OWEN COUNTY ZONING AND SUBDIVISION CONTROL ORDINANCE

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CHAPTER 1 - GENERAL PROVISIONS

1.1 Title

These regulations (Chapters 1 through 24 and all accompanying maps, which are on file in the Administrator's office), and all ordinances and regulations supplemental or amendatory thereto, shall be known and may be cited as the "Owen County Zoning Ordinance" and are generally referred to herein as "the Zoning Ordinance," "this ordinance," "the ordinance", or "these regulations".

1.2 - Purpose

These regulations are hereby adopted in order to:

A. promote the orderly, responsible, and beneficial development and use of land within the County Jurisdictional Area;
B. promote the public health, safety, morals, comfort, convenience and general welfare of the County;
C. protect the character and stability of residential, institutional, business, industrial and natural areas;
D. minimize or avoid congestion in the public streets and to ensure safe, convenient and efficient traffic circulation;
E. secure adequate light, air, convenience of access, and safety from fire, flood and other danger, which may include providing adequate open spaces for light, air and outdoor uses;
F. preserve and enhance the scenic beauty, aesthetics and environmental integrity of the County Jurisdictional Area;
G. encourage compatibility between different land uses and to protect the scale and character of existing development from the encroachment of incompatible uses;
H. regulate and restrict the location and intensity of use of buildings, structures and land for trade, residence and other uses;
I. define the powers and duties of administrative officers and bodies as provided herein, and to establish procedures for the implementation and enforcement of these regulations; and,
J. further such other purposes as are stated hereinafter within specific provisions of these regulations.

The Zoning Ordinance shall be interpreted, administered and enforced in a manner that is consistent with the foregoing purposes.

1.3 - Prohibited Uses and Acts

Except as provided in these regulations, no building, structure or premises may be used for any purpose other than those permitted in the zoning district in which the building, structure, or premises is located. No land or lot area may be reduced, diminished, used or developed except in accordance with all applicable provisions of these regulations. No building or structure may be altered, erected, constructed, installed, moved, replaced or maintained except in accordance with all applicable provisions of these regulations.

1.4 - Authority and Jurisdiction

These regulations, enacted pursuant to the Indiana home rule and planning enabling legislation (Indiana Code 36-1-3-4 and Indiana Code 36-7-4-1, et seq., as amended), and pursuant to the Owen County Code and all other applicable authorities and provisions of Indiana statutory and common law, shall apply to all land use within the County Jurisdictional Area.

1.5 - Inclusion of and Relationship to Other Ordinances

A. The Zoning Ordinance shall be interpreted to include any and all other provisions of the Owen County code which are necessary for an understanding of this ordinance and the attainment of its purposes. The Board of Commissioners of the County of Owen, Indiana, intends that all Owen County Code provisions relating to land use, and all orders, rules, and regulations established pursuant to said provisions, be read as part of a uniform system of Owen County land use regulation.

B. All departments, officials and employees of Owen County, Indiana, that are vested with the duty or authority to issue permits, certificates or approvals, shall conform to the provisions of this ordinance and shall issue no permit, certificate or approval for any use, structure or activity if the same would be in conflict with the provisions of this ordinance. Any permit, certificate or approval issued in conflict with the provisions of this ordinance shall be null and void and, in no event, shall act as a waiver of the standards and requirements of these regulations.

1.6 - Interpretation, Conflict and Separability

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

B. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. Where the conditions imposed by, or pursuant to, these regulations are different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute or other provision of law, the provisions which are more restrictive and which impose the higher/greater standards shall control.

C. Private covenants, restrictions and/or agreements, whether by deed or other instrument, which impose any requirements or standards different than those established under this ordinance, shall not be construed to modify the provisions of this ordinance or impose any enforcement obligations thereunder upon the Commission, the Board and the Plan Department staff unless the Commission or the Board had approved or accepted, in writing, and had specifically accepted the responsibility for enforcement of, the terms and conditions of any such private covenant, restriction or agreement.

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

1.7 - Computation of Time

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day of the specified period of time. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded.

1.8 - Saving Provision

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing planning and zoning regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the County under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the County except as shall be expressly provided for in these regulations.

1.9- Conditions

The attachment of reasonable conditions to the use and development of land within the County Jurisdictional Area as part of the approval of rezoning petitions, special exceptions, conditional uses, home occupations, temporary uses, variances, outline plans, development plans, plat vacations and amendments, or as otherwise authorized, is an exercise of valid police power delegated to the County by the State. The applicant has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the County and to the safety and general welfare of present and future landowners and citizens of the County. The failure to comply with any such conditions may be cause for denial of the permits and approvals prescribed by these regulations and shall constitute a violation of the Zoning Ordinance.

1.10 - Notices

For purposes of this ordinance, if written notice is required to be given to any person, such requirement shall be considered satisfied as of the date of deposit of the written notice in the United States mail, postage pre-paid, addressed to the person or agent thereof, at his last known address or principal place of delivery.

1.11 - Form of Certificates, Notations, Applications and Findings

The Department shall establish the form of all certificates, notations, applications and findings required or permitted by these regulations. All such forms must be approved by the Commission and must be consistent with these regulations.

1.12 - Applicability

This Zoning Ordinance, unless otherwise noted, shall apply to all public, private and institutional development except road development projects by the Owen County Highway Department.

CHAPTER 2 - DEFINITIONS

For the purpose of the Owen County Comprehensive Land Use Plan, Zoning Ordinance and Subdivision Control Ordinance, the following terms have the meanings indicated below:

The present tense includes the future tense.
The singular number includes the plural and the plural includes the singular.
The word "shall" is mandatory; the word "may" is permissive.
The word "used" includes "designed" or "intended" to be used.
The word "lot" includes the words "tract" or "parcel."

Any words not defined as follows shall be construed in their general accented meanings as defined by Webster's Dictionary.

Accessory Building, Structure or Use: One which is: a) subordinate to and serves the principle building or principle use; b) subordinate in area, extent, or purpose to the principle building or principle use served; c) contributes to the comfort, convenience, or necessity of occupants of the principle use served; and d) located on the same lot as the principle use building or principle use served, with the single exception of such accessory off-street parking facilities as are permitted.

Agriculture: The use of a tract of land for agricultural purposes, including farming, dairying, pasturage, horticulture, timber and the necessary uses for packing, treating, or storing the agricultural product.

Airport: Any location either on land, water, or structure which is designed or used for the landing and taking off of aircraft, including all necessary buildings and facilities.

Appeal: The taking of a question of interpretation or enforcement of the Zoning Ordinance or Subdivision Control Ordinance, in a specific case, to the Owen County Board of Zoning Appeals for review from which a variance may be authorized.

Buffer Area, Screening: Any trees, shrubs, fences, or mounds, planted or constructed for the purpose of shielding the negative effects of a neighboring land use.

Business, Manufacturing: A business that derives its principal source of income from the sale of goods made from raw, unfinished materials, as distinguished from the final product.

Business, Retail: A business that derives its principal source of income from the sale of supplies to the ultimate consumer.

Business, Service: A business that derives its principal source of income from the sale of useful artistic, educational, intellectual, literary, or scientific labor from which no necessary tangible commodity is derived.

Business, Wholesale: A business that derives its principal source of income from sales to retailers, other merchants, or industrial, institutional or commercial users which will use the goods for resale or business use.

Cluster Development: A development where the buildings are constructed closely together in order to preserve large areas of undeveloped space for recreational, scenic, or preservations uses.

Commission: The Owen County Planning Commission.

Density: A unit of measurement, the number of dwelling units per acre of land.
a) Gross density: The number of dwelling units per acre of the total land to be developed, including public right-of-way.
b) Net density: The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public right-of-way and other public lands.

Dwelling: A permanent building, or portion thereof, but not a mobile home designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple-family dwelling, but not including hotels, motels, or lodging houses.

Dwelling Unit: One or more rooms which are arranged, designed, or used as living quarter for one family only. Bathrooms and complete kitchen facilities shall be included for each "dwelling unit."

Dwelling, Single Family: A building consisting of one dwelling unit only, separated from other dwelling units by open space.

Dwelling, Multiple Family: A building consisting of two or more dwelling units.

Easement: An authorization of grant by a property owner to specific person(s) or to a utility for specific purposes.

Fence: A structure, including entrance and exit gates, designed and constructed for enclosure and/or screening.

Floodplain: The relatively flat or low land adjoining the channel of a river or stream which has been or may be covered by flood water.

Garage. Private: An accessory building or an accessory portion of the principal building, including a carport, which is intended for and used for storing the private vehicles of the family or families resident upon the premises.

Grocery Store: Any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption.

Home Occupation: An occupation or activity conducted entirely within a dwelling or accessory building, solely by the occupants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and in connection with which:
a) Not more than one person not a resident on the premises is employed.
b) Not over 25 percent of the first floor of the dwelling is occupied by such use.
c) No internal or external alterations to the dwelling are required to accommodate the use.

Impervious Surface: An area of land, such as a parking lot, that cannot be penetrated by water or other liquids and may create considerable storm water runoff.

Industrial Park: Land specifically developed with the intention to locate industrial businesses.

Junk Yard: An open area where waste or scrap materials, or three or more motor vehicles not in running operable condition, or parts thereof are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, but excluding uses established within enclosed buildings.

Kennel: Any premises or portions thereof on which more than four dogs, cats, or other household domestic animals over four months of age are kept, or on which more than two such animals are maintained, boarded, bred, or cared for, in return for enumeration, or are kept for the purpose of sale.

Lot: A parcel of land of sufficient size to meet all requirements for use. Such lot shall have frontage on an improved public street, or on an approved private street.

Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

Manufacturing, Extractive: Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of any mineral natural resource.

Manufacturing, Heavy: Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive service and facilities, ready access to regional transportation; and may generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the property boundary.

Manufacturing, Light: Manufacturing or other industrial uses which are usually controlled operations, relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; and generating little industrial traffic.

Master Plan (not capitalized): The Owen County Master Plan.

Open Space: A public or private outdoor area expressly set aside for the use and benefit of people. The area may include, along with the natural environmental features, water areas, swimming pools, tennis courts, basketball courts, shelters, and other outdoor recreational facilities that the Plan Commission deems permissible. Streets, parking areas, structures for habitation, and the like shall not be included in open space area calculations.

Parking Lot: An area of land specifically designed and used for the parking of motor vehicles.

Planned Unit Development (PUD): An area of land in which a variety of residential, commercial, and/or industrial uses are planned and developed as a whole according to comprehensive and detailed plans.

Principle Building: The building in which the principle use of the lot is conducted.

Public Right-Of-Way: A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to a transportation or transmissions facility.

Recreational Vehicle: A vehicle primarily designed as temporary living quarters for recreation, camping or travel, either with its own motor power or mounted on or towed by another powered vehicle.

Recreational Vehicle Park: An area of land used for the parking of two or more recreational vehicles.

Restaurant: A business in which its primary function is the preparation and serving of food on its own premises.

Sidewalk: The portion of the road right-of-way which is improved for the use of pedestrian traffic.

Sign: An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, service, person, institution, or business.

Sign, Advertising: A sign, including billboards, which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where the sign is located or to which it is affixed.

Sign, Gross Area Of: The entire area of a sign within its single continuous perimeter. The perimeter shall not include any structural elements lying outside the limits of the sign.

Subdivision: The division of land into smaller lots for the purpose of building homes or reselling to prospective individual land owners. Variance: A change in the usual interpretation or enforcement of the Master Plan, as granted to a specific case, because of special conditions or unnecessary hardship. The case must be taken to the Owen County Board of Zoning Appeals.

Yard: An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Master Plan.

CHAPTER 3 - ZONES AND PERMITED USES

3.1 - Establishment of Zones

The Owen County Jurisdictional Area is hereby classified and divided into the following zones and sub-zones (also referred to as "districts"):

A. Residential
    1. Estate
    2. Single Family
    3. Multi Family
B. Business (Commercial)
C. Industrial
    1. Light
    2. Heavy
    3. Mineral Extraction
D. Agricultural
E. Institutional/Public

3.2 - Definition of Zones

The foregoing zones are defined as follows:

A. Residential: The development of one or more residences on property that is not going to be subdivided for further developments. Created to preserve and enhance a safe, pleasant living environment for the people of Owen County and intended to provide a variety and mix of dwelling types.

1. Estate: Primarily intended for single family residential development on five (5) acre or more parcels along major County roads or state highways in currently existing agricultural areas.
2. Single Family: Intended for single family residential development on one (1) acre or more lots.
3. Multi Family: Intended for residential development of more than one (1) dwelling unit per acre, including but not limited to apartments, condominiums, townhouses, duplexes, recreational vehicle parks, and mobile home parks.

B. Business (Commercial): These business and commercial guidelines are intended to provide services where they are needed most and to preserve, enhance and encourage the usefulness and vitality of these areas. Commercial businesses shall be developed in a manner that reflects the character of the surrounding area.

C. Industrial: Criteria have been created to provide minimum adverse effect to other land uses in the vicinity. Industry business shall be developed in a manner which reflects the character of the surrounding area.

1. Light: Light industrial uses are relatively clean, quiet, and free of smoke, noise, dust, and pollution.
2. Heavy: Industrial uses are generally major operations and extensive in character and require large open sites, open storage and service areas, quick access to regional transportation, and may generate nuisances such as smoke, noise, vibrations, dust, glare, air pollution, and water pollution. Heavy industrial uses should be located away from residential and commercial uses.
3. Mineral Extraction: Primarily intended for limestone, coal, gravel extraction and stone processing activities, including but not limited to limestone quarries, coal mines, and gravel pits. Like heavy industrial uses, should be located away from residential and commercial business uses.

D. Agricultural: These provisions are established to protect suitable land for active agricultural production in Owen County. Agricultural production is recognized as one of the, if not the, primary economic activity in Owen County, and certain lands are particularly suited to such uses because of their size, configuration, soil, topography, and locations in relation to other land uses. This ordinance is intended to limit conversion of such agricultural lands to other uses and to promote proper land utilization.

E. Institutional/Public (including Recreational): This district is defined as that which is primarily intended to accommodate uses of a governmental, civic, public service or private institutional nature, including major public facilities, public utilities, churches, and local government owned property. This zone includes the variety of state and local government recreational parks, recreation areas, forests, and fairgrounds. Maintenance and improvement of these areas will continue to bring more visitors to the county and provide outstanding recreational opportunities for Owen County residents.

3.3 - Permitted Uses In Zones

A. Residential

1. Estate:
    - a. Single-family dwelling
    - b. Accessory building and uses incidental to the use permitted, located on the same lot
    - c. Temporary construction building
    - d. Home occupation
    - e. Agricultural uses
2. Single Family Dwelling:
    - a. Single-family dwelling
    - b. Accessory building and uses incidental to the use permitted, located on the same lot
    - c. Temporary construction building
    - d. Home occupation

3. Multi Family Dwelling:
    a. Multi-family dwellings including duplexes, apartments, and condominiums
    b. Accessory building and uses incidental to the use permitted, located on the same lot
    c. Temporary construction building
    d. Home occupation
    e. Parking lots needed to fulfill parking requirements for an existing or permitted use.
    f. Mobile homes
    g. Recreational vehicle parks (any land used for the temporary parking of two (2) or more recreational vehicles by campers, vacationers, or travelers)
    h. Condominiums
    i. Townhouses

B. Business
1. Drug stores
2. Beauty salons and barber shops
3. Carry-out stores
4. Bakeries
5. Dressmaking and tailoring
6. Self-service laundromats
7. Florist shops
8. Liquor stores
9. Photography shops
10. Grocery stores
11. Dry cleaners
12. Restaurants
13. Medical and dental clinics
14. Offices
15. Other uses identified in the Permitted Land Use Table
16. Other uses approved by the Plan Board that exhibit similar characteristics as the above and are not detrimental to the surrounding land uses.

C. Industrial
1. Light:
    a. Public and private utilities
    b. Recreation areas established for the use of employees on site
    c. Temporary construction buildings
    d. Assembly operations for pre-manufactured parts
    e. Canning, bottling, processing, and packaging of food
    f. Warehouse and distribution operations
    g. Machine, welding, and tool and die shops
    h. Construction and trucking contractor operations
    i. Soybean processing plant
    j. Meat packing plant
    k. Other uses in Permitted Land Use Table

2. Heavy:
    a. Arsenal
    b. Central mixing plant for mortar, plaster, concrete, paving material, or asphalt
    c. Dehydration plant
    d. Cement lime ingredient, lime, gypsum and plaster
    e. Petroleum refinery and distillation
    f. Smelting of ore or metal
    g. Wholesale or bulk storage of gasoline or other petroleum products
    h. Railroad storage yards or shops
    i. Sanitary landfills, reduction or incineration of trash, garbage, offal or dead animals
    j. Fat rendering
    k. Manufacture of acid, alcohol, ammonia, bleaching powder, celluloid, explosives, gas, glue, pyroxylin, or nitrocellulose
    l. Other uses in Permitted Land Use Table

3. Mineral Extraction:
    a. Limestone and other rock quarries
    b. Gravel pits
    c. Stone processing plants
    d. Coal mines

D. Agricultural
1. Field crop farm
2. Truck crop farm
3. Animal husbandry
4. Kennels
5. Stables
6. Forestry
7. Veterinary office
8. Nursery or greenhouse
9. Grazing
10. Public utilities
11. Feed stores, excluding the milling or grinding of any feed for commercial uses
12. Confined feeding operations
13. Fertilizer storage

E. Institutional/Public (including Recreational)

3.4 - Conditional Uses

1. Airports, heliports and landing fields.
2. Archaeological sites, building, or properties.
3. Auditorium, community center, stadium, armory, gymnasium, public buildings, and other similar places for special events.
4. Bed and breakfast inns.
5. Boarding or lodging houses.
6. Bus terminals.
7. Colleges.
8. Correctional institutions.
9. Country clubs.
10. Day care centers, nursery or day schools.
11. Golf courses.
12. Hospitals and sanitariums.
13. Hotels and motels.
14. Livestock sale or auction houses.
15. Lodge or private club.
16. Marina.
17. Medical centers or clinics.
18. Mortuaries and funeral homes.
19. Public utility power plants, transformer stations, filtration and sewage disposal plants, pumping stations, water reservoirs, and railroad rights-of-way.
20. Riding stables.
21. Stockyards, shipping, holding, and sale of animals.
22. Veterinary clinics, including animal hospitals.

3.5 - Non-Permitted Uses

All junkyards, race tracks, waste incinerators, and waste transfer stations (not licensed and approved by the State of Indiana) are non-permitted uses in the Owen County Jurisdictional Area, which prohibition cannot be removed by an appeal for a use variance to the Owen County Board of Zoning Appeals. Currently existing junkyards, racetracks, waste incinerators, and non-licensed and approved waste transfer stations are non-conforming uses.

3.6 - Zone Map

Every parcel in Owen County has been classified as one of the above identified zones according to its present use as determined by the "Class Code" property classification system used by the Owen County Assessor. See Zoning Maps Table.

Zoning Maps:									
	Zones								
Assessor Codes	Estate Residential	Single Fam Residential	Multi Fam Residential	Business	Light Industrial	Heavy Industrial	Min. Industrial	Ag	Inst/ Public
100-199								X	
300, 310, 330-350, 370					X				
320, 360, 390-399						X			
380-385							X		
400, 410-412, 420-499				X					
502-505, 512-515	X								
522-225, 532-535, 542-545	X								
500, 501, 510-511, 540, 541, 599		X							
401-403, 414-419			X						
520, 521, 530, 531, 550-555			X						
600-699, 800-899									X

Amended 5-1-03 by Plan Comm. approved 5-28-03 by Board of Commissioners

CHAPTER 4 - RESIDENTIAL DEVELOPMENT STANDARDS

A. Introduction

Residential development shall be defined as: The development of one residence on property that is not going to be subdivided for further developments. These standards have been created to preserve and enhance a safe, pleasant living environment for the people of Owen County. It is intended to provide a variety and mix of dwelling types.

B. Permitted Uses

1. Single-family dwelling
2. Estate Residential
3. Multi-Family Residential
4. Accessory building and uses incidental to the use permitted, located on the same lot
5. Temporary construction building
6. Home occupation

C. Residential Standards

1. Signs intended to be seen outside lot lines:
    a. Business signs, except for home occupation are not permitted.
    b. No sign shall project beyond the lot line, or hinder or obstruct sight lines in the adjacent roadway. Further, no sign shall be placed so as to hinder or obstruct any pedestrian path.
    c. No sign shall be larger than thirty-two (32) square feet.
2. Fences, walls, and hedges - Not withstanding other provisions of this Master Plan, fences, walls, and hedges may be permitted in any yard or along the edge of any yard, providing that driveway entrances are not shielded by fences, walls and hedges in such a way as to obstruct the view of a driver entering a public road from the drive-way and not to obstruct vision of public right-of-way traffic and/or obstruct any pedestrian path.
3. Lot size, setback distance and required off-street parking are as set forth in the Subdivision Control Ordinance and Off-Street Parking Table.
4. Maximum building height shall not exceed two and one-half (2 1/2) stories or thirty-five (35) feet.

D. Restrictions for Permitted Uses

1. Only single family detached dwelling units are permitted.
    a. For all side yards, when the structure is in excess of two (2) stories, for each story over the second, the total side yard shall increase by at least ten (10) feet.
    b. Lighted areas shall be placed in such a way that they do not infringe upon the rights of adjacent property owners.
    c. Areas for parking shall not be closer than ten (10) feet from the nearest lot line.

E. Restrictions

1. Not more than twenty-five percent (25%) of the structure shall be used for non-residential purposes.

F. Residential Development Standards

All residential dwelling units are subject to the general provisions of the Owen County Subdivision Control Ordinance where applicable. In addition, the following standards apply:

1. Site Design and Community Impacts:

a. Road hierarchy is how roads surrounding the site are used to connect the site to its surroundings. Connecting the development directly to a major highway is discouraged as a safety hazard due to traffic congestion, as cars exit or enter the new development. Entrance on a paved county road is preferred. Entrance on a gravel county road is mandatory.

b. Sidewalks allow workers to move freely throughout the development without having to walk to the street making the area safer.

c. The conservation of energy allows business owners to save money and saves local energy companies the cost of expansions. Energy saving provides the entire community the benefits of lower pollution and should be encouraged.

d. Landscaping provides a more attractive setting for industries, can reduce summer heating costs, and provides wildlife habitat. Buffering between conflicting land uses is required.

e. Parking Lights make industrial areas safer at night and lower risks of robbery.

f. Higher quality roads and parking make developments more attractive.

g. Buffering or screening of industrial areas to adjacent land uses is required if the adjacent land use is residential or recreational, and is highly encouraged for other conflicting land uses.

h. Employing local labor by using Owen County workers so more money is brought into their community and commuting costs can be lowered is strongly encouraged.

i. The use of products made in Owen County increases economic activity and can lead to new jobs in Owen County and is therefore strongly encouraged.

2. Context and Environmental Impacts:

a. Subdivisions (and other land uses) built adjacent to conflicting land uses can cause decreasing land values, create possible safety hazards to residents, and are generally not in the public interest. Buffering is required between industrial and residential or recreational uses and encouraged between other land uses.

b. Developments built in isolated areas cost more in infrastructure and transportation costs and should be discouraged.

c. Close proximity to fire and police services allows better services at less public cost and therefore is strongly encouraged.

d. Close proximity to schools and medical facilities allows better services at less public cost and therefore is strongly encouraged.

e. Close proximity to commercial developments (must be drug store, grocery store, department store, or convenience store) allows easier access to every day needed items and reduces traffic.

f. Proximity to industries and major employers allows a quicker travel time to work and less traffic.

g. Close access to power, gas and water lines provides more efficient use of limited public resources and therefore is strongly encouraged.

h. Close access to roads makes the site easier to get to and eliminates the need for new access roads to be built and maintained.

i. Erosion control measures should be provided on hillsides to prevent the loss of ground and reduce pollution.

j. Developments that enhance, not reduce, forest lands should be encouraged.
k. Prime farm land should not be built upon except as a last resort to preserve the value of crop production.

CHAPTER 5 - MULTI-FAMILY DEVELOPMENT STANDARDS

A. Introduction
Multi-family, including apartment, duplexes, and condominiums shall be defined as: A permanent building designed or used exclusively for residential occupancy, containing two or more dwelling units per building.

B. Permitted Uses

1. Multi-family dwelling
2. Accessory building and uses incidental to the use permitted, located on same lot
3. Temporary construction buildings
4. Apartments
5. Condominiums
6. Parking lots needed to fulfill parking requirements for an existing or permitted use
7. Duplexes
8. Home occupation

C. Apartment Standards

1. Minimum lot frontage on public roads shall be one hundred twenty (120) feet.
2. Minimum lot size - See Subdivision Control Ordinance
3. Minimum setback lines:
   a. Front yard - 120 feet on primary and secondary arterial; 80 feet on major and minor collectors; and 60 feet on other roads,
   b. Side yards - See Subdivision Control Ordinance c. Rear yards - See Subdivision Control Ordinance
4. Maximum building height shall not exceed two and one-half stories or 35 feet. Yi"
5. Minimum ground level square footage (excluding open porches, terraces, and N garages):
   a. Single story - 650 square feet per unit
   b. Two story - 650 square feet per unit
   c. Tri-level - 650 square feet per unit (basement and first level)
   d. Story and one-half- 650 square feet per unit
6. Two parking spaces per unit are required for all apartments. At least four additional parking spaces are required for apartment complexes with clubhouses. No parking spaces are required for recreational areas.
7. Signs:
   a. One nameplate is allowed per building and shall not exceed ten (10) square feet.
   b. One freestanding sign is allowed per entrance to the development, but each sign shall not exceed ten (10) square feet.
   c. Billboards and advertising signs are not allowed.
   d. Temporary real estate signs, construction or contractor's signs shall not exceed two (2) in number per lot or be more than six square feet.

D. Multi-Family Development Standards

1. Site Design and Community Impacts:

a. Road hierarchy is how roads surrounding the site are used to connect the site to its surroundings. Connecting the development directly to a major highway is discouraged as a safety hazard due to traffic congestion, as cars exit or enter the new development. Entrance on a paved county road is preferred. Entrance on a gravel county road is mandatory.

b. Sidewalks allow workers to move freely throughout the development without having to walk in the street making the area safer.

c. The conservation of energy allows business owners to save money and saves local energy companies the cost of expansions. Energy saving provide the entire community the benefits of lower pollution and should be encouraged.

d. Landscaping provides a more attractive setting for industries, can reduce summer cooling costs, and provides wildlife habitat. Buffering between conflicting land uses is required.

e. Parking lights make industrial areas safer at night and lower risks of robbery.

f. Higher quality roads and parking make developments more attractive.

g. Buffering or screening of industrial areas to adjacent land uses is required if the adjacent land use is residential or recreational, and is highly encouraged for other conflicting land uses.

h. Employing local labor by using Owen County workers so more money is brought into their community and commuting costs can be lowered is strongly encouraged.

i. The use of products made in Owen County increases economic activity and can lead to new jobs in Owen County and is therefore strongly encouraged.

2. Context and Environmental Impacts:

a. Subdivisions (and other land uses) built adjacent to conflicting land uses can cause decreasing land values, create possible safety hazards to residents, and are generally not in the public interest. Buffering is required between industrial and residential or recreational uses and encouraged between other land uses.

b. Developments built in isolated areas cost more in infrastructure and transportation costs and should be discouraged.

c. Close proximity to fire and police services allows better services at less public cost and therefore is strongly encouraged.

d. Close proximity to schools and medical facilities allows better services at less public cost and therefore is strongly encouraged.

e. Close proximity to commercial developments (must be drug store, grocery store, department store, or convenience store) allows easier access to every day needed items and reduces traffic.

f. Proximity to industries and major employers allows a quicker travel time to work and less traffic.

g. Close access to power, gas, and water lines provides more efficient use of limited public resources and therefore is strongly encouraged.

h. Close access to roads makes the site easier to get to and eliminates the need for new access roads to be built and maintained.

i. Erosion control measures should be provided on hillsides to prevent the loss of ground and reduce pollution.

j. Developments that enhance, not reduce, forest lands should be encouraged.

k. Prime farm land should not be built upon except as a last resort to preserve the value of crop production.

CHAPTER 6 - MOBILE HOME PARK DEVELOPMENT STANDARDS

A. Introduction
Notwithstanding any other provisions or restrictions provided in this chapter, the following procedures, standards and restrictions shall apply to all future mobile home developments.

B. Permitted Uses

1. Mobile homes
2. Accessory buildings
3. Parks
4. Parking areas needed for mobile homes or accessory buildings
5. Home occupations

C. Definitions. As used in this section, the terms:

1. Clear Distance - means the unobstructed distance from a given point, mobile home, or line to the closest point or points of adjacent mobile home(s).
2. Mobile Home - means factory-constructed, transportable structure designed for permanent residential use when placed upon a foundation and connected to utilities. The minimum length of a mobile home shall not be less than 35 feet excluding the hitch and other transporting appurtences with a total floor area of not less than 350 square feet. Mobile homes must meet or exceed federal and state mobile home construction codes of 1976.
3. Mobile Home Park - means an area of land upon which five or more mobile homes are harbored for the purpose of being occupied as principal residences and include all real and personal property used in the operation of the mobile home park. An area of land that is subdivided and contains individual lots, which are leased or otherwise contracted for, is a mobile home park if five or more mobile homes are harbored there for the purpose of being occupied as principal residences.
4. Mobile Home Subdivision - means any site, lot, field, or tract of land under simple ownership, or ownership of two or more persons, which is to be divided into smaller sites, lots, fields, or tracts of land, which are to be sold for use by the purchaser to park such purchaser's mobile home.
5. Mobile Home Park Street - means a public or private way other than an alley which affords a primary means of access to abutting property within a mobile home park.
6. Recreational Vehicle (RV) - means a vehicle primarily designed as temporary living quarters for recreation, camping or travel, either with its own motor power, or mounted on, or towed by another powered vehicle.
7. Recreation Campground - An area of land on which two or more recreational vehicles, including campers, tents, RVs or other simple temporary recreational structures; are regularly accommodated for short-term occupancy with or without charge. Including the building, structure or fixture of equipment that is used or intended to be used in connection with providing such accommodations.
8. Travel Trailer - A vehicle or other portable structure less than thirty-five (35) feet in length, designed to move on the highway, not under its own paper, and designed or used as a recreational dwelling.

D. Application Procedure for Mobile Home Park:
The requirements and provisions of the Subdivision Control Ordinance apply to an application for mobile home park. In addition, the applicant must procure all necessary permits from the State of Indiana.

E. Mobile Home Parks Design Standards:
The design requirements of a mobile home park are as follows:

1. Each mobile home park shall contain a minimum of five (5) acres.
2. Mobile home stands must be so located that when occupied by a mobile home, the clear distance between a mobile home and any adjacent mobile home at any point will not be less than twenty-five (25) feet.
3. No mobile home shall be located closer than 25 feet to any building within the mobile home park.
4. The minimum depth of front yard of a mobile home park, where such park abuts a major arterial street is 60 feet. The minimum depth of front yard of a mobile home park, where such park abuts a minor arterial street is 40 feet. The minimum depth of front yard of a mobile home park, where such park abuts a local street right-of-way, is 25 feet. If such mobile home park abuts on two or more streets, then there shall be a front yard on each street as stated above.
5. The minimum depth of side and rear yards of a mobile home park shall be 25 feet unless adequate screen planting is provided and as provided approved by the Plan Commission. When so approved, the minimum depth of side and/or rear yard shall be 10 feet.
6. Each mobile home, or mobile home stand, or mobile home space shall be provided with two parking spaces adjacent thereto; such parking spaces shall have unobstructed access to a mobile home park street. No on-street parking shall be permitted.
7. The clear distance between any mobile home and the centerline of the abutting mobile home park street shall be a minimum of 25 feet.
8. Each mobile home shall have access to, and the use of a general storage space of a minimum of 90 cubic feet in a building of fire-proof design, or storage space under the mobile home may be used provided said storage is shielded from view by underpinning of the mobile home.
9. The Planning Commission requires curbs and/or gutters in mobile home parks where, in the opinion of said Plan Commission and/or Department of Natural Resources (DNR), drainage of surface water, as provided by the applicant in its development plans, is insufficient to properly carry such surface water.
10. Surface drainage, as approved by the Planning Commission, shall be installed and maintained by the applicant(s) or his successor(s) in title.
11. A maximum of six mobile homes shall be permitted per acre. This maximum shall be determined from the gross acreage of the mobile home park.
12. In approved mobile home parks there shall be no minimum ground floor area requirements for mobile homes located therein. Where permitted, individual mobile homes outside of approved mobile home parks, mobile home subdivisions and recreational vehicle parks, shall have a minimum of 350 square feet of ground floor area.

13. Coin-operated laundries, laundry and dry cleaning pick-up stations, and other commercial convenience establishments may be permitted in mobile home parks, provided that:

a. They are Subordinate to the residential character of the park.

b. They are located, designed, and intended to serve only persons living in the park.

c. The establishments and associated parking areas shall not occupy more than 10 percent of the total area of the park.

d. The establishments shall not be visible outside the park.

14. Foundation skirting shall completely enclose the undercarriage of each mobile home with a non-decaying, non-corroding material extending at least six inches into the ground or into impervious material.

15. No individual mobile home within a mobile home park shall have direct vehicular access to any public street.

16. Signs:

a. One freestanding sign is allowed per entrance to the development, but each sign shall not exceed 10 square feet.

b. Billboards and advertising signs are not permitted.

c. Temporary real estate signs, construction or contractor's signs shall not exceed two in number or more than six square feet each.

CHAPTER 7 - RECREATIONAL VEHICLE PARKS

A. Introduction
Recreational vehicle parks are defined as: Any land used for the temporary parking of two or more recreational vehicles by campers, vacationers or travelers.

B. General Provisions
In any area in which recreational vehicle parks are permitted, the following requirements shall apply:

1. Recreational vehicle parks shall have direct access to a public highway or road with sufficient frontage for the proper construction of safe entrances and exits.
2. Conditions of soil, groundwater level, drainage, geologic structure, and topography shall not create hazards to the park site or to the health and safety of occupants; not shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence, sudden flooding, or severe erosion.
3. The density of the park shall not exceed 15 recreational vehicle spaces for each acre of gross site area.
4. The minimum area of a recreational vehicle park shall be five acres.
5. Recreational vehicles shall be separated from each other and from other park buildings or structures by a minimum of 25 feet.
6. All recreational vehicles and structures shall comply with required minimum setback and yard provisions of these guidelines.
7. Where the boundary line of a recreational vehicle park coincides with that of a residential area other than along a thoroughfare or alley, a yard separation of at least 50 feet in width shall be required.
8. At least one centrally located recreation area equal in size to ten percent of the gross park area shall be provided in each recreational vehicle park. Streets, parking area, and park service facility areas shall not be included in the required recreational area.
9. An entry sign is permitted with a maximum size of 20 square feet. Billboards are not allowed.
10. Food stores, restaurants, sporting good stores, laundromats, dry-cleaning pickup stations and similar convenience and service shops may be permitted in recreational vehicle parks containing 50 or more spaces provided that shops and the parking are required by their use shall occupy more than ten percent of the total park area. The shops shall be primarily for the use of park occupants. The shops shall be located and designed within the park to present no visible evidence of their commercial nature to persons outside the park.

CHAPTER 8 - COMMERCIAL DEVELOPMENT STANDARDS

A. Introduction

These commercial guidelines are intended to provide services where they are needed most and to preserve, enhance and encourage the usefulness and vitality of these areas. Commercial businesses shall be developed in a manner that reflects the character of the surrounding area.

B. Permitted Uses

1. Drug stores
2. Beauty salons and barber shops
3. Carry-out stores
4. Bakeries
5. Dressmaking and tailoring
6. Self-service laundromats
7. Florist shops
8. Liquor stores
9. Photography shops
10. Grocery stores
11. Dry cleaners
12. Restaurants
13. Medical and dental clinics
14. Offices
15. Other uses identified in the Permitted Land Use Table
16. Other uses approved by the Plan Board that exhibit similar characteristics as the above and are not detrimental to the surrounding land uses.

C. Commercial Standards

1. Minimum ground level square footage required: Not more than 80 percent of the total area of any lot or any development on multiple lots shall be occupied by buildings, roads, parking areas, storage, drainage facilities, and other accessory uses.
2. Signs intended to be seen outside the lot lines.
a. No sign shall project beyond a lot line, obstruct in any way a driver's vision of the road or hinder his passage in any way. Further, no sign shall be placed so as to hinder or obstruct any pedestrian path.
3. Parking and Off-Street Loading Requirements (See Off-Street Parking and Loading)
4. Fences, walls and hedges - Notwithstanding other provisions of these guidelines, fences, walls and hedges may be permitted in any yard or along the edge of any yard, providing that driveway entrances are not shielded by fences, walls and hedges in such a way as to obstruct the view of a driver entering a public road from the driveway.
5. No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across the lot lines.
6. Exterior lighting will be such that it does not become a nuisance to the adjacent property owners.

7. Sign restrictions:

a. One freestanding sign at the entryway or other approved location is allowed, providing that its area shall not exceed 60 square feet.

b. Signs attached to the main building are allowed, but shall not exceed 15 percent of the face of the building.

c. Poles that support signs on the building shall be located at least 15 feet from the property line where oriented towards collector or local streets, 200 feet from freeways and 120 feet from arterial streets. No self-supporting sign or parts thereof shall project over a street right-of-way.

d. Temporary real estate signs, construction or contractor's signs shall not exceed two in number per lot or be more than six square feet.

D. Special Exceptions

Those commercial businesses bordering a residential area that provide service to the general public within normal operating hours prior to 6 a.m. and after 6 p.m. shall conform to the following:

1. No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors or air pollutants shall be allowed to radiate across lot lines.

2. Apartment units may be permitted by the Board in commercial districts where the residential unit(s) is secondary to the principal use and where the residential unit(s) is above the first floor. Such units will have a separate primary access to the street and not through the first floor principal use. Fire escapes, back stairways and the like shall not serve as primary access.

3. The high water point of a pond, or the base of the pond/dam shall be setback 45 feet from the property line.

E. Wherever a business comes within 100 feet from any residential district, appropriate screening, such as vegetation, a wall, a uniformly painted fence, or topography, shall be used to visually screen loading docks and parking lots from the surrounding dwelling units.

F. Performance Standards

See Performance Standards under Industrial Development Standards

G. Commercial Development Standards

1. Site Design and Community Impacts:

a. Road hierarchy is how roads surrounding the site are used to connect the site to its surroundings. Connecting the development directly to a major highway is discouraged as a safety hazard due to traffic congestion, as cars exit or enter the new development. Entrance on a paved county road is preferred. Entrance on a gravel county road is mandatory.

b. Sidewalks allow workers to move freely throughout the development without having to walk in the street making the area safer.

c. The conservation of energy allows business owners to save money and saves local energy companies the cost off expansions. Energy saving provide the entire community the benefits of lower pollution and should be encouraged.

d. Landscaping provides a more attractive setting for industries, can reduce summer heating costs, and provides wildlife habitat. Buffering between conflicting land uses is required.

e. Parking lights make industrial areas safer at night and lower risks of robbery.
f. Higher quality roads and parking make developments more attractive.
g. Buffering or screening of industrial areas to adjacent land uses is required if the adjacent land use is residential or recreational, and is highly encouraged for other conflicting land uses.
h. Employing local labor by using Owen County workers so more money is brought into their community and commuting costs can be lowered is strongly encouraged.
i. The use of products made in Owen County increases economic activity and can lead to new jobs in Owen County and is therefore strongly encouraged.

2. Context and Environmental Impacts:

a. Subdivisions (and other land uses) built adjacent to conflicting land uses can cause decreasing land values, create possible safety hazards to residents, and are generally not in the public interest. Buffering is required between industrial and residential or recreational uses and encouraged between other land uses.
b. Developments built in isolated areas cost more in infrastructure and transportation costs and should be discouraged.
c. Close proximity to fire and police services allows better services at less public cost and therefore is strongly encouraged.
d. Close proximity to schools and medical facilities allows better services at less public cost and therefore is strongly encouraged.
e. Close proximity to commercial developments (must be drug store, grocery store, department store, or convenience store) allows easier access to every day needed items and reduces traffic.
f. Proximity to industries and major employers allows a quicker travel time to work and less traffic.
g. Close access to power, gas and water lines provides more efficient use of limited public resources and therefore is strongly encouraged.
h. Close access to roads makes the site easier to get to and eliminates the need for new access roads to be built and maintained.
i. Erosion control measures should be provided on hillsides to prevent the loss of ground and reduce pollution.
j. Developments that enhance, not reduce, forest lands should be encouraged.
k. Prime farm land should not be built upon except as a last resort to preserve the value of crop production.

CHAPTER 9 - INDUSTRIAL DEVELOPMENT STANDARDS

A. Introduction

Industry criteria have been created to provide minimum adverse effect to other land uses in the vicinity. Industry business shall be developed in a manner that reflects the character of the surrounding area. Heavy industrial uses are generally major operations and extensive in character and require large open sites, open storage and service areas, quick access to regional transportation, and may generate nuisances such as smoke, noise, vibrations, dust, glare, air pollution, and water pollution. Heavy industrial uses should be located away from residential and commercial uses. Light industrial uses are relatively clean, quiet, and free of smoke, noise, dust, and pollution.

B. Permitted Uses

1. Light:
    a. Public and private utilities.
    b. Recreation areas established for the use of employees on site.
    c. Temporary construction buildings.
    d. Assembly operations for pre-manufactured parts.
    e. Canning, bottling, processing, and packaging of food.
    f. Warehouse and distribution operations.
    g. Machine, welding, and tool and die shops.
    h. Construction and trucking contractor operations.
    i. Soybean processing plant.
    j. Meat packing plant.
    k. Other uses in Permitted Land Use Table.
2. Heavy:
    a. Arsenal
    b. Central mixing plant for mortar, plaster, concrete, paving material, or asphalt.
    c. Dehydration plant.
    d. Cement lime ingredient, lime, gypsum and plaster.
    e. Petroleum refinery and distillation.
    f. Smelting of ore or metal.
    g. Wholesale or bulk storage of gasoline or other petroleum products.
    h. Railroad storage yards or shops.
    i. Sanitary landfills, reduction or incineration of trash, garbage, offial or dead animals.
    j. Fat rendering.
    k. Manufacture of acid, alcohol, ammonia, bleaching powder, celluloid, explosives, gas, glue, proxylin, or nitrocellulose.
    l. Other uses in Permitted Land Use Table.
3. Mineral Extraction:
    a. Limestone and other rock quarries
    b. Gravel pits
    c. Stone processing plants
    d. Coal mines

C. Industrial standards, with performance standards, as measure at the boundary lines of this manufacturing district, are maximums. Firms which exceed these standards are considered to be in violation of this Master Plan.

1. Signs intended to be seen outside the lines:
    a. No sign shall project beyond a lot line, obstruct in any way a driver's vision of the road or hinder his passage in any way. Further, no sign shall be placed so as to hinder or obstruct any pedestrian path.
    b. Signs should always be property maintained.
2. Parking requirements (See Parking Restrictions Table).
3. Fences, walls and hedges - Notwithstanding other provisions of this ordinance, fences, walls and hedges may be permitted in any required yard or along the edge of any yard, providing that driveway entrances are not shielded by fences, walls or hedges in such a way as to obstruct the view of a driver entering a public road from the driveway.
4. Off-Street Loading Requirements - On the same premises with every building or structure, hereafter erected and occupied for uses involving the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley.
5. Wherever a business comes within 100 feet of any residential district, appropriates screening, such as vegetation, a wall, a uniformly painted fence, or topography, shall be used to visually screen loading docks and parking lots from the surrounding dwelling units.
6. Restrictions for Permitted Uses and Conditional Uses.
7. Performance Standards - All permitted uses established or placed into operation after the effective date of this ordinance shall comply with the following performance standards in the interest of protecting public health, safety and welfare, and lessening injury to property. No use in existence on the effective date of this ordinance shall be so altered as to conflict (or increase an existing conflict) with these standards.
    a. Fire Protection - Fire fighting equipment and prevention measures acceptable to the local fire department shall be readily available and apparent when an activity involving the handling or storage of flammable or explosive materials is conducted.
    b. Electrical Disturbance - No use shall cause electrical disturbance adversely affecting radio, television or other equipment in the vicinity of the use.
    c. Noise - No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, heat, shrillness, or vibration. Such noise shall be muffled or otherwise controlled so as not to become detrimental, provided however, that public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.
    d. Vibration - No use shall cause vibrations or concussions detectable beyond lot lines without the aid of instruments.
    e. Air Pollution - No use shall discharge across lot lines flyash, dust, smoke, vapors, noxious, toxic or corrosive matter, or other air pollutants in such concentration as to be detrimental to health, animals, vegetation, or property and/or in conflict with relevant air quality standards established by State and/or Federal agencies.

f. Heat and Glare - No use shall produce heat or glare in such manner as to create a nuisance perceptible from any point beyond the lot lines of the property on which the use is conducted. In nonresidential areas, any lighting used to illuminate an off-street parking area, loading area, driveway, or service drive shall be shielded with appropriate light fixtures directing the light down and away from adjacent properties in order that the illumination at any property line shall not exceed one foot candle. All exterior lighting shall be hooded and shielded so that the light source (i.e. bulb, filament, etc.) is not directly visible from the residential property lines. In residential areas, exterior lighting at any property line shall not exceed one foot candle.

g. Water Pollution - No use shall produce erosion or other pollutants in such quantity as to be detrimental to adjacent properties and conflict with relevant water pollution standards established by State and/or Federal agencies.

h. Waste Matter - No use shall accumulate within the lot, or discharge beyond the boundary lines of the lot on which the use is located, any waste matter, whether liquid or solid, in violation of applicable public health, safety and welfare standards and regulations.

8. When rough tests by a duly constituted enforcement officer indicate to the Plan Commission a possible violation of the performance standards, the Plan Commission shall require the manufacturer to obtain and bear the cost of the appropriate technical assistance to ascertain the exact amount of emissions of noxious effects at the lot lines of the manufacturing property in question. This technical assistance shall be approved in writing by the Plan Commission before tests are conducted. Results of said test shall be presented to the Plan Commission in writing. Any test result in excess of the appropriate performance standard shall be considered in violation of this Master Plan.

9. Extractive Industry Standards: In addition to all restrictions set out for industry, the following shall also apply:

a. Before any excavation is begun, there shall be a plan on file, with and approved by both the State Department of Natural Resources and the Plan Commission for both excavation and reclamation activities.

b. Any excavation shall be surrounded by a fence not less than seven feet high.

D. Industry Development Standards

1. Site Design and Community Impacts:

a. Road hierarchy is how roads surrounding the site are used to connect the site to its surroundings. Connecting the development directly to a major highway is discouraged as a safety hazard due to traffic congestion, as cars exit or enter the new development. Entrance on a paved county road is preferred. Entrance on a gravel county road is mandatory.

b. Sidewalks allow workers to move freely throughout the development without having to walk in the street making the area safer.

c. The conservation of energy allows business owners to save money and saves local energy companies the cost of expansions. Energy saving provide the entire community the benefits of lower pollution and should be encouraged.

d. Landscaping provides a more attractive setting for industries, can reduce summer heating costs, and provides wildlife habitat. Buffering between conflicting land uses is required.

e. Parking lights make industrial areas safer at night and lower risks of robbery.

f. Higher quality roads and parking make developments more attractive.

g. Buffering or screening of industrial areas to adjacent land uses is required if the adjacent land use is residential or recreational, and is highly encouraged for other conflicting land uses.

h. Employing local labor by using Owen County workers so more money is brought into their community and commuting costs can be lowered is strongly encouraged.

i. The use of products made in Owen County increases economic activity and can lead to new jobs in Owen County and is therefore strongly encouraged.

2. Context and Environmental Impacts:

a. Subdivisions (and other land uses) built adjacent to conflicting land uses can cause decreasing land values, create possible safety hazards to residents, and are generally not in the public interest. Buffering is required between industrial and residential or recreational uses and encourage between other land uses.

b. Developments built in isolated areas cost more in infrastructure and transportation costs and should be discouraged.

c. Close proximity to fire and police services allows better services at less public cost and therefore is strongly encouraged.

d. Close proximity to schools and medical facilities allows better services at less public cost and therefore is strongly encouraged.

e. Close proximity to commercial developments (must be drug store, grocery store, department store, or convenience store) allows easier access to every day needed items and reduces traffic.

f. Proximity to industries and major employers allows a quicker travel time to work and less traffic.

g. Close access to power, gas and water lines provides more efficient use of limited public resources and therefore is strongly encouraged.

h. Close access to roads makes the site easier to get to and eliminates the need for new access roads to be built and maintained.

i. Erosion control measures should be provided on hillsides to prevent the loss of ground and reduce pollution.

j. Developments that enhance, not reduce, forest lands should be encouraged.

k. Prime farm land should not be built upon except as a last resort to preserve the value of crop production.

CHAPTER 10 - AGRICULTURAL LAND

A. Introduction

These provisions are established to protect suitable land for active agricultural production in Owen County. Agricultural production is recognized as the primary economic activity in Owen county, and certain lands are particularly suited to such uses because of their size, configuration, soil, topography, and locations in relation to other land uses. This Master Plan is intended to prevent the conversion of such agricultural lands to urban uses and to promote proper land utilization.

B. General Provisions

1. Permitted Uses
    - a. Field crop farm
    - b. Truck crop farm
    - c. Animal husbandry
    - d. Kennels
    - e. Stables
    - f. Forestry
    - g. Veterinary office
    - h. Nursery or greenhouse
    - i. Grazing
    - j. Public utilities
    - k. Feed stores, excluding the milling or grinding of any feed for commercial purposes
    - l. Confined feeding operations
    - m. Fertilizer storage
    - n. Other uses identified in Permitted Land Use Table
2. Signs intended to be seen outside the lot lines:
    - a. Non-flashing illuminated on-premises signs are permitted.
    - b. Not more than one 12-foot sign per principal use is permitted.
    - c. No sign shall project beyond a lot line, obstruct in any way a driver's vision of the road or hinder his passage in any way. Further, no sign shall be placed so as to hinder or obstruct any pedestrian path.
3. Visibility at intersections - On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede visions between a height of two and one-half to ten feet above the centerline grades of the intersecting streets in the areas bounded by the street lines of such corner lots and a line joining points along said street lines 50 feet from the point of the intersection.
4. Fences, walls and hedges - Notwithstanding other provisions of these guidelines, fences, walls and hedges may be permitted in any yard or along the edge of any yard, providing that driveway entrances are not shielded by fences, walls and hedges in such a way as to obstruct the view of a driver entering a public road from the driveway.

5. Permitted Accessory Uses and Structures
    a. Single family dwellings (existing and Estate Residential with one single family dwelling per five acre parcel)
    b. Roadside stand
    c. Truck farm market
    d. Home occupation
    e. Primary farm processing
    f. Any use customarily accessory to any permitted use g. Grain storage
    h. Storage and management of animal wastes
    i. Barns, tool sheds, and implement storage buildings
6. Development Standards
    a. The minimum parcel size for all uses in the agriculture district shall be five acres.
    b. The maximum density for residential use shall be one permitted residential structure for each five acres.
7. Setback requirements for confined feeding operations must conform to Indiana Code 13-1-5.7-1.
8. The high water point of a pond and/or the base of the pond/dam shall be setback 45 feet from any property line.
9. Abandoned, junked, inoperable or derelict vehicles, scrap or building debris may not be stored unless within a building or structure.

CHAPTER 11 - PLANNED UNIT DEVELOPMENT (PUDs)

11.1 - Purpose

The purpose of the Planned Unit Development (PUD) is to provide for land use developments where a variety of residential, commercial and industrial uses are planned and developed as a whole. A PUD shall conform to the following guidelines:

A. Up to 25 percent of the gross land area in a PUD may be used for commercial, industrial, and non-recreational public uses.

B. Each PUD shall have common open space. At least 10 percent of the gross land area in a PUD shall be allocated for parks, open space, and recreational purposes.

C. The plan of the project shall provide for the integrated and harmonious design of buildings in the commercial and industrial areas and the parcels shall be developed in park-like surroundings. The parcels shall be landscaping, and woodlands used to screen lighting, parking areas, and loading areas from adjacent residential areas.

D. PUDs will be evaluated through point systems. Subdivisions, residential, industrial, and commercial areas shall all be evaluated with their respective site design and community impacts point system. The entire project shall be evaluated using the subdivision context and environmental impacts point system. In the case of only part of the PUD being approved, the unapproved development will have to be approved before any construction begins.

E. PUDs shall be allowed on any land within Owen County if approved.

11.2 - Procedure for Approval of a PUD

The procedure for subdivision approval shall be followed with these exceptions:

A. The applicant(s) shall submit a preliminary site plan in triplicate to the Plan Board which includes, but is not restricted to, the following information:

1. The location and boundaries of tract to be developed, showing the general layout of streets and the existing and proposed land uses of all areas.
2. Tentative placement of all improvements on the site showing how recommendations of this ordinance have been used.
3. General proposals on densities for residential and other uses. To allow for sufficient flexibility the Plan Board may allow minor changes in use location and density, provided that the general overall plan is adhered to.
4. The proposed schedule for development of the site.

11.3 - Development Standards

A. A planned residential development must comprise an area of at least ten acres.

B. A planned office development must comprise an area of at least two acres.

C. A planned commercial development must comprise an area of at least two acres.

D. A planned industrial development must comprise an area of at least two acres.

E. Subdivision, residential, commercial and industrial standards shall be adhered to as outlined in their respective chapters, unless otherwise approved by the Plan Board. Flexibility may be allowed for minor changes.

CHAPTER 12 - OWEN COUNTY SUBDIVISION CONTROL ORDINANCNE

12.1 - Title And Definition

A. This ordinance shall be cited as the "Owen County Subdivision Control Ordinance."

B. "Subdivision" shall be defined as: "The division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including re-subdivision. Subdivision includes the division or development of land zoned for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

C. "Minor Subdivision". Any subdivision containing not more than four (4) lots in which all lots have at least 50 feet of frontage on an existing street that is an improved right-of-way maintained by the County (or other local government) or access by a 50 foot access easement, not involving any new street, the extension of municipal facilities for non-residential use, or the creation of any public improvements other than sidewalk or street trees, and not in conflict with any provision or portion of the Comprehensive Plan, Official Zone Map, Zoning Ordinance, or this ordinance.

D. The following kinds of divisions of existing parcels of land are herein called "administrative subdivisions." Administrative subdivisions are exempt from most provisions of this ordinance, may not result in or require the creation of an easement or the installation of public improvements, and must be one of the following types of division:

1. A division of land into two (2) or more tracts of which all tracts are at least five (5) acres in size;

2. A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;

3. A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;

4. A division of land for federal, state or local government to acquire street right-of-way;

5. A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division. The lots so created hereunder shall have only one principal use building site each; and,

6. A division of land into cemetery plots for the purpose of burial of corpses. Administrative subdivisions, except type 4 and 6, are subject to the provisions of Article __ of these regulations, but shall be exempt from other provisions of this ordinance not specified or referred to in those sections.

12.2 - Authority to Record Plat

The plat for a subdivision of land in the County shall be recorded only if it has been approved by the Owen County Advisory Plan Commission under the regulations of this ordinance.

12.3 - Predesign Conference

Prior to submitting an application under this ordinance, the applicant shall participate in at least one (1) predesign conference with the Planning Department for the purpose of discussing in an informal manner the subdivision proposal including street layout and design, storm water drainage and flood control, availability of water and sewage disposal, road cuts, the Subdivision Control Ordinance procedures, governmental agency permits required, and other planning issues raised in the conference. The applicant shall contact the Department and set up such a conference and prior thereto provide the Department with the location and acreage of the subdivision, number of proposed lots, applicant's name, telephone number and mailing address, and the owner's name. Following the conference, the Department shall prepare and send to the applicant a brief written summary of the issues discussed at the conference.

12.4 - Plat Approval Procedure-Written Application

A person desiring approval of a plat for the purpose of recording it under Article II shall submit to the Plan Commission a written application and preliminary plat that includes the following:

A. Name of the subdivision.

B. Names and addresses of the owner, the subdivider and the county planner, land planning consultant, engineer or surveyor who prepared the plat.

C. Tract boundary lines, with dimensions, bearings, angles and references to section, township and range lines or corners.

D. Lot layout, showing dimensions and numbers.

E. Parcels to be dedicated or reserved for schools, parks, playgrounds and other public or community purposes.

F. Building setback lines.

G. Streets and rights-of-way in or adjoining the subdivision, by name, width, approximate gradient, type and width of pavement and including curbs, sidewalks, crosswalks, trees and other relevant information.

H. Location, width and purposes of easements.

I. Location and approximate size or capacity of utilities.

J. Contours at vertical intervals of five (5) feet.

K. Legend or notes.

L. Other features significantly affecting the subdivision.

M. Scale, north point and date.

N. Phases, if any, in which the subdivision is to be constructed.

O. Drainage plan prepared and certified by registered professional engineer pursuant to Indiana law.

P. Location, owner, zoning and use of adjacent properties, including location, size and use of all buildings within fifty (50) feet of the lot line.

Q. A description of the protective covenants or private restrictions, if any, to be included in the plat.

R. A list of all owners (with addresses) of adjacent property as they appear in the current records of the County Auditor including 911 address.

S. Street cuts onto county or state roads.

T. Source of title, as shown by the most recent entry in the books of the County Recorder.

U. The flood plain boundaries, if applicable, indicating the classification of each flood plain area.

V. The location, size, elevation, capacity and other appropriate description of all existing or proposed permanent and significant features, either natural or man-made, including but not limited to trees, watercourses, falls, beaches, historic places, rock formations, streets, sewers, drains, water bodies, swamps or other wetlands, railroads, transmission towers, existing structures, County ditches, legal drains, water mains, culverts, utility lines, fire hydrants, drainage structures, and water elevations (including approximate high-water and low-water elevations) of adjoining lakes, rivers and streams at the date of the survey (by reference to the USGS datum plane); the approximate size and capacity of utilities may be presented in a note on the plat.

12.5 - Preliminary Plat Requirements-Attachment for Private Sewage Disposal System or Public Water Supply

A. If a private sewage disposal system is to be used on any lot, the preliminary plat shall be accompanied by a statement, certified by a registered professional engineer, registered professional land surveyor, licensed architect or Owen County Health Department sanitarian, showing sufficient soil to allow for the proper installation of an on-site sewage disposal system for each tract or lot pursuant to state and county regulations.

B. If a public water supply or sewage disposal system is to be used, the preliminary plat shall be accompanied by a letter from the utility company, signed by the President and Secretary, stating that the service will be available for the specified number of lots.

12.6 - Preliminary Plat Requirements-Form

A. The plat shall be drawn at a scale of one hundred (100) feet to one (1) inch on a sheet or sheets eighteen (18) inches by twenty-four (24) inches or twenty-four (24) inches by thirty-six (36) inches in size, except that when the drawing at that scale requires more than two sheets, the plat shall be drawn at a scale of two hundred (200) feet to one inch. Six (6) copies of/the preliminary plat shall accompany the written application for approval.

B. The plat shall include a USGS topographic map at an appropriate scale showing the layout of the proposed subdivision and all existing subdivision, street and tract lines of acreage parcels of land immediately adjoining the proposed subdivision and between it and the nearest existing thoroughfare. It shall also show how streets in the proposed subdivision shall connect with existing and proposed streets in the neighboring subdivisions or undeveloped property to produce the most advantageous development of the entire neighboring area.

12.7 - Plat Approval Procedure-Fee

The applicant shall pay all fees by a certified check or money order for an amount specified by the Plan Commission.

12.8 - Plat Approval Procedure-Action on the Preliminary Plat

The Plan Commission staff shall review the application and plat for technical conformity with the standards set forth in this ordinance, and within 30 days of receipt of the application for approval announce the date for a hearing before the Plan Commission and provide notice in writing to the applicant; give notice by publication in accordance with Indiana Code 5-3-1; and provide notice by certified or registered mail to all owners of adjacent property as they appear in the current records of the County Auditor.

If, after the hearing, the Plan Commission determines that the application and preliminary plat comply with the standards in this ordinance, it shall make written findings and a decision granting preliminary approval to the plat. The decision shall be signed by the President of the Plan Commission.

If, after the hearing, the Plan Commission determines that the application and preliminary plat do not comply with the standards in this ordinance, it shall make written findings that set forth its reasons and a decision denying approval to the plat, and shall provide the applicant with a copy of same. The decision shall be signed by the President of the Plan Commission.

12.9 - Plat Approval Procedure-Development Plat

General Construction Plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than one (1) inch equals fifty (50) feet, and map sheets shall be of the same size as the preliminary plat. The following shall be shown:

A. Profiles showing existing and proposed elevation lines of all street;

B. Plans and profiles showing the locations and typical cross-section of street pavements including drainage easements, servitude, rights-of-way, and catch basins; the locations of street trees, street lighting standards, and street signs;

C. The location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems;

D. Exact location and size of all water, gas, or other underground utilities or structures; location, size, elevation, and other appropriate description of any existing facilities or utilities, including, but not limited to, existing streets, sewers, drains, water mains, easements, water bodies, streams, flood plains, and other pertinent features such as wetlands, railroads, buildings (the water elevations of adjoining lakes or streams at the date of the survey, and the approximate high- and low-water elevations of such lakes or streams. All elevations shall be referred to the USGS datum plane.

E. If the subdivision borders a lake, river, or stream, the distances and bearings of a meander line established not less than twenty (20) feet back from the ordinary high-water mark of such waterways;

F. Topographic contours at the same scale as the preliminary plat;

G. All specifications and references required by the County's construction standards and specifications, including an erosion control and site-grading plan for the entire subdivision; certification of approval; and,

H. Title, name, address, signature, registration number and seal of the professional engineer and/or surveyor, and date, including revision dates.

12.10 - Plat Approval Procedure-Submission of Proposed Final Plat

After approval of the preliminary plat, a proposed final plat shall be filed with the Plan Commission within two (2) years of approval of the preliminary plat. Failure to file a final plat for approval within this time period will result in the preliminary plat and approval thereof being null and void. The proposed final plat may include all or a phase of the preliminary plat and shall meet the requirements set forth below.

12.11 - Final Plat Requirements

A final plat shall include all of the information and detail of the preliminary plat, and in addition, shall include the following:

A. Boundary lines by metes and bounds that provide a survey of the tract (with dimensions and angles).

B. Existing or recorded streets that intersect the boundaries of the tract.

C. Distances and directions to the nearest established street corners or official monuments.

D. Street names.

E. Complete curve noted for all curves.

F. Locations, types, materials and sizes of monuments and lot markers.

G. Plans and specifications for the improvements required by this ordinance.

H. Restrictive covenants running with the land.

I. Certification by a registered professional engineer or registered land surveyor that the plat adequately reflects his survey.

J. Deed of dedication of streets and other property for public use. This provision does not require that the streets or easements must be dedicated for public use.

K. Certificate of improvement or completion bond.

12.12 - Plat Approval Procedure-Certificate of Improvement or Completion Bond

Each final plat submitted to the Board of Commissioners shall be accompanied by one of the following:

A. A certificate that all improvements and their installations have been completed in accordance with specifications set out in this chapter. (On-site inspection shall be required before the Plan Commission hearing.)

B. A bond or certificate of funds in escrow or irrevocable letter of credit (Ordinance #89-5 dated April 29, 1985) that:

1. Runs to Owen County.
2. Is in an amount set by the Plan Commission sufficient to complete the improvements and their installation in compliance with this chapter.
3. Is with surety by a company licensed to do business in the State of Indiana.
4. Specifies a completion date for said improvements.

Owen County shall have the authority to move against said bond or certificate of funds in escrow in the event said improvements and these installation have not been met by the specified completion date. Any funds received from said bond or certificate funds in escrow shall be used to complete the improvements and their installation. Release of bond or other financial security noted above shall be approved by the Plan Commission only after a thorough inspection and written report(s) verifying that all improvements have been made pursuant to the plat approval submitted by the Planning Department, County Highway Superintendent, County Health Department or other applicable public/governmental agency.

12.13 - Plat Approval Procedure-Action on the Final Plat

The Department shall determine whether the final plat approval application is complete and shall promptly notify the applicant in writing of any deficiencies in the application.

The Plan Commission shall approve or disapprove the final plat and make written findings to support its decision.

If the final plat materially deviates from the approved preliminary plat, the subdivision shall be re-submitted to the Plan Commission for preliminary plat approval. Material deviation includes but is not limited to increase in number of lots; adds, removes or relocates an interior subdivision street; affects a condition of approval of the preliminary plat by the Plan Commission; or would require a waiver of these regulations or negate the basis for a modification that was granted. The following changes to an approved preliminary plat may be incorporated into a final plat or require only a final plat amendment if already approved; minor increase or decrease in the area of a subdivision; addition, removal or reconfiguration of an easement within the subdivision; and removal or reconfiguration of an internal lot line within the subdivision.

Subdivisions involving public improvements or dedication of land to the public require action by the Owen County Board of Commissioners. The Plan Department will place the subdivision on the Board public meeting agenda when the improvements are completed or when the assurances or executed agreements are provided.

After the Plan Commission has granted final approval and after the County has accepted any public dedications, improvements, and/or assurances of performance and maintenance, the Commission's seal shall be affixed to the final plat and the Secretary or, in the absence of the Secretary, the President shall sign the certificate of final approval.

It shall be the responsibility of the Subdivider to file the approved final plat with the County Recorder within thirty (30) days of the date of execution of the certificate of final approval. Failure of the Subdivider to file the plat, as herein provided, within thirty (30) days shall constitute a violation of this ordinance.

12.14 - Final Plat Requirements-Accuracy

A final plat shall show boundary lines that are accurate to one (1) foot in five thousand (5,000) feet.

12.15 - Final Plat Requirements-Form

A. The final plat shall be prepared at the same size and scale as the preliminary plat.

B. A final plat shall be filed with the Plan Commission accompanied by three (3) black or blue line prints. A reproducible original shall be presented to the Commission for the required signatures. It shall then be returned to the petitioner.

12.16 - Administrative Subdivisions

The following information must be provided in order for the Director to determine whether a proposed subdivision may be approved as a type "1," "2," "3," "4," "5," or "6" administrative subdivision:

A. For type "1" administrative subdivisions, a metes and bounds legal description of the administrative subdivision and the land from which it is being divided, including not right-of-way and lot design and a copy of the Auditor's plat map;

B. For type "2" administrative subdivisions, the old legal and new legal descriptions and a copy of the Auditor's plat map;

C. For type "3" administrative subdivisions, a copy of the court decree showing by legal description how the land is to be divided;

D. For type "4" administrative subdivisions, a legal description and plat, drawn to scale, showing the parcel and the location of the street right-of-way;

E. For type "5" administrative subdivisions, a legal description, including not more than one exception or addition, a plat, drawn to scale, showing the tract to be divided and the tract(s) to be added to and a copy of the Auditor's plat map; and,

F. For type "6" administrative subdivisions, a plat, drawn to scale, of the cemetery showing the layout of the private drives, parking areas, and size of burial lots.

12.17 - Administrative Subdivision Procedure

A. Administrative subdivisions are not subject to the subdivision procedures of these regulations beyond the classification and predesign conference requirement and the procedures and requirements set forth or cited in this section. However, administrative subdivisions are subject to the development standards set forth in the Zoning and Subdivision Control Ordinances (e.g., height, bulk, area, density, and overlay regulations). And, all lots created through the administrative subdivision process must comply with such development standards in order to be developed or improved (except individual cemetery plots). Furthermore, subdivisions that would result in the amendment of a recorded subdivision plat are subject to the procedures and regulations for subdivision plat amendment and/or vacation and are not eligible for administrative subdivision. Excepting Type 3, 4, and 6 administrative subdivisions, the administrative subdivision procedures may not be used to render a conforming lot nonconforming or to increase a nonconformity. However, the procedures may be used to reduce the nonconformity of a nonconforming lot.

B. In order for a land division to be considered an administrative subdivision, the information prescribed for the applicable type of division under these regulations shall be submitted to the Planning Department. The Planning Department shall be responsible for determining whether the submissions required by these regulations have been made and whether the proposed subdivision qualifies for administrative subdivision approval under these regulations.

C. Before the deed of a parcel that is created through the administrative subdivision procedure may be initially recorded with the Owen County Recorder, the Planning Department shall place a notation on the deed to the effect that the parcel was created through administrative subdivision procedure.

D. In addition to definitional requirements, a land division qualifying as a Type 1 administrative subdivision shall be shown as meeting the following conditions:

1. Lots shall be five (5) or more acres in size.
2. If the parcel does not have present access to a public sewage disposal system, the parcel shall contain within its boundaries sufficient soil of a kind specified in 410 IAC 6-8.1, or its successor, to allow for the proper installation of a private sewage disposal system, and shall comply with all Owen County ordinances Board of Health regulations concerning private sewage disposal systems.
3. If the parcel has frontage on a public road, the land divider shall dedicate to the public real property of a width sufficient to meet one-half (1/2) of the required right-of-way width for that specific public road and of a length along that public road equal to the length of that parcel along that roadway.
4. Each parcel created by an administrative subdivision shall have a minimum lot width of two hundred (200) feet.
5. If the parcel is to be used as a principal building site, and is to be accessed from a public road, the Applicant shall provide the Director with copies of the driveway permit issued by the County or State Highway Department, as appropriate, for the parcel.
6. All lots shall have a minimum of fifty (50) feet of frontage on an existing publicly maintained road.
7. Lots created by the administrative subdivision procedure may not be further subdivided through the administrative subdivision procedure if the resulting lots would be less that five (5) acres; and,

E. In addition to definitional requirements, a land division qualifying as a type 5 administrative subdivision shall be shown as meeting the following condition: if the parcel has road frontage on a public road, the land divider shall dedicate to the public real property of a width sufficient to meet one-half (1/2) of the required right-of-way and of a length along that public road equal to the length of that parcel along the roadway.

12.18 - Minor Subdivision Survey Drawing

A. The minor subdivision survey drawing shall be presented in permanent black ink on reproducible matte-finish mylar or reproducible matte-finish polyester film, at least four (4) mil thick, at an appropriate scale (as determined by the Planning Department) on eleven (11) inch by seventeen (17) inch sheets. The sheets shall be numbered in sequence, if more than one sheet is used.

B. The survey drawing shall contain:

1. The name of the subdivision, followed by the words "Minor Subdivision";
2. The name, address, telephone numbers and registration numbers of the professionals responsible for the design of the proposed subdivision, the design of the proposed public improvements, the property survey, and the preparation of the plat and supporting materials;
3. The names and deed record of all interested parties;
4. The written legal description of the property to be subdivided;
5. The date of the plat, legend, notes, approximate true North point, and graphic scale;
6. The parcel boundary lines with dimensions, bearings, curve data, and references to section, township, and range lines or corners of the property to be subdivided;
7. The boundary lines of all subdivision lots, with dimensions , bearings, curve data, and lot numbers;
8. Acreage of each lot, to the nearest hundredth (may be presented in a table);
9. The accurate location of all existing and platted streets intersecting or abutting the boundaries of the property to be subdivided;
10. The accurate locations and dimensions of any existing or proposed easements;
11. The location of all monuments erected, corners, and other points established in the field shall be shown and noted in their places on the plat. The legend for metal monuments shall indicate the kind of metal, the diameter and length of the monuments;
12. The surveyor's certificate and seal; and,
13. Reference to the county or state highway right-of-way, existing or dedicated as necessary, in the written legal description and illustrated on the drawing.
14. The survey drawing shall be prepared by a land surveyor licensed by the State of Indiana.
15. All numbers appearing on the survey drawing shall be in Arabic style and all letters and/or words shall be in Roman print in the English language.

12.19 - Alternate Procedure for Minor Subdivisions

A. For subdivisions classified by the Planning Department as minor subdivisions, the Applicant may choose to seek approval under the procedures of this section in lieu of those specified above.

B. Following receipt of the Planning Department's predesign conference report, the subdivider may apply for approval. An application for approval shall:

1. Be accompanied by eight (8) copies of the survey drawing as describes above together with: the supporting materials as follows: a drainage plan; proof of septic permit approval; if any lot or road in a major subdivision is to receive access from or intersect with a state highway, a copy of the driveway permit or approval letter issued by the Indiana Department of Transportation or a copy of a driveway permit issued by the County Highway Department for each lot to be accessed by a County road; the recorded deed or land contract for the proposed subdivision site; the Auditor's plat map of the proposed subdivision site; and an eight and one-half (8-1/2) inch by eleven (11) inch reduced copy of the preliminary plat;
2. Be accompanied by the fee established by the Commission;
3. Be accompanied by a copy of the deed prepared for each of the proposed lots. Each deed must contain at least the following information:
    a. Metes and bounds legal description with reference to any existing or proposed easements.
    b. Dedication of right-of-way, to the public, where applicable. Right-of-way dedication shall be of a width sufficient to meet one-half (1/2) the required right-of-way width for that specific public road as indicated on the County Thoroughfare Plan or Official Map and of a length along that public road equal to the length of that parcel along that roadway.
    c. The following notation: "This parcel was created through the Minor Subdivision procedure and approved by the Owen County Plan Commission on (date of Plan Commission approval)."

C. Upon receipt of a complete application, the Planning Department shall:

1. Review the application for technical conformity with these regulations;
2. Prepare a report and recommendation, including recommended conditions of approval;
3. Place the application on the Plan Commission public meeting agenda and notify all interested parties as required by Indiana law.

D. The Plan Commission shall review the application for compliance with these regulations. The Plan Commission may approve the application, approve the application with conditions or deny the application. However, if the Plan Commission determines that the application and plat comply with these regulations, it shall grant preliminary approval. The Plan Commission shall prepare written findings of fact in support of its decision.

E. The applicant's proposed subdivision shall be subject to the procedures and requirements for final approval:

1. The Planning Department shall disapprove or grant final approval of the minor subdivision petition and make written findings in support of its decision. In order to be recorded, the deeds and survey drawing must be found by the Planning Department to be in conformance with these regulations and with the preliminary or Plan Commission approval.
2. Final approval may not be granted until the period to file a Notice of Appeal has passed without such an appeal being filed.
3. After the Director has granted final approval, the Commission's seal shall be affixed to the deeds and survey drawing.
4. It shall be the responsibility of the subdivider to file the approved deeds and survey drawing with the County Recorder within thirty (30) days of the date of final approval. Failure of the subdivider to file the deed(s) and survey drawing, as herein provided, shall constitute a violation of this ordinance.
5. The subdivider, upon recording, shall provide the Planning Department with one copy of each recorded deed and survey drawing.

12.20 - Conditions For Approval of Final Plat; Standards of Design

The design standards required as a condition for approval of a final plat for a subdivision of land are specified below.

12.21 - Standards of Design-Approval of Streets

A. All streets shall be prepared in the manner prescribed in the subdivision control ordinance to be considered for acceptance into the Owen County Highway system.

B. The petitioner shall obtain a written review and approval of the proposed street layout and design from the Owen County Highway Superintendent.

C. Drawing details required with permit:

1. Right-of-way: All rights-of-way shall be shown.
2. Typical pavement detail shall indicate:
    a. Surface width and thickness,
    b. Base width and thickness,
    c. Sub-base width and thickness,
    d. Shoulder width and slope,
    e. Ditch depth and grade per one hundred (100) feet expressed as a percent.
    f. Fill and cut slopes.
    g. Curb details (if used).
    h. Drainage structures, size, and length.
    i. Run-off area and co-efficients used.
    j. Cul-de-sac radius (if required).

12.22 - Standards of Design-Location and Arrangements of Streets

A. The proposed street layout shall be reasonably related to the topography of the land so as to produce usable lots and streets and shall provide for access to all lots within the subdivision.

B. Where appropriate, proposed streets shall be extended to the boundary of the subdivision to allow for normal circulation of traffic in the vicinity.

C. Provisions shall be made for the continuation or projection of existing streets in the surrounding area except where impractical or undesirable because of topographical or design considerations.

12.23 - Standards of Design-Dead-End Streets

A. Permanently dead-end streets longer than six hundred (600) feet, as measured from the center line of intersection streets are strongly discouraged. If allowed, they shall be provided at the closed end with a turn-around having a diameter of at least eighty (80) feet or other arrangements for the convenient turning of vehicles.

B. A street may be permitted to be temporarily dead-ended where it is proposed to be, and reasonably should be, extended beyond the plat limits, but has not yet been so constructed. Temporarily dead-ended streets shall be provided with a turn-around as set forth above.

12.24 - Standards of Design-Access to Areas Abutting Arterial Streets

If the area proposed to be platted abuts upon or contains an existing or proposed arterial street, the street plan shall provide vehicular access to each lot abutting upon the arterial street by one of the following means:

A. A parallel street, supplying frontage for lots backing onto but separated from said arterial right-of-way by a screen planting or buffer strip.

B. A cul-de-sac, or series of cul-de-sacs, entered from a street paralleling said arterial, with the terminal lots of the cul-de-sac backing onto the arterial right-of-way and separated from said arterial right-of-way by a screen planting or buffer strip.

C. A marginal access street separated from said arterial by a screen planting or buffer strip, access to the arterial being provided at points suitably spaced.

D. Any other reasonable means necessary to control the number and location of intersections with such arterials and provide adequate separation of through and local vehicular traffic.

E. Access from lots to existing county roads shall be permitted only if adequate direct visibility is maintained each way from the point of access. These requirements are not necessary for access to the internal streets or plotted subdivisions.

F. Intersections with arterial streets may not exist at less than 500 foot intervals.

12.25 - Standards of Design-Minimum Right-Of-Way Widths of Streets

Street rights-of-way shall conform in width with those specified by this chapter: A, The minimum width of right-of-way shall be 40 feet. ~B. A subdivision that is platted along only one side of an existing street shall provide one-half of the minimum right-of-way, measured from the center line of the street.

12.26 - Standards of Design-Grades for Streets

A. The steepest permissible grade for arterial streets shall be fifteen percent.

B. The Plan Commission may authorize steeper gradients based on topography upon application for waiver of this standard and for good cause shown.

12.27 - Standards of Design-Alignment of Streets

A. Between reverse curves there shall be a tangent, measured along with center line, that is at least 100 feet long for arterial streets at least 40 feet long for feeder and local streets.

B. Where a deflection angle of more than ten degrees in the alignment of a street occurs, a curve with the following minimum radius, measured along the center line, shall be provided:

Arterial streets - 500 feet minimum radius
Feeder streets and parkways - 300 feet minimum radius
Local streets - 200 feet minimum radius

C. Direct visibility shall be maintained along the center line of a street or parkway, measured five (5) feet above center line as follows:

State highway - 500 feet minimum slight distance
Arterial streets - 500 feet minimum slight distance
Feeder streets and parkways - 300 feet minimum slight distance
Local streets - 150 feet minimum slight distance

12.28 - Standards of Design-Special Types of Streets

The Plan Commission may prescribe appropriate standards for the design of parkways or other types of streets.

12.29 - Standards of Design-Intersections of Streets

A. Streets shall intersect one another as nearly as possible at right angles. In no case shall the angle of intersection be less than sixty (60) degrees.

B. Property line corners at street intersections shall be rounded at a radius of at least fifteen (15) feet, and at street and alley intersections, the Plan Commission may authorize a greater radius.

C. Street jogs shall not have center line offsets of less than one hundred twenty-five (125) feet.

12.30 - Standards of Design-Alleys

A. Alleys shall be provided in commercial and industrial districts where needed for loading and unloading or for access.

B. Alleys shall be discouraged in residential districts.

12.31 - Standards of Design-Utility Easements and Depth

Utility easements at least eleven (11) feet wide shall be provided across lots or centered on rear or side lots, depending upon the needs of the appropriate utility. Where the easement is located along a lot line, one-half shall be taken from each lot. Underground utilities shall be buried at the depth of thirty-two (32) inches or as otherwise required in Ordinance 200-( ), as amended.

12.32 - Standards of Design-Sizes of Lots

A. All lots within a subdivision shall have a minimum size of one (1) acre and shall have a minimum frontage of two hundred (200) feet.

B. Where a public water system or private sewage system is not available, the Plan Commission shall require that percolation tests be made at the expense of the subdivider to assure proper operation of individual water systems and individual sewage disposal systems in accordance with County ordinances and regulations.

C. All lots shall have a suitable relationship to street and block design and be compatible with the area's physical conditions; and all lots shall have building setback lines which shall be established to compliment the developmental pattern of the subdivision but which may not be less than the following:

i) Setback from road right-of-way of at least seventy-five (75) feet;
ii) Setback from side lot line of at least twenty-five (25) feet; and
iii) Setback from rear lot line of at least twenty-five (25) feet.

12.33 - Standards of Design-Corner Lots

Corner lots for residential use shall have sufficient extra width to permit the minimum building setback from and proper orientation to both streets.

12.34 - Improvements-Approval of Plans for and Construction of Streets

Streets shall be graded, surfaced and improved to the dimensions required by this ordinance and the plans, profiles and cross-sections prepared by a registered civil engineer or a registered land surveyor.

In order to be considered for dedication to the County as a public road, streets must be paved with a bituminous surface (not chip and seal) as set forth below. All streets must meet the minimum standards set forth below. The design must be approved in writing by the County Highway Superintendent prior to application for development or construction plat approval.

12.35 - Improvements-Construction Standards for Streets

A. All applicable provisions of the Standard Specifications of the Indiana Department of Highways apply.

B. Pavement Width: The minimum width of the surface shall be eighteen (18) feet. The minimum widen of alleys shall be twelve (12) feet.

C. Shoulders: The minimum width of the shoulder shall be two feet each side.

D. Grade: The sub-grade shall be free of all vegetation and roots. Al embankments shall conform to good construction practices and shall be constructed of material that will compact readily when rolled with a ten (10) ton roller or equivalent vibratory roller. All material will be placed in nine (9) inch lifts. The sub-grade prior to the placement of stone or gravel shall be rolled with a ten (10) ton roller (minimum) or equivalent vibratory roller and all spongy and yielding material shall be replaced with material suitable for compaction. All top-soil shall be removed.

E. Drainage Structures for Driveways: Minimum size is twelve (12) inches by twenty (20) feet (squash-type pipe). All drainage area and co-efficients shall be shown for storm drainage.

F. Ditches: Minimum shall be one (1) foot below the outer edge of shoulder on a 2:1 slope and of sufficient size to carry the surface water. Slopes of over four percent may require additional precautions to avoid erosion and shall be approved by the County Highway Superintendent.

G. Storm Water Run-Off, Seeding and Sodding: All disturbed areas shall comply with state and local storm water run-off and erosion control measures and may need to be seeded to prevent erosion.

H. Curbs and Gutters:

1. If a proposed subdivision lies adjacent to or between other subdivisions that have been provided with curb and gutter or if it averages more than three lots per gross acre, curb and gutter shall be installed on each side of the street surface.
2. The Plan Commission shall require the installation of gutters along the boundaries of parking lots so far as necessary for drainage control or public safety.

I. Aggregate Base:

1. Minimum of four inches of #2 compacted aggregate conforming to Indiana Department of Highways specifications unless in a high moisture area where requirement may be increased by County Highway Superintendent.
2. The above material shall be compacted with vibratory-type rollers.
3. If sub-grade is of an unstable soil, it shall be undercut and with stone, conforming to Indiana Department of highways specifications, placed in the removal area.
4. The crown (slope) shall conform to the final surface crown (1/4 inch per foot to surface base width).

J. Gravel Surface:

1. Minimum of four inches of #53 compacted aggregate (stone).
2. Compaction at 91 percent.
3. The crown (slope) shall be at least 1/4 inch per foot of surface base width.

K. Chip and Seal: Two lays of number 9 stone and one lay of number 11 stone along with one and one-half gallon per square yard of emulsion,

L. Bituminous Surface and Base: (This standard applies to any street paved with bituminous surface and is required if the applicant intends to dedicate the streets to the County for public use.)

1. Surface: Minimum shall be 110 pounds per square yard (approximately one inch) of Hot Asphaltic Concrete, #11 stone. Type "B" (all stone).
2. Base: Minimum shall be 330 pounds per square yard (approximately three inches) in Hot Asphaltic Concrete, #9 binder stone.
3. The surface and base material shall be placed by machine and rolled with a five (5) ton roller (minimum)
4. Crown (fall of surface) shall be 1/4 inch per foot.
5. The aggregate base shall be primed with RS-2 at a rate of approximately .10 gallon per square yard. M. Reinforced Concrete Pavement:

1. Minimum thickness shall be seven inches.
2. Reinforcing shall conform to the requirements of the Indiana Department of Highways specifications.
3. Reinforced concrete pavement may be used in place of Hot Asphaltic Concrete material.
4. Construction requirements shall conform to the Indiana Department of Highways specifications.
5. Sub-base shall conform to subsection (I) above.

12.36 - Improvements-Ingress and Egress for Streets and Alleys

The minimum street approach as shown in the appendix shall be required for all subdivisions. For developments of more than 25 housing units or lots, the approach dimensions shall be as determined by the Owen County Highway Superintendent.

1. If a proposed subdivision lies adjacent to or between other subdivisions that have been provided with curb and gutter or if it averages more than three lots per gross acre, curb and gutter shall be installed on each side of the street surface.
2. The Plan Commission shall require the installation of gutters along the boundaries of parking lots so far as necessary for drainage control or public safety.

I. Aggregate Base:

1. Minimum of four inches of #2 compacted aggregate conforming to Indiana Department of Highways specifications unless in a high moisture area where requirement may be increased by County Highway Superintendent.
2. The above material shall be compacted with vibratory-type rollers.
3. If sub-grade is of an unstable soil, it shall be undercut and with stone, conforming to Indiana Department of highways specifications, placed in the removal area.
4. The crown (slope) shall conform to the final surface crown (1/4 inch per foot to surface base width).

J. Gravel Surface:

1. Minimum of four inches of #53 compacted aggregate (stone).
2. Compaction at 91 percent.
3. The crown (slope) shall be at least 1/4 inch per foot of surface base width.

K. Chip and Seal: Two lays of number 9 stone and one lay of number 11 stone along with one and one-half gallon per square yard of emulsion,

L. Bituminous Surface and Base: (This standard applies to any street paved with bituminous surface and is required if the applicant intends to dedicate the streets to the County for public use.)

1. Surface: Minimum shall be 110 pounds per square yard (approximately one inch) of Hot Asphaltic Concrete, #11 stone. Type "B" (all stone).
2. Base: Minimum shall be 330 pounds per square yard (approximately three inches) in Hot Asphaltic Concrete, #9 binder stone.
3. The surface and base material shall be placed by machine and rolled with a five (5) ton roller (minimum)
4. Crown (fall of surface) shall be 1/4 inch per foot.
5. The aggregate base shall be primed with RS-2 at a rate of approximately .10 gallon per square yard.

M. Reinforced Concrete Pavement:

1. Minimum thickness shall be seven inches.
2. Reinforcing shall conform to the requirements of the Indiana Department of Highways specifications.
3. Reinforced concrete pavement may be used in place of Hot Asphaltic Concrete material.
4. Construction requirements shall conform to the Indiana Department of Highways specifications.
5. Sub-base shall conform to subsection (I) above.

12.37 - Improvements-Turn-Around or Cul-De-Sac Requirements

Turn-around or Cul-de-sac requirements shall be:

A. Radius: Minimum shall be 40 feet.

B. Shoulders: Two feet around cul-de-sac.

C. Ditches: Minimum one foot below shoulder on a 4 to 1 slope.

12.38 - Improvements-Street and Traffic Signs

A. Street signs:

1. At least one street sign shall be installed at each street intersection within the subdivision.
2. Street signs conform to state regulatory standards.
3. Street signs shall be installed on the northeast corner.

B. Traffic signs: It shall be required that all necessary traffic signs to control the flow of traffic inside the subdivision be installed by the developer prior to acceptance in to the county highway system. The location and type of traffic signs shall be as recommended by the County Highway Superintendent and specified by the Board of Commissioners.

12.39 - Improvements-Sidewalks

If a proposed subdivision lies adjacent to or between other subdivisions that have been provided with sidewalks or if the subdivision will average more than three lots per gross acre, sidewalks shall be installed on each side of the street. If sidewalks are required, they shall be constructed according to County specifications.

12.40 - Storm and Surface Water Drainage

A. Pursuant to Indiana law, an adequate storm and surface water drainage system shall be installed. The plans for such a system shall be prepared by a registered professional civil engineer. In approving such a plan, the Plan Commission may require off-site improvement of drainage outlets to adequately handle the drainage from the subdivision. In such a case, a statement of review from the US Soil & Water Conservation District shall be presented to the Plan Commission with the final plat.

B. If, in the opinion of the Plan Commission, the natural surface drainage is adequate, easements for the natural surface drainage shall be provided.

C. All areas designated by the State Department of Natural Resources as a part of the 100 year flood plan shall have all required permits from the Department of Natural Resources prior to approval of the final plat by the Board of Commissioners.

D. Retention basin construction may be required prior to any construction in a subdivision at an appropriate location to collect any sedimentation or erosion that would be caused by building of roads or construction of buildings. The retention basin design shall be shown on the site plan and approved by the Plan Commission prior to construction. The basin shall be removed only after approval of the Planning Department.

E. Permanent basin construction may also be required to meet Indiana law.

12.41 - Improvements-Water Supply

If an existing approved sanitary sewer outlet is available, a complete sanitary sewer system that connects with that outlet shall be installed. The plans for installation shall be approved by the Indiana State Board of Health and Sanitation Company (see Regulation HSE 14) and provided by the subdivider. Upon the completion of the system, the plans for the system as built shall be filed with the Plan Commissioner and the sanitation company.

12.42 - Waiver and Lapse

A. Waiver: If, after the Plan Commission has denied preliminary plat approval, an applicant believes that a requirement imposed by this ordinance which was the basis for such denial would cause unnecessary hardship and that topographical or geological conditions at the site make possible some departure from the requirement without materially affecting its purpose, the applicant may petition the Board of Commissioners to that extent to authorize a waiver. Upon receipt of a written petition for waiver, the Board of Commissioners shall review the preliminary plat and application, and the decision of the Plan Commission in denying the application and plat, and place the petition for waiver on its public meeting agenda. The Planning Department shall provide notice of the hearing to interested parties as set forth above by publication and certified mail. The applicant, Planning Department, members of the Plan Commission, and interested parties will be given an opportunity to be heard at the public meeting prior to a decision to grant, deny or modify the petition for waiver. The Board of Commissioners will put in writing its decision and reasons supporting that decision, and direct the Planning Department to send the decision to the applicant. To be effective, a waiver and the reasons for it shall be recorded in the minutes of the Board of Commissioners.
B. Lapse: If streets, water or sewer lines or other improvements have not been substantially completed within two years of the approval of the subdivision, the subdivision plat shall be reviewed by the Plan Commission to determine the developer's intent. A one year extension may be granted for good cause or upon showing of substantial completion of the streets and water and sewer lines. If the Plan Commission determines the developer does not intend to proceed with the subdivision, the Plan Commission may file a notice of revocation with the recorded copy of the subdivision plat; or require the developer to post bond securing the completion of the planned improvements in such amount as the Plan Commission shall determine will adequately assure the County that developer will complete said improvements within such specified period as is deemed appropriate by the Plan Commission.

12.43 - Validity

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed as of the effective date hereof. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance. As used herein the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter gender.

12.44 - Ordinance In Force

This Ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

12.45 - Penalties

Penalties for violation of this ordinance shall be in accordance with Indiana law and Owen County ordinance(s) setting forth penalties for infractions. Each day of a violation shall be considered as a separate infraction. Major violations shall be defined as a violation resulting from an intentional act or careless disregard for these regulations. The penalty for major violations shall not exceed $500 for each infraction (day of violation). Minor violations shall include violations resulting from inadvertent action or failure to act. The penalty for minor violations shall start at $50 for each infraction (day of violation) and increase in a manner to be determined by the Plan Commission. The Plan Commission shall notify a violator that he/she is in violation of this ordinance prior to assessment of any penalties.

CHAPTER 13 - OFF STREET PARKING AND LOADING

13.1 - Purpose and Scope

The provisions of this chapter are established to relieve and/or prevent traffic congestion in the streets, to minimize any detrimental effects of off-street parking areas on adjacent properties, and to ensure the proper and uniform development of parking areas throughout the County Jurisdictional Area.

13.2 - Parking and Loading Requirement

The provisions of this chapter shall apply to situations detailed below:

A. All buildings or structures erected or substantially altered and all uses of land or buildings and structures established or changed after the adoption of this ordinance.

B. Whenever a building or structure constructed before the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of housing units, seating capacity or otherwise, and such change or enlargement creates a need for additional parking spaces. In these cases, the number of additional spaces to be provided shall be based on the extent of the enlargement or change, provided that whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of 50 percent or more in floor area, number of employees, number of housing units, seating capacity or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth in this chapter.

C. Accessory off-street parking facilities in existence on the effective date of this ordinance and located on the same parcel as the building, structure or use served shall not hereafter be reduced below or, if already less than, shall not be further reduced below the requirements for a similar building, structure or use under this ordinance.

13.3 - General Parking Regulations

A. The required off-street parking spaces for any number of separate buildings, structures or uses may be provided collectively on one lot, provided that total number of such spaces shall be not less than the sum of requirements for the various individual buildings, structures or uses computed separately in accordance with this ordinance.

B. When two or more uses are located within the same building or structure, off-street parking spaces equal in number to the sum of the separate requirements for each use shall be provided.

C. Subsections A and B above notwithstanding, two or more non-residential uses may jointly provide and use off-street parking spaces when their hours of operation do not normally overlap, subject to the other requirements of this Ordinance.

D. All off-street parking spaces required by this ordinance shall be used only for the parking of vehicles of occupants, patrons, visitors or employees and shall not be used for any kind of loading, sales or servicing, or for the continuous storage of a vehicle for more than 48 hours.

E. Any parking area to be used by employees or visitors shall provide parking spaces and associated access aisles designated, marked, and located to adequately accommodate the disabled. Accessible spaces shall be provided in sufficient numbers and to the specifications of the Americans with Disabilities Act (ADA) and the Indiana Building Code (IBC). Each accessible or van accessible parking space shall be located adjacent to an access aisle and in close proximity to the entrance(s) most accessible for the disabled. The required number and sizes of such spaces shall be provided regardless of any other provisions of these regulations or of any reduction in parking requirements otherwise approved by the Commission or the Board.

13.4 - Parking Development Standards

A. Locational Standards

1. Off-street parking spaces for all residential uses shall be located on the same lot as the residential structure or on a lot adjacent to the lot on which the residential structure is located.
2. Off-street parking spaces for commercial, industrial or institutional uses shall be located not more than 700 feet from the principal use building.
3. Off-street parking spaces may be located in any yard, subject to applicable setback standards. However, parking spaces may not be located on the shared portions of shared driveways.
4. Off-street parking areas, except those serving single-family detached dwelling units, shall be set back from all public rights-of-way lines a minimum often feet. Any such areas abutting a zone or use with a more restrictive setback shall comply with the more restrictive setback.

B. Parking Space Dimensions. Off-street parking spaces shall have minimum rectangular dimensions of not less than nine feet in width and 18 feet in length, except that parallel parking spaces shall be at least 24 feet in length. Not more than ten percent of the required parking spaces may be compact stalls with minimum rectangular dimensions of not less than eight feet in width and 16 feet in length. Each such space shall have vertical clearance of at least seven feet. All dimensions shall be exclusive of obstructions and of driveways, aisles, and other circulation areas.

C. Parking Space Access

1. Each required off-street parking space shall open directly upon an aisle or a driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. The following minimum aisle or driveway width standards shall apply: 25 feet wide for 90 degree parking; 20 feet wide for 60 degree parking; 20 feet wide for 45 degree parking; and 15 feet wide for parallel parking.
2. Clearly defined driveways shall be provided for ingress and egress to off-street parking areas.
3. All areas devoted to off-street parking shall be designed to prevent traffic congestion on adjacent streets. Whenever possible, the number of traffic access points for uses fronting on arterial streets shall not exceed one per 300 feet. Where direct access to an off-street parking area is provided by an arterial or federal aid secondary road, acceleration and deceleration lanes shall be provided on both sides of the access road in accordance with AASHTO standards.

4. All areas devoted to off-street parking shall be designed so that no vehicle is required to back into a street. Off-street parking areas that exclusively serve single-family detached and two-family dwelling units shall be exempted from this requirement unless direct access to the dwelling unit is provided by an arterial street.

D. Surfacing Requirement

1. Off-street parking areas (including parking spaces, aisles and driveways) may use crushed stone except for commercial or industrial uses in which case the off-street parking shall consist of plant mix asphalt or concrete.
2. Poured-in-place concrete curbs shall be installed to separate off-street parking areas from the front and sides of any abutting building or structure, otherwise barrier curbs may be installed as necessary to safely and efficiently direct the movement and parking of motor vehicles. Single-family detaches and two-family dwellings are exempted from this requirement.
3. The off-street parking area shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude channeled or concentrated drainage of water onto adjacent property or toward buildings.
4. No part of any off-street parking area, excluding drives that do not provide direct access to abutting parking spaces, shall have a slope of greater than five percent.
5. The surface of off-street parking areas shall be maintained and kept in good repair, free from refuse and debris.

E. Screening and landscaping. The Director may condition the approval of an off-street parking area or for a building or structure that will use an existing, on-site parking area on: (1) the establishment of buffer landscaping between the parking area and adjoining or nearby residential districts or uses; and/or (2) the establishment of a lawn on unpaved portions of the parking area.

F. Lighting. Any lighting used to illuminate a required off-street parking area shall be shielded with appropriate light fixtures directing the light away from adjacent properties in order that the illumination at any property line shall not exceed one foot candle.

13.5 - Minimum Parking Requirements and Calculation Method

A. Off-street parking spaces accessory to principal uses shall be provided in accordance with the Off-Street Parking Requirements Table, which is incorporated into this section. Parking space requirements for other uses will be determined by the Board: (1) based upon data supplied by the applicant in response to requests for traffic and parking data to be furnished with the application for site plan and/or improvement location permit in accordance with the requirements of this Article.

B. When determination of the number of off-street parking spaces required by this chapter results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

C. In the event a specific use is not listed in the Table, the planning staff shall determine the number of spaces required. In making this determination, the planning staff shall consider the following criteria:

1. The number of parking spaces required for a use list in the Table that is most similar to the proposed use in terms of the parked motor vehicles that are anticipated to be generated;
2. The square footage to be occupied by the proposed use; and,
3. The number of employees and patrons that are anticipated for the proposed use.

13.6 - Shared Parking

Parking which is to be shared among two or more businesses or land use activities may be permitted subject to the following requirements:

A. No more than 50 percent of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.

B. Total parking provided shall be sufficient to meet the requirements of the greatest combined peak parking demands. Evidence in the form of parking generation studies or calculations shall be provided upon request of the Director.

C. The owners of the properties shall submit a written commitment guaranteeing that the parking spaces shall be provided and maintained as stipulated in the approved site plan, so long as parking is required for the properties in question or until the required parking is provided by other means. Such commitment shall be recorded by the property owners in the County Recorder's Office and a copy filed with the Planning Department.

13.7 - Loading Area Development Standards

A. Location and Screening: Where loading berths are provided, they shall be located on the same zoning lot as the use served. Loading berths shall be screened by either building walls, a solid fence, densely planted shrubbery, or any combination thereof, none of which may be less than six feet in height at maturity. Loading berths may not be located in a front setback in any zoning district.

B. Loading Berth Access: Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.

C. Utilization: Loading activities may not utilize required off-street parking spaces or access thereto.

D. Plan Required: The location of loading activities must be shown on any site plan submitted for review.

13.8 - Minimum Loading Area Requirements

Off-street loading berths shall be provided as follows:

A. Business and Professional Offices, Medical Facilities, Schools, Motels/Hotels, Clubs and Similar Business Uses - one loading berth for each 100,000 square feet of space or additional fraction thereof;

B. Industrial, Manufacturing and Warehousing - one loading berth for each 40,000 square feet of space or additional fraction thereof;

C. Other Commercial Uses - one loading berth for businesses with 5,000 to 10,000 square feet of space and two loading berths for businesses with 10,001 to 25,000 square feet of space, plus one additional berth for each additional 25,000 square feet of space or fraction thereof;

D. Loading berths may not be counted as parking spaces, driveways or aisles for purposes of meeting the off-street parking requirements of this chapter.

OFF-STREET PARKING REQUIREMENTS TABLE

Agricultural Uses: Minimum Off-Street Parking Requirement

Agricultural Uses - Land Animal Related: dwelling unit requirements only
Agricultural Uses - Non-Animal Related: dwelling unit requirements only
Aquaculture: dwelling unit requirements only
Commercial Non-Farm Animals: dwelling unit requirements only
Confined Feeding Operation: 1/employee
Equine Services: 1/4 stalls + 1/employee
Feed Lot: 1/employee
Feed Mill: 2/1000GFA
Stockyard: 1/employee on largest shift

Residential Uses: Minimum Off-Street Parking Requirements

Boarding House: 1/rented room + dwelling unit requirements
Elderly Housing: 0.8/unit
Home Occupation Class I: dwelling unit requirements
Home Occupation Class II: 1/employee + dwelling unit requirements
Home Based Business: 1/employee + dwelling unit requirements
Manufactured Home Park: 2 spaces/unit
Multifamily Dwelling, 1 bedroom: 1 space/unit
Multifamily Dwelling, 2 bedroom: 1.6 spaces/unit
Multifamily Dwelling, 3 bedroom: 1.8 spaces/unit
Multifamily Dwelling, 4 bedroom: 2 spaces/unit
Each additional bedroom: add 0.5 spaces
Single Family Dwelling: 2 spaces/unit
Two Family Dwelling: 2 spaces/unit

Public, Semipublic, and Office Facilities: Minimum Off-Street Parking Requirements

Airport: 1/employee + 1/vehicle used in operation + 1/number of vehicles at peak hour
Camping Facility: I/unit + I/employee Cemetery: 1/employee + space on private drives
Charitable, Fraternal, or Social Organization: 1/4 persons at capacity Community Center: 3/1000 GFA + I/employee Cultural Facility: 2.5/1000 GFA Day Care Facility: 1/4 clients + 1/employee Funeral Home: 1/4 seats Governmental Facility: 3/1000 GFA
Group Home: 1/employee on largest shift + 1/5 clients or 1.7/1000 GFA Hospital: 1/4 beds + 1/2 employees on largest shift Medical Clinic: 3/doctor + I/employee Nursing Home: 14 beds + 1/employee on largest shift Office: 1.3/1000 GFA
Office Showroom: 2/1000 GFA + I/employee Postsecondary Educational Institution: 1/5 students + I/employee Religious Facilities: 1/4 seats Retirement Center: 4/1000 GFA + 1/employee School (K-8): I/classroom + I/employee School (9-12): 1/4 students + 1/employee Utility Service Facility: 1/employee on largest shift Wastewater Treatment Facility: 1/employee on largest shift Water Treatment Facility: 1/employee on largest shift

Business and Personal Services: Minimum Off-Street Parking Requirements

Air Cargo and Package Service: 3.3/1000 GFA + I/employee Aircraft Charter Service: I/employee + 1/4 seats in waiting area Airport Transportation Service: 1/employee + 1/4 seats in waiting area
Appliance Repair: 2/1000GFA+ I/employee
Auction House: 1/4 seats
Barber Service: 10/1000 GFA + 1/employee
Beauty Service: 10/1000 GFA + 1/employee
Bed and Breakfast: 1/guest room + dwelling unit requirements
Bottled Gas Storage and Distribution: 2/1000 GFA
Central Garbage/Rubbish Collection Facility: 2/1000 GFA (minimum 5 spaces required)
Coin Operated Cleaning/Laundry: 5/1000 GFA
Composting Operation: 1/employee
Convenience Storage: 1/1000 GFA
Copy Service: 4/1000 GFA
Dry Cleaning and Laundry Pickup: 1/employee
Dry Cleaning and Laundry Service: 3 + 1/1000 GFA
Electrical repair: 2/1000 GFA + 1/employee
Employment Agency: 4/1000 GFA
Equipment Rental: 3/1000 GFA
Estate Services: 1.5/1000 GFA
Exterminating Service: 1.25/1000 GFA
Financial Service: 5/1000 GFA + 4 stacking spaces/drive-in lane
Gunsmith: 3/1000 GFA
Hotel (and motel): I/room or suite + 1/3 employees on largest shift + 1/3 persons to the Maximum capacity of each meeting/banquet room Insurance Agency: 2.5/1000 GFA Interior Decorating: 2.5/1000 GFA Legal Service: 2.5/1000 GFA Locksmith: 3/1000 GFA Office Equipment Repair: 2/1000 GFA Pet Services: 3/1000 GFA Photographic Services: 2.5/1000 GFA Real Estate Agency: 3.3/1000 GFA
Remote Garbage/Rubbish Removal Facility: 2/1000 GFA (minimum 5 spaces required)
Shoe Repair: 2/1000 GFA + 1/employee Small Engine and Motor Repair: 2/1000 GFA Tailoring: 5/1000 GFA Taxidermist: 2/1000 GFA Travel Agency: 4/1000 GFA Upholstery Service: 3.3/1000 GFA Veterinary Service (Indoor): 2/1000 GFA + 1/employee Veterinary Service (Outdoor): 1/1000 GFA + I/employee

Retail and Wholesale Trade: Minimum Off-Street Parking Requirement

Agricultural Sale Barn: 1/4 seats
Agricultural Supply: 2/1000 GFA
Apparel Shop: 3/1000 GFA
Appliance Sales: 2/1000 GFA
Automotive Sales: 2/1000 GFA enclosed sales area + 1/2500 GFA open sales area + 2/service bay + 1/employee (minimum 5 spaces required)
Automotive Supply: 2.5/1000 GFA + I/employee
Bakery (Retail): 5/1000 GFA
Bakery (Wholesale): 5/1000 GFA sales area + I/employee
Bookstore: 3/1000 GFA
Building Materials: 5/1000 GFA + 1/employee
Cabinet Sales: 2/1000 GFA
Camera and Photographic Supply: 3/1000 GFA
Caterer: 2/1000 GFA
Confectionery: 2/1000 GFA
Convenience Store: 3/1000 GFA + 1/employee on largest shift
Department Store < 25,000 GLA: 4/1000 GFA
Department Store 25,001-400,000 GLA: 3.3/1000 GFA
Department Store 400,001-600,000 GLA: 3.6/1000 GFA
Department Store > 600,001 GLA: 4/1000 GFA
Drapery Sales: 2/1000 GFA
Drugstore: 2.5/1000 GFA
Fertilizer Sales (Bulk): 1/1000 GFA + 1/employee
Fertilizer Sales (Packaged): 2/1000 GFA
Florist (Retail): 5/1000 GFA
Florist (Wholesale): 5/1000 GFA sales area + 1/employee
Fruit Market: 4/stand
Furniture Sales: 1.5/1000 GFA
Garden Center: 2.5/1000 GFA
General Flooring Sales: 3/1000 GFA + I/employee on largest shift
Gift Shop: 3/1000 GFA
Grocery Store: 5/1000 GFA
Handicrafts: 2/1000 GFA
Hardware: 2/1000 GFA
Heavy Machinery Sales: 2/1000 GFA enclosed sale area + 1/2500 GFA open sales area + 1/employee
Industrial Supplies: 2/1000 GFA + I/employee Jewelry: 3/1000 GFA Liquor Store: 2.5/1000 GFA Marine Supply: 1/2000 GFA sales area Manufactured Housing Sales: 1/2000 GFA sales area Meat Market: 5/1000 GFA Motorcycle Sales: 1/1000 GFA display area Music Store: 3/1000 GFA Office Supplies: 2.5/1000 GFA Optical Goods: 2.5/1000 GFA Pet Shop: 3.3/1000 GFA Petroleum Bulk Sales and Storage: 2/1000 GFA Restaurant: 1/3 seats + 1/2 employees on largest shift Restaurant (Drive-in): 16.7/1000 GFA (minimum 4 spaces) Sporting Goods: 3/1000 GFA
Tavern: 1/4 seats
Used Merchandise (Antiques): 2/1000 GFA Used Merchandise (Flea Market): 3/1000 GFA Used Merchandise (General): 2/1000 GFA

Automotive and Transportation Services: Minimum Off-Street Parking Requirement

Automotive Paint Shop: 1/service bay + 1/employee
Automotive Rentals: 2/1000 GFA
Automotive Repair Shop: 1/service bay + 1/employee on largest shift
Automotive Tire Repair: 2/1000 GFA
Bus Terminal: 10/1000 GFA waiting area
Car Wash, Self-Serve: 3 stacking spaces/bay
Car Wash, Full-Serve: 6 stacking spaces + 1/2 employees
Cold Storage Plant: 1/employee on largest shift
Gasoline Service Station: 1.5/fuel nozzle + 20/1000 GFA enclosed area
Grain Elevator: 1/employee on largest shift
Taxicab Stand: 1/employee + 1/vehicle used in operation
Transfer or Storage Terminal: 1/employee on largest shift
Trucking Terminal: 1/employee + 1/vehicle used in operation
Wrecker Service: I/employee + I/vehicle used in operation

Amusement and Recreational Services: Minimum Off-Street Parking Requirement

Amphitheater: 1/4 persons at maximum capacity Club or Lodge: 1/4 persons at maximum capacity Indoor Theater: 1/4 seats Outdoor Drive-in Theater: 1/employee
Park and Recreational Services: 1/10,000 sf outdoor + 1/1000 sf indoor Private Recreational Facility: 5/1000 GFA Resorts: 1/2 members + spaces required each accessory use Rodeo: 1/4 seats
Transient Amusement Enterprises: 5/1000 GFA enclosed area + 1/3 persons that outdoor facilities designed for at maximum capacity

Manufacturing, Mining, Construction and Industrial Uses: Minimum Off-Street Parking Requirement

All Uses: 1/employee on largest shift + 1/vehicle used in operation of industry

CHAPTER 14 - WIRELESS COMMUNICATION FACILITIES

The purpose of this ordinance is to regulate the design, construction, placement, modification, and removal of wireless communications facilities; to allow the providers of wireless communications services to provide for adequate coverage and capacity while minimizing the total number and overall impact of additional towers; to encourage co-location, the use of attached facilities, and the use of appropriate public and semi-public properties where possible; to require designs and parameters compatible with adjacent land uses; to conserve the scenic, historic, aesthetic and environmental quality of Owen County and the tourism industry based thereon from the adverse impacts of wireless communications facilities development; promote long-range planning and cooperation between the citizens and property owners of Owen County, the Owen County Plan Commission and County Commissioners, and the wireless communications services providers; to protect the public health, safety and general welfare of the community.

14.1 - Permitted, Conditional and Exempt Uses

A. Permitted Uses. Permitted uses include:

1. Co-location: placement of an Antenna Array if located on:
    a. a legal existing or previously approved WCF;
    b. a previously constructed broadcast tower; or,
    c. an existing communications tower where the engineering specifications of the tower(s) permit and no increase in the height of the tower is required.
2. Attached Wireless Communications Facilities: placement of an Antenna Array if integrated with/within another existing structure (i.e. a building facade, church steeple, water tower) and no more than a 15 foot increase in the height of the existing structure is required.
3. Replacement of a legal, existing WCF, Support Structure, or Antenna Array with a similar facility of an equal or smaller size, subject to the application procedures, general requirements and abandonment provisions of this Chapter.
4. Placement of Antenna Arrays or construction of Wireless Communications Facilities shall be permitted within the Agricultural Zone.

B. Conditional Uses. There are no conditional uses for WCF. Construction of a WCF in other than an Agricultural Zone requires rezoning pursuant to the provisions of the Owen County Zoning Ordinance.

C. Exemptions. The following wireless communications facilities are exempt from the provisions of this chapter: police, fire, ambulance and other emergency dispatch; amateur (HAM) radio; antennas used solely for residential household television and radio reception and satellite dishes measuring two meters or less in diameter.

D. Prohibitions. WCF not expressly permitted under subsection A, permitted Uses, or subsection B, Conditional Uses, or not exempted under subsection C, Exemptions, are prohibited.

E. Conditions of Approval. The following conditions apply to all permitted and conditional uses:

1. All Wireless Communications Facilities and Support Structures shall be designed for, and constructed in accordance with, provisions for co-location (defined below);
2. Applicants and/or petitioners agree to make a good faith effort on terms consistent with any applicable national agreement or on terms common to the region, to accommodate requests for co-location that originate from a provider, from the WCF owner, or from the Planning Department;
3. Property owners and/or agents shall accept and accommodate the provisions for co-location prescribed by this ordinance, and shall agree to the renting or leasing of space on a Support Structure or WCF, for co-location, at fair market prices and terms without discrimination.
4. Upon Completion of the Support Structure or WCF, owners and/or operators of the Support Structure or WCF agree to make a good faith effort to accommodate co-location (placement of additional Antenna Arrays) in a timely manner, including those WCF or Antenna Arrays proposed by other service providers.
5. No approval for a WCF or Support Structure shall become valid until authorization (written approval) or a written statement of no objection from all relevant federal, state or local agencies with regulatory authority has been submitted to the Planning Department.

14.2 - General Requirements

The following requirements apply to all WCF that are erected or placed within the County jurisdictional area after the effective date of this chapter.

A. For each application, the property owner(s), WCF owner(s), and wireless communications service provider(s) shall be considered co-applicants and shall be jointly and severally subject to the provisions of this ordinance.

B. Each permit application for placement of a WCF, WCF Support Structure or Antenna Array shall be accompanied by the following:

1. Application Form. A completed application form, with original signatures from all applicants including the property owner(s), WCF owner(s), and wireless communications service provider(s).
2. Statement. A written statement with illustrations that describes the proposed wireless communications facility (type of construction, tower height, provisions for co-location).

3. Inventory. Inventory of the provider's existing Wireless Communications Facilities and/or Antenna Arrays within Owen County and within three miles of the boundaries of the County planning jurisdiction, along with a plan describing any potential future facility locations. The inventory and master plan shall include:

a. locations of all existing and proposed facilities (by property address, latitude/longitude coordinates, and township, range, section 1/4 section);

b. height and type of each existing and proposed facility (including antenna types, output frequency, number of channels, power output and maximum power output per channel);

c. for each existing and proposed facility, information on the practical capacity for accommodating additional co-located antenna arrays;

d. delineation of existing and anticipated coverage patterns in Owen County with brightly colored radial plots showing clear demarcations between signal strengths: for each existing and proposed facility, signal propagation and radio frequency studies and plots shall be prepared, clearly identified, and signed by a qualified radio frequency engineer (power density calculations shall be in accordance with "worst case" formulas, assuming operation at maximum power and maximum capacity);

e. for each existing or proposed facility, type(s) of services to be provided (i.e. paging, PCS, etc.)

4. Site Plan. A drawing to scale, with the following information:

a. property lines, with distances and bearings illustrated;

b. existing site improvements, including buildings and structures;

c. existing/proposed roadways and easements on the property;

d. proposed wireless communications facilities; and

e. proposed landscaping, including existing vegetation where applicable.

5. Visual Impact Analysis. A visual impact analysis that includes:

a. current photographs of significant man-made or natural features adjacent to the proposed WCF or Support Structure, indicating those features that will provide buffering for adjacent properties and rights-of-way;

b. a photographic presentation that depicts current site conditions with a super-imposed image of the proposed facilities to demonstrate the anticipated views of the proposed site and facilities upon completion of all improvements. Four views shall be illustrated, at a minimum, from points directly to the north, south, east, and west of the proposed facility at distances no less than 1/2 mile and no greater than one mile.

6. Maintenance and Facility Removal Agreement. For each WCF or Support Structure, a maintenance and facility removal agreement signed by the applicants and/or petitioners. This agreement shall bind the applicants and all successors in interest to properly maintain the exterior appearance of all facilities and, ultimately, remove all facilities upon abandonment in compliance with the provisions of this chapter and any conditions of approval. This agreement shall bind the applicants to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse Owen County for any and all costs incurred to perform any work required by this agreement that the applicants fail to perform. This agreement shall be signed by the applicants and by the Administrator of the Planning Department and recorded in the office of the Owen County Recorder.

7. Indemnification. Owen County shall not enter into any lease agreement or authorize the placement of any WCF or Support Structure unless Owen County obtains an adequate indemnification from the applicants (owners/operators) and/or wireless communications service providers. This indemnification must:

a. Release Owen County from all liability arising out of the construction, operation, removal or repair of a wireless communications facility and/or antenna array. Parties to a wireless communications agreement agree to not sue or seek any monies or damages from Owen County in connection with the above.

b. Indemnify and hold harmless Owen County, its elected and appointed officials, agents, servants and employees, from and against all claims, demands, or causes of action whatsoever, and the resulting losses, costs, expenses, attorney's fees, liabilities, damages, orders, judgments or decrees, sustained by Owen County or any third party arising out of, or resulting from, each wireless communications facility's owner's, operator's, agent's, employee's, or servant's negligible acts, error, or omissions.

c. Provide that the covenants ad representations relating to the indemnification provision shall survive the term of any agreement and continue in force and effect as to the responsibility of the party to indemnify.

8. Proof of Insurance. At a minimum, adequate insurance covering liability, bodily injury and property damage must be obtained and maintained for the entire period the wireless communications facility is in existence. The Owen County Plan Commission shall be named as an additional insured. A certificate of insurance verifying such insurance shall be submitted at the time of application.

9. Reports. Copies of inspections or reports that are required by, and have been submitted to, the FAA and/or the FCC.

10. Fee. The fee, in accordance with the standards set by the Plan Commission.

11. Proof of Escrow Account. A certificate of funds in escrow, for the benefit of Owen County, in the amount of $5,000 per support structure and $1,000 per antenna array (the amount applicable to support structures shall not apply to Attached WCF). The escrow account shall be established with a bank located within 60 miles of Spencer, Indiana. The Administrator of the Plan Commission shall have the authority to draw funds from the account as needed to ensure compliance with the maintenance, indemnification, insurance and abandonment provisions of this Chapter. The account may be released or closed upon the discontinuation of the subject WCF and upon demonstration of compliance with all requirements of this Article.

C. The requirements of Article II B 6, 7, 8, and 11 are continuing requirements and are binding on the Applicants, their successors and assigns. In the event of a draw of funds, the Applicants shall be required to restore the escrow account to its original amount. The Applicants, their successors and assigns shall be required to submit documented proof of compliance with the foregoing requirements:

1. annually;
2. when ownership of the facility changes;
3. when ownership of the WCF site changes;
4. prior to the expiration or invalidation of a submitted document;
5. upon any other event that would reasonably call the validity or effectiveness of the original document into question.

D. The failure to maintain the insurance coverage or the escrow account in the manner required above shall be a violation of the Owen County Zoning Ordinance. In addition to all other available remedies, the Administrator or Plan Commission may seek a court order that mandates the maintenance of the coverage or account and/or that immediately and permanently prohibits the use of the WCF until compliance with this Article is demonstrated.

E. Each application for placement of a Wireless Communications Facility or Antenna Array shall be subject to Co-location Review, as described below.

F. In the manner described in Article III below, the Planning Department and Plan Commission shall employ, on behalf of the county and at the applicant's expense, an independent technical expert to review and assess all technical application materials or conclusions.

14.3 - Provisions For Hiring Independent Consultant

A. Upon submission of an application for a WCF, or petition for amendment to the WCF Overlay, the County shall hire one or more independent consultants of its own choosing. These consultants shall be qualified professionals with an appropriate combination of training, record of service, and/or certification in one of the following fields: telecommunications/radio frequency engineering; structural engineering; electromagnetic fields (EMF); and, if determined by the Plan Commission, other fields.

B. The planning department shall provide the independent consultant with a copy of the complete application for analysis and review.

C. The independent consultant(s) shall provide an estimate for the cost of reviewing the application to the planning department. The planning department shall forward this estimate in writing to the applicant, the applicant shall promptly pay this fee during the review process (separate from the general application fee). The estimate shall be regarded as a decision of the Administrator. No application will be processed and no public hearings (where applicable) will be scheduled until full payment has been made.

D. The consultant(s) shall work under the direction of the Owen County Plan Commission and/or Board of Zoning Appeals (if a conditional use or variance is requested). Copies of the consultant(s) findings and reports shall be made available to the applicant not less than seven days prior to any scheduled public hearing(s), and the applicant shall be given the opportunity to respond to said reports in writing and at the applicable public hearing(s).

14.4 - Co-Location Review

Co-location shall be required for Wireless Communications Facilities or Antenna Array, unless specifically exempted by the provisions of this Article.

A. Procedures. The Planning Department shall, upon request and/or submittal of an application in conformance with Article III, provide applicants with a list of all known existing and proposed wireless communications facilities or support structures that lie within one mile of the proposed site and the names of the applicable owners or providers, based upon the existing inventory of wireless communications facilities in Owen County and upon known co-location opportunities.

B. Basis for Relief. Relief from co-location under this section shall require independent professional verification of the applicant's data and an independent professional evaluation that supports exception from co-location. Relief from this section may be justified by the following:

1. Existing Wireless Communications Facilities or Support Structures do not fall within location tolerances based upon Radio Frequency mapping;
2. Proposed site(s) do not meet minimum height requirements based upon Radio Frequency engineering data;
3. Existing Wireless Communications Facilities or Support Structures do not meet structural integrity requirements for the proposed antenna array; or
4. Placement of the proposed Wireless Communications Facility and/or Antenna Array would impair, or be impaired by, the emission of Radio Frequencies.

14.5 - Performance Standards

A. Security. For all WCF excepting Attached WCF, a perimeter fence at least eight feet high shall be installed to circumscribe and contain the WCF, along with all accessory structured and/or facilities. Use of razor wire is prohibited.

B. Lighting

1. Security lighting is not required. However, if security lighting is installed it shall be confined to accessory structure(s), directed downward to minimize glare or intrusion into adjoining properties.
2. Other illumination is prohibited. No WCF, Support Structure, or Antenna Array that requires illumination shall be permitted.

C. Landscaping

1. The following planting requirements shall be applied to all applications or petitions for construction of WCF and/or Support Structures:
    a. A double staggered row of evergreen trees, planted at seven feet in height (measured from grade) and at no more than 15 feet intervals along the perimeter of the fence to screen the facilities from adjoining properties; or
    b. A mix of deciduous shade trees (2.5 inch caliper) and large deciduous shrubs (at least 48 inches) of sufficient density along the perimeter of the fence to adequately screen the facilities from adjoining properties.

2. Existing vegetation within 20 feet of the security fence that is preserved shall be credited towards planting requirements.
3. The provisions of this section may be waived, in whole or in part, by the Planning Department upon a determination that: site conditions would not be adequate to support landscape plantings; or, that architectural camouflage ("stealth" design) will insure compatibility with adjoining land uses and eliminate the need for screening.
4. All landscape plantings shall be properly maintained or replaced as necessary to ensure their good health and viability for the life of the WCF and/or Support Structure.

D. Signage. Identification signage, no more than three square feet in total area, shall be required for each WCF/Support Structure, and/or accessory facility. Identification signage shall include the name(s) of the facility owner(s) or operator(s) and a 24-hour emergency telephone number, and shall be affixed to a perimeter fence where possible. Off-premise and other advertising signage is prohibited.

E. Attached WCF. Attached WCF shall be appropriately integrated with, or within, existing structures with due consideration given to siting/placement, color, camouflage, size and type of construction. Attached WCF shall be designed to minimize visual impact and Antenna Arrays shall not exceed the height of the existing structure by more than 15 feet.

F. Noise

1. Noise-producing equipment shall be sited and/or insulated to guarantee that no increase in noise above ambient levels measured at the property line occur.
2. Backup Generators, if used, shall only be operated during power outages and for testing and maintenance purposes. Routine testing and maintenance, if conducted, shall only be conducted between the hours of 8 a.m. and 5 p.m. Monday through Saturday.

G. Materials. Excepting Attached WCF, all Support Structures shall be constructed of galvanized metal. The provisions of this section may be waived by the Planning Department upon a determination that architectural camouflage ("stealthTdesign) will satisfy the intent of this section.

H. Health and Safety

1. All WCF and/or Support Structures shall be constructed, operated, maintained and monitored in compliance with all applicable federal (i.e. FCC and FAA) and state standards and requirements.
2. WCF and/or Support Structures that would be classified as a hazard to air navigation, as defined by the Federal Aviation Administration, shall not be permitted.

I. Other Performance Standards. Refer to Table 1.

14.6 - Temporary WCF

A. Temporary WCF or antennas shall be permitted for test purposes, emergency communications or in the event of equipment failure for a maximum period of two weeks, subject to the requirements of Article B 1 through 5 and 7 through 10.

B. If the applicant is investigating co-location opportunities for a proposed Antenna Array, and demonstrates with written documentation that good faith co-location negotiations are in process, a temporary WCF may be approved by the Planning Department for a period not to exceed six months subject to the requirements of Article B 1 through 5 and 7 through 10.

C. An improvement location permit shall be required for each Temporary WCF.

14.7 - Amendment of Zoning Maps for WCF

A. Requests for amendments to the zoning maps to allow construction of a WCF in other than an Agricultural Zone shall be in accordance with the procedures and requirements of the Owen County Zoning Ordinance.

B. In evaluating a request for map amendment, Owen County shall give due consideration to the Comprehensive Plan, Zoning Ordinance, Zoning Maps, the contest of the prospective site, the technical constraints and requirements of the prospective the facility, and the purposes, requirements and provisions of this ordinance.

14.8 - Abandonment

A. Any WCF or Support Structure that is no longer needed or used for its intended purpose shall be considered abandoned and shall be reported immediately by the service provider to the Planning Department. All abandoned WCF and/or Support Structures shall be completely removed by, and at the expense of, the service provider and/or owner within six months from the date of abandonment and the surface of the site shall be restored to a condition suitable for redevelopment.

B. Any discontinued WCF or Support Structure not completely removed within six months from the date of abandonment may be removed by the County. Costs associated with the dismantling and removal of an abandoned WCF or Support Structure and site restoration shall be paid by the service provider and/or owner as bound by the terms of the maintenance and facility removal agreement described herein.

C. In the event that costs are not covered by the applicant as described above, the County reserves the right to withdraw funds, as needed, to cover costs associated with removal of an abandoned WCF through disbursement of funds from the Escrow Account (per Article II B 11.

WIRELESS COMMUNICATIONS FACILITIES	T a b l e 1
Performance Standard	All WCF, Support Structures
Type of Construction	
(WCF or Support Structure)	Monopole
Provisions for Additional Collocated	
Antenna Arrays	2 (minimum)
Maximum Permitted Height '	199 feet
Front Yard Setback (minimum)	500ft.
Side Yard Setback (minimum)	1000ft.
Rear Yard Setback (minimum)	1000ft.

[1] *No WCF, Support Structure, or Antenna Array shall be permitted at a height that would require illumination.*

CHAPTER 15 - CONDITIONAL USES

15.1 - Regulations for Conditional Uses

The regulations set forth or identified in this chapter are provided to establish procedures, criteria and conditions which shall be met before the Board of Zoning Appeals may approve a conditional use to the terms of this ordinance.

15.2 - Application for Conditional Use Approval

A person desiring conditional use approval shall submit a written application for such approval with the Director. An application for approval shall:

A. be made on the forms available at the office of the Board and be signed by the owner of the property subject to the conditional use request ("subject property") or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);

B. identify the specific conditional use requested;

C. be presented to the Director in duplicate;

D. be accompanied by two copies of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), and the relationship of the subject property to the thoroughfare plans for the area;

E. be accompanied by two copies of a site plan, drawn to an appropriate scale, which shows:

1. the subject property;
2. the location of all existing and proposed buildings, structures and improvements to be made to the subject property, including drainage and erosion control facilities and features;
3. accurate dimensions of the parcel, buildings, parking areas and ingress/egress driveways;
4. location, owner of record, zoning and use of adjacent properties, including the location, size and use of all structures within 50 feet of the subject property;
5. location, right-of-way and pavement width of all streets adjacent to the subject property;
6. proposed connections to public utilities; and
7. landscaping improvements.

F. be accompanied by any other information reasonably required by the Director; and, G. be accompanied by the fee established by the Plan Commission.

15.3 - Conditional Use Approval Procedure

Applications for conditional use approval shall be considered in accordance with the following procedures.

A. Within 30 days after receiving a complete application, the Director shall schedule and announce the date and time of the Board's hearing on the application. At the time the hearing is scheduled, the Director shall provide the applicant with written notice of the hearing date and time.

B. Prior to the Board's hearing on the application, the Director shall review the application for compliance with the Zoning Ordinance. Following such review and prior to the hearing, the Director shall prepare and provide the Board and the applicant with the Director's written comments and recommendation on the application, including the Director's opinion as to any effect which the proposed conditional use might have upon the Comprehensive Plan.

C. The Board, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process.

D. Notice of the Board's hearing on the application for conditional use approval shall be published in two local newspapers of general circulation at least ten days prior to the hearing, in accordance with 1C 5-3-1.

E. At least ten days prior to the Board's hearing on the application for conditional use approval, the Planning Director, in the manner prescribed in the Board's Rules of Procedure, shall notify all interested parties of the public hearing by certified mail.

F. At least ten days prior to the Board's hearing on the application for conditional use approval, the Planning Director shall post and maintain a sign on the subject property notifying those passing the property that a request for conditional use approval for the property has been made. The sign shall be provided to the applicant by the Director. The cost of the sign shall be borne by the applicant.

G. The Board shall conduct a public hearing on the application for special exception approval in accordance with the Board's Rules of Procedure.

H. Following the board's hearing on the application for conditional use approval, the Board shall take action on the applicant's application. The Board may approve the application, approve the application with conditions, or deny the application.

I. The Board shall make written findings of fact in support of its decision. The Director shall promptly provide the applicant with a copy of the Board's written findings.

J. If the Board approves the application for conditional use approval, the Director may issue the applicant an improvement location permit and/or land use certificate subject to the conditions of conditional use approval and the provisions of the ordinance.

K. If the Board denies the application for conditional use approval, the applicant may file an amended application. If the amended application is filed within six months of the Board's denial of the original application, the applicant shall not be charged an application fee.

15.4 - Environmental Impact Statement

The Board shall have the authority to require an applicant to perform an environmental impact study of the area in which the use is proposed and to submit the results of the study to the Board.

15.5 - Standards for Approval

In order for a conditional use to be approved, the Board must find that:

A. the requested conditional use is one of the conditional uses listed in the zoning district in which the subject property is located. In addition to the other relevant standards imposed by or pursuant to this chapter, the standards, uses and conditions set forth in Article VIII are hereby incorporated as standards, uses and conditions of this chapter;

B. all conditions, regulations and development standards required in the Zoning Ordinance shall be satisfied;

C. granting the conditional use shall not conflict with the general purposes of the Zoning Ordinance or with the goals and objectives of the Comprehensive Plan;

D. the conditional use property can be served with adequate utilities, access streets, drainage and other necessary facilities;

E. the conditional use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with performance standards delineated in this ordinance;

F. the conditional use shall be situated, oriented and landscaped (including buffering) to produce a harmonious relationship of buildings and grounds with adjacent structures, property and uses;

G. the conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;

H. the conditional use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and,

I. all permits required by other Federal, State, and local agencies have been obtained.

15.6 - Conditional Approval

All conditional use approvals shall be considered approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to ensure compatibility with surroundings). A conditional use approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Director for furnishing specific information related to the proposed use. Failure to comply with the conditions of approval shall constitute a violation of the Zoning Ordinance.

15.7 - Miscellaneous Guidelines

A. If there are other valid reasons for denying a conditional use application, the denial may be sustained even if the proposed conditional use constitutes the highest and best use which can be made of the subject property.

B. The Board may not deny a permit solely for the purpose of limiting the number of similar uses in an area. However, the Board may require that reasonable minimum distances be maintained between similar uses as a condition of approval.

15.8 - Specific Criteria for Conditional Use Approvals

A. Standards for Conditional Use Permits. No conditional use permit shall be granted pursuant to this Chapter unless the applicant shall establish that the specific standards for the conditional use have been or shall be met. The proposed use and development shall also comply with any additional standards imposed upon the particular use below.

1. Bed and Breakfast Establishments
    a. The operator shall reside on the property;
    b. The establishment shall maintain a maximum of three guest rooms;
    c. The establishment shall provide one parking space per guest room in addition to the spaces required for the dwelling unit; and
    d. The building and its parking facilities shall be designed for compatibility with the surrounding properties.
2. Day Care Centers
    a. Proof of licensing or exemption from the State shall be presented with the application;
    b. Operator shall be responsible for compliance with all applicable city ordinances and state and federal statutes and regulations;
    c. The center shall be screened from adjacent properties with a fence or vegetative buffer, and an adequate fenced play area shall be provided;
    d. The minimum lot size shall be 15,000 square feet or the minimum lot size for the district, whichever is greater;
    e. Site design and supervision characteristics shall insure that the peace and safety of the surrounding area shall not be impaired; and
    f. No center shall be approved within 500 feet of another center.

g. If located in a residential zone or subdivision, the center shall be located adjacent to the arterial street used by the subdivision for access and have, if possible, a separate entrance for ingress and egress to the center and/or adequate parking on the lot where the center is located.

3. Drive-Through Uses

a. Structures shall be located so as to minimize impacts on adjacent property and the character of the streetscape;

b. Design of maneuvering and stacking aisles shall not interfere with circulation or visibility for traffic either on or off site and shall be designed to minimize headlight glare to adjacent property and streets. Applicant shall provide reasonable estimates of peak stack needs and accommodate those needs on the site plan; and

c. The radius and width of maneuvering areas shall be as required by Planning Department and Highway Superintendent.

4. Places of Worship

a. Design of the structure and site shall be compatible with the surrounding area; and

b. Facilities shall have adequate access to collector or arterial streets and traffic shall not travel through a residential neighborhood on local streets.

5. Medical Centers or Clinics and Rehabilitative Facilities

a. The design of the site and structure, and the intensity of use and population density shall be compatible with the surrounding area;

b. Adequate access is provided to a street classified as a collector or arterial; and

c. Peace and safety of the surrounding area shall not be impaired.

d. If located in a residential zone or subdivision, the center shall be located adjacent to the arterial street used by the subdivision for access and have, if possible, a separate entrance for ingress and egress to the center and/or adequate parking on the lot where the center is located.

6. Commercial Uses in Industrial Districts

a. Applicant shall demonstrate to the Board's satisfaction that the proposed use is a retail, restaurant, tavern, gasoline service station or business or consumer-oriented office/service use, and the proposed use will serve primarily the industries of the district in which they are located, and/or their employees;

b. A maximum often percent of the total area of an industrial property may be occupied by such uses; and

c. Individual retail enterprises shall be limited to a maximum floor area of 3,000 square feet.

7. Industrial Uses with Potentially Adverse Effects

a. The following uses may be approved as a conditional use:

- Petrochemical facilities
- Manufacture of chemicals and chemical products
- Processing of meat, poultry, or seafood and other agricultural products, solid waste disposal
- Manufacture of paper products
- Manufacture of paving material and concrete block
- Motor or bus terminal
- Pharmaceuticals other than light manufacturing
- Metal fabrication other than light manufacturing

b. Compliance with the Comprehensive Plan and its impact upon development objectives of the plan, including review by the Plan Commission and recommendation to the Board of Zoning Appeals;
c. Proposed use shall not present undue risk of fire, explosion or release of harmful materials;
d. Applicant shall submit data which details the environmental and other effects of proposed use and which quantifies the potential risks in terms of noise, dust, odor, traffic, and discharges to the air, ground water, or surface water. Statement shall be certified by a Professional Engineer (PE) and presented to the Board at time of application;
e. The Board may require mitigation measures such as careful arrangement of buildings and uses on the site, a means of reducing noise and emissions, and may require screening or setbacks greater than normally required; and
f. Board may require post-construction testing or inspection at appropriate times and intervals to ensure ongoing compliance with the applicant's representations of impact and any required mitigation measures.

8. Outdoor Storage Yards which are Accessory to Permitted Principal Uses
a. Yards may be set back from side and rear lot lines not less than 1/2 the setback required for buildings on the lot if such lot lines do not abut residential use or zoning. If adjacent to residential use or zoning, such yards must meet the required building setback; and
b. Shall be screened so as to mitigate the appearance and impact of the proposed storage use and its level of activity, in a manner consistent with the purposes of the district.

9. Fire and Police Stations
a. Shall have adequate access to collector or arterial streets; and
b. Design of the structure and the site shall be compatible with the surrounding area.

10. Golf, Swim and Tennis Clubs
a. Facilities shall have adequate access to collector or arterial streets and traffic shall not travel through residential neighborhood on local streets; and
b. Design and location of any structure and the design of the site shall be such that adjacent properties shall not be subjected to offensive noise, lights, odors, or flying objects.

11. Convalescent, Nursing or Rest Homes, Auditoriums, and Community and Recreational Centers
a. Proposed facility shall be located on a site of minimum 15,000 square feet, or minimum lot size of the district, whichever is greater;
b. Adequate access shall be provided to collector or arterial streets and traffic shall not travel through residential neighborhoods on local streets; and
c. The design of structure and site, hours of operation, and intensity of use, shall be compatible with the surrounding area.

12. Cemeteries and Mausoleums
    a. Shall be located on a site not less than two acres in size;
    b. Access to site shall be such that traffic and funeral processions to site will create a minimum of interference with normal traffic operations in the area;
    c. The design of the site and any structures shall be compatible with the surrounding area; and
    d. All structures shall be set back from any property line a minimum of 35 feet and all graves and burial plots shall be set back a minimum of 25 feet from any property line.
13. Mortuaries and Crematoriums
    a. Site of the proposed facility shall be a minimum of 50,000 square feet;
    b. Adequate access shall be provided to a street classified collector or arterial and traffic shall not travel through residential neighborhoods on local streets;
    c. Design of site and structure shall be compatible with surrounding uses; and
    d. Access to proposed site shall be such that traffic and funeral processions will create a minimum of interference with normal traffic operations in the area.
14. Accessory Gasoline Sales
    a. The use shall be accessory to a grocery store having at least 1,500 square feet devoted to food sales. The use shall be limited to one dispensing nozzle for each grade of gasoline offered;
    b. Adequate access shall be provided from a collector or arterial street;
    c. Pump island shall not eliminate or interfere with required off-street parking spaces or access thereto;
    d. Adequate stacking space shall be available at the pump island and shall not interfere with traffic safety on the site or adjacent roadway; and
    e. Design of site and structure shall be compatible with surrounding area.
15. Correctional Facilities
    a. Adequate access is provided to a collector or arterial street;
    b. Design of site and structure, and the intensity of use and population density shall be compatible with surrounding area; and
    c. Site design and supervision characteristics shall ensure that the peace and safety of the surrounding area shall not be impaired.
16. Shared Parking
    a. No more than 50 percent of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use;
    b. Total parking provided shall be sufficient to meet the requirements of the greatest combined peak parking demands. The Board may require such evidence as it deems necessary to establish parking demands;
    c. The Board shall require the owners of the properties included in the conditional use request to make a written commitment guaranteeing that the parking spaces shall be maintained as stipulated in the approval so long as parking is required for either of the properties or until the required parking is provided elsewhere in accordance with the provisions of this Chapter. Such instrument shall be recorded by the property owners with the County Recorder, and a copy filed with the planning department; and
    d. The commitment required above may be modified or terminated only by order of the Board.

17. Off-Site Parking

a. The off-site parking facility is within a reasonable walking distance of said structure or use, in consideration of the use;

b. Such parking facility is located in a zoning district where such parking facilities are allowed as a permitted or conditional use;

c. The Board shall require the owners of the properties included in the conditional use request to make a written commitment guaranteeing that the parking spaces shall be maintained as stipulated in the approval so long as parking is required for the property or until the required parking is provided elsewhere in accordance with the provisions of this Chapter, and prohibiting any other use of the lot which is used for off-site parking. Such instrument shall be recorded by the property owners with the County Recorder, and a copy filed with the planning department; and

d. The commitment required above may be modified or terminated only by order of the Board.

18. Drive-in Theaters

a. The site must have direct access to an arterial road as identified on the functional street classification map. In addition to the required setbacks from the streets and highways, all yards shall be planted and maintained as a landscaped strip;

b. The theater viewing screen shall not be visible from any public street within 1,500 feet of the screen. In addition, cars parked in the viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six feet in height;

c. Loading space for patrons waiting for admission to the theater shall be equal to 20 percent of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way traffic;

d. Sale or refreshments shall be limited to patrons of the theater. Amusement parks or kiddylands shall be accessible only to patrons of the theater;

e. All parking areas and access ways shall be adequately lighted; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties; and

f. No central loudspeakers shall be permitted.

19. Light Manufacturing and Distribution Facilities

a. Architecture and site design shall be compatible with the surroundings and with the purpose of the BP District;

b. Truck parking, loading areas, and outdoor mechanicals of any kind shall be adequately screened in a manner compatible with the surroundings;

c. The design of the access route to the facility must be suitable for truck traffic; and

d. Outdoor processes and/or storage are prohibited. 20. Boat Storage

a. The required building setbacks shall be applied to all boats stored outside; and

b. all boats stored outside of enclosed buildings shall be screened from adjoining properties by a double staggered row of evergreen trees or a six foot high opaque fence or wall.

21. Resorts
    a. Design of the structure and site shall be compatible with the surrounding area;
    b. Outdoor group activities shall not be allowed after 10 p.m.; and
    c. Facilities shall have adequate access to collector or arterial streets and traffic shall not travel through a residential neighborhood on local streets.
22. Rodeo and Transient Amusement Enterprises
    a. The site must have direct access to an arterial road as identified on the functional street classification map. In addition to the required setbacks from the streets and highways, all yards shall be planted and maintained as a landscaped strip;
    b. Cars parked in the viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six feet in height;
    c. Loading space for patrons waiting for admission to the theater shall be equal to 20 percent of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way traffic;
    d. Sale of refreshments shall be limited to patrons of the theater. Amusement parks or kiddy lands shall be accessible only to patrons of the theater;
    e. All parking areas and access ways shall be adequately lighted; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties; and
    f. No central loudspeakers shall be permitted.

B. Effect of Issuance of a Conditional Use Permit. The grant of a conditional use authorizes the use and establishes the terms of use. Conditional uses are also subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits must be obtained before any grading, construction, or use commences.

C. Expiration of Conditional Use Permit. Any conditional use permit granted by the Board of Zoning Appeals shall expire:

1. In the case of a new construction or modifications to an existing structure:
    a. Two years after the date granted by the Board of Zoning Appeals, unless a building permit has been obtained and construction of the structure or structures has commences; and
    b. At the date of termination established by the Board of Zoning Appeals as a condition or commitment if different from (1) above.
2. In the case of occupancy of land which does not involve new construction:
    a. Two years after the date granted by the Board of Zoning Appeals, unless an occupancy permit has been obtained and the use has commenced; or
    b. At the date of termination established by the Board of Zoning Appeals as a condition or commitment if different from (1) above.
3. If an appeal by writ or certiorari is taken from an order granting a conditional use, the time during which such appeal is pending shall not be counted in determining whether a conditional use or order has expired under Subsections (a) or (b) of this Section.

D. The Board of Zoning Appeals may provide by rule for the granting of extensions of conditional uses.

E. Amendments to Conditional Use Permits. Any modification or intensification of a conditional use that alters the essential character or operation of the use in a way not intended by the Board of Zoning Appeals at the time the conditional use was granted shall require a new conditional use permit. The property owner, use operator, or his authorized representative shall apply for such conditional use permit prior to any modification of the use or property. The Director shall determine in writing whether the proposed modification or intensification represents an alteration in the essential character of the original conditional use as approved. The operator of the conditional use shall provide the Director with all the necessary information to render this determination. The Hearing Officer may hear requests for amendments to a conditional use, if authorized by the Plan Commission. No use classified as conditional may be conducted without first obtaining a conditional use permit under this chapter, and no such use shall be conducted except in compliance with all applicable provisions of this Zoning Ordinance and with any conditions upon such permit.

15.9 - Conditional Use Approval for Pre-Existing Nonconforming Uses

The Board may grant conditional use status to a pre-existing nonconforming use in accordance with the following procedures and standards:

A. An applicant for conditional use approval shall file an application for site plan review, in accordance with these regulations. The application shall be considered in accordance with the procedures set forth above.

B. To be eligible for conditional use approval, the applicant must demonstrate and agree to continued compliance with the following standards:

1. the proposed conditional use is a pre-existing, nonconforming use (or building or structure);
2. the general performance standards set forth in these regulations; and
3. the use (or building or structure) will not be expanded, enlarged or changed.

15.10 - Conditional Uses in Permitted Land Use Table

The following Permitted Land Use Table sets forth the zones or districts in which specific conditional uses are permitted subject to the provisions of these regulations.

CHAPTER 16 - VARIANCES

16.1 - Regulations for Use and Design Standards Variances

The regulations set forth or identified in this chapter are provided to establish procedures, criteria and conditions which shall be met before the Board of Zoning Appeals may approve a use or design standards variance from the terms of this ordinance.

16.2 - Application for Variance

A person desiring a variance from the terms of the Zoning Ordinance shall submit a written application for variance approval with the Director. An application for variance approval shall:

A. be made on the forms available at the Planning Department office and signed by the owner of the property subject to the variance request ("subject property") or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);

B. describe the specific use or standard for which the variance is sought;

C. be presented to the Director;

D. be accompanied by two copies of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), the relationship of the subject property to the thoroughfare plans for the area;

E. be accompanied by two copies of a site plan, drawn to an appropriate scale, which shows:

1. the subject property;
2. the location of all existing and proposed buildings, structures and improvements to be made to the subject property, including drainage and erosion control facilities and features;
3. accurate dimensions of the parcel, buildings, parking areas and ingress/egress driveways;
4. location, owner of record, zoning and use of adjacent properties, including the location, size and use of all structures within 50 feet of the subject property;
5. location, right-of-way and pavement width of all streets adjacent to the subject property; and,
6. proposed connections to public utilities.

F. be accompanied by any other information reasonably required by the Director; and,

G. be accompanied by the fee established by the Plan Commission.

16.3 - Variance Approval Procedure

Applications for variance approval shall be considered in accordance with the following procedures.

A. Within 30 days after receiving a complete application, the Director shall schedule and announce the date and time of the Board of Zoning Appeal's hearing on the application. At the time the hearing is scheduled, the Director shall provide the applicant with written notice of the hearing date and time.

B. Prior to the Board of Zoning Appeals hearing on the application, the Director shall review the application for compliance with the Zoning Ordinance. Following such review and prior to the hearing, the Director shall prepare and provide the Board of Zoning Appeals and the applicant with the Director's written comments and recommendation on the application, including the Director's opinion as to any effect which the proposed variance might have upon the Comprehensive Plan.

C. The Board of Zoning Appeals, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process.

D. Notice of the Board of Zoning Appeals hearing on the application for variance approval shall be published in two local newspapers of general circulation at least ten days prior to the hearing, in accordance with 1C 5-3-1.

E. At least ten days prior to the Board of Zoning Appeals hearing on the application for variance approval, the Planning Director, in the manner prescribed in the Board of Zoning Appeals Rules of Procedure, shall notify all interested parties of the public hearing by certified mail.

F. At least ten days prior to the Board of Zoning Appeals hearing on the application for variance approval, the Planning Director shall post and maintain a sign on the subject property notifying those passing the property that a request for variance approval for the property has been made. The sign shall be provided to the applicant by the Director. The cost of the sign shall be borne by the applicant.

G. The Board of Zoning Appeals shall conduct a public hearing on the application for variance approval in accordance with the Board of Zoning Appeals Rules of Procedure.

H. Following the Board of Zoning Appeals hearing on the application for variance approval, the Board shall take action on the applicant's application. The Board may approve the application, approve the application with conditions, or deny the application.

I. The Board of Zoning Appeals shall make written findings of fact in support of its decision. The Director shall promptly provide the applicant with a copy of the Board's written findings.

J. If the Board of Zoning Appeals approves the application for variance approval, the Director may issue the applicant and improvement location permit and/or land use certificate subject to the conditions of variance approval and the provisions of the ordinance.

K. If the Board of Zoning Appeals denies the application for variance approval, the applicant may file an amended application. If the amended application is filed within six months of the Board's denial of the original application, the applicant shall not be charged an application fee.

16.4 - Environmental Impact Statement

With respect to use variances, the Board shall have the authority to require an applicant to perform an environmental impact study appropriate to the situation in which the use is proposed and to submit the results of the study to the Board.

16.5 - Standards for Use Variance Approval

In order to approve a use variance, the Board must find that:

A. the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

B. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
C. the need for the variance arises from some condition peculiar to the property involved;

D. the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and,

E. the approval does not interfere substantially with the Comprehensive Plan.

16.6 - Standards for Design Variance Approval

In order to approve an application for a design standards variance, the Board must find that:

A. the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

B. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

C. the strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

16.7 - Conditional Approval

All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to ensure compatibility with surroundings). A variance approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Director for furnishing specific information related to the proposed variance. Failure to comply with the conditions of approval shall constitute a violation of the Zoning Ordinance.

16.8 - Relationship to Subject Property

Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

CHAPTER 17- PRE-EXISTING NONCONFORMING USES

17.1 - Nonconforming Uses of Land and/or Structures

The uses of land and/or structures that were both in existence and in compliance with all land use and other laws on the date of passage of these regulations, and, further, that do not conform to the use regulations set forth in this ordinance, shall be deemed to be legal, pre-existing nonconforming uses that may be continued subject to the following provisions:

A. No legal, pre-existing nonconforming use of land and/or structure may be enlarged, moved or otherwise changed, except that such use may be changed to permitted use, unless a variance from the terms of the ordinance is obtained from the Board.

B. A legal, pre-existing nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use but shall not be expanded to occupy any parts of such building that were not so arranged or designed or any land outside such building.

C. Any land, structure, or land and structure in combination, on or in which a legal, preexisting nonconforming use is superseded by a permitted use, may thereafter only be put to a permitted use and the nonconforming use may not thereafter be resumed.

D. When a legal, pre-existing nonconforming use of land, structure, or land and structure in combination, is discontinued or abandoned for six consecutive months, the land, structure, or land and structure in combination, may thereafter only be put to a permitted use and the nonconforming use may not thereafter be resumed.

E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

F. Normal maintenance and repair of a building or structure containing a nonconforming use may be performed, provided there is no physical change to the building or structure (e.g., design, size, location, etc.) and such maintenance or repair does not extend or intensify the nonconforming use, unless otherwise authorized by this chapter.

G. Any legal, pre-existing nonconforming use shall continue or unless modified or terminated as herein provided. Such use may be sold, inherited, or otherwise transferred, provided the use, land and structure (if any) remain the same.

H. These provisions apply in the same manner to a use which may become a nonconforming use as a result of an amendment to this ordinance.

17.2 - Nonconforming Parcels and/or Structures

Parcels or structures that were both in existence and in compliance with all land use and other laws on the date of passage of this ordinance, and, further, that do not conform to the height, bulk, area and density regulations set forth in this ordinance, shall be deemed to be legal, pre-existing nonconforming parcels or structures that may be occupies or used subject to the following provisions:

A. The use is a permitted use or a legal, pre-existing nonconforming use.

B. The legal, pre-existing nonconforming parcel may not be further developed until compliance with the ordinance is demonstrated or until a variance from the terms of the ordinance is obtained from the Board.

C. Except as permitted below, the legal, pre-existing nonconforming structure may not be expanded, enlarged or otherwise altered until compliance with the ordinance is demonstrated or until a variance from the terms of the ordinance is obtained from the Board.

D. Any legal, pre-existing nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before, if such reconstruction is undertaken within 18 months of such casualty, and if the restored structure has no greater coverage and contains no greater content (measured in cubic feet) than before such casualty.

E. Normal maintenance and repair of a legal, pre-existing nonconforming structure may be performed, provided there is no significant physical change to the structure (e.g., design, size, location, etc.) and such maintenance and repair does not extend, enlarge or intensify the nonconforming structure or the use of the nonconforming structure, unless otherwise authorized by this chapter.

F. Nothing herein contained shall require any change in the design or construction of a structure for which a building permit has been issued prior to the date of passage of this Ordinance and on which construction will begin within 60 days after the date of the permit and on which construction is diligently prosecuted to completion within one year after the date of the permit.

G. These provisions apply in the same manner to a use which may become a nonconforming use as a result of an amendment to this ordinance.

17.3 - Burden of Establishing Status

The burden of establishing legal, pre-existing nonconforming use status rests on: the property owner or party seeking to continue the nonconforming use or occupancy; any person applying for an improvement location permit or land use certificate; or, any other person asserting such status. Such persons shall provide sufficient proof in a form acceptable to the Director of the following:

A. the date of construction of the building or structure or the date the use was established;

B. the continuous operation of the nonconforming use; and,

C. such other proof that may be deemed necessary by the Director.

CHAPTER 18 - BOARD OF COMMISSIONERS

18.1 - General Powers of the Board of Commissioners

The Board of Commissioners may:

A. hear and determine petitions for the vacation of public ways or places in accordance with the procedures and limitations set forth and incorporated in 1C 36-7-3;

B. adopt, amend and repeal the Comprehensive Plan in accordance with the procedures and limitations set forth and incorporated in the 500 series of 1C 36-7-4;

C. adopt, amend and repeal the Zoning Ordinance (text or maps) in accordance with the procedures and limitations set forth and incorporated in the 600 series of 1C 36-7-4;

D. determine the zoning districts in which the subdivision of land may occur and adopt, amend and repeal an ordinance containing provisions for subdivision control in accordance with the procedures and limitations set forth and incorporated in the 700 series of 1C 36-7-4;

E. determine whether to allow planned unit developments;

F. establish an advisory plan commission in accordance with the procedures and limitations set forth and incorporated in the 200, 300, and 400 series of 1C 36-7-4 and remove and replace the citizen members of the Advisory Plan Commission;

G. establish an advisory board of zoning appeals in accordance with the procedures and limitations set forth and incorporated in the 900 series of 1C 36-7-4 and appoint, remove and replace the citizen members of the Advisory Plan Commission;

H. adopt an ordinance imposing an impact fee on new development within the County Jurisdictional Area in accordance with the procedures and limitations set forth and incorporated in the 1300 series of 1C 36-7-4;

I. establish a joint district planning and zoning commission in accordance with the procedures and limitations set forth and incorporated in 1C 36-7-5.1; and

J. exercise all powers of boards of commissioners with respect to planning, zoning and land use conferred by or reasonably inferred from all laws relating to planning, zoning and land use.

18.2 - General Duty of the Board of Commissioners

The Board of Commissioners shall give consideration to the general policy and pattern of development set out in the Comprehensive Plan in the:

A. authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;

B. authorization, construction, alteration, or abandonment of public ways, public places, public lands, public structures, or public utilities; and

C. adoption, amendment, or repeal of zoning ordinances (including zone maps), subdivision control ordinances, historic preservation ordinances, and other land use ordinances.

CHAPTER 19 - ADVISORY PLAN COMMISSION

19.1 - Establishment

The Owen County Advisory Plan Commission is hereby established in accordance with the Advisory planning law set forth in 1C 36-7-4.

19.2 - Membership

The Plan Commission shall consist of nine members, as follows:

A. One member appointed by the Board of Commissioners from its membership.

B. One member appointed by the County Council from its membership.

C. The County Surveyor or a qualified deputy appointed by the County Surveyor.

D. The County Agricultural Extension Educator.

E. Five citizen members, of whom no more than three may be of the same political party, appointed by the Board of Commissioners. Each appointing authority may appoint an alternate member to act during the absence or disability of a regular appointee of the authority.

19.3 - Qualifications of Citizen Members

Each citizen member shall be appointed because of: the member's knowledge and experience in community affairs; the member's awareness of the social, economic, agricultural, and industrial problems of the area; and the member's interest in the development and integration of the area. A citizen member may not hold other elective or appointive office in municipal, county, or state government. A citizen member must be a resident of the County Jurisdictional Area.

19.4 - Terms of Office

A. The Plan Commission was established by Ordinance 2001-12, passed on April 30, 2001, and said Ordinance provided that citizen members be appointed for the following terms: one member for a term of one year; one member for a term of two years; one member for a term of three years; and two members for a term of four years. Citizen members were appointed to the foregoing terms. All subsequent citizen members shall be appointed for a term of four years which term expires on the first Monday of January of the fourth year after the citizen member's appointment.

B. The term of office of a member appointed from the membership of the Board of Commissioners or from the membership of the County Council shall be coextensive with the appointee's membership on the appointing authority, unless the appointing authority appoints, at its first regular meeting of any year, another to serve as its representative.

C. The term of office of an appointee of the County Surveyor shall be for one year but may not exceed the appointing County Surveyor's term of elected office or the appointee's term of employment as a Deputy County Surveyor.

D. A member serves until his successor is appointed and qualified. A member may be reappointed.

19.5 - Removal of Member

The appointing authority may remove a member from the Plan Commission for cause. The appointing authority must mail notice of the removal along with written reasons for the removal, to the member at his residence address. A member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the Owen Circuit Court. The Circuit Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

19.6 - Vacated Membership

If a vacancy occurs among the Plan Commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. If a vacancy occurs in the office of the County Surveyor, then the County Engineer shall be a member of the Plan Commission during the time the office of the County Surveyor is vacant.

19.7 - Expenses

If the Plan Commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Plan Commission may pay the applicable membership fees and all actual expenses of the members or employees, subject to County Council appropriation of funds.

19.8 - Conflict of Interest

A Plan Commission member may not participate as a Plan Commission member in a hearing or decision of the Plan Commission concerning a zoning matter in which the member has a direct or indirect financial interest. The Plan Commission shall enter in its records the fact that its member has such a disqualification and the name of the alternate member, if any, that participates in the hearing or decision in place of the regular member. A Plan Commission member directly or personally represents another person in a hearing before the Plan Commission or Board of Commissioners concerning a zoning matter. A Plan Commission member may not receive mileage or compensation under Article IX above for attendance at a meeting at which the member is disqualified from participation, during any part of the meeting, for having a direct or indirect financial interest in a zoning matter.

19.9 - Official Action

An action of the Plan Commission is not official unless it is authorized, at a regular or special meeting, by a majority of the entire Plan Commission membership or by a majority of the Executive Committee pursuant to Article XVIII of this chapter.

19.10 - President and Vice President

At its first regular meeting in each year, the Plan Commission shall elect from its membership a president and a vice president. The vice president may act as president of the Plan Commission during the absence or disability of the president.

19.11 - Secretary

The Plan Commission may appoint and fix the duties of a secretary, who is not required to be a member of the Plan Commission.

19.12 - Meetings and Records

A. The Plan Commission shall fix the time for holding regular meetings each month or as necessary. Special meetings of the Plan Commission may be called by the president or by two members of the Plan Commission upon written request to the secretary. The secretary shall send to all members, at least three days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if:

1. the date, time, and place of a special meeting are fixed in a regular meeting; and,
2. all members of the Plan Commission are present at that regular meeting. All regular and special meetings of the Plan Commission shall be open to the public. The Plan Commission may schedule executive session meetings pursuant to 1C 5-14-1.5-1 etseq.

B. The Plan Commission shall: keep minutes of its proceedings; keep records of its examinations and other official actions; prepare written findings of fact in support of each of its decisions; and record the vote, disqualification, abstention, or failure to vote of each member upon each question. All Plan Commission minutes and records shall be filed in the office of the Plan Commission and shall be public records to the extend required by 1C 5-14-3-1 etseq.

19.13 - Staff and Services

A. The Plan Commission shall prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the Plan Commission, which compensation must conform to the salaries and compensations fixed before that time by the County Council. The Plan Commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the commission is necessary.

B. The Plan Commission may contract for special or temporary services and any professional counsel.

C. The Plan Commission may designate a hearing examiner or a committee of the Plan Commission to conduct any public hearing required to be held by the Plan Commission. Such a hearing must be held upon the same notice and under the same rules as a hearing before the entire Plan Commission, and the examiner or committee shall report findings of fact and recommendations for decision to the Plan Commission. The Plan Commission shall, by rule, provide reasonable opportunity for interested persons to file exceptions to the findings and recommendations, and if any exception is filed in accordance with those rules, the Plan Commission shall render its decision without further hearing.

19.14 - General Powers and Duties

The Plan Commission shall:

A. Supervise, and make rules for, the administration of the affairs of the Plan Commission;

B. Prescribe uniform rules pertaining to investigations and hearings;

C. Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission;

D. Prepare, publish, and distribute reports, ordinances and other material relating to the activities authorized under this chapter;

E. Adopt a seal;

F. Certify to all official acts;

G. Supervise the fiscal affairs of the Plan Commission;

H. Prepare and submit an annual budget in the same manner as other County departments and be limited in all expenditures to the provisions made for the expenditures by the County Council;

I. Sue and be sued collectively by its legal name "Owen County Plan Commission" with service of process on the president of the Plan Commission;

J. Make recommendations to the Board of Commissioners concerning:

1. the adoption of the comprehensive plan, ordinance and amendments; and,
2. any other matter, within the jurisdiction of the Plan Commission, authorized by the advisory planning law;

K. Render decisions concerning and approve:

1. plats or replats of subdivisions;
2. development plans for residential, commercial, and industrial uses; and,
3. variances to subdivision standards;

L. Assign street numbers to lots and structures and renumber lots and structures, and notify the Circuit Court Clerk or Board of Registration, the administrator of the County's enhanced emergency telephone system, and the United States Postal Service of said numbering or renumbering no later than the last day of the month following the month in which the action is taken;

M. Name and rename streets, in accordance with the guidelines set forth n/19.23$_x$and notify the Circuit Court Clerk or Board off Registration, the administrator oflhlfCounty's enhanced emergency telephone system, and the United States Postal Service of said naming or renaming no later than the last day of the month following the month in which the action is taken; and

N. Establish a schedule of reasonable fees to defray the administrative costs connected with: processing and hearing administrative appeals and petitions for rezoning, special exceptions, conditional uses, temporary uses and variances; issuing permits; and, other actions taken under the Zoning Ordinance.

19.15 - Citizen Committees

The Plan Commission, by resolution, may establish advisory committees of citizens interested in problems of planning and zoning. In its resolution establishing such a committee, the Plan Commission shall specify the terms of its members, its purpose, and whether the committee is of perpetual or limited duration. Each advisory committee shall:

A. study the subject and problems specified by the Plan Commission and recommend to the commission additional problems in need of study;

B. advise the Plan Commission concerning how the subject and problems relate particularly to different areas and groups in the community; and

C. if invited by the Plan Commission to do so, sit with and participate, without the right to vote, in the deliberations of the commission, when subjects of mutual concern are discussed.

A citizen committee shall report only to the Plan Commission and shall make inquiries and reports only on the subject and problems specified by the Plan Commission's resolution establishing the committee.

19.16 - Executive Committee

A. The Plan Commission may establish an executive committee of not less than three nor more than nine persons appointed by the Plan Commission from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its operation requires a two-thirds majority vote of the entire membership of the Plan Commission.

B. A majority of the executive committee may act in the name of the Plan Commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the Plan Commission.

19.17 - Gifts and Grants

The Plan Commission may accept gifts, donations, and grants from private or governmental sources for advisory planning purposes. Any money so accepted shall be deposited with the Owen County Treasurer, in a special non-reverting Plan Commission fund to be available for expenditures by the Plan Commission for the purposes designated by the source.. The Owen County Auditor shall draw warrants against the special non-reverting fund only on vouchers signed by the president and secretary of the Plan Commission.

19.18 - Alternate Procedure

A. The Plan Commission may appoint a hearing officer and may establish an alternate procedure under which the hearing officer may approve or deny variances from the design standards of the Zoning Ordinance, special uses, conditional uses, and special exceptions from the terms of the Zoning Ordinance. With respect to such matters, the hearing officer shall have the power of the Board of Zoning Appeals. The hearing officer may be a Board of Zoning Appeals member, a Plan Commission staff member, or any other person. The Plan Commission may appoint more than one hearing officer. A hearing officer serves at the pleasure of the Plan Commission and may be removed by the Plan Commission at any time, without cause.

B. With respect to an alternate procedure, the Plan Commission may adopt rules:

1. limiting the kinds of variance, special use, contingent use, conditional use, or special exception petitions that may be filed under the alternate procedure;
2. permitting the hearing officer, in appropriate circumstances, to transfer a petition filed under the alternate procedure to the Board of Zoning Appeals;
3. requiring the creation of minutes and records of the proceedings before the hearing officer and the filing of the minutes and records as public records; and
4. regulating conflicts of interest and communications with the hearing officer, so as to require the same level of conduct required of the Board of Zoning Appeals in the conduct of its business.

C. The Plan Commission staff may file a written objection to a petition for a variance, exception, or use if:

1. it would be injurious to the public health, safety, morals, and general welfare of the community; or
2. the use or value of the area adjacent to the property included would be affected in a substantially adverse manner.

D. If a written objection is filed by the Plan Commission staff, the petition shall:

1. be considered withdrawn; or
2. be transferred to the Board of Zoning Appeals if requested by the petitioner.

E. The Plan Commission staff may indicate that it does not object to the approval of the petition if specified conditions are attached. If the applicant does not accept these conditions, the petition shall:

1. be considered withdrawn; or
2. be transferred to the Board of Zoning Appeals if requested by the petitioner.

F. The hearing officer may impose conditions and may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel, in the same manner that the Board of Zoning Appeals may impose conditions or require written commitments. If the applicant for the variance, exception, or use does not accept these conditions or make the commitment, the petition shall:

1. be considered withdrawn; or
2. be transferred to the Board of Zoning Appeals if requested by the petitioner.

G. The hearing officer may not modify or terminate any commitment made to the hearing officer or to the Board of Zoning Appeals.

H. A decision of a hearing officer under the alternate procedure may not be a basis for judicial review, but it may be appealed to the Board of Zoning Appeals. An interested person who wishes to appeal a decision of a hearing officer under the alternate procedure must file the appeal with the Board of Zoning Appeals within 14 days after the decision is made.

19.19 - Review of Zoning Ordinance

The Plan Commission shall periodically review both the text of the Zoning Ordinance and the Zoning Maps. Such review shall be performed on a regular schedule established by the Plan Commission, but no less frequently than once every two years. Upon review of the text and maps, the Plan Commission shall recommend all appropriate changes to the County Commissioners as proposed amendments to the Zoning Ordinance.

19.20 - Plat Committee

The Plan Commission may appoint a plat committee to hold hearings on and approve plats and replats, on behalf of the Plan Commission, under the circumstances prescribed in the Subdivision Control Ordinance. The plat committee consists of three or five persons, with at least one of the members being a member of the Plan Commission may remove a member from the plat committee. The Plan Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise. The plat committee may take action only by a majority vote.

19.21 - Naming and Renaming Streets

In naming and renaming streets, the Plan Commission shall be guided by the following policies:

A. Duplicate street names and names that sound alike shall not be allowed;

B. Directional or relative names should not be used (e.g.., North Drive, Kirksville Road);

C. A continuous street should not change names when the direction of the street changes;

D. Predominately north-south streets shall have a "N" prefix if north of the center line and an "S" prefix is south of the center line;

E. Predominately east-west streets shall have an "E" prefix if east of the center line and a "W" prefix if west of the center line;

F. The Owen County Postmaster must be given the opportunity to review and comment on proposed names before their adoption; and

G. The Owen County Highway Engineer and the Owen County Highway Superintendent must be given the opportunity to review and comment on proposed names before their adoption.

CHAPTER 20- ADVISORY BOARD OF ZONING APPEALS

20.1 - Establishment

The Owen County Advisory Board of Zoning Appeals is hereby established in accordance with the Advisory Planning law set forth in Indiana Code Chapter 36-7-4.

20.2 - Membership

The Board shall consist of five citizen members as follows:

A. Three citizen members appointed by the Board of County Commissioners. One of the Board of Commissioners' appointees must be a member of the Plan Commission. The two other appointees may not be members of the Plan Commission.

B. One citizen member appointed by the County Council. The County Council appointee may not be a member of the Plan Commission..

C. One citizen member appointed by the Plan Commission. The Plan Commission appointee must be a member of the Plan Commission other than the member appointed by the County Commissioners.

Each appointing authority may appoint an alternate citizen member to act during the absence or disability of a regular appointee of the authority.

20.3 - Qualifications of Members

The members of the Board may not hold other elective or appointive offices in municipal, county, or state government, except as permitted by Section 2 of this chapter. A member must be a resident of the County Planning Jurisdictional Area.

20.4 - Terms of Office

A. The Board was established by Ordinance __, passed on __, and said Ordinance provided that members be appointed for the following terms: one member for a term of one year; one member for a term of two years; one member for a term of three years; and two members for a term of four years. Board members were appointed to the foregoing terms. All subsequent members shall be appointed for a term of four years which term expires on the first Monday of January of the fourth year after the member's appointment.

B. A member may serve until his successor is appointed and qualified. A member may be reappointed.

20.5 - Removal of Member

The appointing authority may remove a member from the Board for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at his residence address. A member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the Owen Circuit Court.

20.6 - Vacated Membership

If a vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.

20.7 - Expenses

If the Board determines that it is necessary or desirable for members to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Board may pay the applicable membership fees and all actual expenses of the members, subject to County Council appropriation of funds.

20.8 - Conflict of Interest

A member of the Board may not participate in a hearing or decision of the Board concerning a zoning matter in which he has a direct or indirect financial interest. The Board shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

20.9 - Official Action

An action of the Board is not official unless it is authorized by a majority of the entire membership of the Board.

20.10 - President and Vice President

At the first Board meeting of each year, the Board shall elect a president and vice president from its members. The vice president shall act as president during the absence or disability of the president.

20.11 - Secretary

The Board may appoint a secretary and such employees as are necessary for the discharge of its duties, subject to County Council appropriation.

20.12 - Rules of Procedure

The Board shall adopt rules concerning the filing of appeals, applications for variances, conditional uses and special exceptions, the giving of notice, the conduct of hearings and other subjects or matters as required by state law or as deemed necessary or desirable by the Board.

20.13 - Meetings and Records

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare written findings of fact and record the vote, disqualification, abstention, or failure to vote of each member upon each question. All minutes and records shall be filed in the office of the Board and shall be public records to the extent required by 1C 5-14-3-1 et seq.

20.14-Findings of Fact

All decisions of the Board on all matters within its jurisdiction and authority shall be committed to writing and shall be supported by written specific findings of fact on each material element pertaining to the matter under consideration.

20.15 - General Powers and Duties

The Board:

A. shall hear and determine appeals from and review any order, requirement, decision or determination made by the Plan Director, a staff member or administrative officer, board or committee designated by the Zoning Ordinance, other than the Plan Commission, made in the enforcement of the Zoning Ordinance or the issuance of permits required by the Zoning Ordinance.

B. may reverse or affirm, wholly or partially, or may modify any order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises and to that end shall have all the powers vested in the person or board from whom the appeal is taken. Reversal or modification must rest upon a finding by the Board that the initial order, requirement, decision or determination was improper as a matter or law or fact.

C. shall hear, and approve or deny, special exceptions to the Zoning Ordinance but only in the classes of cases and in accordance with the criteria specified in the Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval.

D. shall approve or deny variances of use from the terms of the Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval.

E. shall approve or deny variances from the development standards (e.g., height, bulk, area and density) of the Zoning Ordinance but not from said standards as they may apply to subdivisions.

20.16 - Appeal Procedures

A. An appeal filed with the Board must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the Board by rule.

B. The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the Board, transmit to the Board all documents, plans, and papers (or certified copies of the same) constituting the record of the action from which an appeal was taken.

C. When an appeal from the decision of an official or board has been filed with the Board, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the Board that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by court order.

D. The Board shall fix a reasonable time for the hearing of administrative appeals, exception, uses, and variances.

E. Public notice in accordance with 1C 5-3-1-2 and 1C 5-3-1-4 and due notice to interested parties shall be given at least ten days before the date set for the hearing.

F. The party taking the appeal, or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties. At the hearing, each party may appear in person, by agent, or by attorney.

G. The Board shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.

H. The Board staff and other persons may appear before the Board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.

I. A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board. Not less than five days before the hearing, however, the staff may file with the Board a written statement setting forth any facts or opinions relating to the matter.

J. The Board may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than four days before the hearing, the Board may also require the petitioner to furnish each adverse party with a copy of the petition and a plot plan of the property involved.

K. Upon appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken.

L. The Board shall make its decision on any matter before it at the meeting at which the matter is first presented or at the conclusion of the hearing on the matter if the hearing is continued. Within five days after making any decision, the Board shall file in the office of the Board a copy of its decision.

20.17 - Commitments

A. In the case of a petition for a variance, conditional use or special exception from the terms of the Zoning Ordinance, the Board may permit or require the owner of the affected parcel to make a written commitment concerning the use or development of the affected parcel.

B. The Board may adopt rules: governing the creation, form, recording, modification, enforcement, and termination of commitments; and, designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

C. Commitments shall be recorded in the Owen County Recorder's Office and shall take effect upon the granting of the exception, use or variance. Unless modified or terminated by the Board, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person had actual notice of the commitment. A commitment may be modified or terminated only by the Board at a public hearing after notice as provided by rule.

D. By permitting or requiring commitments, the Board does not become obligated to approve or deny any request.

E. Conditions imposed on the granting of an exception, use or variance are not subject to the rules applicable to commitments.

F. The rules applicable to commitments do not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

20.18 - Judicial Review

Each decision of the Board on a matter specified in Article XVI is subject to review by certiorari.

CHAPTER 21 - APPEALS

21.1 - Authority

The Board of Zoning Appeals shall hear and determine appeals from and review any order, requirement, decision or determination made by an administrative official, Hearing Officer, or staff member under this Zoning Ordinance.

The Board shall also hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of this Zoning Ordinance or to the enforcement of any other titles of the Owen County Code requiring procurement of a building permit or occupancy permit.

21.2 - Initiation

An appeal may be filed with the Board of Zoning Appeals by any person aggrieved by the order, requirement, decision or determination described above in Article I. An appeal filed with the Board must specify the grounds of the appeal and must be filed in the form and within the time limit established by rule of the Board, except that a decision of a Hearing Officer must be appealed within 14 days after the decision is made.

21.3 - Processing

An appeal shall be filed with the planning staff, who shall forward such appeal to the Board of Zoning Appeals for processing in accordance with this Zoning Ordinance and applicable statutes of the State of Indiana.

21.4 - Public Hearing

A public hearing shall be conducted by the Board of Zoning Appeals in conformance with 1C 5-3-1-2 and 1C 5-3-1-4 and the Owen County Board of Zoning Appeals Rules of Procedure. The party making the appeal shall be required to assume the cost of public notice and due notice to interested parties.

21.5 - Decisions

The Board of Zoning Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and shall render a final decision on all appeals. A written copy of such decision, as described in the Rules of Procedure, shall be available in the Planning Department within five days after making such decision.

21.6 - Additional Considerations

A. The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the Board, transmit to the Board certified copies of all documents, plans, and papers constituting the record of the action from which an appeal was taken.

B. When an appeal from the decision of an official or board has been filed with the Board, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the Board that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by court order.

CHAPTER 22 - PLANNING DEPARTMENT

22.1 - Purpose of the Planning Department

The purpose of the Owen County Planning Department is to administer and enforce the Zoning Ordinance. The Department may consist of the Owen County Planning Director, the Owen County Planners, the Owen County Zoning Inspectors and any other employees deemed necessary by the Plan Commission.

22.2 - Duties of Planning Director

On behalf of the Board of Commissioners, the Board of Zoning Appeals, and the Plan Commission, the Planning Director shall:

A. perform the administrative duties of the department head of the Plan Department, including the supervision of Planning Department personnel and the preparation of Planning Department Budgets;

B. assist the Plan Commission in the preparation and amendment of the Comprehensive Plan by compiling data on land use and development in Owen County, Indiana, researching planning theories and techniques, conducting forums on local planning issues, and rendering written recommendations to the Plan Commission;

C. administer and enforce the Zoning Ordinance, including the issuance of permits, certificates, notices and orders;

D. keep and maintain careful and comprehensive records of applications and petitions filed, of permits and certificates issued, of inspections made, of reports and recommendations rendered and of notices and orders issued;

E. prepare, keep and maintain the official minutes of all meetings, hearings and proceedings of the Board of Zoning Appeals, the Plan Commission, and the Plan Commission committees and hearing officers;

F. make all records kept by the Planning Department available for public inspection, at reasonable hours, subject to any limitation imposed in accordance with 1C 5-14-3, and the Zoning Ordinance;

G. when requested by the Board of Commissioners, investigate any matter concerning or relevant to land use in Owen County, Indiana, and render a written report to the Board of Commissioners on the same;

H. prepare and submit an annual report of the activities of the Plan Department to the Board of Commissioners, the Board of Zoning Appeals and the Plan Commission; and

I. perform such other duties as may be assigned, from time to time, by the Plan Commission or Commissioners including but not limited to the duties of the planners and inspectors.

22.3 - Duties of the Planners

On behalf of the Board of Commissioners, the Board of Zoning Appeals, the Plan Commission, and the Planning Director, the Planners shall:

A. receive all applications for approvals, recommendations, permits, certificates and appeals and review all such applications for compliance with the Zoning Ordinance;

B. receive all petitions for Zoning Ordinance amendment and review all such petitions for compliance with the Comprehensive Plan;

C. prepare a report and recommendation on each application or petition received and forward said report and recommendation to the Planning Director;

D. provide the public, upon request, with information and materials concerning the Zoning Ordinance and all rules and procedures adopted thereunder, subject to any limitation imposed in accordance with 1C 5-14-3, and the Zoning Ordinance; and

E. perform such other duties as may be assigned, from time to time, by the Planning Director.

22.4 - Duties of the Zoning Inspectors

On behalf of the Board of Commissioners, the Board of Zoning Appeals, the Plan Commission, the Planning Director and the Planners, the Zoning Inspectors shall:

A. inspect structures and land uses for compliance with the Zoning Ordinance;

B. assist in the review of applications for approvals, recommendations, permits, certificates and appeals;

C. assist in the review of petitions for Zoning Ordinance amendment;

D. assist the attorney for the Plan Commission in the enforcement of the Zoning Ordinance; and

E. perform such other duties as may be assigned, from time to time, by the Planning Director.

CHAPTER 23 - VIOLATIONS AND ENFORCEMENT

23.1 - Violations

A. The erection, demolition, conversion, construction, enlargement, moving or maintenance of any structure, or the use of any land, structure or premises, which is contrary to any of the provisions of this ordinance, is hereby declared to be a common nuisance and an unlawful violation of this ordinance.

B. The erection, demolition, conversion, construction, enlargement, moving or maintenance of any structure, or the use of any land, structure, or premises, which is contrary to any requirement, condition or commitment imposed or made by the Board, Commission, Planning Director or applicant under the provisions of this ordinance, is hereby declared to be a common nuisance and an unlawful violation of this ordinance.

C. Any person, whether as principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, acts contrary to any provision of this ordinance or a condition or commitment made thereunder, shall be liable for maintaining a common nuisance and shall be in violation of this ordinance.

23.2 - Penalty

Penalties for violation of this ordinance shall be in accordance with Indiana law and Owen County ordinance(s) setting forth penalties for infractions. Each day of a violation shall be considered as a separate infraction. Major violations shall be defined as a violation resulting from an intentional act or careless disregard for these regulations. The penalty for major violations shall not exceed $500 for each infraction (day of violation). Minor violations shall include violations resulting from inadvertent action or failure to act. The penalty for minor violations shall start at $50 for each infraction (day of violation and increase in a manner to be determined by the Plan Commission. The Plan Commission shall notify a violator that he/she is in violation of this ordinance prior to assessment of any penalties.

23.3 - Enforcement Procedures

A. It shall be the duty of the Planning Director to enforce the provisions of this ordinance in the manner and form and with the powers provided by this ordinance.

B. If the Planning Director finds that any provision of this ordinance is being, or has been, violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Planning Director's discretion.

C. The final written notice (and the initial written notice may be the final notice) shall state what action the Planning Director intends to take if the violation is not corrected.

D. If the violation is not corrected, the Planning Director shall seek Plan Commission authority to pursue the remedies authorized by this ordinance.

E. The above notwithstanding, in cases where delay would seriously threaten the effective enforcement of the ordinance or pose a danger to the public health, safety, or welfare, the Planning Director may seek enforcement without prior written notice or Board authority by invoking any of the remedies authorized by this ordinance.

23.4 - Authorized Remedies for Violations

A. Upon a reasonable belief that a person is violating a provision of this ordinance or a condition, requirement or commitment imposed or made thereunder, the Planning Director may seek, with the assistance of the Commission Attorney, the following civil remedies:

1. a civil penalty for ordinance violation;
2. a temporary restraining order, preliminary injunction or permanent injunction to restrain a person from violating the ordinance or a condition, requirement or commitment imposed or made thereunder; and
3. a mandatory injunction directing a person to perform a condition, requirement or condition imposed or made under the ordinance or to remove a structure erected in violation of the ordinance. The foregoing remedies may be sought by any property owner specially damaged by any such violation of the ordinance.

B. In the event the Planning Director finds that a violation of the terms and provision of an approval, certificate or permit granted pursuant to these regulations has occurred, the Planning Director may use the following administrative remedies:

1. suspend and withhold other approvals, certificates and/or permits relevant to the development or use of the site on which the violation has occurred (e.g., if a structure which is subject to a Commission-approved development plan is occupied prior to the issuance of a land use certificate therefore, and such land use certificate cannot be issued because all improvements serving such structure (as shown on the approved development plan, including sewage disposal systems) have not been properly installed or have not become operational, the Planning Director shall not issue any additional improvement location permits for structures within the development plan until all previously approved improvements serving such structure are properly installed and operational, and such structure otherwise qualifies for the issuance of the land use certificate); and/or,
2. issue a stop work order and instruct the Building Permit Official to suspend and withhold all building code inspections relevant to the development or use of the site on which the violation has occurred (e..g., if the terms and provisions of an erosion control/grading plan have been violated, the Building Permit Official shall, at the Planning Director's request, suspend and withhold all subsequent building code inspections at the site of the violation, until the violation has been corrected, as determined by the Planning Director) (The Building Permit Official shall comply with the Planning Director's instructions in this regard); and/or,
3. draw on an application letter of credit, or other financial guaranty, as necessary to affect any remedial actions required to abate the violation; and/or,

4. revoke the permits, certificates and/or approvals that have been violated. The purpose of each of the foregoing administrative remedies is to encourage compliance with the terms and provisions of the approval, certificate and/or permit without having to resort to litigation. If used, the Planning Director shall apply the foregoing remedies in a measured and reasonable fashion to achieve their recognized purpose (e.g., withholding or revoking only those permits that relate directly to the violation, such as improvement location permits for the structures that would be primarily served by the unfinished street).

C. The Planning Director may issue ordinance violation notices for violations of the Owen County Zoning Ordinance. The ordinance violation notices may be processed through the Owen County Attorney. If the person to whom the notice is issued does not file an admission in a timely manner, the Planning Director may address the violation by employing any other enforcement remedies authorized by law and may seek civil penalties in the full amount authorized by Zoning Ordinance.

D. The remedies provided for in these regulations shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

CHAPTER 24 - FEES

24.1 - Fee Requirement and Payment

A. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees specified by Plan Commission rule and posted in the Plan Commission Office.

B. No part of any filing fee shall be returnable to the applicant except by order of the Plan Commission or of a court of competent jurisdiction. All fees shall be payable to the Owen County Plan Commission, and shall be deposited according to procedures established by the County Auditor.

24.2 - Exemptions from Fee Requirement

Governmental agencies shall be exempt from paying fees for improvement location permits, land use certificates or any other permit prescribed by these regulations.

24.3 - Waiver of Fee Requirement

An applicant or petitioner may request a waiver of the fee requirement pursuant to and in accordance with Owen County Code Ordinances.

24.4 - Fee Schedule

A. The following fees shall be paid for subdivision applications:

1. Preliminary Plat - $500 + $25 per lot
2. Final Plat - $500
3. Minor Subdivision - $200
4. Administrative Subdivision - $100
5. Plat Amendments (Preliminary or Final) - $250 + $25 per lot

B. The following fees shall be paid for other petitions:

1. Rezone (Including PUD) - $500
2. Variances - a. Design - $250; b. Use - $500
3. Conditional Use - $250

C. The following fees shall be paid for wireless communication facilities:

1. WCF Application - $ 1,000