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interest to protect the use and value of adjoining properties, as well as the best interests of the community. Advertising signs or Billboards may be permitted as a special exception subject to the requirements of this division and Sec. 153.28.

2. For purposes of this subsection, an advertising sign shall be construed in accordance with the definition and subject to the provisions of this section and as a special exception as set forth in Sec. 153.28.

3. One advertising sign shall be permitted on any lot of at least 300 feet of frontage on a street designated as a primary arterial in the "PB", "GB" and "I-2" Districts, and one additional advertising sign shall be permitted for each 300 feet of additional frontage.

4. Minimum setback lines shall be provided in accordance with the requirements of the applicable district, or 50 feet, whichever is greater.

5. No advertising sign shall be permitted within 100 feet of a residential zone district unless the sign is provided with landscape screening.

6. The number of traffic access points shall not exceed one for each such sign frontage.

7. The face of an advertising sign shall not be greater than 18 feet in vertical dimension nor greater than 55 feet in horizontal dimension, except as provided in (9) below and shall not contain more than two advertising signs per facing.

8. The full face of the sign shall be viewed along the line of travel to which it is exposed for a distance of at least 250 feet along the center line of the frontage street measured from a point opposite the center of the sign and perpendicular to the street's center line. However:

a. In the case of a sign parallel (or within 20 degrees of parallel) to a one-way street, the required viewing distance shall be at least 400 feet;

b. In the case of a sign which is from 3 to 20 degrees of parallel to a two-way street, the required viewing distance shall be at least 400 feet;

c. In the case of a sign parallel (or within 3 degrees of parallel) to a two-way street, the required viewing distance shall be at least 250 feet in each direction.

d. In the case of a sign so placed that it can be viewed from more than one street, the above viewing distance requirements shall be applicable to only one street.

9. The vertical dimension of the sign face may be increased to 22 feet provided the required viewing distance in (8) above is increased to 500 feet and the facing contains only one sign, and the sign is perpendicular or within 15 degrees of being perpendicular to the frontage street.

10. The maximum height of advertising signs erected on the ground shall not exceed 40 feet above the street elevation to which the sign is oriented.

(b) *Barber poles.* Rotating or stationary cylindrical poles of the traditional red, white, and blue spiral striped design, identifying the premises as a barber shop.

1. Size. Shall not exceed 2-1/2 feet in length.

2. Height. Not applicable.

3. Location. In all business zones.

4. Other restrictions. Shall be attached by brackets to the barber shop being identified. Top of sign shall not extend above the roof line of the barber shop being identified. Such signs may move or rotate, notwithstanding the general prohibition of moving or rotating signs in division (E). Also, such signs if illuminated, must be subdued.

(c) *Changeable copy signs (permanent).* Exterior signs or sections, that are fixed in place, and designated to be used with removable graphics to allow changing of copy. Such signs shall be allowed for facilities used primarily for the presentation of theatrical, cultural or sports events and shall be computed as part of the total sign area allowed.

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1. Size, height, location, and other restrictions. Applicable under the appropriate division, depending upon the type of sign utilized.

(d) *Commercial banners; commercial flags, pennants.* Banners, flags and pennants generally made of flexible material, displayed for business promotion purposes.

1. Size. Banners are not to exceed 30 square feet.

2. Height. Not to extend above the roof of the building.

3. Location. In all business and/or industrial zones.

4. Other restrictions. Shall be temporary signs. Shall be non-illuminated signs. Not more than four permits for signs pursuant to this division shall be issued to any one business entity in any one calendar year. Length of time to be specified in the permit application. See Sec. 153.36(A)(6) and 153.38(C)(16) for additional restrictions and procedure for pennants and other similar attracting or advertising devices.

(e) *Directory signs.* A sign, or set of similarly designed individual signs, placed or displayed in sequence, to list all or part of the businesses within a building or business complex. Directory signs may be a part of a free standing sign or may be placed separately on a building. For conditions regarding free standing signs see division (D)(4)(f).

1. Size. When placed on a building, signs shall not exceed six square feet in sign area for any one business so identified. This paragraph refers only to those signs that are to be placed upon an exterior wall or facade of the building. The total area of occupancy signs shall be limited to 10% of the facade of the building and shall not exceed 40 square feet in area.

2. Height. When mounted on a building, shall not extend above the roof line of the building on which the sign display is placed.

3. Location. In all business and industrial zones.

4. Other restrictions. Directory or occupancy signs may be combined with a free

standing sign. When combined with a free standing sign, the combination shall be counted as part of the allowable sign area. For double-faced signs, that are free standing, the double-faced sign may not exceed 24 inches in thickness. As with free standing signs, they shall be required to be placed in a landscaped area no less than 70 square feet in size. They should be monument base style signs. When it is not possible or feasible to use a monument base style sign, then pole signs may be used as long as they do not exceed eight feet in height. The design, materials, and color of the structure supporting a free standing sign or business directory or combination thereof, shall be required to have a design, similar materials, and colors of the structure or structures being identified. Materials allowed are wood, masonry, stucco over wood or steel frame, and pre-cast concrete.

(f) *Free standing business center identification signs.* Free standing signs which identify a business center. These may be a combination of business center identification sign as well as occupancy signs. These may be double-faced signs. They shall be maintained in a landscaped area surrounding the base of the sign not less than 70 square feet in area. In the event it is not possible or feasible to provide the minimum landscaped area, then a pole sign may be used without a structural base. When a structural base is provided it shall be limited to wood, masonry, stucco over wood or steel frame, and pre-cast concrete. The design, color, and materials shall be similar to the structure or structures being identified.

1. Size and height. Height shall be limited to eight feet. The total sign area may not exceed 120 square feet (including both sides of a sign). Free standing signs may be combined with directory signs.

2. Location. Not less than one foot inside the property line, except in all business and industrial zones; except for the "PB" District, not less than 20 feet inside the property line.

3. Other restrictions. See "Directory Signs - Other Restrictions." Only one such sign may be displayed in each business center, or at each business existing on an individual legal parcel of land. In the event that a business center being identified by one sign consists of three or fewer individual businesses, then each business

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may be identified on the free standing sign. Such signs shall be encouraged as a means of reducing the need for additional signage on the face of the buildings.

(g) *Free standing individual business signs.* Free standing signs which identify a building, business, profession or industry not associated with a business center.

1. Size and height. See "Free Standing Signs" above.

2. Location. In all business and industrial zones, not less than one foot inside the property line.

3. Other restrictions. No more than one such sign may be displayed on a legal parcel or lot. However, in the event that such parcel on which the individual business is located has two or more street frontages, each of which has 200 feet or more, an additional sign shall be allowed for each such frontage. See also, "Directory Signs - Other Restrictions."

(h) *Gasoline price signs.* On premise signs identifying the brand and/or type and price of gasoline sold.

1. Size. Governed by state law; however, the Town recommends that these not exceed 12 square feet in sign area unless dictated by law.

2. Height. Eight feet.

3. Location. In all business and industrial zones.

4. Other restrictions. Such signs shall be mounted as specified by law and shall be mounted in such a fashion that they are in a unified sign display.

(i) *Off premise signs.* Signs identifying a business activity, property, or product at some location other than where the sign is displayed.

1. Size. Shall not exceed twelve square feet in sign area for a sign mounted flat on a building, or 25 square feet for a free standing sign.

2. Height. Shall not exceed

eight feet if free standing.

3. Location. In all business and industrial zones.

4. Other restrictions. Such signs may only identify a building, business, profession, or industry not fronting on any road or street, but only having a vehicle access to a road or street by means of an easement. Only one such sign should be displayed for each building, business, profession, or industry. See also "Directory Signs - Other Restrictions."

(j) *On-building identification signs.* Permanent signs mounted flat on a building which identify a building and/or which identify one or more businesses, professions, or industries conducted on the premises. Such signs shall be allowed as long as no more than three signs for identification purposes are provided for any business, profession, or industry. For further definition, see division (D)(4)(c).

1. Size. Shall be computed as part of the allowable 120 square feet of signage.

2. Height. Shall not exceed above the roof line of the same building upon which the sign is placed or displayed.

3. Location. In all business or industrial zones.

4. Other restrictions. Only one on-building identification sign shall be displayed per side of a commercial or industrial building with no more than four such signs per building. In no event shall such signs face onto a residential area. The Executive Director may issue a temporary permit, not to exceed 90 days, for provision of temporary signs until such time as permanent signs can be installed on buildings. Such temporary signs shall be governed by all of the rules and regulations specified in this section.

(k) *Parking lot signs.* Signs placed or displayed in parking lots to supply information to people using such lots, including such information in respect to liability, entry, exit, and directional information, as necessary to facilitate the safe movement of vehicles served by the parking area. Handicap parking provision signs are also covered under this division. Such signs are not intended to

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be advertising signs.

1. **Size.** Shall not exceed four square feet in area.

2. **Height.** Shall not exceed eight feet, unless there are extenuating circumstances requiring identification of handicapped stall locations, as a result of changes in topography, or ground level, that do not permit handicapped persons access to visibility of such signs upon entry to parking lot areas.

3. **Location.** In all business and industrial zones, or on public use sites located in residential zones.

4. **Other restrictions.** Not applicable.

(l) *Portable signs.* A temporary sign designed to be moved from place to place - not permanently affixed to a building, structure, or the ground. May be permitted as a temporary use by the Zoning Appeals in accordance with the procedure and requirements herein and as set forth in Sec. 153.38.

1. **Size.** Shall not exceed 32 square feet of sign area.

2. **Height.** Shall not exceed six feet.

3. **Location.** In "LB" Local Business Districts and "GB" General Business Districts, and never closer than three feet to a street right-of-way line, or within vision clearance on corner lots.

4. **Other restrictions.** Notwithstanding any other provisions of this section, a permit for a portable sign shall not be issued unless such sign has been approved by the Executive Director, and is in conformance with the Building Code. Under no circumstances shall portable signs have flashing or intermittent lights, be animated, display words such as "stop, slow, go, caution" or be shaped like a traffic sign. All portable signs shall be anchored with chains, attached to bolts embedded in the ground. (See 153.38(C)(12) for locating portable signs in business districts and See 153.38(C)(13) for locating portable signs in a residence district.)

(m) *Projecting signs.* A sign characterized by its attachment at an angle to the face of the building as opposed to being mounted flat on the surface of a building.

1. **Size.** The area of such signs shall be in accordance with division Sec. 153.41(D)(4)(i). Such signs shall be counted as part of the total sign allowance on a particular site. Such signs shall be discouraged where it is possible to provide adequate signage flat against a building and below the roof line of a building. In no event shall such signs extend above the roof line of a building.

2. **Height.** Shall not exceed the height of the building as measured to the top of roof or mansard.

3. **Location.** In all business and industrial zones.

4. **Other restrictions.** Notwithstanding any other provisions of this section, a permit for a projecting sign shall not be issued unless such sign has been approved by the Building Inspector and in conformance with the Building Code.

(n) *Time and temperature signs.* Signs displaying the time or the temperature, or both.

1. **Size.** Shall not exceed eight feet if free standing.

2. **Location.** In all business and industrial zones.

3. **Other restrictions.** If mounted on a building, the top of such sign shall not extend above the roof line of the building on which it is displayed. The sign area shall be computed as part of the total signage allowance for each business, profession, or industry being identified.

(o) *Under canopy signs.* Signs suspended no lower than eight feet above a walkway, under a canopy of a building, which identify a business, profession, or industry conducted on the premises. Shall be computed as part of the total allowable sign area.

1. **Size.** Shall not exceed four

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square feet in sign area per face.

2. *Height.* Such sign shall extend no lower than eight feet above the area over which it is suspended.

3. *Location.* In all business and industrial zones.

4. *Other restrictions.* Such signs shall identify only a building, business, profession, or industry. Only one such sign shall be displayed per entrance.

(E) Signs prohibited in all zones.

(1) *Bus bench signs.* Signs located on benches or on other similar structures provided for the use of passengers along the route of a bus are prohibited.

(2) *Flashing signs.* Signs containing lights which flash, blink, or which give the appearance of the same are prohibited, except for "time and temperature signs" as allowed by division (D)(4)(0).

(3) *Moving or rotating signs.* Signs designed to move or rotate in whole or in part are prohibited, except for barber poles as allowed in division (D)(4)(b).

(4) *Off premise advertising signs.* Signs used to advertise the availability of goods, property, or services at locations other than the premises on which the sign is located are prohibited, except for "advertising signs or billboards" as allowed by division Sec. 153.41 (D)(4)(a) and "subdivisional directional signs," and "off-premise signs" as allowed by Sec. 153.41 (D)(4)(i).

(5) *Portable signs.* Sandwich board "A" frame signs are prohibited, either on the ground or carried by a person. Other portable signs may be permitted as a Temporary Use by the Board of Zoning Appeals.

(6) *Roof signs.* Signs which project above the roof line of the building are prohibited.

(7) *Signs interfering with traffic safety.* Signs adversely affecting vehicular traffic and pedestrian safety are prohibited.

(8) *Vehicle signs.* Signs placed or displayed on vehicles parked primarily for the

purpose of displaying the sign are prohibited, except for such signs as required by law.

(9) *Obsolete signs.* Signs no longer identifying a business, profession, or industry that they were intended to identify. Such signs shall be removed within 90 days following the dissolution of a business, professional office, or industrial activity.

(F) General Provisions.

(1) No sign or sign structure shall be placed on private or public property without the written consent of the owner or agent thereof.

(2) No sign or sign structure other than official highway signs shall be placed upon, over or in any street or highway right-of-way or any sidewalk.

(3) No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. No rotating beam, beacon or flashing illumination resembling any emergency lights shall be used in connection with any sign display, nor shall any sign make use of the words "Stop," "Look," "Danger," or any other word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.

(4) No sign or sign structure shall be located in such a manner as to materially impede the view of any street or highway intersection, or in such a manner as to materially impede the view of the intersection of a street or highway with a railroad grade crossing.

(5) It shall be unlawful to erect and maintain:

(a) Any sign which is not included under the types of signs permitted in this Code.

(b) Any portable or movable sign, except as permitted under the provisions of this Code. (See Sec. 153.38.)

(c) Any sign or sign structure affixed to a roof top or known as a roof-top sign, which superstructure extends above the highest point of the roof.

(d) A business sign and advertising sign on the same lot.

(6) Signs or sign structures located on a marquee or canopy shall be affixed flat to the

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surface thereof, and shall not:

(a) Be greater than three (3) feet in vertical measurement above the marquee or canopy.

(b) Extend vertically below or horizontally beyond more than eighteen (18) inches from the marquee or canopy limits.

(7) Signs located on awnings shall be affixed flat to, or painted upon the surface thereof, shall not extend vertically or horizontally beyond the limits of said awning, and shall not be illuminated. Only the name and address of the use shall be indicated.

(8) No sign or sign structure, except a projecting sign structure, attached to the wall of a building shall extend more than eighteen (18) inches horizontally from such wall.

(9) No sign or sign structure attached to the wall of a building shall extend above the roof or parapet lines of such building; provided, however, in the case of unified center, including unit development plans, shopping centers, planned business areas and enclosed industrial parks, in single ownership or under unified control, the Board of Zoning Appeals may grant a special exception in accordance with Sec. 153.28, for one such sign per occupant extending not more than four (4) feet above the roof or parapet line of such building.

(10) Business and advertising signs may be illuminated, unless specified otherwise; provided, however, light reflectors shall not extend more than twelve (12) feet from face of the sign. Where a sign is illuminated by light reflected upon it, direct rays of light shall not beam upon any part of adjoining property.

(11) Not more than one projecting business sign structure shall be allowed for each lot or occupant thereof, and the maximum surface area of such sign shall not exceed 240 square feet per side. Only one side of a projecting sign shall be considered in computing total allowable sign surface area. In no case shall the sign structure extend more than eight (8) feet from or beyond its supporting building. No projecting sign shall be at its lowest point less than eight (8) feet above grade level.

(12) Free-standing signs shall not be higher than forty (40) feet above the street elevation to

which the sign is oriented, and the maximum surface area of such sign shall not exceed 300 square feet per side.

(13) Signs or sign structures shall be set back in accordance with the building setback lines required by the district; provided, however:

(a) In case the supporting building for a projecting sign is located closer than eight (8) feet to the building setback line, the projecting sign may extend in front of said setback line, but in no case shall such sign extend beyond the property line, in accordance with the standards of this Subsection; or

(b) In the case of free-standing signs where graphic illustration is exhibited to the Board of Zoning Appeals, indicating extensive landscaping, compliance with all other standards of this Code and appropriate safeguards for the public safety, such sign or sign structure located no closer than twenty (20) feet to the front property line shall be deemed a sign setback special exception, and in accordance with the requirements of Sec. 153.28, the Board of Zoning Appeals may approve such special exception.

(G) Accessory Signs and Sign Structures.

Accessory signs and sign structures shall be permitted for all buildings, structures or premises used for purposes permitted by this Code in accordance with the provisions of this Section.

(H) Maintenance and Removal.

(1) All signs shall be kept in repair and in proper state of preservation.

(2) Signs which are no longer functional or are abandoned shall be removed or relocated in compliance with the regulations of this Code within thirty (30) days following such abandonment. Signs shall be considered no longer functional and abandoned when such sign is materially obstructed from view, when its essential elements are no longer readable, or when a condition of dilapidation is in evidence.

(3) Any legally established non-conforming sign shall be permitted without alteration in size or location, unless movable or unattached, in accordance with Sec. 153.11(F) of this Code. If such sign is damaged or dilapidated to an extent of

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more than fifty percent (50%) of its replacement cost at time of damage or repair, as determined by the Executive Director, it shall not be rebuilt; provided, however, that nothing herein shall prevent maintenance, repainting or normal repair of legally established non-conforming signs.

(4) Whenever any movable or unattached sign is erected or maintained in violation of this Code, said sign may be removed by action of the Executive Director after due notice is given to the person in interest.

(I) Permit procedures. All signs identified by this chapter as requiring the issuance of a permit, shall be governed by the criteria for permit applications established by the Plan Commission.

(1) Criteria for all signs requiring a permit. A permit application for a sign otherwise in compliance with this section shall be approved if said sign complies with the following criteria:

(a) The sign should serve primarily to identify the business, the establishment, or the type of activity conducted on the same premises, of the project, service or interest being offered for sale, lease or rent thereon, except as otherwise specifically provided above.

(b) Illumination of signs, where not specifically prohibited by this chapter, should be at a level consistent with adequate identification and readability.

(c) Signs requiring approval of the Board of Zoning Appeals for special exceptions in Sec. 153.28 or temporary uses set forth in Sec. 153.39(C)(12)(13) and (14) must first receive the Board's approval.

(d) Appropriate fees have been paid.

(2) Permit application procedure.

(a) When a sign permit is required. Applicants are required to apply for permits prior to undertaking any construction. See Sec. 153.48(F) for late-filing fee.

(b) Sign program. Only one sign permit shall be required for each sign program. Applicants shall be encouraged to provide a sign program as opposed to obtaining single permits for groups of businesses, professional offices, or

industrial complexes.

(c) Application. Application shall be made on an application form provided by the Executive Director.

(3) Sign permit application and fees. Before a sign permit application is approved, the applicant must submit information to the Executive Director, as specified in the permit procedures required under Sec. 153.41(F)(1) and post required fees.

(4) Duration of permit. All permits are good for the life of the sign except for permits for those signs which are expressly specified as temporary signs pursuant to this section.

(5) Nullity of permit. A sign permit shall become null and void if the sign or sign program for which the permit was issued has not been installed within twelve (12) months of issuance of said permit.

(J) Revocation of Permit. After notice and public hearing, any sign permit granted in accordance with the provisions of this section may be revoked upon a finding by the Board of Zoning Appeals, that the sign, or sign program, for which the permit was granted advertises the availability or sale of goods, property, or services no longer available, or is constructed, installed, or maintained in a manner that is not in accordance with the approved application.

Section 153.42: PARKING AND STORAGE OF CERTAIN VEHICLES

(A) Automotive vehicles. An automotive vehicle or trailer of any type without current license plates or in an inoperable condition so as to be deemed dead storage or an "abandoned vehicle" shall not be permitted for a period not longer than 30 days in residential districts other than in completely enclosed buildings and shall not be parked or stored in any district unless specifically authorized. See definition of "Abandoned Vehicle," Sec. 153.47.

(B) Commercial vehicles. The parking of a commercial self-propelled vehicle in residential zone districts shall be prohibited, except as set forth in Sec. 153.37(C)(2), and provided further except that one commercial vehicle of not more than three tons capacity may be parked on any lot on which there

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is located a principal building, provided such vehicle is parked in an enclosed garage, accessory building, or rear yard and is used by a resident of the premises. This requirement shall not be interpreted to prohibit commercial vehicles from temporary loading and unloading in any residential district.

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Section 153.43: ADMINISTRATION

(A) Enforcement Officer. The Executive Director is hereby designated and authorized to enforce the Zoning Code.

(B) Improvement Location Permits. Within the jurisdiction of the Switzerland County Area Plan Commission, no structure, improvement, or use of land may be altered, changed, placed, erected, or located on platted or unplatted lands, unless the structure, improvement, or use, and its location, conform with the Comprehensive Plan of Switzerland County, Indiana, the Town of Vevay, Indiana, and the Town of Patriot, Indiana, and the Zoning Code of Switzerland County, Indiana, the Town of Vevay, Indiana, and the Town of Patriot, Indiana, and an Improvement Location Permit for such structure, improvement, or use has been obtained from the Executive Director by the owner(s) of the property or his agent.

(1) Compliance with Comprehensive Plan.

The Executive Director shall issue an Improvement Location Permit, upon written application, when the proposed structure, improvement or use and its location conform in all respects to the Zoning Code, Subdivision Code, and Thoroughfare Plan of Switzerland County, and Vevay, Indiana, and Patriot, Indiana.

(2) Building Permits.

The Executive Director may issue an Improvement Location Permit, which may include a Building Permit authorization by the Switzerland County Building Commissioner.

(C) Application for Improvement Location Permit. Any person, who shall make application for an Improvement Location Permit, shall, at the time of making such application, furnish a site plan or development plan of the real estate upon which said application for an Improvement Location Permit is made at least five (5) days prior to the issuance of said Improvement Location Permit, which five (5) days period may be waived. Said site plan shall be properly dimensioned and drawn to scale showing the following items:

(1) Address of property and a legal or site description of the real estate involved including acreage.

(2) Location and size of all buildings and structures, existing and proposed.

(3) Width and length of all entrances and

exits to and from said real estate.

(4) All adjacent and adjoining roads, alleys or highways, and their names.

(5) Lot number and area in square feet.

(6) Actual shape and dimensions of the lot to be built upon.

(7) Front, side and rear yard lines and their distance from the street or Lot Lines.

(8) Number of families or housekeeping units the building is designed to accommodate and such other information in regard to the lot and neighboring lots and their use as may be necessary to determine and provide for the enforcement of the provisions of this Code.

(9) Any other items required by this Code. Applications including site plans or development plans so furnished shall be filed and shall become a permanent record of the Plan Commission.

(D) Basic Duties of Executive Director.

(1) Issue, in the name of the Board of Zoning Appeals, improvement location permits and certificates of occupancy and maintain records thereof.

(2) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this chapter, and report the findings and violations to the Plan Commission and Board of Zoning Appeals for the purpose of ordering compliance thereof.

(3) Provide interpretation of the Planning and Zoning codes when necessary and such technical and clerical assistance as the Commission and Board may require.

(4) Provide and maintain a public information service relative to all matters arising out of the Planning and Zoning codes.

(5) Maintain permanent and current records of the Planning and Zoning codes, including but not limited to, all maps, amendments, improvement location permits, building permits, certificates of occupancy, variances, special exceptions and appeals, and applications therefore, and records of hearings thereon.

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(6) Review all applications for improvement location permits and subdivisions to ascertain as to whether the proposed use lies in a flood hazard area as defined in this Code. If the proposed use is found to lie in such an area, the Executive Director will enforce the requirements set forth in Sec. 153.26 in the event that any structures involved are not directly covered by the Building Code regulations.

(7) The Executive Director, during his review of improvement location permits and building permits, shall assure that all national flood insurance program regulations pertaining to state and federal permits, subdivision review, mobile home tie-down standards, utility construction, record keeping (including lowest floor elevations), and water course alteration and maintenance have been met.

(E) Responsibility of the Executive Director.

(1) The official assigned to administer and enforce the provisions of this chapter is designated the Executive Director. He shall be appointed in accordance with the provisions of I.C. 36-7-4-311(b). The authority to perform inspections, review applications, and issue permits may be delegated to such other officials by the Executive Director. In the performance of these functions the Executive Director and such other officials shall be responsible to the Switzerland County Area Plan Commission and the Switzerland Area Board of Zoning Appeals.

(2) If the Executive Director shall find that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by law to insure compliance with or to prevent violations of the provisions of this chapter.

(3) It is the intent of this chapter that all questions of interpretation of provisions of this chapter be first presented to the Executive Director. Recourse from the decision of the Executive Director (on matters pertaining to zoning) shall be only to the Area Board of Zoning Appeals, and recourse from the decision of the Board shall be to the courts as provided by law.

(F) Relocation of Proposed Building, Structure, or Exit. The Executive Director may require the relocation of any proposed building or structure or exit or entrance shown on the site plan or the location of new exits or entrances not shown on the site plan before issuing an improvement location permit when such action is necessary to carry out the purpose and intent of the zoning code.

(G) Certificate of Compliance for Industrial Uses. An application for an Improvement Location Permit for any use subject to the provisions of Sections 153.21 and 153.22 of this Chapter shall be accompanied by a "Certificate of Compliance" subscribed by a registered professional engineer of the State of Indiana, certifying that the use intended will satisfy the performance standards of the open industrial use or enclosed industrial use, as the case may be, and in the district in which it is to be located. The Executive Director may take ten (10) days in which to study the application, during which time he may consult with appropriate technical consultants. If, after the ten (10) day period, the Executive Director has not required any additional information or stated any objection in writing, the Executive Director shall issue the Improvement Location Permit.

(H) Site Plans Must Be Filed for Record. Site plans so furnished shall be filed and shall become a permanent public record.

(I) Special Exception. The Executive Director shall issue an Improvement Location Permit for a special exception use only following receipt of notice from the Board that the application therefore has been approved by the Board.

(J) Certificate of Occupancy. No land shall be occupied or used and no building hereafter erected, reconstructed, or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a Certificate of Occupancy shall have been issued stating that the building and use comply with all of the provisions of this Code applicable to the building or premises of the use in the district in which it is to be located.

(K) Completion of Improvements. On completion of the improvement covered by the improvement location permit, the Executive Director shall cause an inspection of the premises, and, if this inspection shall reveal that the improvement has been completed in substantial conformity with the site plan or development plan,

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and certificate of compliance when required, submitted in the application pursuant to Subsection (C) of this Section, a Certificate of Occupancy shall then be issued, providing the Building Code requirements have been met.

(L) Temporary Certificate. A temporary Certificate of Occupancy may be issued by the Executive Director after application has been made for completed portions of a development plan which has been approved as a special exception, provided that a Certificate of Occupancy is required upon completion of the total development plan.

(M) Change of Use. No change shall be made in the use of land or in the use of any building or part thereof, now or hereafter erected, reconstructed or structurally altered, without a Certificate of Occupancy having been issued, and no such certificate shall be issued to make such change unless it is in conformity with the provisions of this Code.

(N) Coincidental Application. A Certificate of Occupancy shall be applied for coincidentally with the application for an Improvement Location Permit and shall be issued within ten (10) days after the lawful change of use, lawful erection, reconstruction or structural alteration of such building or other improvement of the land shall have been completed, provided the Executive Director has been notified of such completion by the applicant.

(O) Certificates of Occupancy Filed for Record. A record of all Certificates of Occupancy shall be kept on file in the office of the Executive Director and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

(P) Excavations. No Improvement Location Permit shall be issued for excavation or for the erection, reconstruction or structural alteration of any building, before application has been made for a Certificate of Occupancy.

(Q) Health Requirements. An application for an Improvement Location Permit for any use shall not be approved until it has been ascertained by the Executive Director that the proposed Use meets the minimum standards for a sewage disposal system and water supply system as required by the Switzerland County Health Officer. No Certificate of Occupancy shall be issued for a commercial or industrial structure or for any other applicable

building until the plans for such structure shall have been approved by the Department of Fire Prevention and Building Safety of the State of Indiana.

(R) Time Limit. The work or use authorized by an Improvement Location Permit, Certificate of Occupancy or permit for a variance, contingent use or other permit, except for a special exception, must be commenced within six (6) months of the date of issuance of such certificate or permit; otherwise, the same shall lapse and become null and void. All work so authorized shall be completed within twelve (12) months from the issuance of the certificate or permit therefore, except for a special exception and provided that for good cause shown, the Executive Director can extend the completion of time.

(S) Proper Compliance. The Executive Director shall review all development (and subdivision) proposals to assure compliance with the flood plain district requirements of this Chapter. All development applications for uses located in the flood plain district which are not permitted by right (see Sec. 153.26) will require the review and approval by Natural Resources prior to the issuance of an Improvement Location Permit. The Executive Director shall forward all these applications, along with plans and specifications, to Natural Resources for review and comment.

The Executive Director, during his review of Improvement Location Permits, shall assure that all National Flood Insurance Program regulations pertaining to State and Federal permits, (subdivision review), mobile home tie-down standards, utility construction, record keeping (including lowest floor elevations), and water course alteration and maintenance have been met.

(T) Soil and Drainage Conditions Met.

An Application for an Improvement Location Permit for any use shall not be approved until it has been ascertained by the Executive Director that the proposed use meets the applicable criteria of the Switzerland County Soil and Water Conservation District for the lot or tract of land concerning types of soils involved and the conditions which are requisite to assure proper drainage. Also, the Executive Director must be satisfied that any Indiana Drainage Code requirements have been met before approving applications for Improvement Location Permits.

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(U) Temporary Improvement Location Permit. A Temporary Improvement Location Permit may be issued by the Executive Director after application has been made for a temporary use authorized by this Code. (See Sec. 153.38 and Sec. 153.41.)

(V) Issuance of Permits. Any permits authorized by the County, including but not limited to Improvement Location Permits, permitting the erection, alteration or relocation of structures and other improvements within the jurisdiction of the Switzerland County Area Plan Commission, shall be issued only if, in addition to satisfying the requirements of the Code of Ordinances of Switzerland County Indiana, and the Town of Vevay, Indiana, and the Town of Patriot, Indiana, the proposed street right-of-way as set forth in the Thoroughfare Plan, will be protected from encroachment. In this instance, the proposed street right-of-way lines will be considered as the front lines of lots and tracts bordering such street, subject to Building Setback Lines as set forth in Sec. 153.29.

(W) Certain Requirements Regarding Real Estate Transfers. All offers and contracts for the sale of real estate shall be accompanied by a written statement, signed by both the buyer and the seller, which informs the buyer that the real estate is subject to zoning restrictions. The statement shall also inform the buyer that copies of the zoning regulations can be viewed and obtained from the Switzerland County Executive Director in the Area Plan Commission Office in the Courthouse.

(X) Erroneously Issued Permits - Restrictive Covenants. The issuance of an improvement location permit and/or a certificate of occupancy in no way validates such a permit or certificate in the event that same is erroneously issued or does not comply with applicable laws and the Code of Ordinances of Switzerland County, Indiana, and the Town of Vevay, Indiana, and the Town of Patriot, Indiana. Furthermore, the issuance of an improvement location permit and/or a certificate of occupancy in no way permits the violation of any restrictive covenants relative to the real estate. See Sec. 153.45 (B).

Section 153.41: BOARD OF ZONING APPEALS

A board of Zoning Appeals is hereby established with membership and appointment provided in accordance with I.C. 36-7-4-901 and 902 - 907, and all acts now or hereafter amendatory thereto.

(A) Organization. At the first meeting of each year, the Board shall elect a Chairman and a Vice-Chairman from among its members, and it may appoint and fix the compensation of a Secretary and such employees as are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensation theretofore fixed by the legislative authority.

(B) Rules. The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this Code.

(C) Meetings Open to Public. 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 findings, and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be a public record, and a copy of which shall be filed with the Executive Director following each Board meeting.

(D) Appeals Jurisdiction. The Board shall hear and determine appeals from and review:

(1) Any order, requirement, decision, or determination made by an administrative official, including the Executive Director, or staff member under this Zoning Code;

(2) Any order, requirement, decision, or determination made by an administrative board or other body except a plan commission in relation to the enforcement of the zoning code; or

(3) Any order, requirement, decision, or determination made by an administrative board or other body except a plan commission in relation to the enforcement of an ordinance adopted under this Code requiring the procurement of an improvement location permit or a certificate of occupancy.

(E) Exceptions and Uses. The Board shall approve or deny all:

(1) Special exceptions; and

(2) Variances

from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in this Zoning Code. The Board may impose reasonable conditions as a part of its approval. The Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of special exceptions and variances.

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(F) Variances From Development Standards of Zoning Code. The Board shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning code. A variance may be approved under this section only upon a determination in writing that:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(3) The strict application of the terms of the zoning code will result in practical difficulties in the use of the property.

(4) There are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property or class of use in the same vicinity and district;

(5) Such variances are necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and district but which is denied to the property in question;

(6) That the granting of such variance will not alter the land use characteristics of the vicinity and district, or increase the congestion in the streets.

(G) Variances From Use District or Classification Not Granted. Neither the Switzerland County Area Board of Zoning Appeals nor any other board of zoning appeals continued in existence under the area planning law may grant a variance from a use district or classification under the area planning law.

(H) Variances in FP District. Applications for variances to the provisions of this Chapter concerning an Improvement Location Permit or Building Permit for a use located in the FP district shall be forwarded to Natural Resources for review and comment. All terms and conditions imposed by Natural Resources shall be incorporated into the issuance of any such Permits. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

(I) Appeals to Board - Grounds - Transmission of Record - Disposition.

(1) 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.

(2) The Executive Director, or other person from whom the appeal is taken shall, on the request of the Board of Zoning Appeals, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal was taken.

(3) Certified copies of the documents, plans, and papers constituting the record may be transmitted for purposes of subsection (2).

(4) 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.

(5) The Board shall make a decision on any matter that it is required to hear under the Zoning Code.

1. At the meeting at which that matter is first presented; or

2. At the conclusion of the hearing on that matter, if it is continued.

(6) Within five (5) days after making any decision under the Zoning Code, the Board of Zoning Appeals shall file in the office of the Board a copy of its decision.

(J) Writ of Certiorari. Every decision of the Board shall be subject to review by certiorari.

Section 153.41: GENERAL PROVISIONS

(A) Interpretation. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare. The Switzerland County Area Plan Commission has given consideration to the existing and future probable use of land in the territory affected by this Chapter, and has prepared a comprehensive plan showing the future development of this area, which has served as a guide in the preparation of this Chapter.

(B) Non-Interference With Greater Restrictions Otherwise Imposed. It is not intended by this Chapter to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, nor any ordinances, rules, regulations or permits previously adopted or issued and which are

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not in conflict with any of the provisions of this Chapter, except that, where this Chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family, than are required or imposed by such easements, covenants, or agreements between parties, or by such ordinance, rules, regulations or permits, the provisions of this Chapter shall control.

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

(D) Height. No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the use and the district in which such building is located. (See Sec. 153.35.)

(E) Yard, Lot Area and Size of Building. No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, ground floor area of dwellings, or lot coverage provisions established and specified for the use and the district in which such building is located.

(F) Parking Space: Loading and Unloading Berths. For each building hereafter erected and for certain other uses of land, parking spaces for motor vehicles and loading and unloading berths as specified for the use to which such building or land is to be devoted shall be provided, except that parking spaces may not be required for business or industrial uses in accordance with the provisions of Sec. 153.40 (B) (13), but it is the intent of this Code to encourage the establishment of adequate parking spaces wherever normally required by this Chapter.

(G) Building Relocated. No building or structure shall be moved from one lot or premises to another unless such building and lot shall thereupon conform to all the regulations of the zone district to which such building be moved.

(H) Farms Exempt. Except for farm houses or farm dwellings - which include dwellings for the farm owner, operator or farm assistants, classified as a Contingent Use (See Sec. 153.27), and grain

elevators and related uses, produce stands, sales barn for livestock, and restricted commercial farm enterprises (including confined feeding operations) (See Sec. 153.47 for definition), which are all farm related activities set forth as Special Exceptions (See Sec. 153.28); Land Application Operations as defined in Sec. 153.47 which are not permitted (See Sec. 153.45(I), below); land, farm barns, farm outbuildings, or other buildings, structures or erections which are adapted, by reason of nature and area, for use for agricultural purposes as a primary means of livelihood, while so used, shall not be affected by restrictions or regulations of this Code.

(I) Land Application Operations are not permitted. Land Application Operations as defined in Sec. 153.47 are not permitted in any district or zone because of problems associated with applying sludge as defined in Sec. 153.47 on cropland; specifically:

(1) Sludge contains constituents that are either non-essential or potentially detrimental to crops and animals (including man) consuming the crops, and (2) sludge contains compounds not required by plants, and (3) possibilities exist for leaching and excessive movement of nitrate-nitrogen from surface soils into ground water, and (4) potential of disease transmission to animals due to bacteria parasites or viruses present in sludge, and (5) contamination of crops by persistent organics, such as PCB's or chlorinated hydrocarbon pesticides, and (6) contamination of crops with cadmium, and (7) reduced plant yields and soil productivity caused by heavy metals such as lead, copper, zinc, and nickel. Provided that any person, including the owner of the farmland or cropland designated as an application site, who has an ongoing Land Application Operation in Switzerland County on or before the date of passage of this Code, may continue such operation if the requirements of the Indiana Department of Environmental Management are met. The provisions herein are not intended to preclude an operation in Switzerland County in which sludge, waste products, or waste water are generated by industrial, municipal, or semi-public facilities.

(J) Public Utility Installations Exempt. Structures and land use for public utility installations so defined herein, while so used, shall not be affected by restrictions or regulations of this Code; provided, however, terminal facilities and treatment or processing plants for residential

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developments are contingent uses, but a sewage treatment facility (primary use) or a major transmission line or a water storage tank is a special exception and is subject to the provisions of this Chapter. See Sec. 153.28 for Transmission Lines.

(K) Mineral Extraction. Each plan commission, legislative body, and board of zoning appeals in an urbanized or urbanizing area (as defined in IC 14-4-9-18) shall comply with the provisions of IC 14-4-9-19 before permitting a land use that would threaten the potential extraction of aggregate in an area underlain by a deposit of qualified mineral resources (as defined in IC 14-4-9-14). See Sec. 153.23, MR Mineral Reserve District.

(L) Invalidity of Portions. Should any section or provision of this Code be declared, by a court of competent jurisdiction, to be invalid, such decision shall not affect the validity of the Code as a whole, or any portion thereof, other than the portion so declared to be invalid.

(M) Amendments. All amendments to or repealers of this Zoning Code shall be made in accordance with the provisions of I.C. 36-7-4, as amended.

Section 153.46: COMPLIANCE WITH "RULE 5."

Before an Improvement Location Permit or a Certificate of Occupancy shall be issued, the Executive Director shall be satisfied that the "operator" (see Subsection (D)(7) herein) of any proposed use on a site where construction activity disturbs five acres or more shall comply with the administrative provisions of 327 IAC 15-5 ("RULE 5"). RULE 5 concerns storm water run-off associated with construction activity.

The purpose of this RULE 5 is to reduce pollutants, principally sediment as a result of soil erosion, in storm water discharges into surface waters of the State of Indiana from sites where construction activity disturbs five (5) acres or more of the site. However, in contemplation of recent Federal court decisions, persons with sites greater than one (1) acre but less than five (5) acres are invited to comply with this rule as well. (Water Pollution Control Board; 327 IAC 15-5-1).

(A) Applicability of "RULE 5." The requirements under this rule apply to all persons who:

(1) do not obtain an individual NPDES permit under 327 IAC 15-2-6;

(2) meet the general permit rule applicability requirements under 327 IAC 15-2-3; and

(3) are involved in construction activity, which includes clearing, grading, excavation, and other land disturbing activities, except operations that result in the disturbance of less than five (5) acres of total land area and which are not part of a larger common plan of development or sale.

(Water Pollution Control Board; 327 IAC 15-5-2)

(B) General Permit Rule Boundary. Facilities existing within the boundaries of the State of Indiana affected by this rule are regulated under this rule.

(Water Pollution Control Board; 327 IAC 15-5-2)

(C) How To Comply With "RULE 5." In order to comply with 327 IAC 15-5 ("RULE 5") an operator must:

(1) Pay the Notice of Intent (NOI) letter fee of the current amount required made payable to the Indiana Department of Environmental Management. (See Sub-section (L) for content requirement of NOI Letter.)

(2) Prepare a soil erosion control plan that contains the required elements in 327 IAC 15-5-7. (See Sub-section (J), herein.)

(3) Send the plan to the Switzerland County Soil and Water Conservation District (SWCD) office in the County where the construction activity will take place. The SWCD will review the plan and make recommendations when necessary.

(4) Be sure that the personnel responsible for installing and operating the plan know what they are doing. This may require some training for some.

(5) Prepare and submit a complete Notice of Intent letter to the Office of Water Management, Permits Section. All of the requirements in 327 IAC 15-3-2 and 327 IAC 15-5-5 (See Sub-sections (A) and (D), herein) must be included in the NOI letter to be considered complete. Do not send a copy of the soil erosion control plan to IDEM.

Construction can begin immediately after

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fulfilling the requirements in 327 IAC 15.

(D) Definitions. For the purpose of this Section, the following definitions are adopted:

(1) "Agricultural land use" means use of land for the production of animal or plant life, including forestry, pasturing or yarding of livestock, and planting, growing, cultivating, and harvesting crops for human or livestock consumption.

(2) "Erosion" means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

(3) "Erosion control measure" means a practice, or a combination of practices, to control erosion and resulting sedimentation and/or off-site damages.

(4) "Erosion control plan" means a written description and site plan of pertinent information concerning erosion control measures.

(5) "Land disturbing activity" means any manmade change of the land surface, including removing vegetative cover, excavating, filling, transporting, and grading. In the context of this rule, agricultural land disturbing activities, coal mining activities permitted by the Department of Natural Resources (DNR) under I.C. 13-4.1, and active landfills permitted by the Indiana department of environmental management where the permit requires soil erosion control are excluded.

(6) "Nonagricultural land use" means commercial use of land for the manufacturing and wholesale or retail sale of goods or services, residential or institutional use of land intended primarily to shelter people, highway use of land including lanes, alleys, and streets, and other land uses not included in agricultural land use.

(7) "Operator" means the person required to submit the NOI letter under this article, and required to comply with the terms of this rule.

(8) "Site" means the entire area included in the legal description of the land on which land disturbing activity is to be performed.
(Water Pollution Control Board; 327 IAC 15-5-4)

(E) Additional Notice of Intent Letter Requirements. In addition to the NOI letter requirements under 327 IAC 15-3, the following

information must be submitted by the operator with a NOI letter under this rule:

(1) A brief description of the construction project, including, but not limited to, a statement of the total acreage of the site.

(2) Estimated timetable for land disturbing activities and installation of erosion control measures.

(3) Statement of the number of acres to be involved in land disturbing activities.

(4) A written certification by the operator that:

(a) the erosion control measures included in the erosion control plan comply with the requirements under sections 7 and 9 of this rule and that the plan complies with applicable State, county, or local erosion control requirements;

(b) the erosion control measures will be implemented in accordance with the plan;

(c) verification that an appropriate state, county, or local erosion control authority and the soil and water conservation district office has been sent a copy of the plan for review; and

(d) verification that implementation of the erosion control plan will be conducted by personnel trained in erosion control practices.

(5) Proof of publication in a newspaper of general circulation in the affected area that notified the public that a construction activity under this rule is to commence.

(Water Pollution Control Board; 327 IAC 15-5-5)

(F) Deadline for Submittal of a NOI Letter; Additional Information. All information required under 327 IAC 15-3 and Sub-section (E) of this rule shall be submitted to the commissioner prior to the initiation of land disturbing activities.

(Water Pollution Control Board; 327 IAC 15-5-6)

(G) General Conditions for Construction Activity Erosion Control Measures.

(1) The operator shall develop an erosion control plan in accordance with the requirements under this section.

(2) The following requirements shall be met on all sites during the period when active land disturbing activities occur:

(a) Sediment-laden water which otherwise would flow from the site shall be detained by erosion control practices appropriate to minimize

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sedimentation in the receiving stream. No storm shall be discharged from the site in a manner causing erosion in the receiving channel at the point of discharge.

(b) Appropriate measures shall be taken by the operator to minimize or eliminate wastes or unused building materials, including, but not limited to, garbage, debris, cleaning wastes, wastewater, and other substances from being carried from a site by runoff. Proper disposal or management of all wastes and unused building materials, appropriate to the nature of the waste or material, is required.

(c) Sediment being tracked from a site onto public or private roadways shall be minimized. This can be accomplished initially by a temporary gravel construction entrance in addition to a well-planned layout of roads, access drives, and parking areas of sufficient width and length, or other appropriate measures.

(d) Public or private roadways shall be kept cleared of accumulated sediment. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be returned to the point of likely origin or other suitable location.

(e) All on-site storm drain inlets shall be protected against sedimentation with straw bales, filter fabric, or equivalent barriers meeting accepted design criteria, standards, and specification for that purpose.

(f) The following items apply during the time the construction activity is taking place:

1. Storm water drainage from adjacent areas that naturally pass through the site shall be controlled by diverting it around disturbed areas. Alternatively, the existing channel must be protected and/or improved to prevent erosion or sedimentation from occurring.

2. Runoff from a disturbed area shall be controlled by one (1) or more of the following measures:

(aa) Except as prevented by inclement weather conditions or other circumstances beyond the control of the operator, appropriate vegetative practices will be initiated within seven (7) days of the last land disturbing activity at the site regulated by this rule. Appropriate vegetative practices include, but are not limited to, seeding, sodding, mulching, covering, or by other equivalent erosion control measures.

(bb) The erosion control plan shall be implemented on disturbed areas within the construction site. The plan shall include erosion

control measures as appropriate, such as, but not limited to, the following:

(i) Sediment detention basins.

(ii) Sediment control practices, such as filter strips, diversions, straw bales, filter fences, inlet protection measures, slope minimization, phased construction, maximizing tree coverage, temporary and permanent seeding of vegetation, mulching, and sodding.

All measures involving erosion control practices shall be designed and installed under the guidance of a qualified professional experienced in erosion control and following the specifications and criteria under this subsection. All other non-engineered erosion control measures involving vegetation should be installed according to accepted specifications and criteria under this subsection.

(3) During the period of construction activity at a site, all erosion control measures necessary to meet the requirements of this rule shall be maintained by the operator.

(4) All erosion control measures required to comply with this rule shall meet the design criteria, standards, and specifications for erosion control measures established by the department in guidance documents similar to, or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas from the division of soil conservation, Indiana Department of Natural Resources and the Field Office Technical Guide from the Soil Conservation Service. The erosion control plan shall include, but is not limited to, the following:

(a) A map of the site in adequate detail to show the site and adjacent areas, including the following:

1. Site boundaries and adjacent lands which accurately portray the site location.

2. Lakes, streams, channels, ditches, wetlands, and other water courses on and adjacent to the site.

3. One hundred (100) year floodplains, floodway fringes, and floodways.

4. Location of the predominant soil types, which may be determined by the United States Department of Agriculture, SCS County Soil Survey or an equivalent publication, or as determined by a certified

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professional soil scientist.

5. Location and delineation of vegetative cover such as grass, weeds, brush, and trees.

6. Location and approximate dimensions of storm water drainage systems and natural drainage patterns on, and immediately adjacent to, the site.

7. Locations and approximate dimensions of utilities, structures, roads, highways, and paving.

8. Site topography, both existing and planned, at a contour interval appropriate to indicate drainage patterns.

9. Potential areas where point source discharges of storm water may enter ground water, if any.

(b) A plan of final site conditions on the same scale as the existing site map showing the site changes.

(c) A site construction plan shall include, but is not limited to, the following:

(1) Locations and approximate dimensions of all proposed land disturbing activities.

(2) Potential locations of soil stockpiles.

(3) Locations and approximate dimensions of all erosion control measures necessary to meet the requirements of this rule.

(4) Schedule of the anticipated initiation and completion dates of each land disturbing activity, including the installation of erosion control measures needed to meet the requirements of this rule.

(5) Provisions, including a schedule, for maintenance of the erosion control measures during construction.

(6) Where feasible, preserve vegetation that exists on the site prior to the initiation of land disturbing activities.

(Water Pollution Control Board; 327 IAC 15-5-7)

(H) Project Termination.

(1) The operator shall plan an orderly and timely termination of the land disturbing activities which shall include the following:

(a) **Allowing the installation of utility lines on the site, whenever practicable, prior to final land grading, seeding, and mulching of the site.**

(b) **Implementing erosion**

control measures which are to remain on the site.

(2) The commissioner may, subsequent to termination of a project, inspect the site to evaluate the adequacy of the remaining erosion control measures.

(3) Maintenance of the remaining erosion control measures shall be the responsibility of the occupier of the property after the operator has terminated land disturbing activities.

(Water Pollution Control Board; 327 IAC 15-5-8)

(I) Standard Conditions. The standard conditions for NPDES general permit rules under 327 IAC 15-4 shall apply to this rule.

(Water Pollution Control Board; 327 IAC 15-5-9)

(J) Inspection and Enforcement. The commissioner and/or designated representative may inspect any site involved in land disturbing activities regulated by this rule at reasonable times. The erosion control plan must be readily accessible for review at the time of the inspection.

(1) Any person violating any of the provisions of this "RULE 5" shall be subject to enforcement and penalty under IC 13-7-10-5, IC 13-7-11, IC 13-7-12, 327 IAC 15-1-4 or any combination thereof.

(2) If maintenance of remaining erosion control measures are not properly maintained by the person operating the property, the commissioner may pursue enforcement against that person for correction of deficiencies under 327 IAC 15-1-4.

(Water Pollution Control Board; 327 IAC 15-5-10)

(K) Notification of Completion. The operator shall notify the commissioner, in writing, upon completion of the construction activity.

(Water Pollution Control Board; 327 IAC 15-5-11)

(L) Content Requirements of a Notice-of-Intent Letter. The NOI letter shall include the following:

(1) Name, mailing address, and location of the facility for which notification is submitted.

(2) Standard Industrial Classification (SIC) codes, as defined in 327 IAC 5, up to four (4) digits, that best represent the principal products or activities provided by the facility.

(3) Person's name, address, telephone

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number, ownership status, and status as to federal, state, private, public, or other entity.

(4) Latitude and longitude of the approximate center of the facility to the nearest fifteen (15) seconds, or the nearest quarter section (if the section, township, and range is provided) in which the facility is located.

(5) Name and receiving water, or, if the discharge is to a municipal separate storm sewer, name of the municipal operator of the storm sewer and the ultimate receiving water.

(6) Description of how the facility complies with the applicability requirements of the general permit rule.

(7) Any additional NOI letter information required by the applicable general permit rule.

(8) The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g).

(From 327 IAC 15-3-2)

(M) Additional Information to be Submitted with NOI Letter. In addition to the NOI letter requirements under 327 IAC 15-3, the following information must be submitted by the operator with a NOI letter under this rule:

(1) Brief description of the construction project, including, but not limited to, a statement of the total acreage of the site.

(2) Estimated timetable for land-disturbing activities and installation of erosion control measures.

(3) Statement of the number of acres to be involved in land-disturbing activities.

(4) Written certification by the operator that:

(a) the erosion control measures included in the erosion control plan comply with the requirements under subsections (G) and (I) of this section and that the plan complies with applicable state, county, or local erosion control requirements;

(b) the erosion control measures will be implemented in accordance with the plan;

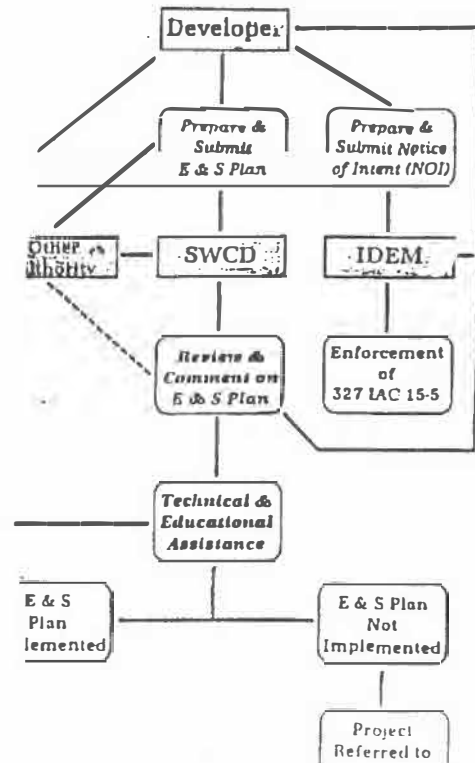
(c) verification that an appropriate state, county, or local erosion control authority and the soil and water conservation district office has been sent a copy of the plan for review; and

(d) verification that implementation of the erosion control plan will be conducted by personnel trained in erosion control practices.

(5) Proof of publication in a newspaper of general circulation in the affected area that notified the public that a construction activity under this rule is to commence.

(From 327 IAC 15-5-5)

(N) Procedural Diagram of "RULE 5."



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Section 153.47: DEFINITIONS

For the purpose of the Zoning Code, certain terms and words used herein shall be interpreted and defined as follows: Words in the present tense include the future and vice-versa; words in the singular number include the plural number and vice-versa; the word "building" includes the word "structure" and vice-versa; the word "shall" is mandatory and not discretionary.

(1) **ABANDONED VEHICLE.** "Abandoned vehicle" means the following:

(a) A vehicle located on public property illegally.

(b) A vehicle left on public property without being moved for three (3) days.

(c) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.

(d) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.

(e) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(f) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within fifteen (15) days of the vehicle's removal.

(g) A vehicle that is at least six (6) model years old, mechanically inoperable, and is left on private property continuously in a location visible from public property for more than thirty (30) days. (See I.C. 9-13-2-1 Abandoned Vehicle.)

(2) **ABUTTING.** Bordering.

(3) **ACCESSORY BUILDING AND USE.** A building or use subordinate to another structure or use located on the same lot and which does not change or alter the character of the

premises and which is not used for human occupancy; such as public utility installations, electric distribution and secondary power lines, gas, water and sewer lines, their supports and poles, guy wires, small transformers, wire or cable, and incidental equipment, and public telephone booths.

(4) **ADULT ARCADE, INCLUDING PEEP SHOWS.** Any place to which the public is permitted or invited wherein coin-operated or slug operated or electronically, electrically, or mechanically controlled image-producing devices are maintained to show images to five (5) or fewer viewers at one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "special sexual activities" or "specified anatomical areas."

(5) **ADULT BOOKSTORE OR ADULT NOVELTY STORE OR ADULT VIDEO STORE.** A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe "specified sexual activities," or "specified anatomical areas"; or (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities," and (3) Exclusion. A commercial establishment shall not be considered to be an Adult Bookstore, Adult Novelty Store or Adult Video Store, and shall not be required to obtain a Special Exception under Section 153.39 where (a) the commercial establishment rents or sells the material set forth above exclusively for off-premises use by the customer, and (b) a substantial portion of its business is not in selling or renting the material set forth above.

(6) **ADULT CABARET.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features: (1) Persons who appear in a state of nudity, or semi-nudity; or (2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of "specified sexual activities" or "specific anatomical areas."

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(7) **ADULT DANCE STUDIO.** Any establishment or business which provides for members of the public a partner for dance where the partner is "Nude" or "semi-nude" or where the partner, or the dance, is distinguished or characterized by the emphasis on matter depicting, or describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."

(8) **ADULT HOTEL OR ADULT MOTEL.** A hotel or motel or similar commercial establishment which: (1) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, computer software, slides or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas" and which advertises the availability of this sexually oriented type of Material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television, or, (2) offers a sleeping room for rent for a period of time less than ten (10) hours; or (3) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

(9) **ADULT MOTION PICTURE THEATER.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized or distinguished by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(10) **ADULT THEATERS.** A theater, concert hall, auditorium, or similar commercial establishment, which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas;" or "specified sexual activities," acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(11) **AGRICULTURE.** The art or science of cultivating the ground, and raising and harvesting crops, often including feeding, breeding and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of

the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use and their disposal by marketing or otherwise. In this broad use, it includes farming, horticulture, forestry, dairying, sugar making, etc.

(12) **AIRPORT.** Any runway, landing area or other facility designed, used or intended to be used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

(13) **ALLEY.** A permanent public service way providing a secondary means of access to abutting lands, and which is less than 30 feet in width.

(14) **ALLEY LINE.** A lot line bordering on an alley.

(15) **APARTMENT.** A building or portion thereof designed for or occupied by more than two (2) families. Also, a multi-family DWELLING.

(16) **ARTIFICIAL LAKE.** A man-made body of water fed by a watercourse.

(17) **ASSESSED VALUATION.** The monetary value placed on a property and/or building as established by the assessor with authority over the jurisdiction of this ordinance.

(18) **AUCTION USE.** A building or any specific closed or open area where merchandise is assembled and sold by a form of sale called an Auction.

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

(20) **AUTOMOBILE WRECKING YARD.** Any place where two or more motor vehicles, not in running condition, lacking current license plates and state inspection stickers, including inoperable equipment and parts thereof, are stored in the open; and including the commercial salvaging

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of any other goods, articles, or merchandise. (See "Junk Yard.")

(21) **BASEMENT.** A story, wholly or partly underground, which, unless subdivided into rooms and used for tenant purposes, shall not be included as a story for the purpose of height measurement.

(22) **BED AND BREAKFAST.** A residential dwelling with a character other than a hotel or motel compatible with the neighborhood providing temporary lodging generally for less than two weeks to guests for a per night charge, in five (5) or fewer guest rooms, providing breakfast daily for guests, and a manager residing on the premises, but not providing the accessory uses normally associated with a hotel.

(23) **BLOCK.** A unit of property bounded by streets, or by streets and/or railroad rights-of-way, waterways, or other barriers.

(24) **BLOCK FRONTAGE.** Property having frontage on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, waterway, or other barrier.

(25) **BOARD OR BOARD OF ZONING APPEALS.** The Switzerland County Area Board of Zoning Appeals.

(26) **BOARD OF COUNTY COMMISSIONERS.** The Board of County Commissioners of Switzerland County, Indiana.

(27) **BOARDING HOUSE.** An essentially private residence not open to transients which provides a private room and bathroom access and meals cooked on the premises and/or kitchen access to boarders for a comprehensive (meals included) weekly or monthly charge provided that rooms are limited to one boarder per room and the total rooms available to boarders does not exceed four. (Note - If the rooms are available on a nightly charge basis or if there is a separate charge for meals served on the premises, the facility is a motel or hotel or Bed and Breakfast.)

(28) **BUILDING.** A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels, or property. When separated by party

walls, without any opening through walls, each portion of such a building shall be considered a separate structure.

(29) **BUILDING, DETACHED.** A building having no structural connection with another building.

(30) **BUILDING, ENCLOSED.** A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

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

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

(33) **BUILDING, PRINCIPAL.** A building in which is conducted the main or principal use of the lot on which said building is situated. Where a part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building shall be considered a part of the principal building.

(34) **BUILDING COMMISSIONER.** The official designated by the Board of County Commissioners of Switzerland County and authorized to enforce the Building Code. The Building Commissioner may also be the Executive Director.

(35) **BUILDING LINE - BUILDING SETBACK.** The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the front lot line. For the purpose of this chapter the proposed street and thoroughfare right-of-way lines according to the "Thoroughfare Plan" of current adoption will be considered as the street lines for lots bordering such streets and thoroughfares.

(36) **BUILDING PERMIT.** A permit signed by the Building Commissioner stating that a proposed improvement complies with the provisions

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of the Building Code.

(37) **BUSINESS OR COMMERCIAL.** The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services; the maintenance or operation of offices, or recreational and amusement enterprises for profit.

(38) **CAMP, PUBLIC.** Any area or tract of land used or designed to accommodate two (2) or more camping parties, including cabins, tents, or other camping outfits.

(39) **CARPORIT.** An open-sided roofed automobile shelter usually formed by extension of a roof from the side of a building.

(40) **CAR WASH.** A structure, or portion thereof, containing commercial facilities for washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices. This term includes a manually operated car wash facility when the operation is equivalent in intensity to a mechanized car wash.

(41) **CEMETERY.** Land used for the burial of the dead and dedicated for Cemetery purposes, including in conjunction with and within the boundary of such cemetery.

(42) **CERTIFICATE OF OCCUPANCY.** A certificate signed by the Executive Director stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of the Code of Ordinances of Switzerland County, Indiana.

(43) **CHARITABLE INSTITUTION.** A building or group of buildings devoted to public service and supported by a non-profit organization.

(44) **CLINIC.** A facility for human ailments operated by a group of physicians, dentists, chiropractors, or other licensed practitioners for the treatment and examination of outpatients for the care, diagnosis and treatment of sick, ailing, infirm, or injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room or kept overnight on the premises. A clinic shall include laboratory facilities in conjunction with normal clinic services, but shall not include in-patient care.

(45) **CLUB.** Private buildings and facilities owned or operated by a person for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

(46) **COMMERCIALGREENHOUSE.** A building used for the growing of plants, all or part of which are sold at retail or wholesale.

(47) **COMMISSION OR PLAN COMMISSION OR AREA PLAN COMMISSION.** The Switzerland County Area Plan Commission.

(48) **COMPREHENSIVE PLAN.** A composite of all plans of land use, of thoroughfares, of sanitation, of recreation, and other related matters according to the requirements of the 500 Series of I.C. 36-7-4.

(49) **COMMERCIAL RECREATIONAL ENTERPRISE OR FACILITY.** Any area of land, buildings and/or facilities used or intended for recreational purposes and operated for remuneration.

(50) **COMMISSION.** The Switzerland County Area Plan Commission.

(51) **COMMON AREA.** Areas within a development that serve either a portion of or the entire development. (Example common area - signs, lighting, landscaping, maintenance shed, etc.)

(52) **CONDOMINIUM.** One or more structures, each structure having two or more dwelling units or other units for occupancy, wherein provisions have been made for separate ownership of each individual dwelling unit or occupancy unit. A type of ownership.

(53) **CONFINED FEEDING OPERATION.** An operation involving the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where food is supplied to the animals only by means other than grazing. The term **CONFINED FEEDING OPERATION** means:

1. any confined feeding of three-hundred (300) or more cattle, six-hundred (600) or more swine or sheep, and thirty-thousand (30,000) or more fowl;

2. any **ANIMAL FEEDING OPERATION** electing to come under the provisions of I.C. 13-1-5.7; or

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3. any animal feeding operation that is causing a violation of I.C. 13-1-3 or any rules of the Water Pollution Control Board of the State of Indiana.

A RESTRICTED COMMERCIAL FARM ENTERPRISE.

(54) **CONFORMING BUILDING OR STRUCTURE.** Any building or structure which: (A) complies with all the regulations of this ordinance or of any amendment hereto governing the zoning district in which such building or structure is located; (B) is designed or intended for a conforming use.

(55) **COOPERATIVE.** A type of ownership characterized by collective ownership of an object by an organization whose members share in the profits or other benefits of said collective ownership.

(56) **COUNCIL OR TOWN COUNCIL.** The Town Council of the Town of Vevay, Indiana, or the Town Council of the Town of Patriot, Indiana.

(57) **COUNTY.** Switzerland County, Indiana.

(58) **DAY CARE CENTER OR CHILD DEVELOPMENT CENTER OR DAY NURSERY.** A building or part thereof including the lot devoted to the care and/or education and training of infants (younger than two years of age) and/or children (two to 15 years) at a location away from home for less than 24 hours per day during weekday working hours, and not including overnight accommodation or overnight sleeping. This definition encompasses facilities generally known as child care center, pre-school, kindergarten, nursery school, and similar programs and facilities for infants and children, but does not include, "Educational Institution." (See definition FAMILY DAY CARE HOME.)

(59) **DECIBEL.** A unit of measurement of the intensity of loudness of sound. Sound level meters are used to measure such intensities and are calibrated in decibels.

(60) **DENSITY.** The number of dwelling units developed per acre of land.

(61) **DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings and other

structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

(62) **DEVELOPMENT PLAN.** Specific plans for the residential, commercial, or industrial development or other development of property setting forth certain information and data required by the Plan Commission. This information and data may include:

- (a) the proposed name of the development;
- (b) the name and address of developers;
- (c) the location by public way, political township, section and range.
- (d) the legal description;
- (e) a map including date, scale and point north, location, size, capacity, and use of all buildings and structures existing or to be placed in the development;
- (f) the nature and intensity of the operations involved in or conducted in connection with the development;
- (g) the site layout of the development including the location, size, arrangement and capacity of area to be used for vehicular access, parking, loading, and unloading;
- (h) the name of public ways giving access to the development and location, width, and names of platted public ways, railroads, parks, utility easements, and other public open spaces;
- (i) the layout of proposed public ways, their names and widths, and the widths of alleys, walkways, paths, lanes, and easements;
- (j) a description of the use of adjacent property and an identification of that property;
- (k) the location, size, and arrangement of areas to be devoted to planting lawns, trees, and other site-screening activities;
- (l) the proposals for sewer, water, gas, electricity, and storm drainage;
- (m) the contours with spot elevations of the finished grade and the directions of storm runoff;
- (n) the layout of proposed lots with their numbers and dimensions; and
- (o) the land use density factors.

(63) **DEVELOPMENTAL DISABILITY.** A disability of a person which: (a) is attributable to mental retardation, cerebral palsy,

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epilepsy, or autism; or is attributable to any other condition found to be closely related to mental retardation because this condition results in similar impairment of general intellectual functioning or adaptive behavior, or requires similar treatment and services; or is attributable to dyslexia resulting from a disability described in this clause; (b) originates before the person is age eighteen (18); and (c) has continued or is expected to continue indefinitely and constitutes a substantial handicap to the person's ability to function normally in society.

(64) **DEVELOPMENTAL DISABILITIES RESIDENTIAL FACILITY.** A facility: (a) that provides room and board services only, which are paid for exclusively out of private funds; or (b) that provides only those services which are minimally required, based on each recipient's needs, for federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.); for at least four (4), but not more than eight (8), developmentally disabled individuals who are not related to the individual owning or leasing the facility; however, the term does not apply to a boarding house which is approved by the department of mental health under IC 16-14-4.

(65) **DISH.** That part of the earth station shaped like a saucer or dish.

(66) **DISH-TYPE RECEIVING ANTENNA (EARTH STATION OR GROUND STATION).** A signal receiving device, the purpose of which is to receive radio communications, television, data transmission or other signals from a satellite or satellites in earth orbit. Considered a structure, thus subject to all ordinances relating to structures.

(67) **DISPOSAL (or Disposed of).** The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be entitled into the air or discharged into any waters, including ground waters. (See Definition of Land Application Operation.)

(68) **DISPOSAL FACILITY.** A site or plant where solid waste is subject to treatment, storage, recovery, incineration, grinding, composting, collection or covering by earth.

(69) **DISTRICT.** A section of the territory within the jurisdiction of the Switzerland County Area Plan Commission for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land, and open spaces about buildings are herein established. Districts may overlap other Districts. Also ZONE or ZONE DISTRICT.

(70) **DRIVE-IN ESTABLISHMENT.** Any place or premises used for sale, dispensing, or serving of food, refreshments, beverages or services in automobiles, including those establishments where customers may serve themselves and may carry out or consume the above on or off the premises.

(71) **DRIVEWAY.** That space or area of a lot which is specifically designated and reserved for the movement of motor vehicles within the lot or from the lot to a public street.

(72) **DUST-FREE SURFACE.** A surface adequately covered in accordance with the current standards of the applicable Town or Switzerland County and required to be maintained in good condition at all times.

(73) **DWELLING.** A building or portion thereof, used primarily as a place of abode for one or more human beings, but not including hotels or motels, lodging or boarding houses or tourist homes.

(a) A single-family dwelling is a detached building designed for or occupied by one family, exclusively.

(b) A two-family dwelling is a detached building designed for or occupied by two families, exclusively.

(c) A multi-family dwelling is a building designed for or occupied by three or more families, exclusively.

(74) **DWELLING UNIT.** One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

(75) **EASEMENT.** A right of the owner on one (1) parcel of land, by reason of such ownership, or a right of the public, to use the land

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of another for a special purpose as designated; a strip of land to be used by the general public, a corporation, a utility company, or a certain person for a specific reason, for purposes of providing services to property.

(76) **EDUCATIONAL INSTITUTION.** Public or parochial pre-primary, primary, grade, high, preparatory school or academy; junior college; college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization.

(77) **EFFICIENCY UNIT.** A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or kitchen and dining alcove directly off the principal room.

(78) **EXECUTIVE DIRECTOR.** The official employed by the Switzerland County Area Plan Commission and authorized to enforce the Planning and Zoning Codes of Switzerland County, Indiana, and the Town of Vevay, Indiana, and the Town of Patriot, Indiana.

(79) **FAMILY DAY CARE HOME.** An occupied dwelling in which a person provides day care for children other than his/her own family and the children of close relatives. Such care in a family day care home is limited to that care given to 12 or fewer children, including children living in the home and children or close relatives cared for in the home for less than 24 hours per day during weekday working hours. A **SMALL FAMILY DAY CARE HOME** is limited to 6 or fewer children and a **LARGE FAMILY DAY CARE HOME** is limited to 12 or fewer children. (See definition Day Care.)

(80) **FARM.** A tract of land comprising an area which is devoted to agricultural operations, such as forestry; the growing of crops, pasturage; the production of livestock and poultry; the growing of trees, shrubs and plants; and other recognized agricultural pursuits and including accessory buildings essential to the operation of the farm. Accessory buildings may include barns; equipment and animal sheds; roadside sales structure for the sale of products of the farm; and signs displaying subject matter directly related to the name or the products of the particular farm; but not including industrial or commercial operations or structures.

(81) **FARM HOUSE OR FARM DWELLING.** The principle dwelling or residence of the owner or operator of the farm.

(82) **FARMSTEAD LOT.** A tract of land located in the A-1 Prime Agriculture District or A-2 Agriculture District, comprising a Farm House or Farm Dwelling built prior to the date of passage of the Ordinance comprising this Chapter of the Code, and/or including accessory buildings essential to the operation of the Farm.

(83) **FAMILY.** An individual or two or more persons related by blood, marriage or adoption, including foster children and bona fide domestic servants employed on a full-time basis by the family in the dwelling unit, living together as a single housekeeping unit in a dwelling unit and also including roomers, provided that the family plus the roomers shall not exceed a total of five persons, provided further that the limit of five persons shall not apply where the entire group living in the dwelling unit consists of persons related by blood, marriage or adoption, including foster children and domestic servants.

(84) **FEEDLOT. (SEE CONFINED FEEDING OPERATION)** Any area, enclosed or unenclosed, used for the concentrated feeding of livestock, other than grazing.

(85) **FENCE.** A freestanding device made of metal, masonry, composition or wood, or any combination thereof, resting on or partially buried in the ground, rising above ground level and used for confinement, screening protection or partition purposes.

(86) **FENCE, STOCKADE.** A fence constructed of vertical wood strips, with no intervening spaces, providing a complete visual barrier.

(87) **FINANCIAL INSTITUTION.** Any building wherein the primary occupation is concerned with such Federal or State-regulated businesses as banking, savings and loans, loan companies and investment companies.

(88) **FILLING STATION/SERVICE STATION.** Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, limited to the following:

(a) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;

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(b) Tire servicing and repair, but not recapping or regrooving;

(c) Replacement of mufflers and tailpipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;

(d) Radiator cleaning and flushing;

(e) Washing and polishing, and sale of automobile washing and polishing materials;

(f) Greasing and lubrication;

(g) Providing and repairing fuel pumps, oil pumps, and lines;

(h) Minor servicing and repair of carburetors;

(i) Adjusting and repairing brakes;

(j) Emergency wiring repairs;

(k) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;

(l) Sales of cold drinks, packaged foods, ice, tobacco, and similar convenience goods for service station customers, as accessory and incidental to principal operation;

(m) Rental of hauling vehicles for the moving of household goods, but not including the sale or rental of automobiles, mobile homes or recreational vehicles, as accessory and incidental to principal operation;

(n) Provision of road maps and other informational materials to customers; provision of restroom facilities. Uses permissible at a service station do not include major mechanical and body work, straightening of frames or body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations.

(89) **FLASH POINT.** The lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will burn momentarily using the closed cup method.

(90) **FLOOR AREA, GROSS.** The total area, computed on a horizontal plane, within the outside dimensions of a building. (See Sec. 153.36 for application to off-street parking under subsection (D).)

(90) **FLOOR AREA, NET.** The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term gross floor area shall include basement, elevator shafts and stairwells of each story, floor space used for mechanical equipment with structural headroom of six (6) feet six (6) inches or more, penthouses, attic space (whether or not a floor has actually been laid providing headroom of six (6) feet six (6) inches or more), interior balconies and mezzanines.

(91) **FLOOR AREA, NET.** The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls and from the center line of walls separating two or more buildings. The term net floor area shall include outdoor display areas for the sale, rental and display of recreational vehicles, boats and boating equipment; trailers; horticultural items, farm or garden equipment and other similar products; but shall exclude areas designed for permanent uses such as toilets, utility closets, malls enclosed or not, truck tunnels, enclosed parking areas, meters, rooftop mechanical structures, mechanical and equipment rooms, public and fire corridors, stairwells, elevators, escalators, and areas under a sloping ceiling where the headroom in fifty (50) percent of such area is less than six (6) feet six (6) inches.

(92) **FLOOR AREA RATIO.** The floor area of the building or buildings on a lot divided by the area of such lot.

(93) **FOOT-CANDLE.** A unit of illumination. It is equivalent to the illumination at all points which are one foot distant from a uniform source of one (1) candlepower.

(94) **FRANCHISE OR CABLE TELEVISION.** Any television distribution system designed to serve any residents within the jurisdiction of this ordinance authorized by any local, state or federal agency.

(95) **FREE BURNING.** A rate of combustion described by a material which burns actively and easily supports combustion.

(96) **FRONTAGE.** All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is dead ended, then all of the property abutting on one side between an

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intersecting street and the dead end of the street.

(97) **GARAGE, PRIVATE.** An Accessory Building or portion of the Principal Building used only for the storage of private passenger automobiles, private boats, recreational vehicle, and private auto trailers and/or not more than one (1) truck of a rated capacity not exceeding one and one-half (1-1/2) ton on any lot; when the storage space on the lot does not exceed that normally required for the use of persons occupying the Principal Building; and in which no business, service, or industry connected directly or indirectly with motor vehicles, boats, and trailers is carried on; provided that not more than one-half (1/2) of the parking spaces therein may be rented for the storage of motor vehicles, boats, and trailers of persons not resident on the premises, except that all the parking spaces in a garage of one (1) or two (2) car capacity may be so rented.

(98) **GARAGE, PUBLIC.** Any building, except those defined herein as a "Private Garage," used for storage, or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

(99) **GRADE.** Also, **LOT GROUND LEVEL.** (a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street; (b) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets; and (c) For buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street.

(100) **GREENBELT.** That portion of the front yard of the lot which is immediately adjacent and parallel to the right-of-way of a street in the PB District and having a minimum depth of twenty (20) feet.

(101) **GREENHOUSE.** A structure for the propagation of plant materials and for sale of same.

(102) **GROSS AREA.** Entire area of project or platted area.

(103) **GROSS DENSITY.** The total number of dwelling units divided by the gross area in acres.

(104) **GROUND FLOOR.** The first level of a building that provides outside access by a door.

(105) **GROUND FLOOR AREA.** The square foot area of a residential building within its largest outside dimensions computed on a horizontal plan at the ground floor level, exclusive of porches, breezeways, terraces, garages and exterior stairways or other devices. A ground floor may have split levels provided there is not more than a five-foot difference in elevations between the different levels of the floor. See "OCCUPIED SPACE" for Manufactured Dwellings.

(106) **GUEST HOUSE.** Living quarters within a detached accessory building located on the same premises with the main residence building for use by temporary guests of the occupants of the main residence building, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

(107) **HEALTH OFFICER.** Any officer of authority, Switzerland County Health Department, and the State Department of Health. Same as "COUNTY HEALTH OFFICER," includes County Sanitarian.

(108) **HEALTH FACILITY.** Any building, structure, institution, or other place, for the reception, accommodation, board, care or treatment extending beyond a continuous twenty-four (24) hour period in any week of more than two (2) unrelated individuals requiring, in apparent need of, or desiring such services or combination of them, by reason of age, senility, physical or mental illness, infirmity, injury, incompetency, deformity, or any physical, mental or emotional disability, or other impairment, illness or infirmity, not specifically mentioned hereinabove, including institutions or places or institutions commonly known as nursing homes, homes for the aged, retirement homes, boarding homes for the aged, sanitariums, convalescent homes, homes for the chronically ill, homes for the indigent. The reception, accommodation, board, care or treatment in a household or family, for compensation, of a person related by blood to the head of such household or family, or to his or her spouse, within the degree of consanguinity of first cousins, shall not be deemed

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to constitute the premises in which the person is received, boarded, accommodated, cared for or treated, a health facility. Any state institution or any municipal corporation may specifically request such licensure and upon compliance with all applicable sections of the Indiana Code and upon compliance with all existing rules and regulations, the petitioning facility may then be so licensed under the provisions of I.C. 16-10-2; provided that the term HEALTH FACILITY does not include hotels, motels, or mobile homes when used as such; hospitals, mental hospitals, institutions operated by the federal government; boarding homes for children; schools for the deaf or blind; day schools for the retarded; day nurseries; children's homes; child placement agencies; offices of practitioners of the healing arts; offices of Christian Science practitioners; industrial clinics providing only emergency medical services or first-aid for employees; a residential facility, as defined in I.C. 16-10-2.1-1; and any hospital, sanitorium, nursing home, rest home, or other institution wherein any health care services and private duty nursing services are rendered in accordance with the practice and tenets of the religious denomination known as the Church of Christ, Scientist.

(109) HOME OCCUPATION OR HOME OFFICE USE. An accessory use conducted entirely within a dwelling, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character or appearance thereof.

(110) HOSPITAL. An institution licensed by the State Department of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the facility, provided such institution is operated by, or treatment is given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer and the like such as drug treatment center.

(111) HOTEL. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding or lodging house.

(112) IMPROVEMENT LOCATION PERMIT. A permit (which may be combined with a BUILDING PERMIT) signed by the Executive Director stating that a proposed improvement or use complies with the provisions of the Zoning Code. A TEMPORARY IMPROVEMENT LOCATION PERMIT is an IMPROVEMENT LOCATION PERMIT authorized by the Switzerland County Area Board of Zoning Appeals with a definite time limit attached thereto.

(113) INDUSTRIAL PARK. A single or group of structures for industrial operations forming a comprehensive arrangement of buildings, grounds, and access ways planned in accordance with harmonious principles of architectural and landscape architectural design, and industrial management.

(114) INSTITUTION. A non-profit organization established for public, charitable, educational or religious purposes such as church, college or university, hospital or school.

(115) INTENSE BURNING. A rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly.

(116) JUNK YARD. Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or assorted, including, but not limited to, used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom; used lumber yards and places or yard for storage of salvaged building wrecking and structural steel materials and equipment; but not including establishments where such uses are conducted entirely within a completely enclosed building, and not including establishments for the sale, purchase or storage of used cars in operable condition, or storage of materials incidental to manufacturing operations.

(117) JURISDICTION OF THE COMMISSION. The unincorporated territory of Switzerland County, Indiana, and the territory within the Town of Vevay, Indiana, and the Town of Patriot, Indiana, the boundaries of which are shown

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on the Zone Map, dated 1996; as amended, which includes all of the area over which this Chapter is effective.

(118) **KENNEL.** Any lot on which four (4) or more dogs, or small animals at least four (4) months of age, are kept.

(119) **KINDERGARTEN (PRE-SCHOOL).** A school for children primarily between the ages of three and five, providing preparation for elementary school.

(120) **LAND APPLICATION OPERATION.** An operation in which sludge, waste products or wastewater generated by industrial, municipal or semi-public facilities, or (septage) from septic haulers, are disposed of by application upon or incorporation into the soil.

(121) **LANDSCAPED GREEN AREA.** An area which includes live plantings other than grass. The size of planting at the time of installation shall be not less than a minimum of 18 inches width and height for shrubs, a minimum of 4-5 feet in height for evergreen conifer trees and a minimum of 6-8 feet in height for shade trees.

(122) **LANDSCAPING.** The improvement of a lot with grass and mounding, shrubs, trees, other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flowerbeds, retention ponds, ornamental objects such as fountains, statues and other similar natural or artificial objects designed and arranged to produce an aesthetically pleasing effect.

(122) **LIVESTOCK.** Any animal which has been domestically raised primarily for agricultural purposes, but not including house pets such as dogs, cats, canaries, or any other similar animal or fowl usually considered a house pet.

(124) **LOADING AND UNLOADING BERTHS.** The off-street area required for the receipt or distribution by vehicles of material or merchandise.

(125) **LOT.** A parcel, tract or area of land accessible by means of a street or place, and for residential uses as set forth in this Code, abutting upon a street or place for at least fifty percent (50%) of the lot width prescribed for the district in which the lot is located. It may be a single parcel separately described in a deed or plat

which is recorded in the Office of the County Recorder of Switzerland County, or it may include parts of, or a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines, no part thereof within the limits of a street or a place shall be included.

(126) **LOT, AREA.** The horizontally projected useable area of a lot computed exclusive of any portion of a street, existing or proposed.

(127) **LOT, CORNER.** A lot at the junction of and having frontage on two or more intersecting streets.

(128) **LOT COVERAGE.** The total ground area of a lot usually expressed as a percentage of the lot area that is covered, occupied or enclosed by principal and accessory buildings and structures.

(129) **LOT, DEPTH OF.** The mean horizontal distance between the front lot line and the rear lot line of a lot, measured in the general direction of the side lot line.

(130) **LOT, FRONTAGE.** All the property of such lot fronting on a street and as measured between side lot lines.

(131) **LOT, INTERIOR.** A lot other than a CORNER LOT or THROUGH LOT.

(132) **LOT, REVERSED INTERIOR.** An interior lot, the front lot line of which is formed by a street, which street also forms the side lot line of an abutting corner lot. The corner lot is considered abutting even though separated from the Interior Lot Line by an alley.

(133) **LOT, THROUGH.** A lot having frontage on two parallel, or approximately parallel streets. Also DOUBLE FRONTAGE LOT.

(134) **LOT, WIDTH.** The dimension of a lot, measured between side lot lines on the building line (or in the case of a curved building line, it is measured tangent to the arc).

(135) **LOT FRONTAGE.** The linear distance of a lot measured at the front line where said lot abuts a street, measured between side lot lines.

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(136) **LOT LINE.** The property line between two established parcels of land or one parcel and a public right-of-way or place.

(137) **LOT LINE, FRONT.** In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the narrowest frontage of a lot from the street, except in cases where deed restrictions in effect specify another street right-of-way line as the front lot line.

(138) **LOT LINE, REAR.** A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

(139) **LOT LINE, SIDE.** Any lot boundary line not a front lot line or a rear lot line.

(140) **LOT OF RECORD.** A lot which is part of a subdivision, the map of which has been recorded in the Office of the County Recorder of Switzerland County, or a parcel of land, the deed to which has been recorded in the Office of the Switzerland County Recorder prior to September 8th, 1964.

(141) **MANUFACTURED DWELLING.** A dwelling unit, built in a factory and bearing a seal of compliance with federal Manufactured Housing Construction and Safety Standards Law or Indiana Public Law 360, Acts of 1971, and constructed prior to October 30, 1992, and, although it is not actually a MOBILE HOME, for the purposes of this Code, it is a MOBILE HOME.

(142) **MANUFACTURED HOME.** A dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 U.S.C. 5401 et seq.) or Indiana Public Law 360, Acts of 1971 (I.C. 22-11-1-9), constructed after January 1, 1981, and exceeds nine hundred and fifty (950) square feet of occupied space.

(143) **MARQUEE OR CANOPY.** a roof-like structure of a permanent nature which projects from the wall of a building and may overhang into a required yard.

(144) **MASSAGE PARLOR.** Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "Specified Sexual Activities," or where any person providing such treatment, manipulation, or service related thereto, exposes "Specified Anatomical Areas." The definition of "Adult Businesses" shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, nor by any Indiana State licensed physical therapist, nor by any Indiana State licensed massage practitioners.

(145) **MATERIAL.** "Material" relative to "Adult Businesses," shall mean and include, but not be limited to, accessories, books, correspondence, photographs, prints, drawings, paintings, motion pictures, computer software, and pamphlets, or any combination thereof.

(146) **MAXIMUM LOT COVERAGE.** The entire lot or parcel which can be developed (buildings, principal or accessory; storage areas; parking lots and other accessory uses).

(147) **MOBILE HOME.** A transportable vehicle which is greater than eight (8) feet in body width and longer than thirty-six (36) feet in body length and designed and constructed as a detached single-family dwelling unit with all of the following characteristics: (a) Designed for long-term occupancy for one (1) or more persons, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; (b) Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels; (c) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(148) **MOBILE HOME PARK.** A tract of land which has been developed with all necessary

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facilities and services in accordance with a development plan meeting all legal requirements and which is intended for the purpose of providing a site for five (5) or more manufactured homes, manufactured dwellings or mobile homes for human habitation, either free of charge or for revenue purposes, including any building, vehicle or enclosure used or intended for use as a part of the equipment of such MOBILE HOME PARK.

(149) **MOBILE HOME LOT.** A designated site within a mobile home park or subdivision for the exclusive use of the occupants of a single mobile home, including a mobile home slab, lawn, driveway, and parking area for said occupants.

(150) **MOBILE HOME SLAB OR FOUNDATION.** The solid material upon which the mobile home rests, consisting of a continuous concrete slab or a PERMANENT FOUNDATION.

(151) **MOBILE HOME STAND.** That part of the mobile home park which has been reserved for the placement of one (1) mobile home unit, including the mobile home slab, lawn area, driveway area and parking area for the unit.

(152) **MODERATE BURNING.** A rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

(153) **MOTEL.** A building or detached building used as dwelling units containing bedroom, bathroom and closet space, and each unit having convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients, and more than 50 percent of the lodging rooms are for rent to transient automobile tourists for a continuous period of less than 30 days.

(154) **MOTOR VEHICLE.** A passenger vehicle, truck, truck-trailers, or semi-trailer propelled or drawn by mechanical power.

(155) **NAMEPLATE.** Non-illuminated sign flush with the front of the building indicating the name or address of a building, or the name of an occupant thereof and the practice of a permitted occupation therein.

(156) **NATURAL RESOURCES.** The Indiana Department of Natural Resources.

(157) **NONCONFORMING USE.** A building or premises which does not conform in its use or otherwise with all of the regulations of the district in which the building or premises is located.

(158) **NONCONFORMING USE, ILLEGAL.** A use of a building, land or premises existing at the time of the passage of the ordinance comprising this Chapter of the Code which does not conform to all of the applicable provisions of this Code nor those of any ordinance superseded by this Code.

(159) **NONCONFORMING USE, LEGAL.** A use of a building, land or premises existing at the time of the passage of the ordinance comprising this Chapter of the Code which does not conform to all of the applicable provisions of this Code but did conform to applicable provisions of any ordinance superseded by this Code.

(160) **NUDITY.** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernably turgid state. (I.C. 35-45-4.1)

(161) **NURSING HOME.** Same as HEALTH FACILITY.

(162) **NURSING HOME CONVERSIONS.** A dwelling which is converted for the use of a nursing home and licensed by the State Board of Health. See HEALTH FACILITY.

(163) **OCCUPIED SPACE.** the total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to, garages, patios and porches.

(164) **OCTAVE BAND.** A narrow range of sound frequencies which classify sounds according to pitch. In the octave band analyzer the audible sound spectrum is divided into eight octave bands.

(165) **OCTAVE BAND FILTER.** An electrical device which separates the sounds in each octave band and presents them to the sound level meter.

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(166) **OFFICE BUILDING.** A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations not involving any equipment other than furniture and document processing and storage facilities.

(167) **OFF-SITE PARKING.** Parking spaces which are located within the platted area and within reasonable proximity to dwelling units and supportive uses (club house, tennis courts, etc.) which they serve.

(168) **ON-SITE PARKING.** Parking spaces which are located outside the garage or carport area and are located on the individual driveway.

(169) **OPACITY.** A condition which renders material partially or wholly impervious to transmittance of light and causes obstruction of an observer's view. For the purposes of these regulations, the following equivalence between opacity and Ringelmann shall be employed.

| <u>Opacity Percent</u> | <u>Ringelmann</u> |
|------------------------|-------------------|
| 10 | 0.5 |
| 20 | 1 |
| 30 | 1.5 |
| 40 | 2 |
| 60 | 3 |
| 80 | 4 |
| 100 | 5 |

See Definition of RINGELMANN NUMBER.

(170) **OPEN SALES LOT.** Land used or occupied for the purpose of buying or selling merchandise stored or displayed out-of-doors prior to sale. (Such merchandise includes, but is not limited to, passenger cars, trucks, motorcycles, boats, monuments, mobile homes, and recreational vehicles).

(171) **OPEN SPACE.** The total horizontal area of a lot excluding the building area but including parking areas and recreational areas; provided, however, in residential districts, said open space may include the useable roof area within the project which has been improved for outdoor use of occupants, plus one-half of that space, such as balconies, which may be open on its sides but not open above to the sky.

(172) **OUTDOOR RECREATION.** Outdoor recreation includes one or more of the

following uses: riding clubs, polo fields, horse shows, hunter trails, and other equestrian sports; conservation clubs, Girl Scout and Boy Scout lodges or clubhouses, private parks or playgrounds, archery ranges, and other outdoor recreation uses approved by the Board of Zoning Appeals; and accessory uses, buildings, and structures such as off-street parking and loading facilities, administration, maintenance, and clubhouse building. Outdoor recreation may be private recreational developments or outdoor commercial enterprises. (See BUSINESS.)

(173) **OVERLAPPING DISTRICT OR ZONE.** An additional zoning classification which establishes additional restrictions on the use of land and overlaps other districts on the Zone Map.

(174) **PARK MANAGEMENT.** The person who owns or has charge, care or control of a mobile home park.

(175) **PARK, PUBLIC.** A piece of ground kept for ornamental or recreational use, or an area maintained in its natural state as a public property, owned, operated, or endorsed by a governmental unit.

(176) **PARKING AREA.** An area paved with a hard surface in accordance with specifications set forth in this chapter, other than a street or alley, designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers.

(177) **PARKING SPACE.** A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than 9 feet wide and 20 feet long exclusive of passageways. For computing purposes, the average area of passageways shall be at least 70 square feet per space. Accordingly, the minimum total average area for a parking space is 250 square feet.

(178) **PARTICULATE MATTER.** Finely divided liquid or solid material which is discharged and carried along in the air. This shall not include water droplets, commonly called steam.

(179) **PARTY WALL OR COMMON WALL.** A single unpierced masonry wall that completely separates two separate dwelling units.

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(180) **PERFORMANCE STANDARD.** Criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, and glare or heat generated by or inherent in uses of land or buildings.

(181) **PERMANENT FOUNDATION.** Any structural system transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil. (Sec I.C. 22-11-1-1.5.)

(182) **PERMANENT PERIMETER WALL.** An approved non-load-bearing perimeter structural system composed of a continuous solid or mortared masonry wall having the appearance of a permanent load-bearing foundation characteristic of site-constructed homes, designed to support the loads imposed and extending below the established frost line.

(183) **PERSON.** A corporation, firm, partnership, association, organization, or any other group acting as a unit, as well as a natural person or persons.

(184) **PLACE.** An open, unoccupied, officially designated space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

(185) **PLAN COMMISSION OR COMMISSION OR AREA PLAN COMMISSION OR COMMISSION.** The Switzerland County Area Plan Commission.

(186) **PLAN COMMISSION STAFF.** The Executive Director and any other persons the Switzerland County Area Plan Commission has employed to advise them on matters pertaining to Planning and Zoning.

(187) **PLANT NURSERY.** The growing of plants outside of a structure, intended for wholesale or retail sale.

(188) **PLANTING STRIP.** A section of land not less than ten (10) feet in width intended to contain plant materials and for the purpose of creating a visual separation between uses or activities.

(189) **PLAT.** A map or chart indicating the subdivision or re-subdivision of land,

either filed or intended to be filed for record.

(190) **PREMISES.** A lot, tract, or plat including buildings thereon, if any.

(191) **PRIVATE RECREATIONAL DEVELOPMENT OR FACILITY.** Any land area and/or facilities used or intended for recreational purposes not open to the general public and operated with or without remuneration charges.

(192) **PRIVATE SCHOOL.** Private, primary, grade, high or preparatory school or academy.

(193) **PROFESSIONAL OFFICE.** Office of a member or members of a recognized profession as defined by the United States Bureau of the Census.

(194) **PROFESSIONAL OFFICE CENTER.** An architectural and functional grouping of professional offices and appropriate associated and accessory uses which is the central feature of a site plan composed of building area, parking area, landscaped reservation and plantation, and other land features appropriate for its use as a professional office enterprise, designed to serve residential neighborhoods. Such center shall conform to the standards and requirements of this chapter.

(195) **PROFESSIONAL OFFICE IN RESIDENCE.** An office in the dwelling of a member of the following recognized professions: doctor, dentist, lawyer, engineer, and certified public accountant, provided that the professional service is performed by a member or members of the family occupying such dwelling, that not more than one additional person is employed in rendering such service, that not more than 25% of the gross floor area is devoted to such use, and that there shall not be used any nameplate or sign nor any artificial lighting or any display that will indicate from the exterior that the dwelling is being utilized in part for any purpose other than that of a dwelling.

(196) **PROPERTY LINES.** Those lines bounding a parcel of land.

(197) **PUBLIC FACILITY IMPROVEMENTS AND INSTALLATIONS.** Those facilities and installations which are intended to be accepted for maintenance by a governmental authority or public utility.

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(198) **PUBLIC OR COMMERCIAL SEWAGE OR GARBAGE DISPOSAL PLANT.** A facility either publicly or privately owned and operated providing treatment for sewage and/or garbage disposal.

(199) **PUBLIC UTILITY INSTALLATIONS.** The erection, construction, alteration, or maintenance by public utilities, municipal departments, commissions or common carriers of underground, surface or overhead gas, oil, electrical, steam, pipes, conduits, cables, fire alarm boxes, poles, wires, mains, drains, sewers, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal departments or commissions or for the public health or safety or general welfare.

(200) **RECEIVER.** A television set, radio, communication device or data input device that utilizes the signals from the earth station.

(201) **RECREATIONAL VEHICLE.** A portable vehicular structure designed as a temporary dwelling for travel, vacation and recreational uses which is either a structure mounted on an automobile or truck and designed to be used for human habitation, including sleeping, or identified on the unit by the manufacturer as a travel trailer or recreational vehicle, and is not more than eight (8) feet in width, and not more than thirty-six feet in length.

(202) **RECREATIONAL VEHICLE PARK.** A tract of land which has been developed with all necessary facilities in accordance with a site development plan meeting all legal requirements and which is for short term occupancy by recreational vehicles only. It shall include, but not be limited to, travel trailers, pick-up coaches, motor homes, camping trailers, and tents.

(203) **RESEARCH LABORATORY STRUCTURE.** A building for the accommodation of scientific research facilities such as electronics, engineering, chemical, medical and similar architectural and landscape architectural design.

(204) **RESTRICTED COMMERCIAL FARM ENTERPRISE.** An operation or use which is inherent to or closely associated with a farm or agriculture, but not including industrial grain elevators, industrial mills, abattoirs, the manufacture

of commercial fertilizer, and similar operations which are of an industrial nature. Also, a restricted commercial enterprise is any similar operation which may: (1) Cause stream pollution by the disposal of wastes discharged into streams thus endangering water supply and health, or (2) Release odors to the atmosphere beyond the boundary of the property, which may be strong and beyond the normal expectancy of a farm operation, or (3) Create any unusual or loud noises audible beyond the normal expectancy of a farm operation, or (4) Emit poisonous and injurious fumes and gases beyond the boundaries of the property, or (5) Cause the emission of smoke or particulate matter or cause any undue vibration or excessive glare or heat beyond the boundaries of the property, or (6) Because of the location of its facilities influence adversely the uses of adjacent properties, either existing or proposed.

(205) **RESULTANT DISPLACEMENT.** The maximum amount of motion in any direction. It shall be determined by means of any three component (simultaneous) measuring systems approved by the Plan Commission.

(206) **RESIDENCE DISTRICT.** The R-1 and R-2 zoning district classifications.

(207) **RETIREMENT HOME OR HOME FOR THE AGED.** Same as HEALTH FACILITY.

(208) **RIDING STABLE.** Any stable for the housing of horses which is operated for remuneration, hire, sale, or stabling; or, any stable with a capacity of more than four horses which is not related to the ordinary operation of a farm, whether or not such stable is operated for remuneration, hire, sale or stabling.

(209) **RIGHT-OF-WAY.** An area of land permanently dedicated to provide light, air and access.

(210) **RINGELMANN NUMBER.** The number of the area on the Ringelmann Chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann Chart is described in the U.S. Bureau of Mines, U.S. Department of Interior, Information Circular 8333 (Revision of IC 7718) May 1, 1967, or any adaptation thereof which has been approved. The Chart illustrates graduated shades of gray for use in estimating smoke density. See Definition of OPACITY.

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(211) **ROADSIDE SALES STAND.** A structure for the display and sale of agricultural products, with no space for customers within the structure itself.

(212) **ROADWAY WIDTH.** The paved area of a street measured from back of curb to back of curb.

(213) **ROOMING HOUSE.** A building in which is the primary residence of the owner and in which rooms are provided, for compensation, to three (3) or more, but not exceeding twelve (12), adult persons not related by blood, marriage or adoption to the owner; or which is not the owner's residence and which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other. The term does not include a hotel, motel or multi-family dwelling.

(214) **ROW HOUSE OR TOWN HOUSE.** A series of two or more dwelling units, arranged side by side, separated by common walls between living areas, each unit having one or more levels.

(215) **SANITARY LANDFILL.** A solid waste disposal facility which may include an incinerator, grinder, composting facility or other State Environmental Protection Agency approved facility other than an open dump or facility for storage of contained liquid or semi-solid waste or gas, including, but not limited to environmentally harmful chemicals or radioactive materials of any type. See also definition in I.C. 13-7-22-2(b).

(216) **SEMI-NUDITY.** A state of dress in which clothing covers no more than the genitals, pubic region and/or the female breast, as well as portions of the body covered by supporting straps or devices.

(217) **SERVANTS QUARTERS.** Living quarters within a portion of a main building, or in an accessory building located on the same lot with the main building, used for servants solely employed on the premises with such quarters not being rented or otherwise used as a separate dwelling.

(218) **SERVICE DRIVE, COMMERCIAL.** A street other than a frontage street that runs parallel or generally parallel to the frontal street and mainly located in the space to the

rear of the building(s).

(219) **SEXUALLY ORIENTED BUSINESS. ALSO "ADULT BUSINESS."** A business or commercial establishment that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "Specified Sexual Activities" or the exposure of "Specified Anatomical Areas" or activities when one or more of the persons is Semi-Nude or in a State of Nudity, and as set forth as a special exception use in this Code. The definition of Adult Business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Indiana engages in medically approved and recognized sexual therapy. (The Tri-State Country Club, Inc., is a conforming use and is not included in the definition of an Adult Business as it currently exists.)

(220) **SHOPPING CENTER.** An architectural and functional grouping of retail stores, generally oriented around a supermarket or department store, and appropriate associated and accessory uses, which is the central feature of a site plan or development plan composed of building areas, parking areas, access streets and circulatory ways for vehicles and pedestrians, landscape reservations and plantations and other land features appropriate for its operation as a business enterprise, designed to serve residential neighborhoods or communities and which conforms to the requirements of this Code.

(221) **SIGN.** (See Sec. 153.41 (B) for definition.)

(222) **SLOW BURNING OR INCOMBUSTIBLE.** Materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite, nor actively support, combustion during an exposure for five (5) minutes to a temperature of 1200° F.

(223) **SLUDGE.** Any solid, semi-solid, or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

(224) **SMOKE.** Small gas-borne particles resulting from incomplete combustion,

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consisting predominantly but not exclusively of carbon, ash and other combustible material, that form a visible plume in the air.

(225) **SMOKE UNIT.** The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation. Each reading is then multiplied by the time in minutes during which it is observed. The various products are then added together to give the total number of smoke units observed during the entire observation periods.

(226) **SOIL MAP.** A National Cooperative Soil Survey prepared by U.S.D.A. Soil Conservation Service in cooperation with Purdue Experiment Station and the Switzerland County Soil and Water Conservation District, showing soil types and composition of their locations.

(227) **SOLID WASTE.** Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(228) **SORORITY, FRATERNITY, OR STUDENT COOPERATIVE.** A building providing sleeping and living accommodations for a number of usually unrelated persons and usually associated with an educational institution.

(229) **SPECIAL EXCEPTION.** Permission for a conditional use of land which is granted because certain conditions will be met. This Code specifies what these uses may be. See Sec. 153.28 for definition and requirements.

(230) **SPECIAL SCHOOL.** Any school which has as its primary purpose the instruction, care, and rehabilitation of atypical or

exceptional children or adults such that the usual statutory educational requirements expressly or implicitly do not apply.

(231) **SPECIFIED ANATOMICAL AREAS.** Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and human male genitals in a discernable turgid state, even if completely and opaquely covered.

(232) **SPECIFIED SEXUAL ACTIVITIES.** "Specified Sexual Activities" shall mean and include any of the following: (1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; or (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or (3) Masturbation, actual or simulated; or (4) Human genitals in a state of sexual stimulation, arousal or tumescence; or (5) Excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 4 of this subsection.

(233) **STADIUM OR COLISEUM.** An amphitheater, large theater or other such facility used for public meetings, sports, exhibitions, etc.

(234) **STORAGE.** The existence of any stock, vehicles, equipment or materials enclosed or unenclosed for a period of more than seventy-two (72) hours and not for retail or wholesale display or sale.

(235) **STORAGE WAREHOUSE.** An enclosed structure used as a place for storage of goods or property.

(236) **STORY.** That portion of a building, included between the surface of any floor and surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be the story.

(237) **STORY, HALF.** That portion of a building under a sloping, gable, hip, or gambrel roof, the wall plates on at least two opposite exterior walls of which are not more than three (3) feet above the floor level of such half-story.

(238) **STREET.** A right-of-way or thoroughfare, other than an alley, or place dedicated or otherwise legally established for public use,

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usually affording the principal means of access to abutting property.

(239) **STREET, FRONTAGE.** A street that runs parallel to the frontal street and located within the space between the building(s) and the frontal street.

(240) **STRUCTURE.** Anything constructed or installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure which is located on land which can be used for housing, business, commercial, agricultural or office purposes, either temporarily or permanently. Structure also includes billboards, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs, whether located on a rock, tree, separate structure or part of another structure.

(241) **STRUCTURAL ALTERATION.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the exterior walls or the roof.

(242) **SUBDIVISION.** The division of land parcels as defined in Chapter 81 of the Code of Ordinances of Switzerland County, Indiana, the Town of Vevey, Indiana, or the Town of Patriot, Indiana.

(243) **SWIMMING POOL, PRIVATE.** A swimming pool used only by the owner of the pool and friends as an accessory use at a private residence and not for monetary gain.

(244) **THOROUGHFARE, ARTERIAL.** A street designated for large volumes of traffic movement. Certain arterial streets may be classed as limited access highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

(245) **TOURIST HOME.** A single family building owned and occupied by a person renting out not more than three rooms for overnight accommodation for compensation to transient persons who do not stay for more than seven (7) consecutive days.

(246) **TOWN.** The Town of Vevey, Indiana or the Town of Patriot, Indiana.

(247) **TOWNHOUSE.** A two or two and one-half story dwelling, which may include a basement, and which is normally an integral part of an apartment or multi-family use as set forth in this Code.

(248) **TRADE OR BUSINESS SCHOOL.** Secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or a school conducted as a business enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for the teaching of industrial or technical arts.

(249) **TRANSFER OF OWNERSHIP OR CONTROL OF AN ADULT BUSINESS.** "Transfer of Ownership or Control of an Adult Business" shall mean and include any of the following: (1) The sale, lease or sublease of the business; or (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or (3) The establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business.

(250) **TURNAROUND.** A space on private property that permits the turning around of any passenger vehicle without the necessity of using any public right-of-way to turn around.

(251) **USE.** The employment or occupation of a building, structure or land for service, benefit or enjoyment by a person.

(252) **USE, NONCONFORMING.** See **NONCONFORMING USE.**

(253) **VARIANCE.** A modification of the specific requirements of this Code granted by the Board in accordance with the terms of this Code for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

(254) **VETERINARY HOSPITAL.** A facility for the practice of veterinary medicine with or without provisions for the boarding of animals.

(255) **VIBRATION.** Oscillatory motion transmitted through the ground.

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(256) **VIEWING BOOTH.** Any portion of an "Adult Business" which portion is: (1) Partially enclosed; and (2) Has a floor area of less than 150 square feet; and (3) Is designed for viewing films, motion pictures, video cassettes, computer displays, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas."

(257) **VISION CLEARANCE ON CORNER LOTS.** Also, **INTERSECTION VISIBILITY.** A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of 3 and 12 feet above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting street pavements, and the triangular space is determined by a diagonal line connecting 2 points measured 15 feet equidistant from the intersection of the property lines or the property lines extended at the corner of the lot using each of the street right-of-way lines.

(258) **WASTE PRODUCTS.** Materials, which are not considered sludge or wastewater under (327 IAC 6), but are generated as waste in the production process and may be disposed of through application upon or incorporation into the soil.

(259) **WASTEWATER.** Discarded pollutant-bearing water or other liquid waste which is generated by industrial, municipal, or semi-public facilities.

(260) **YARD.** A space on the same lot with a building, which is open, unoccupied and unobstructed by structures, except as otherwise provided in this Code.

(261) **YARD, FRONT.** A yard extending across the full width of the lot or in the case of a corner lot extending also along the length of the lot abutting the side street, unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar appurtenances, the depth of which is the least distance between the front lot line and the building line.

(262) **YARD, REAR.** A yard extending across the full width of the lot between the rear of the principal building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than thirty percent

(30%) of the required space, and steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the rear lot line and the rear of such principal building.

(263) **YARD, SIDE.** A yard between the building and side lot line, extending from the front yard or from the front lot line where no front yard is required, to the rear yard, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches from the building, or open or lattice-enclosed fire escapes or fireproof outside stairways, projecting not more than four (4) feet, and certain accessory uses in accordance with the provisions of this Chapter. The width of the required side yard is measured horizontally at 90 degrees with the side lot line from the nearest point of the building.

(264) **ZONE MAP.** A map entitled: "Zone Map, Switzerland County, and the Town of Vevay, Indiana, and Patriot, Indiana," dated 1996, and any amendments thereto.