

# **Daviess County Zoning Ordinance**

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Prepared for:

**The Daviess County Board of Commissioners**

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**The County Highway Junkyard Control Ordinance at §§112.01-112.99 is incorporated herein by this reference.**

## PURPOSE

The general purpose of this ordinance is to promote the public health, safety, and general welfare of Daviess County, to enhance the use and enjoyment of property, to protect investment along interstate corridor(s) and within industrial and technology parks in the County, and to provide for reasonable and limited regulation of land use in the county, while specifically preserving and respecting the paramount rights of individual property owners to use and enjoy their property as they see fit. These purposes require a zoning ordinance which will define the districts into which the county is divided, the restriction on the uses within the districts, and the minimum standards for the use of buildings, structures, and land within the districts.

## ARTICLE I ESTABLISHMENT OF DISTRICTS PROVISION FOR OFFICIAL ZONING MAP

**1.1. Official Zoning Map.** The County is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map shall be identified by certification by and bearing the seal of the county under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 1 of Ordinance Number \_\_\_ of Daviess County, State of Indiana." If in accordance with the provisions of the ordinance and applicable state laws, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of County Commissioners with an entry on the Official Zoning Map as follows: "On \_\_\_\_\_ by official action of the Board of County Commissioners, the following changes were made in the Official Zoning Map: \_\_\_\_\_", which entry shall be signed by the President of the Advisory Plan Commission and attested by the County Auditor. No amendment to this ordinance which involves matters portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map. No changes of any nature shall be made in the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind of any person or persons shall be considered a violation of this ordinance and punishable as provided under Article 14. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the County Auditor shall be the final authority as to the current zoning status of land and water area, buildings, and other structures in the County.

**1.2. Replacement of Official Zoning Map.** In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official

Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the President of the Advisory Plan Commission, attested by the County Auditor and bear the seal of the County under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted \_\_\_\_\_ as part of Ordinance No. \_\_\_\_\_ of Daviess County, State of Indiana." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

## **ARTICLE II APPLICATION OF DISTRICT REGULATIONS**

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- 2.1.** No building, structure, or land use change shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- 2.2.** No building or other structure shall hereafter be erected or altered:
  - a. To exceed the lot coverage percentage.
  - b. To have narrower or smaller rear yards, front yards, side yards, or open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
- 2.3.** No part of a yard or other open space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard or open space similarly required for any other building.
- 2.4.** No yard or lot existing at the time of passage of this ordinance shall be reduced in a dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

**ARTICLE III**  
**NON-CONFORMING USES**

**3.1. Purpose.** Within the zoning districts of this title or by amendments which may later be adopted, there exist nonconforming structures; nonconforming uses of land; nonconforming uses of land and structures in combination; and nonconforming characteristics of uses which lawfully exist as of the effective date of the ordinance codified in this title, but which would be prohibited, regulated, or restricted under the terms of this title or future amendments thereto. It is the intent of this title to permit these Nonconforming Uses to continue until they are removed, but not to encourage their survival. It is further the intent of this title that Nonconforming Uses shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other uses or structures which are prohibited elsewhere in the same zoning district. Note: illegal uses existing at the time the ordinance codified in this title is enacted shall not be validated by virtue of its enactment.

**3.2. Nonconforming Uses of Land.** Where, at the time of enactment of the ordinance codified in this title, lawful uses of land exist which would not be permitted by the regulations imposed by this title, the uses may be continued so long as they remain otherwise lawful, provided:

- a. No such Nonconforming Uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this title.
- b. No such Nonconforming Uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of the ordinance codified in this title.
- c. If any such Nonconforming Uses of land are discontinued, or if such Nonconforming Uses are abandoned for more than six months, any subsequent use of such land shall conform to the regulations specified by this title for the district in which such land is located.
- d. No additional structure not conforming to the requirements of this title shall be erected in connection with such Nonconforming Use of land.

**3.3. Nonconforming Structures.** Where a lawful structure exists at the effective date of the ordinance codified in this title that could not now be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following restrictions:

- a. No such Nonconforming Structure may be enlarged or altered in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

b. Should such Nonconforming Structure or nonconforming portion of structure be destroyed by any means to the extent of more than double its assessed value immediately prior to the damage, it shall not be reconstructed or repaired except in conformity with the provisions of this title.

c. Should such Nonconforming Structure be moved for any reason for any distance whatever, or removed from the property for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved or rebuilt.

**3.4. Nonconforming Uses of Structures or of Structures and Land in Combination.** If a lawful use involving individual structures, or if a structure and land in combination, exists at the effective date of the ordinance codified in this title that would not be an allowed use in the district under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following restrictions:

a. No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

b. A Nonconforming Use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the effective date of the ordinance codified in this title, but no such use shall be extended to occupy land outside such building.

c. If no structural alterations are made, any Nonconforming Use of a structure or a structure and land may, upon approval of a zoning use permit be changed to another Nonconforming Use provided that the proposed use is equally appropriate or more appropriate to the district than the existing Nonconforming Use. In permitting such a change, the Advisory Plan Commission may require appropriate conditions and safeguards in accordance with other provisions of this title.

d. Any structure, or structure and land in combination, in or on which a Nonconforming Use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the Nonconforming Use may not thereafter be resumed.

e. When the Nonconforming Use of a structure, or a structure and land in combination, is discontinued, or the Nonconforming Use is abandoned for more than six months, the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

f. Where Nonconforming Use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**3.5. Incompatibility of Nonconforming Uses.** Nonconforming Uses are declared by this title to be incompatible with permitted uses in the district in which such use is located. A Nonconforming Use of a structure, a Nonconforming Use of land, or Nonconforming Use of a structure and land in combination shall not be extended or enlarged after the effective date of the ordinance codified in this title 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 which would be generally prohibited in the district in which such use is located.

**3.6. Repairs and Maintenance.** On any Nonconforming Structure or portion of a structure containing Nonconforming Use, work can be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to the extent not exceeding double the assessed value of the Nonconforming Structure, or nonconforming portion of the structure, whichever the case may be, providing that the floor area existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon such order from such official. If a Nonconforming Structure or portion of a structure containing a Nonconforming Use becomes physically unsafe or unlawful by reason of neglect of its physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

**3.7. Special Uses Are Not Nonconforming Uses.** Any use which is permitted as a special use in a district under the terms of this title shall not be deemed a Nonconforming Use in such district, but shall be considered a conforming use.

**3.8. Government Approved Uses That Are Otherwise Nonconforming Uses.** Where, at the time of enactment of this ordinance, uses of land exist which have been permitted by a local, state or federal agency, and which would not otherwise be permitted by the regulations imposed by this title, such uses may be continued for a period of ten (10) years from the enactment of this ordinance, so long as they remain otherwise lawful. Evidence of such local, state or federal agency shall be presented to the staff or designee of the BZA.

#### **ARTICLE IV**

##### **PRIVATE AGREEMENTS OR DEEDS**

This ordinance establishes minimum requirements and does not abrogate private agreements or covenants between parties which impose stricter requirements. Where those agreements or deeds impose less strict requirements, however, this ordinance controls.

## **ARTICLE V DEFINITIONS**

**5.1.** For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The Advisory Plan Commission shall have the right to adopt reasonable rules and regulations further defining the terms used in this ordinance.

**5.1.1. Accessory structure.** A building or structure subordinate to the principal use of a building on the same lot, and serving a purpose customarily incidental and subordinate to the use of the principal building, excluding freestanding signs.

**5.1.2. Advisory Plan Commission.** The Advisory Plan Commission of Daviess County, Indiana.

**5.1.3. Agri-Business.** A business located in a rural area that a.) is operated out of the home or an accessory structure located on property also utilized for farming activities, or b.) has a primary purpose of serving the agricultural community or furthering Agricultural Uses. Agri-Businesses may include but are not limited to, feed, fertilizer or seed sales, small vehicle repair garages, cabinet shops and wood-working shops.

**5.1.4. Agricultural Use.** The growing of vegetation including crops, horticulture, floriculture, and viticulture; or the raising and production of livestock, poultry, fish and aquaculture; and the necessary buildings and structures for packing and storing said vegetation or animals.

**5.1.5. Agricultural Use (Recreational).** The raising of two or fewer horses or other animals for show or recreational use only or the growing of vegetation in a small garden (no more than 10,000 square feet) for personal use only.

**5.1.6. Alley.** A vehicular right-of-way within a subdivision primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other right-of-way.

**5.1.7. Board of Commissioners.** Board of Commissioners of Daviess County, Indiana.

**5.1.8. Block.** A tract of land bounded by streets, or by a street or streets and any combination of boundary lines or public or institutionally owned lands, railroads, rights-of-way, rivers and lakes and other lines of demarcation

**5.1.9. Board of Zoning Appeals (BZA).** The Advisory Board of Zoning Appeals of Daviess County, Indiana ("BZA").

**5.1.10. Boarding House.** A building, not available to transients, in which meals and lodging are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.



**5.1.11. Building.** A structure built for the support, enclosure, shelter, or protection of persons, animals, chattels or movable property of any kind and which is permanently affixed to the land.

**5.1.12. Business.** An occupation, employment, or enterprise which occupies time, attention, labor and materials; or wherein merchandise is exhibited or sold, or where services are offered.

**5.1.13. Characteristic of Use.** The use which is characteristic or the primary use of an area of land.

**5.1.14. Commercial.** The purchase, sale, barter, or exchange of goods, wares, merchandise or services intended for profit, or the maintenance or operation of offices or enterprises intended for profit.

**5.1.15. Commercial Use.** The land and/or structure used for commercial activity.

**5.1.16. Confined Feeding Operation (CFO ).** As defined by the Indiana Department of Environmental Management (IDEM), Indiana Code, and associated regulations, as amended.

**5.1.17. Concentrated Animal Feeding Operation (CAFO ).** Term removed from this ordinance.

**5.1.18. County.** Daviess County, Indiana.

**5.1.19. D.U. (Dwelling Unit).** Any living unit of one room or more rooms connected together, intended to be occupied year-round by an economically independent unit of humanity, such as bachelor, family, etc., as a place of abode or residence. This unit usually contains a sleeping area, cooking and sanitary facilities. Occasionally, (as in boarding houses) the cooking and/or sanitary facilities are shared with other people who are not members of the same economic unit; including a mobile home if it has its wheels and axle removed and is placed on a permanent foundation.

**5.1.20. Floodplain.** The areas shown to be subject to flooding by the regulatory (100 year) Floodplain as illustrated on the Flood Insurance Rate Map as prepared by the Federal Insurance Administration. These areas are identified on this map as 100 year flood boundaries.

**5.1.21. Floodway.** The channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream, including but not limited to flood flows associated with the regulatory flood. This area is designated as a “commission floodway” by the Indiana Natural Resources Commission.

**5.1.22. Flood Fringe.** The portion of the floodplain outside of the floodway where development may be allowed under certain restrictions.

**5.1.23. Floor Area.** The area of a building in square feet, as measured in a horizontal plane at the ground floor level within the largest outside dimensions, exclusive of open porches, breeze-ways, terraces, garages and exterior stairways.

**5.1.23.1 Frontage** – The length of a front parcel line abutting on a public right-of-way or private right-of-way. There is no frontage requirement for parcels accessed via an ingress, egress and utility easement.

**5.1.24. Front Parcel Line** That boundary of a parcel abutting on a public or private right-of-way. In the case of parcels accessed via an approved ingress/egress easement, the front parcel line shall be that side of the parcel ordinarily regarded as the front of the parcel.

**5.1.25. Front Yard.** A yard that is open and unoccupied space on the same lot with a building situated between the foundation of such building and the lot line adjacent to right of way.

**5.1.26. Home Occupation (Services).** A service occupation conducted entirely within a D.U. and where no goods are sold on the premises (i.e. beauty salons, child care services, office type work, caterers, etc.).

**5.1.27. Home Occupation (Businesses).** A retail or service occupation conducted entirely within a D.U. or accessory structure and where limited goods may be sold on the premises (i.e. small vehicle repair garages, wood-working shops, etc.).

**5.1.28. IDNR.** The Indiana Department of Natural Resources.

**5.1.29. Junk Yard.** An open area where waste or used materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled. This waste and used materials include but are not limited to motor vehicles, vehicles, machinery, or equipment drawn or operated by attaching to motor vehicles.

**5.1.30. Lot.** An area of land within a subdivision, exclusive of public rights-of-way, intended as a unit for the purpose of transfer of ownership, whether immediate or future.

**5.1.31. Parcel Coverage.** The portion of a parcel that is covered by a dwelling, commercial structure, industrial structure, accessory structure, and/or any impervious surface (i.e. sidewalks, drives, parking lots, etc.)

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

**5.1.33. Manufactured Home Park.** A parcel of land containing two or more spaces with required improvements and utilities that are leased for the long term placement of manufactured homes.

**5.1.34. Manufactured Home Subdivision.** A subdivision containing individually platted lots designed for the permanent placement of manufactured homes.

**5.1.35. Manufactured Home Type 1.** A structure transportable in one or more sections, which, in the completed mode, is twenty three (23) body feet or more in width at its narrowest dimension, when erected on site is nine hundred fifty (950) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities and includes the plumbing, heating, and air conditioning and electrical systems contained therein. It shall bear a label certifying it is built in compliance with the Federal Manufactured Home Construction and Safety Act of 1974, which became effective June 15, 1976.

**5.1.36. Manufactured Home Type 2.** A structure transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width at its narrowest dimension, or forty (40) body feet or more in length, or when erected on site is at least three hundred twenty (320) or more square feet but not more than nine hundred fifty (950) square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating and air conditioning, and electrical systems contained therein. It shall bear a label certifying it is built in compliance with the Federal Manufactured Home Construction and Safety Act of 1974, which became effective June 15, 1976.

**5.1.37. Manufacturing.** The making of goods in a mechanical way, or anything so made by machinery.

**5.1.38. Mobile.** Either manufactured homes or mobile homes shall be considered to be mobile if they are installed in a temporary fashion. Placement on a cement pad with tie downs shall be considered to be temporary, when done in conjunction with the attachment to other utilities.

**5.1.39. Mobile Home.** A detached D.U. designed for transportation, after fabrication, on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary foundations, connections to utilities, and the like. A travel trailer is not to be considered a mobile home. A mobile home may be occupied as a dwelling unit if it has its' wheels and axle removed and is placed on a permanent foundation.

**5.1.40. Mobile Home Park.** An area of land on which two or more mobile homes are regularly accommodated with or without charge including any building or other structure, fixture or equipment that is used or intended to be used in providing that accommodation.

**5.1.41. Non-Conforming Structure.** A lawful structure exists at the effective date of the ordinance codified in this title that could not now be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure

**5.1.42. Non-Conforming Use.** A use that exists at the time a provision of this ordinance is passed but does not comply with the same.

**5.1.43. Off-Premises Sign.** A sign, including but not limited to a billboard, which displays a message relating to a use of property or sale of goods or services at a location other than that on which the sign is located. The terms "Off-Premises Signs" and "billboards" have the same meaning in this ordinance.

**5.1.44. On-Premises Sign.** A sign which displays a message directly related to the use of the property on which it is located. The terms "On-Premises Signs" and "business signs" have the same meaning in this ordinance.

**5.1.45. Parcel.** A lot, tract or combination of adjoining lots and/or tracts, under the same ownership, being submitted as a unit for improvement.

**5.1.46. Parking Stall.** The area required for parking one automobile, with its attendant maneuvering room. The area required for a parked car is held to be at least nine (9) feet wide and at least twenty (20) feet long.

**5.1.47. Permanent.** Placement of a structure shall be considered to be permanent if it is installed in such a fashion as to not be mobile. Pouring cement footer and installing a cement block foundation and securely attaching the structure to the foundation shall be considered to be permanent, when done in conjunction with the attachment to other utilities.

**5.1.48. Permitted Use.** A use or structure which is permitted outright within a district. New construction of a permitted structure or substantial additions to an existing permitted structure requires an improvement location permit as spelled out in Article X.

**5.1.49. Plan Director.** The appointed Director of the Advisory Plan Commission of Daviess County, Indiana.

**5.1.49.1 Plat.** A drawing produced by a professional surveyor indicating the location and dimensions of a parcel of land.

**5.1.50. Primary Structure.** A dwelling, commercial structure, or industrial structure that is the principal use building on a lot.

**5.1.51. Right-of-Way.** A strip of land occupied or intended to be occupied by a street, road, or other form of vehicular and pedestrian access. The usage of the term “Right-of-Way” for land platting purposes shall mean that every right-of-way hereafter established is to be separate and distinct from the lots or tracts adjoining the right-of-way and not included within the dimensions or areas of the lots or tracts. Right-of-way intended for streets involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which the right-of-way is established. The width of right-of-way along any road or street under the jurisdiction of Daviess County is established in accordance with the “Minimum Standards for Construction of Subdivision Streets in Daviess County”, latest revision.

**5.1.52. Public Thoroughfare.** A right-of-way established for or dedicated to public use.

**5.1.53. Rear Parcel Lines.** Parcel lines which intersect side parcel lines but do not border public or private rights-of-way, except alleys.

**5.1.54. Rear Yard.** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building, measured at right angles to rear parcel line and extending to the side parcel lines of the parcel.

**5.1.55. Recreational Equipment, Major.** Equipment which must be hauled on a trailer with two or more wheels or which has two or more wheels attached, such as a boat trailer, travel trailer. The trailer by itself would be considered as being major recreational equipment.

**5.1.55.1 Same Ownership.** Ownership by the same person, persons, corporation, firm, entity, partnership, or unincorporated association.

**5.1.56. Setback.** The minimum horizontal distance between the line of a building or structure measured at the edge of the eave and the nearest property line.

**5.1.57. Sexually Oriented Business.** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center, as those terms are defined in the Daviess County Sexually Oriented Business Ordinance §111.02.

**5.1.58. Side Parcel Lines.** Parcel lines which do not border on public or private rights-of-way, except alleys, but which intersect front and/or rear parcel lines.

**5.1.59. Side Yard.** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building, measured at right angles to side parcel line and extending to the front and /or rear parcel lines of the parcel.

**5.1.60. Sign.** A name, identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, activity, person, institution, organization or business. A Sign shall not include (a) the display of official court or public office notices; (b) the flag, emblem or insignia of a nation, political unit, school or religious group, nor (c) one located completely within an enclosed building, except signs located behind window areas intended to be viewed from outside of the building.

**5.1.61. Subdivision.** The division of a parcel into two (2) or more lots for the purpose of transfer of ownership, whether immediate or future, with the dimensions of each lot being shown on a plat of subdivision approved in accordance with the requirements set forth by Daviess County. All lots within a subdivision must have frontage on an existing right-of-way or on a new right-of-way being proposed as part of the subdivision.

**5.1.62. Special Use.** A use or structure which in most, many, or several cases would be compatible with the type and character of development in a particular district. Restrictions imposed by the BZA in addition to those for the Permitted Uses of the district are required to be met as set forth in Article 12. This use may also be called a “conditional use”.

**5.1.63. Street.** A right-of-way that is established by recorded plat to provide the principal means of access to abutting property.

**5.1.64. Structure.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Local utility poles providing local service are not considered structures.

**5.1.64.1 Tract.** An area of land, not within a subdivision, intended as a unit for the purpose of transfer of ownership, whether immediate or future.

**5.1.65. Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

**5.1.66. Travel Trailer Park.** An area of land on which two or more travel trailers are regularly accommodated with or without charge, including any building or an structure, fixture, or equipment that is used or intended to be used in connection with providing that accommodation.

**5.1.67. Variance.** A variance may be granted by the BZA to allow an applicant relief from the requirements of the letter of the ordinance because of unnecessary hardship or practical difficulty as set forth in Article 12.

**5.1.68. Wireless Telecommunications Facility.** Any structure or structures used for the receiving and/or dispersal of radio, television, microwave, cellular telephone, paging, enhanced specialized mobile radio, personal communication services and similar technologies. A “tower” and an “antenna” are wireless telecommunication structures.

**5.1.69. Yard.** A space on the same parcel with a principal building, such space being open, unoccupied and unobstructed by buildings or structures except where encroachments and accessory buildings are expressly permitted.

## ARTICLE VI ZONING DISTRICTS

For the purposes of this ordinance in regulating use of land, water, and buildings, the County is divided into the following districts:

Floodplain (FP)  
General Agricultural District (A-1)  
Rural Estate Residential (R-E)  
Single-Family Residential (R-1)  
Multi-Family Residential (R-2)  
Local Business District (B-1)  
General Business District (B-2)  
Light Industrial (I-1)  
Heavy Industrial (I-2)  
Airport (AIR)  
Planned Unit Development (PUD)

### **6.1. Floodplain District.**

**6.1.1. Basis for establishing a floodplain district.** The Floodplain District is defined as that area shown as the Regulatory Flood or identified as the Special Flood Hazard Area (SFHA) on the Flood Hazard Boundary Map of Daviess County prepared by the Federal Emergency Management Agency (FEMA) and dated May 5, 1978, Community #180433, Panel 1A, 2A, 3A, 4A, 5A and 6A, as revised.

**6.1.2. Purpose.** The purpose of this district is to regulate development in flood prone areas. The new construction of buildings and other new development or land uses in the flood hazard areas of Daviess County, if not properly regulated to account for the potential hazard, could result in the loss of life and property, create health and safety hazards, and lead to extraordinary expenditures for flood protection and relief. Development of these areas is not essential to the orderly growth of the community. These lands are suitable for open space and other uses that do not require structures or fill. The identification of the floodplain, which includes the floodway and flood fringe, has been made by the Federal Flood Insurance Administration of the Federal Emergency Management Agency. The Indiana Department of Natural Resources (IDNR) shall exercise primary jurisdiction in the floodway under the provisions of I.C. §14-28. To the extent the IDNR requirements conflict with this ordinance, all rules and regulations set by the IDNR shall supersede this ordinance; however, the Advisory Plan Commission or Board of Zoning Appeals may, in issuing local permits, impose terms and conditions which are more restrictive than those imposed by the Indiana Department of Natural Resources. It is not the intent of this ordinance to supersede or conflict with the Daviess County Ordinance for Flood Hazard Areas, Ordinance No. 2008-8. Rather, both ordinances, along with any and all regulations, requirements, fees and penalties, including development and compliance permits as set forth therein, shall be applicable. In the event that there is a conflict, the more restrictive shall be applicable.



**6.1.3. Permitted uses.** (See Appendix A, Table 1). The uses shown in Table 1 shall be permitted outright or as a special exception; however, in no event shall the use of fill from either within or without the floodplain district be allowed without the specific permission from and authority of the Indiana Department of Natural Resources.

**6.1.4. Developmental Standards.** (See also Appendix A, Table 2)

- a. **Minimum Parcel Size:** two (2) acres.
- b. **Maximum Parcel Size:** no maximum parcel size in this district.
- c. **Minimum Parcel Frontage:** one hundred fifty feet (150') measured along the front parcel line, with no parcel having more than a 1:6 ratio of width to depth.
- d. **Yard Setbacks for Primary Structure:**
  - i. **Minimum Front Yard Setback:** fifty feet (50') measured from the edge of the front parcel line.
  - ii. **Minimum Side Yard Setback:** twenty feet (20') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** thirty feet (30') measured from the rear parcel line.
- e. **Yard Setbacks for Accessory Structure(s):**
  - i. **Minimum Front Yard Setback:** sixty-five feet (65') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** ten feet (10') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** ten feet (10') measured from the rear parcel line.
- f. **Minimum Floor Area for Dwellings:** nine hundred fifty square feet (950 ft<sup>2</sup>) for single-family dwellings.
- g. **Minimum Floor Area for Commercial Structures:** seven hundred fifty square feet (750 ft<sup>2</sup>).
- h. **Maximum Parcel Coverage:** up to thirty-five percent (35%) of parcel may be covered by dwellings, structures, driveways, parking lots, and any other impervious surface.
- i. **Maximum Height for Primary Structure:** thirty-five feet (35') from the ground for all buildings (excluding chimneys, mechanical equipment, and church steeples), except grain elevators, grain storage or other agricultural handling or processing equipment, unless otherwise authorized by the Board of Zoning Appeals.
- j. **Maximum Height for Accessory Structures:** eighteen feet (18') from the

ground.

k. **Additional Standards:**

- i. Private water wells shall be located at least fifty feet (50') from a property line.
- ii. The lowest floor of any structure, including the basement, shall be at least two (2) feet above the floodplain regulatory elevation.
- iii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- iv. All applicants, developers, or landowners who construct any dwelling unit in this district shall first obtain any necessary permit(s) from the Indiana Department of Natural Resources prior to applying for a permit hereunder. A copy of the IDNR permit(s) shall be filed with the Advisory Plan Commission.
- v. All applicants, developers, or landowners who construct any dwelling unit in this district shall be required as part of the permitting process to sign the Notice of Agricultural Activity in Appendix B assuring awareness that agricultural activity is permitted in this Zoning district. This notice must be recorded as a deed restriction to bind successive owners.

**6.1.5. Prohibited uses.** The following items and uses are specifically prohibited in the floodplain, except where allowed by special exception, or as otherwise permitted by the Indiana Department of Natural Resources:

- a. The storage or disposal of any soil, loam, peat, sand, gravel, rock or other mineral substance, refuse, trash, rubbish, debris or dredged soil, except by special exception;
- b. The drainage, excavation or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock or other mineral substance, except as necessary to work, or permitted as of right or by special exception;
- c. The storage or disposal of materials used for snow and ice control including sand, salt and other deicing chemicals;
- d. The manufacture, storage or disposal of hazardous wastes;
- e. Solid waste landfills, junk yards, salvage yards and dumps;
- f. Septic tanks and fields; and
- g. Mobile homes.

**6.1.6. Non-conforming uses.** Any building, structure or use of land in the floodplain district which is not in conformance with this chapter constitutes a Non-Conforming Use. All applications to repair, extend or enlarge a Non-Conforming Use shall be forwarded to the Indiana Department of Natural Resources and shall be incorporated into the issuance of any local permit.

**6.1.7. Issuance of improvement location permit.** In addition to the requirements for obtaining an improvement location permit spelled out in Article X of this ordinance and the requirements for obtaining a Floodplain Development Permit from the Indiana Department of Natural Resources, the following requirements shall also apply:

- a. The Advisory Plan Commission shall keep and maintain all records, including all first floor elevations, certificates, plans, and other materials associated with any permit or variance issued within the floodplain.
- b. The Advisory Plan Commission shall not issue an improvement location permit within the floodplain until the applicant submits the following:
  - i. A description of the proposed development along with the location thereof, sufficient to accurately locate the property and structure in relation to existing roads and streams;
  - ii. A legal description of the property;
  - iii. A site plan showing existing and proposed development locations and existing and proposed land grades
  - iv. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
  - v. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed;
  - vi. A description of the extent to which any watercourse will be altered or related as a result of the proposed development;
  - vii. Certification from a registered engineer or architect that the structure has been designed in accordance with the Federal Emergency Management Agency's standards for structures located within a floodplain.
  - viii. A proper permit or letter of recommendation has been granted by the Indiana Department of Natural Resources;
  - ix. All buildings or additions to existing buildings shall have flood protection grades at least 2 feet above the regulatory floodplain elevation;
  - x. Evidence that no use shall increase the base flood level of a regulatory flood; and

xi. Evidence that a commercial or industrial well will not adversely affect any municipal water supply source.

c. The Advisory Plan Commission shall not issue an improvement location permit for a mobile home in a floodplain.

d. All applications for improvement location permits involving new construction or substantial improvement to existing buildings in this district shall be accompanied by an elevation certificate which needs to be completed by the applicant and have the lowest floor elevation certified by a licensed professional engineer or land surveyor.

**6.1.8. General disclaimer in areas of potential flooding.** In the floodplain, floodway and flood fringe areas defined in this chapter, the degree of flood protection established is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by constructed or natural causes such as ice or debris jams. This chapter does not imply that areas outside flood hazard areas as defined in this chapter shall be free of flooding or flood damage. This chapter does not create any liability on the part of the county, the Advisory Plan Commission, Indiana Department of Natural Resources, the state, or any elected or appointed official or employee of them for any flood damages that result from any reliance on this chapter or any administrative decision lawfully made under it.

**6.1.9. Mapping disputes.** In a case where a property owner disputes the boundaries of a zoning district, flood protection grade data or regulatory flood profile data, the owner shall file a written protest with the Advisory Plan Commission. The written protest shall document the disputed area, and be prepared and attested to by a registered professional engineer or land surveyor. The protest then will be submitted to the Advisory Plan Commission. The item of dispute will be brought to the attention of the Indiana Department of Natural Resources, and in no case will data be revised without the written approval of the Indiana Department of Natural Resources.

**6.1.10. Abrogation and greater restrictions.** This chapter repeals and replaces other ordinances adopted by the county to fulfill the requirements of the National Flood Insurance Program ("Program") within the jurisdiction of this chapter. However, this chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. This chapter shall not supersede the Daviess County Ordinance for Flood Hazard Areas, Ordinance No. 2008-8, nor shall it repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this chapter and other ordinance easements or provisions, covenants or deed restrictions conflict or overlap, whichever imposes the more restrictive restrictions shall take precedence. In addition, the city shall assure that all National Flood Insurance regulations (contained in Title C.F.R. § 60.3) and State Floodplain Management regulations and laws (329 I.A.C. 10-25 and I.C. 14-28) are met.

**6.1.11. Zoning Classification Changes.** In some cases, a zoning classification change from the Floodplain District to another district may be acceptable. In order to apply for a change in zoning classification from FP to any other classification, the Applicant must first obtain a Conditional Letter of Map Revision (CLOMR) from FEMA. A CLOMR is an official comment on a project from FEMA, but does not make an official change to the FIRM Panel. It indicates whether the project, if constructed as proposed in the CLOMR, would be then recognized by FEMA for an official change to the FIRM Panel. Upon completion of the project, the Applicant must apply for the appropriate official change. This is done by either a Letter of Map Amendment (LOMA) or a Letter of Map Revision (LOMR). Once this is granted, the official change has been made to the FIRM Panel and the rezoning will then be complete.

The Applicant must also obtain all applicable permits for any given project prior to the commencement of construction activities. The permits may include, but are not limited to, a Storm Water Pollution Prevention Plan, a Construction in a Floodway Permit, 401 Water Quality Certification and/or 404 Water Quality Certification.

**6.1.12. Permitted Construction.** Upon placement of the lowest floor; or floodproofing, it shall be the duty of the applicant to submit to the Advisory Plan Commission and the Daviess County Floodplain Coordinator, a certification for the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Such certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The applicant shall correct deficiencies detected upon review of the above certification before any further work shall be permitted. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop work order and subject to applicable fees and penalties.

## **6.2. General Agriculture (A-1).**

**6.2.1. Purpose.** The intent of this district is to provide for and protect substantial areas for a broad variety of agricultural and commercial uses where little or no urbanization has occurred or is planned to occur. Residential development is permitted, but discouraged if the dwelling is not related to the operation and maintenance of uses in this district. It is the intent of this district to limit all non-farm residential uses to provide for large areas of contiguous farm land, but to also allow for Agri-Business uses in addition to farming for families involved in farming who also have other small businesses that they operate out of their homes or an accessory structure, including but not limited to, small vehicle repair garages or wood-working shops.

### **6.2.2. Uses.**

- a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses
- b. **Special Uses:** See Appendix A, Table 1, for Special Uses

### **6.2.3. Developmental Standards (See also Appendix A, Table 2)**

- a. **Minimum Parcel Size:** one and one-half (1.5) acres
- b. **Maximum Parcel Size:** no maximum parcel size in this district.
- c. **Minimum Parcel Frontage:** removed.
- d. **Yard Setbacks for Primary Structure:**
  - i. **Minimum Front Yard Setback:** fifty feet (50) measured from the front right of way.
  - ii. **Minimum Side Yard Setback:** ten feet (10') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** ten feet (10') measured from the rear parcel line.
- e. **Yard Setbacks for Accessory Structure(s):**
  - i. **Minimum Front Yard Setback:** fifty feet (50') measured from the front right of way
  - ii. **Minimum Side Yard Setback:** ten feet (10') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** ten feet (10') measured from the rear parcel line.
- f. **Minimum Floor Area for Dwellings:** None.
- g. **Minimum Floor Area for Commercial Structures:** None.
- h. **Maximum Parcel Coverage:** None.
- i. **Maximum Height for Primary Structure:** None.
- j. **Maximum Height for Accessory Structures:** None.
- k. **Additional Standards:**
  - i. Private water wells shall be located at least fifty feet (50') from a property line.
  - ii. All applicants, developers, or landowners who construct any dwelling unit in this district shall be required as part of the permitting process to sign the Notice of Agricultural Activity in Appendix B assuring awareness that agricultural activity is permitted in this Zoning district. This notice must be recorded as a deed restriction to bind successive owners.
  - iii. No CFO shall be permitted within one (1) mile of any property in a B-2

District which shall be measured from the nearest CFO structure to the property line of a B-2 District lot.

**6.2.4. Restrictions.**

a. **Visibility at Intersections.** On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ and 10 feet above the centerline grades of the intersecting streets, in the area bounded by the street lines of such corner lots and a line joining points along said street line 50 feet from the point of the intersection.

b. **Restrictions for Home Occupations.**

i. A home occupation must be entirely contained within any dwelling unit.

ii. No structural additions are permitted on the front or side of an existing dwelling unit.

iii. The occupation shall be conducted primarily by the resident(s) of any dwelling unit in which the activity is taking place though employees shall be allowed.

**6.2.5. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.3. Rural Estate (R-E).**

**6.3.1. Purpose.** This district has been created to provide single-family housing for those who are not engaged in farming activities but nonetheless seek housing outside of the denser communities of the county in a transitional area between traditional agricultural uses and urban areas. The use of municipal services and utilities shall be encouraged in this district.

**6.3.2. Uses.**

a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses

b. **Special Uses:** See Appendix A, Table 1, for Special Uses

**6.3.3. Developmental Standards** *(See also Appendix A, Table 2)*

a. **Minimum Parcel Size:** one and one-half (1.5) acres

b. **Maximum Parcel Size:** five (5) acres.

c. **Minimum Parcel Frontage:** eighty feet (80') measured along the front parcel line.

- d. **Yard Setbacks for Primary Structure:**
  - i. **Minimum Front Yard Setback:** fifty feet (50') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** ten feet (10') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** ten feet (10') measured from the rear parcel line.
- e. **Front Setback when new construction is within three hundred (300) feet of an existing dwelling unit:** no less than the average of the setbacks of adjacent dwelling units on either side.
- f. **Yard Setbacks for Accessory Structure(s):**
  - i. **Minimum Front Yard Setback:** sixty-five feet (65') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** ten feet (10') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** ten feet (10') measured from the rear parcel line.
- g. **Minimum Floor Area for Dwellings:** nine hundred fifty square feet (950 ft<sup>2</sup>) for single-family dwellings and six hundred forty-four square feet (644 ft<sup>2</sup>) for mobile homes.
- h. **Maximum Height for Primary Structure:** thirty-five feet (35') from the ground for all buildings (excluding chimneys, mechanical equipment, and church steeples).
- i. **Maximum Parcel Coverage:** up to thirty-five percent (35%) of a parcel may be covered by dwellings, structures, driveways, parking lots, and any other impervious surface.
- j. **Maximum Height for Accessory Structures:** eighteen feet (18') from the ground.



k. **Additional Standards:**

- i. Private water wells shall be located at least fifty feet (50') from a property line.
- ii. All applicants, developers, or landowners who construct any dwelling unit in this district shall be required as part of the permitting process to sign the Notice of Neighboring Agricultural Activity in Appendix C assuring awareness that agricultural activity is permitted in neighboring zoning districts which may impact this district due to noise and odor. This notice must be recorded as a deed restriction to bind successive owners.

**6.3.4. Restrictions.**

a. **Visibility at Intersections.** On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ and 10 feet above the centerline grades of the intersecting streets, in the area bounded by the street lines of such corner lots and a line joining points along said street line 50 feet from the point of the intersection.

b. **Parking & Storage.** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored for more than 7 days on any residentially zoned property other than in completely enclosed buildings with the exception of antique vehicles. No residentially zoned property shall be used or maintained as a dumping ground for rubbish, including but not limited to: trash, garbage, metal, rope, bags, paper, rags, glass, rubber, lumber, millwork, brick or concrete blocks; however, such rubbish may be stored in a completely enclosed building or, may be kept in a sanitary container for a maximum of 7 days.

**6.3.5. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.4. Single-Family Residential (R-1).**

**6.4.1. Purpose.** This district has been created to provide single-family housing in a suburban type setting. The intent is to provide for higher density housing just outside of the incorporated cities/towns of the county or in one of the county's many unincorporated communities.

**6.4.2. Uses.**

- a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses

- b. **Special Uses:** See Appendix A, Table 1, for Special Uses

**6.4.3. Developmental Standards.** *(See also Appendix A, Table 2*

- a. **Minimum Parcel Size:**

- i. **For Parcel on septic systems:** one and one-half (1.5) acres
- ii. **For parcels on sanitary sewer facility or a centralized sewage treatment plant approved by the State Board of Health:** ten thousand (10,000) square feet.

- b. **Maximum Parcel Size:** no maximum parcel size in this district.

- c. **Minimum Parcel Frontage:** eighty feet (80') measured along the front parcel line.

- d. **Yard Setbacks for Primary Structure(s):**

- i. **Minimum Front Yard Setback:** thirty-five feet (35') measured from the front parcel line.
- ii. **Minimum Side Yard Setback:** ten feet (10') measured from the side parcel line.
- iii. **Minimum Rear Yard Setback:** twenty feet (20') measured from the rear parcel line.
- iv. **Front Setback when new construction is within three hundred (300) feet of an existing dwelling unit:** no less than the average of the setbacks of adjacent dwelling units on either side.

- e. **Yard Setbacks for Accessory Structure:**

- i. **Minimum Front Yard Setback:** forty-five feet (45') measured from the front parcel line.
- ii. **Minimum Side Yard Setback:** five feet (5') measured from the side parcel line.
- iii. **Minimum Rear Yard Setback:** five feet (5') measured from the rear parcel line.

- f. **Minimum Floor Area for Dwellings:** nine hundred fifty square feet (950 ft<sup>2</sup>) for single-family dwellings, seven hundred fifty square feet (750 ft<sup>2</sup>) per unit for two-family dwellings, and six hundred forty-four square feet (644 ft<sup>2</sup>) for mobile homes.

- g. **Minimum Floor Area for Commercial Structures:** seven hundred fifty square feet (750 ft<sup>2</sup>).

- h. **Maximum Parcel Coverage:** up to thirty-five percent (35%) of a parcel may be covered by dwellings, structures, driveways, parking lots, and any other impervious surface.
- i. **Maximum Height for Primary Structure:** thirty-five feet (35') from the ground for all buildings (excluding chimneys, mechanical equipment, and church steeples).
- j. **Maximum Height for Accessory Structures:** eighteen feet (18') from the ground.
- k. **Additional Standards:**
  - i. Private water wells shall be located at least fifty feet (50') from a property line.
  - ii. All applicants, developers, or landowners who construct any dwelling unit in this district shall be required as part of the permitting process to sign the Notice of Neighboring Agricultural Activity in Appendix C assuring awareness that agricultural activity is permitted in neighboring zoning districts which may impact this district due to noise and odor. This notice must be recorded as a deed restriction to bind successive owners.

**6.4.4. Restrictions for Lots with Dwelling Units.**

- a. Parking lots shall not exceed 4 stalls and shall be not within 30 feet of lot limits.
- b. The occupation shall be conducted primarily by the resident of the dwelling unit in which the activity is taking place.
- c. No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

**6.4.5. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.5. Multi-Family Residential (R-2).**

**6.5.1. Purpose.** This district has been created to provide single-family and multi-family housing in a suburban type setting. The intent is to provide for higher density housing just outside of the incorporated cities/towns of the county or in one of the county's many unincorporated communities. Two-family and multi-family residential units are encouraged in this area, but higher density single-family developments are also permitted.

**6.5.2. Uses.**

- a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses
- b. **Special Uses:** See Appendix A, Table 1, for Special Uses

**6.5.3. Developmental Standards, (See also Appendix A, Table 2)**

- a. **Minimum Parcel Size:**
  - i. **For parcels on septic systems:** one and one-half (1.5) acres
  - ii. **For parcels on sanitary sewer facility or a centralized sewage treatment plant approved by the State Board of Health:** ten thousand (10,000) square feet.
- b. **Maximum Parcel Size:** no maximum parcel size in this district.
- c. **Minimum Parcel Frontage:** sixty feet (60') measured along the front parcel line.
- d. **Yard Setbacks for Primary Structure(s):**
  - i. **Minimum Front Yard Setback:** thirty-five feet (35') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** five feet (5') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** twenty feet (20') measured from the rear parcel line.
  - iv. **Front Setback when new construction is within three hundred (300) feet of an existing dwelling unit:** no less than the average of the setbacks of adjacent dwelling units on either side.
- e. **Yard Setbacks for Accessory Structure(s):**
  - i. **Minimum Front Yard Setback:** forty-five feet (45') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** five feet (5') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** five feet (5') measured from the rear parcel line.

- f. **Minimum Floor Area for Dwellings:** nine hundred fifty square feet (950 ft<sup>2</sup>) for single-family dwellings, seven hundred fifty square feet (750 ft<sup>2</sup>) per unit for two-family dwellings, six hundred square feet (600 ft<sup>2</sup>) per unit for multi-family dwellings, and six hundred forty-four square feet (644 ft<sup>2</sup>) for mobile homes.
- g. **Minimum Floor Area for Commercial Structures:** seven hundred fifty square feet (750 ft<sup>2</sup>).
- h. **Maximum Lot Coverage:** up to fifty percent (50%) of lot may be covered by dwellings, structures, driveways, parking lots, and any other impervious surface.
- i. **Maximum Height for Primary Structure:** fifty-five feet (55') from the ground for all buildings (excluding chimneys, mechanical equipment, and church steeples).
- j. **Maximum Height for Accessory Structures:** eighteen feet (18') from the ground.
- k. **Additional Standards:**
  - i. Private water wells shall be located at least fifty feet (50') from a property line.
  - ii. All applicants, developers, or landowners who construct any dwelling unit in this district shall be required as part of the permitting process to sign the Notice of Neighboring Agricultural Activity in Appendix C assuring awareness that agricultural activity is permitted in neighboring zoning districts which may impact this district due to noise and odor. This notice must be recorded as a deed restriction to bind successive owners.

**6.5.4. Restrictions for Lots with Dwelling Units.**

- a. No structural additions are permitted on front or side of existing dwelling unit.
- b. Parking lots shall not exceed 4 stalls and shall be not within 30 feet of lot limits.
- c. The occupation shall be conducted primarily by the resident of the dwelling unit in which the activity is taking place.
- d. No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

**6.5.5. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.6. Local Business (B-1).**

**6.6.1. Purpose.** The purpose of this district is to provide areas for commercial development that are located close to residential districts and are developed in a manner that

reflects the residential character of the area. Businesses located in this district tend to serve the day-to-day needs of the neighborhoods in which they are located.

**6.6.2. Uses.**

- a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses
- b. **Special Uses:** See Appendix A, Table 1, for Special Uses

**6.6.3. Developmental Standards.** *(See also Appendix A, Table 2)*

- a. **Minimum Parcel Size:**
  - i. **For parcels on septic systems:** one and one-half (1.5) acres
  - ii. **For parcels on sanitary sewer facility or a centralized sewage treatment plant approved by the State Board of Health:** five thousand (5,000) square feet.
- b. **Maximum Parcel Size:** There is no maximum parcel size in this district.
- c. **Minimum Parcel Frontage:** fifty feet (50') measured along the front parcel line.
- d. **Yard Setbacks for Primary Structure(s):**
  - i. **Minimum Front Yard Setback:** twenty-five feet (25') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** five feet (5') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** ten feet (10') measured from the rear parcel line.
  - iv. **Front Setback when new construction is within three hundred (300) feet of an existing commercial structure or dwelling unit:** no less than the average of the setbacks of adjacent commercial structure or dwelling unit on either side.
- e. **Yard Setbacks for Accessory Structure(s):**
  - i. **Minimum Front Yard Setback:** twenty-five feet (25') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** five feet (5') measured from the side parcel line.

- iii. **Minimum Rear Yard Setback:** five feet (5') measured from the rear parcel line.
- f. **Minimum Floor Area for Dwellings:** nine hundred fifty square feet (950 ft<sup>2</sup>) for single-family dwellings, seven hundred fifty square feet (750 ft<sup>2</sup>) per unit for two-family dwellings, and six hundred square feet (600 ft<sup>2</sup>) per unit for multi-family dwellings.
- g. **Minimum Floor Area for Commercial Structures:** seven hundred fifty square feet (750 ft<sup>2</sup>).
- h. **Maximum Height for Primary Structure:** thirty-five feet (35') from the ground for all buildings (excluding chimneys, mechanical equipment, and church steeples).
- i. **Maximum Parcel Coverage:** up to seventy percent (70%) of a parcel may be covered by dwellings, structures, driveways, parking lots, and any other impervious surface.
- j. **Maximum Height for Accessory Structures:** eighteen feet (18') from the ground.
- k. **Additional Standards:**
  - i. Private water wells shall be located at least fifty feet (50') from a property line.
  - ii. All applicants, developers, or landowners who construct any dwelling unit in this district shall be required as part of the permitting process to sign the Notice of Neighboring Agricultural Activity in Appendix C assuring awareness that agricultural activity is permitted in neighboring zoning districts which may impact this district due to noise and odor. This notice must be recorded as a deed restriction to bind successive owners.

#### **6.6.4. Restrictions.**

- a. **Visibility at Intersections.** On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ and 10 feet above the centerline grades of the intersecting streets, in the area bounded by the street lines of such corner lots and a line joining points along said street line 50 feet from the point of the intersection.
- b. **Parking & Storage.** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored for more than 7 days on any commercially zoned property other than in completely enclosed buildings with the exception of antique vehicles. No residentially zoned property shall be used or maintained as a dumping ground for rubbish, including but not limited to: trash,

garbage, metal, rope, bags, paper, rags, glass, rubber, lumber, millwork, brick or concrete blocks; however, such rubbish may be stored in a completely enclosed building or, may be kept in a sanitary container for a maximum of 7 days.

**6.6.5. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.7. General Business (B-2).**

**6.7.1. Purpose.** This district has been created to provide areas for commercial uses that require locations on or near major collector and arterial streets and their intersections.

**6.7.2. Uses.**

- a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses
- b. **Special Uses:** See Appendix A, Table 1, for Special Uses

**6.7.3. Developmental Standards.** *(See also Appendix A, Table 2)*

- a. **Minimum Parcel Size:**
  - i. **For parcels on septic systems:** one and one-half (1.5) acres
  - ii. **For parcels on sanitary sewer facility or a centralized sewage treatment plant approved by the State Board of Health:** ten thousand (10,000) square feet.
- b. **Maximum Parcel Size:** There is no maximum parcel size in this district.
- c. **Minimum Parcel Frontage:** fifty feet (50') measured along the front parcel line.
- d. **Yard Setbacks for Primary Structure(s):**
  - i. **Minimum Front Yard Setback:** twenty-five feet (25') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** five feet (5') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** ten feet (10') measured from the rear parcel line.
  - iv. **Front Setback when new construction is within three hundred (300) feet**



**of an existing commercial structure or dwelling unit:** no less than the average of the setbacks of adjacent commercial structure or dwelling unit on either side.

e. **Yard Setbacks for Accessory Structure(s):**

i. **Minimum Front Yard Setback:** twenty-five feet (25') measured from the front parcel line.

ii. **Minimum Side Yard Setback:** five feet (5') measured from the side parcel line.

iii. **Minimum Rear Yard Setback:** five feet (5') measured from the rear parcel line.

f. **Minimum Floor Area for Dwellings:** seven hundred fifty square feet (750 ft<sup>2</sup>) per unit for two-family dwellings and six hundred square feet (600 ft<sup>2</sup>) per unit for multi-family dwellings.

g. **Minimum Floor Area for Commercial Structures:** one thousand five hundred square feet (1,500 ft<sup>2</sup>).

h. **Maximum Parcel Coverage:** up to seventy percent (70%) of a parcel may be covered by dwellings, structures, driveways, parking lots, and any other impervious surface.

i. **Maximum Height for Primary Structure:** fifty-five feet (55') from the ground for all buildings (excluding chimneys, mechanical equipment, and church steeples).

j. **Maximum Height for Accessory Structures:** eighteen feet (18') from the ground.

k. **Additional Standards:**

i. Private water wells shall be located at least fifty feet (50') from a property line.

ii. No CFO shall be permitted in the B-2 District nor shall any CFO structure be within one (1) mile of the B-2 District which shall be measured from the nearest CFO structure to the property line of a B-2 District lot.

iii. All applicants, developers, or landowners who construct any dwelling unit in this district shall be required as part of the permitting process to sign the Notice of Neighboring Agricultural Activity in Appendix C assuring awareness that agricultural activity is permitted in neighboring zoning districts which may impact this district due to noise and odor. This notice must be recorded as a deed restriction to bind successive owners.

**6.7.4. Restrictions.**

a. **Visibility at Intersections.** On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ and 10 feet above the centerline grades of the intersecting streets, in the area bounded by the street lines of such corner lots and a line joining points along said street line 50 feet from the point of the intersection.

b. **Parking & Storage.** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored for more than 7 days on any commercially zoned property other than in completely enclosed buildings with the exception of antique vehicles. No residentially zoned property shall be used or maintained as a dumping ground for rubbish, including but not limited to: trash, garbage, metal, rope, bags, paper, rags, glass, rubber, lumber, millwork, brick or concrete blocks; however, such rubbish may be stored in a completely enclosed building or, may be kept in a sanitary container for a maximum of 7 days.

**6.7.5. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.7.6. Access.** Pedestrian and vehicular ingress and egress to lots, tracts or parcels in this district shall be by public right-of-way.

**6.8. Light Industrial (I-1).**

**6.8.1. Purpose.** This district has been created to provide areas for light industrial uses. Light industrial use includes manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet and free of hazardous elements and generating little industrial traffic and few nuisances. Waste disposal is limited to wastes other than those classified as hazardous or toxic by the United States Environmental Protection Agency.

**6.8.2. Uses.**

a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses

b. **Special Uses:** See Appendix A, Table 1, for Special Uses

**6.8.3. Developmental Standards (See also Appendix A, Table 2).**

a. **Minimum Parcel Size:**

i. **For parcels on septic systems:** two (2) acres.

ii. **For parcels on sanitary sewer facility or a centralized sewage treatment plant approved by the State Board of Health:** one (1) acre.

- b. **Maximum Parcel Size:** There is no maximum parcel size in this district.
- c. **Minimum Parcel Frontage:** one hundred fifty feet (150') measured along the front parcel line.
- d. **Yard Setbacks for Primary Structure(s):**
  - i. **Minimum Front Yard Setback:** seventy-five feet (75') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** forty feet (40') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** twenty feet (20') measured from the rear parcel line.
  - iv. **Front Setback when new construction is within three hundred (300) feet of an existing industrial or commercial structure:** no less than the average of the setbacks of adjacent industrial or commercial structures on either side.
- e. **Yard Setbacks for Accessory Structure(s):**
  - i. **Minimum Front Yard Setback:** seventy-five feet (75') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** twenty feet (20') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** twenty feet (20') measured from the rear parcel line.
- f. **Minimum Floor Area for Commercial Structures:** one thousand five hundred square feet (1,500 ft<sup>2</sup>).
- g. **Minimum Floor Area for Industrial Structures:** two thousand five hundred square feet (2,500 ft<sup>2</sup>).
- h. **Maximum Height for Primary Structure:** fifty-five feet (55') from the ground for all buildings (excluding chimneys, mechanical equipment, and church steeples).
- i. **Maximum Parcel Coverage:** up to fifty percent (50%) of a parcel may be covered by, structures, driveways, parking lots, and any other impervious surface.
- j. **Maximum Height for Accessory Structures:** thirty-five feet (35') from the ground.
- k. **Industrial Parks:** Industrial parks in the I-1 district require special use approval and may include all light industrial uses allowed as set forth below:
  - i. The parcel of land involved shall be of an area of not less than 20 acres.

- ii. The owner or owners of the parcel of land shall have:
  - (1) Prepared a plat for a subdivision of the entire parcel,
  - (2) Prepared a development plan for the entire parcel, and
  - (3) Obtained Commission approval of both the plat for the subdivision and the development plan according to the requirements of the subdivision control regulation and this zoning code.
  
- iii. There shall be 1 principal entrance to the industrial park from any major thoroughfare (frontal highway) bordering the parcel, which shall be designed so that traffic at its intersection with the frontal highway may be controlled and so that there will be adequate storage space for traffic destined to enter the frontal highway or to leave the industrial park.
  
- iv. There shall be no direct entrance or exits from parking areas or structures into the frontal highway (or highways), but a service drive parallel to the main traffic way may be provided for access. Traffic on the service drive shall enter the main traffic way via the principal entry.
  
- v. Wherever the industrial park and adjacent residential districts have a common or joint boundary, an area with a width of at least 25 feet shall be provided for the full length of the boundary for a planting screen, planted with shrubs and trees so as to provide a tight screen effective at all seasons of the year.
  
- vi. The owner or owners shall provide a plan for the installation of adequate facilities for the disposal of human and industrial wastes meeting the approval of the State Department of Health.
  
- vii. The owner or owners shall establish in the restrictions which are a part of the plat for the subdivision a perpetuating organization for the maintenance of the industrial park property, such as roads and planting areas, the approval of building plans and other improvements and the future maintenance of the park.
  
- viii. The development plan shall indicate the arrangement of the interior roads to provide a unified, self-contained arrangement of industrial sites. The basic concept of the interior road plan shall be subject to the approval of the Commission and any modification or alterations in the basic plan shall likewise be subject to approval.
  
- ix. The development plan shall show building lines established so that no building or structure shall be erected on any parcel within the park nearer to the center of any interior road than 75 feet, nor nearer than 100 feet to the right-of-way line of any bordering highway, and no building shall be erected

closer to the side line of a parcel than 40 feet, and not closer to an adjoining residential district than 75 feet.

x. No loading docks may be erected or used fronting on a bordering highway. Provisions for loading or unloading operations and any handling of freight or materials outside of buildings shall be located so as not to face on bordering highways.

xi. No part of a parking area for passenger vehicles shall be closer than 25 feet, and no part of a loading or unloading area or parking area for trucks shall be closer than 200 feet to an adjoining residential district. All parking, loading and unloading areas shall be paved with a suitable dust-preventative surface.

xii. The areas in front and on the sides of buildings shall be developed in accordance with a well-designed plan, and the areas shall be perpetually maintained to the satisfaction of the park organization.

**6.8.4. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.8.5. Access.** Pedestrian and vehicular ingress and egress to lots, tracts or parcels in this district shall be by public right-of-way.

**6.9. Heavy Industrial (I-2).**

**6.9.1. Purpose.** This district has been created to provide areas for heavy industrial uses. Heavy industrial use includes manufacturing, processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character, require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution.

**6.9.2. Uses.**

- a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses
- b. **Special Uses:** See Appendix A, Table 1, for Special Uses

**6.9.3. Developmental Standards.** *(See also Appendix A, Table 2)*

- a. **Minimum Parcel Size:**
  - i. **For parcels on septic systems:** no septic tanks are permitted in the I-2

district. All uses must be connected to a sanitary sewer facility or a centralized sewage treatment plant approved by the State Board of Health.

- ii. **For parcels on sanitary sewer facility or a centralized sewage treatment plant approved by the State Board of Health:** five (5) acres.
- b. **Maximum Parcel Size:** There is no maximum parcel size in this district.
- c. **Minimum Parcel Frontage:** two hundred feet (200') measured along the front parcel line.
- d. **Yard Setbacks for Primary Structure(s):**
  - i. **Minimum Front Yard Setback:** seventy-five feet (75') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** forty feet (40') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** twenty feet (20') measured from the rear parcel line.
  - iv. **Front Setback when new construction is within three hundred (300) feet of an existing industrial or commercial structure:** no less than the average of the setbacks of adjacent industrial or commercial structures on either side.
- e. **Yard Setbacks for Accessory Structure(s):**
  - i. **Minimum Front Yard Setback:** seventy-five feet (75') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** twenty feet (20') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** twenty feet (20') measured from the rear parcel line.
- f. **Minimum Floor Area for Industrial Structures:** two thousand five hundred square feet (2,500 ft<sup>2</sup>).
- g. **Maximum Parcel Coverage:** up to fifty percent (50%) of a parcel may be covered by dwellings, structures, driveways, parking lots, and any other impervious surface.
- h. **Maximum Height for Primary Structure:** fifty-five feet (55') from the ground for all buildings (excluding chimneys, mechanical equipment, and church steeples).
- i. **Maximum Height for Accessory Structures:** thirty-five feet (35') from the ground.

- j. **Industrial Parks:** Industrial parks in the I-2 district require special use approval and may include all heavy industrial uses allowed in the I-2 district:
- i. The parcel of land involved shall be of an area of not less than 20 acres.
  - ii. The owner or owners of the parcel of land shall have:
    - (1) Prepared a plat for a subdivision of the entire parcel,
    - (2) Prepared a development plan for the entire parcel, and
    - (3) Obtained Commission approval of both the plat for the subdivision and the development plan according to the requirements of the subdivision control regulation and this zoning code.
  - iii. There shall be one (1) principal entrance to an industrial park from any major thoroughfare (frontal highway) bordering the tract, which shall be designed so that traffic at its intersection with the frontal highway may be controlled and so that there will be adequate storage space for traffic destined to enter the frontal highway or to leave the industrial park.
  - iv. There shall be no direct entrance or exits from parking areas or structures into the frontal highway (or highways), but a service drive parallel to the main traffic way may be provided for access. Traffic on the service drive shall enter the main traffic way via the principal entry.
  - v. Wherever the industrial park and adjacent residential districts have a common or joint boundary, an area with a width of at least 25 feet shall be provided for the full length of the boundary for a planting screen, planted with shrubs and trees so as to provide a tight screen effective at all seasons of the year.
  - vi. The owner or owners shall provide a plan for the installation of adequate facilities for the disposal of human and industrial wastes meeting the approval of the State Department of Health.
  - vii. The owner or owners shall establish in the restrictions which are a part of the plat for the subdivision a perpetuating organization for the maintenance of the industrial park property, such as roads and planting areas, the approval of building plans and other improvements and the future maintenance of the park.
  - viii. The development plan shall indicate the arrangement of the interior roads to provide a unified, self-contained arrangement of industrial sites. The basic concept of the interior road plan shall be subject to the approval of the Commission and any modification or alterations in the basic plan shall likewise be subject to approval.

ix. The development plan shall show building lines established so that no building or structure shall be erected on any parcel within the park nearer to the center of any interior road than 75 feet, nor nearer than 100 feet to the right-of-way line of any bordering highway, and no building shall be erected closer to the side line of a tract than 40 feet, and not closer to an adjoining residential district than 75 feet.

x. No loading docks may be erected or used fronting on a bordering highway. Provisions for loading or unloading operations and any handling of freight or materials outside of buildings shall be located so as not to face on bordering highways.

xi. No part of a parking area for passenger vehicles shall be closer than 25 feet, and no part of a loading or unloading area or parking area for trucks shall be closer than 200 feet to an adjoining residential district. All parking, loading and unloading areas shall be paved with a suitable dust-preventative surface.

xii. The areas in front and on the sides of buildings shall be developed in accordance with a well designed plan, and the areas shall be perpetually maintained to the satisfaction of the park organization.

**6.9.4. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.9.5. Access.** Pedestrian and vehicular ingress and egress to lots, tracts or parcels in this district shall be by public right-of-way.

**6.10. Airport District (AIR).**

**6.10.1. Purpose.** The intent of this district is identical to the Light Industrial (I-1) district with certain additional requirements, including but not limited to certain height requirements necessary due to its proximity to the Daviess County Airport.

**6.10.2. Uses.**

- a. **Permitted Uses:** See Appendix A, Table 1, for Permitted Uses
- b. **Special Uses:** See Appendix A, Table 1, for Special Uses

**6.10.3. Developmental Standards.** *(See also Appendix A, Table 2)*

- a. **Minimum Parcel Size:**



- i. **For parcels on septic systems:** two (2) acres.
  - ii. **For parcels on sanitary sewer facility or a centralized sewage treatment plant approved by the State Board of Health:** one (1) acre.
- b. **Maximum Parcel Size:** There is no maximum parcel size in this district.
- c. **Minimum Parcel Frontage:** one hundred fifty feet (150') measured along the front parcel line.
- d. **Yard Setbacks for Primary Structure(s):**
  - i. **Minimum Front Yard Setback:** seventy-five feet (75') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** forty feet (40') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** twenty feet (20') measured from the rear parcel line.
  - iv. **Front Setback when new construction is within three hundred (300) feet of an existing industrial or commercial structure:** no less than the average of the setbacks of adjacent industrial or commercial structures on either side.
- e. **Yard Setbacks for Accessory Structure(s):**
  - i. **Minimum Front Yard Setback:** seventy-five feet (75') measured from the front parcel line.
  - ii. **Minimum Side Yard Setback:** twenty feet (20') measured from the side parcel line.
  - iii. **Minimum Rear Yard Setback:** twenty feet (20') measured from the rear parcel line.
- f. **Minimum Floor Area for Commercial Structures:** one thousand five hundred square feet (1,500 ft<sup>2</sup>).
- g. **Minimum Floor Area for Industrial Structures:** two thousand five hundred square feet (2,500 ft<sup>2</sup>).
- h. **Maximum Height for Primary Structure:** thirty-five feet (35') from the ground for all buildings (including chimneys, mechanical equipment, and church steeples).
- i. **Maximum Parcel Coverage:** up to fifty percent (50%) of a parcel may be covered by, structures, driveways, parking lots, and any other impervious surface.

- j. **Maximum Height for Accessory Structures:** twenty-five feet (25') from the ground.
- k. **Additional Standards:**
  - i. All uses shall conform to the rules and regulations of the Federal Aviation Commission and, to the extent its rules do not conflict with state or federal laws, the Daviess County Airport.
- l. **Industrial Parks:** Industrial parks in the AIR district require special use approval and may include all light industrial uses allowed as set forth below:
  - i. The parcel of land involved shall be of an area of not less than 20 acres.
  - ii. The owner or owners of the parcel of land shall have:
    - (1) Prepared a plat for a subdivision of the entire parcel,
    - (2) Prepared a development plan for the entire parcel, and
    - (3) Obtained Commission approval of both the plat for the subdivision and the development plan according to the requirements of the subdivision control regulation and this zoning code.
  - iii. There shall be 1 principal entrance to the industrial park from any major thoroughfare (frontal highway) bordering the tract, which shall be designed so that traffic at its intersection with the frontal highway may be controlled and so that there will be adequate storage space for traffic destined to enter the frontal highway or to leave the industrial park.
  - iv. There shall be no direct entrance or exits from parking areas or structures into the frontal highway (or highways), but a service drive parallel to the main traffic way may be provided for access. Traffic on the service drive shall enter the main traffic way via the principal entry.
  - v. Wherever the industrial park and adjacent residential districts have a common or joint boundary, an area with a width of at least 25 feet shall be provided for the full length of the boundary for a planting screen, planted with shrubs and trees so as to provide a tight screen effective at all seasons of the year.
  - vi. The owner or owners shall provide a plan for the installation of adequate facilities for the disposal of human and industrial wastes meeting the approval of the State Department of Health.
  - vii. The owner or owners shall establish in the restrictions which are a part of the plat for the subdivision a perpetuating organization for the maintenance of the industrial park property, such as roads and planting areas, the approval of

building plans and other improvements and the future maintenance of the park.

viii. The development plan shall indicate the arrangement of the interior roads to provide a unified, self-contained arrangement of industrial sites. The basic concept of the interior road plan shall be subject to the approval of the Commission and any modification or alterations in the basic plan shall likewise be subject to approval.

ix. The development plan shall show building lines established so that no building or structure shall be erected on any parcel within the park nearer to the center of any interior road than 75 feet, nor nearer than 100 feet to the right-of-way line of any bordering highway, and no building shall be erected closer to the side line of a tract than 40 feet, and not closer to an adjoining residential district than 75 feet.

x. No loading docks may be erected or used fronting on a bordering highway. Provisions for loading or unloading operations and any handling of freight or materials outside of buildings shall be located so as not to face on bordering highways.

xi. No part of a parking area for passenger vehicles shall be closer than 25 feet, and no part of a loading or unloading area or parking area for trucks shall be closer than 200 feet to an adjoining residential district. All parking, loading and unloading areas shall be paved with a suitable dust-preventative surface.

xii. The areas in front and on the sides of buildings shall be developed in accordance with a well-designed plan, and the areas shall be perpetually maintained to the satisfaction of the park organization.

**6.10.4. Issuance of improvement location permit.** Issuance of an improvement location permit is pursuant to the requirements spelled out in Article X.

**6.10.5. Access.** Pedestrian and vehicular ingress and egress to lots, tracts or parcels in this district shall be by public right-of-way.

## **6.11. Planned Unit Development (PUD).**

### **6.11.1. Purpose.**

a. The purpose of the Planned Unit Development (PUD) district is to provide for alternative land developments where a variety of residential, commercial, and/or industrial uses are planned and developed as a whole.

b. PUDs allow for more flexible lot size and setback standards.

- c. A PUD shall conform to the following:
  - i. The number of dwelling units erected shall not exceed the number approved by the Advisory Plan Commission unless a density increase is approved by the Advisory Plan Commission;
  - ii. Only land uses that are approved on the master plan may be permitted within a PUD;
  - iii. Each PUD shall have common open space. Common open space may include street right-of-ways, driveways and parking lots which directly serve recreational areas. At least 10% of the gross land area in a PUD shall be allocated for parks, open space and recreational purposes;
  - iv. All utilities, including communication and electric systems, shall be placed underground within the limits of the development, or effectively screened. What constitutes effective screening shall be determined by the Advisory Plan Commission;
  - v. The development plan shall include a common water supply and distribution system which shall meet the approval of the Advisory Plan Commission and the Local Health Official;
  - vi. The development plan shall include a sanitary sewer system connected to a public sewer system, if available within a reasonable distance from the project, or it shall provide for a central collection and treatment system in accordance with the requirements of both the Advisory Plan Commission and the County Health Department; and
  - vii. The plan of the project shall provide for the integrated and harmonious design of buildings in the commercial and industrial areas and the parcels shall be developed in park-like surroundings. The parcels shall be landscaped, and woodlands used to screen lighting, parking areas and loading areas from adjacent residential areas.

d. **Procedure for approval of A PUD.**

- i. The applicant shall submit a preliminary site plan (master plan) in triplicate to the Advisory Plan Commission which includes, but is not restricted to, the following information:
  - (1) Location and boundaries of parcel to be developed, showing the general layout of streets and the existing and proposed land uses of all areas;
  - (2) Tentative placement of all improvements on the site, showing how recommendations of this chapter have been used;

(3) General proposals on densities for residential and other uses. To allow for sufficient flexibility, the Advisory Plan Commission may allow minor shifts in use locations and densities, provided that the general overall plan is adhered to; and

(4) The proposed schedule for development of the site.

ii. The Advisory Plan Commission shall give notice of acceptance or rejection of the proposal within 90 days. Reasons for rejection along with suggestions for revisions shall be given in writing. The developer may resubmit plans for approval after the suggested corrections or additions are made.

iii. A public hearing shall be held before approval of the PUD.

#### **6.11.2. Development standards.**

a. A planned residential or residential/commercial development must comprise an area of at least 10 acres.

b. A planned office development must comprise an area of at least 2 acres.

c. A planned commercial development must comprise an area of at least 5 acres.

d. A planned manufacturing development must comprise an area of at least 20 acres.

e. All other development standards are subject to the approval of the Advisory Plan Commission. Minimum standards for each lot within a PUD can be found in Appendix A on Table 2. These are minimum standards only. The Advisory Plan Commission may require greater standards depending on the location of the PUD.

f. No abandoned, junked, inoperable or derelict vehicles, machinery, farm machinery, equipment or miscellaneous scrap or building debris may be stored within PUD boundaries.

**6.11.3. Access.** Pedestrian and vehicular ingress and egress to lots, tracts or parcels in this district shall be by public right-of-way.

## **ARTICLE VII**

### **VEHICLE PARKING SPACE; LOADING AND UNLOADING BERTHS**

**7.1.** Every building hereafter erected shall provide off-street parking spaces for motor vehicles and loading and unloading berths as specified hereinafter for the use to which the building is to be devoted. No on-street parking is permitted within the unincorporated area of Daviess County.

7.2. All required spaces for any use shall be located on the same parcel with that use.

7.3. Parking spaces for commercial, industrial or institutional uses shall be located within 300 feet from the principal use. Parking spaces for apartments, dormitories or similar residential uses shall be located within 300 feet from their principal use.

7.4. All parking spaces must be a least 9 feet wide. Ninety degree, 60-degree and 45-degree spaces must be 20 feet long; parallel parking spaces must be 23 feet long, except as may otherwise be set forth in this Ordinance.

7.5. Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not overlap, and provided that a written agreement is filed with the Advisory Plan Commission. When two or more uses are located within the same building, off-street parking spaces shall equal the sum of the separate requirements for each use.

7.6. All required off street parking shall be paved with bituminous, concrete or other all-weather, dust proof surfacing and shall be provided with bumper guards or barrier curbs where needed.

7.7. Every commercial, industrial or public use requiring off-street loading shall provide berths. Off-street loading berths shall not be located in a public right-of-way or in a required front yard. Loading berths shall be at least 12 feet wide and 50 feet long.

7.8. Parking requirements by use.

Use	Off-Street Spaces Required
<b>Dwellings:</b>	
Single-Family, Mobile Home and Two-Family	2 per dwelling unit
Multi-Family	1½ per dwelling unit
Churches	1 per 4 seats in main area
Clubs	1 per 200 square feet of gross floor area
<b>Schools:</b>	
Elementary and Junior High/Middle School	2 per classroom plus an off-street passenger loading/unloading area
High School	10 per classroom
Medical Clinics	3 per examination room plus 1 per employee on the largest shift
Hospitals	1 per 3 beds plus an off-street passenger or patient loading/unloading area
Public Utilities and Other Service Facilities	1 per 500 square feet of gross floor area or 2 per 3 regular employees, whichever is greater
Dormitories	1 per guest room

Fraternities & Sororities	1 per 2 members
Private Nurseries, Day Care Schools, Kindergartens and Children Homes	1 per regular employee plus an off-street passenger loading/unloading area
Convalescent Homes And Nursing Homes	1 per 3 beds plus an off-street passenger loading/unloading area
Professional Offices	1 per 250 square feet of gross floor area
Retail Businesses	1 per 250 square feet of gross floor area
Libraries, Museums and Art Galleries	1 per 400 square feet of gross floor area
Dining Rooms, Restaurants, Taverns and Night Clubs	1 per 200 square feet of gross floor area
Hotels	1 per guest room plus 1 per employee on the largest shift
Bowling Alleys	5 per lane
<b>Industrial:</b>	
Permitted Use	1 per employee on the largest shift
Special Use	Special uses will be determined by the Board of Zoning Appeals according to use, but in no case shall the required parking be less than for permitted uses.
Combination of Uses on the Same Parcel	The sum total of the number required per use as determined by the Parking Standards table

## ARTICLE VIII SIGNS

**8.1. Purpose.** The intent of this section is to protect the public health, welfare and safety, and to create and maintain an attractive appearance by preserving the scenic and natural beauty of Daviess County by regulating the use of outdoor signage. Outdoor signs include both Off-Premises Signs or billboards and On-Premises Signs or business signs, as defined in this ordinance.

**8.2. Development Standards for Off-Premises Signs (Billboards).**

a. **Location:** No Off-Premises Sign shall be erected or maintained at any location where by reason of its position, wording, size, shape, color or illumination it may obstruct, obscure, impair, or interfere with the view of, or be confused with any traffic control device, signal or sign.

b. **Districts Permitted:** Off-Premises Signs shall be permitted in A-1, B-1, B-2, I-1, and I-2 districts.

c. **Minimum Setback:** The minimum setback of Off-Premises Signs from the street right-of-way line shall not be less than 15 feet. The minimum setback of Off-Premises Signs from a roadway intersection shall not be less than 500 feet. The minimum setback of Off-Premises Signs from a residential structure shall not be less

than 300 feet.

d. **Illuminated Signs:** Off-Premises Signs may only be illuminated by lighting that is cast downward and focused on the sign. No lighting shall be cast upward into the sky. No intermittent flashing lights, neon lights, Digital LCD screens, or back lighting are permitted.

e. **Sign Types:** Off-Premises signs must be free-standing signs with one or two posts of steel construction and may be back to back and no more than double-stacked. Except as otherwise set forth herein, the Indiana Department of Transportation's Outdoor Advertising Control Manual is applicable.

f. **Size of Signs:** The size of an Off-Premises sign shall not exceed 1,000 square feet per side, whether double or single-stacked.

g. **Permit Required:** A sign permit must be obtained from the Advisory Plan Commission prior to the erection of an Off-Premises Sign. If an Off-Premises Sign is placed at a location where the state code is applicable, a permit from the Indiana Department of Transportation is required before receiving a permit from the Advisory Plan Commission. In general, these are signs located within 660 feet of the right-of-way of I-69, US 50, SR 257, SR 58, SR 358, US 231 and SR 57.

h. **Off-Premises Signs along I-69:** Any Off-Premises sign, including billboards, located within 660 feet of I-69 right-of-way shall not be closer than 5,280 feet (1 mile) from any other Off-Premises sign on the same side of I-69.

### **8.3. Development Standards for On-Premises Signs (Business Signs).**

a. **Location:** No On-Premises Sign shall be erected or maintained at any location where by reason of its position, wording, size, shape, color or illumination it may obstruct, obscure, impair, or interfere with the view of, or be confused with any traffic control device, signal or sign.

b. **Districts Permitted in:** On-Premises Signs shall be permitted in A-1, B-1, B-2, I-1, and I-2 districts.

c. **Height (above building):** No part of any On-Premises Sign attached to the exterior wall of a building shall be erected to a height in excess of 6 feet above the roof line or parapet line of a building.

d. **Height (freestanding signs):** The maximum height of freestanding On-Premises Signs shall be 35 feet in the A-1, B-1, I-1, and I-2 districts, and 50 feet in the B-2 district. The height shall be measured from the ground elevation of the principal structure on the lot.

e. **Minimum Setback (freestanding signs):** The minimum setback of freestanding On-Premises Signs from the street right-of-way line or property line shall not be less



than 15 feet. On corner lots, no signs shall be located in the area bounded by the street lines of such corner lots and a line joining points along said street line 50 feet from the point of the intersection.

f. **Illuminated Signs:** No illuminated On-Premises Sign shall be permitted within 50 feet of any Residential District unless it is so designed that it does not reflect or shine light onto the district.

g. **Size of Signs:** The size of an On-Premises Sign shall not exceed 150 square feet.

h. **Portable and Temporary Signs:** Pennants, banners, portable signs and/or similar devices may be permitted for special events lasting no more than 30 days per occurrence and a total of 90 days per calendar year, provided they are displayed so as not to obstruct a clear view of traffic, traffic lights and/or signals. The displays are to be placed entirely within the confines of the property displaying the devices and shall be placed off all Right-of-Ways. These portable devices shall not emit any flashing lights and/or lighted moving devices. Nor more than one portable device shall be displayed on the same parcel of property unless there is a minimum of 60 feet between each device. Any or all displays shall be constructed and/or installed and shall be maintained and kept in orderly condition and good repair. A sign permit must be obtained from the Advisory Plan Commission prior to display of a portable or temporary sign.

i. **Permit Required:** A sign permit must be obtained from the Advisory Plan Commission prior to the erection of an On-Premises Sign.

#### **8.4. General Provisions.**

a. **For Sale or Rent Signs:** One "For Sale" or "For Rent" sign not to exceed 6 square feet in area for each dwelling unit, garage, or other quarters where appropriate shall be permitted.

b. **Agricultural Signs:** One sign, not to exceed 12 square feet in area, pertaining to the sale of agricultural products raised on the premises shall be permitted in the A-1 district only.

c. **Government Signs:** Signs established by, or by order of, any governmental agency shall be permitted.

d. **Construction Signs:** One sign, not to exceed 48 square feet in area, for construction and development, giving the name of the contractors, engineers, or architects, shall be permitted, but only during the time that construction or development is actively under way.

e. **Event Signs:** For an event of public interest such as a county fair, church event or political elections, one sign, not to exceed 32 square feet in area and located upon the site of the event, shall be permitted. The sign shall not be erected more

than 30 days before the event in question and shall be removed immediately after the event. Directional signs not exceeding 3 square feet in area, showing only a directional arrow and the name of the event of public interest, are permitted. The signs shall not be erected more than 14 days prior to the event in question and shall be removed immediately after the event. Street banners shall be permitted subject to the approval of the Advisory Plan Commission.

f. **Real Estate Development Signs:** For each real estate development, one sign, not to exceed 100 square feet in area, advertising the sale of property in the subdivision shall be permitted, but only when located on some portion of the subdivision being advertised for sale. The sign may be illuminated. The sign shall be maintained only during the time as some portion of the land advertised for sale remains unsold. Permits for such signs shall be issued by the Advisory Plan Commission for one year periods and may be renewed for additional one year periods until such time as all of the subdivision property is sold.

g. **Sexually Oriented Businesses Signage:** Sexually oriented businesses shall not have any Off-Premises signs. The business may have no more than two on-premises signs, including one primary sign and one secondary sign, as provided in Daviess County Ordinance §§111.28.

h. **Flashing or Animated Signs:** No intermittent flashing or animated signs shall be permitted.

i. **Building Signs:** Signs painted on buildings shall be regulated as any other sign.

j. **Maintenance:** All signs and sign structures shall be kept in repair and in proper state of preservation. This includes weed control around the base of signs. Weeds and grass at the base of the sign must be maintained at the same height as the grass on the rest of the parcel on which it is located.

k. **Removal:** Signs which are no longer functional, or which have been abandoned, shall be removed or relocated, in compliance with the provisions of this chapter at the expense of the owner of the sign and/or property owner on which the sign is located.

l. **Nonconforming Signs:** Any legally established nonconforming sign shall be permitted without alteration in size or location. If a sign is damaged in excess of 60% of its replacement value, it shall not be rebuilt; provided, however, that nothing herein shall prevent maintenance, re-painting or posting of any legally established nonconforming signs.

## **ARTICLE IX SEXUALLY ORIENTED BUSINESSES**

A Sexually Oriented Business is permitted within the Floodplain District as a special use (See Appendix A Table 1) and must be located a minimum of two (2) miles from any existing private residence or school. Except as set forth herein, the provisions for the Daviess County Sexually Oriented Business Ordinance, §§111.01-111.99 are applicable.

## **ARTICLE X ENFORCEMENT AND AUTHORITY**

### **10.1. PLAN DIRECTOR; COMPLIANCE REQUIRED.**

- a. The Advisory Plan Commission may, at its option, appoint a Plan Director, who shall have the delegated authority of the Advisory Plan Commission to effectuate any and all rules and regulations promulgated or otherwise passed by the Advisory Plan Commission as set forth in this subchapter. In addition to these powers, the Plan Director shall be empowered to enforce the repair or removal of any structure or the clean-up of any premises.
- b. In addition to the above powers and authorities of a Plan Director, the Plan Director may likewise be responsible for the issuance of any and all building permits in accordance with the provisions of this chapter and insure compliance therewith, and be empowered to collect monies therefor. The Plan Director may likewise be empowered to process any and all petitions and applications requiring action of the Advisory Plan Commission, collect monies therefor as fees shall be established in Article 14, and the collection of monies as set forth above.
- c. Should the Advisory Plan Commission choose not to appoint a Plan Director to enforce and/or carry out paragraphs 10.1(A)-(B) above, the Advisory Plan Commission or its designee will handle such duties.
- d. Upon receipt of any application or request for zoning review, the Plan Director shall review the table of uses and ordinance and determine if such request is Permitted (P) or requires a Special Use, Variance, conditional use, or other treatment. If such application is not Permitted, it will be forwarded to the appropriate party or board for review with appropriate guidance from the Plan Director.

### **10.2. IMPROVEMENT LOCATION PERMITS.**

- a. An improvement location permit is required for any of the following:
  - i. All construction of a new primary structure.

ii. Any addition to a primary structure, any new construction of accessory structure(s), or any addition to existing accessory structures, if the area of the addition(s) exceeds forty percent (40%) of the total sum area of all existing structure(s) (both primary and accessory) as of January 1 of the calendar year in which the addition(s) is made.

iii. Any new construction of a structure(s), or any addition to existing structures that is greater than 25,000 square feet. This provision 10.2(a)(iii) shall apply notwithstanding anything to the contrary contained in this ordinance.

b. Any person, persons, firms or corporations which shall make application for an improvement location permit shall, at the time of making the application, furnish the Advisory Plan Commission with a site plan of the real estate upon which the application for an improvement location permit is made, at least 5 days prior to the issuance of the improvement location permit, which 5 day period may be waived by the Advisory Plan Commission.

c. A site plan shall be drawn to scale and include the following elements in order to properly evaluate a particular project in accordance with the development standards set forth by this chapter and specifically adopted by the Advisory Plan Commission.

(1) The name, address and phone number of the owner, developer, and/or design consultant(s);

(2) The street address of the proposed project, if available;

(3) The legal description of the property;

(4) The name, location and width of all existing and/or proposed streets, including any known plans for future widening, on or adjacent to the subject property;

(5) The name, location, width and use of all existing and/or proposed easements;

(6) The date, map scale and north arrow;

(7) The location and size of all existing and proposed buildings and/or structures;

(8) The location, size, pavement type and arrangement of areas to be used for yards, setbacks, buildings, vehicular access, parking, loading and unloading and a land use table indicating the square footage of each;

(9) The location, width and pavement types of all points of vehicular access to public rights-of-way including the direction and distance from the centerline of said access to the nearest road intersection;

(10) The location and size of existing and proposed sewage, water, gas, electricity and storm drainage facilities;

(11) The existing and proposed site elevations including floor elevations, spot elevations and contours;

(12) The limits of any regulated drain, floodplain and/or floodway;

(13) Storm water runoff calculations and detention design, when required, indicating no net increase in storm water runoff as a result of the proposed development;

(14) Storm Water Pollution Prevention Plan, when required, in accordance with 327 IAC 15-5;

(15) The description and use of abutting property; and

(16) The location, dimensions and design of all signage for the project.

d. Site plans shall be filed by the Advisory Plan Commission or its designee, and shall become a permanent record.

e. The relocation of any proposed building or structure or exit or entrance shown on the site plan and/or the location of new exits or entrances not shown on the site plan may be required before issuing an improvement location permit when the action is necessary to carry out the purpose and intent of this chapter.

f. An improvement location permit for a conditional use may only be issued following receipt of notice from the BZA that the application therefor has been approved by the BZA.

g. Any person, to whom is issued an improvement location permit pursuant to this section, who fails to commence construction of an authorized project within 24 months after the permit is issued, or who fails to carry to completion 30% of the total development plan thereof within 3 years after the permit is issued, or within 1 year after construction is begun, whichever is later, or who fails to conform to the provisions of an approved development plan and supporting data, and upon the basis of which the improvement location permit was issued, may be required by the Advisory Plan Commission upon its own motion, and shall be required by the BZA upon written petition of any person deeming himself or herself aggrieved, to show cause why approval should not be withdrawn and the permit revoked; provided, however, that no order to show cause shall be issued for failure to commence

construction within 24 months after construction has in fact commenced, even though commenced after the expiration of the 24-month period.

- i. Upon the determination by the BZA or petition by the person to require the holder of the permit to show cause, the BZA shall set the same for public hearing, and cause written notice thereof to be sent by registered mail to the permit holder and to be published according to laws. The notice shall name a day not less than 10 days after the date the notice is mailed and after the second of the publication upon which the hearing will be held.
  - ii. If after the hearing, upon evidence publicly presented to the BZA by members of the public or officers or employees of the city, including members of the BZA present at the hearing, the BZA shall find that the holder of the permit in question has failed to commence construction of the industrial park or shopping center within 24 months from the date the improvement location permit was issued, has failed to carry to completion 30% of the total development plan within 3 years after the date, or has failed materially to conform to the provisions of the development plan and supporting data finally approved by the BZA and upon the basis of which the improvement location permit was issued, the BZA shall withdraw its approval of the development plan, and order the permit revoked; provided, however, that the BZA may, if it deems the failure correctable within a period of 6 months, extend the time within which the period holder may purge himself or herself of such failure for not longer than the period, during which period the hearing shall be continued to a day certain at the end thereof.
- h. The holder of an improvement location permit may apply to the BZA at any time for an alteration, change, amendment or extension of the development plan upon which the permit is based.
- i. Upon receipt of the application, the BZA shall proceed as in the case of original application for conditional uses.
  - ii. In the event the BZA shall approve and order the development plan changed, altered, amended or extended, it shall so notify the Plan Director, who shall issue an amended improvement location permit accordingly.

## **ARTICLE XI BOARD OF ZONING APPEALS**

### **Advisory Board of Zoning Appeals: Membership and Jurisdiction**

**11.1. The Board.** There is hereby established the Advisory Board of Zoning Appeals to be known as the ADVISORY BOARD OF ZONING APPEALS OF DAVIESS COUNTY, INDIANA (“BZA”). The BZA is established under the advisory plan law, being IC 36-7-4-901, as amended.

**11.2. Membership.** The BZA consists of a five (5) member board appointed as follows:

- a. Three (3) citizen members appointed by the Board of County Commissioners, of whom one (1) must be a member of the Advisory Plan Commission and two (2) must not be members of the Advisory Plan Commission;
- b. One (1) citizen member appointed by County Council, who must not be a member of the Advisory Plan Commission;
- c. One (1) member appointed by the Advisory Plan Commission from the Advisory Plan Commission's membership, who must be a county agricultural agent or a citizen member of the Advisory Plan Commission other than the member appointed in subsection (a) above.

**11.3. Terms of Office.** Following adoption of this Ordinance, the members shall be initially appointed for the following terms of office:

- One (1) for a term of one (1) year.
- One (1) for a term of two (2) years.
- One (1) for a term of three (3) years.
- Two (2) for a term of four (4) years.

Thereafter each member, except those appointed from the Advisory Plan Commission shall be for a term of four (4) years. The members appointed from the Advisory Plan Commission shall be for a term of one year. Each term shall expire on the first Monday of the year of termination.

**11.4. Territorial Jurisdiction.** The BZA shall have jurisdiction over all the land subject to the zoning ordinance.

**11.5. Powers and Duties.** For the purpose of this order the BZA shall have the following duties:

- a. To hear and to determine appeals from and review decisions or determinations made by the Advisory Plan Commission, except for an appeal of the Advisory Plan Commission's decision on a petition for re-zoning or a change to this ordinance, such decision to go directly to the County Commissioners and not to the BZA.
- b. To hear and determine special uses and conditional uses according to the terms of this ordinance.
- c. To authorize variances from this ordinance.

**11.6. Rules and Procedures.**

- a. **Rules and by-laws.** The BZA shall have sole authority to adopt any and all rules under Indiana Code, §36-7-4-916 and all by-laws concerning organization, selection

of officers, retention of records, forms for applications, filing requirements, other than as to place of filing as herein provided for, procedures, notices for and conduct of meetings. The foregoing includes:

- i. The election of a Chairman and Vice Chairman from its members.
  - ii. Appointment of a Secretary, who is not required to be a member of the board, and who shall be responsible for recording minutes.
  - iii. All meetings shall be open to the public.
- b. **Facilities and Funding.** The County of Daviess shall provide suitable facilities for the holding of BZA 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.

## **ARTICLE XII**

### **VARIANCES, SPECIAL USES, CONDITIONAL USES AND REQUEST FOR APPEALS**

**12.1. Filing.** All applications for variances, special uses, conditional uses, and requests for appeal shall be filed by the applicant with the staff or designee of the BZA.

**12.2. Hearings.** All hearings required for variances, special uses, conditional uses, and appeals shall be by the BZA. Public notice shall be given in accordance with I.C. 5-3-1. Notice shall be given to adjoining property owners by certified mail postmarked at least ten (10) days prior to the hearing. The applicant shall be responsible for identifying all adjoining property owners in accordance with the records maintained by the County Assessor's office.

#### **12.3. Special Uses**

**12.3.1. Applications.** An application for Special Use or conditional use shall be filed with the BZA. The application shall include:

- a. The legal description of the property;
- b. The name, address, phone number and signature of record owner(s) and applicants;
- c. The current zoning classification of the property;
- d. A detailed explanation of the special use being requested;
- e. The manner in which the special use shall be operated or conducted;
- f. Any special provisions or conditions proposed to be incorporated into the execution of the use;
- g. Two (2) copies of a dimensional drawing with boundaries, location and size of structures, access provisions, and all other relevant information.



h. List of adjacent property owners certified by the Daviess County Auditor's Office. Notice shall be given to adjoining property owners by certified mail postmarked at least ten (10) days prior to the hearing.

i. Notice shall be posted on the property not less than ten (10) days prior to the public hearing by the BZA. The notice shall remain posted until the public hearing has concluded. Notice for posting will be provided to applicant by the BZA upon submission of the application.

j. Applications shall be accompanied with an application fee as set forth by the BZA.

**12.3.2. Findings of Fact.** The BZA may approve such use in a district if, after a public meeting in accordance with I.C. 5-3-1. The BZA shall make findings of fact:

a. That the use is necessary for public convenience at the specific location;

b. That the use is designed and proposed to be operated in a manner that will protect the public health, safety and general welfare of the neighborhood.

c. The requirements and development standards (such as height, bulk, or area) for the requested use as prescribed by this Ordinance will be met; and

d. Granting the use will not undermine the general purpose stated in this Ordinance at page 1, paragraph 1.

**12.3.3. Restrictions and Conditions.** The BZA may impose such reasonable conditions or restrictions upon its approval as it deems necessary to find that aforementioned requirements are met. These conditions or restrictions include, but are not limited to, location points of vehicle ingress and egress, off-street parking and loading, building setbacks, hours of operation and any other conditions or restriction as deemed necessary to promote the general objectives of this Ordinance. Failure to maintain or observe conditions or restrictions imposed shall constitute grounds for revocation of the special use permit.

**12.3.4. Changes, Expansion or Alteration of Existing Special Use.**

a. Any proposed expansion, change or alteration in the operation of a permitted special use shall be reported in detail to the BZA. The BZA shall determine if such change is significantly substantial to require the issuance of a new special use permit.

b. If the BZA determines the proposed change is not of significant nature and may be done pursuant to the current special use permit, the BZA shall notify the applicant in writing.

c. If the BZA determines the requested change is of significant nature and a new permit is required, a new application shall be filed and processed in the same manner as any new application.

**12.3.5. Termination.** A special use may be terminated by the BZA, upon filing of an application by an interested person and upon a finding at a public hearing held pursuant to I.C. §5-3-1, with notice to the property owner, that the terms of this Ordinance, or conditions of approval or commitments have not been complied with.

**12.4. Variances.**

**12.4.1. Applications.** A variance from the terms of this ordinance shall not be granted by the Board unless and until a written application for a variance is submitted. The written application must contain:

- a. The legal description of the property;
- b. The name, address, phone number and signature of record owner(s) and applicants;
- c. The current zoning classification of the property;
- d. A detailed explanation of the nature of the variance requested;
- e. Two (2) copies of a dimensional drawing with boundaries, location and size of structures, access provisions, and all other relevant information needed to understand the variance request.
- f. List of adjoining property owners certified by the Daviess County Auditor's Office. Notice shall be given to adjoining property owners by certified mail postmarked at least ten (10) days prior to the hearing.
- g. Notice shall be posted on the property not less than ten (10) days prior to the public hearing by the BZA. The notice shall remain posted until the public hearing has concluded. Notice for posting will be provided to applicant by the BZA upon submission of the application.
- h. Applications shall be accompanied by an application fee as set forth by the BZA.

**12.4.2. Findings of Fact.** The BZA may grant a variance from the the Zoning Ordinance if, after a public hearing, it makes findings of fact in writing, that:

- a. the strict application of the terms of this ordinance will result in practical difficulties in the use of the property; and
- b. the approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
- c. the use and value of the area adjacent to the property included in the variance will not be significantly affected in a substantially adverse manner.

**12.4.3. Non-Conforming Use.** No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of land, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

**12.4.4. Conditions.** The BZA may permit or require the owner of a parcel of property to make written commitment concerning the use or development of that parcel or may impose conditions upon that grant of variance.

**12.4.5. Run With the Land.** Variance granted by the BZA shall run with the land until such time as: (1) the use of the variance ends, or (2) the property conforms with the Ordinance as written.

**12.4.6. Compliance.** Where an owner has failed to comply with any condition and/or commitment permitted or required by the grant of variance, the BZA may authorize such action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this Ordinance in the same manner as if the variance had not been granted.

**12.5. Appeals.** Every decision of the BZA shall be subject to review. Any person aggrieved by a decision of the BZA may present to the Circuit or Superior Court of Daviess County, Indiana, a petition duly verified, setting forth that such decision is illegal in whole or in part, and specifying the grounds of illegality. The petition shall be presented to the court within thirty (30) days after the entry of a decision of the BZA.

## **ARTICLE XIII AMENDMENTS**

All amendments to this chapter shall be in conformance with §§ 64 and 37 to 42 inclusive of Chapter 174 of the Indiana General Assembly of 1947.

## **ARTICLE XIV FEES AND PENALTIES**

**14.1. Fees.** The Advisory Plan Commission shall establish a schedule of reasonable fees associated with processing and hearing administrative appeals, petitions for rezoning, special uses, variances, subdivisions, reviewing permit applications, issuing permits, and other official actions taken under IC §36. The fee schedule shall be posted in a prominent place within the Advisory Plan Commission office where the fee schedule is readily available to the public. All fees shall be assessed and collected by the Advisory Plan Commission or its designee.

**14.2. Penalties.**

**14.2.1. Double Fee.** Where construction, remodeling, erection of a structure or placement of a sign, change of use of land or a structure, or any other use for which a permit, rezoning, variance, or special use is required, is started or commenced prior to obtaining the required

permit, the fee shall be doubled; but payment of the double fee shall not relieve any person from fully complying with the requirements of this title in the execution of the work or use, nor from any other penalties proscribed.

**14.2.2. Ordinance Violation Penalty.** In addition to any fees assessed by the Advisory Plan Commission or its designee, any person who violates any provision of this title shall be subject to the penalties (or fines) set forth herein:

- a. Any person who violates any provision of the County Zoning Code, and who has received a citation from the Advisory Plan Commission shall be subject to a civil penalty (or fine) of up to \$500.00 for a first violation. Additional violations within any consecutive twelve (12) month period shall be as follows:
  - i. Second violation - \$1,000.00 penalty;
  - ii. Third violation - \$2,500.00 penalty;
  - iii. Fourth violation - \$5,000.00 penalty; and
  - iv. Any additional violation - \$7,500 penalty.
- b. A court of law may assess additional civil penalties for non-compliance.
- c. The civil penalties shall be paid to the Daviess County Treasurer within thirty (30) days of the date the citation is issued and corrective action(s) shall be taken as soon as possible to immediately bring the property into compliance with this title as required by ordinance. Violations of a continuing nature shall each be considered a separate offense for each day the property is not in compliance with any provision in this title.
- d. Failure to pay the penalty and take the necessary corrective action in a timely manner could result in the County filing suit in Daviess Superior Court for payment of the civil penalty and all related court costs, and to bring about compliance of such property.

**14.2.3. Legal Action.** Any person, firm or corporation, or anyone acting on behalf thereof, who shall violate or fail to comply with any of the provisions of this title by conduct or activity or the erection, construction, enlargement, conversion, moving, or maintenance of any building, structure, or use which is continued, operated or maintained, on land or water, used in whole or in part, contrary to any of the provisions of this title, is declared to be in violation of this title. The Advisory Plan Commission, either directly or through its designee, may institute appropriate legal action to remove the violation and bring about compliance with this title. The action may also be instituted by any property owner who may be especially damaged by any violation of this title. The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

**14.2.4. Permit Hold.** The Advisory Plan Commission may put a hold on issuing any new Improvement Location Permits authorized under this title for any property that is in violation of any provision of this title.

**14.2.5. Venue.** A change of venue from the County may not be granted in an action to enforce the provisions of this title except where such change is required by state or federal statute.

**Appendix A**  
**Table 1**  
**OFFICIAL SCHEDULE**  
**OF USES**

<b>Property Use</b> P = Permitted Blank = Special Use/Conditional Use/Variance	<b>FP</b>	<b>A-1</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>I-2</b>	<b>AIR</b>	<b>PUD</b>
Advertising Signs/Billboards		P				P	P	P	P		
Airport										P	
Agri-Businesses		P									
Agricultural Supply Facility		P									
Agricultural Uses	P	P								P	
Agricultural Uses (Recreational)	P	P	P							P	
Aluminum Foundry									P		
Amusement Parks							P				
Animal Hospital		P					P	P	P	P	
Antique Shops		P				P	P				P
Appliance Sales/Service		P				P	P				
Art Galleries		P				P	P				P
Art Supply Store		P				P	P				P
Auction Barn		P				P	P	P		P	
Auto Body Repair/ Painting		P				P	P	P	P	P	
Auto Glass Shops		P				P	P	P	P	P	
Auto/Truck Rental Service		P				P	P	P		P	
Auto/Truck Sales (new/used)		P				P	P				
Auto Salvage Yard											
Auto Seat Repair		P				P	P				
Automobile Accessory Store		P				P	P				
Automobile Washing		P				P	P	P		P	
Automobile Service and Repair		P				P	P	P		P	
Automobile Service Station		P				P	P				
Auto/Truck Auctions		P				P	P	P	P	P	
Auto/Truck Tire Dealers		P				P	P				
Awning Manufacturing		P						P	P	P	
Bait Shop		P				P	P				
Bakery Shop, Retail		P				P	P				P
Bakery, Commercial		P						P	P	P	
Banks & Financial Institutions						P	P				P
Banquet Halls		P				P	P				
Barber/Beauty Shops		P				P	P				P
Bed/Breakfasts		P			P	P	P				
Beverage Bottling Plant								P	P	P	
Beverage Stores (Liquor)						P	P				
Bicycle Sales/Service		P				P	P				
Boarding House		P			P	P	P				
Building Materials Storage Yard		P					P	P	P	P	
Boat Sales/Service		P				P	P				
Boat Storage		P					P	P	P	P	
Book Stores		P				P	P				
Bowling Alley						P	P				

<b>Property Use</b> P = Permitted Blank = Special Use/Conditional Use/Variance	<b>FP</b>	<b>A-1</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>I-2</b>	<b>AIR</b>	<b>PUD</b>
Box/Paper Manufacturing								P	P	P	
Cabinet Manufacturing (Industrial)								P	P	P	
Cabinet Shops		P									
Cafeterias						P	P				
Campgrounds						P	P				
Candy Stores		P				P	P				
Cemeteries		P									
Ceramic Shops		P				P	P				
Ceramic Tile Sales		P				P	P				
Chemical Manufacturing Plant									P		
Churches/Synagogues		P	P	P	P	P	P				P
Cleaning Services		P				P	P				
Clothing & Apparel Store		P				P	P				
Clubs/Lodges/Union Halls		P				P	P				
Cold Rolled Metal Production									P		
Colleges/Universities		P				P	P				
Community Centers		P									
Confined Feeding Operation											
Daycare Facility		P			P	P	P				
Daycare Home		P		P	P						
Entertainment Business, Adult	P										
Farm-based Business		P	P								
Farm Implement Dealer & Service		P				P	P	P		P	
Feed Store		P				P	P	P		P	
Fiberglass Molding		P						P	P		
Firearms/Ammunition Sales		P									
Fireworks Sales		P						P			
Floor Covering Sales		P				P	P				
Florist Shop		P				P	P				P
Food Distribution		P						P		P	
Food Processing		P							P		
Forestry/Wildlife Preserve	P	P	P	P	P	P	P	P	P	P	P
Foster Care Home		P			P						
Foundry									P		
Freight Terminal								P	P	P	
Funeral Home/Mortuary		P				P	P				
Furnace/A.C. Sales & Service		P				P	P				
Furniture Manufacturer-Industrial								P	P	P	
Furniture Shop		P									
Furniture Repair/Refinishing		P				P	P	P		P	
Furniture Store		P				P	P				
Garage, Public						P	P	P		P	
Garage, Storage		P				P	P	P		P	
Garden Supply Shop		P				P	P				
Gift Shop		P				P	P				







<b>Property Use</b> P = Permitted Blank = Special Use/Conditional Use/Variance	<b>FP</b>	<b>A-1</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>I-2</b>	<b>AIR</b>	<b>PUD</b>
Shoe Stores		P				P	P				
Shoe Repair Store		P				P	P				
Sign Company		P				P	P	P		P	
SlaughterHouse								P	P	P	
Snowmobile Sales/Service		P				P	P	P		P	
Sporting Goods Store		P				P	P				
Stadiums/Arenas											
Storage Facility, Self-Serve		P				P	P	P		P	
Storage, Outside		P							P		
Supermarket		P				P	P				
Tailor/Alterations		P				P	P				
Taxicab Dispatching		P				P	P	P		P	
Taxidermy Services		P				P	P	P		P	
Theaters, Indoor		P				P	P				
Theaters, Outdoor						P	P				
Tire Sales/Service		P				P	P				
Tobacco Stores		P				P	P				
Travel Agencies		P				P	P				
Truck Sales		P					P	P		P	
Truck Terminals		P					P	P		P	
Truck Transfer Lots		P					P	P		P	
Towers/Microwave, Radio		P									
Upholstery Shops		P				P	P				
Utility Offices		P				P	P				
Van Conversion		P						P		P	
Vending Machine Company		P				P	P	P		P	
Warehousing		P						P	P	P	
Waste Facility (Land Fill)									P		
Water Softener Sales/Service		P				P	P	P		P	
Welding Shops		P						P	P	P	
Wholesale Business		P					P	P		P	

**APPENDIX A  
TABLE 2  
DISTRICT STANDARDS**

<b>District Standards</b>	<b>FP</b>	<b>A-1</b>	<b>R-E</b>	<b>R-1</b>	<b>R-2</b>	<b>B-1</b>	<b>B-2</b>	<b>I-1</b>	<b>I-2</b>	<b>AIR</b>	<b>PUD<sup>6</sup></b>
<b>Parcel Size</b>											
Minimum Parcel Size (on septic)	2 acres	1.5 acres	1.5 acres	1.5 acres	1.5 acres	1.5 acres	1.5 acres	2 acres	-	2 acres	2 acres
Minimum Parcel Size (on sanitary sewer facility <sup>1</sup> )	2 acres	1.5 acres	1.5 acres	10,000 ft <sup>2</sup>	10,000 ft <sup>2</sup>	5,000 ft <sup>2</sup>	10,000 ft <sup>2</sup>	1 acre	5 acres	1 acre	5,000 ft <sup>2</sup>
Maximum Parcel Size	-	-	5 acres	-	-	-	-	-	-	-	-
<b>Parcel Dimensions</b>											
Minimum Parcel Frontage	150'	-	80'	80'	60'	50'	50'	150'	200'	150'	50'
<b>Setbacks<sup>2</sup></b>											
Front Yard <sup>3</sup>	50'	50'	50'	35'	35'	25'	25'	75'	75'	75'	0'
Side Yard	20'	10'	10'	10'	5'	5'	5'	40'	40'	40'	0'
Rear Yard	30'	10'	10'	20'	20'	10'	10'	20'	20'	20'	0'
<b>Accessory Structure Setbacks</b>											
Front Yard	65'	50'	65'	45'	45'	25'	25'	75'	75'	75'	0'
Side Yard	10'	10'	10'	5'	5'	5'	5'	20'	20'	20'	0'
Rear Yard	10'	10'	10'	5'	5'	5'	5'	20'	20'	20'	0'
<b>Minimum Square Footage of Structures</b>											
Single-Family	950 ft <sup>2</sup>	-	-	950 ft <sup>2</sup>	950 ft <sup>2</sup>	950 ft <sup>2</sup>	-	-	-	-	950 ft <sup>2</sup>
Two-Family (per unit)	-	-	-	750 ft <sup>2</sup>	750 ft <sup>2</sup>	750 ft <sup>2</sup>	750 ft <sup>2</sup>	-	-	-	750 ft <sup>2</sup>
Multi-Family (per unit)	-	-	-	-	600 ft <sup>2</sup>	600 ft <sup>2</sup>	600 ft <sup>2</sup>	-	-	-	600 ft <sup>2</sup>
Mobile Home	-	-	644 ft <sup>2</sup>	644 ft <sup>2</sup>	644 ft <sup>2</sup>	-	-	-	-	-	644 ft <sup>2</sup>
Commercial Structures	750 ft <sup>2</sup>	-	750 ft <sup>2</sup>	750 ft <sup>2</sup>	750 ft <sup>2</sup>	750 ft <sup>2</sup>	1,500 ft <sup>2</sup>	1,500 ft <sup>2</sup>	-	1,500 ft <sup>2</sup>	750 ft <sup>2</sup>
Industrial Structures	-	-	-	-	-	-	-	2,500 ft <sup>2</sup>	2,500 ft <sup>2</sup>	2,500 ft <sup>2</sup>	2,500 ft <sup>2</sup>
<b>Maximum Parcel Coverage<sup>4</sup></b>	35%	-	35%	35%	50%	70%	70%	50%	50%	50%	70%
<b>Building Height<sup>5</sup></b>											
Maximum Height Primary Structure	35'	-	35'	35'	55'	35'	55'	55'	55'	35'	55'
Maximum Height Accessory Structures	18'	-	18'	18'	18'	18'	18'	35'	35'	25'	18'

"-" means not applicable to this district (Some standards in certain districts only apply if a special exception is granted. See the Permitted Uses table for a list of permitted and special exception uses.

1 - Sanitary sewer facility/centralized sewage treatment plant approved by the State Board of Health.

2 - Structures, parking lots, and all other impervious surfaces are prohibited from setback areas, with the exception of signs and sidewalks/drive connections.

3 - Parcels with frontage on two separate roads must follow front yard setback requirements on each road.

4 - Coverage includes all primary and accessory structures, and impervious surfaces (i.e. sidewalks, drives, and parking lots).

5 - Height is measured from highest point of gable on gabled roofs and highest flat portion of flat roofs. Chimneys, mechanical equipment, and church steeples are excluded.

6 - These are minimum requirements for each lot in a PUD. PUDs are subject to approval by the Daviess County Plan Commission, which may require higher standards than these minimums.



**APPENDIX B  
NOTICE OF AGRICULTURAL ACTIVITY**

TO: ALL APPLICANTS FOR IMPROVEMENT LOCATION PERMIT FOR HOMES  
IN AGRICULTURAL ZONED AREAS OF DAVIESS COUNTY, INDIANA.

This notice is given to you because of your application for an Improvement Location Permit to build or move a home into an area of Daviess County that is zoned for Agriculture.

The purpose of this notice is to assure that you are aware that all agricultural operations are allowed in this area.

Agricultural activity may include, but is not limited to, grazing of livestock, confined feeding of livestock, application of animal manure to land, application of pesticides to fields and growing crops, creation of dust from field operations and noise from livestock and machinery operations at all hours.

Single-family dwellings are permitted uses of land in an Agricultural Zone, and this is not restricted to farm families. However, people who choose to live in or near these areas must understand that agricultural operations may be occurring nearby.

You must also understand that Indiana has a "RIGHT TO FARM" law that protects farm operations from unwarranted nuisance suits by neighbors who move next to an existing farm operation. Farm operations do not constitute a nuisance so long as they are not negligently maintained, do not endanger human health and do not cause bodily injury to third parties.

By signing this notice form, you verify that you have received it, read it and understand it. You are not giving up the right to seek redress for negligence by individuals associated with a farm operation or by other residents of the area.

MY SIGNATURE CERTIFIES THAT I HAVE RECEIVED THIS NOTICE. I HAVE READ IT AND UNDERSTAND IT.

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Permit Number

**APPENDIX C**  
**NOTICE OF NEIGHBORING AGRICULTURAL ACTIVITY**

TO: ALL APPLICANTS FOR IMPROVEMENT LOCATION PERMIT FOR HOMES  
IN R-E, R-1, R-2, B-1 and B-2 ZONED AREAS OF DAVIESS COUNTY, INDIANA.

This notice is given to you because of your application for an Improvement Location Permit to build or move a home into a zoning district of Daviess County which is located near the Agriculture District.

The purpose of this notice is to assure that you are aware that all agricultural operations are allowed in neighboring zoning districts.

Agricultural activity may include, but is not limited to, grazing of livestock, confined feeding of livestock, application of animal manure to land, application of pesticides to fields and growing crops, creation of dust from field operations and noise from livestock and machinery operations at all hours.

Single-family dwellings are permitted uses of land in an Agricultural Zone, and this is not restricted to farm families. However, people who choose to live in or near these areas must understand that agricultural operations may be occurring nearby.

You must also understand that Indiana has a "RIGHT TO FARM" law that protects farm operations from unwarranted nuisance suits by neighbors who move next to an existing farm operation. Farm operations do not constitute a nuisance so long as they are not negligently maintained, do not endanger human health and do not cause bodily injury to third parties.

By signing this notice form, you verify that you have received it, read it and understand it. You are not giving up the right to seek redress for negligence by individuals associated with a farm operation or by other residents of the area.

MY SIGNATURE CERTIFIES THAT I HAVE RECEIVED THIS NOTICE. I HAVE READ IT AND UNDERSTAND IT.

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Permit Numb

