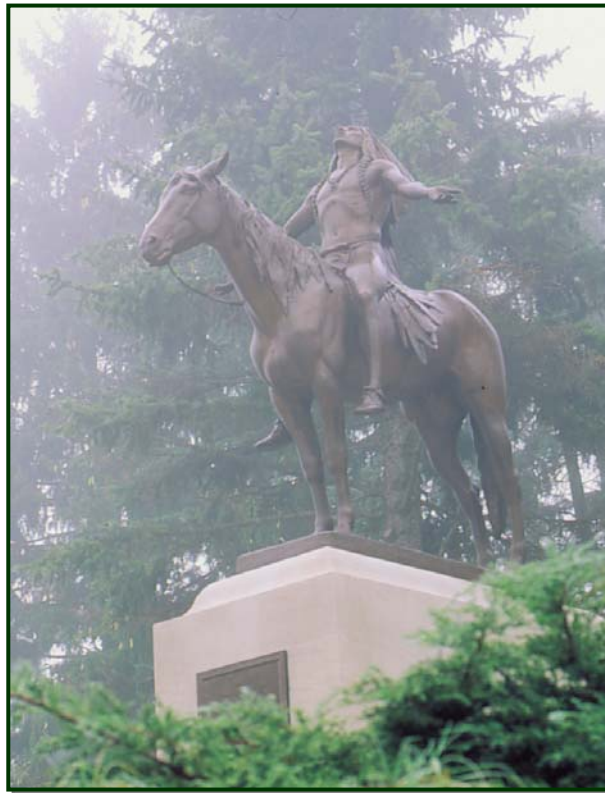


CITY OF MUNCIE

COMPREHENSIVE ZONING ORDINANCE



PREPARED BY: DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION

**CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE
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**AN ORDINANCE ESTABLISHING
MINIMUM COMPREHENSIVE ZONING STANDARDS FOR
THE CITY OF MUNCIE, INDIANA**

WHEREAS, the Common Council of the City of Muncie, Indiana, considers it necessary as a part of the planning process,

THEREFORE, BE IT ORDAINED by the common council of the city of Muncie, Indiana:

ARTICLE I TITLE

This Ordinance shall be known as the City of Muncie Comprehensive Zoning Ordinance.

ARTICLE II PURPOSE

The purpose of this Ordinance is to encourage units of government to improve the health, safety, convenience, and welfare of their citizens and to plan for the future development of their community to that end.

ARTICLE III AUTHORITY

The authority for the adoption of this Ordinance rests upon IC 36-7-1-1 through IC 36-7-1Do and IC 36-7-4100 through IC 36-7-41200 of the Burns Indiana Statutes and all amendments thereto.

ARTICLE IV JURISDICTION

The provisions of this Ordinance shall apply to all the incorporated territory of the City of Muncie, Indiana.

ARTICLE V INTERPRETATION

ARTICLE V

Section 1 GENERAL

The provisions of this Ordinance shall be minimum requirements. This Ordinance is not intended to abrogate any law, easement, covenant or private agreement. Whenever the regulations provided in this Ordinance impose greater restrictions on the character of the use of buildings or lands than are imposed under any other law of the State of Indiana, then the regulations established by virtue of this Ordinance shall prevail only if they assure the promotion of the health, safety, convenience and welfare of the citizens.

ARTICLE V

Section 2 HISTORIC BUILDINGS AND DISTRICTS

Where preservation of existing conditions or restoration to original conditions consistent with the intent of an historic restoration project would constitute violations of the provisions of this

Ordinance: a building on the National Register of Historic Places, a building within an established Historic District of the City of Muncie, or other declared landmark of the State of Indiana shall be exempt from such requirements that conflict with historic accuracy (Refer to Article XI, Section 2).

ARTICLE VI SEPARABILITY

The provisions of this Ordinance are separable. If any court of competent jurisdiction shall adjudge any of its provisions to be invalid, such judgment shall not affect any other provisions not specifically included in said judgment. If any court of competent jurisdiction shall adjudge invalid the application of any provisions of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provisions to any other property, building or structure not specifically included in said judgment.

ARTICLE VII STATUS OF PREVIOUS ORDINANCES

Any and all ordinances passed by the Common Council of the City of Muncie, Indiana, under the provisions of Chapter 7, Section 53-701 through Section 53-795 and Section 53-801 through Section 53-810 of the Burns Indiana Statutes previous to the enactment of this Ordinance are deemed repealed.

ARTICLE VIII STATUS OF PREVIOUS ACTIONS

ARTICLE VIII

Section 1 BUILDING PERMITS

Where a building permit for a building or structure has been issued in accordance with existing laws prior to the enactment of this Ordinance, said building or structure may be completed according to the approved plans upon which the building permit was issued, provided construction is begun within ninety (90) days after the enactment of this Ordinance and diligently pursued to completion. Such building or structure may, upon completion, be occupied under a Certificate of Occupancy by the use for which it was originally designated.

ARTICLE VIII

Section 2 VARIANCES: EXCEPTIONS: SPECIAL USES

Where the Delaware-Muncie Metropolitan Board of Zoning Appeals has granted a variance, exception or special use prior to the enactment of this Ordinance, the permitted variance, exception or special use shall be implemented within ninety (90) days from the granting thereof and pursued diligently to completion; otherwise, the granting of such variance, exception or special use is automatically revoked.

ARTICLE IX GENERAL PROVISIONS

ARTICLE IX

Section 1 CONFORMANCE

A USE

No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except in conformity with all the provisions of this Ordinance, and after the necessary permits have been obtained.

B HEIGHT

No building or structure shall be erected or constructed nor shall any existing building or structure be reconstructed, moved, expanded or enlarged so as to exceed the height limitations established in this Ordinance.

C LOT COVERAGE

No building or structure and its accessory uses shall be erected or constructed nor shall any existing building or structure and its accessory uses be reconstructed, moved, expanded or enlarged so as to occupy a greater percentage of a lot than the limits established in this Ordinance.

D OPEN SPACE

No yard or open space or off-street parking or loading space provided about a building or structure for the purpose of complying with the provisions of this Ordinance shall be considered as providing yard, open space or off-street parking or loading space for any other building or structure. No yard or lot existing at the time of the enactment of this Ordinance shall be reduced in dimension or area below the minimum standards provided in this Ordinance. Yards or lots created after the enactment of this Ordinance shall meet all requirements established herein.

ARTICLE IX

Section 2 UNLAWFUL USE

Any building, structure or use which was not lawful prior to November 5, 1973, and which is still in violation of the provisions of this Ordinance, shall be considered to be a nonconforming building, structure or use under the terms of this Ordinance. Any building, structure or use which became not lawful after November 5, 1973, and which is still in violation of the provisions of this Ordinance, shall be considered unlawful.

ARTICLE IX

Section 3 YARDS: LOT COVERAGE

No single family, two family or multiple family dwelling, together with accessory buildings or structures, shall occupy more than the following percentages of the total area of the lots, exclusive of right-of-ways:

- R-1 and R-2 Residence Zones - 35% lot coverage
- R-3 and R-4 Residence Zones - 40% lot coverage
- R-5 Residence Zone - 50% lot coverage.

ARTICLE IX

Section 4 RIGHT-OF-WAY: MEASUREMENT OF SETBACKS

When an official plan for the major and secondary highways in the City of Muncie, Indiana, shall have been adopted by the Common Council of the City of Muncie, Indiana, then all setbacks for buildings and structures shall be measured from the proposed right- of-way lines as expressed in such plan. For the purpose of this Ordinance, the right-of-way of any street shall be deemed to be fifty (50) feet unless a larger right-of-way is required on the Official Thoroughfare Plan for the City of Muncie, Indiana, in which case the larger right-of-way shall control.

ARTICLE IX

Section 5 MANUFACTURED HOUSING

A PERMANENT PLACEMENT

The establishment, location, and use of manufactured homes as scattered-site residences shall be permitted in any zone permitting installation of a dwelling unit, subject to the requirements and limitations applying generally to such residential use in the appropriate zone, and provided such homes shall meet the following requirements and limitations:

1. The home shall meet all requirements applicable to single-family dwellings and possess all necessary improvement location, building and occupancy permits and other certifications as required by this Ordinance.
2. The home shall meet the minimum square footage requirements for the appropriate zone.
3. The home shall be attached and anchored to a permanent foundation in conformance with the regulations in the Indiana One and Two Family Dwelling Code and with manufacturer's installation specifications.
4. The terms of Article IX, Section 5(A) shall apply to the placement of manufactured housing located outside mobile home parks only.
5. The exterior siding material on the home shall extend below the top of the foundation by at least one (1) inch.
6. The home shall have been constructed after January 1, 1981.

B TEMPORARY PLACEMENT

1. Permitted Placement - The placement of manufactured homes built prior to January 1, 1981, and mobile homes shall be permitted within the corporate limits of the City of Muncie, and outside of mobile home parks, on a temporary basis in the following circumstances:
 - a. For use of a manufactured home or mobile home as a caretaker's quarters or a construction office at a job site.
 - b. For use of a manufactured home or mobile home as a temporary residence, located on the building lot, during the course of construction of a site-built dwelling and when the Board of Zoning Appeals has approved the temporary placement by granting a variance to the owner or contract buyer who is in the process of constructing said site-built dwelling after obtaining a building permit for same.

- c. For use of a manufactured home or mobile home as a temporary residence, located adjacent to an existing residence, when the Board of Zoning Appeals has approved the temporary placement by granting a variance to the owner or contract buyer whose own health or the health of another necessitates care and where the facts show that an unnecessary hardship would occur if not permitted to locate a temporary residence adjacent to the residence of one who is able to provide such care or is in need of such care.
- 2. Provisions Regulating Permitted Placement - A temporary use permit shall be obtained prior to placement of a manufactured home or mobile home for temporary use as herein defined. For use of a manufactured home or a mobile home as temporary residences, placement shall be additionally subject to:
 - a. applicable health provisions for sanitary facilities,
 - b. providing an adequate ground anchor, and
 - c. setback provisions as stated in the appropriate zone.
- 3. Time Limitations for Temporary Placement - A temporary use permit may be issued for a period not to exceed one (1) year. A variance, when granted under the circumstances herein described, shall not exceed one (1) year. A variance may be renewed, at the discretion of the Board of Zoning Appeals, for additional one (1) year periods by requesting such an extension through the established procedures for filing an appeal except that the normal filing fee shall be waived in cases of medical hardship as herein defined.

ARTICLE IX

Section 6 PUBLIC UTILITIES

A INTENT

Public service facilities shall be a permitted use in all zoning districts. These provisions are intended to provide for contact sensitive design for sensible and reasonable land use standards that allow for the provision of reliable public utility service to all structures. At the same time, there is a need to minimize the industrial appearance that can result in adverse, undesirable visual effects not compatible with the character of the area surrounding the facilities while still allowing them in locations that do not unduly drive up the cost of the improvements.

B APPLICABILITY

The Development Standards provisions of this section shall apply to the following new or relocated public utility facilities:

- 1. Utility Substations for electric, gas and other public utility services.
- 2. Other Utility Facilities such as lift stations, telephone switches and ground mounted transformers, and similar utility cabinet facilities.

C DEVELOPMENT STANDARDS

1. Utility Substations

- a. No facility shall be located within one hundred feet (100') of a structure containing a residential use, school, or institution for residential care.
- b. All facilities shall meet the minimum setbacks and height regulations for the zoning district in which it is located and the visibility at an intersection regulations as set forth in this Ordinance.
- c. All outdoor above ground facilities shall be screened from view from public rights-of-way and abutting properties by an enclosure that is designed to appear to be a building, provided the structures are not finished in metal, unfinished concrete, vinyl or aluminum siding, or by an opaque screen consisting of either a masonry, natural stone or decorative concrete wall or a wooden, composite resin or vinyl fence. Chain link fencing is prohibited unless the facility is located in an industrial zoning district. The opaque screen shall be considered a part of the facility subject to the regulations and distance requirements set forth above and shall not be less than eight feet (8') in height except that where the facility is adjacent to residential use, the minimum height shall be ten feet (10'). Architectural features such as columns shall be added to the opaque screen at corners and at twenty-five feet (25'), at minimum, increments along the length of the screen on all sides.
- d. No outdoor storage, such as found in a pole or pipe yard, shall be permitted unless the facility is located in an industrial zoning district and complies with the requirements applicable in that zoning district.
- e. All lighting shall comply with the provisions set forth in Article XXX, Section 6 and where stronger lights are needed for emergency work, lights shall be on a switch to be operated during the emergency work and shall be directed downward, away from adjoining property and roadways to the extent possible.
- f. All facilities shall meet the bufferyard development and design standards for warehouse/light industrial use in all setbacks (rear, side, street side and front) as set forth in Article XXX, Section 7, except that shade trees may be replaced with evergreen trees where conflicts may occur with overhead transmission and/or distribution lines. Tree and shrub monocultures are not permitted.

2. Other Facilities

- a. Aboveground utility structures shall be located at least ten (10) feet from a fire hydrant, shall not adversely impact the line of sight for any driveway, shall be placed in compliance with the provisions for visibility at intersections and the Americans with Disabilities Act, and shall not interfere with another utility's access to, maintenance of or operation of its facilities.
- b. For aboveground utility structures greater than three (3) feet in height and nine (9) cubic feet in volume, where practical and useful to ameliorate the aesthetic impact of the utility structure, the City may require that the utility company screen the utility structure with plantings, landscaping materials, fences, walls or any combination of these methods. Screening, if required, must be equally effective in all seasons.

D EXISTING FACILITIES AND EXPANSIONS

Existing utility facilities that do not meet the development standards set forth above are considered lawful nonconforming structures. Expansions of those facilities shall meet the enclosure requirements set forth above. Expansions that increase the land area by more than 25% shall meet the development standards set forth in Article XXX, Section 6 on the expanded portion of the facility and on the existing facility to the extent possible.

ARTICLE IX

Section 7 YARDS AFFECTED BY PUBLIC WORKS

Where a building is located on property acquired for public use by condemnation, purchase or otherwise, such building or structure may be relocated on the same lot or premises although the area provisions of this Ordinance cannot be reasonably complied with. Furthermore, where a part of such building or structure is acquired for public use, the remainder of such building or structure may be repaired, reconstructed or remodeled. Whenever any setback, greenbelt and/or landscaped area, provided to meet the requirements of this Ordinance, is removed by a public works project (i.e. road widening), the property from which the setback, greenbelt and/or landscaped area has been removed shall still be considered in compliance with this Ordinance.

ARTICLE IX

Section 8 CHURCHES

Nothing in this Ordinance shall be construed to exclude churches from any zone herein established, provided that any church building shall meet the yard, parking, height, and all other requirements contained in this Ordinance. No church building shall be located closer to an adjacent owner's property line, where said adjacent property is in a Residence Zone, than the following distances:

- R-1 Residence Zone - one hundred (100) feet
- R-2 Residence Zone - fifty (50) feet
- R-3 Residence Zone - twenty-five (25) feet
- R-4 Residence Zone - twenty-five (25) feet
- R-5 Residence Zone - twenty-five (25) feet

ARTICLE IX

Section 9 PUBLIC BUILDINGS

Nothing in this Ordinance shall be construed to exclude buildings owned, leased or used by a municipal, county, township, State or Federal government from any zone established in this Ordinance. However, all such buildings shall meet the yard, parking and height provisions of this Ordinance and no building shall be closer to an adjacent owner's property line, where said adjacent property is in a Residence Zone, than the following distances:

- R-1 Residence Zone - one hundred (100) feet
- R-2 Residence Zone - fifty (50) feet
- R-3 Residence Zone - twenty-five (25) feet
- R-4 Residence Zone - twenty-five (25) feet
- R-5 Residence Zone - twenty-five (25) feet

ARTICLE IX

Section 10 TENTS

No tent shall be erected, used or maintained for living quarters in any zone. For the purpose of this Ordinance, the term "tent" shall mean a collapsible shelter of canvas or other material stretched and sustained by poles and used for outdoor camping.

ARTICLE IX

Section 11 VISIBILITY AT INTERSECTIONS

On a corner lot in any residential zone, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of three (3) feet and ten (10) feet above the centerline grades of the intersecting streets in an area bounded by the right-of-way lines of such intersecting streets and a line adjoining points along said intersecting right-of-way lines fifty (50) feet from the point of intersection of said right-of-way lines.

ARTICLE IX

Section 12 FENCES: WALLS: HEDGES

A fence, screen or wall not more than eight (8) feet in height, or a hedge of thick growth of shrubs or trees maintained so as not to exceed eight (8) feet in height may be located in any side or rear yard in any zone, provided they shall not extend beyond the front wall of the building or, in the absence of a building, beyond the average setback of the buildings on the adjacent lots. Fences, screens, walls, shrubs and trees extending beyond the front wall of the building shall not exceed forty-two (42) inches in height and, when located in the yard along the street sides of a corner lot, must comply with Article IX, Section 11. Trees, shrubs, flowers and plants are not covered by this provision provided they do not produce a hedge effect.

This provision shall not be interpreted to prohibit the erection of an open mesh type fence enclosing a farm, school or playground site.

The IL Limited Industrial, II Intense Industrial and AD Airport Development Zones are exempt from the above provisions in that the above stated provisions shall not be interpreted to prohibit the erection of a fence, screen, wall, shrub or trees not to exceed eight (8) feet in height.

ARTICLE IX

Section 13 DIVISION OF A LOT

No lot or parcel of land shall be hereafter divided into two (2) or more lots or parcels of land unless all lots or parcels of land resulting from such division shall conform with the provisions of this Ordinance. Any division of a lot or parcel of land that shall result in a violation of this section shall make the buildings or structures on said lot or parcel of land unlawful.

ARTICLE IX

Section 14 ACCESSORY USES AND STRUCTURES

A DEFINITION

1. GENERAL DEFINITION - Accessory uses/structures shall be permitted in all zones in accordance with the provisions of this section. Accessory uses/structures:
 - a. Shall be incidental and commonly associated with the operation of the principal use of the lot.
 - b. Shall be operated and maintained under the same ownership and on the same lot as the principal use.
 - c. Shall, in residence zones, be clearly subordinate in height, area, and bulk to the principal use served.
 - d. Shall not be located closer to any lot line than the minimum setback line required, unless specified otherwise in this Ordinance.
 - e. Shall not be permitted, in residence zones, prior to the erection and operation of the principal use.

Such appurtenant features as walks, driveways, curbs, drainage installations, mailboxes, lamp posts, bird baths, fences, walls, uncovered patios, outdoor fireplaces, dog houses, tree houses, playground apparatus, waterfalls, or permanent landscaping shall be considered incidental uses/structures and not as accessory uses/structures subject to the provisions herein.

2. TYPES OF ACCESSORY USES/STRUCTURES

- a. Such buildings or structures as garages, carports, canopies, porte-cochere, bath houses, cabanas, gazebos, storage buildings, greenhouses, guard houses, video-satellite disks, fall-out shelters, and similar accessory buildings or structures.
- b. Signs, as regulated in Article XXX, Section 3 of this Ordinance.
- c. Swimming pools - swimming pools in residence zones may be installed only as accessory to a dwelling for the private use of the owners and occupants of such dwelling and their families and guests, or as accessory to a nursery school or day camp for children, and only on the conditions as follows:
 1. Such pool shall be installed in the rear yard of the premises.
 2. There shall be erected and maintained at minimum a good quality fence not less than five (5) feet in height enclosing the entire portion of the premises upon which such pool shall be installed and entirely surrounding the area in which such pool is located.
 3. Every gate or other opening in the fence enclosing such pool, except an opening through the dwelling or other main building of the premises, shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool.
- d. Amateur radio sending and receiving antennae, provided the height thereof including

masts shall not exceed seventy-five (75) feet measured from the finished lot grade at the base of the tower.

- e. Management office in multi-family dwelling complex and other structures providing services normally associated with tenants' convenience.
- f. Small Wind Energy Systems – small wind energy systems are a permitted accessory use in all zoning districts subject to the following requirements:
 - 1) Setbacks. A wind tower for a Small Wind Energy System shall be set back a distance equal to its total height plus the length of one blade from:
 - a) Any State or local roadway right-of-way, existing or proposed, whichever is greater;
 - b) Any right of ingress or egress on the owner's property;
 - c) Any overhead utility lines;
 - d) All property lines; and
 - e) Any existing guy wire, anchor or other small wind energy tower.

A small wind energy system shall not be located in any front yard area.

- 2) Access. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 10 feet above the ground.
- 3) Electrical Wires. All electrical wires associated with a Small Wind Energy System, other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- 4) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the Small Wind Energy Systems, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from adjacent residential uses and residential zones.
- 5) Height. A small wind energy system shall not exceed one hundred fifty feet (150'), however, no wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces as regulated by the State and the FAA guidance on airspace protection.
- 6) Appearance, color, and finish. The wind generator and wind tower shall remain

painted or finished the color or finish that was originally applied by the manufacturer.

- 7) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, wind tower, building, or other structure associated with a Small Wind Energy System, visible from any public road shall be prohibited.
- 8) Noise and Signal Interference. Sound produced by small wind energy systems under normal operating conditions, as measured at the property line, shall comply with limitations contained in local noise ordinances. Sound levels may be exceeded during short term events such as utility outages and/or severe wind storms. A small wind energy system shall not interfere with communication system such as, but not limited to, radio, television, telephone, satellite, or emergency services communication systems.
- 9) Utility notification and interconnection. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement. Any property owner seeking to construct a Small Wind Energy System and connect such system to the main power grid with the capability of transporting energy back to their main power company shall meet all applicable requirements of the Indiana Utility Regulatory Commission for approval and provide documentation of such approval prior to construction and being issued a building permit.
- 10) Ground Clearance: The minimum clearance between the lowest extension of a rotor blade tip and the highest point of the ground within thirty feet of the tower base shall be thirty (30) feet.
- 11) Braking: A small wind energy system shall be equipped with a manual and automatic braking device capable of halting operation.
- 12) Compliance & Permits. A Small Wind Energy System shall comply with all applicable building and electrical codes. Applications for building permits shall include standard drawings of the wind generator and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Applications for building permits shall also include line drawings of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- 13) Abandonment: A Small Wind Energy System that is out-of-service for a continuous 6 month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the owner of a Small Wind Energy System that is deemed to have been abandoned. The Owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action, within 30 days from the date of the Notice. The Administrator shall withdraw the Notice of

Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned. If the Small Wind Energy System is determined to be abandoned, the owner shall remove the wind generator and tower at the Owner's sole expense within 3 months of the date of Notice of Abandonment. If the owner fails to remove the wind generator and wind tower, the Administrator may pursue a legal action to have the wind generator and tower removed at the Owner's expense.

Small Wind Energy Systems shall not be attached to any building, including guy wires. Meteorological Towers (Met Tower) shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a Small Wind Energy System. Each lot of record is eligible for one Small Wind Energy System only, provided all requirements can be met, except that lots greater than five (5) acres may be eligible for two small wind energy systems, provided all requirements can be met.

- g. Building Mounted Wind Systems, provided the system has a nameplate capacity (manufacturer's) rating of 10 kilowatts or less and projects no more than fifteen (15) feet above the highest point of the roof, excluding chimneys, antennae and other similar structures.

B HEIGHT: SETBACKS

In any residence zone, an accessory building shall not exceed seventeen (17) feet in height and, when located in the rear yard, shall not be closer than three (3) feet to the side and rear lot lines. In non-residence zones, an accessory building shall not exceed the height provision as established in the appropriate zone and, when located in the rear yard, shall not be closer than three (3) feet to the side and rear lot lines.

C ON CORNER LOT

Accessory buildings located on the street side of a corner lot shall be setback a minimum the same distance as that required for the main building. If the main building setback is less than the required setback, then the accessory building shall be setback a minimum the average of the main building setback and the setback of the main building on the adjacent property (or the required setback of the adjacent property, whichever is the least).

D ON SIDE YARD

For an interior lot, an attached accessory building, or garage located on the side yard of a dwelling, shall be considered a part of the dwelling and not an accessory building and shall comply with the provisions of this Ordinance.

ARTICLE IX

Section 15 NONCONFORMING USES AND STRUCTURES

A GENERAL

Within the zones established in this Ordinance, there exist nonconforming uses and structures which may continue to exist in accordance with the following provisions.

B LOTS

In any zone permitting only single-family dwellings, a single-family dwelling shall be permitted on a lot which does not comply with the width and area requirements of this Ordinance provided such lot was of record at the time of enactment of this Ordinance; and provided further that adjustments in yards are in accordance with provisions of this Ordinance. If two or more lots or parts of lots are in single ownership and enjoy continuous frontage at the time of the enactment of this Ordinance, and if all or part of such lots do not meet the width and area standards contained in this Ordinance, the lands involved shall be considered to be an undivided parcel. No portion of said parcel shall be used in a manner, which may reduce compliance with the provisions of this Ordinance.

C USES OF LAND

A nonconforming use of land shall not be enlarged, expanded nor extended to occupy a larger area of land than was occupied at the time of the enactment of this Ordinance. A nonconforming use may be extended throughout any part of an existing structure that was arranged for such use prior to the enactment of this Ordinance. Such use shall not be moved in whole or in part to another location on the lot or parcel of land other than that occupied by the use at the time of the enactment of this Ordinance. If any such use ceases for a period of more than one (1) year, (except when government action or legal proceedings impede access to the premises, as determined by the Board of Zoning Appeals), any subsequent use of such land shall conform with the provisions of this Ordinance unless sixty-six percent (66%) or more of the surrounding uses of land within a six hundred and sixty (660) foot radius are also nonconforming uses of the same restriction as said subsequent use, thereupon, the proponent of said subsequent use shall apply for a Certificate of Nonconformity under the established procedures and additionally provide signed affidavits affirming the existence of surrounding nonconforming uses, as herein defined, of the same restriction.

D STRUCTURES

A nonconforming structure shall not be moved in whole or in part to another location on the lot or parcel of land unless said relocation would bring the structure into conformance with the provisions of this Ordinance. If a nonconforming structure is made to conform, any future expansion or enlargement of said structure shall be in conformance with the provisions of this Ordinance. A nonconforming structure may be expanded or enlarged provided such expansion or enlargement would not further encroach upon the nonconforming characteristic of the structure.

E SUBSTITUTIONS

A nonconforming use may be changed to another nonconforming use of the same or greater restriction provided said change does not cause further violation of the Performance Standards of this Ordinance.

ARTICLE IX

Section 16 REPAIRS: RESTORATION

Nothing in this Ordinance shall prevent the repair of a nonconforming structure. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, it may be reconstructed provided it does not further encroach upon the nonconforming characteristic of the

structure. Nothing shall prevent the repair of a structure containing a nonconforming use and, where the structure is destroyed by any means, the resumption of said use shall be subject to the provisions of Article IX, Section 15(C).

ARTICLE IX

Section 17 PROOF OF NONCONFORMITY

A Certificate of Nonconformity shall transfer with ownership of property and shall be considered proof of a legal nonconforming use with said use being subject to the applicable provisions of Article IX, Section 15.

Upon written request by the Administrative Zoning Officer or by his/her own volition, the owner of a property shall present documentary evidence to said Officer that a building or use owned by him/her qualifies as a legal nonconforming use.

Such evidence shall be presented in conjunction with an application for a Certificate of Nonconformity, if needed. Such evidence shall document the preceding five (5) years from the date of submission for said Certificate and may include retail merchant certificates (for commercial and industrial uses), vouchers related to material purchased for construction, written testimony of adjoining property owners (past/ present), photographs, photostatic copies of deeds or rulings made on property, rent receipts, etc.

Upon submission of such evidence, the Administrative Zoning Officer may perform an inspection of the premises on a date and time agreeable to the owner. No inspection shall be attempted unless and until an agreement is reached with said owner. Following such inspection and/or submission of the application, the Administrative Zoning Officer shall respond within thirty (30) days by issuing a Certificate of Nonconformity if he/she finds that the information given is satisfactory and the premises are, in his/her opinion, a de facto nonconforming use, or by denying a Certificate of Nonconformity. Appeals from a decision of the Administrative Zoning Officer shall be filed in accordance with the provisions of this Ordinance as set forth in Article XXXII, Section 5.

ARTICLE IX

Section 18 RESIDENTIAL FACILITIES FOR DEVELOPMENTALLY DISABLED AND MENTALLY ILL

The provisions of this Ordinance shall not be construed to exclude a residential facility for the developmentally disabled which is duly licensed by the Community Residential Facilities Council of the State of Indiana Department of Mental Health, from a residential area solely because such residential facility is a business or because the persons residing in the residential facility are not related provided that there is, at minimum, a linear distance of three thousand (3,000) feet from one such facility to another facility as measured from the lot lines of the total properties containing the residential facilities.

The provisions of this Ordinance shall not be construed to exclude a residential facility for the mentally ill which is duly licensed by the Community Residential Facilities Council of the State of Indiana Department of Mental Health, from a residential area solely because such residential facility is a business or because the persons residing in the residential facility are not related provided that there is, at minimum, a linear distance of three thousand (3,000) feet from one such facility to another such facility as measured from the lots lines of the total properties containing the residential

facilities.

A residential facility which is not licensed by the Community Residential Facilities Council of the State of Indiana Department of Mental Health as a residential facility for the developmentally disabled or a residential facility for the mentally ill shall be subject to all of the provisions of this Ordinance.

ARTICLE IX

Section 19 ADULT ENTERTAINMENT BUSINESS

The Establishment of any adult entertainment business shall be prohibited if such business is within five hundred (500) feet of two other such businesses or within five hundred (500) feet of the property line of any church, school, public building, or public land or the boundary line of any existing residence zone or farming zone. The distance between one adult entertainment business and another adult entertainment business shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of each business. The distance between an adult entertainment business and any church, school, public building, public land, residence zone or farming zone shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the adult entertainment business to the nearest property line of any church, school, public building, or public land or the closest boundary line of any residence zone or farming zone. If any adult entertainment business is part of or included within a building or structure containing multiple commercial uses, only the portion of the building or structure occupied by such adult entertainment business shall be included in determining the closest exterior wall of said establishment. No adult entertainment establishment shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window or other opening from any public way.

ARTICLE X GENERAL EXCEPTIONS

ARTICLE X

Section 1 STRUCTURE OTHER THAN BUILDINGS

Towers, chimneys, stacks, spires, penthouses, cupolas, water tanks, silos, windmills, monuments, domes, grain elevators and like structures may be built to a greater height than established in this Ordinance except in the approach area of any airport where no structure shall be built which exceeds the maximum height permissible under the rules and regulations of any governmental agency.

ARTICLE X

Section 2 PROJECTIONS

Cornices, eaves, sills, canopies or similar architectural features, but not including bay windows or vertical projections, may extend or project into a required side yard not more than eighteen (18) inches and maximum of thirty-six (36) inches into a front or rear yard. Any enclosed porch shall be considered as part of the main building.

ARTICLE X

Section 3 SETBACKS

Where a new building or an addition to an existing building is proposed on a lot which adjoins two (2) or more lots occupied by buildings, the setbacks for such new building or addition to an existing building shall be the mean setback of the buildings on each side of the new building or addition to an existing building.

ARTICLE X

Section 4 RESIDENTIAL SIDE YARD

For a lot having a width of not less than forty (40) feet and not more than fifty (50) feet at the building line at the time of the enactment of this Ordinance, residence buildings may have a minimum side yard of five (5) feet.

ARTICLE XI ZONES

ARTICLE XI

Section 1 GENERAL

In order to carry out the purposes of this Ordinance, the incorporated territory of the City of Muncie, Indiana, is hereby divided into zones or districts paying reasonable regard to existing conditions, the character of buildings erected in each zone, the most desirable use for which the land in each zone may be adapted, and the conservation of property values throughout the City.

ARTICLE XI

Section 2 CLASSES OF ZONES

The incorporated territory of the City of Muncie, Indiana, is hereby divided into the following zones:

F	Farming Zone
R-1	Residence Zone
R-2	Residence Zone
R-3	Residence Zone
R-4	Residence Zone
R-4A	Residence Zone
R-5	Residence Zone
R-6	Residence Zone
BP	Business & Professional Office Zone
CB	Central Business Zone
BL	Limited Business Zone
BC	Community Business Zone
BV	Variety Business Zone
MT	Major Trading Zone
IL	Limited Industrial Zone
II	Intense Industrial Zone
IP	Industrial Park Zone
FA	Flood Area Zone

RC	Recreational & Conservation
AD	Airport Development Zone
SSS	Student Social Service Zone
MHR	Mobile Home Residence Zone

ARTICLE XI

Section 3 ZONE MAPS

A GENERAL

The zones referred to in Article XI, Section 2, and their boundaries are shown upon maps, which are hereby made a part of this Ordinance. Such maps are designated as the "Zone Maps for the City of Muncie, Indiana". The maps and all notations, references and other information shown thereon shall be as much a part of this Ordinance as if matters set forth in them were all fully described in this Ordinance.

B IDENTIFICATION AND RECORDING

All City zone maps shall be identified by the signature of the Mayor and the President of the Common Council of the City of Muncie, Indiana, and shall be attested by the City Clerk and shall bear the seal of the City of Muncie, Indiana. Following the adoption of the City maps by the proper legislative authority, a copy of this Ordinance, inclusive of Zone Maps, shall be filed with the City Clerk of the City of Muncie, Indiana, and the Recorder of the County of Delaware, Indiana.

C ZONE BOUNDARIES

Where a zone boundary line shall be determined by using the scale shown on the map, zone boundaries are intended to follow lot lines, property lines, railroad right-of-ways, city and county limits, shore lines, lines of streams, canals, lakes or other bodies of water. Where a boundary divides a lot that was in single ownership at the time of the enactment of this Ordinance, the zone applying to the larger portion of the lot shall be considered as extending to the entire lot. If each portion of the lot is equal in size, then the most restrictive zone shall apply to both portions of the divided lot.

D RESTORATION

In the event any official Zone Map may become damaged, destroyed, lost or difficult to interpret due to physical deterioration or the nature and number of changes made, the Common Council of the City of Muncie, Indiana, may by Ordinance and after public hearing adopt a new official Zone Map.

E CHANGES

No changes shall be made to the Zone Maps of the City of Muncie, Indiana, except in full conformity with the procedures set forth in this Ordinance. Zone Maps shall be revised every year in December, and all zone changes officially adopted by the proper governmental body shall be incorporated on the maps. The maps as updated shall be submitted to the Delaware-Muncie Metropolitan Plan Commission for its consideration. If the Commission is satisfied that the changes are correct, it shall forward the maps to the Common Council of the City of Muncie, Indiana, for adoption. Once adopted, a copy of the updated maps shall be filed with the City Clerk of the City of Muncie, Indiana, and the Recorder of the County of Delaware, Indiana.

F STREET VACATION

Whenever a street, road, alley, railroad right-of-way or other public way is officially vacated, the zones on each side of such vacated way shall be extended to the center of such street, road, alley, railroad right-of-way or public way. This change shall be automatically achieved and shall not require following procedures established in this Ordinance for proposed zone changes.

G ANNEXATION

Any territory officially annexed to the City of Muncie, Indiana, shall retain the same zone or zones as it had when the territory was unincorporated.

H SIMILAR USES

Similar uses to those permitted in each zone may be allowable. Whether a certain use is similar to a use listed in a specific zone, the Delaware-Muncie Metropolitan Plan Commission under established procedures shall determine such similarity.

I PROCEDURAL

Each proposed zoning change referred to the Common Council of the City of Muncie, Indiana, shall set forth the exact use for which the petitioner is requesting the change. If the Common Council acts favorably on the requested change, such change shall be only for the specific use requested by the petitioner and for no other use. Should the petitioner wish to change the use from the use originally granted but within the same general zone, he shall submit a new petition and follow established procedures as for a new change in zoning.

Should the petitioner to whom a zone change is granted for a specific use fail to begin construction or installation of a use approved by the Common Council of the City of Muncie, Indiana, within one (1) year after the passage of the change of zone, the Administrative Zoning Officer shall so inform the said Common Council, which may initiate the proceedings to rezone the property subject of the zone change to its original classification.

Within sixty (60) days prior to the expiration of the one (1) year period, the petitioner may present the Common Council with a bill of particulars setting forth reasons for failure to commence construction or use. The Common Council may consider said reasons in deciding whether or not to initiate a change in zone as herein provided.

ARTICLE XII F FARMING ZONE

ARTICLE XII

Section 1 PERMITTED USES

No building, structure or land shall be used or occupied and no building or structure shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except for the following permitted uses:

1. Single unit dwellings as regulated in Article XII, Sections 3 through 9.

2. Field crops; dairies; tree crops; flower gardening; nurseries; orchards; farms for the hatching, raising and sale of chickens, hogs, cattle, turkeys or other poultry; farms for grazing, breeding, raising and training of horses; sheep raising; and fisheries. All livestock buildings or structures placed thereon shall be at least two hundred (200) feet from any side and rear property line and shall meet the provisions of Article XII, Sections 4 and 8. All other farm buildings or structures shall meet the provisions of Article XII, Sections 3 through 9.
3. Roadside stands, provided they offer for sale only agricultural products and provided no stand shall exceed an area of two hundred (200) square feet and no stand shall be located nearer than twenty (20) feet to any existing or proposed right-of-way.
4. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government, provided said buildings or structures meet the provisions of Article IX, Section 9 and the provisions of Article XII, Sections 3 through 9.
5. Buildings or structures used for religious assembly subject to the provisions of Article IX, Section 8 and the provisions of Article XII, Sections 3 through 9.
6. Public schools, colleges and universities and private academic schools, all subject to the provisions of Article IX, Section 9 and the provisions of Article XII, Sections 3 through 9.
7. Cemeteries provided the site for a cemetery is a minimum of ten (10) acres in area, and all buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XII, Sections 4 and 8.
8. Temporary recreational activities such as a circus or open athletic competition.
9. Sawmills, provided all buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XII, Sections 4 and 8.
10. Kennels and veterinary hospitals/clinics. Where all uses are completely enclosed within a building, all uses and buildings or structures placed thereon shall meet the provisions of Article XII, Sections 3 through 9. Where there are open runways, pens or similar open uses, all uses and buildings or structures placed thereon shall be at least two hundred (200) feet from any side and rear property line and shall meet the provisions of Article XII, Sections 4 and 8. Off-street parking and signage shall be in accordance with Article XXX, Section 2 and Article XXX, Section 3(E)(1), respectively.
11. Fire towers; chimney stacks; spires; penthouses; cupolas; water towers; silos; windmills; monuments; domes; and grain elevators, all as regulated in Article X, Section 1.
12. Signs and outdoor advertising as regulated in Article XXX, Section 3.
13. Accessory uses and structures as regulated in Article IX, Section 14.
14. Temporary buildings used during construction, and including storage of building materials and equipment, for a period not to exceed the duration of such construction.

15. Vegetative Composting/Mulching provided the composting operation is conducted at the person's residence or farm for vegetative matter and other types of organic material that are generated by the person's activities and stored, treated or disposed of at the person's residence or farm.

ARTICLE XII

Section 2 SPECIAL USES SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2, and subject to the provisions herein specified:

1. Mineral extractions provided they comply with the performance standards set forth in Article XXXI, Section 3.
2. Salvage yards provided they comply with the performance standards set forth in Article XXXI, Section 4.
3. Refuse disposal sites provided they comply with the performance standards set forth in Article XXXI, Section 5.
4. Home occupations provided they comply with the performance standards set forth in Article XXXI, Section 8, and all uses and buildings or structures placed thereon shall meet the provisions of Article XII, Sections 3 through 9.
5. Seasonal work camps provided they comply with the performance standards set forth in Article XXXI, Section 9.
6. Private outdoor camps provided they comply with the performance standards set forth in Article XXXI, Section 10.
7. Nursery schools and child care centers provided they comply with the performance standards set forth in Article XXXI, Section 12, and all uses and buildings or structures placed thereon shall meet the provisions of Article XII, Sections 3 through 9.
8. Hospitals provided that the premises upon which they are built shall be a minimum ten (10) acres in area, and all uses and buildings or structures placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XII, Sections 4 and 8.
9. Vegetative Composting/Mulching facility other than set forth in Item 15 above when permitted by the Board of Zoning Appeals as a special use under the terms of Article XXXI, Section 14.

ARTICLE XII

Section 3 LOT WIDTH, FRONTAGE AND AREA

The width and lot frontage shall be a minimum of one hundred and fifty (150) feet at the building

line and shall be a minimum of thirty thousand (30,000) square feet in area, exclusive of right-of-ways.

ARTICLE XII

Section 4 FRONT YARD SETBACK - ALL LOTS

There shall be a front yard setback of a minimum fifty (50) feet in depth measured from the right-of-way line to the front wall of the building.

ARTICLE XII

Section 5 SIDE YARD SETBACK - INTERIOR LOTS

There shall be two (2) side yard setbacks of an interior lot, each being a minimum fifteen (15) feet in width measured at right angles to the side property lines.

ARTICLE XII

Section 6 SIDE YARD SETBACK - CORNER LOTS

There shall be two (2) side yard setbacks of a corner lot. The side yard adjoining the street shall be a minimum of forty-five (45) feet in depth measured from the right-of-way line to the sidewall of the building. The side yard adjoining the adjacent property shall be a minimum of fifteen (15) feet in width measured at right angles to the side property line.

ARTICLE XII

Section 7 REAR YARD SETBACK - ALL LOTS

There shall be a rear yard setback of a minimum thirty-five (35) feet in depth measured from the rear property line to the rear wall of the building.

ARTICLE XII

Section 8 HEIGHT

No building or structure shall exceed forty-five (45) feet in height.

ARTICLE XII

Section 9 MINIMUM FLOOR AREA AND BUILDING WIDTH

The minimum floor area of any dwelling shall be not less than nine hundred and fifty (950) square feet, exclusive of garages, carports, open porches or breezeways. The dimensions of the dwelling shall be not less than twenty-four (24) feet in width nor less than twenty-four (24) feet in depth.

ARTICLE XIII R-1 RESIDENCE ZONE

ARTICLE XIII

Section 1 PERMITTED USES

No building, structure or land shall be used or occupied and no building or structure shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except for the following uses:

1. Single unit dwellings as regulated in Article XIII, Sections 3 through 9.
2. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government, provided said buildings or structures meet the provisions of Article IX, Section 9 and the provisions of Article XIII, Sections 3 through 9.
3. Public schools, colleges and universities and private academic schools, all subject to the provisions of Article IX, Section 9 and the provisions of Article XIII, Sections 3 through 9.
4. Buildings or structures used for religious assembly subject to the provisions of Article IX, Section 8 and the provisions of Article XIII, Sections 3 through 9.
5. Signs and outdoor advertising as regulated in Article XXX, Section 3.
6. Temporary buildings used during construction, and including storage of building materials and equipment, for a period not to exceed the duration of such construction.
7. Accessory uses and structures as regulated in Article IX, Section 14.

ARTICLE XIII

Section 2 SPECIAL USES SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2 and subject to the provisions herein specified:

1. Charitable institutions provided buildings or structures placed thereon meet the provisions of Article IX, Section 8 and the provisions of Article XIII, Section 3 through 9.
2. Hospitals provided that the premises upon when they are built shall be a minimum ten (10) acres in area, and all uses and buildings or structures placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article Sections 4 and 8.
3. Cemeteries provided the site for a cemetery is a minimum of ten (10) acres in area, and all buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XIII, Section 4 and 8.
4. Nursery schools and child care centers subject to the performance standards contained in Article XXXI, Section 12, and provided all uses and building or structures placed thereon shall meet the provisions of Article XIII, Section 3 through 9.
5. Home occupations subject to the performance standards contained in Article XXXI, Section 8, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XIII, Section 3 through 9.
6. Nursing homes. All buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XIII, Section 4 and 8.

ARTICLE XIII**Section 3 LOT WIDTH, FRONTAGE AND AREA**

The width and street frontage of a lot shall be a minimum of one hundred (100) feet at the building line and there shall be a minimum twelve thousand (12,000) square feet in area, exclusive of right-of-ways. Whenever public sewer and/or water facilities are not available and no unit sanitary sewer is available, the Board of Health requirements for lot area shall prevail, but shall not be less than twelve thousand (12,000) square feet in area, exclusive of right-of-ways. The lot area shall be used to determine the amount of lot coverage allowed in accordance with Article IX, Section 3.

ARTICLE XIII**Section 4 FRONT YARD SETBACK - ALL LOTS**

There shall be a front yard setback of a minimum thirty (30) feet in depth measured from the right-of-way line to the front wall of the building.

ARTICLE XIII**Section 5 SIDE YARD SETBACK - INTERIOR LOTS**

There shall be two (2) side yard setbacks of an interior lot, each being a minimum ten (10) feet in width measured at right angles to the side property line.

ARTICLE XIII**Section 6 SIDE YARD SETBACK - CORNER LOTS**

There shall be two (2) side yard setbacks of a corner lot. The side yard adjoining the street shall be a minimum of twenty-five (25) feet in depth measured from the right-of-way line to the sidewall of the building. The side yard adjoining the adjacent property shall be a minimum of ten (10) feet in width measured at right angles to the side property line.

ARTICLE XIII**Section 7 REAR YARD SETBACK - ALL LOTS**

There shall be a rear yard setback of a minimum thirty (30) feet in depth measured from the rear property line to the rear wall of the building.

ARTICLE XIII**Section 8 HEIGHT**

No building or structure shall exceed thirty (30) feet in height.

ARTICLE XIII**Section 9 MINIMUM FLOOR AREAS AND BUILDING WIDTH**

The minimum floor area of any dwelling shall be not less than eight hundred and sixty (860) square feet, exclusive of garages, carports, open porches or breezeways. The dimensions of the dwelling shall be not less than twenty-four (24) feet in width nor less than twenty-four (24) in depth.

ARTICLE XIV R-2 RESIDENCE ZONE

ARTICLE XIV

Section 1 PERMITTED USES

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single unit dwellings as regulated in Article XIV, Sections 3 through 9.
2. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government, provided said buildings or structures meet the provisions of Article IX, Section 9 and the provisions of Article XIV, Sections 3 through 9.
3. Public schools, colleges and universities and private academic schools, all subject to the provisions of Article IX, Section 9 and the provisions of Article XIV, Section 3 through 9.
4. Buildings or structures used for religious assembly subject to the provisions of Article IX, Section 8 and the provisions of Article XIV, Sections 3 through 9.
5. Signs and outdoor advertising as regulated in Article XXX, Section 3.
6. Temporary buildings used during construction, and including storage of building materials and equipment, for a period not to exceed the duration of such construction.
7. Accessory uses and structures as regulated in Article IX, Section 14.

ARTICLE XIV

Section 2 SPECIAL USES SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2 and subject to the provisions herein specified.

1. Charitable institutions provided buildings or structures placed thereon meet the provisions of Article IX, Section 8 and the provisions of Article XIV, Sections 3 through 9.
2. Hospitals provided that the premises upon which they are built shall be a minimum ten (10) acres in area, and all uses and buildings or structures placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XIV, Sections 4 and 8.
3. Cemeteries provided the site for a cemetery is a minimum of ten (10) acres in area, and all buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XIV, Sections 4 and 8.
4. Nursery schools and child care centers subject to the performance standards contained in Article XXXI, Section 12, and provided all uses and buildings or structures placed thereon

shall meet the provisions of Article XIV, Sections 3 through 9.

5. Home occupations subject to the performance standards contained in Article XXXI, Section 8, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XIV, Sections 3 through 9.
6. Planned Unit Development (PUD) subject to the performance standards contained in Article XXXI, Section 6. All uses and buildings or structures placed thereon shall meet the provisions of Article XIV, Sections 4 and 8.

ARTICLE XIV

Section 3 LOT WIDTH, FRONTAGE AND AREA

The width and street frontage of a lot shall be a minimum of eighty (80) feet at the building line and there shall be a minimum of nine thousand (9,000) square feet in area, exclusive of right-of-ways.

Whenever public sewer and/or water facilities are not available and no unit sanitary sewer is available, the Board of Health requirements for lot area shall prevail, but shall not be less than nine thousand (9,000) square feet in area, exclusive of right-of-ways. The lot area shall be used to determine the amount of lot coverage allowed in accordance with Article IX, Section 3.

ARTICLE XIV

Section 4 FRONT YARD SETBACK - ALL LOTS

There shall be a front yard setback of a minimum thirty (30) feet in depth measured from the right of way line to the front wall of the building.

ARTICLE XIV

Section 5 SIDE YARD SETBACK - INTERIOR LOTS

There shall be two (2) side yard setbacks of an interior lot, each being a minimum eight (8) feet in width measured at right angles to the side property line.

ARTICLE XIV

Section 6 SIDE YARD SETBACK - CORNER LOTS

There shall be two (2) side yard setbacks of a corner lot. The side yard adjoining the street shall be a minimum twenty-five (25) feet in depth measured from the right-of-way line to the side wall of the building. The side yard adjoining the adjacent property shall be a minimum of eight (8) feet in width measured at right angles to the side property line.

ARTICLE XIV

Section 7 REAR YARD SETBACK - ALL LOTS

There shall be a rear yard setback of a minimum twenty-five (25) feet in depth measured from the rear property line to the rear wall of the building.

ARTICLE XIV

Section 8 HEIGHT

No building or structure shall exceed thirty (30) feet in height.

ARTICLE XIV

Section 9 MINIMUM FLOOR AREA AND BUILDING WIDTH

The minimum floor area of any dwelling shall be not less than seven hundred and sixty (760) square feet, exclusive of garages, carports, open porches and breezeways. The dimensions of the dwelling shall be not less than twenty-four (24) feet in width nor less than twenty-four (24) feet in depth.

ARTICLE XV R-3 RESIDENCE ZONE

ARTICLE XV

Section 1 PERMITTED USES

No building, structure or land shall be used or occupied and no building or structure shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except for the following uses:

1. Single unit dwellings as regulated in Article XV, Sections 3 through 9.
2. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government, provided said buildings or structures meet the provisions of Article IX, Section 9 and the provisions of Article XV, Sections 3 through 9.
3. Public schools, colleges and universities and private academic schools, all subject to the provisions of Article IX, Section 9 and the provisions of Article XV, Sections 3 through 9.
4. Buildings or structures used for religious assembly subject to the provisions of Article IX, Section 8 and the provisions of Article XV, Sections 3 through 9.
5. Signs and outdoors advertising as regulated in Article XXX, Section 3.
6. Temporary buildings used during construction, and including storage of building materials and equipment, for a period not to exceed the duration of such construction.
7. Accessory uses and structures as regulated in Article IX, Section 14.

ARTICLE XV

Section 2 SPECIAL USES SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2 and subject to the provisions herein specified:

1. Charitable institutions provided buildings or structures placed thereon meet the provisions of Article IV, Section 8 and the provisions of Article XV, Sections 3 through 9.
2. Hospitals provided that the premises upon which they are built shall be a minimum ten (10)

acres in area, and all uses and buildings or structures placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XV, Sections 4 and 8.

3. Cemeteries provided the site for a cemetery is a minimum of ten (10) acres in area, and all buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XV, Sections 4 and 8.
4. Nursery schools and child care centers subject to the performance standards contained in Article XXXI, Section 12, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XV, Sections 3 through 9.
5. Home occupations subject to the performance standards contained in Article XXXI, Section 8, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XV, Sections 3 through 9.
6. Accessory dwelling provided the floor area of the accessory dwelling be not less than three hundred (300) square feet and provided the additional off-street parking requirements are met in accordance with Article XXX, Section 2.
7. Planned Unit Development (PUD) subject to the performance standards contained in Article XXXI, Section 6. All uses and buildings or structures placed thereon shall meet the provisions of Article XV, Sections 4 and 8.

ARTICLE XV

Section 3 LOT WIDTH, FRONTAGE AND AREA

The width and street frontage of a lot shall be a minimum of sixty (60) feet at the building line and there shall be a minimum of seven thousand five hundred (7,500) square feet in area, exclusive of right-of-ways. Whenever public sewer and/or water facilities are not available and no unit sanitary sewer is available, the Board of Health requirements for lot area shall prevail, but shall be not less than seven thousand five hundred (7,500) square feet in area, exclusive of right-of-ways. The lot area shall be used to determine the amount of lot coverage allowed in accordance with Article IX, Section 3.

ARTICLE XV

Section 4 FRONT YARD SETBACK - ALL LOTS

There shall be a front yard setback of a minimum twenty-five (25) feet in depth measured from the right-of-way line to the front wall of the building.

ARTICLE XV

Section 5 SIDE YARD SETBACK - INTERIOR LOTS

There shall be two (2) side yard setbacks of an interior lot, each being a minimum six (6) feet in width measured at right angles to the side property line.

ARTICLE XV

Section 6 SIDE YARD SETBACK - CORNER LOTS

There shall be two (2) side yard setbacks of a corner lot. The side yard adjoining the street shall be a minimum of twenty (20) feet in depth measured from the right-of-way line to the side wall of the building. The side yard adjoining the adjacent property shall be a minimum of six (6) feet in width measured at right angles to the side property line.

ARTICLE XV

Section 7 REAR YARD SETBACK - ALL LOTS

There shall be a rear yard setback of a minimum twenty-five (25) feet in depth measured from the rear property line to the rear wall of the building.

ARTICLE XV

Section 8 HEIGHT

No building or structure shall exceed thirty (30) feet in height.

ARTICLE XV

Section 9 MINIMUM FLOOR AREA AND BUILDING WIDTH

The minimum floor area of any dwelling shall be not less than seven hundred and twenty (720) square feet, exclusive of garages, carports, open porches, or breezeways. The dimensions of the dwelling shall be not less than twenty-four (24) feet in width nor less than twenty-four (24) feet in depth.

ARTICLE XVI R-4 RESIDENCE ZONE

ARTICLE XVI

Section 1 PERMITTED USES

No building, structure or land shall be used or occupied and no building or structure shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except for the following uses:

1. Single unit dwellings as regulated in Article XVI, Sections 3 through 9.
2. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government, provided said buildings or structures meet the provisions of Article IX, Section 9 and the provisions of Article XVI, Sections 3 through 9.
3. Public schools, colleges and universities and private academic schools, all subject to the provisions of Article IX, Section 9 and the provisions of Article XVI, Sections 3 through 9.
4. Buildings or structures used for religious assembly subject to the provisions of Article IX, Section 8 and the provisions of Article XVI, Sections 3 through 9.
5. Signs and outdoor advertising as regulated in Article XXX, Section 3.
6. Temporary buildings used during construction, and including storage of building materials and equipment, for a period not to exceed the duration of such construction.

7. Accessory uses and structures as regulated in Article IX, Section 14.

ARTICLE XVI

Section 2 SPECIAL USES SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2 and subject to the provisions herein specified:

1. Charitable institutions provided buildings or structures placed thereon meet the provisions of Article IX, Section 8 and the provisions of Article XVI, Sections 3 through 9.
2. Hospitals provided that the premises upon which they are built shall be a minimum ten (10) acres in area, and all uses and buildings or structures placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XVI, Sections 4 and 8.
3. Cemeteries provided the site for a cemetery is a minimum of ten (10) acres in area, and all buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XVI, Sections 4 and 8.
4. Nursery schools and child care centers subject to the performance standards contained in Article XXXI, Section 12, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XVI, Sections 3 through 9.
5. Home occupations subject to the performance standards contained in Article XXXI, Section 8, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XVI, Sections 3 through 9.
6. Accessory dwelling provided the floor area of the accessory dwelling be not less than three hundred (300) square feet and provided the additional off-street parking requirements are met in accordance with Article XXX, Section 2.
7. Planned Unit Development (PUD) subject to the performance standards contained in Article XXXI, Section 6. All uses and buildings or structures placed thereon shall meet the provisions of Article XVI, Sections 4 and 8.

ARTICLE XVI

Section 3 LOT WIDTH, FRONTAGE AND AREA

The width and street frontage of a lot shall be a minimum fifty (50) feet at the building line and there shall be a minimum of six thousand two hundred and fifty (6,250) square feet in area, exclusive of right-of-ways. Whenever public sewer and/or water facilities are not available and no unit sanitary sewer is available, the Board of Health requirements for lot area prevail, but shall be not less than six thousand two hundred and fifty (6,250) square feet in area, exclusive of right-of-ways. The lot area shall be used to determine the amount of lot coverage allowed in accordance with Article IX, Section 3.

ARTICLE XVI

Section 4 FRONT YARD SETBACK - ALL LOTS

There shall be a front yard setback of a minimum twenty-five (25) feet in depth measured from the right-of-way line to the front wall of the building.

ARTICLE XVI

Section 5 SIDE YARD SETBACK - INTERIOR LOTS

There shall be two (2) side yard setbacks of an interior lot, each being a minimum five (5) feet in width and measured at right angles to the side property line.

ARTICLE XVI

Section 6 SIDE YARD SETBACK - CORNER LOTS

There shall be two (2) side yard setbacks of a corner lot. The side yard adjoining the street shall be a minimum of twenty (20) feet in depth measured from the right-of-way line to the sidewall of the building. The side yard adjoining the adjacent property shall be a minimum of five (5) feet in width measured at right angles to the side property line.

ARTICLE XVI

Section 7 REAR YARD SETBACK - ALL LOTS

There shall be a rear yard setback of a minimum twenty-five (25) feet in depth measured from the rear property line to the rear wall of the building.

ARTICLE XVI

Section 8 HEIGHT

No building or structure shall exceed thirty (30) feet in height.

ARTICLE XVI

Section 9 MINIMUM FLOOR AREA AND BUILDING WIDTH

The minimum floor area of any dwelling shall be not less than seven hundred and twenty (720) square feet, exclusive of garages, carports, open porches, or breezeways. The dimensions of the dwelling shall be not less than twenty-four (24) feet in width nor less than twenty-four (24) feet in depth.

ARTICLE XVI-A R-4A RESIDENCE ZONE

ARTICLE XVI-A

Section 1 PERMITTED USES

No building, structure or land shall be used or occupied and no building or structure shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except for the following uses:

1. Single unit, two unit and three unit dwellings as regulated in Article XVI-A, Sections 3

through 9.

2. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government, provided said buildings or structures meet the provisions of Article IX, Section 9 and the provisions of Article XVI-A, Sections 3 through 9.
3. Public schools, colleges and universities and private academic schools, all subject to the provisions of Article IX, Section 9 and the provisions of Article XVI-A, Sections 3 through 9.
4. Buildings or structures used for religious assembly subject to the provisions of Article IX, Section 8 and the provisions of Article XVI-A, Sections 3 through 9.
5. Signs and outdoor advertising as regulated in Article XXX, Section 3.
6. Temporary buildings used during construction, and including storage of building materials and equipment, for a period not to exceed the duration of such construction.
7. Accessory uses and structures as regulated in Article IX, Section 14

ARTICLE XVI-A

Section 2 SPECIAL USES SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2 and subject to the provisions herein specified:

1. Charitable institutions provided buildings or structures placed thereon meet the provisions of Article IX, Section 8 and the provisions of Article XVI-A, Sections 3 through 9.
2. Hospitals provided that the premises upon which they are built shall be a minimum ten (10) acres in area, and all uses and buildings or structures placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XVI-A, Sections 4 and 8.
3. Cemeteries provided the site for a cemetery is a minimum of ten (10) acres in area, and all buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XVI-A, Section 4 and 8.
4. Nursery schools and child care centers subject to the performance standards contained in Article XXXI, Section 12, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XVI-A, Sections 3 through 9.
5. Home occupations subject to the performance standards contained in Article XXXI, Section 8, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XVI-A, Sections 3 through 9.
6. Planned Unit Development (PUD) subject to the performance standards contained in Article

XXXI, Section 6. All uses and buildings or structures placed thereon shall meet the provisions of Article XVI-A, Sections 4 and 8.

ARTICLE XVI-A

Section 3 LOT WIDTH, FRONTAGE AND AREA

The width and street frontage of a lot shall be a minimum fifty (50) feet at the building line and there shall be a minimum of six thousand two hundred and fifty (6,250) square feet in area, exclusive of right-of-ways. Whenever public sewer and/or water facilities are not available and no unit sanitary sewer is available, the Board of Health requirements for lot area prevail, but shall be not less than six thousand two hundred and fifty (6,250) square feet in area, exclusive of right-of-ways. The lot area shall be used to determine the amount of lot coverage allowed which shall be the same as for an R-4 Residence Zone in accordance with Article IX, Section 3.

ARTICLE XVI-A

Section 4 FRONT YARD SETBACK - ALL LOTS

There shall be a front yard setback of a minimum twenty-five (25) feet in depth measured from the right-of-way line to the front wall of the building.

ARTICLE XVI-A

Section 5 SIDE YARD SETBACK - INTERIOR LOTS

There shall be two (2) side yard setbacks of an interior lot, each being a minimum five (5) feet in width and measured at right angles to the side property line.

ARTICLE XVI-A

Section 6 SIDE YARD SETBACK - CORNER LOTS

There shall be two (2) side yard setbacks of a corner lot. The side yard adjoining the street shall be a minimum of twenty (20) feet in depth measured from the right-of-way line to the sidewall of the building. The side yard adjoining the adjacent property shall be a minimum of five (5) feet in width measured at right angles to the side property line.

ARTICLE XVI-A

Section 7 REAR YARD SETBACKS - ALL LOTS

There shall be a rear yard setback of a minimum twenty-five (25) feet in depth measured from the rear property line to the rear wall of the building.

ARTICLE XVI-A

Section 8 HEIGHT

No building or structure shall exceed thirty (30) feet in height.

ARTICLE XVI-A

Section 9 MINIMUM FLOOR AREA AND BUILDING WIDTH

The minimum floor area of any dwelling shall be not less than seven hundred and twenty (720) square feet, exclusive of garages, carports, open porches, or breezeways. The dimensions of the dwelling shall be not less than twenty-four (24) feet in width nor less than twenty-four (24) feet in depth.

ARTICLE XVII R-5 RESIDENCE ZONE

ARTICLE XVII

Section 1 PERMITTED USES

No building, structure or land shall be used or occupied and no building or structure shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except for the following uses:

1. Single unit dwellings as regulated in Article XVII, Sections 3 through 9.
2. Two unit development through, and including, twenty-four unit development as regulated in Article XVII, Sections 3 through 9 and, where applicable, subject to the approval of the State Administrative Building Council.
3. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government, provided said buildings or structures meet the provisions of Article IX, Section 9 and the provisions of Article XVII, Sections 3 through 9.
4. Public schools, colleges, universities and private academic schools, all subject to the provisions of Article IX, Section 9 and the provisions of Article XVII, Sections 3 through 9.
5. Nursery Schools and child care centers subject to the provisions of Article XXXI, Section 12(C) and provided all buildings or structures placed thereon shall meet the provisions of Article XVII, Sections 3 through 9.
6. Building or structures used for religious assembly subject to the provisions of Article IX, Section 8 and the provisions of Article XVII, Sections 3 through 9.
7. Signs and outdoor advertising as regulated in Article XXX, Section 3.
8. Temporary buildings used during construction, and including storage of building materials and equipment, for a period not to exceed the duration of such construction.
9. Accessory uses and structures as regulated in Article IX, Sections 14.

ARTICLE XVII

Section 2 SPECIAL USES SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2 and subject to the provisions herein specified:

1. Multi-unit developments of twenty-five, or more, units subject to the performance standards

contained in Article XXXI, Section 13. All uses and buildings or structures placed thereon shall meet the provisions of Article XVII, Sections 3 through 9.

2. Group housing subject to the performance standards contained in Article XXXI, Section 11. All uses and buildings or structures placed thereon shall meet the provisions of Article XVII, Sections 3 through 9.
3. Charitable institutions provided buildings or structures placed thereon meet the provisions of Article IX, Section 8 and the provisions of Article XVII, Sections 3 through 9.
4. Hospitals provided that the premises upon which they are built shall be a minimum ten (10) acres in area, and all uses and buildings or structures placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XVII, Sections 4 and 8.
5. Cemeteries provided the site for a cemetery is a minimum of ten (10) acres in area, and all buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XVII, Sections 4 and 8.
6. Home occupations subject to the performance standards contained in Article XXXI, Section 8, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XVII, Sections 3 through 9.
7. Planned Unit Development (PUD) subject to the performance standards contained in Article XXXI, Section 6. All uses and buildings or structures placed thereon shall meet the provisions of Article XVII, Sections 4 and 8.
8. Nursing homes. All buildings placed thereon shall be at least one hundred (100) feet from any side and rear property line and shall meet the provisions of Article XVII, Sections 4 and 8.

ARTICLE XVII

Section 3 LOT WIDTH, FRONTAGE AND AREA

A SINGLE AND TWO UNIT RESIDENTIAL LOTS

The width and street frontage of single and two unit residential lots shall be a minimum of fifty (50) feet at the building line and there shall be a minimum of six thousand five hundred (6,500) square feet in area, exclusive of right-of-ways. Whenever public sewer and/or water facilities are not available and no unit sanitary sewer is available, the Board of Health requirements for lot area shall prevail, but shall be not less than six thousand five hundred (6,500) square feet in area, exclusive of right-of-ways. The lot area shall be used to determine the amount of lot coverage allowed in accordance with Article IX, Section 3.

B MULTIPLE UNIT, OF THREE OR MORE, RESIDENTIAL LOTS

The width and street frontage of multiple unit residential lots shall be a minimum of one hundred (100) feet at the building line and there shall be a minimum of nine thousand (9,000) square feet in

area, exclusive of right-of-ways. Whenever public sewer and/or water facilities are not available and no unit sanitary sewer is available, the Board of Health requirements for lot area shall prevail, but shall be not less than nine thousand (9,000) square feet, exclusive of right-of-ways. The lot area shall be used to determine the amount of lot coverage allowed in accordance with Article IX, Section 3. Of the open space provided by the lot coverage requirement, one hundred (100) square feet per unit shall be set aside for open recreational or landscaped area and not used for off-street parking purposes.

C NON-RESIDENTIAL LOTS

Non-residential lots shall meet the provisions of Article XVII, Section 3(A) herein.

ARTICLE XVII

Section 4 FRONT YARD SETBACK - ALL LOTS

There shall be a front yard setback of a minimum twenty (20) feet in depth measured from the right-of-way line to the front wall of the building.

ARTICLE XVII

Section 5 SIDE YARD SETBACK - INTERIOR LOTS

A SINGLE UNIT RESIDENTIAL LOTS

There shall be two (2) side yard setbacks of an interior lot, each being a minimum five (5) feet in width measured at right angles to the side property line.

B TWO UNIT AND MULTIPLE UNIT RESIDENTIAL LOTS

For residences of more than one unit, there shall be two (2) side yard setbacks of an interior lot, each being a minimum of five (5) feet in depth, plus an additional two (2) feet per side yard for each unit above one (1) unit up to a maximum of twenty-five (25) feet per side yard.

C NON-RESIDENTIAL LOTS

Non-residential lots shall meet the provisions of Article XVII, Section 5(A) herein.

ARTICLE XVII

Section 6 SIDE YARD SETBACK - CORNER LOTS

A SINGLE UNIT RESIDENTIAL LOTS

There shall be two (2) side yard setbacks of a corner lot. The side yard adjoining the street shall be a minimum of twenty (20) feet in depth measured from the right-of-way line to the sidewall of the building. The side yard adjoining the adjacent property shall be a minimum of five (5) feet in width measured at right angles to the side property line.

B TWO UNIT AND MULTIPLE UNIT RESIDENTIAL LOTS

For residences of more than one unit, there shall be two (2) side yard setbacks of a corner lot. The

side yard adjoining the street shall be a minimum of twenty (20) feet in depth measured from the right-of-way line to the sidewall of the building. The side yard adjoining the adjacent property shall be a minimum of five (5) feet, plus an additional two (2) feet for each unit above one (1) unit, up to a maximum of twenty-five (25) feet.

C NON-RESIDENTIAL LOTS

Non-residential corner lots shall meet the provisions of Article XVII, Section 6(A) herein.

ARTICLE XVII

Section 7 REAR YARD SETBACK - ALL LOTS

There shall be a rear yard setback of a minimum twenty (20) feet in depth measured from the rear property line to the rear wall of the building.

ARTICLE XVII

Section 8 HEIGHT

No single unit residential building or structure shall exceed thirty (30) feet in height. For two unit, multiple unit and nonresidential structures, no building or structure shall exceed forty-five (45) feet in height.

ARTICLE XVII

Section 9 MINIMUM FLOOR AREA AND BUILDING WIDTH

The minimum floor area of any single unit dwelling shall be not less than seven hundred and twenty (720) square feet, exclusive of garages, carports, open porches or breezeways. The minimum floor area of any two unit dwelling shall be not less than six hundred (600) square feet per dwelling unit. The minimum floor area of any multiple unit dwelling shall be not less than four hundred (400) square feet per dwelling unit. For single unit, two unit and multiple unit dwellings, the dimensions of the dwelling shall be not less than twenty-four (24) feet in width nor less than twenty-four (24) feet in depth.

ARTICLE XVII-A R-6 RESIDENCE ZONE

ARTICLE XVII-A

Section 1 DEFINITION

The R-6 Residence Zone shall be known as a mixed land use zone. A mixed land use zone shall mean the development of one unit, two unit, three unit and four unit structures in combinations of all four (4) types of structures. There shall be allowance for zero lot line development with the two unit, three unit and four unit structures. In-lots shall refer to those contiguous lots upon which a two unit, three unit or four unit structure may be constructed. An out-lot shall refer to those lots upon which a one-unit structure may be constructed. In no case shall there be more than one unit per in-lot or out-lot. The development may include townhouses; cluster garden structures, apartments and condominiums.

ARTICLE XVII-A

Section 2 PERMITTED USES

No building, structure or land shall be used or occupied and no building or structure shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except for the following uses:

1. One unit, two unit, three unit and four unit structures in combinations of all four (4) types of use as regulated in Article XVII-A, Sections 4 through 21.
2. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government, provided said buildings or structures meet the provisions of Article IX, Section 9 and the provisions of Article XVII-A, Sections 5, 6, 7, 9 and 13.
3. Buildings or structures used for religious assembly subject to the provisions of Article IX, Section 8 and the provisions of Article XVII-A, Sections 5, 6, 7, 9 and 13.
4. Public schools, colleges and universities and private academic schools, all subject to the provisions of Article IX, Section 9 and the provisions of Article XVII-A, Sections 5, 6, 7, 9 and 13.
5. Signs and outdoor advertising as regulated in Article XXX, Section 3.
6. Temporary buildings used during construction, and including storage of building materials and equipment, for a period not to exceed the duration of such construction. No storage shall occur in the open on any lot upon which construction has been completed.
7. Accessory uses and structures as regulated in Article IX, Section 14.

ARTICLE XVII-A

Section 3 SPECIAL USES SUBJECT TO APPROVAL BY THE BOARD OF ZONING APPEALS

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2 and subject to the provisions herein specified:

1. Nursery schools and child care centers subject to the performance standards contained in Article XXXI, Section 12, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XVII-A, Sections 5, 6, 7, 9 and 13.
2. Home occupations subject to the performance standards contained in Article XXXI, Section 8, and provided all uses and buildings or structures placed thereon shall meet the provisions of Article XVII-A, Sections 5, 6, 7, 9 and 13.

ARTICLE XVII-A

Section 4 AREA

The area of land shall contain not less than one and one-half (1½) acres, exclusive of right-of-ways.

ARTICLE XVII-A

Section 5 FRONT YARD SETBACK - ALL LOTS

There shall be a front yard setback of a minimum fifteen (15) feet in depth measured from the right-of-way line to the front wall of the building.

ARTICLE XVII-A

Section 6 SIDE YARD SETBACK

A INTERIOR LOTS

There shall be two (2) side yard setbacks of an interior lot, each being a minimum of five (5) feet or ten percent (10%) of the width of the lot, whichever is the greater, measured at right angles to the side lot line except where there may be an abutting wall or common wall provided for zero lot line development. When an abutting wall or common wall is provided, no side yard setback shall be required.

B CORNER LOTS

There shall be two (2) side yard setbacks of a corner lot. The side yard adjoining the street shall be a minimum of twenty-five (25) feet measured from the right-of-way line to the sidewall of the building. The side yard adjoining the adjacent property shall be a minimum of five (5) feet or ten percent (10%) of the width of the lot; whichever is the greater, measured at right angles to the side property line except where there may be an abutting wall or common wall provided for zero lot line development. When an abutting wall or common wall is provided, no side yard shall be required.

ARTICLE XVII-A

Section 7 REAR YARD SETBACK - ALL LOTS

There shall be a rear yard setback of a minimum twenty (20) feet in depth measured from the rear property line to the rear wall of the building.

ARTICLE XVII-A

Section 8 MINIMUM FLOOR AREA

The minimum floor area of any dwelling unit shall be not less than seven hundred and twenty (720) square feet in area, exclusive of garages, carports, open porches or breezeways.

ARTICLE XVII-A

Section 9 HEIGHTS

No building or structure shall exceed thirty (30) feet in height.

ARTICLE XVII-A

Section 10 NUMBER OF UNITS

The maximum number of units under the same roof shall not exceed four (4).

ARTICLE XVII-A

Section 11 LOT AREA AND SIZE

The depth of any lot shall not be less than eighty-five (85) feet. The width of any lot shall not be less than forty (40) feet except where an abutting wall or common wall is provided at both side lot lines for a zero lot line development. When an abutting wall or common wall is provided at both side lot lines, the width of the lot may be the width of the dwelling unit on said lot but shall not be less than twenty-eight (28) feet. Lot width requirements shall denote lot frontage requirements.

ARTICLE XVII-A

Section 12 DENSITY

The building density of land coverage consisting of the minimum of one and one-half (1 1/2) acres shall be as follows:

- 20% one unit structures
- 20% two unit structures
- 30% three unit structures
- 30% four unit structures

The building density of land coverage consisting of more than six acres shall be a minimum of ten percent (10%) with a maximum of thirty percent (30%) of all four (4) types of structures.

There shall be, at maximum, not more than two (2) structures of like usage adjacent to one another.

ARTICLE XVII-A

Section 13 LOT COVERAGE

The maximum total of building coverage for each lot shall not exceed fifty percent (50%).

ARTICLE XVII-A

Section 14 PARKING

There shall be provisions for two (2) parking spaces for each dwelling unit to be placed in the rear yard setback area of the dwelling.

ARTICLE XVII-A

Section 15 ON-STREET PARKING

There shall be provisions set out for three (3) inset parking spaces every one hundred and fifty (150) feet for limited parking facilities to be placed in the street right-of-way requirement. Each inset shall be a minimum width of ten (10) feet and a maximum length of seventy (70) feet.

ARTICLE XVII-A

Section 16 GARAGES

There shall be a maximum size for any garage being constructed in the development of twenty-four by twenty-four (24 x 24) feet to be placed in the rear yard setback area.

ARTICLE XVII-A

Section 17 STREET WIDTH

The width of any street inside the development shall be a minimum of twenty-two (22) feet.

ARTICLE XVII-A

Section 18 ALLEY WAYS

The width of any alley shall be a minimum of ten (10) feet with a six (6) feet easement requirement on each side for the purpose of utilities.

ARTICLE XVII-A

Section 19 SANITARY FACILITIES

No mixed land use development shall be allowed to occur where approved sanitary facilities are not available.

ARTICLE XVII-A

Section 20 COVENANTS

There may be covenants, grants and easements placed on the proposed area involved.

ARTICLE XVII-A

Section 21 RIGHT-OF-WAYS

Areas proposed for the street right-of-way dedication must be in accordance to the provisions set out by the Official Thoroughfare Plan for the City of Muncie, Indiana.

ARTICLE XVII-A

Section 22 PROCEDURE

When the owner or owners of a tract of land file for rezoning for the purpose of developing a mixed land use with the Delaware-Muncie Metropolitan Plan Commission, said application shall include all of the following items:

1. Location and size of area involved.
2. Density of land use.
3. Location, function, ownership, and manner of maintenance of common open space.
4. Use, approximate height, bulk and location of buildings and other structures.
5. Location of sanitary facilities to the project and method of disposing of storm water.
6. Relationship of proposed streets to streets in the proximity of the project.

ARTICLE XVII-B BP BUSINESS AND PROFESSIONAL OFFICE ZONE

ARTICLE XVII-B

Section 1 PERMITTED USES

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings as regulated in the R-4 Residence Zone.
2. Buildings owned, leased or used by municipal, township, County, State or Federal governments.
3. Religious and charitable institutions.
4. Public schools; colleges and universities; nursery schools and child care centers.
5. Business and professional offices.
6. Credit bureaus.
7. Political offices; union offices; real estate offices; insurance offices.

ARTICLE XVII-B

Section 2 FRONT YARD

There shall be a front yard of not less than twenty-five (25) feet in depth measured from the right-of-way line to the front wall of the building.

ARTICLE XVII-B

Section 3 SIDE YARD

There shall be two (2) side yards, each six (6) feet in width and measured at right angles to the side lot line.

ARTICLE XVII-B

Section 4 REAR YARD

There shall be a rear yard thirty (30) feet in depth measured at right angles to the rear lot line.

ARTICLE XVII-B

Section 5 HEIGHT

No building or structure shall exceed one and one-half (1½) stories or thirty (30) feet in height.

ARTICLE XVII-B

Section 6 CONDITIONS

All business and professional offices, credit bureaus and political, union, real estate and insurance offices shall be service in nature only and generally open to the public only during the day. The sale of goods and merchandise, the preparation and service of food and the storage and handling of goods, materials, and equipment shall not be permitted. Parking of trucks, other than in the course of delivery of supplies and equipment used in such offices, shall not be permitted.

Direct vehicular access to each such office shall be separate and distinct from direct access to any other office, and in no case shall there be access to one (1) such establishment from within another.

Only such signs as are permitted in Residence Zones shall be permitted in the BP Business and Professional Office Zone.

Off-street parking shall be provided as follows: Three (3) parking spaces for each office suite within any structure or building, plus one (1) parking space for each three hundred (300) square feet of gross floor area in excess of two thousand (2,000) square feet of gross floor area.

ARTICLE XVIII CB CENTRAL BUSINESS ZONE

ARTICLE XVIII

Section 1 PERMITTED USES

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family; two-family; multiple-family dwellings, as regulated in the R-5 Residence Zone.
2. Buildings owned, leased or used by a municipal, township, County, State or Federal government.
3. Religious and charitable institutions.
4. Railroad rights-of-way including yards, storage, switching or shops owned and operated by railroad companies.
5. Public schools; nursery and child care centers.
6. Business and professional offices.
7. Liquor stores; bars; taverns; dance halls.
8. Food stores; drug stores; clothing stores; jewelry stores; auto equipment stores.
9. Credit bureaus.
10. Restaurants.
11. Machine shops.
12. Retail stores and shops.
13. Banks; building and loans; lending institutions.
14. Barbershops; beauty shops.

15. Health centers.
16. Restaurants; drive-in restaurants; cafes; lunchrooms.
17. Hotels; motels; motor hotels; boarding houses; rooming houses.
18. Political offices; union offices; real estate offices.
19. Transportation terminals.
20. Outdoor advertising as regulated in this Ordinance.
21. Communication centers - telephone and telegraph.
22. Radio stations; television stations; including towers and other appurtenances.
23. Parking lots; parking garages.
24. Fraternal; philanthropic; civic and service organizations.
25. Auto repair; auto sales and showrooms.
26. Newspapers; publishing establishments; printing shops.
27. Gasoline stations and car washes.
28. Department stores; sporting goods; art and music centers and supplies; art galleries.
29. Laundries; dry cleaning establishments.
30. Photographic studios and offices.
31. Billiard parlors.
32. Pawnshops; pet shops; pottery; souvenirs; flower shops.
33. Auto equipment stores.
34. Electrical contractors; insurance.
35. Theaters.
36. Business machines; electronic equipment; typewriter equipment.
37. Jewelers; camera shops.
38. Bakeries

39. Hardware stores; furniture stores; paint and glass stores.

40. Warehouses.

41. High-rise apartment buildings.

42. Mortuaries.

43. License bureaus; travel services.

44. Fraternities and sororities.

45. Adult entertainment business subject to the performance standards of this ordinance and to the provisions of Article IX, Section 19.

46. Microbreweries; microdistilleries

ARTICLE XVIII

Section 2 FRONT YARD

There shall be no front yard requirements, except that all buildings shall conform to existing building lines. Whenever a new building is proposed or an addition to an existing building is contemplated, the average front yard shall be observed.

ARTICLE XVIII

Section 3 SIDE YARD

There shall be no side yard requirements.

ARTICLE XVIII

Section 4 REAR YARD

There shall be no rear yard requirements.

ARTICLE XVIII

Section 5 HEIGHT

There shall be no height requirements.

ARTICLE XVIII

Section 6 MINIMUM FLOOR AREA

There shall be no minimum floor area requirements.

ARTICLE XIX BL LIMITED BUSINESS ZONE

ARTICLE XIX

Section 1 PERMITTED USES

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings as regulated in the R-5 Residence Zone.
2. Two-family and multiple-family dwellings as regulated in the R-5 Residence Zone.
3. Buildings owned, leased or used by a municipal, township, County, State or Federal governments.
4. Professional offices.
5. Banks; building and loans; lending institutions.
6. Retail stores and shops.
7. Beauty parlors; barbershops.
8. Automobile parking as required for dwellings and other permitted uses, excluding public and private parking lots or structures.
9. Dry-cleaning; self-service laundries.
10. Schools.
11. Outdoor advertising as regulated in this Ordinance.
12. Drug stores; stationary stores; florist shops.
13. Shoe repair shops.
14. Camera and photographic supply stores.
15. Grocery stores.

ARTICLE XIX

Section 2 FRONT YARD

There shall be a front yard of not less than twenty-five (25) feet measured from the right of way line to the front wall of the building. Dwellings will comply with the R-5 Residence Zone standards.

ARTICLE XIX

Section 3 SIDE YARD

There shall be a five (5) foot side yard. When an abutting wall or common wall is provided, no side yard shall be required. Dwellings shall comply with the R-5 Residence Zone standards.

ARTICLE XIX

Section 4 REAR YARD

There shall be a rear yard of not less than twenty-five (25) percent of the depth of the lot, but need not exceed twenty-five (25) feet.

ARTICLE XIX

Section 5 HEIGHT

No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height. Dwellings shall comply with the R-5 Residence Zone standards.

ARTICLE XIX

Section 6 CONDITIONS

All business establishments shall be retail or service in nature dealing directly with the customer. Eating establishments of a drive-in nature, directly to customers waiting in parked motor vehicles, shall not be permitted. Parking of trucks as an accessory use when used in the conduct of a permitted business shall be limited to vehicles of not over one and one-half (1½) ton capacity, when located within one hundred and fifty (150) feet of a dwelling. Direct vehicular access to each business establishment shall be separate and distinct from direct access to any other business establishment, and in no case shall there be access to one such establishment from within another.

ARTICLE XX BC COMMUNITY BUSINESS ZONE

ARTICLE XX

Section 1 PERMITTED USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Uses permitted in the BL Limited Business Zone.
2. Health centers.
3. Restaurants, but not drive-in restaurants; cafes; lunchrooms.
4. Business and professional offices; political offices; union offices; real estate offices.
5. Outdoor advertising as regulated in this Ordinance.
6. Parking lots; not parking garages.
7. Fraternal; philanthropic; civic and service organizations.
8. Gasoline stations; car washes, subject to the performance standards set forth in this Ordinance.
9. Photographic studios and offices.

10. Grocery stores.
11. Bakeries.
12. Jewelers; camera shops.
13. Fraternities; sororities.
14. Hardware stores; furniture stores; paint and glass stores.
15. License bureaus; travel services.
16. Laundries; dry cleaning establishments.
17. Department stores; sporting goods; art and music centers.
18. Florist shops; candy and ice cream stores.

ARTICLE XX

Section 2 FRONT YARD

There shall be a front yard of not less than twenty-five (25) feet in depth measured from the right of way line to the front wall of the building.

ARTICLE XX

Section 3 SIDE YARD

There shall not be any minimum side yard requirements except that where a BC Community Business Zone abuts a Residence Zone no building shall be closer to any existing dwelling than fifty (50) feet.

ARTICLE XX

Section 4 REAR YARD

There shall be a rear yard of not less than twenty-five (25) percent of the depth of the lot, but need not exceed twenty-five (25) feet.

ARTICLE XX

Section 5 HEIGHT

No building or structure shall exceed three (3) stories or forty-five (45) feet in height.

ARTICLE XX

Section 6 CONDITIONS

Business establishments shall be of a retail or service nature. Goods shall be sold at retail. Servicing and processing shall be conducted within completely enclosed buildings.

Drive-in establishments other than gasoline service stations, offering goods and services directly to

customers waiting in parked vehicles shall not be permitted.

Whenever a business establishment abuts a Residence Zone, the area between the business establishment and the Residence Zone shall be adequately buffered.

ARTICLE XXI BV VARIETY BUSINESS ZONE

ARTICLE XXI

Section 1 PERMITTED USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Uses permitted in the CB Central Business Zone.
2. Uses permitted in the BL Limited Business Zone.
3. Uses permitted in the BC Community Business Zone.
4. Skating rinks.
5. Mobile home sales.
6. Feed and fuel stores.
7. Amusement enterprises.
8. Plumbing and sheet metal shops.
9. Gymnasiums.
10. Sign painting shops; welding shops.
11. Exterminating shops.
12. Taxidermists.
13. Rentals of garden equipment; garden supplies.
14. Shooting gallery.
15. Window blinds - sales and repair.
16. Storage of building materials.
17. Farm implement establishment for display, hire, sales and repair, including sales lots.
18. Animal hospital, veterinary clinic or kennel, provided any structure shall be not closer than two hundred (200) feet to any dwelling.

19. Commercial baseball field, swimming pools, golf driving ranges.

20. Greenhouses.

21. Hotels, motels; motor hotels.

ARTICLE XXI

Section 2 FRONT YARD

There shall be a front yard of not less than twenty-five (25) feet measured from the right of way line to the front wall of the building.

ARTICLE XXI

Section 3 SIDE YARD

There shall not be any minimum side yard requirements except that where a BV Variety Business Zone abuts a Residence Zone, no building shall be closer to any existing dwelling than fifty (50) feet.

ARTICLE XXI

Section 4 REAR YARD

There shall be a rear yard of not less than twenty-five (25) percent of the depth of the lot, but need not exceed twenty-five (25) feet.

ARTICLE XXI

Section 5 HEIGHT

No building or structure shall exceed three (3) stories or forty-five (45) feet in height.

ARTICLE XXI

Section 6 FLOOR AREA

There shall be no minimum floor area requirements.

ARTICLE XXII MT MAJOR TRADING ZONE

ARTICLE XXII

Section 1 GENERAL

The MT Major Trading Zone shall be reserved for shopping centers which, for the purpose of this Ordinance, shall be defined as a group of stores functioning as a unit, planned and designed on a site of not less than ten (10) acres in area. All uses permitted in the BV Variety Business Zone shall be permitted in the MT Major Trading Zone.

ARTICLE XXII

Section 2 APPROVAL PROCEDURE

An individual, group of individuals or corporation wishing to obtain approval for a shopping center shall submit to the Delaware-Muncie Metropolitan Plan Commission, together with an application for zone change, copies of the center's design and layout, a market analysis, a financial statement, a construction time-table, and a traffic survey - all prepared by a competent firm.

Upon filing of such application and material, the Delaware-Muncie Metropolitan Plan Commission shall proceed with the review and analysis of the proposal, giving special attention to the adequacy of all thoroughfares to carry additional traffic generated by the shopping center the size, layout and capacity of areas proposed for vehicular access, parking, loading and unloading; the relation of the center to access streets; the location, size and use of buildings and structures; the landscaping of areas to harmonize with adjoining neighborhoods; the adequacy of storm and sanitary sewers; the unity and organization of buildings and service facilities.

On the basis of the material filed, the Delaware-Muncie Metropolitan Plan Commission shall determine whether or not the project shall be approved. If the requested change is approved it shall be subject to the submission and approval of a final development plan to the Delaware-Muncie Metropolitan Plan Commission, which plan shall conform with all performance standards set forth in this Ordinance.

Such plan shall be submitted within one (1) calendar year from the date of rezoning, otherwise the rezoning shall be considered null and void. No permit shall be issued for the construction of a shopping center until the Delaware-Muncie Metropolitan Plan Commission has reviewed and approved the final plan and copy of the same is certified to the developer.

ARTICLE XXII

Section 3 FRONT YARD

There shall be a front yard of not less than fifty (50) feet measured from the right of way line to the front wall of the building.

ARTICLE XXII

Section 4 SIDE YARD

There shall be no minimum side yard requirements except that no building shall be closer than fifty (50) feet to any Residence Zone or existing dwelling.

ARTICLE XXII

Section 5 REAR YARD

There shall be no minimum rear yard requirements except that no building shall be closer than fifty (50) feet to any Residence Zone or existing dwelling.

ARTICLE XXII

Section 6 MINIMUM FLOOR AREA; HEIGHT

There shall be no minimum floor area or height requirements.

ARTICLE XXIII IL LIMITED INDUSTRIAL ZONE

ARTICLE XXIII**Section 1 GENERAL**

The IL Limited Industrial Zone is created to include industries whose manufacturing operations are carried on within enclosed buildings.

ARTICLE XXIII**Section 2 PERMITTED USES**

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Uses permitted in all Business Zones.
- 1a. Offices provided for employees or guests, attached or detached which are incidental to the industrial operation. Service facilities for such offices shall be totally within a building and shall not display any exterior advertising.
2. Farm buildings, structures and uses.
3. Public utilities, private utilities.
4. Communication systems and appurtenances.
5. Mass transportation terminals, not including truck terminals.
6. Recreation areas established for the convenience and use of employees of a specific industry.
7. Temporary buildings and structures incidental to the development of land or to the erection of the same, provided such buildings and structures shall be removed at the termination of development or construction.
8. Radio and television towers, including studios and business offices.
9. Assembly operations for pre-manufactured parts.
10. Manufacture of nonalcoholic beverages and/or bottling of alcoholic and nonalcoholic beverages.
11. Office machinery - electrical and mechanical.
12. Manufacture of portable household appliances; electric hand tools; electric motors; electric and neon signs.
13. Cloth products manufacturing from finished cloth.
14. Milk processing; bottling and manufacturing.
15. Jewelry manufacturing; engraving.

16. Food processing and packaging of products previously processed elsewhere.
17. Leather products manufacturing from finished leather.
18. Manufacturing of pharmaceuticals, medicines and cosmetics.
19. Manufacturing of optical goods, recording instruments.
20. Warehouse and distribution operations, completely enclosed.
21. Upholstering shops; manufacturing of mattresses.
22. Canning, bottling, processing and packing of food.
23. Manufacturing of cans and containers excluding glass containers.
24. Cabinet manufacturing.
25. Manufacture and assembly of communication equipment.
26. Electroplating operations.
27. Manufacturing of margarine products.
28. Manufacturing of office equipment.
29. Manufacturing of malt products.
30. Machine, welding, tool and die shops.
31. Vegetative composting provided the operation is conducted within enclosed buildings and structures and in compliance with all state and federal requirements.

ARTICLE XXIII

Section 3 FRONT YARD

See Performance Standards.

ARTICLE XXIII

Section 4 SIDE YARD

See Performance Standards.

ARTICLE XXIII

Section 5 REAR YARD

There shall be provided a rear yard of not less than thirty (30) feet in depth, unless abutting a railroad right-of-way, in which case the building shall be permitted within five (5) feet of said right-of-way.

ARTICLE XXIII

Section 6 RESIDENTIAL SETBACKS

No building or structure shall be closer to a dwelling than one hundred (100) feet.

ARTICLE XXIII**Section 7 MINIMUM FLOOR AREA**

There shall be no minimum floor area requirements.

ARTICLE XXIII**Section 8 PERFORMANCE STANDARDS****A GENERAL**

No permit shall be issued for the erection, relocation, or expansion of any industrial use or building unless the same complies with the performance standards set forth herein.

B STORAGE

All materials or products shall be kept within completely enclosed buildings or screened by a solid wall, fence, evergreens, hedge or trees of minimum height of six (6) feet and a maximum height of eight (8) feet. Storage of material within the enclosure shall not exceed the height of the wall, fence, or vegetative screen. The total area devoted to outside storage shall not exceed twenty-five (25) percent of the total gross area of enclosed structures.

C SETBACKS

No part of any structure (excluding an eave or cornice overhang not to exceed four (4) feet, or a canopy at an entrance) shall be built not closer than one hundred and twenty (120) feet to an Interstate Highway; one hundred (100) feet to a major State or County highway; eighty-five (85) feet to a secondary highway; and sixty-five (65) feet to any other street or highway. Where a front yard is located across a street opposite and to a dwelling or to a Residence Zone, a front yard of one hundred (100) feet shall be provided. Where a side yard abuts a dwelling or Business Zone, a side yard of fifty (50) feet shall be provided.

D SCREENING

Where a front or rear yard abuts a dwelling or Business Zone, a masonry wall, fence or compact hedge or row of shrubbery or evergreen trees shall be provided along or within twenty (20) feet of the zone lot line. Such screening shall be not less than six (6) feet in height and shall not exceed eight (8) feet.

E HEIGHT

Along any front, side or rear yard adjacent to a Residence or Business Zone, the maximum vertical height shall be twenty-five (25) feet. For each foot of height in excess of twenty-five (25) feet, to an absolute maximum of thirty-five (35) feet, one (1) additional foot shall be provided.

F EMISSION

The emission of smoke, particulate matter and noxious and toxic gases shall be subject to the regulations of the State of Indiana Board of Health and/or any and all air pollution control laws, ordinances or statutes passed before and after the enactment of this Ordinance. The storage, utilization or manufacture of products or materials shall conform to the standards prescribed by the National Fire Protection Association. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety and welfare of the people of the City of Muncie, Indiana.

G DISCHARGE

No use shall accumulate or discharge any waste matter, whether liquid or solid, in violation of applicable standards set forth by the State of Indiana Board of Health, the Stream Pollution Control Board of the State of Indiana or any pertinent local governmental agency. Sewage disposal plans and industrial waste treatment shall be approved by the Stream Pollution Control Board.

H SOUND

No use shall produce sound in such manner as to endanger the public health, safety and welfare of the people of the City of Muncie, Indiana. Sound shall be muffled so as not to become detrimental or a nuisance due to pressure, amount, intermittence, beat, frequency, shrillness or vibration.

I GLARE AND HEAT

Any use established after the enactment of this Ordinance shall be operated so as to comply with performance standards governing glare and heat as set forth by the State of Indiana.

J FIRE AND EXPLOSIVES

Storage, utilization or manufacture of products and materials shall conform to the standards prescribed by the National Fire Protection Association.

K RADIATION

Any use shall conform to the Atomic Energy Commission standards for protection against radiation. Also, the electromagnetic standards of the Federal Communications Commission shall be complied with.

ARTICLE XXIV II INTENSE INDUSTRIAL ZONE

ARTICLE XXIV

Section 1 GENERAL

The II Intense Industrial Zone is created to include heavy manufacturing uses.

ARTICLE XXIV

Section 2 PERMITTED USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Uses permitted in all Business and Industrial Zones.
2. Manufacturing of glass containers.
3. Manufacturing of cement, lime and gypsum.
4. Open hearth; blast furnaces.
5. Coke ovens; creosote manufacturing.
6. Fat rendering; fertilizer manufacturing.
7. Slaughtering and food processing.
8. Manufacturing of explosives, matches, fireworks.
9. Storage of petroleum products.
10. Manufacturing of chemicals; detergents; soaps.
11. Foundries.
12. Manufacturing of railroad equipment, repair and services.
13. Utility pole yards and pipe yards.
14. Motor truck terminals subject to the performance standards set forth in this Ordinance.
15. Paper box and paper products manufactured from finished paper.
16. Vegetative composting provided the operation is conducted in compliance with all state and federal requirements.

ARTICLE XXIV

Section 3 PERFORMANCE STANDARDS

The same performance standards set forth in Article XXIII, Section 8, shall apply to the II Intense Industrial Zone.

ARTICLE XXV IP INDUSTRIAL PARK ZONE

ARTICLE XXV

Section 1 GENERAL

The IP Industrial Park Zone is created so as to include in the industrial system such developments as industrial subdivisions not less than twenty-five (25) acres in area, developed in accordance with a comprehensive plan approved by the Delaware-Muncie Metropolitan Plan Commission.

ARTICLE XXV

Section 2 THE PLAN

Any person, group of persons, organization or corporation contemplating the development of an Industrial Park Zone or seeking a change in zone for the purpose of development of such zone, shall file a complete site plan, accurate and to scale, showing how the project is to be carried out. Attractiveness, compatibility and flexibility of design shall be fundamental areas studied by the Delaware-Muncie Metropolitan Plan Commission in making its determination.

The plan shall include street design, building arrangement, off-street parking and loading, accessory uses and facilities, topography and setback requirements.

The plan shall contain maximum building coverage of not more than thirty-five (35) percent of the total area of the lot.

The developer of an industrial park shall provide a system of sanitary sewers and a system of municipal or privately owned water supply.

Should the proponents of an industrial park be seeking departures from applicable provisions of this Ordinance, they shall submit reasons justifying such departures.

ARTICLE XXV

Section 3 PROCEDURE

The same procedure as for attaining a proposed zone change shall be followed by the Delaware-Muncie Metropolitan Plan Commission in making a determination as to whether or not an application for industrial park zoning should be favorably recommended.

ARTICLE XXVI FA FLOOD AREA ZONE

ARTICLE XXVI

Section 1 GENERAL

Certain areas in the City of Muncie, Indiana, under existing conditions, are unsuitable for permanent occupancy being subject to periodic inundation. The purpose of the FA Flood Area Zone is to safeguard human life and property from the dangers of flood and avoid the losses both in life and wealth which may occur.

ARTICLE XXVI

Section 2 BOUNDARIES

The boundaries of the FA Flood Area Zone have been determined from data obtained from the Louisville District of the Corps of Engineers of the Department of the Army. Such boundaries run along the sides of the White River as they traverse through the City of Muncie, Indiana, and include the areas adjoining said rivers that have been or hereafter may be covered by floodwaters.

ARTICLE XXVI

Section 3 PERMITTED USES

No building, structure or land shall be used and no building or structure shall hereafter be erected, enlarged or maintained except for the following uses:

1. Parks, playgrounds, boat houses, golf courses, landings, docks and related uses.
2. Wildlife sanctuaries operated by governmental units or non-profit organizations; woodland preserves.
3. Farming, truck and nursery gardening.
4. Pasture; grazing.
5. Forestry, reforestation, excluding storage and mill structures.
6. Hunting, fishing.
7. Outlet installations for sewage treatment plants, sealed public water supply wells, utility transmission lines.
8. Loading areas, parking areas, airport landing strips.
9. Circus, carnival, roadside stands, outdoor advertising as defined in this Ordinance.
10. Drive-in theaters.

ARTICLE XXVI

Section 4 CONDITIONAL USES

A CONDITIONAL USES

The following uses may be permitted subject to approval by the Delaware-Muncie Metropolitan Board of Zoning Appeals:

1. Storage of equipment, machinery and materials.
2. Extraction of sand and gravel.
3. Kennels and stables.

B PROCEDURE

Upon receiving an application for a conditional use in the FA Flood Area Zone the Board of Zoning Appeals shall, prior to rendering a decision, require the applicant to furnish plans to include topography, storage elevations, size and location of proposed and existing structures on site, land uses, soil types and other pertinent data.

The Board shall transmit copy of the application to the Corps of Engineers of the Department of the Army for recommendations. In making a decision on conditional uses the Board shall consider:

1. That all material or equipment shall be anchored.
2. That encroachments will not create dangers to life and property.
3. That there shall be no pollution of stream waters.
4. That there is proper access to the property in times of flood for emergency vehicles.
5. That the natural course of the stream is not being changed.
6. That no structure shall be located closer to the edge of a stream than one hundred and fifty (150) feet.

ARTICLE XXVI

Section 5 PROHIBITED USES

The following uses shall be totally prohibited in the FA Flood Area Zone:

1. Residences.
2. Dumps; landfills.
3. Removal of topsoil.
4. Junk yards, outdoor storage of vehicles.
5. On-site sewage disposal systems.

ARTICLE XXVI-A RC RECREATION AND CONSERVATION ZONE

ARTICE XXVI-A

Section 1 PURPOSE AND STATEMENT OF INTENT

This zone is established as a conservation measure to preserve for existing and future generations a part of the ecological balance between a man and his natural environment. Through the maintenance of certain areas of land devoted to recreation and best practical conservation uses, much benefit can be derived by many people in the form of diminished air and water pollution and soil erosion, cover for wildlife and flora, and the preservation of natural resources located therein. This zone is also intended for low-intensity active-recreational and ancillary commercial needs, which could be compatible with residential land uses. These active-recreational opportunities are meant to service the recreational and social interaction needs of the City residents of all ages, economic situations and physical conditions. Publicly owned lands, such as parks, may also be included in this zone. Additional uses are permitted that are complementary to, and can exist in harmony with, the recreation and conservation land use and surround land uses. Once a Recreation and Conservation Zone is established, extreme care shall be taken in making any deviation.

ARTICE XXVI-A

Section 2 PERMITTED PRINCIPAL USES AND STRUCTURES

Principal uses and structures permitted in the Recreation and Conservation Zone: forests, woodlands, floodplains, wildlife/habitat preserves, and other natural resource preservation land uses.

ARTICLE XXVI-A

Section 3 PERMITTED RECREATIONAL USES AND STRUCTURES

Recreational uses and structures permitted in the Recreation and Conservation Zone:

- Country Clubs
- Golf Courses
- Swimming Pools
- Recreation Lakes
- Forests and Wildlife Preserves
- Public Parks
- Commercial Baseball Fields
- Playgrounds
- Boat Houses, Boat Landings, Boat Docks
- Fishing
- Athletic Fields
- Trails
- Skate Parks

ARTICLE XXVI-A

Section 4 CONDITIONAL USES

Commercial recreational uses compatible with the statement of intent of this zone, but not herein listed, may be permitted as conditional uses subject to the approval of the Board of Zoning Appeals under the procedures established for special uses as set forth in the Ordinance.

ARTICLE XXVI-A

Section 5 PROHIBITED USES

The prohibited uses in the Recreation and Conservation Zone are: Residential, Non-Recreational Commercial, and Industrial.

ARTICLE XXVI-A

Section 6 PRINCIPAL AND ACCESSORY BUILDING SETBACKS

Principal and accessory buildings shall not be closer than fifty (50) feet from any adjoining parcel.

ARTICLE XXVI-A

Section 7 MINIMUM LOT AREA

The minimum lot area shall be one (1) acre.

ARTICLE XXVI-A

Section 8 MAXIMUM HEIGHT

The maximum height of all buildings and structures shall be thirty (30) feet.

ARTICLE XXVI-A

Section 9 LOT WIDTH

The lot or parcel width shall be not less than sixty (60) feet, exclusive of right-of-ways.

ARTICLE XXVI-A

Section 10 FRONT SETBACK

There shall be a front setback of not less than fifty (50) feet in depth measured from the right-of-way line to the front wall of the structure.

ARTICLE XXVI-A

Section 11 OFF-STREET PARKING

Off-street parking must be provided for in the Recreation and Conservation Zone based on the land use according to Article XXX, Section 2 of the Ordinance.

ARTICLE XXVI-A

Section 12 STREAM LOCATION RESTRICTED

No structure shall be located closer to the edge of a stream within a designated flood plain area than one hundred and fifty (150) feet.

ARTICLE XXVI-A

Section 13 SIGN REGULATIONS

The signs placed in the Recreation and Conservation Zone shall have the designation of the name and owner of the land. No more than two interior signs shall be permitted in each Recreation and Conservation Zone with the exception of non-commercial directional, interpretive and/or informational signs. The permitted sign types shall be ground signs and wall signs. The maximum sign board area may be up to twelve (12) square feet, with signage permitted on two (2) sides for a ground sign. The maximum height of a ground sign shall not exceed eight (8) feet. The minimum setback from road right-of-ways shall be ten (10) feet. All signs shall be similar in design and typeface in each Recreation and Conservation Zone.

ARTICLE XXVI-A

Section 14 PEST CONTROL

All recreational areas shall establish and operate in compliance with Delaware County Health Department regulation methods to control mosquitoes, flies, roaches, rodents, fleas, chiggers, and other pests.

ARTICLE XXVI-A

Section 15 REFUSE COLLECTION

Each recreational site shall be equipped with no less than a ten (10) gallon container. The container shall be maintained to prevent rodents, insects, and odors. All refuse containers shall be collected

and emptied at least one every seven (7) days.

ARTICLE XXVI-A

Section 16 ESSENTIAL SERVICES

The provisions of these Recreation and Conservation Zone shall not be construed to limit or interfere with the construction, installation or maintenance of public utility transmission facilities but not including buildings, cell towers and /or public utility substations. Underground use is encouraged; overhead use may be allowed by agreement with the Zoning Administrator and the Plan Commission Office.

ARTICLE XXVII AD AIRPORT DEVELOPMENT ZONE

ARTICLE XXVII

Section 1 GENERAL

The AD Airport Development Zone is created with the purpose of coordinating the location, size and configuration of existing airports in the City of Muncie, Indiana, with patterns of residential growth and other major land uses as well as with other transportation facilities and services; to make the airport environs compatible with airport operations; to make physical development and land use of airports compatible with existing and proposed patterns of land use; to regulate the height of structures or natural growth erected, altered, allowed to grow or maintained in any zone established by the Federal Aviation Agency.

ARTICLE XXVII

Section 2 ZONE MAP

In addition to the Official Zone Maps for the City of Muncie, Indiana, typical airport maps are hereby made a part of this Ordinance. The maps show the boundaries of the airports, instrument, no instrument, VFR transition, horizontal and conical zones; airport reference points and elevations.

ARTICLE XXVII

Section 3 PERMITTED USES

No building, structure or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Landing and takeoff runways.
2. Landing strips.
3. Hangars.
4. Taxi ways and parking ramps.
5. Airplane repair shops.
6. Restaurant facilities related to airport operations.

7. Airplane fuel storage.
8. Parking as required in this Ordinance.
9. Personnel and ticket offices.
10. Towers for control, landings and takeoff.
11. Sports assembly, not in airport proper.
12. Community parks, not in airport proper.
13. Farming.
14. Entertainment assembly, not in airport proper.
15. Communication, transportation and utilities.
16. Motor vehicle transportation.
17. Ambulance and fire protection.
18. Hotels; overnight accommodations.
19. Limited industrial operations compatible to the operation of airports when approved by the Delaware-Muncie Metropolitan Plan Commission. Applications for such uses shall be made according to established procedures and shall be subject to public hearing. Prior to approving any light and limited industrial use, said Plan Commission shall conclusively determine that the proposed use shall not constitute a hazard to airport traffic and to surrounding area.

ARTICLE XXVII

Section 4 USES TOTALLY PROHIBITED

The following uses shall be prohibited in the AD Airport Development Zone and shall not be permitted under any conditions or circumstances:

1. No use may be made of land within an instrument, non-instrument, VFR transition, horizontal or conical zone as established by the Federal Aviation Agency for each airport in such manner as to create electrical interference with radio communication between the airports and aircrafts, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, takeoff or maneuvering of aircraft.
2. No structure or tree shall be erected, altered, allowed to grow or be maintained in any instrument approach or non-instrument approach, VFR transition approach, horizontal or conical zone as established by the Federal Aviation Agency (FAA) to a height in excess of thirty-five (35) feet, or to a height that may be in conflict with the standards of the FAA. Height limitations shall be governed, whenever necessary, by standards established for the

Instrument Approach Zone, the Non-instrument Approach Zone, Horizontal Zone, Conical Zone, VFR Transition Zone as established by the FAA.

ARTICLE XXVII

Section 5 MARKING AND LIGHTING

The owner of any tree or structure which at the time of the enactment of this Ordinance may be in conflict with the height provisions, shall be required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards.

ARTICLE XXVII

Section 6 EXISTING USES

No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation than it was on the date of the enactment of this Ordinance or any amendments thereto.

ARTICLE XXVIII SSS STUDENT SOCIAL SERVICE ZONE

ARTICLE XXVIII

Section 1 PERMITTED USES

No building, structure or land shall be used and no building or land shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Fraternities, sororities.
2. Single-family dwellings as permitted and regulated in the R-5 Residence Zone.
3. Two-family dwellings as permitted and regulated in the R-5 Residence Zone.
4. Buildings and structures owned and operated by a college, university or institution of higher learning.

ARTICLE XXVIII

Section 2 LOT WIDTH AND AREA

The width of a lot shall be not less than one hundred (100) feet. The area of such lot shall be not less than one (1) acre.

ARTICLE XXVIII

Section 3 FRONT YARD

There shall be a front yard of not less than seventy-five (75) feet.

ARTICLE XXVIII

Section 4 SIDE YARD

There shall be two (2) side yards, each twenty-five (25) feet in width. However, no building shall be closer than fifty (50) feet to any dwelling, school, church or institution for human care. Side yards shall be measured at right angles to the side lot lines.

ARTICLE XXVIII

Section 5 REAR YARD

There shall be a rear yard of not less than fifty (50) feet in depth measured at right angles to the rear lot line.

ARTICLE XXVIII

Section 6 HEIGHT

No building or structure shall exceed three (3) stories.

ARTICLE XXVIII

Section 7 MINIMUM FLOOR AREA

The minimum floor area of a residence shall be as regulated in the R-5 Residence Zone.

ARTICLE XXIX MHR MOBILE HOME RESIDENCE ZONE

ARTICLE XXIX

Section 1 GENERAL

Mobile homes are increasingly becoming a part of the urban scene, therefore it has become necessary to establish a zone for them containing basic and uniform regulations and performance standards in order to protect the safety, health and welfare of their occupants as well as the total community.

A mobile home park must be sufficient to accommodate the desired number of units, parking area for motor vehicles, access roads and walkways, and recreational facilities - all as required in this Article. Among the features to be considered in the planning of mobile home parks shall be: size, shape, topography, land costs, local codes and ordinances; uses of adjoining properties, availability of water supply, drainage and sewage disposal. Prior to filing an application for an MHR Mobile Home Residence Zone the interested persons shall consult with local and State health authorities to determine the suitability of the site.

ARTICLE XXIX

Section 2 STANDARDS

The following standards shall be complied with in any plan, application or request for a change in zone to permit a mobile home park. Such standards shall be over and above those which may be required by other local or State agencies.

A ROADS: PARKING

All streets intended to be dedicated to the public shall be constructed and designed in compliance

with the standards set forth in the subdivision regulations. All streets intended to be privately owned and maintained shall be constructed and designed in compliance with the standards specified herein. All internal streets shall have a minimum width of twenty-four (24) feet. If parking is prohibited on both sides of an internal street, the width may be reduced to eighteen (18) feet. Internal streets shall be two-way streets if they are five hundred (500) feet or less in length or serve less than twenty-five (25) mobile homes. They shall be one-way streets regardless of length if they provide access to mobile homes on one side of the street only. Dead-end streets shall be provided with a turn-around having at least sixty (60) feet in diameter.

Entrance streets connecting with internal streets shall be not less than thirty-four (34) feet in width if parking is permitted on both sides. If parking is permitted on one side only, such a street may have a width of twenty-seven (27) feet, provided the entrance street is more than one hundred (100) feet in length and does not provide access to abutting mobile home lots within the first one hundred (100) feet.

All streets shall intersect at right angles. Street intersections should be at least one hundred and fifty (150) feet apart and the intersection of more than two (2) streets at one point shall be avoided.

Grades shall be less than eight (8) percent. Short runs up to twelve (12) percent could be used if necessary. All streets shall be provided with a smooth, hard and dense surface properly drained and according to the most recent city or county specifications.

To reduce traffic hazards, parking or individual parking spaces on each lot shall be provided at a ratio of seven (7) spaces for every four (4) mobile home lots. Every parking space shall be located within two hundred (200) feet of the mobile home it is intended to serve.

B WALKWAYS

Where traffic is expected to be heavy such as in the proximity of recreation areas, management or service areas, three and one-half (3½) foot common walks shall be provided. Walks shall also be provided on each mobile home lot so as to connect it with the street. Such walk shall have a minimum width of two (2) feet.

C PERMITTED USES

1. Mobile Home Parks as defined and regulated in this Section.
2. Signs as regulated in this Section.

D LOTS

Every lot in a mobile home park shall contain three thousand five hundred (3,500) square feet in area to avoid overcrowding and in order that modern mobile homes and appurtenances can be properly accommodated. There shall be a fifteen (15) foot clearance between mobile homes, including mobile homes placed end to end. No mobile home shall be closer to any park property line than twenty-five (25) feet; thirty (30) feet to any street or right of way; fifteen (15) feet to any recreational area. In determining clearances and open spaces, accessory structures having a horizontal area in excess of twenty-five (25) square feet located within ten (10) feet of a window shall be considered as a part of the mobile home. Driveways for individual mobile home lots shall be at least eight (8)

feet in width with an extra two (2) feet if they serve as walks. The on-lot parking space served by a driveway shall be nine (9) feet wide and twenty (20) feet long.

E RECREATION

Every mobile home park shall provide recreation areas in a ratio of at least one hundred (100) square feet of space for each mobile home lot. No outdoor recreation area, however, shall be less than two thousand five hundred (2,500) square feet. Recreation areas shall be located on sites substantially free from traffic interference and hazards. The same shall be properly buffered with trees, evergreens and/or other vegetative growth.

F SERVICE BUILDINGS

There shall be a service building on every mobile home park to accommodate laundry and storage facilities whose construction shall conform to local and State building regulations. Such building shall be of permanent construction and shall have a weather-resistant exterior finish of moisture-resistant material. Floors shall be impervious to water and sloped to drains connected to a sewerage system

G SEWERAGE: WATER

No mobile home park shall be permitted unless the same shall be connected to existing sewerage facilities or unless it provides a sewage disposal plant that shall adequately serve the proposed park and any future extension of it. Any sewage disposal plant shall have the approval of the State of Indiana Board of Health.

No mobile home park shall be permitted unless the same is connected to a public water supply system or shall provide its own adequate centralized water facility acceptable to the State of Indiana Board of Health. Written certification from the said agency shall be furnished to the Delaware-Muncie Metropolitan Plan Commission. The sanitary sewer system and the storm sewer system shall be separate and shall be sized and designed according to standard engineering practice. Storm sewers shall provide a minimum velocity of two and five tenths (2.5) per second when flowing full. Written certification from an appropriate body or agency shall be furnished to the Delaware-Muncie Metropolitan Plan Commission that the storm sewers are installed as such or that the drainage system has been approved.

H PEST CONTROL

Mobile home parks shall establish and operate under the most rigid practices to control mosquitoes, flies, roaches, rats, fleas, ticks, chiggers and other pests.

I REFUSE COLLECTION

Mobile homes shall each be equipped with a ten (10) gallon container. Such container shall be regularly sprayed with suitable insecticides to reduce odors and to eliminate fly incidence. All refuse containing garbage shall be collected at least once weekly.

J ELECTRICAL DISTRIBUTION

Electrical wiring, equipment and appurtenances shall be installed and maintained in accordance with permits, applicable codes and regulations. Where such codes do not exist the provisions of the National Electrical Code shall control.

All streets, walkways, buildings and other facilities shall be adequately lighted. An average illumination level of at least six-tenths (0.6) foot-candle and a minimum illumination level of one-tenth (0.1) foot-candle shall be maintained on all streets. Potentially hazardous locations such as intersections, steps or ramps shall be illuminated with a minimum level of three-tenths (0.3) foot-candle.

ARTICLE XXIX

Section 3 PERMITS

It shall be unlawful for any person to construct, alter or extend any mobile home park unless the Administrative Zoning Officer has issued him a zoning permit. Application for such permits shall be filed with said officer and shall contain the following information: Name and address of the applicant; location and legal description of the property; complete engineering plans and specifications for the proposed park. Engineering plans shall include the area and dimensions of tract; number, location and size of all mobile home lots; location and width of all roadways and walkways; location of service buildings and other buildings; location of water, plans and specifications for the water supply system, refuse, drainage and sewage disposal systems; plans and specifications for buildings constructed or to be constructed within the mobile home park; and the location and details of the lighting and electrical systems. Copies of all information supplied to the Administrative Zoning Officer for obtaining a permit shall also be filed with the Delaware-Muncie Metropolitan Plan Commission Office.

The Administrative Zoning Officer for the installation of a mobile home park shall issue no zoning permit until a zone change has been favorably completed and all the requirements of this Article have been met. Any extension of an existing park which was not a part of the original plan shall meet all the requirements of this Article and a permit shall be obtained from said Officer based on the number of additional lots and the per-lot fee as stated in this Ordinance. The zoning permit for the mobile home park shall not be considered as a permit for common buildings constructed in conjunction with the park. All recreation buildings, service buildings and other buildings housing common facilities shall be considered commercial buildings for the purpose of obtaining all applicable permits.

ARTICLE XXX PERFORMANCE STANDARDS

ARTICLE XXX

Section 1 GENERAL

The following standards shall be minimum requirements for uses permitted in this Ordinance. Because of the special character of the Central Business Zone, the parking and loading facilities shall be developed as a part of a general plan based on location, system of streets and highways and transit. Such facilities may be developed by financial interests which may lease them to parking operators; by the City of Muncie, and operated by it or by private operators; by a group or groups of merchants or investors; or by a single owner or partnership.

ARTICLE XXX

Section 2 PARKING AND LOADING

A PURPOSE

In order to reduce congestion in public streets and highways and to provide increased safety for the general public, every use of land shall be suited with on-site parking, loading and unloading facilities as required in this Section.

B DEFINITION

For the purpose of this Ordinance, a parking space for one vehicle shall consist of not less than one hundred and sixty-two (162) square feet of area, exclusive of drives, aisles and other necessary means of access, with free access from a public way. Each required space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other parking space, except where the parking area is limited to employees.

C STANDARDS

No new building or structure shall be constructed or used in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used unless off-street parking is provided in accordance with the following conditions:

1. Off-street parking facilities shall be opaquely screened from any Residence Zone, or any one or two family dwelling, with a suitable buffer or fence not less than four (4) feet in height.
2. All land used for off-street parking, and all driveways thereto, shall be paved or surfaced, for the duration of its use, in accordance with the most recent specifications of the city or county engineer to avoid nuisances of dust and erosion and shall be drained in a manner that shall meet the minimum required in such specifications.
3. Any light used to illuminate land used for off-street parking or driveways thereto shall be installed and maintained so as to reflect the light away from any Residence Zone and any one or two family dwelling.
4. Whenever the intensity of use of any building, structure or land shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other unit of measurement, parking and loading facilities as required in this Section shall be provided, but only to the extent of such increase.
5. All off-street parking and loading facilities shall be designed with appropriate means of vehicular access to a public street or alleys in a manner that will least interfere with traffic movement. No off-street parking space shall be designed to require backing of a vehicle into a public street.
6. All parking lots must have parking spaces designated for individuals with disabilities. The International Symbol of Accessibility must be clearly visible from the entrance of the lot and should designate each spot. The sign is to be located above the grade and placed so that it is visible when a vehicle is parked in the space.

- a. At least 2% of all parking spaces in each lot must be accessible, in accordance with the standards of this paragraph. (See Table C-6) These spaces are to be on the shortest possible accessible route to an accessible building entrance. The parking spaces must be located on level terrain with surface slopes that do not exceed 2% in all directions.
- b. Access aisles must be provided that have a minimum width of five (5) feet and length of twenty (20) feet, adjacent and parallel to the vehicle pull-up space. The design and layout of these spaces will follow guidelines indicated by Americans with Disabilities Act parking requirements diagram in the design manual.
- c. For every eight accessible spaces, one space is to be marked for vans. Van parking spaces must have adequate vertical as well as horizontal clearance. This affects parking garage ceilings and potential obstacles such as tree limbs. A minimum height of ninety-eight (98) inches and width of sixteen (16) feet is required to accommodate both parking space (a minimum width of eleven feet) and an access aisle (a minimum width of five feet).

Table C-6

ADA Standards for Minimum Number of Accessible Parking Spaces		
Total # of Parking Spaces Provided	Minimum # of Required Accessible Parking Spaces	Minimum # of Accessible Van Parking Spaces
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
501 to 1000	2% of total	1 for each 6 accessible
1001 and over	20, plus 1 for each 100, or fraction thereof, over 1000	parking spaces, or fraction thereof
<p><i>The following types of facilities have different requirements for the number of accessible parking spaces.</i></p> <p>* Outpatient Hospital Facilities - 10% of patient and visitor parking spaces must be accessible.</p> <p>* Rehabilitation & Outpatient Physical Therapy Facilities - 20% of patient and visitor parking spaces must be accessible.</p> <p>* Residential Facilities -</p> <ul style="list-style-type: none"> > At least 1 accessible parking space for each accessible residential dwelling. > 2%, but no fewer than 1 space not covered by the term above shall be accessible. > In areas where parking spaces are provided for persons other than residents, parking shall be provided in accordance with the table above. 		

7. Parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table. The parking angle shall be measured between the centerline of the parking space and the centerline of the aisle.

MINIMUM PARKING SPACE AND AISLE DIMENSIONS FOR PARKING AREAS

Angle of Parking	Width of Parking Space	Length of Parking Space	Maneuvering Aisle 1-way	Maneuvering Aisle 2-way
76-90°	9'	18'	24'	24'
61-75°	9'	18'	18'	24'
46-60°	9'	18'	17'	24'
0-45°	8'	22'	12'	24'

8. For parking areas containing twenty (20) or more spaces, up to fifteen percent (15%) of the required parking spaces may be land banked as green space at the discretion of the owner/developer.
9. Off-street parking areas may be located in any front, side or rear yard area provided the following green belts are maintained: 10' along any public roadway measured from the property line; and 5' along any side and/or rear property line adjacent to or abutting a Residence Zone.

No off-street parking area shall extend into any proposed right-of-way as set forth in the Official Thoroughfare Plan. Whenever any green belt and/or landscaped area, provided to meet the requirements of this Ordinance, is removed by a public road widening project, the property from which the green belt or landscaped area has been removed shall still be considered in compliance with this Ordinance.

10. Bicycle parking spaces shall be provided in accordance with the requirements set forth as follows:
- a. Location and Placement Standards:
 1. Bicycle parking shall be located as close as or closer than the nearest car parking space to the building entrance, other than those spaces for persons with disabilities.
 2. Bicycle parking facilities shall not interfere with accessible paths of travel or accessible parking as required by the American with Disabilities Act of 1990.
 3. Bicycle racks shall not block the building entrance or inhibit pedestrian flow.
 4. Bicycle racks shall be located to protect bicycles from damage from automobiles.
 5. Bicycle parking shall be visible, well lit, and as convenient to cyclists as auto parking is to drivers.

6. All bicycle racks shall be designed to minimize visual clutter and be maintained in good condition.
 7. All bicycle racks shall be securely anchored to the ground or building surface.
 8. In cases where bicycle parking spaces are not visible from the primary street, signage shall be used to direct cyclists safely to bicycle parking areas.
- b. Design Standards:
1. Each bicycle rack shall be designed to accommodate a minimum of two bicycle parking spaces.
 2. Bicycle racks shall be designed to accommodate U-shaped locking devices and support the bicycle in two places.
 3. Bicycle racks shall be designed to resist cutting, rusting, bending and deformation.
 4. The surfacing of such facilities shall be designed and maintained to be mud and snow free.
 5. Required bicycle parking spaces shall be at least 4 feet wide by 6 feet long.
 6. An access aisle of at least 4 feet shall be provided in each bicycle parking facility.
 7. Such space shall have a vertical clearance of at least 6 feet.
 8. Bicycle racks shall be placed on 48-inch centers.
- c. When the intensity of use of any building, structure or premises shall be increased through additional number of dwelling units, gross floor area, seating capacity or other units of measurement specified herein that requires additional automobile parking spaces, bicycle parking as required herein shall be provided for such increase in intensity of use.
- d. A reduction in the minimum required automobile parking is allowed equal to the percentage of bicycle parking spaces provided, with a 5% maximum reduction.
- e. Bicycle parking spaces shall be based on the required automobile parking spaces and shall be provided in accordance with the following:

Table C-10

<u>Non-Residential/Commercial Uses:</u>	
<u>Auto Spaces Required</u>	<u>Bicycle Racks Required</u>
0-20 spaces	1 rack
21-50 spaces	2 racks
51-75 spaces	3 racks
76-100 spaces	4 racks
101 + spaces	5 racks + 1 for each additional 100 spaces, 20 maximum
<u>Multi-Family Residential Uses:</u>	
<u>Auto Spaces Required</u>	<u>Bicycle Racks Required</u>
8+ spaces	1 rack for every 8 auto spaces required

OFF-STREET LOADING AND UNLOADING

There shall be provided and maintained space for vehicles standing, loading and unloading on the same premises with every building, structure or part thereof hereafter erected, established or enlarged and occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, laundry, dry cleaning, and uses involving the receipt and distribution by vehicles of material or merchandise as follows:

A twelve (12) foot by thirty-five (35) foot loading space with fourteen (14) foot height clearance for every twenty thousand (20,000) square feet or fraction thereof of floor area in excess of six thousand (6,000) square feet of floor area used for the above mentioned purposes, or for every twenty thousand (20,000) square feet or fraction thereof of land used. This requirement shall be separate and apart from any and all other off-street parking requirements.

E OFF-STREET PARKING

The following off-street parking requirements shall be provided and maintained in conformity with the provisions of this Ordinance:

1. Airport: One (1) parking space for every two (2) employees plus one (1) parking space for every four (4) seats
2. Apparel Shop: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
3. Apartments: See Dwelling, Multi-Family

- | | |
|----------------------|--|
| 4. Apartment Hotel: | One (1) parking space for each sleeping room |
| 5. Auditorium: | One (1) parking space for each four (4) seats based on the maximum seating capacity, including fixed and movable seats |
| 6. Auto Sales: | One (1) parking space for each one thousand (1,000) square feet used for retailing |
| 7. Auto Sales/Repair | One (1) parking space for each four hundred square feet of gross floor area (2.5/1000 GFA) plus two and one half (2.5) spaces for each one thousand square feet of external display area plus three (3) spaces for each service bay. |
| 8. Bakery: | One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA) |
| 9. Bank: | One (1) parking space for each four hundred (400) square feet of floor area |
| 10. Barber Shop: | Two (2) parking spaces for each treatment station, but not less than four (4) spaces for each one thousand square feet of gross floor area (4/1000 GFA) |
| 11. Beauty Parlor: | Two (2) parking spaces for each treatment station, but not less than four (4) spaces for each one thousand square feet of gross floor area (4/1000 GFA) |
| 12. Billiard Room: | Parking spaces equal in number to thirty percent of the capacity of persons. |
| 13. Bowling Alley: | Three (3) parking spaces for each lane, plus one (1) parking space for every six (6) spectator seats |
| 14. Boarding House: | One (1) parking space for each sleeping room |
| 15. Bus Station: | One (1) parking space for each ten (10) seats in waiting room, plus one (1) parking space for each two (2) employees of connected retail use. |
| 16. Cemetery: | One (1) parking space for each two (2) employees |
| 17. Clinic: | One (1) parking space for each two (2) employees plus three (3) parking spaces for each doctor |
| 18. Church: | One (1) parking space for each six (6) seats in main auditorium |
| 19. Club House: | One (1) parking space for each two (2) sleeping rooms |
| 20. Cold Storage: | One (1) parking space for each four hundred square feet of gross |

- floor area (2.5/1000 GFA)
21. Community Center: Parking spaces equal in number to thirty (30) percent the capacity of persons
 22. Country Club: One (1) parking space for each two (2) employees plus three (3) parking spaces for each golf hole
 23. Convalescent or Nursing Home: One (1) parking space for Nursing Home each eight (8) beds, plus one (1) parking space for each two (2) employees
 24. Dancing Academy: One (1) parking space for each two hundred fifty square feet of gross floor area (4/1000 GFA)
 25. Delicatessen: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
 26. Department Store: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
 27. Dormitory: One (1) parking space for each two (2) sleeping rooms
 28. Dormitory: One (1) parking space for (student) each three (3) dormitory residents plus one (1) parking space for the supervisor
 29. Dressmaking: One (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000 GFA)
 30. Dry Cleaning: One (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000 GFA)
 31. Drugstore: One (1) parking space for each two hundred fifty square feet of gross floor area (4/1000 GFA)
 32. Dwelling: Two (2) parking spaces for each dwelling unit
 33. (a) Two-family Dwelling: Two (2) parking spaces for each dwelling unit
 - (b) Dwelling, Multi-Family: Two (2) parking spaces for each dwelling unit with the following exception: one (1) parking space for each dwelling unit in the CB Central Business zone
 34. Dwelling with Roomers: Two (2) parking spaces for each dwelling unit plus one (1) parking space for each room rented to persons not members of the resident family
 35. Fire Stations: One (1) parking space for each three (3) employees on shift
 36. Flower Shop: One (1) parking space for each three hundred three square feet of

gross floor area (3.3/1000 GFA)

- 37. Fraternity: One (1) parking space for each three (3) active members or dormitory residents plus one (1) parking space for each two (2) employees other than residents
- 38. Funeral Home: One (1) parking space for each four hundred (400) square feet of gross floor area
- 39. Furniture Store: One (1) parking space for each one thousand (1,000) square feet of gross ground floor area plus one (1) parking space for each one thousand five hundred (1,500) square feet of the gross area of floors other than the ground floor used for sales, display or show purposes
- 40. Food Market <3500: One (1) parking space for each three hundred thirty three square feet of gross floor area (3/1000 GFA)
- 41. Food Market >3500: One (1) parking space for each two hundred fifty square feet of gross floor area (4/1000 GFA)
- 42. Greenhouse: One (1) parking space for each three (3) employees, plus one (1) parking space for each three hundred thirty-three square feet of sales area (3/1000 sq. ft. of sales area)
- 43. Grain Elevator: One (1) parking space for each two (2) employees
- 44. Gymnasium: Parking spaces equal in number to thirty percent of the capacity of persons
- 45. Hospital: One (1) parking space for each two and one-half employees plus one (1) space for each five average daily outpatient visits plus one (1) space for each four staff members plus one (1) space for each three beds.
- 46. Home Occupation: One (1) parking space in addition to residence requirements
- 47. Hotel: One (1) parking space for each three (3) employees, plus one (1) space for each sleeping room
- 48. Industrial Park: One (1) parking space for each two (2) employees on the largest shift
- 49. Industrial Uses: One (1) parking space for each three (3) employees
- 50. Junk Yard: One (1) parking space for each two (2) employees
- 51. Kindergarten: One (1) parking space for each two (2) employees plus one (1) parking space for each five (5) children enrolled

52. Laboratory: One (1) parking space for each two (2) employees
53. Laundry: One (1) parking space for two washer and dryer machines
54. Lodge: Parking spaces equal in number to thirty percent of the capacity of persons
55. Library: One (1) parking space for each three hundred thirty- three square feet of gross floor area (3/1000 GFA)
56. Microbrewery/Microdistillery
 One (1) parking space for each employee on the largest production shift plus the following based on area of use:
- One (1) parking space for each two hundred (200) square feet of floor area dedicated to serving the public (for a tasting room); and/or
 - Parking spaces equal in number to thirty (30) percent of the capacity of persons for the area dedicated to bar/tavern use (when in conjunction with a bar/tavern); and/or
 - One (1) parking space for each one hundred (100) square feet of floor area dedicated to the restaurant use (when in conjunction with a restaurant)
57. Mobile Home Park: One (1) parking space for each two (2) employees plus two (2) parking spaces for each mobile home
58. Motel: One (1) parking space for each sleeping room plus one (1) space for each two employees
59. Museum: Parking spaces equal in number to thirty percent of the capacity of persons
60. Night Club: Parking spaces equal in number to thirty percent of the capacity of persons
61. Nursery (day): One (1) parking space for each two (2) employees, plus one (1) parking space for each five (5) children enrolled
62. Office-Business: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
63. Office-Professional: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
64. Outdoor Business-Recreation Use: One (1) parking space for each three (3) employees plus one (1) space for each one thousand square feet of use area
65. Penal Institution: One (1) parking space for each three (3) employees plus one (1)

	parking space for each ten (10) inmates
66. Photo Studio:	One (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000 GFA)
67. Physician's Office:	One (1) parking space for each employee and ten (10) additional spaces per physician
68. Police Station:	One (1) parking space for each three (3) employees on shift
69. Public Utility:	One (1) parking space for each two (2) employees, plus spaces adequate in number (as determined by the Delaware-Muncie Metropolitan Plan Commission) to serve the visiting public
70. Radio Station:	One (1) parking space for each employee in the largest shift
71. Railway Station:	One (1) parking space for each ten (10) seats in waiting room, plus one (1) parking space for each two (2) employees of connected retail use
72. Recreational Club:	One (1) parking space for each three (3) rooming units, plus parking spaces equal in number to thirty (30) percent of the capacity of persons of such club
73. Restaurant:	One (1) parking space for each one hundred square feet of gross floor area (10/1000) GFA)
74. Riding Stable:	One (1) parking space for each five thousand (5,000) square feet of lot area
75. School:	One (1) parking space for each member of the staff, plus one (1) parking space for each six (6) auditorium seats
76. School, nursery:	One (1) parking space for each two (2) employees
77. School, high:	One (1) parking space for each two (2) faculty members and other full time employees, plus one (1) parking space for each ten (10) students based on the maximum number of students attending classes on the premises at one time during any twenty-four (24) hour period one (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000)
78. Shoe Repair:	One (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000)
79. Shopping Center:	One (1) parking space for each two hundred square feet of gross floor area (5/1000 GFA)
80. Slaughterhouse:	One (1) parking space for each two (2) employees

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|----------------------|---|
| 81. Sorority: | One (1) parking space for each three (3) active members or dormitory residents, plus one (1) parking space for manager, plus one (1) parking space for each two (2) full time employees other than students |
| 82. Sanitarium: | One (1) parking space for each six (6) beds, plus one (1) parking space for each staff or visiting doctor, plus one (1) parking space for each four (4) employees including nurses |
| 83. Tavern: | Parking spaces equal in number to thirty (30) percent of the capacity of persons |
| 84. Theater: | One (1) parking space for each six (6) seats up to four hundred (400) seats, plus one (1) parking space for each four (4) seats above four hundred (400) |
| 85. Theater-Outdoor: | One (1) parking space for each two (2) employees, plus one (1) parking space for manager |
| 86. Tourist Home: | One (1) parking space for each two (2) employees, plus one (1) parking space for each sleeping accommodation |
| 87. Truck Terminal: | One (1) parking space for each two (2) employees, plus four (4) parking spaces for customers |
| 88. Veterinarian: | Two (2) parking spaces for each three (3) animal cages or pens |
| 89. Video Store: | One (1) parking space for each two hundred fifty square feet of gross floor area (4/1000 GFA) |
| 90. Warehouse: | One (1) parking space for each two employees |

For uses not listed, the most similar category shall be used as determined by the Administrative Zoning Officer. The following standards and categories shall be used for retail:

General Retail	3.3 spaces per 1000 GFA
Convenience Retail	4 spaces per 1000 GFA
Service Retail	2.4 spaces per 1000 GFA
Temporary Retail	3.3 spaces per 1000 GFA

F SPECIAL CONDITIONS

A church may, by agreement approved by the Administrative Zoning Officer and filed with the Plan Commission Office, use adjoining parking facilities when the same are not in use, instead of providing its own. A group of business or industrial uses may provide a joint parking area if the number of spaces in the area equals or exceeds the aggregate of the spaces required for the several uses. Where there may be more than one use in the same building or structure, the total off-street parking requirement shall be the sum of the requirements specified herein for each of the various

uses.

ARTICLE XXX

Section 3 SIGNS AND OUTDOOR ADVERTISING

A PURPOSE

1. The purpose of this section is to promote and protect the public health, welfare, and safety of the community and its people by regulating existing and proposed outdoor advertising and outdoor signs of all types.
2. This section is also intended to protect property values; create a more attractive and economically vital business climate; enhance and protect the physical appearance of the community; preserve the scenic and natural beauty; and to provide more enjoyable and pleasant living conditions. The intent of this section is also to reduce the incidence of signs or advertising distractions, which may contribute to traffic accidents by their placement.

B GENERAL PROVISIONS

1. Definition: Hereafter a general definition of a sign shall mean an identification, description, illustration, or device which is mobile, affixed to or erected upon a property or tract of land, a building or a structure, and which directs attention to a product, place, activity, service, institution or business. All supports, poles, wires and other sign apparatus shall be defined as part of a sign, and hereafter referred to as sign apparatus.
2. Existing Signs - Conforming:
 - a. Definition: A conforming sign is a sign which meets the provisions established in this Ordinance.
 - b. Provisions: The lawful location and maintenance of conforming signs existing at the time of the enactment of this Ordinance and any amendments thereof may be continued provided that the following conditions are met: 1. That the existing sign is not expanded or reduced in size, or relocated in such a manner that would make said existing sign unlawful, 2. That no additional signs are placed on the same sign apparatus, upon which said existing sign is located, in such a manner that would make said existing sign or sign apparatus unlawful, and, 3. That an approved sign permit was obtained for said existing sign. When changes to an existing conforming sign are necessary, no said existing sign shall be expanded or reduced in size, or relocated without first obtaining an approved sign permit from the administrative zoning officer.
3. Existing Signs - Non-Conforming:
 - a. Definition: A non-conforming sign is a sign which does not meet the provisions established in this Ordinance.
 - b. Provisions: The lawful use of a non-conforming sign, existing at the time of the enactment of this Ordinance and any amendments thereof, may be continued provided that the following conditions are met: 1. That said existing sign is not expanded in size,

or relocated, unless such expansion or relocation brings the sign into conformity with this Ordinance; 2. That no additional signs are placed on the same sign apparatus upon which said existing sign is located, and 3. That said existing sign is not located within the proposed or existing right-of-ways as designated by the Official Thoroughfare Plan - City of Muncie (1979).

When changes to an existing non-conforming sign are necessary to bring the sign into conformity, no said existing sign shall be expanded in size, or relocated, without first obtaining an approved sign permit from the administrative zoning officer.

Whenever any existing nonconforming sign shall become damaged, by any means, so as to cause a need to replace more than fifty percent (50%) of the sign and sign apparatus, said sign shall be repaired or reinstalled in compliance with the provisions of this Section, thereby creating a conforming sign.

Except for ordinary maintenance, poster panel replacement, copy changes or lettering or repair not involving structural material or electrical changes, no nonconforming outdoor advertising signs or part thereof shall be erected, altered, constructed, changed, converted, re-erected, additionally illuminated, reduced in size, enlarged or moved unless the entire nonconforming outdoor advertising sign and structure is brought into conformance with the provisions of this Ordinance.

4. Existing Signs - Deteriorated or Inactive:

- a. Definition: Deteriorated: A sign that is in a poor or dangerous condition, such as, but not limited to, broken or leaning sign apparatus, portions of the sign missing, or chipping of paint. Inactive: A sign which no longer directs attention to a business, activity, service or product, sold or provided on the premises.
- b. Provisions: When a sign has been deteriorated or inactive for a period of thirty (30) days, the owner of the sign or the owner of the property upon which said sign is located, shall, upon written notice from the administrative zoning officer, remove or repair said sign. The sign shall be removed or repaired within thirty (30) days from the date of the notice sent to remove or repair the sign. Failure to comply with the order shall authorize said officer to initiate action for the removal of the deteriorated or inactive sign.

5. Liability Insurance: Any sign installing company which applies for a sign permit must have on file with the building commissioner's office, a current Certificate of Liability Insurance, covering bodily injuries, including death, with limits of not less than \$100,000 for each person and \$300,000 for each accident and \$25,000 in property damage which said liability policy shall carry an endorsement saving the City of Muncie from any claims, demands, or causes of action resulting from, in any manner, the erection or installation of said sign by said sign installation company.

6. Multiple Frontages: Each side of a building or structure is to be considered separately for purposes of determining compliance with the provisions of this Ordinance.

7. Multiple Uses of a Sign Apparatus: When more than one sign is to be located, added to, or placed on the same sign apparatus as where previously erected signs exist, all signs, existing

and proposed, must meet the provisions of this Ordinance, prior to the issuance of any additional sign permits.

8. Overall Height: Notwithstanding the provisions of the Ordinance, no sign shall at any point be over forty-five (45) feet in height above grade level unless the sign is located on a building that has a maximum permitted building height greater than forty-five (45) feet.
9. Right-of-Ways: Notwithstanding the provisions of this Ordinance, no sign shall be located or maintained within the proposed or existing right-of-way of any street or highway, as designated by the Official Thoroughfare Plan of the City of Muncie (1979). Exceptions to this requirement include a projecting sign, which may be located over public property, but shall not extend nearer to the curb line than five (5) feet.
10. Setbacks from Residences and Utilities: Notwithstanding the provisions of this Section, no sign allowable in nonresidential zones, excepting directional and warning signs, shall be located closer than fifty (50) feet to a residence in a residence zone, a school or a church.

Notwithstanding the provisions of this Section, any outdoor advertising sign shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the national electrical safety code, provided that in no case shall an outdoor advertising sign be erected closer than ten (10) feet horizontally or vertically from any conductor or public utility guide wire.

11. Total Number of On-Premise Signs per Property: The total number of on-premise signs for a property having a commercial or industrial use located thereon shall be based on the following formula: Two (2) on-premise signs per street frontage. However, where there are multiple uses on a single property, each occupant thereon is permitted a maximum of two (2) on-premise signs.
12. Repair and Maintenance: In the event any sign becomes damaged so as to create a potential hazard to the public health, safety and welfare and is in need of emergency repair and/or maintenance, all signs shall have the name of a contact person and a telephone number posted on the sign and/or sign apparatus, visible at all times. Such information shall also be provided as a part of the application record when obtaining any sign permit.

C PERMITTED SIGNS NOT REQUIRING A SIGN PERMIT ALLOWABLE IN ALL ZONING DISTRICTS

1. Directional or Warning Sign.
 2. Political Sign.
 3. Public Service Sign.
 4. Real Estate Sign.
 5. Real Estate Development Sign.
1. Directional or Warning Sign:

- a. Definition: Signs solely identifying situations of a directional, cautionary, or dangerous nature when public signs are not functional, such as, but not limited to, an entrance or exit sign.
- b. Provisions: If illuminated, the light source shall not be directed toward any street or any adjoining property in a residence zone. Signs identifying ingress and egress points of a property shall be placed in such a manner as not to interfere with the visibility of motorists or pedestrians.

2. Political Sign:

- a. Definition: A sign relating to the election of a person to public office, to a political party or group, or to a matter to be voted upon at an election called by a public body.
- b. Provisions: A political sign shall be removed within ten (10) days following the election. A winning candidate in a primary election may maintain his/her sign until ten (10) days following the general election. The person responsible for the removal of a political sign is the owner of the property upon which said political sign is located. If such signs are not removed within the specified time period, the administrative zoning officer may initiate action for removal of said sign.

3. Public Service Sign:

- a. Definition: A sign required or specifically authorized for a public purpose.
- b. Provisions: A public service sign can be any especially licensed sign, permitted by a legislative body, by franchise or by special license such as a sign on a bus, bench or trash receptacle. A public service sign may be a sign established by a public service agency as an aid to safety or service. A public service sign can also be a governmental or traffic sign.

4. Real Estate Sign:

- a. Definition: A clearly temporary sign, pertaining only to the sale, lease or rental of the premises upon which it is displayed.
- b. Provisions: A real estate sign shall not be illuminated and it shall be removed within ten (10) days after the sale, lease or rental of the property or premises.

5. Real Estate Development Sign:

- a. Definition: A business sign placed on the premises of a subdivision or other real estate development.
- b. Provisions: In the case of a real estate development sign, no sign shall be closer to an existing building than one hundred (100) feet. In a development of less than one (1) acre, or having a frontage under four hundred (400) feet on the street on which the sign is to be placed, the minimum distance to a residence in a residential zoning district, which

is not part of the development shall be at least fifty (50) feet. The maximum time for an individual sign to remain on the premises shall be twelve (12) successive months. Signs shall be removed when the development is completed or if the same would cease.

D PERMITTED SIGNS REQUIRING A SIGN PERMIT ALLOWABLE IN ALL ZONING DISTRICTS

1. Home Occupation Sign:

- a. Definition: A sign stating solely the name of a person and the name of the permitted home occupation.
- b. Provisions: A home occupation sign shall be permitted only when the property has obtained a special use home occupation approval from the Metropolitan Board of Zoning Appeals. The maximum size shall be one (1) square foot and it shall be placed flat against the residential structure. A home occupation sign shall not be illuminated in any manner. A sign permit shall be obtained prior to placement of a home occupation sign.

2. Identification Sign:

- a. Definition: An identification sign shall mean a ground or wall sign stating the name of a person, firm or description of a permitted use.
- b. Provisions: Signs may be used by professional, semi-professional, public, semi- public and religious institutions. One (1) sign shall be permitted for each building entrance. If illuminated, the light source shall not be directly visible from any street or adjoining property in a Residence Zone. A sign permit shall be obtained prior to placement of an identification sign.

E PERMITTED SIGNS REQUIRING A SIGN PERMIT ALLOWABLE IN NON-RESIDENTIAL ZONING DISTRICTS

- 1. Ground Sign.
- 2. Off-Premise Sign.
- 3. Pole Sign.
- 4. Projecting Sign.
- 5. Roof Sign.
- 6. Temporary Sign.
- 7. Wall Sign.
- 8. Clustered Use Sign

1. Ground Sign:

- a. Definition: A low-profile, on-premise sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure.
- b. Provisions: A ground sign shall not at any point be over three (3) feet in height above grade level when such sign is located within five (5) feet of the right-of-way line. When located five (5) or more feet from the right-of-way line, no ground sign shall at any point be over eight (8) feet in height above ground level.

A ground sign shall not be closer than three (3) feet to any building, or ten (10) feet to any other sign. Lighting reflectors shall not be more than six (6) feet away from the ground sign that they are designed to illuminate. A sign permit shall be obtained prior to the placement of a ground sign.

2. Off-Premise Sign:

- a. Definition: A sign which directs attention to a use, business, product, service, or activity not conducted, sold or offered upon the premises where the sign is located.
- b. 1) Provisions-General: Off-premise signs shall have a six (6) foot clearance beneath the signboard including cut-outs. Extensions allowed shall not exceed two hundred (200) square feet in area. Maximum extensions of cut-outs shall be: Above the sign board - six (6) feet, below the sign board - one (1) foot and any sides of the sign board - three (3) feet. An off-premise sign shall be permitted within existing building lines. A sign permit shall be obtained prior to the placement of an off-premise sign.
- 2) Special Provisions-Farming (F) Zoning District Exclusive: A minimum distance to another legally established off-premise sign shall be seven hundred fifty (750) feet between signs on the same side of any street or highway. An off- premise sign shall not be placed closer than one hundred (100) feet to the cross section of any intersection, railroad on-grade crossing, or ingress-egress drive or entrance. An off-premise sign shall have a minimum side yard setback of three (3) feet from the side property line and a minimum ten (10) foot setback from the right-of- way line of any street or highway. There shall not be more than two (2) off-premise signs per one-half (1/2) mile on the same side of any street or highway. There shall be a minimum distance of not less than two hundred (200) feet to any existing residence, church, school or other facility of common human use.
- 3) Special Provisions - Non-Farm, Non- Residential Zones: Off-premise signs shall be prohibited in the following zones: R-1 Residence, R-2 Residence, R-3 Residence, R-4 Residence, R-4A Residence, R-5 Residence, R-6 Residence, BP Business & Professional Office, SSS Student Social Service, and MHR Mobile Home Residence.

Off-premise signs may be permitted in the following zones provided the provisions of this Ordinance are met as well as all applicable building codes and permit regulations: F Farming, BL Limited Business, BC Community Business, CB Central Business, BV Variety Business, MT Major Trading, IL Limited Industrial, II Intense Industrial, IP Industrial Park and AD Airport Development.

The number of off-premise signs shall be limited to not more than one (1) such sign per one thousand (1000) feet, linear measure, on and along both sides of any street or highway. A minimum distance from one off-premise sign to another legally established off-premise sign shall be one thousand (1000) feet, linear measure, taken on and along the right-of-way lines on both sides of a street or highway.

The maximum area of display surface per off-premise sign shall not exceed three hundred (300) square feet. Only single-faced back-to-back signboards shall be permitted.

An off-premise sign shall not be placed closer than ten (10) feet to any right-of-way line of any street or highway carrying two lane traffic, excluding turn lanes, acceleration/deceleration lanes and passing blisters. An off-premise sign shall not be placed closer than twenty-five (25) feet to any right-of-way line of any street or highway carrying four lane traffic, excluding turn lanes, acceleration/deceleration lanes and passing blisters.

There shall be a minimum distance of not less than sixty (60) feet from an off-premise sign to any residence or to any residence zone. There shall be a minimum distance of not less than two hundred (200) feet from an off-premise sign to any school, church or institution for human care.

The City of Muncie Administrative Zoning Officer shall prepare and maintain a map indicating the location of all off-premise sign sites within the corporate limits of the City of Muncie and the number of off-premise signs on each site. An off- premise sign site shall be that area described by legal description on the deed to the property as recorded in the Office of the Delaware County Recorder at the time of enactment of this amendment.

Based on the number of off-premise sign sites existing at the time of enactment of this amendment, the number of sites may be increased by one percent (1%) per year. The beginning one-year period shall start from the date of passage of this amendment to December 31, 1985, with each successive one-year period running from January 1 to December 31 thereafter.

For off-premise sign sites in existence prior to this amendment, an off-premise sign permit may be issued provided that there shall be not more than one (1) off-premise sign per site, that the site is vacated by the discontinuance and removal from the site of all off-premise signs and that the off-premise sign and its location shall be in conformance with all applicable provisions of this Ordinance. Off-premise sign permits may be issued under this provision at any time as regulated.

For off-premise sign sites created by the one percent (1%) growth rate, an off-premise sign permit may be issued provided that there shall be not more than one (1) off-premise sign per site, that the off-premise sign and its location shall be in conformance with all applicable provisions of this Ordinance, and that there shall be not more than one (1) permit issued within any ten (10) day period to an owner of an off-premise sign. When the number of permits issued equal the number of newly created sites, no new permits shall be issued under this provision until the next one year period begins.

3. Pole Sign:

- a. Definition: A high-profile, on-premise sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure.

- b. Provisions: A pole sign shall have a minimum clearance of ten (10) feet between the bottom of the face of the sign and grade or sidewalk level. If the pole sign is supported by more than one pole, the space between the poles shall not be enclosed in a manner which would impair general public visibility. The maximum width of pole covers shall be the sum total of eighteen (18) inches in a horizontal direction, plus the width of the pole covered. No pole sign shall be erected in excess of sixty (60) feet in vertical height or three hundred (300) square feet in area per side. All bolted installation to concrete bases must have ground rods. Once a pole sign becomes inactive, as defined in this Ordinance, the pole or sign apparatus must be removed along with the sign itself. A sign permit shall be obtained prior to the placement of a pole sign.

4. Projecting Sign:

- a. Definition: An on-premise sign attached to a building or structure and extending wholly or partly beyond the surface of the portion of the building or structure to which it is attached; or extending beyond the building line; or over public property.
- b. Provisions: A projecting sign shall be placed at a distance not greater than two (2) feet from the face of the wall to which it is attached, measured from the part of the sign nearest thereto. No projecting sign or part thereof shall extend nearer to the curb line than five (5) feet, nor be placed lower than ten (10) feet above grade or sidewalk level. No projecting sign shall be erected to a height greater than sixty (60) feet above grade or higher than the cornice of any building which is three (3) stories or more in height, unless the same be entirely of steel skeleton construction and shall present only forty percent (40%) of the solid surface area to be affected by wind pressure. No projecting sign shall be erected when the area of one face of the sign shall exceed two hundred forty (240) square feet in area. Any movable part of the sign shall have an area not to exceed one hundred (100) square feet for a vertical sign, or fifty (50) square feet for a horizontal sign.

No projecting sign shall be secured with wood, nails or wire, unless with seven strand guy wire; nor shall any projecting sign be hung or secured to any other sign. Turnbuckles shall be placed in all chains and guy wires supporting projecting sign weighing two hundred (200) pounds or more. A projecting sign exceeding ten (10) square feet in area or fifty (50) pounds in weight shall not be attached to nor supported by frame buildings, nor wooden framework of a building. Other projecting signs shall be attached to masonry or, like walls, with galvanized expansion bolts at least 3/8 inch in diameter or shall be fixed in the wall by means of bolts extending through the wall. Projecting signs shall have no reflectors of the goose-neck type. No glass faces can be used in projecting signs, any other glass used shall be safety or plate glass at least 1/4 -inch in thickness. A sign permit shall be obtained prior to the placement of a projecting sign.

5. Roof Sign:

- a. Definition: An on-premise sign erected, constructed, or maintained upon the roof of any building or structure.
- b. Provisions: No roof sign shall project beyond the outer edge of the walls of the building

in any direction. No roof sign having a tight closed, or solid surface shall at any point be over twenty-five (25) feet above the roof level.

No roof sign with a tight closed or solid surface shall be erected on any building four (4) stories or over in height, but roof sign structures not having a tight, closed or solid surface may be erected on fire-resistive buildings to a height not exceeding thirty (30) feet above the roof level. The solid portions of the structures shall not exceed forty percent (40%) of the superficial area thereof. All signs which are erected on the roof of a fire-resistive building shall be thoroughly secured to the building upon which they are installed, erected, or constructed, by iron or metal anchors, bolts, supports, seven strand guy cable, steel rods or braces. All roof signs erected on non-fire-resistive buildings shall be so erected that the live and dead load stresses shall not in any manner adversely affect the building. Wind pressures not less than thirty (30) pounds to the square foot of the area of the sign must be withstood by said sign.

All roof signs shall be composed entirely of noncombustible material, including sign apparatus and supports, except the ornamental molding and battens behind the steel facings. A sign permit shall be obtained prior to the placement of a roof sign.

6. Temporary Sign:

- a. Definition: A temporary sign shall mean any sign, sign board, banner, or lightweight advertising display of more than two (2) feet in height, maintained for the purpose of displaying outdoor advertising by means of a reader board, permanently supported, anchored or attached to the ground or a building.
- b. Provisions: No temporary sign shall be maintained, displayed or placed on a property for a period longer than thirty (30) days after the issuance of the permit and ninety (90) days must expire before the permittee can reapply for a new permit for said sign on the property. A new permit is to be obtained for each thirty (30) day period.

No temporary sign shall at any point be over eight (8) feet in height above grade level, except a banner, in which case, it must have at least a ten (10) foot clearance above grade. No temporary sign shall be placed within the City of Muncie right-of-ways, proposed or existing. Any temporary sign unlawfully maintained in a public right-of-way, may be declared a public nuisance and a traffic hazard per State of Indiana Motor Vehicle Laws, Article III, and if necessary, the Administrative Zoning Officer shall remove the sign. Spotlights or flashing illumination, not over 40 watt bulbs, shall be used under any circumstances with a temporary sign. The Administrative Zoning Officer shall upon notice, remove any temporary sign not complying with the provisions of this Ordinance. A sign permit shall be obtained prior to the placement of a temporary sign.

7. Wall Sign:

- a. Definition: An on-premise sign attached to, or erected flatly against a wall of a building or structure.
- b. Provisions: No wall sign shall project away from the wall more than eighteen (18) inches. When a wall sign is located over a sidewalk and projects more than six (6) inches over the pedestrian area, the minimum distance from the sidewalk grade and the

base of the sign shall be eight (8) feet. A wall sign placed on a building of one (1) story shall not project more than ten (10) feet above the top of the wall or two (2) feet beyond the ends of the wall to which it is attached. A wall sign placed on a building of two (2) or more stories shall not project more than two (2) feet above the top of the wall or beyond the ends of the wall to which it is attached.

If the wall sign is an illuminated one, overhead lighting reflectors may project six (6) feet beyond the building line, but in no case shall the lighting reflectors be more than six (6) feet from the face of the wall sign. All reflectors extending over the sidewalk shall be secured and safely anchored. No wall sign shall be so erected as to prevent free ingress to or egress from the building, or any fire escape. A sign permit shall be obtained prior to the placement of a wall sign.

8. Clustered Use Sign:

- a. Definition: A sign, which identifies by name two or more uses located in a single integrated commercial or industrial development or subdivision. Such signs are designated for identification and locational purposes rather than advertising purposes.
- b. Provisions: Clustered use signs shall have a minimum clearance of ten (10) feet between the bottom of the face of the sign and grade or sidewalk level. If the clustered use sign is supported by more than one pole, the space between the poles shall not be enclosed in a manner, which would impair general public visibility. No clustered use sign shall be erected in excess of forty-five (45) feet in height and shall not exceed three hundred (300) square feet in signboard area, excluding supports, per side. All bolted installation to concrete bases must have ground rods. Signboards must be constructed of permanent, all-weather materials and supported by metal, masonry or concrete poles or supports. A sign permit shall be obtained prior to the placement of a clustered use sign.
- c. Locations: One (1) cluster use sign may be erected at each major public right-of-way or private driveway entrance leading into an integrated commercial or industrial development or subdivision. The sign may be placed either on or off the property where the uses are located, but shall not be placed throughout the subdivision or development itself. No clustered use sign shall be erected within fifty (50) feet of another clustered use sign or a pole sign. No clustered use sign shall be placed in the actual or proposed public right-of-way.

F PROHIBITED SIGNS

1. Definition: A sign not permitted under any circumstances.
2. Provisions: The following signs shall be prohibited in all locations unless otherwise specified in this Ordinance:

Types of Signs:

- a. Bearing statements, words, or pictures of an obscene and indecent character, such as would be offensive to the general public;

- b. Where, because of size, location, coloring, content, or illumination, a sign may bear close resemblance to or being an imitation of highway or traffic sign or signals, and incorporates in any manner flashing or moving apparatus that may create a traffic hazard, (State of Indiana Motor Vehicle Laws, Article III);
- c. Which interfere with the view of any signal, traffic sign or street sign (State of Indiana Motor Vehicle Laws, Article III);
- d. Inactive signs or sign apparatus as defined in this Ordinance;
- e. Deteriorated, leaning, derelict, or structurally unsafe signs, which constitute hazards by reason of inadequate maintenance, age, or abandonment, as defined in this Ordinance;
- f. On trees, telephone or light poles, fences, and on city streets or rights-of-way, alleys or sidewalks;
- g. Obstructing ingress and egress from a door, window, fire escape or exit, and;
- h. Unlawfully installed, erected or maintained.

G TECHNICAL PROVISIONS

1. City Electric Code:

- a. The light source shall not be exposed in a manner as to create hazards to pedestrians and motorists. The light source shall be shaded, hooded, or adequately screened to prevent the obstruction of pedestrian or motorist visibility.
- b. All electrically illuminated signs with exposed terminals shall be erected or maintained in such a manner that the exposed tubing or terminals will be at least ten (10) feet above the established grade, except where exposed tubing or terminals are properly property as required by City Electric Code 152.02(c). All wiring must be in metal raceway. Underwriters Laboratory, or Electrical Testing Laboratories Certification, or equivalent, must be included in the permit application when signs are electrically illuminated.

2. Fire Access: No sign or advertising display of any nature shall be installed, erected, maintained, or constructed in such a manner as to obstruct any fire escape or exit, or the ingress or egress from any window or door opening thereof, or be at any time attached in any manner to any fire escape.

3. Glass in Signs, Where Permitted:

- a. Ornamental or plain flat glass shall not be permitted to be hung from any location which extends over a public right-of-way (only permitted type of sign - projecting sign) unless the glass is supported at all times around the entire edge by a substantial metal supporting rib approved by the building commissioner and the glass is limited to one hundred (100) square inches in area within any one set of metal supporting ribs.
- b. Exposed glass in any advertising display shall be permitted only when the area within

any one (1) set of metal ribs is not greater than one hundred (100) square inches for each and every piece of exposed glass. The building commissioner may approve larger areas of exposed glass, plastic, or composition material, when properly enclosed and protected.

- c. All metal supporting ribs in any advertising display shall extend over and cover at least fourteen (14) inches of the portion of the surface of the glass that is to be exposed.
- d. In case a picture for fancy display is to be used in an exposed area of any advertising display, not more than two (2) open spaces not exceeding one hundred fifty (150) square inches each may be permitted in one advertising display.

4. Sound Devices:

Public address systems, loud speakers, or sound amplifying systems shall not be used in conjunction with any outdoor advertising sign or structures. In all businesses, including shopping centers, all sound devices shall be used for communication within the building or buildings. The use of sound devices for advertising, communication, or the production of music outside the buildings, is prohibited.

5. Supports:

- a. The dead load of projecting signs may be supported with chains or guy wires, and the working stress of the chains or guy wires shall not exceed one-fifth (1/5) of the ultimate strength of the chains or guy wires shall not be less than one-fourth (1/4) inch in diameter. Chains or guy wires supporting the dead load of any such projecting sign shall be erected or maintained at an angle of not less than thirty degrees (30°) with the horizontal. Supporting chains or cables may be used for the resistance of wind pressure, and the working stress of the supporting chains or cables shall be so designed that it will not exceed one-fourth (1/4) of the ultimate breaking strength of the chains or cables. The least cross-sectional diameter of the chains or cables resisting wind pressure shall be erected or maintained at an angle of forty-five degrees (45°) or more with the face of the sign that the chains or cables are supporting.
- b. In no case shall there be less than two (2) chains or cables designed to resist the dead load and two (2) chains or cables on each side to resist the live load of any projecting sign having twenty (20) square feet in facial area. Chains or cables resisting a wind pressure on any side of a projecting sign shall be not more than eight (8) feet apart.
- c. All supporting chains or guy wires, where used either for the resistance of a live or dead load, shall be secured to a bolt or expansion screw that will develop the strength of the supporting chain, or cable, with a minimum one-half (1/2) inch bolt or lag screw secured by an expansion shield or other method approved by the building commissioner.
- d. Chains or guy wires used to support the live or dead load of projecting signs, erected or maintained at an angle of more than forty-five degrees (45°) may be fastened to masonry walls with expansion bolts or by machine screw in iron supports. Where supporting chains or cables must be fastened to walls made of wood, the supporting or anchor bolts must go through the wood and be fastened securely on the other side.

- e. No staples or nails shall be used to secure any projecting sign or display to any building or structure, unless the sign or display weighs less than one (1) pound.
- f. Stiff arms, compression members, or members in flexure may be used to support either the live load or the dead load of a projecting sign, but the effective or unspanning length of the main compression members of any sign or stiff arm shall not exceed one hundred twenty (120) times the least radius of gyration, and for the secondary member, two hundred (200) times the least radius of gyration.
- g. In any projecting sign or advertising display, the extreme fiber stress of the steel to be used shall not exceed twenty thousand (20,000) pounds per square inch, and for wood, one thousand two hundred (1,200) pounds per square inch for any grade of lumber.
- h. In no case shall any advertising display support be attached to a parapet wall.

H AUTHORITY

- 1. No sign as defined herein shall hereafter be erected, maintained or constructed by any person except as provided in this section, or until after a permit to erect, construct, or maintain the same has been obtained from the Administrative Zoning Officer. No such permit shall be issued until the prescribed fee is paid as set forth in this Ordinance.
- 2. In case any sign or advertising display shall be installed, erected, maintained, or constructed in violation of any of the provisions of this section, the administrative zoning officer shall notify, in writing, the owner or lessee thereof either to alter the sign so as to comply with this Ordinance and to secure the necessary permit thereof, or forthwith to remove the sign. If the order is not complied with within ten (10) days after mailing the notice, the Administrative Zoning Officer may remove the sign at the expense of the sign owner, lessee thereof, or the property owner.
- 3. The Administrative Zoning Officer has the authority to appoint officers to enforce the provisions of this Ordinance. These officers have the authority to issue necessary citations, to issue tickets and to remove unlawful signs.
- 4. The Administrative Zoning Officer may adopt and prescribe suitable rules and regulations, consistent with the provisions of this Ordinance, concerning form and contents of all applications for the various kinds of permits herein required, and covering any other requirements for the applicant to protect the public safety and welfare.

I SIGN PERMIT PROCEDURES

- 1. Procedures: No sign shall be installed, erected, maintained or relocated without obtaining a sign permit issued by the administrative zoning officer in accordance with established procedures and inspections. The application shall include information, site plans, and specifications as may be required by said officer. Office records shall contain an accurate description of the sign for which a permit is issued, its location, photograph, and the date of completion of installation.
- 2. Provisions: A sign permit shall expire if work is not started within sixty (60) days of the date

of the permit approval, or completed within one hundred twenty (120) days of said date. A sign permit is not completely approved until after the actual sign permit is obtained from the Administrative Zoning Officer and the permit fee is paid.

If the applicant within does not obtain a sign permit, which has been approved by said Officer, from the office sixty (60) days of the date of permit approval, the permit is null and void.

Once a sign permit is approved, the installation or erection of any sign is subject to the provisions governing compliance set forth in this Section.

Extensions on any time limitation stated herein may be granted by the Administrative Zoning Officer where the sign permittee presents evidence to show cause why such extension is necessary.

J FEES

Permit fees for signs shall be based on site inspection costs.

TYPE OF SIGN	FEE
Clustered Use	\$30.00
Ground	\$25.00
Home Occupation	\$15.00
Off-Premises	\$25.00 + \$20.00 for each additional face on the same sign apparatus
Pole	\$25.00
Projecting	\$25.00
Roof	\$15.00
Temporary	\$10.00 per thirty (30) day period
Wall	\$15.00

K PENALTIES:

1. **Penalty Fee:** Any person who shall erect, install or alter a sign, as defined herein, prior to obtaining a sign permit, shall pay twice the amount of the permit fee set forth herein.
2. **General Penalty:** Whoever violates any provision of Section 150.212 shall be fined not more than \$1000 for each offense.
3. **Penalty Provisions:** The Penalty Fee assigned above does not supercede the General Penalty, and is to be considered a separate penalty. The General Penalty assigned above does not

supercede the Penalty Fee, and is to be considered a separate penalty. However, in no event, shall the combined assessment of a penalty fee and a general penalty exceed \$1000 for each offense. Each day's violation shall constitute a separate offense.

L INJUNCTIVE RELIEF AGAINST VIOLATIONS; RECOVERY OF COSTS:

Any violations of Section 150.212 may be restrained, enjoined, mandated, and/or abated by injunctive relief. Legal suit may be instituted either in the name of the administrative zoning officer or in the name of the city. The administrative zoning officer or the city, if successful, shall be entitled to recover all costs, expenses, and attorney's fees incurred in connection with the prosecution of the suit.

ARTICLE XXX

Section 4 GASOLINE SERVICE STATIONS

A DEFINITION

For the purpose of this Ordinance a gasoline service station shall be a retail place of business engaged in supplying goods and services essential to the normal operation of automobiles such as the dispensing of gasoline and motor oil; the sale and servicing of tires, batteries and other car accessories; the washing and lubricating of motor vehicles. This shall not include the sale of automobiles; the keeping of wrecked or disabled cars; the performing of body and fender work; or the painting or the performing of major motor repairs.

B STANDARDS

No gasoline service station shall be permitted unless it shall meet the following minimum requirements:

1. The owner, lessor and/or lessee shall, upon making application for a gasoline station, submit a drawing describing the manner in which buildings will be located on the premises; the manner in which the site will be conditioned and beautified; location of all permanent or floating signs; and any other similar requirement which may be requested by the Administrative Zoning Officer. The owner, lessee and/or lessor will be held jointly responsible for conforming with all the details of the plan as submitted. Any violation of a part of the plan shall be held to be reason for the nullification of a permit or refusal to issue one.
2. There shall be a maximum width of driveways at the sidewalk of thirty (30) feet.
3. There shall be a minimum setback of forty (40) feet from any and all streets.
4. There shall be a minimum frontage of one hundred and twenty (120) feet at the building line and a minimum of twelve thousand (12,000) square feet of lot area exclusive of rights of way.
5. The minimum distance from any driveway to any exterior property line shall be twenty (20) feet.

6. The minimum angle of intersection of driveways with the street pavement shall be sixty (60) degrees.
7. The minimum distance between curb cuts shall be thirty (30) feet.
8. No service station shall be erected, operated or maintained where an entrance or exit for motor cars is located on the same side of the street within one hundred (100) feet of a pedestrian entrance or exit from a public or private school, park, parkway, playground, library, church, hospital, home for children or senior citizens, or other public or semi-public institution.
9. No gasoline pump shall be located closer than fifteen (15) feet to the nearest lot line or line of established street or highway. On a corner lot, when a gasoline pump or a series of pumps are placed in a pump island parallel to the lot line or at an angle to the lot line, the end pump nearest to the street shall be located not closer than twenty (20) feet to the street line, measured along the axis of said pump island or islands.
10. The minimum distance from any driveway to any interior lot line shall be ten (10) feet.
11. A raised curb, six (6) inches high and two (2) feet wide shall be placed within the street right-of-way.
12. All hydraulic hoists and pits, lubrication, greasing, auto washing and repair equipment shall be entirely enclosed within a building.
13. Every lot used as a gasoline service station shall be paved with asphaltic or concrete surfacing and shall be adequately drained.
14. The minimum site of twelve thousand (12,000) square feet shall be limited to two (2) service bays and two (2) pump islands. Two (2) pump islands and one (1) bay may be added for each additional two thousand (2,000) square feet of extra site area.
15. A five (5) foot decorative fence shall be erected along all property lines separating the site from any dwelling and any Residence Zone.
16. Eight (8) on-site parking spaces shall be provided at a gasoline service station with two (2) or more service bays. In all other instances two (2) spaces shall be provided.
17. Exterior lighting shall be installed and maintained so as to cast no glare upon adjacent property or public right of way.
18. The parking of junk vehicles and rental vehicles shall not be permitted.

C SIGNS

Gasoline service stations shall comply with the following sign standards in addition to those already specified in the Outdoor Advertising provisions as contained in this Ordinance.

1. Only two (2) pole signs shall be permitted for each gasoline service station, which pole sign

shall be limited to advertising the trade name. The maximum permitted sign surface area shall be three hundred and twenty (320) square feet on each side of a double-faced sign.

2. No more than two (2) ground signs for each street frontage shall be permitted within the property lines, each of which shall not exceed twenty-five (25) square feet on each side of a double-faced sign. Such sign shall be used to indicate services, prices, products, and the announcement of incentives. Such signs shall be installed as stationary, fixed structures, not subject to being dislodged by high winds and shall not be portable or temporary structures.
3. Wall signs shall be permitted on the principal service station building.
4. Signs shall be permitted on pump islands but shall not exceed twenty (20) square feet on each side of a double-faced sign.
5. Window signs shall be permitted but shall not exceed six (6) square feet in area.
6. Display signs shall be permitted but shall not exceed six (6) square feet in area.
7. No sign shall be attached to a decorative fence installed with the purpose of screening the gasoline service station from a dwelling or Residence Zone.
8. Incidental signs shall be permitted as follows: (a) Station for sale, rent or lease; (b) Identification of the operator one (1) foot vertical and six (6) feet horizontal; (c) Directional signs one (1) square foot maximum. Only one sign for each subject shall be permitted.
9. No signs shall be placed on curbs or outside the property lines.
10. No signs shall be placed or installed on a site of a gasoline service station that will interfere with the vision of motorists and will constitute a traffic hazard.

ARTICLE XXX

Section 5 SWIMMING POOLS

Swimming pools in residence districts may be installed only as accessory to a dwelling for the private use of the owners and occupants of such dwelling and their families and guests, or as accessory to a nursery school or day camp for children, and only on the conditions as follows:

1. Such pool shall be installed in the rear yard of the premises.
2. There shall be erected and maintained at minimum a good quality fence not less than five (5) feet in height, with posts imbedded in concrete, enclosing the entire portion of the premises upon which such pool shall be installed and entirely surrounding the area in which such pool is located.
3. Every gate or other opening in the fence enclosing such pool, except an opening through the dwelling or other main building of the premises, shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool.
4. Such pool shall not be erected closer than four (4) feet from the rear and side property lines

of the premises, or, in the case of a corner lot, closer than ten (10) feet from "the required setback".

5. Such pool shall not occupy more than forty (40) percent of the area of the rear yard excluding all garages or other accessory structures located in such area.
6. If the water for such pool is supplied from a private well, there shall be no cross-connection with the public water supply system.
7. If the water for such pool is supplied from the public water supply system, the inlet shall be above the overflow level of the pool.
8. Such pool shall be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the Indiana State Sanitary Code relating to public swimming pools.
9. No "public address system" device which can be heard beyond the property lines of the premises on which any swimming pool has been installed may be operated in connection with such pool, nor may any lighting be installed in connection therewith which shall "create glare" beyond such property lines.

ARTICLE XXX

Section 6 DEVELOPMENT STANDARDS

A INTENT AND PURPOSE

These provisions are for the purpose of promoting the public health, safety, comfort, morals, convenience and general welfare; of securing adequate light, air, convenience of access, and safety from fire, flood and other danger; and of lessening or avoiding congestion in public ways. The intent of these provisions is to improve compatibility and provide transition between different uses and zones; to minimize the harmful effects of and reduce dust, debris, automobile headlight glare and other objectionable activities or views on adjoining or nearby residential uses; to protect property values and preserve the character of an area; to provide for landscaping to minimize the adverse effects of wind, heat, noise and glare, preserve the hydrology of a development site, assist in reducing the level of carbon dioxide in the atmosphere, prevent soil erosion, provide shade, and lessen the visual impact of development on the environment; and to preserve and improve the health, safety and general welfare of the public by promoting the environmental and public benefits of landscaped screening and buffer areas.

B DEVELOPMENT STANDARDS

1. APPLICABILITY

The development standards contained in this section shall apply to all development other than one and two family residential. No new building or structure shall be constructed or used in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used unless the requirements of this section are met subject to the following conditions:

- a. Enlargements or alterations which result in a greater than 10% increase in the ground coverage or a greater than 25% increase of the floor area require compliance with this section.
- b. Changes in the use of existing buildings, structures or land shall require compliance with this section.
- c. Restoration of an existing building, structure that has been damaged or destroyed by any means shall be permitted without conforming to the requirements of this section provided the restoration does not increase the ground coverage that was occupied by the structure being replaced by more than 10% and/or the restoration does not increase the floor area by more than 25%.

2. GENERAL OBJECTIVES

Sites to be developed shall be of such character that they can be safely used for building purposes without danger to the public health or safety, or peril from fire, flood or other causes. Vegetative screening shall separate commercial and industrial uses from residential properties. Site development should accomplish the following objectives:

- a. Adequate and safe vehicular and pedestrian circulation between the site and the public street network.
- b. Safe and adequate interior site vehicular and pedestrian circulation, parking and loading facilities.
- c. Year-round accessibility.
- d. Environmentally sensitive areas shall be protected and left undisturbed.
- e. Adequate drainage facilities.
- f. Mitigation of the adverse effects of spillover light, smoke, noise, glare, vibration, odors, or noxious and offensive uses.

3. STANDARDS

Developments shall comply with the following standards and the provisions of this Ordinance. Where standards may conflict, the following standards shall prevail.

- a. Greenbelt:

As a minimum, that portion of any lot which is within ten (10) feet of, and immediately adjacent to, the existing or proposed right-of-way of any public roadway shall be reserved as a green belt. Green belt areas shall be composed of grass and/or softscape treatment only, except that it may include pedestrian walkways provided the walkway does not occupy more than twenty-five percent (25%) of the green belt area and green space is maintained on both sides of the walkway. Access roads and driveways may cut through a green belt area perpendicular to the public roadway or parallel to a lot line

without replacement requirements. If access roads and driveways are located within a green belt area in any other manner, the green belt area shall be increased by at least an equal amount of area.

b. Access:

- 1) Access Roads: An access road shall mean a private roadway, providing ingress/egress for vehicles to enter and/or leave a lot from a public roadway, which provides access to more than one building, lot or use.
- 2) Driveway: A driveway shall mean a private entrance, providing ingress/egress for vehicles to enter and/or leave a lot from a public or private access road, which provides access to one building, lot or use.
- 3) Pedestrian Facilities: Pedestrian facilities shall mean walkways providing access from building entrance to building entrance, parking area to building entrance, and/or parking area to parking area.
- 4) Construction and Maintenance: All facilities (access, drive, pedestrian) shall be constructed and maintained so as to provide year round access and so that it will be maintained free of dust and debris.
- 5) Design: Points of access shall be combined wherever possible to minimize the number of access points onto public roadways. There shall be a maximum of two (2) points of access per street frontage. The minimum maintained width of an access road shall be eighteen (18) feet for two-way traffic and ten (10) feet for one-way traffic. Where a proposed access road lies within thirty feet of an existing three-way public or private road intersection, the centerline of the access road shall be in line with the centerline of such intersecting road. Wherever possible, access roads and driveways shall be designed so as to avoid funneling traffic into single-family residential areas. Except for industrial uses, access roads and/or driveways shall be designed to allow for interconnection among and between contiguous lots in order to minimize turning movements onto and from public roadways. Except for industrial uses, pedestrian facilities shall be designed to allow for interconnection among and between developments and within a development to minimize conflicts with vehicular traffic and to promote safe and efficient access from entrance to entrance to parking areas. All facilities (access, drive, pedestrian) shall be constructed under design standards approved by the city engineering department.

c. Lighting

Lighting provided on the site to ensure safe movement of persons and vehicles and for security purposes shall conform to the following:

- 1) All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. All lights shall be of a "cut-off" type with the lighting element completely shielded on all sides and top, excluding historic ornamental light fixtures and globes.

- 2) The maximum height of free standing lights shall not exceed twenty (20) feet when within two hundred (200) feet of 1 & 2 family use and shall not exceed thirty (30) feet when located more than two hundred (200) feet from 1 & 2 family use.
 - 3) The maximum height of lighting fixtures for pedestrian areas, including sidewalks adjacent to streets, is to be sixteen (16) feet. These fixtures should be placed every fifty (50) feet.
 - 4) Site lighting shall be of uniform design and materials, and shall compliment the architecture and landscape of the developed site.
 - 5) Lighting within gas station canopies and adjacent to residential areas shall be of a “downlighting” type with a light element completely shielded on all four sides and top.
 - 6) Lighting shall not cause illumination of adjacent residential properties and shall provide warm white lighting. Lights shall be located to provide maximum visibility and safety.
- d. Trash Collection Areas
- 1) Trash collection areas shall be effectively screened from public roadway view and view from adjacent non-commercial, non-industrial properties.
 - 2) Trash collection areas shall be located where their use will not interfere with traffic circulation of a public roadway or an access roadway.
- e. Outside Storage
- 1) Permanent outside storage of supplies and materials shall be screened from public roadway view and from the view from adjacent non-commercial, non-industrial properties and uses. This provision shall not apply to the outside display of merchandise nor to temporary outside storage of supplies and materials used during on-site construction activities.
 - 2) Outside display of merchandise shall not be closer than ten (10) feet to any public roadway right-of-way line, existing or proposed. Outside display of merchandise shall be reasonably screened from the view of adjacent non-commercial, non-industrial properties and uses.
 - 3) No outside storage of supplies and materials or outside display of merchandise, and accompanying screening, shall be placed in a manner which would impede visibility at points of ingress/egress.
- f. Landscaping Screening, Planting and Preservation

All portions of properties that are not intended for development shall remain in their natural state or be suitably landscaped with planting of trees (shade or ornamental), shrubbery, ground cover, grasses, mulches, etc. Landscaping shall minimize erosion and

stormwater runoff, provide necessary buffering and generally serve to blend the proposed use with the character of the surrounding natural area. The following landscaping standards shall be met.

- 1) Landscaping materials selected shall be appropriate to local growing and climatic conditions. Native species of plants shall be included in the plan whenever possible. Whenever possible, natural vegetation shall be maintained by appropriate construction practices and site layout. To provide for easier and more cost efficient maintenance, the following trees, which are prone to disease, excessive breakage, and other problems, shall not be used and/or planted as a part of any required landscape plan: acer negundo, box elder; acer saccharinum, silver maple; ailanthus altissima, tree-of-heaven; morus species mulberry; populus deltoides, cottonwood; and ulmus pumila, siberian elm. To protect the landscaping investment, care should be given to appropriate placement of trees to allow for growth of the root system without adversely affecting other improvements and adequate area for capturing rainfall.
- 2) Whenever appropriate, existing trees should be conserved and integrated into the plan. Healthy trees with diameters of twelve (12) inches or greater, measured at four (4) feet above grade, shall be marked on the plan and preserved to the extent possible. Where it is necessary to remove such mature trees, replacement trees shall be planted throughout the site at a ratio of two (2) new trees for each one (1) removed. These replacement trees may count toward meeting the tree planting requirements set forth for the green belt and for parking spaces. Replacement trees shall meet the following requirements: shade trees shall have a minimum three (3) inch trunk diameter at three (3) feet above grade, a minimum height of seven (7) feet and branching no lower than one-third (1/3) the height of the tree; ornamental trees shall have a minimum two (2) inch trunk diameter at two (2) feet above grade, a minimum height of five (5) feet and branching no lower than one-third (1/3) the height of the tree; and evergreen trees shall have a minimum height of seven (7) feet and a width not less than sixty percent (60%) of the height.
- 3) Except where the standards of Section 7 of this Article apply, landscape treatments shall be required based on the following:

Greenbelts, as defined herein, where landscaping shall include either shade and evergreen trees and/or ornamental trees as follows: one (1) shade/evergreen tree for each fifty (50) feet of frontage with a minimum diameter of two (2) inches measured at six (6) inches above grade; or one (1) ornamental tree for each thirty-five (35) feet of frontage with a minimum diameter of one and one-half (1½) to two (2) inches measured at six (6) inches above grade. The location of such trees is at the discretion of the developer/owner provided the required ratio is met and the trees are located in the green belt area.

Foundations, where foundation planting shall be equal to a minimum of five (5) feet of landscaped area and three (3) feet of sidewalk area for a minimum total of eight (8) feet in depth along the front wall of the building and, for a corner lot, along the side street wall of the building, excluding entryways and loading areas.

Parking spaces, where the total number of trees planted on-site shall, at a minimum, equal one tree for each ten (10) parking spaces.

The location of such trees, which may include replacement trees, buffering trees and green belt trees, is at the discretion of the owner/developer provided the required ratio is met.

Peripheral areas, where there shall be a peripheral vegetated buffer strip a minimum of ten (10) feet in depth, excluding areas subject to the green belt requirement, along any lot line abutting a non-commercial, non-industrial property.

- 4) Plantings and/or other landscape treatments (walls, fences, berms) shall be required, and permanently maintained, when abutting 1 & 2 family usage to accomplish an immediate buffer at least five (5) feet in height. When abutting an undeveloped Residence Zone permitting 1 & 2 family dwellings, plantings and/or other landscape treatment shall be required to accomplish a buffer at least five (5) feet in height within 3 growing seasons.
- 5) Landscape requirements refer to either softscape treatment such as greenery, plants, grass, and trees or to hardscape such as decorative stone, brick, and masonry walls, except in the green belt area where softscape treatment is required. Generally, plants shall be spaced apart at distances no greater than two times the width of the plant at maturity.
- 6) All required landscaping shall be installed prior to the issuance of a Certificate of Occupancy. If it is not possible to install the required landscaping due to weather conditions or other circumstances, all landscaping shall be installed within eight (8) months of the first occupancy of the buildings on the site. Surety may be required to ensure installation, such as, but not limited to, bonds, letters of credit, or personal guaranties.
- 7) Maintenance: Trees, vegetation, irrigation systems, fences, walls and other landscape material that are installed as required per this ordinance, the Plan Commission and/or the Board of Zoning Appeals are essential elements of a project. The petitioner and/or landowner, and their successors in interest are responsible for the regular maintenance of all landscaping elements such that they are kept in good condition. Specifically:
 - a) All plant material shall be maintained alive, healthy, and free from disease and pests and all plant materials which die following their installation shall be replaced with identical varieties or suitable substitutions.
 - b) All landscaped areas shall be free of weeds, litter, graffiti, and similar signs of deferred maintenance.
 - c) All landscape structures such as fences and walls shall be repaired or replaced periodically to maintain aesthetically appropriate and structurally sound conditions.

- d) The maintenance and routine care of plant material located within the rights-of-way shall be the responsibility of the adjacent property owners.

For purposes of this section, maintenance and care shall include but not be limited to pruning, watering, fertilizing, and mulching, or any item that would constitute a safety hazard to pedestrian or vehicular traffic.

g. Visibility at Intersections

Regardless of any provision of this Ordinance, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of three (3) feet and ten (10) feet above the centerline grades of intersecting public roadways in an area bounded by the right-of-way lines of such intersecting streets and a line adjoining points along said intersecting right-of-way lines thirty (30) feet from the point of intersection of said right-of-way lines.

C APPEALS

An owner may appeal any decision rendered in connection with this section to the Board of Zoning Appeals or request a variance from a development standard under established schedules and procedures set forth in Article XXXII of this Ordinance. Whenever an owner has filed an appeal from standards contained elsewhere in this Ordinance with the intent to comply, in whole or in part, with the standards contained in this Section, such intention to comply with the standards contained in this Section shall be deemed a reason in support of such appeal.

ARTICLE XXX

SECTION 7 CORRIDOR DEVELOPMENT STANDARDS

A PURPOSE

The purposes of this section are to:

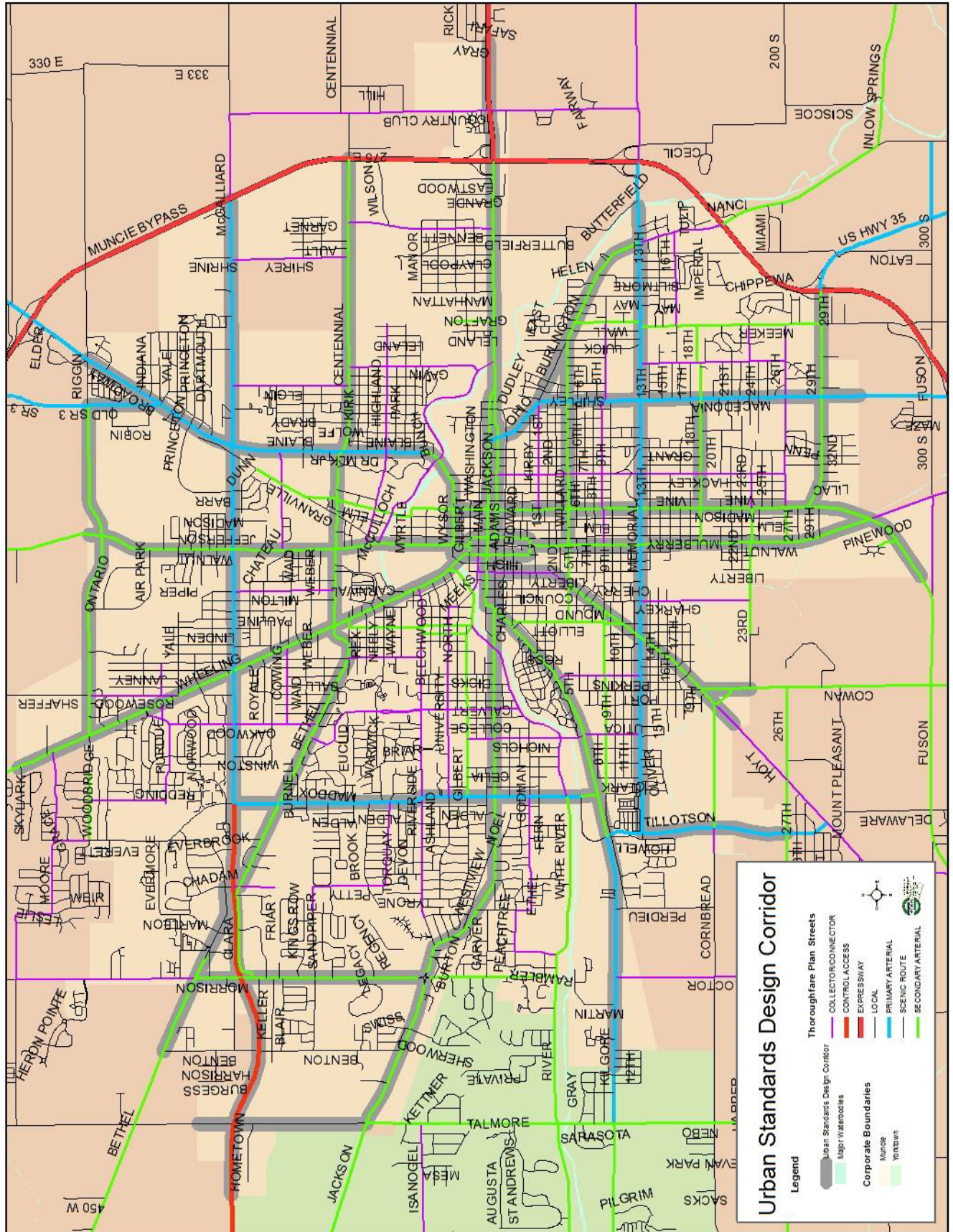
- Implement the land use and urban design elements of the adopted Comprehensive Plan;
- Encourage 360° quality development along the designated corridors so that the view from any direction is comparable and the architectural style, materials, color and design on the front elevation shall be applied to all elevations of the structure;
- Complement public investment in new gateways and other features on primary corridors throughout the community; and
- Support efforts to promote the enhancement of primary corridors which in turn enhances the economic and public health and general welfare of the City of Muncie.

B APPLICABILITY

1. Applicability to Corridors

The standards set forth in this section shall apply to development and building along the following specified corridors:

Corridor	Description – From (N & W points) and To (S & E points)
Bethel Avenue	West Corporate Limits to Centennial Avenue
Broadway Avenue	Riggin Road to McGalliard Road
Burlington Drive	Macedonia Avenue to Memorial Drive
Centennial Avenue	Bethel Avenue to Muncie By-Pass
Cowan Road	Hoyt Avenue to South Corporate Limits
Dr. Martin Luther King Blvd.	McGalliard Road to the White River
Hoyt Avenue	Liberty Street to South Corporate Limits
Jackson Street/SR 32	Nebo Road to East Corporate Limits
Kilgore Avenue	West Corporate Limits to Jackson Street
Liberty Street	Main Street to Hoyt Avenue
Macedonia Avenue	Ohio Street to South Corporate Limits
Madison Street	Wysor Street to South Corporate Limits
Main Street	Kilgore Avenue to E. Jackson Street
McGalliard Road	West Corporate Limits to Muncie By-Pass
Memorial Drive	Tillotson Avenue to Muncie By-Pass
Morrison Road	Bethel Avenue to Jackson Street
Nebo Road	North Corporate Limits to Jackson Street
Ohio Street	Main Street to Macedonia Avenue
Old State Road 3	Riggin Road to Broadway Avenue
Riggin Road	Wheeling Avenue to Old SR 3
Tillotson Avenue	McGalliard to Kilgore & Memorial to S. Corp. Limits
Walnut Street	Riggin to Washington & Downtown Roundabout to Madison
Wheeling Avenue	North Corporate Limits to High Street Bridge
Willard Street	Walnut Street to Burlington Drive
Wysor Street	High Street to the White River
18 th Street	Walnut Street to Macedonia Avenue
29 th Street	Madison Street to Muncie By-Pass



For purposes of this section, development shall be considered to be “along” one of these corridors and controlled by these regulations if any of the following apply:

- a. The property on which the development or building will occur has direct access to and/or frontage on any of the specified corridors; and
- b. If any portion of a parcel is subject to this Section, as defined above, then the entire parcel will be subject to these development standards.

Developments shall comply with the following standards and the provisions of this Ordinance. Where standards may conflict, the standards contained in this Section shall prevail.

2. Types of Development

The development standards contained in this section shall apply to all development, other than one and two family residential, which includes any development in any Industrial or Business zoning district, any permitted multi-family development, and any other development or use requiring a special use permit, excluding home occupations. For variances of use, the Board of Zoning Appeals may apply all or a part of these standards as deemed appropriate. No new building or structure shall be constructed or used in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used unless the requirements of this section are met, subject to the following conditions:

- a. Enlargements or alterations which result in a greater than ten (10) percent increase in the ground coverage or a greater than twenty-five (25) percent increase of the floor area require compliance with this section.
- b. Changes from a 1 or 2 family use of existing buildings, structures or land shall require compliance with this section.
- c. Restoration of an existing building, structure that has been damaged or destroyed by fire or an act of nature shall be permitted without conforming to the requirements of this section provided the restoration does not increase the ground coverage that was occupied by the structure being replaced by more than ten (10) percent and/or the restoration does not increase the floor area by more than twenty-five (25) percent.
- d. Where these standards are met in full or in part, nothing shall be altered that would result in noncompliance with these standards.

C GENERAL DESIGN STANDARDS

1. Streetscape and Pedestrian Accessibility

- a. Sidewalks shall be a minimum of six (6) feet wide along the specified corridors, being arterials, and five (5) feet wide along all other streets.
- b. Where pedestrians are forced to cross traffic lanes on streets other than residential streets, pavement markings, changes in pavement materials, medians and/or narrowing of the

paved street shall be used where practicable to alert drivers to pedestrian traffic in accordance with infrastructure standards and requirements of the City.

- c. Where the right-of-way permits, a four (4) to seven (7) foot planting strip shall be provided by the developer between the sidewalk and curb to serve as a buffer.
- d. Street trees within the public right-of-way may be substituted for required front yard greenbelt trees subject to the Street Tree Ordinance and required approvals from the Board of Works.

2. Bus Stops

- a. Any project with more than fifty thousand (50,000) square feet of floor area in one or more buildings shall include a bus-stop pull-off, with a shelter.
- b. Design and location of bus stop pull-offs and shelters shall be in accordance with applicable standards and requirements set forth by the City and the transit provider.
- c. A minimum of one (1) bench and one (1) trash receptacle should be present at each stop.

3. Additional Requirements

- a. Except as otherwise specifically required herein, the development standards set forth in Article XXX, Sections 6.B.3.a., 6.B.3.b, 6.B.3.c, 6.B.3.f, and 6.B.3.g shall apply to development along these corridors.
- b. Street and site furnishings and amenities such as benches, trash receptacles, and pedestrian-scale lighting should be located where appropriate along sidewalks, adjacent to buildings, and within parking lots, subject to applicable requirements and approvals of the City Engineering Department and the Board of Public Works & Safety.

D BUILDING SETBACKS

A building subject to these regulations shall meet the minimum setback requirements of the applicable zoning district and shall be subject to the following additional setback standards:

1. A building covering less than one hundred thousand (100,000) square feet shall be set back no more than twenty (20) feet from the right-of-way line, existing or proposed, whichever is greater.
2. A building covering one hundred thousand (100,000) square feet or more shall be set back no more than fifty (50) feet from the right-of-way line. This maximum shall not apply to a building which is part of a development plan that includes multiple lots, where other, smaller buildings will face the street and will meet the maximum setback required by sub-paragraph 1.

E BUILDING DESIGN STANDARDS

1. Building materials on the front façade, any façade visible from a public right-of-way, and

any façade with a dedicated public entrance into the building must be primarily of natural materials conveying permanence, such as but not limited to brick, stone, wood siding, split face, scored, or ground face block.

2. A building façade greater than fifty (50) feet in length shall contain architectural features, details and ornaments such as: offsets, arches; roof cornices; contrasting bases; contrasting masonry courses, water tables, or molding; pilasters or columns; corbeling; contrasting bands or color; stone or ceramic accent tiles; colonnades, or porches. Elements such as wall clocks, decorative light fixtures, and door or window canopies are recommended.
3. Facades visible from a public right-of-way may contain windows constituting a maximum of sixty (60) percent of the façade between three (3) feet and ten (10) feet in height.

F PARKING AREA LOCATION AND DESIGN

The following standards shall apply to the location and design of required parking areas:

1. The number of required parking spaces shall be determined from Article XXX, Section 2.E.
2. The design standards set forth in Article XXX, Section 2.C., , shall apply to development along these corridors, in addition to the standards set forth below in the following paragraphs.
3. Pedestrian access to building entrances from the street shall be integrated with the existing pedestrian network. On lots where off-street parking is located between the street and the building, such access shall consist of sidewalks four (4) feet in width running through planted medians or parking islands between parking bays. Parking lot layout shall take into consideration pedestrian and vehicular circulation; where it is necessary for pedestrians to cross vehicular circulation lanes, textured paving or other techniques shall be used to alert drivers to the crossings.
4. Parking areas in excess of the amount that can be provided within the maximum building setback, after providing for required landscaping, shall be provided to the side or rear of the building.
5. Parking lots shall provide connections to parking lots for uses in the same zoning district on adjacent properties. Common, shared parking facilities are encouraged, wherever possible.
6. Semi-opaque screening is required between parking areas and public right-of-way, at least thirty-six (36) inches in height but not to exceed forty-eight (48) inches in height, excluding trees, and such screening may be located in the required greenbelt. Screening may consist of decorative masonry or stone walls, ornamental fences, earth forms or berms, and hedges or other vegetative screens. Such screening shall maintain visibility at intersections and a ten (10) foot clear zone, measured from the edge of the public roadway pavement, at points of ingress/egress.
7. Loading docks and bays for service to businesses shall be located and oriented toward the side or rear lot line.

8. Loading/service areas are not permitted within required planting buffers.
9. Stacking for drive-thru lanes shall be confined to the rear of the lot or parcel, with the outlet from such lines also being to the rear of the building where practicable. Lines for drive-thru facilities shall not be permitted along the front of structures. The minimum stacking capacity for drive-thru lanes shall be as follows and if a use is not listed, the most similar use type shall apply:

USE TYPE	MIN NO. SPACES	MEASURED FROM
Bank teller lane	5	Teller or Window
Automated Teller Machine	3	Teller
Restaurant Drive-thru	8	Pick-up Window
Car Wash	5	Entrance

G LANDSCAPING STANDARDS

1. General Rule

A minimum of ten (10) percent of the total area of any site is required to be landscaped according to the following specifications. Where the sum of the landscaping required by the following sections would occupy more than fifteen (15) percent of the total site area, all required landscaping may be reduced proportionately.

2. Type and Size of Landscaping Materials

Landscaping materials required by this section shall meet at least the following size and quality standards at the time of planting:

- a. Shade trees shall have a minimum three (3) inch trunk diameter at three (3) feet above grade, a minimum height of seven (7) feet, and branching no lower than one-third (1/3) height of tree.
- b. Ornamental trees shall have a minimum two (2) inch trunk diameter at one (2) feet above grade, a minimum height of five (5) feet, and branching no lower than one-third (1/3) height of tree.
- c. Evergreen Trees shall have a minimum height of seven (7) feet and width not less than sixty (60) percent of the height.
- d. Deciduous shrubs shall be a minimum of eighteen (18) inches in diameter with no less than six (6) main branches.
- e. Evergreen shrubs shall be a minimum of eighteen (18) inches in diameter with no less than six (6) main branches.
- f. Tree monocultures are not permitted.
- g. Mature height and spread of the chosen tree species shall not interfere with overhead utilities. In cases where overhead utilities are present, unless special placement

considerations are made, tree species should be selected from Category A in the street tree list. Otherwise, a minimum of sixty (60) percent of the chosen species should come from category B.

3. Foundation Plantings

- a. Foundation plantings shall be included within fifteen (15) feet of the front façade, any façade visible from a public right-of-way, and any façade with a dedicated public entrance into the building, excluding entryways and loading areas.
- b. The minimum width of foundation planting area shall be five (5) feet.

4. Plantings in Required Front Yards

- a. Required front yard landscaping should consist of trees planted in one of the following alternatives:
 - 1) If deciduous shade trees or evergreens are used, one tree planted at a maximum of every forty (40) feet on center of linear distance, extending the entire length of the front lot line. Required trees may be grouped together in the front yard; however, in no case shall spacing between trees exceed eighty (80) feet.
 - 2) If deciduous ornamental trees are used, one tree planted at a maximum of every twenty (20) feet on center of linear distance, extending the entire length of the front lot line. Required trees may be grouped together in the front yard; however, in no case shall spacing between trees exceed fifty (50) feet.
- b. Required front yard landscaping may not be located within any portion of a public street right-of-way or regulated easement.

5. Perimeter Buffering Requirements

- a. Perimeter buffering should be located along the side and rear lot lines of a lot and should extend the entire length of the side and rear lot lines.
- b. Perimeter buffering may not be located within any portion of a public street right-of-way or regulated easement.
- c. Table G-5 for Bufferyard Determination should be used to determine the bufferyard required on each boundary of the lot by identifying the land use category of the proposed project and the adjacent properties and/or street classification.

**Table G-5
Bufferyard Determinations**

LAND USES	Single Family	Duplex	Multi-Family	Active Rec.	Institutional	Office; Retail	Warehouse; Lt. Industry	Hvy. Industry	Residential St.
Single Family	B	C	C	D	D	D	D	D	C
Duplex	C	A	C	B	B	C	C	D	B
Multi-Family	C	C	B	B	B	C	C	D	C
Active Rec.	D	B	B	A	C	C	C	C	B
Institutional	D	B	B	C	A	A	C	C	B
Office; Retail	D	C	C	C	A	A	C	D	B
Warehouse	D	C	C	C	C	C	A	B	B
Hvy. Industry	D	D	D	C	C	D	B	B	B

6. Bufferyard Design Standards

Bufferyard design standards in the following table are shown in terms of minimum width and number of plants required per one hundred (100) linear foot increments.

Bufferyard	Minimum Bufferyard Width		Shade Trees	Ornamental Trees	Shrubs
	Side	Rear			
A	5'	10'	2	1	5
B	5'	10'	2	2	10
C	10'	20'	3	3	15
D	15'	25'	4	4	20

7. Screening of Service Areas

Trash collection areas, drainage basins, outdoor storage, satellite dishes, HVAC systems, loading dock areas, and similar utility/service areas shall be screened from public view and from adjacent non-commercial, non-industrial properties. Service areas shall be located where their use will not interfere with the traffic circulation of a public or access roadway.

8. Landscaping in Parking Lots

Parking area landscaping located within and surrounding the parking lot area shall include a minimum of one shade tree and five shrubs for every seven (7) parking spaces provided and shall not be less than twenty (20) trees per parking lot acre. Buildings with parking areas located in the front yard shall have a minimum of one (1) shade tree and five (5) shrubs for every five (5) parking spaces provided and no less than twenty four (24) trees per acre. Parking lots with twenty (20) or more parking spaces are required to have the following:

- a. One (1) landscape Island or peninsula shall be provided per twenty (20) spaces and the islands shall be distributed equally throughout the parking lot.
- b. Each island or peninsula shall be at least one hundred eighty (180) square feet in size.
- c. Each island or peninsula shall contain at least one (1) tree per one hundred eighty (180) square feet.
- d. At least one-half (1/2) of trees planted in islands or peninsulas shall be shade trees.

No trees may be planted in an area where there is less than two and one-half (2½) feet of soil on all sides of the tree.

H LANDSCAPE MAINTENANCE

Trees, vegetation, irrigation systems, fences, walls and other landscape material that are installed as required per this ordinance, the Plan Commission and/or the Board of Zoning Appeals are essential elements of a project. The petitioner and/or landowner, and their successors in interest are responsible for the regular maintenance of all landscaping elements such that they are kept in good condition. Specifically:

1. All plant material shall be maintained alive, healthy, and free from disease and pests and all plant materials which die following their installation shall be replaced with identical varieties or suitable substitutions.
2. All landscaped areas shall be free of weeds, litter, graffiti, and similar signs of deferred maintenance.
3. All landscape structures such as fences and walls shall be repaired or replaced periodically to maintain aesthetically appropriate and structurally sound conditions.
4. The maintenance and routine care of plant material located within the rights-of-way shall be the responsibility of the adjacent property owners.

For purposes of this section, maintenance and care shall include but not be limited to pruning, watering, fertilizing, and mulching, or any item that would constitute a safety hazard to pedestrian or vehicular traffic.

I STORMWATER RETENTION PONDS

1. Permanent stormwater retention ponds and detention basins can function as an amenity to the

site, in addition to its primary function as a stormwater control facility. In situations where such amenity features are provided, no screening of the pond from on-site or off-site views is required. Otherwise, the stormwater retention pond or detention basin must be screened from view by vegetative screening using locally-adapted evergreen species, planted so as to screen at least seventy-five (75) percent of the perimeter of the facility to an average height of six (6) feet above grade.

2. To qualify as an amenity to the site or development where it is located, the following basic amenity features should be provided within any stormwater control facility:
 - a. Integrate the permanent stormwater retention pond or detention basin into the site design through the use of appropriate placement within the site and utilization of similar planting materials and building materials as used in the principal structure.
 - b. Provide pedestrian access walks or trails to and/or around the stormwater control facility from the existing and/or proposed pedestrian network associated with the site.
 - c. Include horizontal curves or other sculptural elements within the shape of the facility to avoid a simple square or round shape.
 - d. Side slopes and safety ledges shall be constructed and maintained in accordance with the requirements of the Stormwater and Erosion Control Ordinances.
 - e. Provide riparian plant materials throughout the stormwater control facility to prevent erosion and add visual interest, and additional perimeter plantings consisting of at minimum three (3) ornamental trees or two (2) shade trees, and four (4) shrubs for every one hundred (100) linear feet equivalent to the pond's maximum pool circumference and located no more than seventy-five (75) feet from the pond's maximum pool line.
 - f. Include other permanent, pedestrian-oriented features, such as seating, dining tables, and trash receptacles, in areas around the stormwater control facility.

J SIGNS

The standards of Section 3 of this Article XXX shall apply to signs located along the corridors, subject to the following modifications:

1. Pole signs are prohibited;
2. Ground signs shall be constructed in monument style, with a base consisting of stone, decorative CMU or concrete block, or brick, matching the materials used on the building façade.
3. A maximum of three (3) ground signs are permitted for a building with a total floor area of one hundred thousand (100,000) square feet or more and frontage on at least two streets. For buildings with a total floor area of greater than fifty thousand (50,000) square feet but less than one hundred thousand (100,000) square feet, or for a building with a floor area of one hundred thousand (100,000) square feet or more but with frontage on only one (1) street, a maximum of two (2) ground signs are permitted. For buildings with a total floor area of less

than fifty thousand (50,000) square feet, a maximum of one (1) ground sign is permitted.

4. Where more than one ground sign is allowed, there shall be a separation of at least three hundred (300) feet between ground signs.
5. All ground signs must be set back at least five (5) feet from the public right-of-way and shall not exceed eighty (80) square feet in sign board area per side. No sign may interfere with vision clearance.
6. A wall sign shall cover no more than ten (10) percent of the façade.
7. One wall sign shall be permitted on each wall facing a public right-of-way or an internal circulation road or driveway, whether public or private.
8. Ground signs shall be surrounded by a landscaped area at least equal to the sign area of the sign erected. Landscaping shall consist of living vegetation and natural ground cover materials. Rock, stone, or gravel shall not exceed twenty (20) percent of the landscaped area.

K OUTDOOR DISPLAY AND SALE OF GOODS

Temporary and permanent outdoor display and sale of produce goods, holiday goods, outdoor-related goods, and general merchandise is permitted, subject to the following conditions:

1. Outdoor display and sales may be allowed for the following goods and merchandise:
 - a. General merchandise that is displayed and offered for sale outdoors include goods that are customarily sold in connection with an established retail business on the same lot. Examples of displays that may be permitted include sidewalk sales and tent sales. Outdoor display and sale of these goods is permitted for a period not to exceed four days four times per year.
 - b. Outdoor-related goods include, but are not limited to, goods that are customarily used outside, including outdoor furniture, sporting goods for outdoor sports activities, plants, fertilizers, mulch, sod, lawn and gardening tools, storage sheds, grills, firewood, etc. Outdoor display and sale of these goods must be in connection with an established retail business on the same lot and is permitted without specified duration.
 - c. Produce goods include fruits and vegetables and other similar goods. Holiday goods include, but are not limited to, Christmas trees and pumpkins. Outdoor display and sale of produce goods and/or holiday goods shall be permitted for a period not to exceed thirty (30) consecutive days four times per year.
 - d. The designated outdoor display and sales area must maintain compliance with landscaping requirements and setback regulations.
2. Design and Location Standards
 - a. For developments equal to or greater than fifty thousand (50,000) square feet, the locations for proposed outdoor display and sales shall be shown clearly on the site plan

or development plan, and outdoor display and sales shall take place only in the designated areas.

- b. The proposed display and sale areas must not impede vehicular or pedestrian traffic and shall not utilize more than fifteen (15) percent of the required parking.
- c. The designated display and sale areas may not be located in required landscape or visual buffer areas.
- d. If applicable, building, electrical, fire prevention code, and hazardous use permits must be obtained.

L TEMPORARY AND PERMANENT ON-SITE STORAGE

Trailers, modular storage units and other on-site storage not within a permanent building shall be permitted only for developments greater than or equal to one hundred thousand (100,000) square feet in accordance with the requirements of this sub-section:

1. Storage units must be located in low-visibility areas (such as behind the building), and shall be screened from public view and adjacent residential properties.
2. Storage units may not be located within required landscape or visual buffer areas.

M SUSTAINABILITY STANDARDS

Each new development project is required to employ at least one (1) of the following sustainable methods for treatment of stormwater generated:

- Green roofs. Roofs would be constructed with a planting material to enable the storage of stormwater.
- Rain garden. Areas where rainwater can collect to slow the percolation time into the soil. A rain garden is planted with native plants which are drought tolerant to help clean the water during the infiltration process.
- Bio-swales. A bio-swale is a drainage swale which includes grass and/or native plants and vegetation designed to improve water quality by filtering water and allowing infiltration while channeling water.
- Stormwater planters. Stormwater planters are designed to accept runoff and channel it through perforated pipes at the bottom of the planter.
- Porous paving. Porous paving can include the use of pervious concrete and/or pavers designed to allow water to infiltrate rather than collect and create runoff.

Alternative sustainable methods not listed above may be submitted to the Plan Commission staff for approval. Where a project proposal incorporates more than one approved sustainable method, the project design may utilize an automatic building setback variance of five (5) feet in any direction, provided the required bufferyard for adjacent residential use is not decreased, or an automatic ten percent (10%) decrease in the number of required parking spaces, provided all bike rack requirements are met prior to the 10% decrease.

ARTICLE XXX**SECTION 8 UNIVERSITY VILLAGE OVERLAY DISTRICT****A PURPOSE AND INTENT**

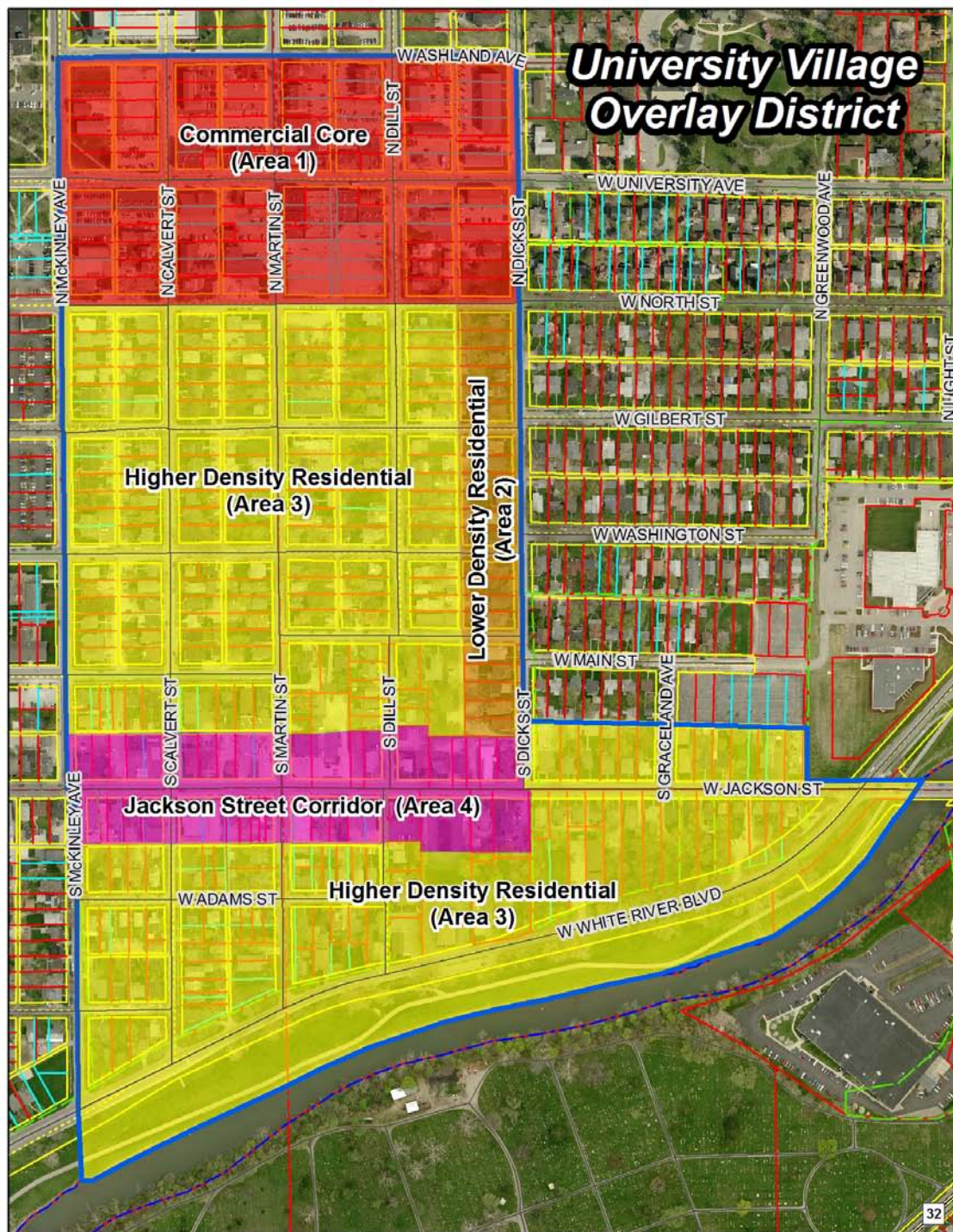
The purpose of the University Village Overlay District (the “District”) is to ensure future development and redevelopment in the commercial village area and surrounding neighborhood adjacent to the Ball State University campus is in accordance with the principles established in the University Village Area Development Plan, adopted in 2001 and incorporated into the Muncie-Delaware County Comprehensive Plan. Development and redevelopment within the District shall comply with the following standards and the provisions of this Ordinance. Where standards may conflict, the regulations within the District shall prevail. When regulations and standards are silent in the District the provisions found elsewhere in this Ordinance, such as for parking, landscaping and signage as set forth in Article XXX, Sections 1 through 7, shall apply.

However, the overall intent is to establish a framework for creating a unified and cohesive community within the entire District. To that end, future development and/or redevelopment activity within the District should adhere to six broad-based guiding principles, which would be considered when evaluating project appropriateness:

- **Identity.** University Village should be destination attractive to various users and residents, with its own unique brand identity that people can understand.
- **Connectivity.** University Village should maintain its physical connections to the Ball State campus, while also promoting linkages to the greater Muncie community.
- **Walkability/Bikability.** University Village should create an environment where walking and biking can serve as the primary options for transportation.
- **Sustainability.** University Village should serve as a model for the best redevelopment practices as it relates to stormwater management, green building design, energy conservation, and construction practice.
- **Comprehensive.** University Village should be a comprehensive program which generates positive change to the perceptions people have of the broader village area.
- **Vibrant Commercial Core.** University Village should have an active and vibrant commercial district which serves the Ball State and Muncie communities.

B APPLICABILITY

This standards and regulations set forth in this Section shall apply to development and redevelopment within the District, a geographic area shown on the following Map. The District is further divided into four separate Areas, each with its own allowable uses and design standards (See Boundary Map).



Boundary Map

C DEVELOPMENT PLANS AND PROCEDURES

Future project proposals within the District shall require a development plan that must be reviewed and approved in accordance with the procedures set forth herein.

1. VILLAGE REVIEW COMMITTEE

A specially appointed Village Review Committee (VRC) shall be established for the purpose of reviewing and approving all Development Plans in the District.

- a. **VRC Membership.** The VRC shall consist of five (5) voting members. Members shall be appointed to staggered three-year terms, so no more than two (2) members shall be replaced during any calendar year. Appointments shall be as follows: Metropolitan Plan Commission shall appoint, by majority vote, two members; Muncie City Council shall appoint, by majority vote, one (1) member; the Mayor's Office of the City of Muncie shall appoint one (1) member; and Ball State University shall appoint one (1) member. Members of the VRC shall have a degree and/or professional experience in the fields of architecture, urban planning, landscape architecture, urban design, historic preservation, real estate, or other similar fields.
- b. **VRC Rules of Procedure.** The Plan Commission shall establish the rules of procedure relative to meeting schedules, the approval process and other operational items.

2. DEVELOPMENT PLANS

All projects within the District requiring a permit from the Building Commissioner's Office shall require the submission of a Development Plan to the Metropolitan Plan Commission prior to receiving a permit(s). Except as noted in this Section, the Executive Director, on behalf of the Plan Commission, shall forward all Development Plans to the VRC for approval. Development Plans must include the following items:

- Site Plan drawn to scale showing all existing and proposed buildings and uses. Site plans must include: parking location and layout, curb cuts, building setbacks, and any pedestrian/streetscape improvements.
 - Project elevation drawings on all sides, which show all exterior materials and colors.
 - Project floor plans.
 - Landscaping plans, which include any existing or proposed new landscaping, streetscaping elements, screening, walls, or fencing.
 - Signage and lighting plans.
 - Utility placement, including any storm drainage improvements.
 - Information relating to the project's sustainability features and amenities.
- a. **Plan Exemptions and Waiver.** The Executive Director may waive the requirements of submittal of a Development Plan to the VRC under the following conditions:
 - The applicant's proposed project does not add more than twenty percent (20%) to the existing structure's overall gross floor area; and
 - The proposed project is in harmony with the land use standards called forth in the District; and
 - The proposed project does not detract from the appearance of the District; and
 - The proposed project exhibits site characteristics consistent with the guiding principles, which may include increased landscaping treatment, provision for public bicycles, reduced surface parking, or improved streetscaping.

The Executive Director may also waive individual requirements of the Development Plan submittal pending the nature of the project being submitted by the Applicant.

- b. Development Plan Approval. If the Executive Director does not grant a waiver to an Applicant, Development Plans must be reviewed and approved by the VRC. The Executive Director shall make written findings concerning the VRC's decision to approve or disapprove the Development Plan. The Applicant may appeal any decision by the VRC to the Plan Commission under established schedules. Approvals may include conditions such as requiring written commitment by the Applicant. Approvals may also require Applicant to provide some level of financial guarantee (performance bond, surety, etc.) to ensure conditions and/or commitments are completed. Once approval is provided to the Applicant, no changes may be made without further approval by the Executive Director and/or the VRC as set forth herein. Approvals provided by the VRC are based on compliance with the guidelines established in the District. Such approvals do not substitute or replace other necessary approvals and permits which may be required.

D DEVELOPMENT STANDARDS

1. GENERAL DEVELOPMENT STANDARDS

The General Development Standards within the District are established to reinforce the overall guiding principles, while encouraging high-quality development and improving the overall aesthetics and urban character of all Areas within of the District.

a. STREET NETWORK

- 1) Streets. Current streets shall remain in place with no permanent street closures or widening beyond their existing conditions. Streets shall remain under public control, although improvements to their condition and function (i.e. new parking lanes, improved drainage, resurfacing, etc.) may be provided.
- 2) Alleys. To the fullest extent possible, alleys should continue to remain in place and serve as the primary vehicular access point to parking areas, loading areas, utility service, and trash collection for all residential, commercial, and mixed-use areas.
- 3) Sidewalks. Sidewalks shall continue to be a prominent element within the entire district, and must be present in every block on both sides of the street. Sidewalks in Overlay Area 1 should be wider than those along the residential streets, and should generally extend from the edge of the building all the way to the curb. Sidewalks in residential areas (Area 2 and Area 3) should be at least five feet in width, with a three foot planting strip between the walk and curb where permissible. Sidewalks along Jackson Street (Area 4) should be a minimum of five (5) feet in width, with a minimum five (5) foot front yard planting strip between the walk and curb if the right-of-way width is sufficient.
- 4) Curb Cuts. To the fullest extent possible, curb cuts shall not be permissible along any street in the District, unless they are providing access to a parking lot or parking garage. In those instances, entrance/exits to parking areas shall be along the non-

primary façade of the property/building being serviced. Under no circumstances shall curb cuts be permitted along University Avenue. Curb cuts shall be placed a minimum of fifty (50) feet apart from one another, and wherever possible, curb cuts shall be aligned on opposite sides of the streets from one another. Curb cuts shall also be placed a minimum distance of sixty (60) feet from an intersection with another street.

b. ON-STREET PARKING STANDARDS

- 1) Location. All streets should accommodate dedicated on-street parking lanes on both sides of the street, with the exception of University Avenue, McKinley Avenue, and Jackson Street. However, if a new development project is located along McKinley Avenue or Jackson Street and encompasses an entire blockface, consideration should be given towards expanding the public right of way to allow for newly created on-street parking opportunities in front of new developments.
- 2) Curb extensions. Where possible, curbs at intersections shall be extended to provide further definition to the dedicated on-street parking lane. Midblock curb extensions, or bumpouts, are also encouraged along non-residential streets.
- 3) Layout. On-street parking spaces shall be parallel type spaces (not angled).
- 4) Loading Areas. Whenever possible loading areas should be limited to the rear of the buildings so they are not visible from the street. In situations where this is not possible, dedicated loading areas for commercial uses can be situated within the on-street parking lane, however, efforts should be made to incorporate a loading area into a parking space in lieu of creating a dedicated loading area along the street.
- 5) Parking Requirement. For the purposes of calculating the required number of parking spaces for a specific development type, each on-street parking space located along the public road frontage of a parcel shall count as one-half of a space when calculating the minimum required spaces.

c. OFF-STREET PARKING STANDARDS

- 1) Location. Surface parking required for new commercial and mixed-use buildings should be accommodated to the rear of the new building, accessible from the alley or side street. Shared parking shall be allowed and encouraged to the fullest extent possible. Future commercial and mixed-use projects may meet these parking requirements through an off-site parking agreement.
- 2) Needed Spaces (Residential). New residential uses shall be required to provide one-half (1/2) parking space for each bedroom.
- 3) Needed Spaces (Commercial). Any new non-residential use in Area 1 or 3 shall provide three (3) parking spaces for each one thousand (1,000) square feet of commercial space but no more than four (4) parking spaces per one thousand (1,000). Future commercial uses in Area 4 shall be required to provide a minimum of four (4) parking spaces for each one thousand (1,000) square feet of commercial space.

- 4) **Parking Garages.** New parking garages must be clad in masonry materials consistent with the elevation of the development uses they are serving. Access to parking structures should be along non-primary facades whenever possible. Garages which are “wrapped” with other development uses in front of them are acceptable and encouraged, provided access to such garages remains clearly visible and identified as such.

d. STREETSCAPE STANDARDS

Any proposed improvements in the public right-of-way shall be subject to right-of-way use approval by the Board of Public Works.

- 1) **Sidewalks.** Sidewalks for new construction along University Avenue should extend from the edge of the building facade to the edge of the curb. Sidewalk widths may fluctuate to allow for outdoor dining and street furnishings however should be a minimum of fifteen (15) feet for new projects being constructed. Sidewalk materials should be predominately concrete. Decorative brick pavers may be used as accent materials to add visual interest to specific areas. However, decorative paving materials should be consistent in color, style, and material with adjacent buildings. Paving patterns should be simple with no more than two (2) styles and materials per “space” created. Decorative pavers may be used in places such as storefront entrances, outdoor eating areas, plazas, crosswalks, or other areas which designate pedestrian activity.
- 2) **Furnishings and Outdoor dining.** Streetscape elements may incorporate:
 - Decorative pedestrian-scaled streetlights
 - Decorative benches and trash receptacles
 - Decorative bicycle racks
 - Planters and seating areas
 - Directional/identity signage
 - Outdoor dining areas

When outdoor dining areas are provided, they should be fenced off with a decorative ornamental fence and should allow for a minimum of six (6) feet of pedestrian clearance between the fencing and curb.

- 3) **Streetlights.** When streetlights are a part of a proposed project, they should meet all requirements set forth by the Board of Public Works relative to fixture type and spacing. Light fixtures may include banner holders and/or planting hangers, provided such features are consistent.

e. SUSTAINABILITY STANDARDS

Sustainable Methods. Each new development project is required to employ at least one (1) of the following sustainable methods for treatment of stormwater generated:

- Green roofs. Roofs would be constructed with a planting material to enable the storage of stormwater.
- Rain garden. Areas where rainwater can collect to slow the percolation time into the soil. A rain garden is planted with native plants which are drought tolerant to help clean the water during the infiltration process.
- Bio-swales. A bio-swale is a drainage swale which includes grass and/or native plants and vegetation designed to improve water quality by filtering water and allowing infiltration while channeling water.
- Stormwater planters. Stormwater planters are designed to accept runoff and channel it through perforated pipes at the bottom of the planter.
- Porous paving. Porous paving can include the use of pervious concrete and/or pavers designed to allow water to infiltrate rather than collect and create runoff.

The VRC may accept alternative sustainable methods not listed above. Where a project proposal incorporates more than one of the above sustainable methods but as a result cannot meet site landscaping, greenspaces, and/or parking lot landscaping requirements, the VRC is authorized to waive such requirement in favor of providing additional sustainable features to a project.

f. UTILITIES STANDARDS

- 1) Sanitary Facilities. No private septic tanks or septic systems will be permitted.
- 2) Public Water. No private wells or water tanks are permitted.
- 3) Gas/Electric. Outdoor heating tanks (propane tanks or oil tanks) are not permitted. Any connection made to the existing electric network must be made via underground connections, and no new overhead power lines will be permitted. In those instances where existing overhead electric mains may require relocation, efforts shall be made to bury these lines whenever possible.
- 4) Communications. New overhead communications lines are not permitted, and cell towers are not permitted. Satellites dishes are allowed provided installation of any satellite dish is not located along the primary façade of a structure and generally cannot be viewed from the street.
- 5) Equipment Visibility. Any utility meters and equipment required for new structures should be located away from the primary façade of a building to the fullest extent possible, and should be landscaped and screened. Rooftop mounted equipment must be positioned so they cannot be seen from the street. Any equipment which promotes sustainability and energy efficiency, such as solar panels or building mounted wind systems, is encouraged. Placement of such features should be done in a manner to minimize their visual impact from the street.

g. LIGHTING

- 1) Commercial. Commercial storefront windows and entrances should be well lit to better enhance the pedestrian-oriented character of the Village. New lighting fixtures should be consistent in style and scale to the exterior façade of the building.

Appropriate lighting styles should be used for the following purposes:

- Define building entries;
- Illuminate the sidewalk area;
- Light signage features; and/or
- Highlight prominent architectural elements.

All new commercial and mixed use buildings must have a well-defined entrance with a minimum of one (1) exterior light fixture clearly indicating the entrance area and building address. Additional lighting may be provided to light storefronts, facades, signs, and any other architectural element.

- 2) Residential. New residential structures with a common entrance (apartments) must have a well-defined entrance with a minimum of one (1) exterior light clearly indicating the entrance area and building address. Residential structures with a private entrance (townhomes, brownstones, retirement villas, single family homes) must also have a minimum of one (1) exterior light adjacent to its entrance. Building lighting must be integrated into the design of the residence and reflect the character of the building and surrounding neighborhood. Lighting should be attached to the building façade.

h. AWNINGS

When utilized, building awnings design and colors should be consistent and complimentary in color and style with the overall building façade and adjacent buildings. Awnings should be located in line with adjacent awnings. Awnings should be constructed with a metal armature with a canvas or vinyl membrane. Internally lit awnings are not permissible.

i. ADDRESS IDENTIFICATION

All commercial, mixed use and residential buildings are required to display their address numbers which should be incorporated as a decorative element into the building's design. Building address numbers should be near the primary entrance and visible from the street. The use of vinyl applied labels is discouraged.

j. SIGNAGE

In addition to the provisions set forth elsewhere in Article XXX, the following provisions shall apply in the District.

Business signs may be wall mounted or projecting signs or incorporated into the awnings over storefronts. In Area 4, a maximum of one (1) free standing ground sign is permitted per commercial property, limited to no more than forty (40) square feet in area. Free standing pole signs, off-premise signs, and building-mounted off-premises signs are not permitted.

Business signage should whenever possible be incorporated into the building's architecture with materials and elements consistent with the building's façade and style. Business signage should be simple and easy to read with letters consistent to the scale of the building. Signage lighting needs to be compatible with the architecture of the building. Internally lit sign panels are not permitted. Business signage may not exceed ten percent (10%) of the façade.

Wall mounted signs should not project more than twelve (12) inches from the building façade. A projecting sign should be oriented to pedestrian rather than vehicular traffic in terms of scale and placement. Projecting signs should be no greater than twenty-five (25) square feet in size, and extend no further than forty-two (42) inches from the façade. No more than one (1) projecting sign is permitted per business.

Business signage may also be provided by window lettering, either painted or vinyl applied. Window lettering should be proportional to the size of the glass opening and must be limited to one central location on the primary display window or door.

2. AREA 1 UNIVERSITY VILLAGE MIXED USE DEVELOPMENT STANDARDS

a. STATEMENT OF PURPOSE AND INTENT

The four block stretch of University Avenue between McKinley Avenue and Dicks Street currently functions as the university's primary commercial district and includes a mix of businesses and mixed-use buildings which primarily cater to the student market. While the overall mix of uses and businesses may evolve to serve a broader market base, this segment of University Avenue must maintain its vibrancy and uniqueness by continuing to provide a mix of commercial and residential buildings in a village-like atmosphere with strong pedestrian orientation and scale. All properties in Area 1 are currently zoned as BL Limited Business. The uses and standards set forth herein shall supplement and/or supersede those set forth in the BL Zone. The primary goals in Area 1 are:

- Create a strong, identifiable, and unique commercial atmosphere which serves the Ball State community, as well as the city as a whole.
- Provide a thriving mixed-use environment of pedestrian-oriented businesses, services, restaurants, offices, and residential units.
- Ensure that this four-block stretch of University Avenue is designed primarily for pedestrians and bicycles.
- Increase the critical mass of activity for people to live, work, shop, and play in and around the Village.
- Maintain the Village's history by carefully integrating new development within the existing fabric of the neighborhood.

b. PERMITTED USES

In addition to the BL Limited Business Zone permitted uses, properties in Area 1 may include the following uses:

- Multi-story mixed use buildings, with residential units or office space on the upper floors and commercial uses on the ground floor
- Hotel, inn, and meeting/convention space
- Cinemas, movie theaters, performing arts venues
- Art galleries
- Health clubs/fitness centers
- Restaurants, which may include quick-service or sit-down establishments, pubs, and bars, but establishments shall not have drive-through windows.
- Other similar uses appropriately designed to foster a pedestrian-oriented and diverse environment.

Area 1 will place greater emphasis on building forms, site development, and materials than on specific uses; provided proposed uses are consistent with the overall goals and objectives for Area 1 and the overall guiding principles of the District.

c. BUILDING FORMS

New commercial and mixed use buildings should be evaluated based on the relationship between the subject property and adjacent structures. New mixed-use buildings should strive to maintain (or create) a consistent “street wall” rhythm, but one that varies and creates visual interest to the pedestrian. Relationships to adjacent buildings should contribute to the continuity of the street wall. Gaps between new buildings that face University Avenue which interrupt the street wall are discouraged except in those instances where an alley intersects with the street. Access to surface and structured parking areas should not be allowed from University Avenue, and should be entered only from the side streets or alleys.

In the event a new building is constructed in a given block where there is no established street wall, the subject property must strive to establish a new pattern. Large building facades should be designed to reduce the perceived bulk by dividing the building mass into smaller scale components. Buildings need to be oriented to the street, with primary building entrances and windows facing the primary street frontage. Irregular building forms at random angles to the street are discouraged.

Multiple building complexes are encouraged to maintain a consistent orientation to one another along the street wall. Variations should be provided in both horizontal and vertical elements relating to massing and design to help create greater visual interest.

Free standing single-use commercial buildings (or outlot buildings) should be used sparingly along University Avenue, and only for specific commercial uses. If a single-story commercial outlot building is constructed (such as a free standing grocery store), the building must have high ceilings to help reinforce the street wall along University Avenue. Single story and/or single use buildings must be at least 22 feet in height, and should still be positioned close to the street and other adjacent buildings.

d. BUILDING SETBACKS

New buildings constructed in Area 1 may have a zero foot front yard setback to the property line, pending the location of the street right-of-way, provided an ample

pedestrian zone is established between the building façade and curb. When an outdoor dining area is provided there should be a minimum six (6) foot setback from the curb to the fencing for such dining area. Side yard and rear yard setbacks can be zero (0) feet to the property line, provided property is not adjacent to an alley or residential property. In such instances, a minimum five (5) foot setback shall be required.

e. **BUILDING HEIGHTS**

New buildings must appear to be at least two (2) stories in height, but no greater than four (4) stories in height along University Avenue except as provided herein. Minimum height shall be twenty-two (22) feet, with a maximum height of fifty (50) feet. Commercial and mixed-use buildings shall have a minimum first floor height of fourteen (14) feet floor to floor above ground level (parking structures may be slightly lower in height), with upper floors having a minimum of ten (10) feet floor to floor. Larger mixed-use structures which encompass an entire city block or half-block may include a fifth (5th) story and be taller than the prescribed height, provided the fifth (5th) story is stepped back away from the University Avenue frontage, thereby giving the appearance of a four-story building from University Avenue.

f. **BUILDING DESIGN AND MATERIALS**

- 1) **Façade Styles.** A specific architectural style does not need to be specified and repeated in this zone; however, complementary design features, styles, and materials should be used to create a consistent village atmosphere. Multiple buildings completed as part of one larger project should have varied architectural elements – including different roof forms, façade treatments, signage placement, and other details to help reinforce the feel of a traditional neighborhood village.

New commercial and mixed use buildings should also have a strong cornice line to reinforce the street wall. Other architectural elements which help create visual interest, such as window bays, variations in wall plane, roof features, etc. are encouraged. Dormers and balconies and other architectural treatments should be used to help articulate façade details.

- 2) **Building Materials.** Building materials and colors should be consistent with the existing materials' palette in the Village. Patterns, colors, and details are encouraged to be varied to generate greater architectural interest and variety.

Brick and stone are the preferred primary building materials, along with storefront glass, for new mixed-use and commercial buildings. Stucco and concrete may be used for accent features, but should not be a dominant material. Decorative block, synthetic plaster, wood trim, and synthetic stone elements should be used only for accent material purposes and should be limited in their use on primary facades. Concrete block, exterior insulation finish system (EIFS), metal, or wood should not be used on a building façade visible from any street.

Masonry colors should complement existing buildings in the Village, and generally would consist of traditional brick colors or natural earth tones. Contrasting colors for accent features are acceptable provided they are compatible. The use of primary

colors or excessive bright and brilliant colors is discouraged.

- 3) Windows and Fenestration. Large blank or windowless elevations which face a street are not permitted. If a blank wall cannot be avoided, such walls should be articulated with architectural elements.

The ground floor of new commercial and mixed use buildings should have a minimum window surface of sixty percent (60%), and a maximum window surface of eighty percent (80%). Deeply tinted or highly reflective glazing is not permitted. Upper floor windows shall be designed in proportion to the building width and height and should align where possible with the ground floor storefront pattern. Windows should be constructed with durable materials, with aluminum and wood being the preferred materials.

- 4) Building Entrances. All buildings must have clearly defined and articulated entrances to both the ground floor uses and any upper floor uses. First floor building facades should be dominated by open glass storefronts. Building entrances must be visible from the street and should be well lit. Elements such as canopies or other architectural features are encouraged to help identify entrances.

Primary commercial entrances should be emphasized with larger doors or door/window combinations, and may include overhangs, unique roof forms, arches, or other architectural details.

- 5) Roofing. Rooflines and eaves should relate to surrounding buildings in the subject site's block and respect the roofline of surrounding buildings. Roofs may be flat or gabled, however flat roofs should have a well-defined parapet. Green roofs are permitted, and encouraged, on flat roofs. Unusual roof types, such as mansard or barrel roofs are not permissible. Roof colors should complement the building's primary color.

3. AREA 2 UNIVERSITY VILLAGE LOWER DENSITY RESIDENTIAL DEVELOPMENT STANDARDS

a. GOALS AND OBJECTIVES

Dicks Street currently serves as a transitional boundary which separates a neighborhood largely dominated by student rentals to the west from a neighborhood largely dominated by owner-occupied single family homes to the east. To help serve as a transition from the single family homes further east to the potential higher density residential types further west, future residential development along Dicks Street in Area 2 shall reinforce a lower-density residential typology to maintain continuity with neighborhoods further east. The primary goals in Area 2 are:

- Reinforce the residential scale and typology consistent with the residential neighborhood further east.
- Allow for housing types which may still be fully integrated into the District and complement the guiding principles of the District.
- Emphasize pedestrian scale and orientation for all residential development.

- Ensure high-level design and construction measures to promote higher quality housing options than currently available surrounding the Ball State campus.
- Promote sustainability and green design features in all new residential development.

b. ALLOWABLE USES

Properties in this district may include only the following uses:

- Single family detached homes, limited to one (1) detached residential unit per platted lot.
- Single family attached homes, limited to a minimum of two (2) and a maximum of five (5) residential units in one building where each unit has its own entrance facing the street.

c. BUILDING FORMS

New residential buildings should be evaluated by the relationship between the subject property and the street on which they face, as well as their relationship to adjacent residential buildings. While residential designs might vary from parcel to parcel, and block to block, efforts should be made to establish a consistent rhythm along Dicks Street, where transitions between building types and blocks are smooth and seamless. Common forms of new residential development in Area 2 would be as follows:

- 1) Single Family Detached Homes. Individual residences located on one (1) platted lot. Platted lots should not be combined/consolidated for one (1) residence, and two (2) detached homes may not be constructed on one (1) existing platted lot. Garages may be attached or detached, however, they may not face the street and should be accessible from the alley.
- 2) Single Family Attached Homes. Individual attached housing units each with a private entrance facing the streets, shared party walls, and parking/garage access provided to the rear of the units from the alley. No more than two (2) attached homes should be constructed on one (1) platted lot. Emphasis should be on fenestration and orientation of the primary façade to create what is known as a row-house, brownstone, or townhouse effect.

d. BUILDING SETBACKS

- 1) Front Yard. Residential buildings constructed along Dicks Street may have a front yard setback ranging from a minimum of fifteen (15) feet to a maximum of twenty-five (25) feet. For new projects, the front yard setback should reflect the median setback of existing homes within a given block.
- 2) Side Yard. Future residential buildings shall have a side yard setback of at least five (5) feet.
- 3) Rear Yard. Future residential buildings shall have a rear yard setback of at least twenty (20) feet.

e. BUILDING HEIGHTS

New buildings may be either one or two stories in height, with a maximum height of thirty-five (35) feet. Any accessory building (detached garage) must be located behind the primary structure and shall be limited to seventeen (17) feet in height unless a greater height is needed to match a roofline slope of the primary structure.

f. DESIGN AND MATERIALS GUIDELINES

- 1) Façade styles. No specific architectural style is required in Area 2, and different residential housing types and styles are encouraged to reinforce the unique character of the District. However, some consistent design themes need to be reinforced to retain the village-like character and, as such, new buildings shall focus on specific design elements, styles, and materials.

New residential building facades in Area 2 must be oriented and relate to Dicks Street with entries and windows serving as the dominant element on the front façade.

New single family attached homes should incorporate vertical articulation to create smaller more individual building images and break-up large sections of horizontal facades.

- 2) Building Materials. New structures in Area 2 should incorporate a variety of exterior building materials. Brick, masonry, stone, cement board, wood lap siding, and stucco may be used as primary façade materials. Exterior insulation finish systems (EIFS) and metal siding may only be used in limited situations as an accent material. Vinyl siding is not permissible unless approved by the Village Review Committee. Bricks used on residential facades must be standard brick sizes; larger jumbo bricks are not permitted.
- 3) Windows and Fenestration. New residential buildings must consider the placement and organization of doors and windows on all visible facades. Size, shape, proportion, and location of doors and windows helps greatly reinforce the character of the streetscape and contributes to the village-like atmosphere. No blank building walls shall be permitted on any façade.
- 4) Building Entrances. The front entrance should be the dominant feature for all residential buildings/units and should be well defined architecturally. Residential entrances should be easily accessible and well-lit. All front entrances in Area 2 should be defined with an appropriately scaled front porch, and must be well lit, with an address marker.
- 5) Roofing. New residential structures should have a gabled, or sloped, roof with asphalt or slate shingles. Roofs shall be appropriately pitched pending the specific architectural style of the residential building, and may include dormer windows. Gabled roofs must also have appropriate eave depth and gable overhang.

4. AREA 3 UNIVERSITY VILLAGE HIGH DENSITY RESIDENTIAL DEVELOPMENT STANDARDS

a. GOALS AND OBJECTIVES

The majority of the District south of North Street should allow for a diverse mix of housing options. The primary goal of Area 3 is to help stimulate new residential development which is broader and more flexible in terms of future residential typology.

While residential uses are expected to dominate Area 3, other secondary uses will be allowed, and encouraged, as allowable secondary uses.

The primary goals in Area 3 are:

- Allow for a unique mix of new residential uses, which will serve a broad market demand currently not being met in the Muncie community.
- Encourage redevelopment of older single family residential properties for higher density residential use which combine multiple single family platted lots.
- Provide new housing types which are fully integrated into the District and complement the guiding principles of the District.
- Encourage a higher residential density to generate sufficient critical mass to serve businesses and commercial activity in the District.
- Emphasize pedestrian scale and orientation for all residential development.
- Ensure high-level design and construction measures to promote high quality housing options.
- Promote sustainability and green design features in all new residential development.

b. ALLOWABLE USES

Properties in this district may include only the following primary uses:

- Single family detached homes
- Single family attached homes
- Multi-family residential units, with common entrance and shared lobby
- Pre-existing commercial uses as regulated by the standards in Area 4

The following secondary uses are also allowable, provided they complement the overall goals and objectives of the District.

- Live/work units, which allow for smaller commercial spaces on the ground floor facing the primary street with residential spaces above and/or behind the commercial space. Allowable commercial uses shall be restricted in hours of operation, shall not have extensive service/loading requirements, and shall be limited relative to the number of employees. Applicants for live/work spaces must provide a development statement with the Development Plan submittal showing proposed restrictions and guidelines for ground floor uses to be approved by the Village Review Committee.
- Recreation and community spaces for area residents, including fitness rooms, yoga studios, classrooms, computer rooms, gathering places, swimming pools, etc.

- Parks and greenspaces.
- Educational uses (child development centers, child care, etc.)
- Support office space relating to the leasing and administration of residential spaces

c. BUILDING FORMS

New residential buildings should be evaluated by the relationship between the subject property and the street on which it faces, as well as its relationship to adjacent residential buildings. Projects should establish a consistent design pattern throughout the District where transitions between building types and blocks are smooth and seamless. Common forms of new residential development in Area 3 would be as follows:

- 1) **Single Family Detached Homes.** Individual residences located on one (1) platted lot. Single family residences may be located within Area 3, provided one (1) residence is situated on each platted lot. Platted lots should not be combined/consolidated for one (1) residence, and two (2) detached homes may not be constructed on one (1) existing platted lot.
- 2) **Single Family Attached Homes.** Individual attached housing units with a private entrance facing the street. Emphasis should be on fenestration and orientation of the primary façade.
- 3) **Multi-family Residential Units.** Entrances should be articulated and emphasized with orientation to the street. Primary facades should be well defined with proper ornamentation and fenestration.
- 4) **Live/Work Units.** Live/work units, which allow for smaller commercial spaces on the ground floor facing the primary street with residential spaces above and/or behind the commercial space. Commercial uses would be limited to the first floor, with the intent of providing more creative business ventures.

d. BUILDING SETBACKS

- 1) **Front Yard Setback.** Residential buildings may have a front setback ranging from a minimum of fifteen (15) feet to a maximum of twenty-five (25) feet. For new projects, the front yard setback should reflect the median setback of existing homes within a given block. Residential buildings constructed along McKinley Avenue and Martin Street may have a front setback ranging from a minimum of ten (10) feet to a maximum of twenty (20) feet. Residential buildings constructed along North Street may have a front setback ranging from a minimum of five (5) feet to a maximum of twenty (20) feet and shall be oriented so that North Street is considered the primary façade.
- 2) **Side Street Setback.** All residential buildings on a corner lot shall have a minimum setback from a side street of ten (10) feet.
- 3) **Side Yard Setbacks.** Residential buildings shall have a side yard setback of at least five (5) feet.

- 4) Rear Yard Setbacks. Residential buildings shall have a rear yard setback of at least twenty (20) feet.

e. BUILDING HEIGHTS

New buildings must be at least two (2) stories in height, but no greater than three (3) stories in height. Minimum height shall be twenty (20) feet, with a maximum height of forty-five (45) feet.

f. DESIGN AND MATERIALS GUIDELINES

- 1) Façade styles. No specific architectural style is required in Area 3, and different residential housing types and styles are encouraged to reinforce the unique character of the University Village District. However, some consistent design themes need to be reinforced to retain the village-like character, and as such new buildings shall focus on specific design elements, styles, and materials.

New residential building facades must be oriented and relate to the street with entries and windows serving as the dominant element on the front façade. Single family attached homes and multi-family residential units should incorporate vertical articulation to create smaller more individual building image and break-up large sections of horizontal facades, consistent with the surrounding neighborhood. Multi-family structures in Area 3 may have balconies and other outdoor spaces. Rooftop decks and terraces are also permitted and encouraged.

- 2) Building Materials. New structures in Area 3 should incorporate a variety of exterior building materials. Brick, masonry, stone, cement board, wood lap siding, and stucco may be used as primary façade material. Exterior insulation finish systems (EIFS) and metal siding may only be used in limited situations as an accent material. Vinyl siding is not permissible unless approved by the Village Review Committee. Bricks used on residential facades must be standard brick sizes; larger jumbo bricks are not permitted.
- 3) Windows and Fenestration. New residential buildings must consider the placement and organization of doors and windows on all visible facades. Size, shape, proportion, and location of doors and windows helps greatly reinforce the character of the streetscape and contributes to the village-like atmosphere. No blank building walls shall be permitted on any façade.
- 4) Building Entrances. The front entrance should be the dominant feature for all residential buildings/units and should be well defined architecturally, easily accessible, and well-lit. Architectural elements which identify residential building entrances are encouraged, such as porches and canopies. Projected residential entrance features on larger multi-family buildings are encouraged, provided they are consistent with the character, scale, and massing/form of the building. Entrances to single family attached homes should be strongly defined with a walk-up, raised front porch, stoop, or other unique architectural element.

- 5) Roofing. A variety of roof forms are encouraged to help reinforce the unique eclectic nature of the district. New residential structures may have a gabled, or sloped, roof with asphalt or slate shingles. Roofs shall be appropriately pitched pending the specific architectural style of the residential building, and may include dormer windows. Gabled roofs must also have appropriate eave depth and gable overhang.

Flat membrane roofs are also permitted. Residential buildings with flat roofs should have well defined parapet walls to help screen roof-mounted mechanical equipment. Green roofs are permitted, and encouraged, on flat roofs.

5. AREA 4 UNIVERSITY VILLAGE JACKSON STREET CORRIDOR DEVELOPMENT STANDARDS

a. GOALS AND OBJECTIVES

The Development Standards for Area 4 are aimed at allowing greater flexibility for commercial uses with emphasis on design and site improvements to help create a more unified cohesive feel along this segment of Jackson Street. These standards will help to better define this commercial corridor to make it feel like a part of the larger University Village District.

The primary goals of Area 4 are:

- Allow for a mix of new commercial uses, including various retail and office uses which require greater flexibility relative to parking needs, drive-through accommodations, and automobile circulation.
- Encourage redevelopment of older residential and commercial properties to provide a stronger aesthetic environment for the Muncie community.
- Ensure the Jackson Street corridor provides a more unified and cohesive feel to help further reinforce its importance as a strong commercial corridor.
- Promote uses and activities designed to better balance automobiles with pedestrians and bicycles.

b. PERMITTED USES

Properties in Area 4 may include all uses allowable in the BV Variety Business Zone.

c. LANDSCAPE BUFFER

A landscape buffer shall be maintained in the required front and/or side street setbacks and no outside storage and/or outside display of goods or merchandise shall be permitted in these setback areas. Specific landscape planting requirements are set forth elsewhere in Article XXX of this Ordinance.

d. BUILDING FORMS

New commercial and residential buildings should be evaluated by the relationship

between the subject property and adjacent structures. New buildings should strive to maintain (or create) a consistent character along Jackson Street, but one that varies and creates visual interest to the pedestrian. New buildings constructed in Area 4 must have their primary façade facing Jackson Street and, with limited exceptions, should have their building entrances facing Jackson Street.

e. **BUILDING SETBACKS**

- 1) **Front Yard Setback.** Buildings should maintain a front setback of no less than fifteen (15) feet but no greater than twenty-five (25) feet. For new projects, the front yard setback should reflect the median setback of existing buildings within a given block.
- 2) **Side Street Setback.** All buildings on a corner lot shall have a minimum setback from a side street of ten (10) feet.
- 3) **Side Yard Setback.** For commercial uses, there is no minimum side yard setback except when abutting a residential use, buildings should have a side yard setback of at least ten (10) feet. For residential uses, buildings should have a side yard setback of five (5) feet.
- 4) **Rear Yard Setback.** Buildings should have a rear yard setback of at least twenty (20) feet.

f. **BUILDING HEIGHTS**

New buildings may be one, two, or three stories in height, with building heights not to exceed forty-five (45) feet.

g. **BUILDING DESIGN AND MATERIALS**

- 1) **Façade Styles.** While a specific architectural style is not required, complementary design features, styles, and materials should be used to help unify the atmosphere within Area 4. Larger buildings and multi-tenant buildings which have facades longer than fifty (50) feet in length should contain architectural features and details to help break up the dominant facades. Architectural details such as offsets, adjusting roof cornice lines, contrasting bases, contrasting masonry courses, stone accent materials, decorative columns, or other architectural details are encouraged.
- 2) **Building Materials.** Masonry should be the dominant material used on new building facades. However, patterns, colors, and details are encouraged to be varied to generate greater architectural interest and variety.

Brick, stone, and decorative or split-face block are the preferred primary building materials, along with storefront glass, for new commercial buildings. Stucco, synthetic plaster, wood trim, and synthetic stone elements should be used only for accent material purposes and should be limited in their use on primary facades. Concrete block, exterior insulation finish system (EIFS), metal, or wood should not be used on a primary building façade visible from the street.

Masonry colors should be consistent with existing buildings in the District, and generally would consist of traditional brick colors or natural earth tones. Contrasting colors for accent features are acceptable provided they are compatible. The use of primary colors or excessive bright and brilliant colors is discouraged.

Bricks used must be standard brick size. Jumbo brick, or oversized brick, is not permissible.

- 3) Windows and Fenestration. Large blank or windowless elevations along the primary façade facing Jackson Street are not permitted. If a blank wall cannot be avoided, such walls must be articulated with architectural elements which mimic the appearance of windows (i.e. faux window openings with sills and headers, lintels, awnings, etc.).

New commercial buildings should have a minimum window surface of forty percent (40%) and a maximum window surface of eighty percent (80%) on the ground floor. Deeply tinted or highly reflective glazing is not permitted.

- 4) Building Entrances. All buildings must have clearly defined, well lit articulated public entrances visible from the street. Elements such as canopies or other architectural features are encouraged to help identify entrances. Primary commercial entrances should be emphasized with larger doors or door/window combinations.
- 5) Roofing. Rooflines and eaves should relate to surrounding buildings along the corridor and respect the roofline of surrounding buildings. Roofs may be flat or gabled. Unusual roof types, such as mansard or barrel roof roofs are not permissible. Roof colors should complement the building's primary color and should be a natural finish. Green roofs are permitted, and encouraged, on flat roofs.

ARTICLE XXXI SPECIAL USES

ARTICLE XXXI

Section 1 GENERAL

The purpose of this Article is to enable the establishment of certain uses enumerated in this article not otherwise permitted in this Ordinance under reasonable and uniform limitations, safeguards and controls deemed to be in the public interest.

ARTICLE XXXI

Section 2 PROCEDURE

An application requesting authority to establish a special use in certain districts as herein permitted shall be filed with the Delaware-Muncie Metropolitan Board of Zoning Appeals in the same manner as for an appeal, on forms prepared for the purpose and under established rules and schedules except that, if the property is located in any overlay district area requiring development plan review and approval, the overlay district process shall apply. Applicable standards and conditions set forth herein shall remain in effect unless in conflict with overlay district standards which shall prevail.

Upon receipt of the application, a copy shall be forwarded to the Delaware-Muncie Metropolitan Plan Commission. Said Commission shall make a thorough study and evaluation of the case and shall submit its recommendations to the Board in writing.

After having received the report of the Metropolitan Plan Commission, the Board shall set a date for a public hearing and shall give notice of the hearing to all interested parties. At the hearing the report of the Commission shall be read in total and shall be made a part of the proceedings of the public hearing as well as part of the Board's record.

The Metropolitan Board of Zoning Appeals shall not be bound by this Article to permit special uses per se, but shall carefully consider the report of the Commission, the prayer of persons aggrieved, the existing conditions on the premises and its surroundings. The Board may compel the submission of any data deemed essential in determining whether or not the proposed special use is compatible with surrounding areas.

ARTICLE XXXI

Section 3 MINERAL EXTRACTION

A GENERAL

Except as herein provided, nothing in this Ordinance shall prevent (outside of urban areas) the complete use and alienation of any mineral resources or forests by the owner or alienee thereof. For the purpose of this Section, urban areas shall include all lands or lots within the limits of incorporated cities and towns and any other lands or lots used for residential purposes where there are eight (8) or more residences within any quarter mile square area, and such other lands and lots as have been or are planned for residential areas contiguous to incorporated cities or towns. For the purpose of preserving mineral resources and using them in the development and growth of the community, the encroachment of other uses upon lands where such resources may be obtained should be avoided.

B ZONES IN WHICH PERMITTED

The mining of minerals shall be considered a special use and may be permitted in the F Farming Zone, the IL Limited Industrial Zone and the II Intense Industrial Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

C QUALITY STANDARDS

In determining whether or not the working of an area for the extraction of minerals is feasible and whether or not such operation should be permitted, the Delaware-Muncie Metropolitan Plan Commission and the Delaware-Muncie Metropolitan Board of Zoning Appeals may consider the following factors:

1. The depth of overburden
2. The quality of deposits at various depths
3. The engineering problems concerning size and area

4. Existing and future land use
5. Ingress and egress and similar traffic problems
6. Proximity of existing residential development

In determining the feasibility of a project, the Commission and the Board may avail themselves with technical aid from State and Federal agencies with expertise in the question of mineral resources.

D STANDARDS OF OPERATION

The following standards shall be complied with:

1. No excavation below adjoining property elevation closer than one and one-half (1½) feet horizontal to one (1) foot vertical from the boundary of adjoining property measured at top excavation shall be permitted.
2. All equipment used for the production of rock and gravel shall be operated and maintained in such a manner as to comply with applicable State and Federal regulations.
3. Noise level shall not exceed the decibel limits set forth by the State and Federal governments.
4. All access roads from the operation of mining grounds to a public road or to adjoining lands shall be treated in such a manner as to render them dust free for at least two hundred (200) feet of any road or zone.
5. All excess water shall be drained from trucks or other vehicles hauling materials from the location prior to their entrance into a public highway.
6. All lights on site shall be installed in compliance with current and acceptable industrial standards.
7. Buildings on the premises shall not become unsightly. Weeds and other such obnoxious vegetation shall be cut, trimmed or sprayed periodically to preserve the character of the property and to prevent harmful effect upon surrounding areas.
8. The site may be used for allied or accessory uses, except for the disposal of refuse and similar uses.
9. No production shall be permitted which creates a slope steeper than one (1) foot horizontal to one (1) foot vertical with the exception of rock quarrying, in which case a vertical face will be accepted.
10. Property used or to be used for production shall be enclosed along the exterior perimeter bordering on a highway, street or thoroughfare by an acceptable barrier.
11. Every point along the property lines within three hundred (300) feet of a dwelling, school,

playground, hospital or institution for human care shall be treated in the following manner:

- a. Where accumulation of water reaches one (1) foot or more in depth and occupies an area of one hundred (100) feet or more, all access to such accumulations shall be barred by a wire mesh fence at least four (4) feet in height or an equally effective barrier.
 - b. Where slopes steeper than one (1) foot vertical to two (2) feet horizontal exist, or more than eight (8) feet in height, access to such slopes shall be barred by a wire mesh fence at least four (4) feet in height or an equally effective barrier.
12. Whenever production shall have been completed, all plants and equipment shall be entirely removed from the property and all stockpiles shall be removed or backfilled into the pits within a reasonable time after such completion.
13. Digging shall not be permitted to depths in excess of those permitted by the State of Indiana.
14. Every operator shall be insured before commencing the operation of rock and gravel removal. Any producer who may establish a rock and gravel operation after the adoption of this Ordinance shall post a bond with the City of Muncie, Indiana, to assure total compliance. Such bond shall run for one hundred thousand (100,000) dollars.
15. Not more than one (1) year prior to the termination of operations, persons or corporations engaged in rock and gravel mining shall prepare and make available to the Delaware-Muncie Metropolitan Plan Commission and the Delaware-Muncie Metropolitan Board of Zoning Appeals plans for the restoration of affected lands. Such plans may include slope modification, planting, reforestation, the elimination of hazards and similar measures.

E REPORT

All persons or corporations engaged in rock and gravel mining shall prepare and make available to the Delaware-Muncie Metropolitan Plan Commission information containing the progress achieved in the mining of minerals. Such reports shall include an aerial photograph delineating the boundaries of the operation as of the time of the report. Such report shall be filed with the Commission at five (5) year intervals.

F CONTINUATION OF USE

The continuation of the extraction of mineral resources may extend beyond the portion of the property being worked to the exterior boundaries of said property, provided the operation shall comply with the standards prescribed in this Section.

G PERMITS

No mineral resources shall be removed or processing plant be erected until and unless an improvement location permit has been obtained from the Administrative Zoning Officer. No permit shall be issued for any new excavation or mining operation unless the necessary authorization has been received by such officer from the Delaware-Muncie Metropolitan Board of Zoning Appeals.

H APPLICATION

Application for the extraction of minerals shall be made in writing and shall contain the following data:

1. Name and business address of the applicant.
2. Zoning classification of the property.
3. An accurate map showing exact dimensions of the property to be mined.
4. Consent of the title owner of the premises involved by a notarized instrument.

ARTICLE XXXI

Section 4 SALVAGE YARD

A DEFINITION

A salvage yard shall be an area where waste paper, rags, discarded or salvaged materials are bought, sold, exchanged, bailed, packed, disassembled or handled. A salvage yard shall include auto wrecking yards, dismantling of machinery, house wrecking yards, used lumber yards and places or yards for the storage of salvage house wrecking and structural steel materials and equipment. A salvage yard shall constitute only that portion of a lot where waste materials, papers, rags or discarded or salvaged materials, automobiles not in running condition, house wrecking materials, dismantled machinery and equipment are concentrated upon. The presence of such materials on a part of a lot shall not preclude the use of the remaining unused area of the lot for salvage purposes.

B ZONES IN WHICH PERMITTED

A salvage yard may be permitted in the F Farming Zone, the IL Limited Industrial Zone and the II Intense Industrial Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

C CONDITIONS

A salvage yard may be permitted under the following conditions:

1. No salvage yard shall be closer than three hundred and fifty (350) feet to any highway, road, street, and not less than five hundred (500) feet to any dwelling, school, church or institution for human care.
2. A salvage yard shall be provided with an adequate road, passable under any weather conditions.
3. A salvage yard shall be enclosed along all the exterior boundaries by an approved fence of a type prescribed by the Delaware-Muncie Metropolitan Plan Commission, and the same shall have only one (1) entrance or exit.

ARTICLE XXXI

Section 5 REFUSE DISPOSAL SITE

A DEFINITIONS

A refuse disposal site shall mean an area privately or publicly owned, operated for the purpose of dumping and sanitary covering of solid wastes. The term "solid waste" shall mean anything discarded such as garbage, rubbish, trash, litter, junk and refuse, except solids and dissolved materials in domestic sewage and other significant pollutants in water sources, such as silt and dissolved or suspended solids in industrial waste water.

B ZONES IN WHICH PERMITTED

Refuse disposal site may be permitted in the F Farming Zone, the IL Limited Industrial Zone and the II Intense Industrial Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

C PROCEDURE

Any individual, group of individuals or corporation wishing to establish a refuse disposal site or sites shall:

1. Submit a request for such site on forms provided by the Delaware-Muncie Metropolitan Board of Zoning Appeals.
2. Submit a map to scale showing the proposed site including adjacent area, and a complete plan on how such site is to be developed.
3. Submit data relating to existing soils, including seasonal high water table, type and source of cover material.
4. Show proof that they own or can rent the necessary machinery to operate efficiently.

Upon receiving all the aforementioned data, the Delaware-Muncie Metropolitan Board of Zoning Appeals shall transmit copy of the same to the Delaware-Muncie Metropolitan Plan Commission. The Commission shall study the case, availing itself with all necessary expertise, and shall make recommendations to the Board as to whether or not the proposed refuse disposal site or sites fit into present and future land use patterns and further, as to whether or not the site is adequate and pollution free. The determination of the Commission shall be made at a regular meeting and forwarded to the Board in writing.

Upon receiving the recommendations from the Delaware-Muncie Metropolitan Plan Commission, the Delaware-Muncie Metropolitan Board of Zoning Appeals shall then make proper advertisement for a public hearing, notify all parties involved of the date and time of such hearing and generally proceed in the same manner as for a variance, special exception or similar appeal. At the public hearing the recommendations of the Commission shall be read and made a part of the Board's record. Said Article recommendations may be to approve, approve with conditions, or disapprove. A decision of the Board that may be contrary to the Commission's recommendations shall require five affirmative votes, otherwise the Commission's recommendations will hold.

D CONDITIONS UNDER WHICH A REFUSE DISPOSAL SITE SHALL NOT BE PERMITTED

1. Within one thousand (1,000) feet of an interstate or primary highway.
2. Within the floodway of any stream or body of water unless proper clearances are obtained in writing and filed with the Board and the Commission prior to consideration of a proposed site. Such clearance shall come from the United States Corps of Engineers and the Indiana Department of Natural Resources and shall be certified by the Executive Officer of each agency or his duly authorized representative.
3. Within an area from which leaching could drain into surface water.
4. Within sand and gravel pits, quarries, ravines, unless it can be ascertained that drainage can be effectively controlled.
5. Within running water, spring sites and in standing water.
6. Within one thousand (1,000) feet of a dwelling, school, church or institution for human care.
7. Within three hundred (300) feet of any industrial or commercial building.

ARTICLE XXXI

Section 6 PLANNED UNIT DEVELOPMENT

A DEFINITION

A planned multi-family development unit shall mean a single-family, two-family, multi-family development or combination of all three uses developed as a single unit. The development may include group-housing, townhouses, cluster garden structures, apartments and condominiums.

B ZONES IN WHICH PERMITTED

Planned Multi-family Development Units may be permitted in all Residence Zones (except R-1 Residence Zones) subject to the provisions of this Article.

C PURPOSE

The purpose of this planned Multi-family Development Unit is to provide a more desirable living environment than would be possible through the strict application of the provisions of this Ordinance; to encourage a more desirable use of open areas; to induce innovations in residential development so that the growing demands for housing may be met by greater variety, type, design and layout of dwellings and by the conservation of land; to stimulate a more efficient use of public and private services, to provide means by which the type, design and layout of residential development can be related to sites and demands for housing consistent with the preservation of property values; and to add flexibility to zoning standards as shall encourage the disposition of proposals for such Multi-family Development Units without delay.

D PROCEDURE

The owner or owners of any tract of land ten (10) acres or more in area may file an application for

tentative approval with the Delaware-Muncie Metropolitan Plan Commission. Said application shall include all of the following items:

1. Location and size of area involved
2. Density of land use
3. Location, function, ownership and manner of maintenance of common open space
4. Use, approximate height, bulk and location of buildings and other structures
5. Feasibility of proposals for the disposition of sanitary and storm water
6. Covenants, grants and easements to be placed on the use of the land and buildings
7. Provisions for parking of vehicles and the location and width of proposed streets
8. Relationship of proposed streets to streets in the proximity of the project
9. Schedule of construction and a written statement of how the project would be consistent with residential growth

E PRINCIPLES AND STANDARDS

In considering the Planned Multi-family Development Units, the Commission and the Board shall adhere to the following principles and standards:

1. The population density and building coverage of the site for the project shall conform to the overall density and building coverage of the Zone in which it is located. However, lot dimensions, setbacks and area do not have to meet specific requirements of this Ordinance provided a more logical and desirable use of the property is proposed.
2. A variety of dwelling and building types shall be encouraged.
3. Where town houses are suggested, there shall be no more than five (5) town house units in any contiguous group. An average rear yard of twenty-five (25) feet would be desirable where a lot does not abut a park or open space easement. A minimum side yard on the two (2) end units of contiguous town house groups shall be seven (7) plus three (3) feet for each additional story over one (1) story.
4. Planting and utility strips may be eliminated and an equal amount of land area placed into acceptable public park.
5. Areas proposed for dedication must be acceptable in size, shape and location. Rights of way for riding, hiking and other types of trails and scenic ways may be dedicated. Rights of way for watercourses and similar channels shall not be acceptable for space exchanges.
6. Clustering of dwellings may be accomplished through a reduction of lot area with overall density remaining the same, and the provision of usable and desirable open space easements

dedicated.

7. Public utility and similar easements shall not be used for space exchange.
8. Any project which proposes to dedicate land for park and open space must include the total park area at the time of the filing of the application.
9. Maximum privacy for each multi-family unit shall be provided through functional design, use of proper building materials and landscaping.
10. The architectural design of multi-family units shall be developed considering their relationship to adjacent development in terms of height, texture, line and pattern.
11. Building coverage shall not exceed forty (40) percent of the net lot area.
12. A minimum of twenty-five (25) percent of the total lot area, exclusive of parking and streets, shall be landscaped for recreation.
13. All on-site utilities shall be placed underground.

ARTICLE XXXI

Section 7 TRUCK TERMINALS

A DEFINITION

A truck terminal shall be the use of property or buildings for the temporary parking of motor freight vehicles or trucks of common or contract carriers during loading and unloading and between trips, including necessary warehouse space for storage of transitory freight.

B ZONES IN WHICH PERMITTED

A truck terminal may be permitted in the II Intense Industrial Zone.

C CONDITIONS

A truck terminal may be permitted under the following conditions:

1. No property to be used as a truck terminal shall be located closer to any dwelling or Residence Zone than two hundred (200) feet.
2. The site shall be relatively flat, well drained, and large enough to accommodate any foreseeable needs for expansion.
3. The site shall be fully enclosed by a fence or wall adequate to insure that no portion of a vehicle shall extend beyond the lot line.
4. The principal access shall not be a local street but a secondary or major highway.
5. All vehicular exits and entrances shall be located not less than one hundred (100) feet apart.

6. Minimum distances on docks to property lines, measured at right angles to the docks shall be not less than eighty-five (85) feet where no parking of trailers along said property line is intended, or one hundred (100) feet when trailers are so parked, and sixty (60) feet where no pick-up trucks are parked.
7. Driveways shall be kept open at all times so that there will be no necessity for maneuvering upon entering or leaving the property.
8. A five (5) to one (1) ratio of land to building shall be observed. The dock area shall be twice the size of the combined floor area of the trucks.
9. Truck terminals shall be paved with two (2) inches of asphaltic concrete over a two (2) inch base of crushed rock.
10. All truck parking spaces shall be twelve (12) feet wide and twenty (20) percent longer than the trailer, with a maximum of sixty (60) feet. There shall be three (3) parking spaces for each berth.

ARTICLE XXXI

Section 8 HOME OCCUPATION

A DEFINITION

The term home occupation shall mean an occupation conducted in a dwelling by a member of the resident family where the clientele would be coming to the premises upon which such occupation is conducted. A home occupation shall be controlled and limited so as to not interfere with the principal use of the premises as a residence and so as to not adversely affect the residential character, use or value of the adjacent area.

B ZONES IN WHICH PERMITTED

A home occupation may be permitted in the F Farming Zone and in any Residence Zone.

C CONDITION

A home occupation shall be determined by and regulated by the following conditions:

1. The operator of the home occupation shall remain a resident of the dwelling and no person other than a member of the resident family shall be employed in connection with the home occupation.
2. The primary use of the dwelling shall remain residential and the home occupation use shall be clearly incidental and subordinate to the residential use.
3. No accessory building or structure shall be used to house a home occupation.
4. Not more than twenty-five percent (25%) of the floor area of the dwelling shall be used in the conduct of the home occupation.

5. There shall be no change in the outside appearance of the dwelling or the premises or any visible evidence of the conduct of such home occupation other than one (1) sign not to exceed one (1) square foot in area, non-illuminated and mounted flat against the wall of the building in accordance with the provisions regulating home occupation signs in Article XXX, Section 3 of this Ordinance.
6. No traffic shall be generated in greater volume than normally expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be met off the street, not in the required front yard and in accordance with the provisions regulating parking in Article XXX, Section 2 of this Ordinance.
7. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audio interference in any radio or television receivers, or causes fluctuations on line voltage, off the premises.
8. There shall be no visible display or storage of goods or commodities. No stock in trade or commodities, other than those prepared, produced or created on the premises, shall be sold on the premises.
9. The granting of a special use for a home occupation shall not transfer with ownership or to another location.
10. A home occupation shall not be considered to include clairvoyance, fortune telling, experimentation that may involve the use of chemicals or other substances that may create noises, odors, or hazards to health, safety and welfare of the neighborhood. Neither shall a home occupation include hobby or curio shops, convalescing or nursing homes, tourist homes and gun shops.

ARTICLE XXXI

Section 9 SEASONAL WORK CAMPS

A DEFINITION

A seasonal work camp shall mean premises where a number of transient workers enjoy temporary quarters while they work for a salary during the harvesting of agricultural products.

B ZONES IN WHICH PERMITTED

A seasonal work camp may be permitted in the F Farming Zone.

C CONDITIONS

A seasonal work camp may be permitted under the following conditions:

1. The campsite shall be free from floodwaters.

2. Camp shall be located off a major or secondary highway and not closer than one-fourth (1/4) mile to any Residence Zone, residential subdivision, town, school, church or institution for human care. No camp shall be located on the watershed of a domestic or public water supply so as to create a pollution hazard. No camp structure shall be located within one hundred (100) feet of any barn or pen.
3. An adequate and convenient water supply in line with the requirements of the Indiana State Board of Health shall be provided to meet all the needs of the residents. Such water supply shall be capable of supplying a minimum of thirty-five (35) gallons per person per day.
4. Facilities for providing hot water for bathing, laundering and dishwashing purposes shall be available.
5. Where public sewer systems are available, the same shall be tapped into. Where public sewer systems are not available, the most efficient sewage disposal recommended by the State of Indiana Board of Health shall be used.
6. All buildings shall meet minimum structural requirements of the Building Code of the City of Muncie, Indiana. Floors shall be of wood or concrete construction. In all shelters, whether existing or new, not less than two (2) rooms shall be provided for each family composed of husband and wife and one (1) or more children. Except in housing of families, separate sleeping accommodations shall be provided for each sex.
7. Each room designed or used for sleeping quarters shall have at least thirty-eight (38) square feet of floor space and two hundred and seventy (270) cubic feet of air space per person. Combined sleeping, cooking and eating facilities shall have a minimum of three hundred (300) cubic feet of air space per occupant, and forty (40) square feet of floor space per occupant.
8. The ceiling of each structure shall be not less than seven (7) feet. Each room shall have a minimum of one (1) window.
9. Each habitable room shall be provided with one (1) ceiling-type light fixture and at least one (1) separate floor or wall-type electric outlet.
10. Toilet facilities shall be in accordance with the requirements of the Indiana State Board of Health. The same shall apply to screening, heating, washrooms, bathrooms and laundry, cooking and eating facilities; garbage and other refuse disposal.
11. There shall be a permanent camp operator or supervisor who shall see to it that all health and functional regulations of the camp are being followed and complied with.

ARTICLE XXXI

Section 10 PRIVATE OUTDOOR CAMP

A DEFINITION

A private outdoor camp shall mean premises privately owned and operated as vacation sites, including facilities for camping trailers, mobile homes and tents or similar appurtenances. Such

camps shall not allow permanent living or occupancy.

B ZONES IN WHICH PERMITTED

A private outdoor camp may be permitted in the F Farming Zone.

C CONDITIONS

Any person, group or corporation desiring to establish a private outdoor camp shall make an application for such use with the Delaware-Muncie Metropolitan Board of Zoning Appeals and shall submit, together with the application, the following data:

1. A complete plan of the property showing its exact boundaries, acreage, topography, existing buildings and other structures, existing streams and watercourses, existing wooded areas, location of every campground and their capacity, location of picnic areas, trails or any other similar features.
2. A statement preferably from the Delaware County Soil and Water Conservation District Board attesting to the type of soils prevalent in the area and their suitability for a private outdoor camp. Two (2) soil tests per acre may be required by the Boards to determine percolation ability with particular emphasis on locations where camping trailers, mobile homes, tents or similar appurtenances may be parked.
3. A statement from the Delaware County Board of Health as to the nature and extent of sanitary facilities, which may be necessary for the operation of a private outdoor camp.
4. A statement from authoritative sources of the availability of water on the premises with supporting facts.
5. A statement of financial capability of the applicant to establish, maintain and operate such camp in accordance with existing requirements.

D STANDARDS

A private outdoor camp may be permitted under the following conditions:

1. The campsite shall be not less than twenty (20) acres in area.
2. The campsite shall be a naturally attractive area with wooded surroundings.
3. The camp shall be in the immediate proximity of a major or secondary highway and at least one-half (1/2) mile from any extensive residential development.
4. The campsite shall be well drained, accessible on an adequate access road not less than twenty (20) feet in width, and capable of safe passage even during extreme weather conditions.
5. While parked, no camping trailer, mobile home or similar appurtenances shall be closer than fifteen (15) feet to another.

6. Unless provisions are made for sanitary sewer facilities, no private outdoor camp shall be permitted within one-half (1/2) mile of any major body of water used as a source of water supply by residents of the County of Delaware, Indiana, or of the City of Muncie, Indiana.

ARTICLE XXXI

Section 11 GROUP HOUSING

A DEFINITION

A single unit dwelling occupied by four or more unrelated individuals sharing a common kitchen and other common living areas.

B ZONES IN WHICH PERMITTED

Group housing may be permitted in the R-5 Residence Zone.

C CONDITIONS

Group housing may be permitted under the following conditions:

1. A minimum of two hundred and fifty (250) square feet of floor area shall be provided for each occupant.
2. One off-street parking space shall be provided for every two (2) occupants. Such parking shall meet the performance standards as set forth in Article XXX, Sections 1 and 2.

ARTICLE XXXI

Section 12 NURSERY/DAY CARE CENTERS

A DEFINITION

Any residence or institution operated for the purpose of providing care and maintenance to children separated from their parent, guardian or custodian. This section does not apply to an individual who provides child care in his residence to five (5) or fewer children at any time, excluding relatives of the individual.

B ZONES IN WHICH PERMITTED

Nursery/day care centers may be permitted in the F Farming Zone and the R-1 through R-4 Residence Zones.

C CONDITIONS

Nursery/day care centers may be permitted under the following conditions:

1. All provisions of Indiana State Statutes pertaining to licensing requirements of nursery/day care centers shall be complied with.

2. Off-street parking shall be provided in accordance with Article XXX, Section 2 of this Ordinance.
3. All signage giving reference to nursery/day care centers within a residence zone shall meet the specifications of a ground sign as set forth in Article XXX, Section 3(E)(1) except that no sign shall be illuminated. In addition, faces or panels of such sign may not exceed a maximum of twelve (12) square feet in total. The owner may substitute using a ground sign by placing a sign, not to exceed a total of twelve (12) square feet, flat against the wall of the structure housing the nursery/day care center facility.

ARTICLE XXXI

Section 13 MULTI-UNIT DEVELOPMENT

A DEFINITION

A multi-unit development shall mean residential development consisting of twenty-five (25), or more, units where the intended development will be designed under one site plan.

B ZONES IN WHICH PERMITTED

A multi-unit development may be permitted in the R-5 Residence Zone.

C PURPOSE

The purpose of a multi-unit development is to provide for a site plan review of larger residential developments to promote future growth in accordance with the comprehensive plan. The site plan review is to insure new developments are furnished with adequate facilities and services, such as utilities, access roads, ingress and egress to minimize traffic congestion, and drainage; to insure that adjacent areas are not affected in a substantially adverse manner; and to generally carry out the purpose of this Ordinance.

D PROCEDURE

An application for a multi-unit development shall be filed with the Board of Zoning Appeals under the established rules and procedures for a special use request as specified by this Ordinance. The application shall include the following items:

1. Location and size of the area involved.
2. Density of land use.
3. Location, function, ownership and manner of maintenance of common open space.
4. Use, approximate height, bulk and location of buildings and other structures.
5. Feasibility of proposals for the disposition of sanitary and storm water.
6. Covenants, grants and easements to be placed on the use of the land and buildings.

7. Provisions for parking of vehicles and the location and width of proposed streets.
8. Relationship of proposed streets to streets in the proximity of the development.
9. Schedule of construction and a written statement of how the development would be consistent with residential growth.

E STANDARDS AND CONDITIONS

In considering an application for a multi-unit development, the Board may impose conditions to carry out the intent of this section and this Ordinance. These conditions may include, but are not limited to, the following type of provisions:

1. Off-street parking and loading areas.
2. Refuse and service areas.
3. Special screening and buffering with reference to type, dimensions and character of same.
4. Signs and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with adjacent properties.
5. Additional setback distances, yards and other open space with reference to areas, as needed, to be set aside for open recreational or landscaped areas at a ratio of one hundred (100) square feet per unit.
6. General compatibility with adjoining properties, with reference to site development standards designed for mutual protection and environmental harmony.

ARTICLE XXXI

Section 14 VEGETATIVE COMPOSTING/MULCHING FACILITY

A DEFINITION

A vegetative composting/mulching facility shall mean an operation allowing for the biological treatment process by which microorganisms decompose the organic component of vegetative matter and other types of organic material to create compost. Vegetative matter shall mean any yard or landscaping waste, including leaves, grass, brush, limbs, and branches resulting from commercial, industrial, and agricultural operations or from community activities. For the purpose of this Section, a vegetative composting/mulching facility shall not include an operation conducted at a person's residence or farm for vegetative matter and other types of organic material that are generated by the person's activities and stored, treated or disposed of at the person's residence or farm; nor shall this Section apply to the uniform spreading of vegetative matter over agricultural fields, whether generated on-site or off-site.

B ZONES IN WHICH PERMITTED

A vegetative composting facility may be permitted in the F Farming Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

C APPLICATION

In addition to the information required on the standard application for appeal, the following information shall be supplied and may be indicated on the standard application map where applicable if it is of adequate size and scale:

1. Topographic mapping showing two (2) foot contours.
2. One hundred (100) year flood line, if applicable.
3. Regulated drains and open waterways within one thousand (1000) feet, if applicable.
4. Wetland areas, if applicable, as designated by the National Wetland Inventory Maps for Delaware County.
5. Existing residences within six hundred (600) feet of the site.
6. Existing wells within six hundred (600) feet.
7. Soils mapping for the site.
8. Water table levels for the site.
9. The proposed location of the facility on the property including all appurtenant features that shall be considered a part of the facility.
10. The proposed point of access and type of construction of the access road.
11. A description of compost management procedures to be implemented at the facility including controls for dust, odors, and noise.
12. A description of the methods proposed for collecting, removing, and disposing of unwanted and noncompostable materials received at the facility.
13. A description of the composting facility that indicates the area to be served by the composting operation.
14. A description of the proposed final use of composted materials.
15. An estimate of the volume of materials that will be processed annually by the composting facility.
16. A description of surface water drainage control and leachate management procedures to be implemented at the composting facility.

The Plan Commission or the Board of Zoning Appeals may require additional information as deemed necessary to determine compliance with the standards set forth herein.

D STANDARDS

Any proposed vegetative composting facility shall meet the following standards and shall continue to meet such standards throughout the life of the operation:

1. The facility shall be registered with the Indiana Department of Environmental Management (IDEM).
2. There shall be a minimum distance of six hundred (600) feet from the boundary of the facility operation to any existing residence, hospital or institution for human care.
3. There shall be a minimum distance of two hundred (200) feet from the boundary of the facility operation to any surface water body that is not a part of the composting facility.
4. There shall be a minimum distance of six hundred (600) feet from the boundary of the facility operation to any public water supply well or private water supply well unless the well is controlled by the owner/operator or is used solely for monitoring ground water quality.
5. The facility shall not be located in a floodway as shown on the Floodway Maps for City of Muncie, Indiana nor in a wetland as shown on the National Wetland Inventory Maps or as determined by the Soil Conservation Service. The facility shall not be located inside the boundary of any one hundred (100) year flood plain as shown on the Federal Insurance Rate Maps (FIRM) for Delaware County, Indiana, unless protection from the one hundred (100) year flood is provided. This standard shall not apply to a facility operated in conjunction with a publicly owned works permitted under IC 13-7-10-2.
6. The lowest surface area of the facility shall be at least 5 feet from a water table or provide adequate controls to prevent ground or surface water contamination.
7. The composition and design of the surface area used for composting shall adequately control runoff through the use of ditches, dikes, berms or swales and shall be designed to allow drainage of surface waters away from the compost with no ponding of water between windrows and to allow heavy equipment operation without creating ponding of water and to allow heavy equipment operation during inclement weather with minimal dust and erosion generation.
8. The slope of the composting and curing areas shall be graded and maintained at no less than two percent (2%) and no greater than six percent (6%).
9. That there is a management plan for leachate that may be generated by the composting facility showing that leachate will be prevented from entering surface and ground waters such as direct discharge to an approved treatment facility or leachate conveyance and storage structures. Any leachate that is collected must be disposed of in accordance with the rules promulgated under IC 13-7.
10. That contingencies plan is presented detailing emergency equipment, procedures, notification and cleanup for fire, equipment failure and temporary cessation of operations.
11. That only vegetative matter is accepted and that any matter received that is unsuitable for

composting must be stored in enclosed, leak proof containers maintained on-site for this purpose and disposed of within 1 week of receipt and in accordance with the Indiana Solid Waste Rule (329 IAC 2). Yard waste must be removed from containers and bags.

12. That adequate plans for the control of dust, noise, vectors and odors shall be presented and the facility shall be managed in such a manner that these items are so controlled.
 - a. The facility must be operated in such a manner that fugitive dust does not leave the site in violation of 326 IAC 6-4.
13. Access roads shall be maintained in such a manner that allows for smooth passage of loaded vehicles during inclement weather with minimal dust and erosion generation.
14. For windrow composting, windrows must be constructed parallel to the line of the slope on the site and must be at least 50 feet in from the boundary of the facility operation (which may not be the property boundary). The windrow construction and turning frequency must enable predominately aerobic composting conditions to be maintained throughout the production of compost using the following guidelines:
 - a. If grass clippings are incorporated into windrows, the initial formation of a windrow must be no greater than six (6) feet high and fourteen (14) feet wide.
 - b. For windrows containing grass clippings, the turning frequency shall be determined by temperature and whenever the internal pile temperature exceeds 130° Fahrenheit, the windrow shall be turned within one (1) week.
 - c. Regardless of temperature, windrows shall be turned at a minimum frequency of once per week from April 1 to September 15 of each year.
 - d. Materials received for composting between April 1 and September 15 of each year must be placed in windrows within four (4) days of its receipt.
15. A grass buffer area at least twenty-five (25) feet in width shall be located at the perimeter of the site immediately adjacent to the facility boundaries for controlling erosion.
16. If any nuisance or pollution conditions are created, immediate corrective action will be taken by the owner/ operator.
17. Fencing may be required at the discretion of the Board of Zoning Appeals based upon recommendations from the Plan Commission and upon consideration of the individual characteristics of the site and proposed facility development.
18. Copies of the Annual Report required by the Indiana Department of Environmental Management shall be forwarded to the Plan Commission Office before February 1 of each year.
19. The method of disposal of compost, as set forth in the original application, may be limited by conditions imposed by the Board of Zoning Appeals.

The Board of Zoning Appeals may require surety, in a manner satisfactory to the City of Muncie, that the facility will be operated and closed as set forth herein.

E CLOSURE OF A VEGETATIVE COMPOSTING/MULCHING FACILITY

If and when an operator of a composting facility declares the facility closed, the following procedure shall be followed:

1. Written notice of the anticipated date to cease operation shall be forwarded to the Plan Commission, the Delaware County Health Department, and the City of Muncie Zoning Administrator not less than sixty (60) days prior to closure.
2. Not later than ten (10) days after closure, the operator shall thoroughly clean all facilities, equipment and areas on the site as follows:
 - a. All compost shall be removed from the site.
 - b. All containers, equipment, machines, floors, facility surfaces that were in contact with compost and that are not to be removed shall be washed or otherwise subjected to procedures that substantially reduce or eliminate any remaining constituents derived from the compost.
 - c. When a leachate system has been used, any leachate remaining on the site shall be removed and disposed of properly and the leachate collection system shall be thoroughly flushed of all materials derived from the composting activity.
3. Not later than one hundred eighty (180) days after closure, the owner or operator shall install signage stating, in letters not less than three (3) inches high, that the facility is closed and such signage shall be posted in such a manner as to be easily visible at all access points from the public roadway and shall be maintained in legible condition for not less than one (1) year after closure. The signage text shall read:

**"THIS FACILITY IS CLOSED FOR ALL COMPOSTING
ACTIVITIES AND ALL RECEIPT OF WASTE MATERIALS".**

4. If a leachate collection system has been used, the owner or operator shall, within one hundred eighty (180) days after closure, modify, remove or seal the system as necessary to prevent discharges from the system to surface or ground water.

ARTICLE XXXII ADMINISTRATION

ARTICLE XXXII

Section 1 GENERAL

The purpose of this Ordinance is to promote and protect the public health, safety, morals, comfort and general welfare of the people of the City of Muncie, Indiana. Associated with this purpose is the establishment of an effective administrative system to fulfill the objectives of good, sound zoning, such system should, among other things, expeditiously handle day by day matters concerning the citizens of the city and county with utmost care, courtesy and exacting ability; protect the right of

appeal from any decision of an administrative officer; deal fairly with deliberate or accidental infractions of this Ordinance; and, through its function, create such climate as may deserve the respect of the community and the confidence of its citizens.

ARTICLE XXXII

Section 2 ADMINISTRATIVE OFFICES

The administration of the Ordinance shall be with three (3) offices of local government, namely:

1. The Administrative Zoning Officer
2. The Delaware-Muncie Metropolitan Plan Commission
3. The Delaware-Muncie Metropolitan Board of Zoning Appeals

ARTICLE XXXII

Section 3 ADMINISTRATIVE ZONING OFFICER

A APPOINTMENT

There shall be an Administrative Zoning Officer who shall be the enforcement officer of this Ordinance. The Mayor of the City of Muncie, Indiana shall appoint him. The Administrative Zoning Officer may be the Building Commissioner of the City of Muncie, Indiana.

B QUALIFICATIONS

The Administrative Zoning Officer shall be a person of proven responsibility and knowledgeable in zoning administration and practice. He shall enforce the provisions of this Ordinance to their literal meaning and shall not try to exercise independent discretion that may violate it. He shall not permit the violation of any of the provisions of this Ordinance just because he considers it unduly severe as applied to specific cases, inasmuch as this Ordinance provides the necessary remedies. He shall not refuse to issue a permit for the construction of a building or structure or for the use of land on the basis of what he considers to be lack of wisdom in any zoning provision. He shall use the powers of his position to encourage compliance and advise citizens how such compliance can be achieved without unnecessary hardship.

C DUTIES

In addition to other administrative duties assigned to him periodically by the Mayor of the City of Muncie, Indiana, the Administrative Zoning Officer shall perform the following duties:

1. He shall issue all zoning permits and certificates of occupancy.
2. He shall conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Ordinance.
3. He shall maintain accurate records including, but not limited to, maps, amendments, variations, conditional uses and applications.

4. He shall receive, file applications for permits and shall forward details of any refusal to issue a permit to the Board of Zoning Appeals.
5. He shall revoke certificates of occupancy or zoning permits when violations of the provisions of this Ordinance are discovered by him.
6. He shall initiate court action as may be deemed necessary to prevent or abate violations to the provisions of this Ordinance; report all violations for prosecution to the proper legal authority; sign or cause to be signed all complaints to local courts prepared by the proper legal authority.

D INSPECTIONS

The Administrative Zoning Officer may, after giving at least forty-eight (48) hours notice to the proper person, examine premises to investigate possible violations. He shall state the nature of the violation to the owner or resident and give reasons for the inspection prior to obtaining entry into the premises.

E USE PERMIT

The Administrative Zoning Officer shall issue no use permit pertaining to the use of land or buildings unless the application for such permit has been examined and approved by said officer. Any use permit issued in conflict with the provisions of this Ordinance shall be cause for revocation. The application for a use permit shall include the following data and provisions:

1. Location of the proposed structure, including street name or names, house or lot number, zoning.
2. Name of the owner of property, type of work proposed and estimated cost of such work.
3. Use proposed for the building or structure, the area of the lot and dimensions of same, size of front, side and rear yards.
4. Number of families that will occupy the building, the height and number of stories of the building or structure, the number, size and type of any accessory building.
5. A sketch of the proposed layout of the lot, and affidavit attesting to the accuracy of the application.

Within two (2) days after an application for a use permit is filed, the Administrative Zoning Officer shall examine the application and shall advise the applicant or his agent as to whether or not the building, structure or use thereof complies with the provisions of this Ordinance. If he finds the data in order, the Administrative Zoning Officer shall issue the zoning permit. If he denies the permit, he shall inform the applicant of his findings and shall instruct him as to the applicant's right of appeal. He shall acquaint the applicant thoroughly with all current procedures to effect such an appeal. One (1) copy of the application, together with the plans, shall be returned to the applicant after the Administrative Zoning Officer shall have marked such copy either as approved or rejected, attesting to same by his signature on such copy. The Administrative Zoning Officer as part of the office's permanent record shall retain the original copy of the application, similarly marked.

F CERTIFICATE OF OCCUPANCY

No new building or improvement shall be occupied or land use started unless and until the applicant shall have applied for in writing and received a certificate of occupancy from the Administrative Zoning Officer. Such certificate shall be issued after the premises have been thoroughly inspected by said officer and found to be in full compliance with the provisions of this Ordinance.

G FEES

Applicants filing for changes in zoning, appeals and/or review of shopping center plans shall be required to pay a filing fee in accordance with the following schedule:

Changes in Zoning	\$100.00
Appeals from Decision of Zoning Administrator	\$100.00
Appeals for a Variance	\$100.00
Appeals for a Special Use to allow Mineral Extractions, Salvage Yards, Refuse Disposal Sites, and Planned Unit Developments	\$200.00
Appeals for a Special Use other than those listed above	\$100.00
Review of Shopping Center Plans	\$200.00

H REMEDIES

The Commission, the Board or any designated enforcement official may institute a suit for injunction in the Delaware County Circuit Court to restrain an individual or governmental unit from violating the provisions of this Ordinance. Said bodies may also institute a suit for mandatory injunction directing an individual or governmental unit to remove a structure erected in violation of the provisions of this Ordinance.

ARTICLE XXXII**Section 4 METROPOLITAN PLAN COMMISSION****A GENERAL**

The Metropolitan Plan Commission shall be the Delaware-Muncie Metropolitan Plan Commission, created under the provisions of IC 18-7-5-1 et.seq. of the Burns Indiana Statutes. It is not intended by this Ordinance to abrogate, annul or dismiss the said Commission, but the same shall continue as currently organized.

B ZONING AMENDMENTS

From time to time and as conditions change, the provisions of this Ordinance may be amended, supplemented or changed. Application for changes in zone may be initiated by the Commission, or by owners of fifty (50) percent or more of the area involved in a petition, or by the Common Council

of the City of Muncie, Indiana. Any proposed ordinance for amendment not originating from action of the Commission shall be referred to it for consideration and report before final action is taken by the Common Council of the City of Muncie, Indiana.

C FILING

Any persons seeking a change in zone shall make application for such change with the Delaware-Muncie Metropolitan Plan Commission in forms prepared for the purpose. The Commission may set the number of copies to be submitted and shall adjust each and every application to its regular schedule. The Commission shall hold a public hearing on the proposed change in zone or amendment, giving public notice in at least two (2) newspapers of general circulation in Delaware County. The notice shall state the date and time of the hearing; the description of the change; and the exact location of the property involved. The notice shall appear in the newspapers at least ten (10) days prior to the date of the public hearing. The proponent of a zone change shall cause the notice of public hearing to be published in the newspapers and shall bear the expense involved in so doing. He shall also submit a complete list of all surrounding property owners within a three hundred (300) foot radius of the property with the necessary postage to cause the mailing of notices to such owners, except where a three hundred (300) feet radius would include only the immediately abutting properties, irrespective of public ways, the owners of the properties adjoining the immediately abutting properties, in an east, west, north and south direction, shall also be notified.

D PUBLIC HEARING

The proponent of a zone change may appear in person, by agent or by attorney. He shall be given proper consideration. All public hearings and all meetings of the Commission shall be open to the general public. Opponents to a proposed change in zone shall be given adequate time to voice their opinions.

E DISPOSITION

The final disposition of a proposed change in zone shall be in the form of a motion, duly adopted, favorably or unfavorably recommending the change; or specifically setting forth modifications, variations or conditions. The Commission's action shall be forwarded to the Common Council of the City of Muncie, Indiana, for final action.

F BASIS FOR THE DECISION

In making a decision on a proposed change in zone or amendment, the Commission shall substantially determine the following:

1. That the change in zone will not adversely affect the values of surrounding property.
2. That the proposed use is the best and most adequate use of the property.
3. That the proposed change in zone does not constitute spot zoning; that the owner of the property in question is not being favored over surrounding property owners.
4. That the owner can comply with all the requirements of this Ordinance.

5. That traffic congestion will not be unnecessarily increased.
6. That the owner is not speculating on land values.
7. That the proposed change is in line with good zoning practice.

ARTICLE XXXII

Section 5 METROPOLITAN BOARD OF ZONING APPEALS

A GENERAL

The Metropolitan Board of Zoning Appeals shall be the Delaware-Muncie Metropolitan Board of Zoning Appeals created under the provisions of IC 18-7-5-1 et.seq. of the Burns Indiana Statutes. It is not intended by this Ordinance to abrogate, annul or dismiss the said Ordinance as constituted at the time of the enactment of this Ordinance.

B APPEALS

All matters brought before the Metropolitan Board of Zoning Appeals shall be known as appeals. There shall be three (3) types of appeals, namely:

1. Appeals from the review of an order, requirement or decision of the Administrative Zoning Officer. This shall include any interpretation rendered by said officer that an applicant for a permit may deem questionable, or the refusal of the officer to issue a zoning permit.
2. Appeals in which a person is requesting a special use under the terms of this Ordinance.
3. Appeals requesting variances from the term of this Ordinance when it is claimed that the literal enforcement of the provisions of this Ordinance may cause undue hardship.

C HEARINGS

All appeals shall be subject to public hearing. Prior to any public hearing an appeal shall be filed with the board in forms supplied by it and in full compliance with established schedules and procedures. The Board shall give notice of the hearing in at least two (2) newspapers of general circulation in the County of Delaware, Indiana, at least ten (10) days in advance of the hearing. The appellant shall cause the notice of public hearing to be published as required and shall bear the expense involved in so doing. He shall submit a complete list of all surrounding property owners within a three hundred (300) foot radius of the property with the necessary postage to satisfy the mailing of notices to such owners and, where a three hundred (300) feet radius would include only the immediately abutting properties, irrespective of public ways, the owners of the properties adjoining the immediately abutting properties, in an east, west, north and south direction, shall also be notified. Application for appeal shall be accompanied by a certificate from the Administrative Zoning Officer stating the reasons for the appeal, the date on which he refused to issue the permit and all other pertinent information. All hearings and meetings of the Board shall be open to the general public. The applicant may appear in his own behalf or by an authorized agent or attorney.

D DISPOSITION

The Board shall keep minutes of its meetings and hearings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. Should the applicant fail to appear at the hearing or to appoint an agent or attorney to represent him, the Board shall dismiss the case. Decisions of the Board shall be made within thirty (30) days from the time of the hearing and shall be entered in the minutes. The decisions shall include the reasons, the summary of evidence introduced, and the findings of fact made by the Board. When a variance is granted the record shall state in detail any exceptional difficulty and unnecessary hardship upon which the appeal was based.

The Board's decision may reverse, affirm, wholly or partly, the ruling of the Administrative Zoning Officer and shall be final unless judicial review is sought by the applicant.

E VOTE

The concurring vote of the majority of the members of the Board shall be necessary to grant an appeal. Failure of a motion to receive such majority shall constitute a denial of the appeal. Decisions of the Board shall be available for inspection during normal office hours.

F WITHDRAWAL

An applicant may, in writing, withdraw his appeal at any time prior to the hearing or he may do so verbally at the hearing.

G TIME LIMITATION

An appeal shall not be taken after fifteen (15) days have elapsed from the time of a zoning permit or a certificate of occupancy was denied by the Administrative Zoning Officer. If the Board grants an appeal, all necessary permits shall be obtained within ninety (90) days, and construction shall be completed within six (6) months from the time of the Board's action, unless otherwise directed by the Board.

H HEARING

No second hearing shall be entertained by the Board on a case ruled upon by it, unless new facts and evidence are submitted which, in the Board's judgment, materially changes the case. A plea for such second hearing shall be requested in writing to the Board. The Board shall determine prior to scheduling a second hearing if such facts and evidence do exist. Change in ownership of the property affected by an appeal shall be insufficient reason for hearing. Should the Board, at a regularly scheduled meeting, decide that there are substantial grounds for a second hearing and it is fully satisfied that new evidence has been submitted, the applicant shall be advised in writing of the Board's ruling and will then be entitled to refile for rehearing in conformance with established schedules and procedures. The proper legal notices shall be published and all interested parties shall be duly notified.

I ADVICE

No informal request for advice, or moot questions, shall be considered by the Board. Any advice, opinion or information given by a member shall not be binding on the Board.

J PROOF FOR A VARIANCE

It shall be incumbent upon an applicant to conclusively prove at the public hearing that, if he is compelled to meet the provisions of this Ordinance, he cannot secure reasonable use of his property; that the hardship claimed by him results from the application of the provisions of this Ordinance; that the hardship claimed is suffered by his property directly, and not merely by other properties; that the hardship claimed is not the result of the applicant's own actions.

K JUDICIAL REVIEW

Each decision of the Board of Zoning Appeals is subject to review by certiorari. Each person aggrieved by a decision of the Board of Zoning Appeals may present, to the circuit or superior court of Delaware County, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. The person shall present the petition to the court within thirty (30) days after the date of that decision of the Board of Zoning Appeals.

ARTICLE XXXIII DEFINITIONS

ARTICLE XXXIII

Section 1 GENERAL

In the interpretation of this Ordinance the words in the present tense shall include the future words used in the singular number shall include the plural, and vice-versa; the word "shall" shall be mandatory and not discretionary; the word "may" is permissive; the word "building" includes all other structures of every kind regardless of the similarity of buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", and "occupied for".

Throughout this Ordinance, the word city shall refer to the City of Muncie, Indiana; the word county shall refer to the County of Delaware, Indiana; the words Common Council shall refer to the Common Council of the City of Muncie, Indiana; the word Commission shall refer to the Delaware-Muncie Metropolitan Plan Commission; the word Board shall refer to the Delaware-Muncie Metropolitan Board of Zoning Appeals; the word "maps" shall refer to all official Zone Maps made a part of this Ordinance.

ARTICLE XXXIII

Section 2 TERMS AND MEANING

For the purpose of clarity and in order to avoid misunderstandings or misinterpretations, terms defined herein shall be interpreted only as defined.

1. Accessory Use or Structure: A use or structure which is incidental and commonly associated with the principal use of the lot, operated and maintained under the same ownership and on the same lot as the principal use and, in residence zones, erected after or in conjunction with the erection/operation of the principal use in a clearly subordinate manner in terms of height, area and bulk {see Article IX, Section 14 for Accessory Use or Structure regulations}.
2. Accessory Dwelling: A special use allowed in the R-3 and R-4 Residence Zones, when approved by the Board of Zoning Appeals, consisting of a second dwelling unit which is accessory to the principal dwelling unit, at least three hundred (300) square feet in area

and provided with additional off-street parking spaces as required.

3. **Adult Bookstore:** An establishment having as a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
4. **Adult Cabaret:** A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas and/or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.
5. **Adult Drive-In Theater:** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.
6. **Adult Entertainment Business:** An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret, adult drive-in theater, adult live entertainment arcade or adult service establishment.
7. **Adult Live Entertainment Arcade:** Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyrational choreography which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.
8. **Adult Mini Motion Picture Theater:** An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical area for observation by patrons therein.
9. **Adult Motel:** A hotel, motel or similar establishment offering public accommodations for any form of consideration which provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

10. **Adult Motion Picture Arcade:** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
11. **Adult Motion Picture Theater:** An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
12. **Adult Service Establishment:** Any building, premises, structure or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.
13. **Advertising, Outdoor:** Any device or means of identification, description or illustration which is mobile, affixed to or erected upon a property, tract of land, a building or a structure which directs attention to a product, place, activity, service, institution or business {see Article XXX, Section 3 for outdoor advertising regulations}.
14. **Airport:** The area of land or water which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used, or intended for use, for airport buildings or airport facilities or rights-of-way.
15. **Alley:** A public way, other than a street, designed as a secondary means of access to abutting land and primarily used for vehicular access to the side and rear of such land and/or access for utilities and other services.
16. **Anatomical Exposure:** The exposure of any human genital region, buttocks, female breasts, pubic areas, or any other part of the human anatomy, described as specified anatomical areas, designed to convey or express an erotic message. See also “Specified Anatomical Areas”.
17. **Apartment:** A room or suite of rooms arranged, designed, used or intended to be used as a single housekeeping unit.
18. **Apartment House:** A building other than a duplex residence in which there are three (3) or more dwelling units.
19. **Block:** A lineal measurement on and along a street which approximates three hundred and thirty (330) feet and which, under an ideal grid system of street layout, would be the distance from one intersecting street to the next intersecting street.
20. **Boarding House:** A residence in which table board or sleeping accommodations or both are provided for compensation of three (3) or more persons, but not to exceed fifteen (15)

- persons. A boarding house shall be synonymous with lodging house.
21. Breezeway: A roofed structure with open sides connecting one building and another building where the area cannot be heated for year-round use as living quarters.
 22. Buffer: Screening that lessens the impact of one use on an adjacent use.
 23. Buildable Area: The net lot area remaining after deducting the required front, side and rear setbacks from the gross area of a lot or parcel of land of record.
 24. Building: A roofed structure for shelter, support, enclosure, or protection of persons, animals or property.
 25. Building, Detached: A building having no structural connection with another building.
 26. Building Line: The line establishing the minimum permitted distance on a lot between the front line of a building and the street right-of-way line; could be used interchangeably with front setback line.
 27. Building, Front: The wall of a building most nearly parallel with an adjacent street and the front line of the lot on which the principal use is conducted and/or the wall of a building containing the entrance to the building; when a building is to be located on a corner lot, the owner shall, for the purpose of this Ordinance, have the privilege of selecting which street shall be used to determine the front line of the lot, provided that such choice will not be injurious to the existing or future development of adjacent properties as determined by the Administrative Zoning Officer and that such choice will not be contrary to the Uniform House Numbering Ordinance as determined by the Plan Commission.
 28. Building, Principal: A building constituting the principal use of the lot.
 29. Business Office: An office used in the conduct of a business offering or selling a service such as, but not limited to, offices for real estate, insurance, brokers and consultants, and where the service does not involve the use of delivery trucks or other commercial vehicles or equipment.
 30. Camp, Public: Any area or tract of land used or designed to accommodate two (2) or more automobile house trailers, mobile homes, cabins, tents or other camping outfits, but not intended for permanent year- round occupancy.
 31. Cemetery: Land used for the burial of the dead, including crematories and mausoleums.
 32. Charitable Institutions: A group, organization or not-for-profit corporation organized and operated to provide care, help, relief and assistance to those in need and not for the pecuniary gain of its trustees, directors, incorporators or members. A not-for-profit corporation would be one where the articles of incorporation are on file with the Secretary of State. Other groups and organizations would be on file with the Consumer Protection Division of the Office of the Attorney General.

33. Child Care Centers: One of the special uses listed in this Ordinance consisting of any residence or institution operated for the purpose of providing care and maintenance to more than five (5) children separated from their parent, guardian or custodian, excluding relatives of the person operating the care center.
34. Church: A permanently located building commonly used for religious worship, fully enclosed with walls and having a roof (canvas or fabric excluded) and including accessory buildings housing facilities commonly associated with such religious worship.
35. Clinic: An establishment where patients are admitted for special study and treatment by two (2) or more licensed physicians and their professional associates, practicing medicine together.
36. Club, Private: Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business. The affairs and management of a private club are conducted by a Board of Directors, and executive committee or similar body chosen by the members at an annual meeting. The serving of food and the sale of alcoholic beverages is secondary and incidental to the promotion of a common objective by the organization.
37. Collector: A roadway, so designated by the Official Thoroughfare Plan, intended to collect and distribute local traffic to primary and secondary arterials; its primary function involves both traffic movement and access to abutting properties; the right-of-way is sixty (60) feet.
38. Comprehensive Plan: An overall development plan consisting of the Zoning Ordinance, the Subdivision Ordinance, the Flood Plain Management Ordinance, the Official Thoroughfare Plan, the Final Land Use Plan, the Uniform House Numbering Ordinance and like ordinances governing and directing planning and zoning in Delaware County and the City of Muncie. Also known as the Master Plan.
39. Condominium: A dwelling unit which is usually (Cont) part of a building containing two (2) or more dwelling units where such units may be individually owned and the land may be under group ownership.
40. Country Club: A type of private club.
41. Density: A term indicating the number of dwelling units per acre for an area which is determined by dividing the square footage of an acre (43,560 square feet) by the minimum amount of lot area allowed in the appropriate zone.
42. Development Standards: The requirements set forth in this Ordinance governing the development of a property such as maximums and minimums for height, area, bulk, setbacks, parking and accessory structures or uses.
43. Dwelling: A building or portion thereof used primarily as a place of abode for one (1) or more human beings, but not including hotels, lodging houses, boarding houses, tourist homes or motels.

- 44. Dwelling, Attached: A dwelling that is joined to another dwelling at one (1) or more sides by party walls.
- 45. Dwelling, Detached: A dwelling which is entirely surrounded by open space on the same lot.
- 46. Dwelling, Unit: One (1) or more rooms arranged, designed, or used as living quarters for one (1) family containing cooking, bathing and sleeping facilities which serve only such room or rooms with no through access to a room or rooms similarly arranged, designed or used; the term housekeeping unit shall denote dwelling unit.
- 47. Dwelling, Single-family: A building containing one (1) dwelling unit for one family.
- 48. Dwelling, Two-family: A building containing two (2) dwelling units with no more than one family per dwelling unit.
- 49. Dwelling, Multi-family: A building or portion thereof containing three (3) or more dwelling units with no more than one family per dwelling unit.
- 50. Dormitory: A building arranged and used for the housing of individuals, with common toilet and bath facilities and not having individual cooking facilities.
- 51. Establishing An Adult Entertainment Business: Any of the following: a) the opening or commencement of any such business as a new business; b) the conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein c) the addition of any adult entertainment businesses defined herein to any other existing adult entertainment business; or d) the relocation of any such business.
- 52. Expressway: A roadway, so designated by the Official Thoroughfare Plan, intended for high speed, high volume continuous traffic with controlled access; its function is traffic movement; the right-of-way is one hundred and fifty (150) feet.
- 53. Family: (a) One (1) or more persons related by blood, marriage, or adoption living as a single dwelling unit. (b) Two (2) persons not related by blood, marriage, or adoption living as a single dwelling unit. (c) One (1) or more persons related by blood, marriage, or adoption living as a single dwelling unit except that two (2) of the before said persons may be unrelated by blood, marriage, or adoption.
- 54. Floor Area: (a) When used to determine compliance with the minimum floor area requirements for a residence, it shall mean the sum of the horizontal areas of the several floors of the residence measured from the exterior faces of the exterior walls or from the center line of common walls separating residences, excluding carports, garages, breezeways or open porches; (b) When used to determine lot coverage, it shall mean the horizontal area of the ground floor of a building measured from the exterior face of the exterior walls of such building; and (c) When used to determine the number of off-street parking spaces required for non-residential uses, buildings and structures, it shall mean the sum of the horizontal areas of the several floors of the building measured

from the interior faces of the interior walls.

- 55. Fraternity: A dwelling or dwelling unit maintained exclusively for fraternity members and their guests or visitors and affiliated with an academic or professional college, university, or other institution of higher learning.
- 56. Front Setback: The distance required, as set forth in each zone, from the front lot line to the closest point of the wall of the building or to the closest part of a structure placed on a lot.
- 57. Front Setback Line: A line which establishes the front setback area of a lot, generally parallel to and generally equidistant from the street right-of-way line; also, front building line.
- 58. Frontage: All property fronting on one (1) side of a street between two (2) intersecting streets, measured along the street right-of-way.
- 59. Garage, Private: A compartment within and attached to a residence, or any building located on land on which a residence is located, designed, arranged, used or intended to be used for the storage of the private passenger automobiles of the occupants of the residence.
- 60. Garage, Community: Two (2) or more private garages.
- 61. Green Belt: An area of land with softscaped treatment consisting of natural vegetative material such as greenery, plants, grass and trees.
- 62. Gross Floor Area (GFA): The interior floor area of buildings and structures used to determine off-street parking spaces.
- 63. Group Housing: A term used to describe a type of special use as listed in this Ordinance referring to a situation where one dwelling unit may be used to house four (4) or more persons unrelated by blood, marriage, or adoption when approved by the Board of Zoning Appeals {see Article XXXI, Section 11 for specific regulations}.
- 64. Health Center: A convalescent home, nursing home, rest home, institutions for human care, health resorts.
- 65. Height, Building or Structure: The vertical distance from the average established curb grade in front of the lot or from the average finished grade, at the building line, if higher, to the top of the highest point of the building or structure.
- 66. Home Occupation: One of the special uses listed in this Ordinance consisting of an occupation conducted in a dwelling by a member of the resident family where the clientele would be coming to the premises upon which such occupation is conducted. A home occupation shall be controlled and limited so as to not interfere with the principal use of the premises as a residence and so as to not adversely affect the residential character, use or value of the adjacent use.

67. Hotel: A building containing rooms intended or designed to be used or which are used, rented, hired out to be occupied or which are occupied for sleeping purposes by guests and where general kitchen and dining room facilities are provided within the building or in an accessory building.
68. Improvements: Any work done, for any facility, structure or building placed, on or off of a property involving proposed development such as streets, sidewalks, sewers, utility transmission facilities, storm drains and flood control, monuments, landscaping, screening and any other work or facility required by ordinance.
69. Institution, Educational: A public, parochial, charitable or nonprofit college, university, other than trade or business school, including instructional and recreational uses with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.
70. Junk: Scrap metals and their alloys, bones, used materials and products such as rags, cloth, rubber, rope, tinfoil, bottles, lumber, wastepaper, boxes, crates, old tools, machinery, fixtures and appliances with negligible remaining utility, and other goods uneconomical to repair or unusable.
71. Junk Yard: A salvage yard.
72. Kennel: The use of land or buildings for the purpose of selling, breeding, boarding or training animals other than farm animals; or the keeping of four (4) or more dogs over four (4) months old, or the keeping of six (6) or more cats over four (4) months old, or the keeping of more than five (5) dogs and cats.
73. Landbank: A process whereby land is set aside as green space and reserved for a future use.
74. Local Street: A roadway, so designated by the Official Thoroughfare Plan, intended for local traffic within neighborhoods; its primary function is to provide access to abutting properties; the right-of-way is fifty (50) feet.
75. Lot: A parcel, property, plot, tract of land or like term used to designate a particular piece of land.
76. Lot, Area: The area of a horizontal plane bounded by the front, side and rear lot line of a lot, but not including any area occupied by dedicated alleys, streets, recorded lakes or rivers.
77. Lot, Corner: A lot fronting on two (2) or more streets at their intersection.
78. Lot Coverage: The portion of the lot area which is covered by principal buildings and accessory buildings.
79. Lot, Depth: The mean horizontal distance measured from front lot line to the rear lot line.

80. Lot Interior: A lot other than a corner lot.
81. Lot Line: The property lines bounding a lot.
82. Lot Line, Front: The lot line separating a lot from a street; in the case of a corner lot, the owner shall have the privilege of selecting which street shall be used to determine the front lot line, provided that such choice will not be injurious to the existing or future development of adjacent properties as determined by the Administrative Zoning Officer and that such choice will not be contrary to the Uniform House Numbering Ordinance as determined by the Plan Commission.
83. Lot Line, Rear: The lot line which is opposite and most distant from the front lot line.
84. Lot Line, Side: Any lot line not a front line or a rear line; where the lot is on a corner, the side lot line separating a lot from a street shall be called the side street lot line.
85. Lot, of Record: A parcel of land designated as a lot on a plat or subdivision recorded or registered pursuant to the statutory provisions; a single tract of land which, at the time of filing for an improvement location permit or a building or zoning permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership and is so recorded in the Office of the Recorder of Delaware County, Indiana.
86. Lot Width: The horizontal distance between the side lot lines measured at right angles to the depth.
87. Manufactured Home: A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with Federal Manufactured Housing Construction and Safety Standards Code or Indiana Public Law 360, Acts of 1971, as promulgated by the Indiana Fire Prevention & Building Safety Commission; also refers to modular homes.
88. Massage: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of specified anatomical areas of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment, or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his behalf will pay money or give any other consideration or any gratuity therefore. However, massage as used in this Ordinance shall not apply to the activity of any person who is registered or licensed by the United States Government or any agency thereof, by the State of Indiana or any agency thereof, by Delaware County or any agency thereof, by any city or town within Delaware County or any agency thereof, or registered or licensed by any statute or ordinance of the United States, State of Indiana, Delaware County or any city or town in Delaware County, while such person so registered or licensed is performing the services for which the registration or license was issued and during the period of time said registration or license is in effect.

89. **Massage Establishment:** Any establishment having a source of income or compensation derived from the practice of massage as herein defined and which has a fixed place of business where any person, firm, association, or corporation engages in, or carries on any of the activities as defined in a massage.
90. **Meteorological Tower (Met Tower):** Defined to include the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
91. **Microbrewery:** A facility that produces less than 15,000 barrels of fermented alcohol (beer, cider, mead, wine, or other similar beverages). Use may include a tasting room or may be in conjunction with a bar/tavern or restaurant. Copies of reports filed with the Alcohol and Tobacco Tax and Trade Bureau (TTB) shall be maintained to demonstrate, upon request of the City, that they have not exceeded the annual beverage production limit in any twelve (12) month period. Microbreweries may also be known as a brewpub.
92. **Micro distillery:** A facility that produces less than 10,000 barrels of distilled alcohol (spirits, liquor) per year. Use may include a tasting room or may be in conjunction with a bar/tavern or restaurant. Copies of report filed with the Alcohol and Tobacco Tax and Trade Bureau (TTB) shall be maintained to demonstrate, upon request of the City, that they have not exceeded the annual beverage production limit in any twelve (12) month period.
93. **Mobile Home:** A transportable dwelling unit larger than eight (8) feet in body width and longer than thirty-two (32) feet in body length and designed to be used as a year-round dwelling unit, built prior to June 15, 1976.
94. **Mobile Home Park:** An area of land upon which two (2) or more manufactured homes or mobile homes are harbored for the purpose of being occupied as principal residences and which includes all real and personal property used in the operation of the park. This includes subdivided lots which are leased, owned or otherwise contracted for where the lots are at least three thousand (3000) square feet in area but not necessarily of sufficient size to meet the required lot area for single family dwellings in a residence zone.
95. **Motel:** A building or group of buildings in which lodging is provided and offered to the public for compensation and catering primarily to the traveling public.
96. **Nonconforming Adult Use:** Any building, structure or land lawfully occupied by an adult entertainment business or lawfully situated at the time of passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance or amendments thereto with the regulations of this ordinance.
97. **Nonconforming Building or Structure, Lawful:** A building or structure which does not comply with the development standards of this Ordinance and which was established

- prior to November 5, 1973, and is still in existence (see Article IX, Section 14 for regulations}.
98. Nonconforming Building or Structure, Unlawful: A building or structure which does not comply with the development standards of this Ordinance and which was established on or after November 5, 1973 {see Article IX, Section 2 for regulation}.
 99. Nonconforming Use, Lawful: A use of land, buildings or structures which does not comply with the usage provisions of the zone in which such use is located and which was established prior to November 5, 1973 and which has not been, at any time, discontinued for one (1) year or longer {see Article IX, Section 14 for regulations}.
 100. Nonconforming Use, Unlawful: A use of land, buildings or structures which does not comply with the usage provisions of the zone in which such use is located and which was established on or after November 5, 1973 {see Article IX, Section 2 for regulation}.
 101. Nursing Home: A facility providing human care and service for the aged, convalescent, chronically ill or incurable and in which three (3) or more persons are received, kept and provided with such care and service for compensation; similar terms include convalescent home, rest home and health care center.
 102. Official Thoroughfare Plan: A development plan for the roadway system which classifies the various roads, establishes rights-of-way and projects traffic patterns by volume, population and trip generation.
 103. Open Porch: A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed on the three (3) sides in a manner which would allow the porch area to be heated and used as year-round living quarters. This open concept shall apply to patios, balconies, and breezeways and like extensions off of a principal building.
 104. Owner: A person who owns a lot by virtue of their name being on the deed to the property with the deed being duly recorded in the Office of the Recorder of Delaware County, Indiana; or a person who is a contract purchaser of a property; or a person who has entered into a long term lease agreement such as an eighty-nine (89) year lease.
 105. Parking, Lot: A parcel of land devoted to parking spaces for four (4) or more motor vehicles for compensation or otherwise, having an all-weather dust-free surface, enclosed or unenclosed, connected to a street and providing satisfactory ingress and egress for customers.
 106. Parking, Space: A parking space for one vehicle consisting of a minimum one hundred sixty-two (162) square feet in area.
 107. Planned Unit Development: One of the special uses listed in this Ordinance; a term used to denote a type of development which is under one design plan where the standard setbacks, lot area and lot dimensions may be waived in favor of a design plan emphasizing aesthetics, open space and efficient use of land through innovations in type,

- design and layout of dwellings. A Planned Unit Development (PUD) may consist of detached dwelling units, duplexes, townhouses, clusters of units, patio homes, garden apartment, zero lot line units and so on, and may be a mixture of the various types of units.
108. Primary Arterial: A roadway, so designated by the Official Thoroughfare Plan, intended for high volume through traffic; its primary function is traffic movement achieved through turn lanes, channelization and medians; the right-of-way is one hundred (100) feet.
 109. Principal Use: The primary use of a property, building or structure in terms of being foremost in financial worth or scope of operation such as the dwelling unit on a residentially zoned lot, the selling of grocery items in a retail store containing video games, or the assembly plant of a manufacturing operation.
 110. Professional Office: An office used in the conduct of a profession or vocation requiring training in the liberal arts or the sciences and advanced study in a specialized field such as, but not limited to, a doctor, lawyer, engineer, dentist, surveyor.
 111. Projection: A structure which projects out from the main wall of a building and which is an architectural feature not connected to the structural support and make-up of the building, i.e. a canopy or a balcony is an architectural feature, a bay window or chimney is a part of a supporting wall.
 112. Public Building: Any structure, edifice, or building, regardless of location, held, used or controlled for public purposes by any department or branch of government, state, county, or municipal, without reference to the ownership of the building or of the realty upon which it is situated.
 113. Public Land: Any real estate in which any governmental organization or entity has a legal, or equitable, interest. This term shall not include any public streets, highways, roads or alleys since these terms are included in the definition of "Street" and "Alley".
 114. PUD: A planned unit development.
 115. Recreational Vehicle: Any portable vehicular structure not built to the National Manufactured Housing Construction and Safety Standards Code, designed to provide temporary living quarters for recreational, camping or travel use, including but not limited to travel trailers, collapsible trailers, truck campers, motor homes and multi-use vans; they are intended for temporary residential uses and should be occupied only in RV parks.
 116. Religious Institution: A church, chapel, temple, synagogue, convent, seminary, monastery, nunnery, rectory, parsonage, parish houses and similar facilities for the conduct of religious worship.
 117. Rummage Sale: A type of accessory use consisting of the selling, by the owner, not to exceed two (2) times per calendar year and each time not to exceed seven (7) successive days in duration, of tangible personal property. The term shall be synonymous with

garage sale, yard sale and similar terms.

118. **Salvage Yard:** One of the special uses listed in this Ordinance and consisting of an area where waste paper, rags, discarded or salvaged materials are bought, sold, exchanged, bailed, packed, disassembled or handled; a salvage yard shall include auto wrecking yard, dismantling of machinery, house wrecking yards, used lumber yards, and places or yards for the storage of salvaged house wrecking and structural steel materials and equipment; the term shall be synonymous with junk yard {see Article XXXI, Section 4 for specific regulations}.
119. **Secondary Arterial:** A roadway, so designated by the Official Thoroughfare Plan, intended for high volume through and local traffic; its primary function is traffic movement; the right-of-way is eighty (80) feet.
120. **Screening:** A buffer consisting of either an earth berm, a masonry wall, a wooden fence, a stucco wall, a chain-link type metal fence using durable permanently affixed slats to create a substantially opaque surface, a dense evergreen hedge that will grow to the required height and density within two growing seasons, or any combination of these materials which will effectively block visibility.
121. **Services Involving Specified Sexual Activities or Display of Specified Anatomical Areas:** As used in Adult Service Establishment, any combination of two or more of the following activities: (a) the sale or display of books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; (b) the presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons; (c) the operation of coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas; (d) live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified sexual activities or specified anatomical areas: (e) the operation of a massage establishment.
122. **Sexual Activities:** Sexual intercourse or deviate sexual conduct, real or simulated, exhibition of the of the uncovered genitals of a person in the context of masturbation or other sexual activities, provocative, erotic, or suggestive dance which is intended to convey an erotic message. See also "Specified Sexual Activities".
123. **Sign:** Any outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designated, intended or used to advertise or inform.

124. **Small Wind Energy System:** Means a single-towered wind energy system that:
 - a) Is used to generate electricity;
 - b) Has a rated nameplate capacity of one hundred (100) kilowatts or less; and
 - c) Has a total height of one hundred fifty (150) feet or less.
125. **Special Use:** A type of use which is listed under the various residence zones as being allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals; also, one of the uses listed under Article XXXI, which gives the general procedure for filing with the Board of Zoning Appeals, consisting of mineral extraction, salvage yard, refuse disposal site, planned unit development, truck terminals, home occupation, seasonal work camps, private outdoor camps, group housing, care centers, and multi-unit developments. Some special uses are seen as being potentially compatible with the principal uses permitted in a zone and some special uses are of a sufficient intensity, with a potentially adverse impact on surrounding uses, as such they must be approved through a public hearing process before the Board of Zoning Appeals.
126. **Specified Anatomical Areas:** Any of the following: a) less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolas; or b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
127. **Specified Sexual Activities:** Any of the following: a) human genitals in a state of sexual stimulation or arousal; b) acts of human masturbation, sexual intercourse or sodomy; c) fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts; d) flagellation or torture in the context of a sexual relationship; e) masochism, erotic or sexually oriented torture, beating or the infliction of pain; f) erotic touching, fondling or other such contact with an animal by a human being; or g) human excretion, urination, menstruation, vaginal or anal irritation as part of or in connection with any of the activities set for in "3" through "12".
128. **Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, the space between any floor and the ceiling next above it. A basement shall be counted as a story for height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet, or if used for dwelling or business purposes.
129. **Street:** A public right-of-way not less than fifty (50) feet in width unless otherwise required in the Official Thoroughfare Plan for the City of Muncie, Indiana; the right-of-way established in a recorded plat to provide the principal means of access to abutting property; a public right-of-way open to the general public.
130. **Total Height:** Means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
131. **Townhouse:** A dwelling unit that usually consists of two stories and is usually attached to like dwelling units by common walls.
132. **Utility Facilities, Other:** A single piece of equipment or an assemblage of equipment that provides a public utility service that is aboveground, smaller in scope than a substation,

and may generally be referred to as a lift station, telephone switch, ground mounted transformer, regulator station, utility cabinet and like terms.

133. Utility Substations: An assemblage of equipment for transforming, boosting, switching or pumping purposes that provide public utility service where such facilities are constructed aboveground, a majority of the equipment is at a height greater than six feet (6'), and the land area containing the assemblage of equipment is greater than twenty feet by twenty feet (20' x 20') in a non-residential zoning district and greater than six feet by six feet (6' x 6') in a residential zoning district.
134. Wind Energy System: Means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire or other component used in the system.
135. Wind Energy System Owner: Shall mean the individual that owns, or intends to own, the property upon which he/she will operate a Small Wind Energy System that will be operated in accordance with this Ordinance.
136. Wind Generator: Means blades and associated mechanical and electrical conversion components mounted on top of the tower.
137. Wind Tower: Means the monopole, freestanding, or guyed structure that supports a wind generator.
138. Yard: A space on the same lot with a main building, open, unoccupied and unobstructed by structures.
139. Yard, Corner Side: The side yard fronting on the street, which intersects the street running on and along the front lot line.
140. Yard, Front: An open, unoccupied space on the same lot with a building, extending the full width of the lot and situated between the street right-of-way line and the front line of the building projected to the side lines of the lot.
141. Yard, Rear: A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and such main building.
142. Yard, Side: A yard between the main building and the side lot line, extending from the front yard to the rear yard, the width of which is measured horizontally at ninety (90) degrees with the side lot line.
143. Zero Lot Line: A term referring to a type of development where the principal buildings are not subject to a side setback; the buildings might be off-set to one side where one side wall abuts the side lot line and the other side wall is setback from the other side lot line or one building might share common walls with another building.

BE IT ORDAINED by the Common Council of the City of Muncie, Indiana,
that the City of Muncie Comprehensive Zoning Ordinance be adopted by
the Common Council of the City of Muncie, Indiana, on this 5
day of November, 1973.

This Ordinance shall be in full force and effect from and after its
passage by the Common Council and the approval of the Mayor thereto:

Passed by the Common Council this 5 day of November,
19 73.

Daniel Kelley, Jr. ^{President}
Elmer R. Cox
Presiding Officer

Presented by me to the Mayor for his approval and signature this 5
day of November, 19 73.

Scott A. Hale
City Clerk, City of Muncie, Indiana

Approved and signed by me this 5 day of November,
19 73.

Paul J. Cooley
Mayor of the City of Muncie, Indiana

ATTEST:

Scott A. Hale
City Clerk

City of Muncie Ord.

AMENDMENTS

<u>REFERENCE</u>	<u>SUBJECT</u>	<u>ADOPTED</u>
Art. XXX, Sec. 5	Swimming Pools	06/04/79
Art. XVII-B	New BP Zone	03/05/81
Art. XXXII, Sec. 3	Filing Fees	10/07/81
Art. XXX, Sec. 3	Outdoor Advertising	08/05/82
Art. IX	General Provisions	02/11/83
Art. XI-XVII-A & XXX	Zones – Farm, Res. & Special Uses	09/12/83
Art. XXXII, Sec. 3	Filing Fees	05/14/84
Art. XXX, Sec. 3	Outdoor Advertising	07/11/84
Art. XVIII & XXII	Business for persons > 18	12/06/84
Art. XXX, Sec 3	Outdoor Advertising	02/11/85
Art. XXIX, Sec 1-3	Mobile Home Park Zone	01/06/86
Art. XXXIII, Sec. 2	Definitions	04/07/86
Art. IX, Sec. 18	Res. Facilities-Dev. Disabled	08/03/87
Art. XXXII, Sec. 4 & Sec. 5	Notification Distance	04/11/88
Art. XXVIII, Sec. 1&2	Fraternities/SSS Zone	12/15/88
Art. IX, Sec. 18 & 19	Res. Facilities-Mentally Ill	01/02/89
Art. XXXIII, Sec. 1 & Art. XVIII, Sec. 1	Adult Entertainment	09/18/89
Art. XXXII, Sec. 5	Board of Zoning Appeals	03/08/90
Art. XII, Sec. 1 & 2	F Farming Zone	07/13/93

AMENDMENTS

<u>REFERENCE</u>	<u>SUBJECT</u>	<u>ADOPTED</u>
Art. XXIII, Sec. 2	IL Limited Business	07/13/93
Art. XXIV, Sec. 2	II Intense Industrial	07/13/93
Art. XXXI, Sec. 14	Special Uses	07/13/93
Art. XXX, Sec. 6	Development Standards	07/01/95
Art. XXX, Sec. 2	Parking & Loading	07/01/95
Art. XXXIII, Sec. 2	Terms & Meanings	07/01/95
Art. XXX, Sec. 3 (E) & Art. XXX, Sec. J	Clustered Use Sign	05/09/97
Art. XXX, Sec. 2(C) 6	Parking & Loading	05/14/05
Art. XXX, Sec. 6 (B) 3c	Development Standards	05/14/05
Art. XXX, Sec. 7	29 th Street & Madison Street Corridor Development Standards	05/14/05
Art. XXVI-A	RC Recreation & Conservation Zone	09/11/06
Art. XXXII, Sec. 3 (G)	Fees	10/04/06
Art. XXX, Sec. 6(B3) f7	Development Standards Landscape Maintenance	03/06/09
Art. IX, Sec. 14(A2) f-g	Accessory Uses/Structures Small Wind Energy System	05/04/09
Art. XXXIII, Sec. 2	Terms & Meanings Small Wind Energy System	05/04/09
Art. IX, Sec. 6	General Provisions Public Utilities	08/05/09
Art. XXX, Sec. 2(C10)	Parking & Loading Bicycle Racks	05/02/11

AMENDMENTS

<u>REFERENCE</u>	<u>SUBJECT</u>	<u>ADOPTION</u>
Art. IX, Sec. 7	Yards Affected by Street Widening	09/12/11
Art. XXX, Sec. 2 (C6)	Parking and Loading ADA Standards (Table C6)	04/02/12
Art. IX, Sec. 6	Public Utilities	11/07/12
Art. XXX, Sec. 8	University Village Overlay District	05/06/13
Art. XXX, Sec. 7	Corridor Development Standards	03/07/14
Art. XXX, Sec 2 (E)	Parking and Loading CB Central Business Zone	02/01/16
Art. XVII, Sec 1	Permitted Uses (CB Zone) Microbreweries/Micordistilleries	05/02/16
Art. XXX, Sec 2 (E)	Parking and Loading Microbreweries/Microdistilleries	05/02/16
Art. XXXIII, Sec 2	Terms and Meaning Microbreweries/Micordistilleries	05/02/16