregate base; or

110 lbs./sq. yd. # 11 surface on 440 lbs./sq.yd. of bituminous base on 440 lbs./sq. yd. Bituminous base.

**Arterial and Industrial:**

Ten inches reinforced Portland cement concrete on eight inches granular (“B” borrow) sub base; or

110 lbs./sq. yd. Of #11 bituminous surface on 240 lbs./sq. yd. Of bituminous base on 440 lbs./sq. yd. Of bituminous base; or

110 lbs./sq. yd. #11 surface on 220 lbs./sq. yd. Bituminous base on 440 lbs./sq. yd. Bituminous base on eight inches compacted aggregate base.

5. Prior to placing the street surfaces, adequate subsurface drainage for the street shall be provided by the sub divider. Subsurface drainage pipe shall be coated corrugated steel pipe or a similar approved type not less than 6 inches in diameter approved by the Commission. Upon the completion of the street improvements, plans and profiles as built shall be filed with the Commission.

Access roads shall be a minimum of 8” aggregate.

**SECTION 5C – SEWERS**

The sub divider shall provide the subdivision with a complete sanitary sewer system, which shall connect with an existing approved sanitary sewer outlet, except that when such approved outlet is not available, one of the following methods of sewage disposal shall be used:

1. A complete sanitary sewer system to convey the sewage to a treatment plant, to be provided by the sub divider in accordance with the minimum requirements of the Morgan County Health Department, the Indiana State Board of Health, and/or the Indiana Stream Pollution Control Board.
2. A private sewage disposal system on individual lots as approved by the Morgan County Health Department.

The plans for the installation of a sanitary sewer system shall be provided by the sub divider and approved by the Indiana State Board of Health. The design shall give consideration to service extensions into adjacent areas. Upon the completion of the sanitary sewer installation, the plans for such system as built shall be filed with the Commission.

In this section SEWERS, and the next section WATER, the phrase “the sub divider shall provide” shall be interpreted to mean that the sub divider shall install the facility referred to, or, whenever a private sewage disposal system or an individual water supply is to be provided, that such facilities referred to in these sections shall be installed by the developer of the lots in accordance with these regulations.

#### SECTION 5D – WATER

The sub divider shall provide the subdivision with a complete water supply system, which shall be connected to an existing approved municipal or community water supply, except that when no such supply is available, the sub divider shall provide one of the following:

1. A complete community water supply system to be provided in accordance with the minimum requirements of the Indiana State Board of Health.
2. An individual water supply on each lot in the subdivision in accordance with the minimum requirements of the Morgan County Board of Health.

The plans for the installation of water main supply systems shall be provided by the sub divider and approved by the Indiana State Board of health. Upon completion of the water supply installation, the plans for such system as built shall be filed with the Commission.

#### SECTION 5E - STORM DRAINAGE

The sub divider shall provide the subdivision with an adequate storm water sewer system whenever the evidence available to the Commission indicates that the natural surface drainage is inadequate. When the surface drainage is adequate, easements for such surface drainage shall be provided.

A statement certified by a Registered Engineer stating that the development will not increase the downstream hydraulic peak of the waterway in which watershed the property is located shall be provided.

#### SECTION 5F - CURBS AND GUTTERS

1. The Commission shall require curb and gutter to be installed on each side of the street surface in all subdivisions.
2. The curb and gutter shall be of one of the construction types shown in Figure 3 and shall be constructed according to the following specifications:
  - a) The base for the curb and gutter shall be well compacted on the existing base or grade.

- b) The minimum specification shall be as shown for the two types of cross-sections.
- c) All concrete used in the curb and gutter shall meet the State Highway Specifications for Class A.

#### SECTION 5G - SIDEWALKS

1. Sidewalks shall be installed on both sides of all streets in any subdivision.
2. Sidewalks shall be installed in all B and P.U.D.-C zoning classifications as determined by the Commission.
3. When sidewalks are installed, they should be constructed of Portland cement concrete at least 4 inches thick and 4 feet wide and placed 1 foot from the street property line.
4. Sidewalks shall also be required where necessary to accommodate present and future pedestrian traffic as determined by the Commission.
5. Sidewalk specifications:
  - a) A 4 foot walk is required on residential streets with a minimum 4 foot grass strip. A 5 foot walk is required if the walk is closer than 4 feet to the street.
  - b) A 5 foot sidewalk on all arterial and feeder streets with a minimum of 5 feet for a grassy strip between the street and sidewalk.
  - c) Sidewalks are required in all developments whether in residential use areas or business or industrial as determined by Commission.

#### SECTION 5H - STREET SIGNS

The sub divider shall provide the subdivision with standard Town street signs at the intersection of all streets.

#### SECTION 5I - STREET LIGHTS

The sub divider shall provide the subdivision with street lights, the quality and location of which shall be determined by the Commission. The street lights shall not be required in the buffer zone. The street lights provided shall be with the assistance of the Town when the subdivision is located on a dedicated street and the sub divider shall cover all expenses not furnished to the governmental entity.

#### SECTION 5J - FIRE HYDRANTS

The sub divider shall provide the subdivision with fire hydrants if the subdivision is located within the corporate limits of the Civil Town of Mooresville. Subdivisions outside the corporate limits of the Town of Mooresville served by a water utility shall, likewise, provide fire hydrants. Spacing and location of the fire hydrant shall be based upon the recommendation of the respective fire chief of the area being served.

SECTION 6 – PLAT CERTIFICATES AND DEED OF DEDICATION

The following forms shall be used in platting:

SECTION 6A - COMMISSION CERTIFICATE

UNDER AUTHORITY PROVIDED BY IC-36-7-4 ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO, AND BY AN ORDINANCE ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MOORESVILLE, INDIANA, THIS PLAT WAS GIVEN APPROVAL BY THE TOWN OF MOORESVILLE AS FOLLOWS:

Adopted by the Mooresville Plan Commission at a meeting held on the \_\_\_\_ day of \_\_\_\_\_

Mooresville Plan Commission Primary Approval

By: \_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

Mooresville Plan Commission Secondary Approval

By: \_\_\_\_\_

SECTION 6B - ENGINEER'S CERTIFICATE

I, \_\_\_\_\_ HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED BY ME ON \_\_\_\_\_: THAT ALL THE MONUMENTS SHOWN THEREON ACTUALLY EXIST: AND THAT THE LOCATION, SIZE TYPE AND MATERIAL ARE ACCURATELY SHOWN.

\_\_\_\_\_  
Signature

## SECTION 6C - DEED OF DEDICATION

Each final plat submitted to the Commission for approval shall carry a deed of dedication in substantially the following form:

“We, the undersigned owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance with the within plat.

This subdivision shall be known and designated as, \_\_\_\_\_  
An addition to \_\_\_\_\_. All streets shown and not heretofore dedicated, are hereby dedicated to the public.

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

There are strips of ground \_\_\_\_\_ feet in width as shown on this plat and marked “Easement”, reserved for the use of public utilities for the installation of water and sewer mains, pipes, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of public utilities.

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

The foregoing covenants, (or restrictions), are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 20 \_\_\_\_ (a 25 year period is suggested), at which time said covenants, (or restrictions), shall be automatically extended for successive periods of 10 years unless changed by vote of a majority of the then owners of the buildings covered by these covenants, or restrictions in whole or in part. Invalidation of any one of the foregoing covenants or restrictions, by judgment or court order shall in no way affect any of the other covenants or restrictions, which shall remain in full force and effect. The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns.

## INTERPRETATION, CONFLICT AND SEPARABILITY

In their interpretation and application the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.



CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS  
PUBLIC – PROVISIONS

The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, of these regulations imposes a restriction different from any other ordinance, rule or regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall control.

Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive than such easement, covenant, or other private agreement or restriction, the requirement of these regulations shall govern. Where the provisions of the easements, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission in enforcing these regulations, or the determinations of the Commission in enforcing these regulations, and such private provisions are not inconsistent with these regulations and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. Generally private provisions can only be enforced privately unless a public agency such as the Town Council or Plan Commission has been made a party to such agreements.

Separability. If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have rendered and shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

Saving Provision. This ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing Subdivision Control Ordinance and Zoning Ordinance, or as a discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or waiving any right of the Town of Mooresville under any section or provision existing at the time of the effective date of this ordinance, or as vacating or nulling any rights obtained by any person, firm, or corporation, by lawful action of the Town of Mooresville except as shall be expressly provided for in this ordinance.

Exclusion. Nothing in this ordinance or in any rules, regulations or orders issued pursuant to this ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, plan commission or board of zoning appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana or by any state agency, or the use of property owned or occupied by this section, the term “state agency” shall mean and include all state agencies, boards, commissions, departments, and institutions, including state educational institutions of the State of Indiana.

Effective Date. This ordinance takes effect upon the date of passage by the Civil Town of Mooresville by its Town Council.

Repealer. Upon the adoption of this ordinance, according to law, the Town of Mooresville Zoning Ordinance 13-1990 as amended and all prior zoning maps are hereby repealed.  
Repealing the Town of Mooresville's Subdivision Control Ordinance dated August 21-1990.

REVISED JANUARY 4, 2005