

Town of DeMotte, Indiana

Zoning Ordinance

Revised March 29, 2005

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TITLE 1

SHORT TITLE; INTERPRETATION; JURISDICTIONAL AREA; MASTER PLAN

1.1 SHORT TITLE. This Ordinance and all amending Ordinances shall be known as the Zoning Ordinance for the Town of DeMotte, Indiana, and shall be referred to as “Zoning Ordinance” or “Ordinance” in this document.

1.2 GENERAL.

1.2.1 In interpreting and applying the development standards of this Ordinance, they shall be held to be the minimum requirements for the public health, safety, comfort, morals, convenience, and general welfare. The Plan Commission and Advisory Board of Zoning Appeals shall exercise the fullest authority granted by this Ordinance and by the Advisory planning law, I.C. 36-7-4.

1.2.2 This Ordinance is not intended in any way to interfere with easements, covenants, or other agreements between individuals or entities.

1.2.3 Where this Ordinance imposes greater restrictions upon the use of buildings or land, such as but not limited to the height, area, and bulk requirements of this Ordinance, than are required by any easements, covenants, or other private agreements, then to the extent that the actual use of land or buildings inconsistent with this Ordinance does not meet the legal requirements herein for a legal nonconforming use, the provisions of this Ordinance shall control.

1.2.4 Any disputed question of interpretation or construction of the provisions of this Ordinance, Comprehensive Plan, Master Plan, Subdivision Ordinance, Thoroughfare Plan, Zoning Districts Map, or any other report, chart, plat or descriptive material being a part thereof, shall be determined by the Plan Commission at a public meeting, which determination shall have the full force and effect of law until modified, amended or changed by the Plan Commission or the Town Council of DeMotte.

1.3 JURISDICTIONAL AREA. This Ordinance shall apply to all areas within the corporate limits for the Town of DeMotte, as well as all areas lying within two (2) miles of said corporate limits which have been designated as the planning Jurisdictional Area by the DeMotte Town Council. Any questions which arise as to the exact limits of the Jurisdictional Area shall be resolved by the Plan Commission in accordance with the resolutions, ordinances, and maps adopted for this purpose, by or on behalf of said Plan Commission.

1.4 CONFORMANCE WITH COMPREHENSIVE PLAN (MASTER PLAN). In order to accomplish the purposes of this Ordinance, the provisions of the Thoroughfare Plan, Master Plan and Comprehensive Plan, as well as any other documents, studies or plans prepared for and adopted by the Town as part of said plans for the purposes of planning and zoning, may be consulted in the making of planning and zoning decisions.

TITLE 2

DEFINITIONS

2.1 DEFINITIONS. For the purposes of this Ordinance, certain terms and words are hereby defined.

1. **ACCESSORY BUILDING OR USE** - An accessory building or use is one which is subordinate to and serves a principal building or principal use; is subordinate in activity, extent, or purpose to the principal building or principal use served; and, shares the same lot or, for building permit purposes, combines one or more parcels in relation to one principal use.
2. **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 production of plants and animals useful to man, including the preparation of these products for man's use. In this broad use, it includes farming, horticulture, forestry, dairying, sugar making, etc.
3. **ALLEY** - A permanent public service way or right-of-way dedicated to a public use, other than a crosswalk or easement, designed to provide a secondary means of access for the special accommodation of abutting property, and not being improved as, or capable of being improved as, a street meeting the design requirements of this Ordinance.
4. **APARTMENT** - A room or suite of rooms in a multiple-family building which is fully self-contained and is used as a single housekeeping unit.
5. **AUTOMOBILE AND TRAILER SALES AREA** - An open area used for the display or sale of new or used automobiles or trailers to be towed by automobiles, and where no repair work is undertaken except minor incidental repair on automobiles or the trailers to be displayed and sold on the premises.
6. **BOARD; BOARD OF ZONING APPEALS** - The Advisory Board of Zoning appeals of the Town of DeMotte, Indiana.
7. **BOARDING HOUSE** - A building not open to transients, where lodging and/or meals are provided regularly for compensation for not more than three (3) unrelated persons. Also known as a lodging house.
8. **BUILDABLE AREA** - The space remaining on a lot after the minimum open space requirements of this Ordinance have been complied with.
9. **BUILDING** - Any structure having a roof supported by columns or walls. When

any portion thereof is completely separated from every other portion thereof by a division wall without passageway openings, then each such portion shall be deemed to be a separate building.

10. **BUILDING COMMISSIONER** - The Building Commissioner of the Town of DeMotte, Indiana.

11. **BUILDING OR ZONING LOT** - The legal description which describes that parcel of land on which the principal building or use is located, as provided for building application purposes.

12. **BUILDING, NON-CONFORMING** - A building which lawfully existed at the time of the adoption of this Zoning Ordinance or any amendments thereto, but which fails to comply with this Ordinance.

13. **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 or structure is attached to the principal building in a substantial manner, as by roof, such accessory building or structure shall be considered a part of the principal building.

14. **BUILDING SETBACK LINE** - The line nearest the front of and substantially paralleling the lot line, establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

15. **BULK STORAGE PLANTS** - A bulk storage plant is a location where gasoline or other volatile flammable liquids are stored in tanks and from which such products are distributed for delivery to end users or to points of resale to end users, usually by tank truck. The term does not include gasoline dispensing and service stations as defined herein.

16. **CAMPGROUND** - Any lot, parcel, or tract of land used for occupancy by two or more campsites in which only tents and recreational vehicles are utilized for overnight occupancy.

17. **CERTIFICATE OF OCCUPANCY** - A certificate signed by the Building Commissioner stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this Ordinance and all applicable building codes of the Town.

18. **CHURCH** - A building used for the conduct of religious services, not including rescue missions or temporary structures used for revival activities.

19. **CLINIC** - Medical, mental health, and dental office and medical laboratory facilities operated in conjunction with normal clinical health services; Board and room are not provided and patients do not remain on the premises of such facility overnight.

20. COMMISSION - The Town of DeMotte Advisory Plan Commission.
21. CONFINED FEEDING - Any confined feeding of cattle, swine , sheep, poultry or fowl; includes feedlots.
22. 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 or Board. Where required by this Code, a development plan shall include, except as otherwise provided elsewhere in this Code:
- (a) the proposed name of the development;
 - (b) the name and address of the developers;
 - (c) the location by public way, township, and section;
 - (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 (if required by the Commission or Board);
 - (m) the contours with spot elevations of the finished grade and the directions of storm runoff (if required by the Commission or Board);
 - (n) the layout of proposed lots with their numbers and dimensions; and
 - (o) the land use density factors.
23. DISTRICT - A portion of the territory within the jurisdiction of the DeMotte Plan Commission for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land, the use of open spaces abutting buildings and open uses within such portion are established in this Ordinance.

24. DRAINAGE PLAN - Where required to be submitted by this Ordinance, a drainage plan shall consist of a clear and simple explanation of how drainage will be handled with respect to a proposed building or development. Drawings and diagrams are encouraged but are not required. This definition does not supercede drainage requirements set forth in the Subdivision Code.
25. 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.
26. DWELLING, DUPLEX - A two (2) family dwelling in which separate living quarters are arranged side-by-side, or one over the other, in a common building.
27. DWELLING, MULTIPLE - A building designed for occupancy by more than two (2) families.
28. DWELLING, SINGLE FAMILY - A building designed for occupancy by no more than one (1) family.
29. DWELLING UNIT - A room or group of rooms occupied or intended to be occupied as a single, self-contained housekeeping unit.
30. EASEMENT - A grant by the property owner for the use or restriction of use of land for specified purposes or reasons.
31. EDUCATIONAL INSTITUTION - Public or parochial, special, 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 other than a business or trade school for profit.
32. FAMILY - One or more persons related by blood, marriage, or adoption (excluding servants), or a group of not more than four persons (including servants and roomers) who need not be related by blood, marriage, or adoption, living together and maintaining a common household, but not including sororities, fraternities, or other similar organizations, "half-way" houses or "group homes."
33. FARM - A tract of land comprising greater than twenty (20) acres which is devoted to agriculture, including but not limited to the growing of crops, pasturage; animal husbandry; the growing of trees, shrubs and plants and other recognized agricultural pursuits and including accessory buildings essential to the agricultural operation . Accessory buildings may include barns; equipment and animal sheds; farm residences for the owner, operator or farm assistants; but not including industrial or commercial operations, buildings or structures. Confined feeding operations are considered farm operations, but are subject to the regulation of special exception requirements of this Ordinance.

34. FARM PRODUCE STAND - A structure used by the land owner during the harvesting season for selling agricultural products directly to the consumer, not for re-sale, where the owner and/or members of his/her family is directly involved in the sales process.
35. FLOOR AREA, GROSS - The total area of a building computed on a horizontal plane covered by the structure used for a particular category exclusive of garages, patios, and porches, and accessory areas used for ingress and egress.
36. FRONTAGE - All the property on one side of a street between: (a) two intersecting streets (crossing or terminating) measured along the line of the street; (b) if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street; or (c) between property lines.
37. GASOLINE DISPENSING AND SERVICE STATIONS - A gasoline dispensing and service station is a location where gasoline or other volatile flammable liquids or liquefied flammable gases are transferred to the fuel tanks (including auxiliary fuel tanks) of self-propelled vehicles. Body shops and activities involving the storage of unlicensed vehicles are excluded from this definition.
38. HOME OCCUPATION - An occupation for profit, carried on by a member of the family residing on the premises, in conjunction with which no commodity is regularly sold from the home, no person is employed other than a member of said family, no change in the external appearance of the building is caused thereby, and no accessory building is used for such occupation.
39. HOTEL - A building in which lodging accommodations are designed for use by transients, travelers, or temporary guests with no provisions in said accommodations for cooking in any individual room or suite, in contradistinction to a Boarding or Lodging House.
40. IMPROVEMENT LOCATION PERMIT - A site plan review permit signed by the Building Commissioner stating that a proposed improvement complies with the provisions of this Ordinance.
41. JUNK YARD - Open area where waste, scrap metal, paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled including vehicle and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building. Storage of inoperable or unlicensed motor vehicles or trailers shall be considered a junk yard for purposes of this Ordinance.
42. JURISDICTION OF THE COMMISSION. JURISDICTIONAL AREA - The Town of DeMotte, Indiana, and the contiguous unincorporated territory generally lying within two (2) miles of the corporate limits of the Town of DeMotte, as designated on

the Districts and Zoning Map.

43. KENNEL - Any lot or premises on which four or more dogs, at least four months of age, are kept for compensation for boarding, breeding, or training.

44. LANDFILL - A site used for the disposal of garbage, waste, or debris.

45. LODGE OR CLUB - An association of persons for some common purpose, not-for-profit, but not including a group organized primarily or which is actually engaged to render a service which is customarily carried on as a business.

46. LOT - A parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded plat, fronting on an officially designated and approved public right-of-way of such size and shape which permits a building or use which complies in all respects with the provisions of the Ordinance.

47. LOT AREA - The total square footage within the lot lines, except any area within a public highway right-of-way line.

48. LOT, CORNER - A lot bordering on two (2) streets which intersect.

49. LOT, DEPTH OF - The mean horizontal distance between the front lot line and the rear lot line of a lot, measured by totaling both side lot line measurements and computing the average depth.

50. LOT, DOUBLE FRONTAGE - A lot, other than a corner lot, which has frontage on two (2) streets

51. LOT, INTERIOR - Any lot other than a corner lot.

52. LOT OF RECORD - A lot which is part of a subdivision, the plat of which has been approved in accordance with the Subdivision Control Ordinance or prior ordinances and has been recorded in the Office of the County Recorder of Jasper County, Indiana, or a parcel of land, the deed to which has been recorded in the Office of the County Recorder of Jasper County, Indiana, on or prior to the date of passage of any Subdivision Control Ordinance which sets forth requirements for plat approval.

53. LOT WIDTH - The distance between side lot lines measured along the building setback line.

54. MANUFACTURED HOME - A dwelling unit, designed and built in a factory after January 1, 1981, which bears a seal certifying that it was built in compliance with the Federal Manufacturing Housing Construction and Safety Standards Law (1974 U.S.C.. 5401, et seq.) as defined in Ind. Code 36-7-4-1106, Acts 1981 P.L. 312 1.

55. MANUFACTURING OR INDUSTRY - Any use, in which the major activity is the treatment, processing, rebuilding or repairing of finished products, or bulk storage of materials, products, or items, and where the finished product is not acquired by the user on the premises.

56. MIGRANT WORKER - A person or family who relocates from place to place by himself or with members of his family according to the seasons of the year in order to present himself for hire to assist local farmers in agricultural activities.

57. MOBILE HOME - Any portable structure not erected on a lot and mounted or capable of being mounted on wheels or of being transported over a street, including structural additions, and which is designed, constructed, reconstructed or structurally altered in such manner as will permit the occupancy thereof as a dwelling. Any such structure shall be deemed to be a mobile home whether or not the wheels have been removed and whether or not it is resting upon a temporary or permanent foundation. Such structures shall for purposes of definition be those prototypes bearing a recognition approval from the Indiana Administrative Building Council. (e.g., double wide mobile home.)

58. MOBILE HOME COURT OR PARK - A tract of land which has been developed with all required facilities and services in accordance with a site development plan meeting all Ordinance requirements and which is intended for the purpose of providing a site for mobile homes for human habitation either free of charge or for revenue purposes, including any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park.

59. MOBILE HOME SUBDIVISION - A residentially platted tract of land for mobile and modular homes which has been developed with all necessary facilities in accordance with a site development plan and meeting all applicable Ordinance and Subdivision Control Ordinance requirements.

60. MOTEL - (Motor Court, Tourist Court, or Motor Lodge) - A building or a series of detached buildings used as dwelling units for automobile or public transportation transients, travelers, or temporary guests. Individual dwelling units contain beds, bathroom and closet space, and with the exception of the managers' quarters, no cooking facilities are offered.

61. NURSERY OR DAY CARE CENTER - A person or organization which provides day care service for pre-school children.

62. NURSING HOME - Facility which on its premises provides residential nursing or medical services or care on a continuing daily basis. Examples of nursing home facilities include, but are not limited to, convalescent homes, maternity homes, rest homes, homes for the aged, and the like.

63. OPEN AIR BUSINESS/SALES LOT - Any commercial establishment in which products are displayed and/or sold out of doors.
64. ORDINANCE; THIS ORDINANCE - The Town of DeMotte Zoning Ordinance.
65. PARKING SPACE, OFF-STREET - A space of not less than one hundred eighty (180) square feet for parking automobiles, together with properly related access to a public street or alley and maneuvering aisle, as required by this Ordinance for a particular use.
66. PLAN COMMISSION - The Town of DeMotte Advisory Plan Commission.
67. PLANNED UNIT DEVELOPMENT - (PUD) - A single parcel or contiguous parcels of land intended to be developed in accordance with an overall design plan which may vary specific subdivision zoning regulations and may have a mixture of land uses.
68. PRINCIPAL USE - The main use of the land or buildings as distinguished from a subordinate or accessory use.
69. PRIVATE SEWER - A sewage disposal system which is not constructed, installed, maintained, operated, and owned by a municipality, taxing district established for that purpose, or a utility under the jurisdiction of the Indiana Utility Regulatory Commission.
70. PRIVATE WATER - A water supply which serves only one lot.
71. PUBLIC SEWER - A sewage disposal system which is constructed, installed, maintained, operated, and owned by a municipality, conservancy district established for that purpose, or a utility under the jurisdiction of the Indiana Utility Regulatory Commission .
72. PUBLIC WATER - A water supply which is constructed, installed, maintained, operated, and owned by a municipality, taxing district established for that purpose, or a utility under the jurisdiction of the Indiana Utility Regulatory Commission .
73. RIGHT-OF-WAY - A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of law.
74. SHOPPING CENTER - A group of two or more contiguous business establishments, on a tract of land containing one (1) or more lots, originally planned and developed as a single unit, with immediate adjoining off-street parking facilities.
75. SIGN- Any advertising sign, billboard, device, board or structure or part thereof, painted or affixed with a display of words or symbols arranged in a manner which is

intended to draw the attention of a person viewing such display, to communicate a message for the purpose of influencing that person's thoughts or behavior.

76. 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 wall or the roof.

77. STRUCTURE - Anything constructed or erected on or in the ground, the use of which requires a permanent location on or in the ground, or which is attached to something permanently located on or in the ground.

78. SWIMMING POOL - A swimming pool is a receptacle for water, either temporary or permanent, situated above or below the surface of the ground capable and intended to hold water of more than two (2) feet in depth for the purpose of full or partial immersion of human beings, including all appurtenant equipment.

79. VARIANCE, DEVELOPMENT STANDARDS - A variation of the lot size or width requirements, yard requirements, height restrictions, sign regulations, parking and loading requirements, or other development standards from those set forth in the Zoning Ordinance, which may be granted by the Board of Zoning Appeals in accordance with the provisions of this Ordinance.

80. VARIANCE, USE - A use of land different than that permitted under the district use classifications of this Ordinance, where the permitted use would cause unnecessary hardship if its terms are strictly applied because of some condition peculiar to the property involved, which may be granted by the Board of Zoning Appeals in accordance with this Ordinance.

81. VEHICLE AND PERSONAL PROPERTY SALVAGE AND STORAGE - Any place where two or more motor vehicles, not in running condition, or lacking current license plates, including inoperable farm equipment, and parts thereof, are stored ; the commercial salvaging of any goods, articles or merchandise.

82. VETERINARY HOSPITAL; CLINIC - Any building or portion thereof designated or used for the medical care, observation, or treatment of domestic animals and birds; for the purposes of this Ordinance, an Animal Hospital shall also be considered a Veterinary Hospital or Clinic.

83. YARD - The open space on the same zoning lot with a principal building or group of buildings between the lot lines and any structure including its overhang or porch.

84. ZONING ORDINANCE - Reference to "Zoning Ordinance" herein shall be construed as the Town of DeMotte Zoning Ordinance.

TITLE 3

DISTRICTS AND ZONING MAP

3.1 DISTRICTS. The areas within the jurisdiction of the DeMotte Plan Commission, including both the area within the corporate limits and the area within the buffer area, are separated into ten (10) districts:

<u>District Designation</u>	<u>Type of District</u>
FP	Flood Plain
A	Agricultural
R-1	Residential, low density
R-2	Residential, medium density
R-3	Residential, high density
B-1	Downtown Business
B-2	General Business
I-1	Limited Industrial
I-2	Industrial
PUD	Planned Unit Development

3.2 ZONING MAP.

3.2.1 The Zoning Map, which reflects the district designations of the various areas within the jurisdiction of the DeMotte Plan Commission, is adopted as a part of this Ordinance, and is incorporated herein by reference, including any amendments thereto.

3.2.2 In determining the exact boundaries of any district as shown on the Zoning Map, the following rules shall apply;

3.2.2.1 Unless shown clearly to the contrary on the zoning map, district boundaries shall be the center lines of streets, alleys, highways, right-of-ways, lot lines or extensions along such lot lines, or natural divisions such as streams or ditches.

3.2.2.2 In unsubdivided areas or where a district boundary divides a lot, the exact location of the boundary, where one is not provided in any Ordinance amending the Zoning Map, shall be determined by the use of the scale of the Zoning Map.

3.2.2.3 The Plan Commission shall interpret the intent of the Zoning Map and shall resolve any questions concerning the exact location of the district boundary lines.

3.3 CLASSIFICATION OF ANNEXED AREAS.

3.3.1 Any areas annexed by the Town or which are subsequently made a part of the buffer area surrounding the Town, shall unless otherwise indicated in the annexing or adopting Ordinance, retain the zoning use classifications of the previous zoning authority.

3.3.2 To the extent that it is unclear what the previous zoning classification was or where there is no appropriate corresponding zone within the provisions of this Ordinance, all areas brought within the jurisdiction of the Town of DeMotte shall be considered to be zoned "A", Agricultural.

3.4 TABLE OF PERMITTED USES

The Table of Permitted Uses, attached to this Zoning Code as an Appendix, is incorporated herein as an enforceable part of the Zoning Code. The uses listed in the Table of Permitted Uses may be located only in the Districts indicated in the Table, with or without a special exception as indicated.

The Table of Permitted Uses may be amended from time to time pursuant to the procedures for amending zoning ordinances at Ind. Code 36-7-4-600 et. seq.

TITLE 4

NONCONFORMING USE SPECIFICATIONS

4.1 CONTINUANCE OF NONCONFORMING USES AND BUILDINGS.

4.1.1 Any lawfully established use of land or of a building, existing as of the effective date of the Zoning Ordinance of December 22, 1980 or of any amendments thereto including amendments to this Ordinance, that does not conform to the applicable provisions of this Ordinance shall be deemed to be a nonconforming use and may be continued, except as otherwise provided herein.

This provision requires that the use be lawfully established prior to the adoption of the DeMotte Zoning Ordinance or any applicable amendments thereto; thus, any uses established in conflict with any previous zoning regulations, whether administered by the Town of DeMotte or by Jasper County, shall not be considered to have been a “lawfully established use”.

4.1.2 The nonconforming use of any building or land may be continued indefinitely, provided there is no physical change of the existing lawful building or structure other than necessary maintenance and repair. No Structural Alteration shall be made in a building or other structure containing a nonconforming use, except in the following situations:

4.1.2.1 When the alteration is required by law;

4.1.2.2 When the alteration will result in eliminating the nonconforming use;

4.1.2.3 A building in a residential district, containing residential nonconforming uses, may be altered to improve the livability of the building, provided that no additional units are created;

4.1.2.4 Any normal maintenance, repair, or incidental alterations which do not extend or intensify the nonconforming use.

4.2 DISCONTINUANCE OF A USE

4.2.1 Wherever any part of a building, structure, or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this Ordinance, such premises shall not thereafter be used, occupied by, or revert to a nonconforming use.

4.2.2 In the event that a nonconforming use of any building or land is discontinued for a period of one year, the use of said building or land shall thereafter conform to the

uses permitted in the district in which it is located, as provided by this Ordinance.

4.2.3 A nonconforming use may, with the approval of the Plan Commission, be changed to another nonconforming use. Such approval shall be premised upon the determination that the change in the nonconforming use of the building or land will not adversely affect the character of the neighboring uses. Further, once a nonconforming use has been changed to another nonconforming use, it may not thereafter revert to the prior nonconforming use.

4.3 DAMAGE OR DESTRUCTION OF NONCONFORMING USE.

4.3.1 If a building or other structure containing a nonconforming use is damaged or destroyed to an extent less than fifty percent (50%) of its replacement value, based upon prevailing costs at the time of damage, the building may be restored to its original condition. The occupancy or use of such building, which existed at the time of the damage or partial destruction, may be continued.

4.3.2 If a building or other structure containing a nonconforming use is damaged or destroyed to an extent of fifty percent (50%) or more of its replacement value, based upon prevailing costs at the time of damage, the building or other structure can be rebuilt or used thereafter only for a conforming use which complies with use classifications and development standards for the District in which it is located. Notwithstanding the foregoing, the Board of Zoning Appeals may, upon written application by the owner, conduct a public hearing to determine whether the rebuilding or repair of the building or structure, and the continuation of the nonconforming use, should be allowed. A decision by the Board of Zoning Appeals under this section shall be based upon the same criteria upon which use variance decisions are based.

4.4 ADDITIONS AND ENLARGEMENTS.

4.4.1 A nonconforming use may be enlarged or extended only if the entire lot, including any building or structures, is thereafter devoted to a conforming use, and is made to conform with all of the regulations of the district in which it is located.

4.4.2 No land or building partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.

4.5 PERMITS.

4.5.1 Additions to or enlargements of a nonconforming use involving renovation, structural repairs, change or alterations of use, including all remodeling must have an appropriate building permit.

4.5.2 Nothing contained in this Title shall require any change in the plans for the

construction or designated use of a building for which an Improvement Location Permit or Building Permit has already been issued, as a result of a subsequent change to the Zoning Ordinance, provided actual construction is commenced within one year of the date of issuance of the permit, and is completed within two years of the issuance of the permit in accordance with Section 5.8.2 of the Zoning Ordinance. This Section does not change the time limits for commencement and completion of construction set forth in Section 6.16 of the Zoning Ordinance.

TITLE 5

ADMINISTRATION BY ADVISORY PLAN COMMISSION

5.1 ESTABLISHMENT. The Advisory Plan Commission of the Town of DeMotte has been established in accordance with the provisions of the statutes of the State of Indiana and all acts amendatory thereto.

5.1.1 Composition and Appointment. The Advisory Plan Commission shall be composed of nine (9) members appointed in accordance with the requirements of I.C. 36-7-4-207(b), I.C. 36-7-4-213, and I.C. 36-7-4-214:

- A. The Town Council as a whole shall appoint three (3) persons, who must be elected or appointed Town officials or employees in the town government, as members.
- B. The President of the Town Council shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.
- C. The executive of Jasper County shall appoint two (2) additional citizen members, who must reside in the unincorporated “buffer” zone, and who may not both be of the same political party. Initially, one member under this subsection 6.2(c) shall be appointed for a term of one (1) year and the other a term of (4) years. The additional citizen members are entitled to participate and vote in all deliberation of the Advisory Plan Commission.

5.1.2 Qualifications of Citizen Members. Each citizen member shall be appointed because of the member’s knowledge and experience in community affairs, the member’s awareness of the social, economic, agricultural, and industrial problems of the area, and the members’ interest in the development and integration of the area. A citizen member may not hold other elective or appointive office in municipal, county, or state government, except in the case of the board of directors for public utilities or board of trustees for utilities created under I.C. 8-1-11.1, and except as otherwise permitted by law. A citizen member must be a resident of the jurisdictional area of the Advisory Plan Commission.

5.1.3 Appointment and Terms of Citizen Members Appointed by the President of the Town Council. Upon establishment of the Advisory Plan Commission, two (2) citizen members were appointed for a term of three (3) years and two (2) for a term of four (4) years. Each citizen member’s term expires on the first Monday of January of the third or fourth year, respectively, after the year of the member’s appointment.

5.1.4. Removal for Cause. The appointing authority may remove a member from the Advisory Plan Commission for cause. The appointing authority must mail notice of the

removal, along with written reasons for the removal to the member at his or her residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of Jasper County. The court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

5.1.5. Vacancies. If a vacancy occurs, then the appointing authority shall appoint a member for the unexpired term of the vacating member.

5.2 ORGANIZATION. At its first regular meeting each year, the Advisory Plan Commission shall elect from its members a president and vice-president. The vice president may act as president of the Advisory Plan Commission during the absence or disability of the president. In the event of the absence or disability of both the president and vice-president, the remaining members shall determine at the beginning of each meeting who shall serve as the acting president.

5.3 QUORUM. A majority of the entire membership of the Advisory Plan Commission, who are qualified by this Ordinance to vote, shall constitute a quorum. No action of the Advisory Plan Commission is official unless authorized by a majority of the entire membership of the Advisory Plan Commission.

5.4 RULES OF PROCEDURE. In addition to the rules and procedures set forth in this Ordinance, the Advisory Plan Commission may adopt rules and regulations as it may deem necessary to effectuate the provisions of this Ordinance.

5.5 MEETINGS AND RECORDS. All meetings of the Advisory Plan Commission shall be open to the public. The Advisory Plan Commission shall keep minutes of its proceedings and actions and record the vote on each matter before it. The minutes and records shall be sited in the office of the Advisory Plan Commission as a public record.

5.6 ENFORCEMENT OFFICER. The Building Commissioner is hereby designated and authorized to enforce the provisions of the Zoning Ordinance.

5.7 IMPROVEMENT LOCATION PERMIT REQUIRED; FEE. Within the jurisdiction of the Town of DeMotte Advisory 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 to the Zoning Ordinance, and an improvement location permit for such structure, improvement, or use has been obtained from the Building Commissioner prior to any change in the use of land or the construction, erection, or structural alteration of any building or structure. Provided, that no such permit is required for building(s) or structure(s) (other than a farm residence for the owner, operator, or farm assistants) used exclusively for agriculture on a lot having a farm as its principal use. A temporary improvement location permit may be authorized by the Board of Zoning Appeals with a definite time limit attached thereto. The fee for an improvement location permit and for a temporary improvement location permit shall be as established from time to time by resolution of the Town Council.

5.7.1 Application for an Improvement Location Permit. Any person who applies 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) day period may be waived by the Building Commissioner. The site plan shall be drawn to approximate scale showing the following items:

1. Legal or site description of the real estate involved.
2. Location and size of all buildings and structures.
3. Width and length of all entrances and exits to and from said real estate.
4. All adjacent and adjoining roads or highways.
5. Lot number.
6. Actual shape and dimensions of the lot to be built upon.
7. Front, side and rear yard line.
8. Number of families or house-keeping 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 Ordinance.
9. Any other items required by this Ordinance.

Applications including site plans or development plans shall be filed with and shall become a permanent record of the Plan Commission.

5.7.2. Each Improvement Location Permit shall expire one year after its issuance date. Construction must commence within the one year period. At any time prior to the expiration date, the holder of an Improvement Location Permit may apply to the Building Commissioner one time only for an extension of the Improvement Location Permit of up to one year, which may be granted for good cause shown. In no event may an Improvement Location Permit permit construction to begin more than one year from the date of issuance, or permit construction to be completed more than two years from the date of issuance. In the event an Improvement Location Permit expires before construction is commenced or completed, the holder of the expired Improvement Location Permit must apply for a new Improvement Location Permit that conforms to the requirements of the Zoning Ordinance in effect at the time of reapplication.

5.7.2.1 The holder of an Improvement Location Permit may petition the Building Commissioner for an extension of the construction commencement or completion deadlines in this Section, which may be granted for good cause shown. The holder of the Improvement Location Permit may petition only once for an extension of each deadline.

5.7.3. This Section does not change the limits for commencement and completion of

construction set forth in Section 6.16 of the Zoning Ordinance.

5.8. CERTIFICATE OF OCCUPANCY.

No land shall be occupied or used; no building constructed, reconstructed, or structurally altered, shall be occupied or used; and no change in use shall be made in any building or part thereof, until a Certificate of Occupancy has been issued by the Building Commissioner in accordance with Title 28 of the Zoning Code, stating that the building and use comply with all of the provisions of this Ordinance applicable to the building or premises or the use in a district in which it is located. The fee for a Certificate of Occupancy shall be established by resolution of the Town Council.

5.9. REZONINGS OR ORDINANCE TEXT AMENDMENTS. Any individual or entity seeking a rezoning or an amendment to the text or a partial repeal of the Zoning Ordinance shall make application on the appropriate form available at the DeMotte Town Hall, in accordance with the provisions of I.C. 36-7-4-602(c) and I.C. 36-7-4-602(b), respectively.

5.9.1 Hearing of Proposal and Notice. Before it certifies a proposed rezoning or an amendment to the text or a partial repeal of the Zoning Ordinance to the Town Council under the provisions of I.C. 36-7-4-605, the Plan Commission must hold a public hearing and give notice in accordance with the provisions of I.C. 36-7-4-604. The Hearing date shall be set by the Plan Commission at least one month prior to the date of the hearing. In addition, a certified list furnished by the applicant shall be filed of all individuals or entities who own property within three-hundred (300) feet of the property to be rezoned, and separate notices shall be mailed by certified mail to each such individual or entity by the applicant. The applicant or petitioner shall pay the cost of the notice.

5.9.2 Certification of Proposal. A rezoning proposal or a proposal to amend or partially repeal the text of the Zoning Ordinance may be certified to the Town Council by the Plan Commission with a favorable recommendation, an unfavorable recommendation, or no recommendation.

5.9.3 Proposal to Change Zone Map-Rezonings. The Town Council shall consider the recommendation (if any) of the Plan Commission in accordance with the provisions of I.C. 36-7-4-608 to change the zone map (rezone) incorporated by reference into the Zoning Ordinance.

5.9.4 Proposal to Amend or Partially Repeal Text. The Town Council shall consider the recommendation (if any) of the Plan Commission to amend or partially repeal the text of the Zoning Ordinance in accordance with the provisions of I.C. 36-7-4-607.

5.9.5 Vote Required for Legislative Action. The Town Council may take

legislative action under I.C. 36-7-4-607 or I.C. 36-7-4-608 of the Advisory Planning Law only by vote of at least a majority of all the elected officials of the Town Council.

TITLE 6

ADVISORY BOARD OF ZONING APPEALS

6.1 ESTABLISHMENT. The Advisory Board of Zoning Appeals of the Town of DeMotte has been established in accordance with the provisions of the statutes of the State of Indiana and all acts amendatory thereto.

6.2 COMPOSITION AND APPOINTMENT. The Board of Zoning Appeals shall be composed of five (5) members appointed in accordance with the requirements of I.C. 36-7-4-902:

A. Three (3) members of the Board shall be appointed by the President of the Town Council, all of whom shall be residents of the Town, and none of whom shall hold any other elective or appointive office, except that one (1) of the three members shall be appointed from the citizen membership of the DeMotte Plan Commission.

B. One (1) member of the Board shall be appointed by the Town Council as a whole who shall be a resident of the Town.

C. One (1) member of the Board shall be appointed by the Plan Commission and shall be one of the members of the Plan Commission who represents the unincorporated "buffer" area.

6.2.1 Restrictions on Holding Office. None of the members of the Board of Zoning Appeals may hold other elective or appointive office, except as permitted by I.C. 36-7-4-902, in municipal, county or State government.

6.2.2 Term of Appointments. Appointments for the members of the Board of Zoning Appeals shall be in accordance with the following provisions:

6.2.1.1 All members of the Board of Zoning Appeals shall be appointed to serve four (4) year terms. All terms shall expire on the thirty-first (31st) day of December of the year in which the appointment terminates.

6.2.1.2 All members of the current Board of Zoning Appeals as of the effective date of this Ordinance may serve the remainder of their term, and the membership of the various appointees shall be brought into conformance with these provisions upon the expiration of the appropriate terms.

6.2.3 Vacancies and Absences. If a vacancy occurs among the membership of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate in any hearing or decision of the Board if a

regular appointed member has a disqualification under I.C. 36-7-4-909 and subsection 6.2.4 of this Title, or is otherwise unavailable to participate in the hearing or decision. An alternate member appointed under this subsection shall have all of the powers and duties of a regular member while participating in the hearing of decision.

6.2.4 Conflict of Interest. A member of the Board of Zoning Appeals may not participate in a hearing or decision concerning a zoning matter in which the member has a direct or indirect financial interest. The Board of Zoning Appeals shall enter in its records:

- (1) The fact that a regular member has a disqualification; and
- (2) The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

6.2.5 Removal for Cause. The appointing authority may remove a member from the Board of Zoning Appeals for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member's residence address. A member who is removed may, within thirty (30) days of receiving notice of the removal, appeal the removal to the circuit or superior court of the County.

6.3 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 a secretary and such other employees as are necessary for the discharge of the Board's duties, all in conformity to and in compliance with salaries and compensations fixed by the Town Council. The vice-chairman shall have the authority to act as chairman during the absence or disability of the chairman, and in the event of the absence or disability of both the vice chairman and the chairman, the remaining members shall determine at the beginning of each meeting who shall serve as the acting chairman.

6.4 QUORUM. A majority of the entire membership of the Board of Zoning Appeals shall constitute a quorum. No action of the Board is official unless authorized by a minimum of three (3) members of the Board.

6.5 RULES OF PROCEDURE. In addition to the rules and procedures set forth in this Ordinance, the Board may adopt rules and regulations as it may deem necessary to effectuate the provisions of this Ordinance.

6.6 MEETINGS AND RECORDS. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, records of its examinations, and other official actions, prepare findings, and record the vote on each matter before it. All minutes and records shall be filed in the office of the Board of as a public record. The Board shall in all cases heard by it make written findings of fact.

6.7 APPEALS FROM BUILDING COMMISSIONER. Any decision of the Building

Commissioner made in enforcement of the Ordinance may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by such decision, within sixty (60) days from such decision.

6.8 APPEALS JURISDICTION. The Board of Zoning Appeals shall hear and determine appeals from and review:

- A. Any order, requirement, decision, or determination made by the Building Commissioner, or any administrative official, hearing officer, or staff member under the Zoning Ordinance;
- B. Any order, requirement, decision, or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of the Zoning Ordinance; or
- C. Any order, requirement, decision, or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of an Ordinance adopted under the provisions of the Indiana Advisory Planning Law requiring the procurement of an improvement location permit or a certificate of occupancy (only as it pertains to the Zoning Ordinance).

6.9 APPLICATIONS FOR VARIANCES, SPECIAL EXCEPTIONS AND CONDITIONAL USES. All applications (or petitions) for variances of use from the terms of the Zoning Ordinance, variances from development standards, special exceptions, and conditional uses shall be made to the Board of Zoning Appeals, in accordance with public notice and hearing requirements at I.C. 36-7-4-920.

6.10 STANDARDS OF REVIEW- VARIANCES. When hearing any matter, the Board of Zoning Appeals may approve, deny, or instruct the Petitioner to provide specific modifications to the petition in accordance with the following standards:

6.10.1 Use Variance. In making any and all decisions with regard to the approval or denial of any petition for a use variance, the Board shall consider the following factors and make a determination in writing:

- A. That the approval will not be injurious to the public health, safety, morals, and general welfare of the community.
- B. That the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- C. That the need for the variance arises from some condition peculiar to the property involved;
- D. That the strict application of the terms of the Zoning Ordinance will

constitute an unnecessary hardship if applied to the property for which the variance is sought; and,

E. That the approval does not interfere substantially with the comprehensive plan of the Town of DeMotte.

The Board may impose reasonable conditions as part of its approval.

6.10.2 Variance From Development Standards. In making any and all decisions with regard to the approval or denial of any petition for a variance from the development standards of the Zoning Ordinance, the Board shall consider the following factors and make a determination in writing:

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

B. That 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,

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

6.11 STANDARDS OF REVIEW AND PROCEDURE - SPECIAL EXCEPTIONS. The standards of review and procedures applicable to applications for special exceptions are set forth in Title 22 of this Ordinance.

6.12 IDENTITY OF PETITIONERS. The petitioner for a variance or special exception shall be the record owner of the affected property or the record owner's attorney or other designated representative.

6.13 APPEALS TO THE BOARD OF ZONING APPEALS-GROUNDS-TRANSMISSION OF RECORDS -DISPOSITION.

6.13.1 An appeal filed with the Board of Zoning Appeals 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 of Zoning Appeals.

6.13.2 The Building Commissioner, administrative official, hearing officer, administrative board, or other body 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.

6.13.3 Certified copies of the documents, plans, and papers constituting the record may be transmitted for the purposes of subsection 6.13.2.

6.13.4 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.

6.13.5 The Board of Zoning Appeals shall make a decision on any matter that it is required to hear under I.C. 36-7-4-918.1, I.C. 36-7-4-918.2, I.C. 36-7-4-918.4, and I.C. 36-7-4-918.5:

- (1) At the meeting or hearing at which the matter is first presented; or
- (2) At the conclusion of the final hearing on that matter, if the matter has been continued.

6.14 FILING OF BOARD DECISIONS. Within five (5) days after making any decision under the terms of this Ordinance, the Board of Zoning Appeals shall file in the office of the Board a copy of its decision.

6.15 MINIMUM STANDARDS. The conditions and development standards established in this Ordinance are considered to be minimum conditions, and are subject to the imposition of additional development standards, or conditions when considered appropriate by the Board to insure that the special exception, use variance or variances from the development standards ultimately granted are consistent with the spirit, purpose, and intent of this Ordinance and the Comprehensive Plan.

6.16 IMPROVEMENT LOCATION PERMIT. Any variance, special exception, or use variance granted by the Board, which involves the construction, erection, or modification of a building or structure which would require the issuance of an improvement location permit, shall be null and void (i) if such a permit is not obtained and work on such structure commenced within six (6) months of the granting of the variance, special exception, or use variance, or beyond the six (6) month period pursuant to an extension of time specifically authorized by the Board, and (ii) provided that construction completed within eighteen (18) months of the issuance of the improvement location permit, or beyond the eighteen (18) month period pursuant to an extension of time specifically authorized by the Board.

6.17 JUDICIAL REVIEW. All decisions of the Board of Zoning Appeals shall be subject to review by a writ of certiorari as provided by I.C. 36-7-4-1003.

6.18 COMMITMENTS BY OWNER. When deemed appropriate by the Board of Zoning Appeals, and in accordance with I.C. 36-7-4-921, a Petitioner may be required to execute a written commitment to be recorded with the County Recorder in the same manner that easements or restrictive covenants are recorded, to memorialize any or all of the conditions imposed by the Board of Zoning Appeals. Such a commitment, when required by the Board, must be prepared, and evidence of recordation presented to the Board prior to effective approval of any such petition, or the issuance of any improvement location permit.

TITLE 7

ENFORCEMENT PROCEDURES

7.1 REMEDY FOR SERIOUS VIOLATIONS. The Plan Commission, or any designated enforcement official or body may institute a suit for injunction in the Circuit Court of Jasper County to restrain an individual or a governmental unit from violating the provisions of this Ordinance. The Plan Commission may also institute a suit for mandatory injunction directing an individual, a corporation or a governmental entity to remove a structure erected in violation of any provisions of this Ordinance. Any building erected, raised or converted or land or premises used in violation of any provisions of this Ordinance, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under law.

7.2 ORDINANCE VIOLATION PROCEDURE. The Plan Commission, and any designated enforcement official or body, upon observation or notice of a violation of the Zoning Ordinance, may act to have the violation investigated and abated pursuant to the provisions of this Title 7, and I.C. 36-7-4-1013.

7.3 WARNING NOTICE. Upon observation or notice that an Ordinance violation exists, or upon receipt of facts alleging that a situation exists which may be a violation of the Zoning Ordinance, the Plan Commission, or any designated official or body may investigate and issue a Warning Notice to the person, firm, corporation, or business entity believed to be in violation of the Zoning Ordinance. The Warning Notice shall contain the following information:

- A. Name of person or entity in violation of the Ordinance.
- B. Situation or activity constituting the Ordinance violation.
- C. Section of the Zoning Ordinance violated.
- D. Date by which Ordinance violations must be abated or corrected.
- E. Statement that the warning notice may be appealed to the Board of Zoning Appeals within fifteen (15) days of receipt of the warning notice if the alleged violator believes or can prove that the situation or activity is not a violation of the Zoning Ordinance.

7.3.1 Any person or entity receiving a warning notice shall abate or correct the situation or activity in violation of the Zoning Ordinance, or appeal to the Board of Zoning Appeals within the prescribed time period. Upon failure to conform to the Zoning Ordinance within the prescribed time period, or to timely appeal, the Plan Commission, or any designated enforcement official or body, may issue Notice to

Show Cause pursuant to Section 7.4 of this Ordinance, or proceed under Section 7.1 of this Ordinance, as the situation warrants.

7.4 NOTICE TO SHOW CAUSE. If, after the issuance of a warning notice, the Ordinance violation has not been abated or corrected within the prescribed time period, or a timely appeal has not been filed, the Plan Commission or any designated enforcement official or body may issue a Notice to Show Cause. The Notice to Show Cause shall contain the following information:

- A. Name of person or entity in violation of the Ordinance.
- B. Copy of the previously issued warning notice.
- C. Statement that the Plan Commission will conduct an inquiry of the violation at its next regularly scheduled public meeting.
- D. Statement of the date, time and place of the Plan Commission's next regularly scheduled public meeting.

7.4.1 The Notice to Show Cause shall be mailed or delivered to the violator not less than ten (10) days prior to the public meeting during which the Plan Commission will conduct an inquiry of the violation. The Notice to Show Cause shall serve as the violator's notice that the violation inquiry will be conducted and no other notice of the meeting need be given to the violator. If the Ordinance violation is not corrected or abated prior to the public meeting at which the Plan Commission is to discuss the Ordinance violation, then the Plan Commission may conduct an inquiry of the Ordinance violation pursuant to 7.5 of this Ordinance.

7.5 PUBLIC MEETING INQUIRY. Pursuant to the authority given by I.C. 36-7-4-1013, the municipal or designated Plan Commission attorney shall direct the scope of the inquiry and shall conduct the presentation of evidence at the public meeting. The violator may appear in person, or if the violator is a corporation or business entity, then by an officer, employee or owner who presents written proof of their status with the corporation or business. Only those other persons invited by the Plan Commission or by the violator to give comments or evidence relative to the Ordinance violation may do so, orally or in writing.

After hearing oral and written comments, the Plan Commission shall make specific findings of fact which shall state:

- A. Whether a proper warning notice was issued.
- B. Whether a proper notice to show cause was issued

C. Whether the alleged violation constitutes an Ordinance violation and, if so the Ordinance being violated.

D. Whether the occurrence is a repeat violation.

E. The date by which corrective action shall be taken to abate the violation if the Plan Commission determines that special circumstances exist for further opportunity for the violator to take corrective action.

F. The amount of the fine that will be imposed on the violator if the corrective action is not taken within the time limit prescribed by the Plan Commission.

7.5.1 The fine, which may be imposed and collected by the Plan Commission, shall be determined in accordance with Section 7.6. If the violation is not corrected or abated within the time period set by the Plan Commission at its inquiry of the violation the Plan Commission or any designated enforcement official or body may take any action prescribed by statute including a request for a mandatory injunction to abate the declared nuisance. The Plan Commission or any designated enforcement officer may also issue a citation of non-compliance pursuant to Section 7.7.

7.6 ORDINANCE VIOLATION FINES. Any person, corporation or business entity found in violation of the terms of this Ordinance shall be fined one hundred dollars (\$100.00) for the first violation. Any person, corporation, or business entity found in violation of this Ordinance within one year following a prior Ordinance violation by the same person, corporation or business entity shall be fined two hundred fifty dollars (\$250.00). Any person, corporation or business entity found in violation of this Ordinance within one year following two Ordinance violations by the same person, corporation or business entity shall be fined five hundred dollars (\$500.00). Violations within one year after the third violation shall be treated in the same manner provided for a third violation. Each day that a violation continues shall be considered a separate and distinct violation.

7.7 CITATION FOR NON-COMPLIANCE AND CONTINUING ORDINANCE VIOLATIONS. If the violation is not corrected or abated or the fine imposed by the Plan Commission remains unpaid, the Plan Commission or any designated enforcement official or body may issue a citation for non-compliance with the Plan Commission's inquiry order. Pursuant to I.C. 36-7-4-1014, if the Plan Commission is successful in its action, the respondent shall pay any applicable fines, shall abate or correct the violations, and shall bear the costs of the action, including but not limited to, all attorney fees incurred by the Plan Commission. The citation shall also state that the violator may avoid the court appearance by taking corrective action to abate the violation and paying all fines imposed by the Plan Commission.

TITLE 8

SEVERABILITY AND AVAILABILITY FOR PUBLIC INSPECTION

8.1 INVALIDITY OF PORTIONS. Should any Article, Section or Subsection of this Ordinance be declared to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof, other than the portion so declared to be invalid.

8.2 DUTY OF THE CLERK-TREASURER. The Clerk-Treasurer of the Town of DeMotte, Indiana, is hereby directed to keep on file two copies of the Zoning Maps referred to in Title 3, Section 2.1, and said Maps shall be available for public inspection during all regular office hours of said Clerk-Treasurer. Copies of this Ordinance, including any amendments hereto, shall also be kept on file in the office of the Clerk-Treasurer of the Town of DeMotte, and shall be made available for sale or copying at the requestor's expense.

TITLE 9

DISTRICT DESIGNATIONS

District Designation

Type of District

FP	Flood Plain District
A	Agricultural District
R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	Multi-Family Residential District
B-1	Downtown Business District
B-2	General Business District
I-1	Limited Industrial District
I-2	Industrial District
PUD	Planned Unit Development

TITLE 10

FLOOD PLAIN DISTRICT

10.1 INTENT. It is the intent of the Flood Plain District regulations to prevent the placement of structures within areas subject to flooding, to the extent that they would disrupt, interfere or diminish the capacity of the surrounding areas to accommodate flood waters. This District is designed to protect people and property endangered by periodic flooding.

10.2 PERMITTED USES. The following uses shall be permitted in the FP District by right (i.e., without variance or special exception or other special use, permit or approval):

10.2.1 Timberland and Forestry Uses.

10.2.2 Wildlife Areas and Nature Preserves.

10.2.3 Agricultural Uses including the production of poultry livestock crops, pastures, orchards, plant nurseries, gardening, vineyards, and other general farming uses excluding the erection of permanent structures.

10.2.4 Parks and recreation areas such as golf courses, driving ranges and recreational areas, excluding the erection of permanent structures.

10.3 SPECIAL EXCEPTIONS. The following special exceptions may be considered in the FP District only after a proper permit if required for the same has been granted by the Department of Natural Resources or as otherwise provided by state statutes. All terms and conditions imposed by the Department of Natural Resources shall be incorporated in any permit issued by the Plan Commission.

10.3.1 Water management and use facilities such as dams, docks, dikes, piers, levees, floodwalls, and irrigation facilities.

10.3.2 Water related urban uses such as storm sewers, power generation and transmission facilities and water treatment plants.

10.3.3 Other flood tolerant or open space urban uses such as flood-proofed industrial and commercial buildings, race tracks, tennis courts, park buildings, outdoor theaters, earth fills, radio and TV towers, parking lots and mineral extractions.

10.4 ADDITIONAL REQUIREMENTS. In general, no permanent structures may be erected within the boundaries of the flood plain district. However, to the extent that such structures are permitted, by special exception or otherwise, all such structures shall have a flood protection grade at least two (2) feet above the regulatory profile as established by the Department of Natural Resources.

10.5 VARIANCES. The Board of Zoning Appeals may not grant a variance to any of the requirements of the flood plain district or to the flood protection grade requirements without prior written approval of the Department of Natural Resources.

TITLE 11

AGRICULTURAL DISTRICT

11.1 INTENT. This district is intended to protect and encourage agricultural uses of the land in designated agricultural districts by controlling and directing the development of urban and suburban uses including the encroachment by residential, commercial and industrial uses, which could conflict with the agricultural use of such land.

11.2 PERMITTED USES. The following uses shall be permitted in the A Agricultural District:

- A. Agricultural uses in general except as otherwise provided by this Ordinance.
- B. Residential uses subject to Section 11.3.
- C. Uses incidental to the above permitted uses.

11.3 RESIDENTIAL DEVELOPMENTS. Residential uses within this district shall be limited to single-family residences subject to the following requirements:

11.3.1 Minimum lot size for all residential uses located within the A-district shall be five (5) acres. The depth of such lot shall not exceed three (3) times the width of said lot.

11.3.2 A building hereafter erected or structurally altered shall not exceed thirty-five (35) feet in height.

11.3.3 There shall be a front yard setback of not less than fifty (50) feet for each residential structure erected within this district, measured from the highway right-of-way line.

11.3.4 There shall be a side yard setback of not less than ten (10) feet on each side of the residence. There shall be a required rear yard setback of not less than twenty-five (25) feet.

11.3.5 No more than two (2) accessory buildings shall be permitted on the same lot as a single-family residence and each structure shall be setback a minimum of ten (10) feet from any lot line.

11.4 USES NOT PERMITTED. Confined feeding operations, grain elevators, farm trucking businesses, and other uses not directly related to the production of crops, livestock, or other plant or food products, shall not be permitted in the “A” district.

11.5 FARM BUILDINGS. Farm buildings and all farm related structures connected to the agricultural use of the land shall not be restricted by this Ordinance in terms of the number and/or size of structures permitted. No farm building or farm related structures shall be erected within fifty (50) feet of any exterior lot line.

TITLE 12

R-1 LOW DENSITY RESIDENTIAL DISTRICT

12.1 DESCRIPTION OF DISTRICT. This district is the most restrictive of the residential districts, providing for relatively large lots and low density single-family residential developments.

12.1.1 Permitted Uses. Single-family dwelling unit.

12.2 LOTS. Minimum lot size requirements in this district shall be as follows:

	<u>Lot Area</u>	<u>Lot Width</u>
<u>12.2.1</u> Lots for Single-Family Dwellings served by public sewer.	12,000 sq. ft	80 ft
<u>12.2.2</u> Lots for Single-Family Dwellings served by septic system.	1 acre	lot depth shall not exceed three (3) times the lot width

12.3 HEIGHT OF BUILDING. A building hereafter erected or structurally altered shall not exceed thirty-five feet (35') in height.

12.4 SETBACK REQUIREMENTS.

12.4.1 Front Yard - there shall be a front yard setback of not less than thirty feet (30'), except that lots fronting on a Federal, State or County Road other than interior subdivision streets or roads, shall have setback of not less than fifty feet (50').

12.4.2 Side Yard - There shall be two side yards required, the sum of which shall not be less than twenty percent (20%) of the lot width, with a minimum width of eight feet (8') for either yard. On a corner lot, the side yard facing the street shall not be less than thirty feet (30').

12.4.3 Rear Yard - There shall be a rear yard of not less than twenty-five feet (25') in depth.

12.5 LOT COVERAGE. No Building with its accessory building(s) shall be erected or expanded in floor area so that more than forty percent (40%) of the area of the lot is covered.

12.6 ACCESSORY BUILDINGS. There shall be no more than one (1) accessory building allowed on any residential lot. If the residence does not have an attached garage, two (2) additional structures may be permitted to the extent that one is a detached garage serving the residence. Accessory buildings shall not exceed the height of the principal building. Accessory buildings less than two hundred square feet (200 sq. ft.) in size may be located within the side and/or rear setbacks, but must be setback ten feet (10') from any rear and side setbacks.

12.7 DRAINAGE PLAN. Each application for an Improvement Location Permit in an R-1 District shall include a drainage plan.

TITLE 13

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

13.1 DESCRIPTION OF DISTRICT. This district consists of medium density one and two-family residential areas.

13.1.1 Permitted Uses. Single-family and two-family dwelling units.

13.2 LOTS. All lots shall be served by public sewer. Minimum lot size requirements in this district shall be as follows.

	<u>Lot Area</u>	<u>Lot Width</u>
<u>13.2.1</u> Lots for single-family dwellings	10,000 sf	70 ft
<u>13.2.2</u> Lots for two-family dwellings	12,000 sf	80 ft

13.3 HEIGHT OF BUILDING. A building hereafter erected or structurally altered shall not exceed thirty-five feet (35') in height.

13.4 SETBACK REQUIREMENTS.

13.4.1 Front Yard - there shall be a front yard setback of not less than thirty feet (30'), except that lots fronting on a Federal, State or County Road other than interior subdivision streets or roads, shall have a front yard setback of not less than fifty feet (50').

13.4.2 Side Yard - there shall be two side yards required, the sum of which shall not be less than twenty percent (20%) of the lot width, with a minimum width of seven feet (7') for either yard. On a corner lot, the side yard facing the street shall not be less than thirty feet (30').

13.4.3 Rear Yard - There shall be a rear yard provided of not less than twenty-five feet (25') in depth.

13.5 ACCESSORY BUILDINGS. There shall be no more than one (1) accessory building allowed on any residential lot. If the residence does not have an attached garage, two (2) additional structures may be permitted to the extent that one is a detached garage serving the residence. Accessory buildings shall not exceed the height of the principal building. Accessory buildings less than two hundred square feet (200 sq. ft.) in size may be located within the side and/or rear setbacks, but must be setback ten feet (10') from any rear and side setbacks.

13.6 LOT COVERAGE. No building with its accessory building(s) shall be erected or expanded in floor area so that more than fifty percent (50%) of the area of the lot is covered.

13.7 DRAINAGE PLAN. Each application for an Improvement Location Permit in an R-2 District shall include a drainage plan.

TITLE 14

R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

14.1 DESCRIPTION OF DISTRICT. This district provides for the highest density residential areas in a community. It is the intent of this district to provide an acceptable transition and a compatible mix of various density residential development along with related and certain public uses which best serve the residents of this district.

14.1.1 Permitted Uses. Single-family, two-family and multi-family dwelling units.

14.2 LOTS. All lots shall be served by public sewer. Minimum lot size requirements in this district shall be as follows:

		<u>Lot Area</u>	<u>Lot Width</u>
<u>14.2.1</u>	Lots for single family dwellings	10,000 sf	70 ft
<u>14.2.2</u>	Lots for two family dwellings	10,000 sf	70 ft
<u>14.2.3</u>	Lots for multi-family dwellings		
	4 bedrooms	4,000 sf/unit	120 ft
	3 bedrooms	3,000 sf/unit	120 ft
	2 bedrooms	2,500 sf/unit	100 ft
	1 bedroom and efficiency units	2,000 sf/unit	100 ft

14.3 HEIGHT OF BUILDING. A building hereafter erected or structurally altered shall not exceed thirty-five feet (35') in height.

14.4 SETBACK REQUIREMENTS.

14.4.1 Front Yard - There shall be a front yard setback of not less than thirty feet (30'), except that lots fronting on a Federal, State or county Road, other than interior subdivision streets or roads, shall have a front yard setback of not less than fifty feet (50')

14.4.2 Side Yard - There shall be two (2) side yards required, the sum of which shall not be less than twenty percent (20%) of the lot width, with a minimum width of seven feet (7') for either yard. On a corner lot, the side yard facing the street shall not be less than thirty feet (30')

14.4.3 Rear Yard - There shall be a rear yard provided of not less than twenty-five feet (25') in depth.

14.5 ACCESSORY BUILDINGS. There shall be no more than one (1) accessory building allowed on any residential lot. If the residence does not have an attached garage, two (2) additional structures may be permitted to the extent that one is a detached garage serving the residence. Accessory buildings shall not exceed the height of the principal building. Accessory buildings less than two hundred square feet (200 sq. ft.) in size may be located within the side and/or rear setbacks, but must be setback ten feet (10') from any rear and side setbacks.

14.6 LOT COVERAGE. No building with its accessory building (s) shall be erected or expanded in floor area so that more than fifty percent (50%) of the area of the lot is covered.

14.7 DRAINAGE PLAN. Each application for an Improvement Location Permit in an R-3 District shall include a Drainage Plan.

TITLE 15

B-1 DOWNTOWN BUSINESS DISTRICT

15.1 DESCRIPTION OF DISTRICT. The B-1 Downtown Business District is intended to provide areas for neighborhood business and retail commercial uses serving the community. In addition, it is intended to provide for a combination of retail and service, commercial, office, professional, financial, and governmental uses.

15.1.1 Permitted Uses. Local business uses of a retail or service nature, including but not necessarily limited to: financial and business services, clothing services, home appliance and electronic equipment and repair, retail food services, personal grooming and fitness services, recreation, and other compatible retail uses.

15.2 LOT SIZE. There shall be no minimum lot size requirements for this district.

15.3 HEIGHT OF BUILDING. No structure or portion thereof shall exceed thirty-five (35) feet in height.

15.3.1 Notwithstanding the above subsection, chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, distribution poles and lines, transmission towers and essential mechanical appurtenances may be erected to any height not prohibited by other applicable statutes, laws or ordinances.

15.4 SETBACK REQUIREMENTS.

15.4.1 Front Yard - There shall be no front yard setback requirements in this district.

15.4.2 Side Yard - None required; however, if a side yard is provided, it shall not be less than five (5) feet.

15.4.3 Rear Yard - There shall be a rear yard of not less than fifteen (15) feet.

15.5 LOT COVERAGE. There shall be no building size or lot coverage requirements for this district.

15.6 PUBLIC SEWER. All lots shall be served by a public sewer.

15.7 ACCESSORY BUILDINGS. There shall be no more than one (1) accessory building allowed on any lot in this district. An accessory building shall not exceed the height of the principal building.

15.8 DRAINAGE PLAN. Each application for an Improvement Location Permit in the B-1 District shall include a drainage plan.

15.9 LOADING. The requirements of Title 24 of the Zoning Ordinance shall apply in the B-1 District.

TITLE 16

B-2 GENERAL BUSINESS DISTRICT

16.1 DESCRIPTION OF DISTRICT. The B-2 General Business District is intended to provide areas to be used for certain types of retailing uses including those which serve both the Town of DeMotte and the surrounding areas, along with service and wholesale uses. The B-2 General Business District is intended for uses which generate large volumes of traffic and/or which require large areas.

16.1.1 Permitted Uses. General business uses include, but are not necessarily limited to, all uses allowed in the B-1 Downtown Business District, and heavier types of business and commercial uses, including wholesale establishments, automobile services, shopping centers, strip malls, and business and commercial uses typically requiring parking lots.

16.2 LOT SIZE. There shall be no minimum lot size requirements in this District.

16.3 HEIGHT OF BUILDING. No structure or portion thereof shall exceed thirty-five (35) feet in height.

16.3.1 Notwithstanding the above subsection, chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, distribution poles and lines, transmission towers and essential mechanical appurtenances may be erected to any height not prohibited by other applicable statutes, laws or ordinances.

16.4 SETBACK REQUIREMENTS.

16.4.1 Front Yard - All structures shall be set back at least sixty (60) feet from the front lot line.

16.4.2 Side Yard - Two side yards shall be provided, each not less than five (5) feet in width. When abutting a residential district, that side yard shall be a minimum of ten (10) feet in width.

16.4.3 Rear Yard - There shall be a rear yard of not less than twenty-five (25) feet.

16.5 LOT COVERAGE. There shall be no building size or lot coverage requirements for this district.

16.6 PUBLIC SEWER. All lots shall be served by a public sewer.

16.7 ACCESSORY BUILDINGS. There shall be no more than one (1) accessory building allowed on any lot in this district. An accessory building shall not exceed in height,

the height of the principal building.

16.8 SCREENING. The screening requirements in Title 26 of this Ordinance shall apply in the B-2 District.

16.9 DRAINAGE PLAN. Each application for an Improvement Location Permit in the B-2 District shall include a drainage plan.

16.10 LOADING. The loading requirements of Title 24 of The Zoning Ordinance shall apply in the B-2 District.

TITLE 17

I-1 LIMITED INDUSTRIAL DISTRICT

17.1 DESCRIPTION OF DISTRICT. The I-1 Limited Industrial District is intended to provide lands for the development of industrial firms and uses that are not inherently detrimental to adjacent or nearby residential or business uses. The district regulations are designed to permit the operation of manufacturing, wholesaling and warehousing activities with adequate protection to adjacent uses.

17.1.1 Permitted Uses. All uses allowed in the B-1 and B-2 districts, and manufacturing, wholesaling and warehousing activities not inherently detrimental to adjacent or nearby residential or business uses, provided adequate measures are provided to protect adjacent and nearby uses from adverse impacts.

17.2 STORAGE. A Limited Industrial Use shall be confined to enclosed buildings. Storage of materials, supplies, merchandise, inventory, or other goods adjacent to or around Limited Industrial Uses shall be prohibited.

17.3. HEIGHT OF BUILDING. No building shall exceed thirty-five (35) feet in height.

17.3.1 Notwithstanding the above subsection, chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, distribution poles and lines, transmission towers and essential mechanical appurtenances may be erected to any height not prohibited by other applicable statutes, laws or ordinances.

17.4 SETBACK REQUIREMENTS.

17.4.1 Front Yard - there shall be a front yard provided of not less than forty (40) feet, except that lots fronting a Federal, State or County Road shall have a front yard setback of not less than sixty (60) feet.

17.4.2 Side Yard - There shall be two side yards required of not less than ten (10) feet per side yard.

17.4.3 Rear Yard - There shall be a rear yard provided of not less than twenty (20) feet.

17.5 ACCESSORY BUILDINGS. Accessory buildings and structures may be allowed consistent with the purposes of the I-1 Limited Industrial District. An accessory building shall not exceed in height, the height of the principal building.

17.6 MINIMUM LOT SIZE. There shall be no minimum lot size requirements in the I-1 or I-2 industrial districts.

17.7 LOT COVERAGE. No building or buildings shall be erected or structurally altered so that more than seventy-five percent (75%) of the area of the lot will be occupied. In all industrial districts, it is permissible to erect more than one principal building.

17.8 BUFFER STRIP. When an industrial district borders upon a residential district and is not separated by a street, railroad right-of-way or natural barrier; a dense buffer strip of evergreen trees, at least twenty (20) feet in width, in addition to any setback requirements, shall be provided on the side or sides bordering on the residential district.

17.9 OFF-STREET PARKING. Adequate off-street parking shall be provided in conformance with Title 23 of this Ordinance. For those industrial uses not included in the Table of Parking Requirements, one (1) off-street parking space shall be provided for each employee on duty during an average shift.

17.10 LOADING AND UNLOADING. Loading and unloading berths shall be provided in conformance with Title 24.

17.11 LIGHTING. All lighting shall be shielded and directed away from any adjacent residential use.

17.12 WASTE AND TRASH STORAGE.

17.12.1. Trash and waste materials shall be stored in metal or other approved containers in accordance with existing Town codes and regulations.

17.12.2 In all industrial districts, trash and waste storage containers that are readily open to public view or adjacent residential properties shall be screened from such view in accordance with Title 26.

17.13 DRAINAGE PLAN. Each application for an Improvement Location Permit in an I-1 District shall include a drainage plan.

TITLE 18

I-2 HEAVY INDUSTRIAL DISTRICT

18.1 DESCRIPTION OF DISTRICT. The I-2 Heavy Industrial District is intended to provide areas for the development of general industrial uses. All residential and commercial uses are prohibited in this district as they are considered to be incompatible with the uses permitted.

18.2 HEIGHT OF BUILDING. No building shall exceed thirty-five (35) feet in height.

18.2.1 Notwithstanding the above subsection, chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, distribution poles and lines, transmission towers and essential mechanical appurtenances may be erected to any height not prohibited by other applicable statutes, laws or ordinances.

18.3 SETBACK REQUIREMENTS.

18.3.1 Front Yard - There shall be a front yard provided of not less than forty (40) feet, except that lots fronting a Federal, State or County Road shall have a front yard setback of not less than sixty (60) feet.

18.3.2 Side Yard - There shall be two side yards provided of not less than ten (10) feet.

18.3.3 Rear Yard - There shall be a rear yard provided of not less than twenty (20) feet.

18.4 ACCESSORY BUILDINGS AND STRUCTURES. Accessory buildings and structures may be allowed consistent with the purposes of the I-2 Heavy Industrial District. An accessory building shall not exceed in height, the height of the principal building.

18.5 MINIMUM LOT SIZE. There shall be no minimum lot size requirements in the I-1 or I-2 industrial districts.

18.6 OCCUPANCY OF LOT. No building or buildings shall be erected or structurally altered so that more than seventy-five percent (75%) of the area of the lot will be occupied. In all industrial districts, it is permissible to erect more than one principal building.

18.7 BUFFER STRIP. When an industrial district borders upon a residential district and is not separated by a street, railroad right-of-way or natural barrier; a dense buffer strip of evergreen trees, at least twenty (20) feet in width, in addition to any setback requirements, shall be provided on the side or sides bordering on the residential district.

18.8 OFF-STREET PARKING. Adequate off-street parking shall be provided in conformance with Title 23 of this Ordinance. For those industrial uses not included in the Table of Parking Requirements, one (1) off-street parking space shall be provided for each employee on duty during an average shift.

18.9 LOADING AND UNLOADING. Loading and unloading berths shall be provided in conformance with Title 24.

18.10 LIGHTING. All lighting shall be shielded and directed away from any adjacent residential use.

18.11 WASTE AND TRASH STORAGE.

18.11.1 Trash and waste materials shall be stored in metal or other approved containers in accordance with existing Town codes and regulations.

18.11.2 In all industrial districts, trash and waste storage containers that are readily open to public view or adjacent residential properties shall be screened from such view in accordance with Title 26.

18.12 DRAINAGE PLAN. Each application for an Improvement Location Permit in an I-2 District shall include a drainage plan.

TITLE 19

PLANNED UNIT DEVELOPMENTS

19.1 PLANNED UNIT DEVELOPMENTS; INTENT The Intent of this section is to permit more flexibility in a development through land use controls that (a) foster good environmental design without violating the constitutional requirements of uniform classification and adequate standards; (b) permit planned residential developments in accordance with the Master Plan of the Town; (c) permit a variety of housing accommodations including single-family detached, two-family, condominiums and multi-family dwellings, and land uses in imaginative and orderly physical and aesthetic relationship to one another; (d) permit the grouping and preservation of open space, school site, recreation areas and lands for other public, semi-public (including churches) uses in an area rather than by individual lot development; and, (e) serve as an incentive for the development of passive energy designs for conservation purposes. No particular development shall necessarily include all the requirements set forth above.

19.1.1 GENERAL REQUIREMENTS

19.1.1.1 The tract proposed shall consist of one or more continuous parcels of land comprising an area of four (4) acres or more in size, unless the tract be bounded on all sides by public right-of way, public lands, water courses, or less restrictive use districts, in which case it may be smaller than four (4) acres.

19.1.1.2 The major use of the tract shall be residential, and may include single-family, two family and multi-family dwellings and the usual accessory uses such as garages, storage space and community activities.

19.1.1.3 The tract may contain commercial and professional uses as an integral part of a residential development; but such uses shall be planned and gauged primarily for the service and convenience of residents of the Planned Development, and shall be authorized only to the extent that such uses are not available to the resident within a reasonable proximity.

19.1.1.4 Planned Residential Developments shall be designed to create environments of stable and desirable character; they must provide provisions for recreation space adequate to meet the needs of the anticipated population or as designated in the Master Plan.

19.1.1.5 The tract must be served directly by streets of appropriate size, function and capacity.

19.1.1.6 There shall be no minimum lot sizes, no minimum setbacks, no maximum lot coverage, no minimum lot widths and no height limitation, although such factors shall be considered in the development plan.

19.1.1.7 All buildings shall be served by an adequate public sewer system, public water supply and other public utilities.

19.1.1.8 Street right-of-way and pavement widths if approved by the Plan Commission, may be reduced; however, every dwelling unit and all other uses shall have access to a public street, court, walkway or other area dedicated to public use.

19.1.1.9 All parking lots, open spaces and other areas in common ownership shall be maintained properly by the developer, owner, or Home Owner Association.

Provisions for open space, compensating for the reduced lots sizes, setbacks, etc., shall be made by the developer.

19.1.2 Procedure For the purposes of accomplishing the objectives of this section, the owner or owners of any tract of land shall submit a proposed development plan to the Plan Commission.

19.1.3 Hearing Within a reasonable time after submission of the proposed development plan, the Plan Commission shall set a date for a public hearing and provide at least ten (10) day advance published legal notice of the public hearing.

19.1.3.1 If the Plan Commission approves the development plan after public hearing, the Plan Commission shall affix its signature and seal on the plans and provide the owner with a copy.

19.1.3.2 If the Plan Commission disapproves the development plan after public hearing, the reasons for such disapproval shall be recorded in the minutes.

19.1.4 Effective Time of Approval. Approval of the Development Plan by the Plan Commission shall be effective for a period of twelve (12) months. Within this period of time, the Owner shall file for Preliminary Plat approval or the Development Plan shall become null and void.

19.1.5 Preliminary Plat Submission. The owner shall submit a Preliminary Plat to the Plan Commission in conformance with the procedures set forth in the Subdivision Control Ordinance.

19.1.5.1 The Preliminary Plat shall conform in full to the previously approved Development Plan.

19.1.5.2 All regulations for Preliminary Plat submissions as contained in the Subdivision Control Ordinance shall be adhered to except those regulations concerning lot size, setbacks, lot coverage, lot widths, building heights and street widths and rights-of-way which have previously been exempted or varied by the Plan Commission as part of the Development Plan.

19.1.6 Final Plat Submission. The submission of a Final Plat for all or any portion of the Preliminary Plat shall be in accordance with the procedures as set forth for a Final Plat in the Subdivision Control Ordinance.

19.1.7 Designation Binding Successors in Interest. Whenever a tract of land has been designated as a Planned Unit Development, such designation shall remain in effect irrespective of subsequent changes in ownership of all or portion of the designated tract; and the uses and conditions approved shall bind and be applicable to any successors in interest to those who were the owners of such tract at the time of the approval as a Planned Unit Development.

TITLE 20

GENERAL PROVISIONS APPLICABLE IN ALL DISTRICTS

20.1 BUILDING LINES. Where twenty-five percent (25%) or more of the lots in a block frontage are occupied by buildings, the average setback of such buildings shall determine the setback for additional structures, but the front yard setback dimension need not exceed sixty (60) feet in any case.

20.1.1 Building lines establishing a recorded subdivision approved in accordance with the provisions of the Subdivision Control Ordinance of the Town of DeMotte and of this Ordinance, shall establish the setback of buildings in such subdivisions.

20.1.2 On through lots, a building line is required on each street. Access to the lot shall only be permitted from the street on which the building fronts.

20.1.3 No building shall be allowed within any front yard set back.

20.2 VISION. In order to provide clear unobstructed vision along public right-of-way, the following requirements shall apply:

20.2.1 Interior Lots - No fence, or obstruction that blocks the sight line along a public right-of-way, shall hereafter be erected within ten (10) feet of the front property line and no natural plant material fences, exceeding forty-two (42) inches in height, shall be permitted within this same area.

20.2.2 Corner Lots - No fence, or obstruction that blocks the sight line along a public right-of-way, shall hereafter be erected within ten (10) feet of either front property line and no natural plant material fence or other plantings exceeding twenty-four (24) inches in height, shall be permitted within this same area. These requirements shall not apply to trees having a minimum clearance of ten (10) feet above the ground.

20.2.3 For purposes of this section “along” means within ten (10) feet of the front property line that abuts a public right-of-way.

20.3 MOBILE HOMES. Mobile homes manufactured before January 1, 1981, or not meeting the requirements set forth herein shall not be permitted in any district except as permitted in mobile home parks or mobile home subdivisions as set forth in this Ordinance.

20.4 MINIMAL RESIDENTIAL DWELLING SIZE. No building shall be erected, altered, remodeled or inhabited as a residential dwelling which is less than nine hundred (900) square feet living space on the first-main floor, exclusive of overhang, porches, carports or patios, and is less than twenty-three (23) feet wide.

20.5 RESIDENTIAL CONSTRUCTION. Every building used for residential purposes shall be erected on masonry block or concrete permanent foundation of not less than eight (8) inches in width and shall have the roofs sheathed by plywood or particle composition board in thickness of one-half (½) inch if used on wood rafters set on twenty-four (24) inch centers with subroofing material of felt tar paper not less than fifteen (15) pounds per square foot and roofing material of asphalt shingles.

20.6 PARKING REQUIREMENTS. Off-street parking requirements and loading and unloading requirements for all commercial uses shall be in accordance with the applicable regulations of Title 23 of this Ordinance.

20.7 SCREENING. All commercial uses shall be effectively screened from adjacent residential uses as provided by the provisions of Title 26.

20.8 EXTERIOR LIGHTING. All exterior lighting shall be shielded and directed away from any adjacent residential uses in such a way that no light shall fall directly on such adjacent residential uses.

20.9 WASTE MATERIALS.

20.9.1 Trash and waste materials shall be stored in metal or other approved containers in accordance with existing Town codes and regulations.

20.9.2 In all commercial districts, trash and waste storage containers that are readily open to public view or adjacent residential properties, shall be screened from such view in accordance with Title 26.

20.10 SATELLITE RECEPTION DISHES. The placement of satellite television reception dishes or devices in any district shall be in accordance with the regulations for accessory buildings and structures in such district. This Section applies only to dishes or devices greater than twenty-four (24) inches across.

TITLE 21

SWIMMING POOLS

21.1 COMPLIANCE REQUIREMENT. It shall be unlawful to construct, maintain, install or enlarge any swimming pool in the Town of DeMotte, except in compliance with all of the provisions of this Ordinance.

21.1.1 Swimming Pool. Swimming pool is hereby defined as a receptacle for water, or an artificial pool of water having a depth, at any point, of more than two feet, intended for the purpose of immersion or partial immersion thereof of human beings and including all appurtenant equipment.

21.1.2 Location. All swimming pools outside a building shall be located within all required set-back lines. Further, all pumps, shelters and pool water disinfection and filtering equipment installation shall be located within all applicable set-back lines.

21.1.3 Permit Required . It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any private residential swimming pool and appurtenances within the Town limits unless permits have first been obtained from the Building Commissioner.

21.1.4 Drawing Plans and Permits. All drawings and plans for the construction, installation, enlargement or alteration of any swimming pools constructed in the ground, and appurtenances thereto, shall first be presented to the Building Commissioner for examination and for approval as to proper location and construction.

21.1.5 Fences and Walls. Access to all outdoor swimming pools shall be restricted according to the Indiana Swimming Pool Code. (I.C. 9-20-99-3)

21.1.6 Electrical Requirement. No current carrying electrical conductor shall cross private residential swimming pools either overhead or underground or within fifteen feet of such pools. All metal fences, enclosures or railings near or adjacent to swimming pools which might become electrically alive as a result of contact with broken over-head conductors or from any other cause shall be effectively grounded.

21.1.7 Penalty. Any person, firm or corporation in violation of any of the provisions of this Section, shall be subject to enforcement in accordance with Title 7 of this Ordinance.

TITLE 22

SPECIAL EXCEPTIONS

22.1 CLASS OF CASES REQUIRING APPROVAL AS SPECIAL EXCEPTION. A use of such an unusual nature that its operation may give rise to unique problems due to its impact upon neighboring properties and public facilities.

22.2 APPLICATION, PROCEDURE AND STANDARD OF REVIEW

22.2.1 Required Findings by the Board. The Board shall approve an application for a special exception, only if the Board finds each of the following:

- A. That the establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare.
- B. That the special exception will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within that area.
- C. That the establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- D. That adequate utilities, access roads, drainage and other necessary facilities have been and are being provided.
- E. That adequate measures have been or will be taken to provide ingress or egress so designed to minimize traffic congestion in the public streets.

22.2.2 Additional Conditions for Exceptions. The Board may impose additional conditions upon the approval of a special exception to assure compliance with the Zoning Code and Comprehensive Plan. These additional conditions may include, but are not limited to, the provision of the following:

- A. Off-street parking and loading areas, with particular attention to the economic, noise, glare, or odor effects of the special exception or adjoining properties and properties generally in the district.
- B. Refuse and service areas.
- C. Special screening and buffering with reference to type, dimensions and

character of the use.

D. Signs and exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.

E. Additional setback distances, yards and other open space.

F. General compatibility with adjoining properties, with reference to site development standards designed for mutual protection of adjoining uses and to environmental and social harmony within the district or neighborhood.

G. Additional requirements reasonably necessary to protect human health and the environment, including but not limited to: reporting and monitoring requirements; cleanup and containment of spills or leaks of potentially hazardous or noxious materials; management practices for land application questions, or other measures necessary to contain or prevent pollution of soil or water, to prevent the creation of a nuisance, or to prevent detrimental effects upon agriculture.

H. A Development Plan in accordance with the definition in Title 2 of the Zoning Code.

22.2.3 Uses In More Than One Category. If the nature of the special exception involves more than one of those categories listed in Section 22.3, the applicant may apply for an Improvement Location Permit for the special exception which most closely relates to the primary use; provided that the requirements of the related uses will also be met.

22.2.4 Commencement and Completion of Construction. The provisions of Title 5 shall apply to any Improvement Location Permit required for construction or operation of a special exception.

22.2.5 Amendment of Development Plan. The holder of an Improvement Location Permit for a special exception may apply to the Board at any time for an alteration, change, amendment or extension of the special exception or Development Plan upon which such permit is based.

A. Upon receipt of such application, the Board shall proceed as in the case of an original application for a special exception.

B. In the event the Board approves an application and orders a special exception or Development Plan to be changed, altered, amended or extended, the Board shall notify the Building Commissioner who shall issue an amended special exception, and an amended Improvement Location Permit,

provided all applicable requirement of the Zoning Code are met.

C. The Board may require the holder of a special exception to appear at a public hearing of the Board upon ten (10) days written notice to the applicant and publication of notice in accordance with public notice and hearing requirements applicable to initial special exception applications at I.C. 36-7-4-920 for the purpose of considering amendments to the Development Plan.

D. The requirements of Section 22.2 of the Zoning Ordinance shall apply to consideration of an amendment to a Development Plan, whether initiated by the holder of the special exception or by the Board.

22.2.6 Existing Use Is a Conforming Use. A use existing at the time of adoption of applicable special exception requirements, and which meets the requirements for a listed special exception, and which is located in a district in which such special exception may be permitted, is a Conforming Use, provided such use meets all other applicable requirements of the Zoning Code. Any expenses of such special exception involving the enlargement of a building, structure, or land area devoted to the use, shall be subject to the requirements and procedures of this Title applicable to an initial special exception.

22.2.7 Temporary Certificates. Whenever a special exception has been approved and is of such nature that the applicant desires to complete the structure and improvements shown in the Development Plan by stages, the applicant may apply to the Building Commissioner for a Temporary Certificate of Occupancy for any portion of the Plan that has been completed.

22.3 SPECIAL EXCEPTIONS AND WHERE THEY MAY BE PERMITTED. The following uses shall require approval as special exceptions, subject to the specific conditions set forth in Section 22.4 of this Title:

No.	Special Exception	District(s) in Which Use May Be Permitted
1	Adult Business	B-1, B-2, I-1
2	Airports	Agricultural, I-2
3	Asphalt and Concrete Manufacturers Mixing Plants	I-2
4	Cemetery	I-1, I-2

No.	Special Exception	District(s) in Which Use May Be Permitted
5	Churches	All
6	Confined Feeding Operations	Agricultural
7	Golf Course, Country Club	All
8	Home Occupations	R-1, R-2, R-3, Agricultural
9	Junk Yards or Refuse Dumps	Agricultural, I-2
10	Kennels	I-2
11	Livestock Auction Arena	Agricultural
12	Mining Operations, Sand & Gravel	Agricultural, EP
13	Mobile Home Parks	R-3, Agricultural
14	Nursery Schools and Day Care	Agricultural, R-3, B-1, B-2
15	Nursing Homes	Agricultural, R-3, B-2
16	Park and Playgrounds	All
17	Planned Unit Developments	R-1, R-2, R-3, Agricultural
18	Produce Stands	Agricultural, B-2, I-1
19	Recreational Facilities, Indoor	R-3, B-2, I-1
20	Recreational Facilities, Outdoor	All except B-1 and I-2
21	Landfills	Agricultural, B-1, B-2

No.	Special Exception	District(s) in Which Use May Be Permitted
22	Utility Substations, Power Transmission Lines, and Radio or Television Towers	All
23	Vehicle Dismantling and Impoundment Yards	I-1, I-2
24	Veterinary Clinics and Animal Hospitals	Agricultural, B-2, I-1

NOTE: Other uses that do not require special exceptions may nevertheless be restricted to specified districts. See Table of Permitted Uses.

22.4 PARTICULAR SITUATIONS REQUIRING SPECIAL EXCEPTION. The following is a list of particular uses for which a special exception shall be required. There may be additional uses not listed here which may be considered as a special exception, however, the Petitioner shall have the burden of establishing to the Board that any given use, not included in the list, and not otherwise allowed in a district where the Petitioner wishes to place such use, should be allowed as a special exception.

22.4.1 ADULT BUSINESS

A. After thorough study of the potential harmful secondary effects of certain types of sexually oriented adult business, the Town of DeMotte finds it appropriate to prevent such harmful secondary effects by regulating the location of adult businesses. Such regulation is enacted to protect the Town of DeMotte’s citizens from increased crime, to preserve the quality of life, property values and the existing character of neighborhoods and business in the Town of DeMotte; and to protect against the spread of sexually transmitted diseases.

B. Minimum Setbacks. No adult business shall be located within 2,000 feet of any of the following:

- (i) a church, synagogue, mosque, or temple;

- (ii) a public or private educational facility;
- (iii) a public park, library, or playground;
- (iv) a residential zone;
- (v) an interstate highway interchange;
- (vi) another adult business.

The distance requirements herein shall be measured along a straight line from the nearest property line.

C. Signs and lighting. Outdoor advertising signs and outdoor artificial lighting shall conform to the requirements of Title 27 and shall be approved by the Board.

D. Off-street Parking. Sufficient off-street parking shall be provided as determined by the Board.

E. Other Requirements.

- (i) Development Plan to be submitted with application.
- (ii) The Development Plan must demonstrate that the proposed use will not adversely impact public facilities and services such as parking, traffic control, and police, and that the secondary effects of such use will not adversely impact adjacent properties in violation of the Zoning Code. The Secondary effects to be considered shall include noise, light, parking, traffic congestion, pedestrian circulation and safety.

22.4.2 AIRPORTS

A. Minimum lot area of eighty (80) acres.

B. Maximum height of structures shall be as required by appropriate State or Federal agency(s).

C. Adequate fencing shall be provided in accordance with Title 25.

D. Adequate screening shall be provided in accordance with Title 26.

E. Parking shall be a minimum of twenty-five (25) feet from an adjacent residential use.

F. Loading berths shall be a minimum of one hundred (100) feet from an adjacent residential use.

- G. Entrances or driveways shall be subject to approval by the Board.
- H. Other approvals from public agencies shall be required where applicable, prior to approval of the special exception.

22.4.3 ASPHALT AND CONCRETE MIXING PLANTS

- A. Such operations shall be conducted a minimum of fifty (50) feet from adjacent property lines; however, if such operations are located adjacent to a residential district, this distance shall be increased to one hundred (100) feet.
- B. All roads and access drives on the site shall be treated and maintained to remain dust-free at all times.
- C. All equipment shall be located and operated so as to minimize noise, vibration and dust.

22.4.4 CEMETERY

- A. Minimum lot area of ten (10) acres.
- B. There shall be two side yards with a minimum setback of fifty (50) feet each and a rear yard setback of fifty (50) feet.
- C. There shall be a front yard setback of not less than forty (40) feet.
- D. Adequate fencing shall be provided in accordance with Title 25.

22.4.5 CHURCHES

- A. Such uses shall have side and rear yards equal to a minimum of one-half (1/2) of the height of the building.
- B. Off-street parking shall not be located in the required front or side yards adjoining a public street right-of-way.

22.4.6 CONFINED FEEDING OPERATIONS

- A. All structures and confined lots designed to house or contain livestock shall be set back five hundred (500) feet from any existing residence except that of the confined feeding operator.
- B. All structures and confined lots designed to house or contain

livestock shall be set back one thousand (1,000) feet from any existing church, school, recreational area (public or private), commercial use or any other public buildings.

C. All structures and confined lots designed to have or contain livestock shall be set back one thousand three hundred (1,300) feet from any zoning district not otherwise zoned A-1 Agricultural except for those lands zoned as Flood Plain District; in which case the setback shall be one thousand five hundred (1,500) feet.

D. All structures shall be set back forty (40) feet from all highway and road rights-of-way.

E. Prior to approval of the special exception, the applicant must present evidence of having received all required Federal and State approvals to the Board.

22.4.7 GOLF COURSE, COUNTRY CLUB

A. Adequate screening shall be provided in accordance with Title 26.

B. Parking shall be a minimum of twenty-five (25) feet from an adjacent residential use

C. Entrance driveways shall be subject to approval by the Board.

22.4.8 HOME OCCUPATIONS

A. No persons other than members of the family residing on the premises shall be engaged or employed in such occupation.

B. The use of a dwelling unit or private garage for a home occupation shall be clearly incidental to its principal use for residential purposes

C. There shall be no change in the outside appearance of the building or premises or other evidence of such occupation, other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated and mounted flat against the wall of the principal building.

D. There shall be no outside storage.

E. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference outside the dwelling unit in amounts greater than present under normal household uses.

F. No commodity shall be sold on the premises except for those commodities made, manufactured or constructed on the premises or those commodities sold in conjunction with the services provided by the home occupation.

22.4.9 JUNK YARDS

A. Such uses shall be located on sites having a minimum of ten (10) acres in area.

B. Buildings or structures shall be located a minimum of fifty (50) feet from adjacent property lines, provided that where such use is located adjacent to a residential district, side and rear yard requirements shall be increased to one hundred (100) feet.

C. Adequate screening shall be provided in accordance with Title 26.

D. Aesthetic provisions such as landscaping, planting of hedges or visual screens, additional setbacks, restriction on the operation itself such as methods of storage, etc., may be imposed by the Board when deemed necessary due to the uses or nature of adjacent property in order to protect property value, to avoid unnecessary unsightliness, or to preserve the aesthetics of a particular area.

E. All required State and Federal approvals must be obtained prior to approval of the special exception.

22.4.10 KENNELS

A. Such facilities, including outdoor pens and runs, shall be located a minimum of one hundred (100) feet from adjacent property lines, provided however, that where such facilities are located adjacent to a residential district side and rear yard setbacks shall be increased to three hundred (300) feet.

B. Such facilities shall meet the approval of the State Board of Health or other appropriate regulatory agencies, prior to approval of the special exception.

22.4.11 LIVESTOCK AUCTION ARENA

A. All livestock structures and lots shall be set back a minimum of one thousand (1,000) feet from any existing church, school, recreational area, or other public building and one thousand, three hundred (1,300) feet from any residential establishment.

- B. All structures shall be set back forty (40) feet from all highway and road rights-of-way.
- C. Parking, access drives, loading and unloading areas shall be subject to approval of the Board.
- D. Other required permits from state agencies shall be obtained by Owner/Operator, prior to approval of the special exception.

22.4.12 MINING OPERATIONS

- A. A reclamation plan shall be filed with the Town which shall propose uniform contours which blend with existing topography; soil replacement for suitable growing conditions, not less than six (6) inches; and landscaping, reseeding and maintenance to prevent any form of erosion.
- B. Performance or other forms of bond may be required.
- C. All required State and Federal permits or approvals shall be obtained prior to approval of the special exception.

22.4.13 MOBILE HOME PARKS

- A. Mobile home parks shall be located on sites having a minimum of ten (10) acres in area.
- B. The density in a mobile home park shall not exceed eight (8) dwelling units per gross acre.
- C. Mobile home units within a mobile home park shall be located a minimum of twenty-five (25) feet from adjacent property lines, provided that where mobile home parks are located adjacent to another residential use, side and rear yard requirements shall be increased to fifty (50) feet.
- D. There shall be a minimum distance of twenty (20) feet between mobile home units.
- E. Mobile home parks shall be served by public sewer and shall meet the requirements as set forth in applicable State Statutes.
- F. The mobile home park shall be adequately lighted, provided that all lights shall be shielded so as to protect mobile home units as well as adjacent residential properties from glare.

G. All roads shall have a minimum width of twenty (20) feet and shall be paved.

H. All mobile homes shall observe a minimum setback from the edge of the interior road of ten (10) feet.

I. Two (2) off-street parking spaces per mobile home shall be provided.

J. All mobile homes shall be secured to the ground by tie-downs.

22.4.14 NURSERY SCHOOLS AND DAY CARE

A. Minimum lot area of one hundred ten (110) square feet per child.

B. There shall be two (2) side yards with a minimum setback of twenty (20) feet each.

C. Minimum gross floor area of the principal building(s) shall be determined by the number of children to be accommodated and shall be subject to approval by the Board.

D. Adequate screening shall be provided in accordance with Title 26.

E. Entrances or driveways shall be subject to approval by the Board.

F. All applicable state statutes and regulations shall be complied with.

22.4.15 NURSING HOMES

A. Minimum lot area of fifteen thousand (15,000) square feet, but not less than fifteen hundred (1,500) square feet per person cared for.

B. There shall be two (2) side yards with a minimum setback of thirty (30) feet each.

C. Minimum gross floor area of principal building(s) shall be one thousand (1,000) square feet.

D. Adequate screening shall be provided in accordance with Title 26.

E. Entrances or driveways shall be subject to approval by the Board.

F. All applicable state statutes and regulations shall be complied with.

22.4.16 PARK AND PLAYGROUNDS

- A. No building or structure shall be located closer than twenty-five (25) feet to an adjacent residential use.
- B. All exterior lighting shall be so arranged and sheltered as to prevent illumination, glare, or reflection on adjacent properties.

22.4.17 PLANNED UNIT DEVELOPMENTS

- A. P.U.D.'s shall be served by public sanitary sewers.
- B. P.U.D.'s shall be in accordance with the provisions of Title 19.

22.4.18 PRODUCE STANDS

- A. Maximum area of such structures shall be two hundred (200) square feet.
- B. There shall be a front setback of twenty-five (25) feet, and such structures shall be located a minimum of fifty (50) feet from adjacent property lines.
- C. There shall not be more than one (1) such stand per lot.
- D. Minimum of three (3) spaces shall be provided for off street parking.

22.4.19 RECREATIONAL FACILITIES, INDOOR

- A. Indoor recreational uses, including but not limited to, racquet clubs, iceskating rinks, roller skating rinks, health spas, and other athletic related facilities, meeting the following requirements, shall be permitted in the R-3 zone district:
 - 1. Buildings or structures shall be located a minimum of fifty (50) feet from an adjacent residential use.
 - 2. Off-street parking shall not be located in the required front or side yards.
- B. Bowling alleys, pool or billiard halls, pinball establishments, penny arcades and all other commercial indoor recreational activities not specifically listed in subdivision A above, and all other athletic indoor recreational activities permitted within the R-3 zone district, shall be

permitted in the B-2 and I-1 districts.

22.4.20 RECREATIONAL FACILITIES, OUTDOOR

A. Athletic fields, swimming pools, tennis courts and other athletic related facilities shall be permitted in the A, FP, R-1, R-2, and R-3 zone districts.

B. Miniature golf courses, driving ranges, baseball batting cages, go-cart tracks and all other commercial indoor recreational activities plus all other athletic outdoor recreational activities permitted above shall be permitted in the B-2 and I-1 zone districts.

22.4.21 LANDFILLS

A. The location, installation and operation of such facilities shall be subject to the approval by the County Health Officer, the State Health Department and the Indiana Department of Environmental Management in accordance with applicable codes and ordinances.

B. Such operations shall be constructed a minimum of fifty (50) feet from adjacent property lines, provided, however, that where a sanitary landfill is located adjacent to a residential district, the side and rear yard requirements shall be one hundred (100) feet.

C. Such facilities shall be located on sites containing no less than ten (10) acres in area.

D. All required State and Federal approvals must be obtained prior to approval of the special exception.

Prior to commencing such operation, the owner shall file a reclamation plan with the Plan Commission and any other indemnity agreement as may be required by the Plan Commission for the purpose of assuring the restoration and reclamation of the site according to the following specifications and within a specified period of time as established in the agreement:

A. A uniform contour which blends in with the topography of the surrounding area shall be established throughout the area.

B. Soil suitable for growing vegetation shall be replaced over the slopes to a permanent uniform depth of not less than six (6) inches; and the area shall be seeded, landscaped and maintained with perennial plant material until a permanent type ground cover is established to prevent erosion.

22.4.22 UTILITY SUBSTATIONS, POWER TRANSMISSION LINES, AND RADIO OR TELEVISION TOWERS

- A. Such uses shall be located on sites having an adequate area to accommodate all activities.
- B. The installation and operation of such uses shall be subject to approval under the provisions of applicable codes and ordinances.
- C. Buildings occurring in the R-1, R-2 and R-3 zone districts shall be of an architectural style that is compatible with the character of the neighborhood in which it is located.
- D. Buildings and structures shall be located a minimum of fifty (50) feet from adjacent residential uses.
- E. Operations not completely contained within buildings shall have adequate screening as required in Title 26, and adequate fencing subject to approval by the Board.
- F. Entrances or driveways shall be subject to approval by the Board.

22.4.23 VEHICLE DISMANTLING AND IMPOUNDMENT YARDS

- A. Such uses shall be located on sites having a minimum of ten (10) acres in area.
- B. Buildings or structures shall be located a minimum of fifty (50) feet from adjacent property lines, provided that where such use is located adjacent to a residential district, the side and rear yard requirements shall be increased to one hundred (100) feet.
- C. Machinery required for such operations shall be installed and operated so as to minimize noise and vibration.
- D. Adequate screening and fencing shall be provided as required in Titles 25 and 26.

22.4.24 VETERINARY CLINICS AND ANIMAL HOSPITALS

- A. Such facilities shall be located on sites having a minimum of twenty thousand (20,000) square feet in area.
- B. Such facilities shall have no outside pens or runs.

C. Buildings or structures shall be located a minimum of fifty (50) feet from adjacent property lines, provided that where such uses are located adjacent to a residential district the side and rear yard requirements shall be increased to one hundred (100) feet.

TITLE 23

PARKING

23.1 PARKING REQUIREMENTS - INTENT. Off-street parking requirements are intended to alleviate or prevent congestion of the public streets, and to promote the safety and welfare of the public by establishing minimum requirements for the off-street parking of motor vehicles in accordance with the use to which property is put.

23.2 GENERAL PARKING PROVISIONS.

23.2.1 Groups of uses requiring parking space may join in establishing private parking areas with a capacity aggregating that required for each participating use.

23.2.2 Except as hereinafter provided, all parking facilities shall be located on the same lot as the structure or use served. Required off-street parking spaces, for any permitted use or special exception, may be provided on a lot within three hundred (300) feet of such use when approved by the Board of Zoning Appeals.

23.2.3 For land, structures, or uses actually used, occupied or operated on the effective date of this Ordinance, there shall be provided such off-street parking space as was required for such land, structures or uses by a previous ordinance. If such land, structures or uses are enlarged, expanded or changed, there shall be provided, for that increment of expansion only, at least the amount of off-street parking space that would be required hereunder if the increment were a separate land, structure or use established or placed into operation after the effective date of this Ordinance.

23.2.4 For all uses established or placed into operation after the effective date of this Ordinance, there shall be constructed, provided, preserved, and maintained the amount of off-street parking space hereinafter set forth in this Title.

23.2.5 Uses located in the B-1 District are exempt from the parking requirements of this Title.

23.3 DESIGN STANDARDS.

23.3.1 Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. No driveway across a public curb cut shall exceed a width of twenty-four (24) feet.

23.3.2 When computation of the number of off-street parking spaces required by

this Ordinance results in a requirement of a fractional space, any fraction shall be counted as one (1) parking space.

23.3.3 A required off-street parking space shall be a minimum of ten (10) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, columns, office or work areas. Such space shall have a minimum vertical clearance of at least seven (7) feet. Parallel parking spaces shall be a minimum of eight (8) feet in width and twenty (20) feet in length.

23.3.4 The term “area” for purposes of calculating the required number of parking spaces shall mean the total floor area of every floor of a building including areas occupied for fixtures, and equipment used for display or sale of merchandise, but excluding areas used exclusively for storage, housing of mechanical equipment integral with the building and maintenance facilities.

23.3.5 Acceleration and deceleration lanes, and passing blisters shall be required in accordance with the specifications of the Jasper County Highway Department and/or the State Highway Department.

23.3.6 In multi-use buildings or activities parking spaces shall be calculated for each “use” classification.

23.3.7 In no instance, other than for single family residential uses, shall there be provided less than three (3) off-street parking spaces.

23.3.8 All parking areas, and appurtenant drives and roads, shall be paved with asphalt or concrete. All zone map change, special exception, or building permit approvals shall be premised upon the paving of all required parking areas as required by this Ordinance. However, the Plan Commission or Board of Zoning Appeals may, upon receipt of an acceptable performance bond, waive this paving requirement for a period of up to two years.

23.3.9 In instances where specific uses are not described in the Table of Parking Requirements, the most similar categorical use shall apply or shall be interpreted to apply by the Plan Commission.

Table of Parking Requirements

Use	Parking Requirements
Agri-Businesses & related uses	1 per each employee on duty, plus 1 per 800 square feet of display and sales area
Animal Hospitals	1 per each employee on duty, plus 1 per doctor; plus 2 per examining room
Airports & related uses	1 per each employee on duty 1 per 3 seats in the waiting room; 1 per aircraft at maximum storage capacity of the facility; in addition to special events accommodations determined by granting special exception
Ambulance Services	1 per each employee on duty, plus 1 per vehicle operated by establishment
Appliance Dealer (household)	1 per each employee on duty, plus 2 per 400 square feet of display and sales area
Art dealers, galleries and craft shops	1 per each employee on duty, plus 1 per 200 square feet of display area, plus 1 per 5 seats in an auditorium or other meeting or gathering room
Auction Houses	1 per each employee on duty, plus 1 per 200 square feet of display area, plus 1 per 5 seats in an auditorium or other meeting or gathering room.

Use	Parking Requirements
Auditoriums	1 per each employee on duty, plus 1 per 3 seats at maximum capacity
Automobile Repair and Body Shops	1 per each employee on duty, plus 2 per service bay.
Automobile Dealers	1 per each employee on duty, plus 1 per 1,000 square feet of display, sales and storage area indoor and outdoor.
Automobile Dismantling and Impoundment	1 per each employee on duty.
Automobile Parts & Supply Sales	1 per each employee on duty, plus 1 per 200 square feet of display and sales area.
Automobile Washing & Waxing Facility	1 per each employee on duty, plus 2 times the maximum washing and waxing capacity of the facility at any one time.
Bakeries, Non-Retail	1 per each employee on duty, plus 1 per vehicle operated by the establishment
Bakeries, Retail	1 per each employee on duty, plus 1 per 200 square feet of display and sales area
Banks	1 per each employee on duty, plus 1 per 200 square feet of public areas; plus drive-in requirements (if applicable)

Use	Parking Requirements
Barber Shops	1 per each employee on duty, plus 2 per operator's station
Bars, Lounges and Nite Clubs	1 per each employee on duty, plus 3 person at maximum seating capacity
Beauty Shops	1 per each employee on duty, plus 3 per operator's station.
Bicycle and Motorcycle Dealers and Service	1 per each employee on duty, plus 1 per 400 square feet of display and sales area.
Boarding Houses	2 per dwelling unit
Boat and other Recreational Vehicle Sales	1 per each employee on duty, plus 1 per 1,000 square feet of display, sales and storage area, indoor and outdoor
Building Material, Wholesale	1 per each employee on duty, plus 1 per 400 square feet of display and sales area.
Bus Garage and Terminals Public and Private	1 per each employee on duty, plus 1 per vehicle using the terminal, based on the maximum vehicle parking and storage capacity of the terminal, plus 1 per 3 seats in waiting areas.
Camp Grounds	1 per each employee on duty, plus parking to meet the requirements as established in this table for other uses included in the facility
Cemeteries	1 per each employee on duty

Use	Parking Requirements
Churches	1 per each employee on duty, plus 2 per 5 seats in the main sanctuary area
Clubs and Lodges, not including hunt and gun clubs	1 per each employee on duty, plus 1 per 5 members; plus parking to meet the requirements as established in this Table for uses included within the establishment.
Coal, Gas and Oil Dealers	1 per each employee on duty, plus 1 per vehicle operated by establishment and 1 per 400 square feet of any display and sales area.
Community Centers	1 per each employee on duty, plus parking to meet the requirements as established in this Table for uses included in the establishment.
Concrete and Asphalt Mixing Plants	1 per each employee on duty, plus 1 per vehicle operated by the establishment.
Contractors, Materials and Storage Yards and Supplies	1 per each employee on duty, plus 1 per vehicle operated by the establishment
Dairy Stores, Retail	1 per each employee on duty, plus 1 per 200 square feet of sales and display area
Day Care Centers	1 per each employee on duty, plus 1 per 3 children for which the establishment is licensed.
Delicatessens	1 per each employee on duty, plus 1 per 200 square feet of sales and display area; plus 1 per 3 persons at maximum seating capacity.

Use	Parking Requirements
Department Stores, Discount and Retail	1 per each employee on duty, plus 1 per 200 square feet of display and sales area.
Distributors	1 per each employee on duty, plus 1 per 400 square feet of display and sales area; plus 1 per vehicle operated by the establishment
Drive-in establishments	Four (4) stacking spaces per service window plus all other spaces required for such establishment
Drug Stores	1 per each employee on duty, plus 1 per 200 square feet of display and sales area.
Drygoods Stores	1 per each employee on duty, plus 1 per 200 square feet of display and sales area.
Factories and Manufacturing	1 per each employee on duty, plus 1 per 5,000 square feet
Farm Implement and Supply	1 per each employee on duty, plus 1 per 600 square feet of display and sales area.
Freight Terminals	1 per each employee on duty, plus 1 per vehicle using the terminal, based on the maximum capacity of the terminal
Furniture Stores	1 per each employee on duty, plus 1 per 400 square feet of display and sales area

Use	Parking Requirements
Garden Supply Shops and Nurseries	1 per each employee on duty, plus 1 per vehicle operated by the establishment; plus 1 per 500 square feet of display, sales, and planting sales area
Gasoline Service Station	1 per each employee on duty, plus 1 per vehicle operated by the establishment; plus 2 per service bay, provided that there shall be a minimum of 5 such parking spaces provided for the establishment
Grocery Stores	1 per each employee on duty, plus 1 per 200 square feet of floor and sales areas, provided that there shall be a minimum of 5 such parking spaces
Group Care Homes and Other Housing Quarters	1 per each employee on duty, plus 1 per doctor, counselor, or other professional regularly visiting the establishment
Gun and Hunt Clubs	1 per each employee on duty, plus 1 per 5 members
Hardware Stores	1 per each employee on duty, plus 1 per 200 square feet of display and sales area
Hospitals, Institutions	1 per each employee on duty, including staff doctors; plus 1 per 6 beds. Similar uses shall conform to requirements of this Table

Use	Parking Requirements
Hotels	1 per each employee on duty, plus 1 per vehicle operated by the establishment; plus 1 per guest room or suite of rooms
Junk Yards	1 per each employee on duty
Kennels	1 per employee on duty, plus 1 per 800 square feet of floor areas used as a waiting room; plus 1 per 5 boarding spaces.
Laundry and Cleaning Commercial	1 per each employee on duty, plus 1 per vehicle operated by the establishment
Laundry and Cleaning Pick-up and Self Service	1 per each employee on duty, plus 1 per 2 washing or dry cleaning machines
Libraries, Main and Branches	1 per each employee on duty, plus 1 per 800 square feet of floor area for use by the general public; plus 1 per 3 seats in an auditorium or other assembly room.
Lumber Yards	1 per each employee on duty, plus 1 per 200 square feet of indoor display, sales area.
Machine Shops	1 per each employee on duty.

Use	Parking Requirements
Meat Processing and Packing Plants	1 per each employee on duty.
Medical and Dental Clinics	1 per each employee including doctors; plus 2 per 100 square feet of waiting or reception room; plus 1 for each treatment room, each examination room and each doctor's office.
Mobile Home Dealer	1 per each employee on duty, plus 1 per 1,000 square feet of indoor and outdoor display and sales area
Mortuaries	1 per each employee on duty, plus 1 per funeral vehicle; plus 1 per 50 square feet of parlor area.
Motel	1 per each employee on duty, plus 1 per guest room or suite of rooms; Parking for other uses incorporated in the motel shall be in addition as required by this Table.
Offices	1 per each employee on duty, plus 1 per 400 square feet of office space.
Paint Stores	1 per each employee on duty, plus 1 per 200 square feet of display and sales area, provided that there shall be a minimum of 3 such parking spaces per establishment
Parks and Playgrounds	1 per picnic table or area but not less than five spaces, plus parking to meet the requirements as established in this Table for other specific included areas

Use	Parking Requirements
Printing and Duplicating	1 per each employee on duty, plus 1 per 400 square feet of office space.
Recreation Facilities Indoor and Outdoor	1 per each employee on duty, plus parking to meet requirements as established in this Table for the use included as follows:
Archery	3 per lane
Baseball Diamonds	30 per diamond
Basketball Courts	10 per court
Bowling alleys	5 per lane
Driving Ranges	5 per lane
Golf Courses	1 per tee
Gymnasiums & other, health facilities including: handball, racquet ball , and tennis.	1 per 100 square feet of exercise floor area, pool area, shower and locker room area
Miniature Golf	3 per hole
Swimming Pools	1 per 100 square feet of pool surface, including locker rooms and pool deck area
Tennis and other ball courts	2 per court
Rental and Leasing Services	1 per each employee on duty, plus 1 per vehicle or trailer operated by establishment; plus 1 per 400 square feet of display, rental, office or leasing area.

Use	Parking Requirements
Repair Shops (all)	1 per each employee on duty, plus 2 per service bay or service area; plus 1 per 400 square feet of office area.
Restaurants (not including drive-ins)	1 per each employee on duty, plus 1 per 3 persons at maximum seating capacity.
Restaurants, Drive-In	1 per each employee on duty, plus 1 per 3 persons at maximum seating capacity; plus 1 for every curb space
Residential:	
Single Family	2 per dwelling unit
Two-family	2 per dwelling unit
Multi-family	2 per dwelling unit
Planned unit development	2 per dwelling unit; plus parking to meet the requirements as established in this Table for other included uses.
Retail not otherwise identified in Table of Parking Requirements	1 per each employee plus 1 per 200 square feet of display and sales area, provided that there shall be a minimum of 5 such parking spaces per establishment.
Sanitary Landfills	1 per each employee on duty
Adults Education Art and Craft Business & Vocational	1 per each employee on duty, plus 15 per classroom, plus 1 per 400 square feet of office area.

Use	Parking Requirements
Schools: Elementary & Middle High Schools	1 per each employee on duty, plus 1 per classroom; 1 per each employee plus 4 per classroom, plus parking to meet the requirements as established in this Table for other included uses.
Stable	1 per each employee on duty, plus 1 per each horse
Shopping centers, including strip malls	1 per employee plus 2 per 200 square feet of display and sales area.
Supermarket, Grocery and Food Stores	1 per each employee on duty, plus 1 per 200 square feet of display and sales area, provided that there shall be a minimum of 5 such parking spaces per establishment.
Theaters (indoor)	1 per each employee on duty, plus 1 per 3 persons at maximum capacity of theater.
Theaters (outdoor)	1 per each employee on duty, plus 1 per vehicle capacity of theater.
Tire Sales and Services	1 per each employee on duty, plus 2 per service bay; plus 1 per 500 square feet of display and sales area.
Truck Terminal	1 per each employee on duty, plus 600 square feet per truck at capacity
Utility Companies, Main Installation	1 per each employee on duty, plus 1 per 400 square feet of office area.

Use	Parking Requirements
Utility Companies, Substations	1 per each employee on duty, plus 1 per 400 square feet of office area.
Warehousing	1 per each employee on duty, plus 1 per 1,000 square feet of storage area.
Waste Removal	1 per each employee on duty, plus 1 per vehicle operated by the establishment
Wholesalers	1 per each employee on duty, plus 1 per 600 square feet of display and sales area.

TITLE 24

LOADING

24.1 LOADING ; INTENT It is the intent of this section to establish loading requirements so that adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading is provided in order to avoid undue interference with public use of the streets or alleys.

24.2 GENERAL PROVISIONS

24.2.1 Off-street loading facilities shall be provided on the same premises for every building, structure, or part thereof, erected and occupied for uses involving the receipt or distribution of materials or merchandise via vehicular transportation.

24.3 DESIGN STANDARDS

24.3.1 Loading areas may occupy any portion of a lot, provided that loading docks shall not be permitted in any required front or side yard.

24.3.2 All loading facilities shall be arranged so that all maneuvers shall be accomplished without blocking a public right-of-way and shall be directly accessible to the building or structure served.

24.3.3 Loading space shall be a minimum of ten (10) feet in width and sixty (60) feet in length, exclusive of aisle and maneuvering space, and shall have a minimum vertical clearance of fourteen (14) feet.

24.3.4 All loading areas and maneuvering areas shall be paved in conformance with the standards of the Town.

24.3.5 Loading facilities shall be effectively screened from an adjacent residential district or principal residential use in accordance with Section 12 of this Article. Screening shall be continuous, broken only for access drives and walkways.

24.4 TABLE OF LOADING SPACE REQUIREMENTS Loading space requirements shall be established for the following permitted uses and special exceptions, irrespective of the zoning district in which they are located, as follows:

<u>USE</u>	<u>GROSS FLOOR AREA (square feet)</u>	<u>LOADING REQUIREMENTS</u>
Retail Stores		
Department Stores,	15,000 or less	1
Wholesale Establishments,	15,000 to 40,000	2
Storage Uses, and other	Each Additional 25,000	1 Additional
Business Uses		
Office Buildings		
	100,000 or less	1
	Each Additional 200,000	1 Additional
Industrial Uses		
	15,000 or less	1
	15,001 to 40,000	2
	40,001 to 100,000	3
	Each Additional 40,000	1 Additional

TITLE 25

FENCES

25.1 FENCE REGULATIONS ; INTENT It is the intent of this section to establish reasonable fence regulations for the protection of property and individuals.

25.2 RESIDENTIAL USES

25.2.1 Fences for residential uses in any district shall be allowed subject to the following provisions:

25.2.1.1 Solid or chain link fences shall be prohibited in any front yard.

25.2.1.2 Fences shall be allowed in any side or rear yards up to a height of six (6) feet and shall be constructed of a material or materials compatible with the character of the immediate area. Fences constructed of such material as barbed wire, sheet metal, or other objectionable material shall be prohibited.

25.2.1.3 All fences shall comply with vision requirements at Section 20.2.

25.3. COMMERCIAL AND INDUSTRIAL USES

25.3.1 Fences in Commercial or Industrial Districts shall be subject to the following provisions:

25.3.1.1 Fences intended for security purposes shall not exceed a maximum height of eight (8) feet including a maximum of three strands of barbed wire and shall be allowed within any side or rear yards.

25.3.1.2 Fences shall be prohibited in any front yard setback.

25.3.1.3 Fences intended for decorative or screening purposes shall meet the requirements of this Article.

25.3.1.3 Fences shall comply with vision requirements at Section 20.2.

25.4. AGRICULTURAL USES

25.4.1 Fences used for agricultural purposes shall not be regulated by this Ordinance.

TITLE 26

SCREENING

26.1 SCREENING; INTENT It is the intent of this section to establish screening regulations and requirements to provide for the screening of certain areas, buildings, or other structures, as provided by this Ordinance, from adjacent uses, particularly residential uses. If deemed necessary, the Board of Zoning Appeals and/or the Plan Commission may require specific screening and maintenance plans to be filed by individual petitioners. If no such specific requirements are adopted, the following general provisions shall apply.

26.2 GENERAL SCREENING PROVISIONS

26.2.1 Screening shall be accomplished through installation or construction of either a plant material buffer or an opaque wall, barrier or fence; shall be a minimum of six (6) feet in height; and shall have a density so that vision and artificial light will be substantially obscured from adjacent properties.

26.2.2 Where plant materials are used, such materials shall conform to the following:

26.2.2.1 Species shall be suited to the local climatic and soil conditions.

26.2.2.2 Species shall reach the minimum six (6) feet height requirement in two (2) growing seasons.

26.2.3 Where opaque walls, barriers or fences are used, such screens shall conform to the following:

26.2.3.1 Materials used shall be in good condition, properly installed and consist of wood, masonry, "basket weave" chain link fence or any combination thereof or any other acceptable building materials: and

26.2.3.2 Such materials shall bear no signs, or advertising, other than the name and address of the premises.

26.2.4 Installation. All screening shall be installed, constructed or provided prior to occupancy of the property.

26.2.5 Maintenance. Screening material shall be properly and adequately maintained and kept free of trash and litter.

TITLE 27

REGULATION OF SIGNS

27.1 INTENT. It is the intent of this Title to regulate the construction and placement of signs and advertising devices within the planning jurisdiction of the Plan Commission for the purpose of minimizing traffic hazards and maintaining the property values and aesthetics of the planning area by regulating the placement, height, size, and installation and/or construction standards of said signs and advertising devices.

27.2 EXISTING SIGNS. All signs in existence and fully constructed and erected upon the adoption of this Ordinance which do not conform to the requirements of this Ordinance and which are not in violation of previous ordinances on the date of adoption of this ordinance, shall be considered to be legal non-conforming signs and may be maintained. "Maintenance" shall be defined as painting and repairing existing parts of the sign resulting from damage or deterioration caused by natural or artificial forces beyond the control of the owner of the sign. However, maintenance shall not include replacing the sign, enlarging the sign, adding additional electrical devices or illumination to the sign, or changing the use of the sign to a use other than the use which existed on the date of the adoption of this Ordinance.

27.3 GENERAL PROVISIONS. The following restrictions and conditions shall apply to all signs erected or located in any district:

27.3.1 Measurement All signs shall be measured by the smallest square, rectangle, triangle or combination thereof which will encompass the entire sign facing.

27.3.2 Off Right of Way No signs, except those established and maintained by the Town, County, State, or Federal Governments shall be permitted to project into or overhang a public right-of-way or dedicated public easement.

27.3.3 Height Limitation No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which it is located.

27.3.4 Not to Resemble Official Marker No sign shall be constructed which resembles any official marker erected by the Town, State, or any governmental agency, or which by reason of position, shape or color would conflict with the proper function of any traffic sign or signal.

27.3.5 Attachment No sign shall be attached to a tree or utility pole.

27.3.6 Structural Certification All permanent, pole mounted signs designed with fifty (50) square feet of copy face or larger and/or eight (8) or more feet to top of sign above ground level must be certified by an Indiana registered structural

engineer showing structural base data and wind load resistance in working drawings in the application for an improvement location permit.

27.3.7 Off-Premise Signs Signs or advertising devices which advertise a business, products, sales or services on premises other than those on which the sign is located are prohibited .

27.3.8 Set Back (Front Edge) All signs shall be set back from property lines and/or any public right of way a distance of not less than ten (10) feet, except as specified in 27.3.2.

27.3.9 Removal of Signs The Plan Commission of the Town of DeMotte retains the right to order the removal of any sign erected within the jurisdiction, after prior public notice and hearing, if: (a) said sign was erected in violation of the requirements of this Ordinance; (b) said sign is not maintained in the same general condition as when originally installed; or c) said sign poses a safety hazard. However, before ordering such a sign removed under (b) or c), the Plan Commission shall make written findings which indicate the exact nature of the disrepair or hazards. In the event such disrepair is not corrected or such hazards are not removed within thirty (30) days, the Plan Commission may order the removal of said sign, at the expense of the owner of the land on which the sign is located and the business being advertised on the sign. Failure to reimburse the Town for such expense shall be a violation of this Ordinance.

27.3.10 Temporary Signs No temporary signs, portable signs, mobile signs, signs mounted on wheels, signs designed to be transported from site to site, or signs with pulsating or flashing lights, shall be allowed except that the Building Commissioner may issue a special sign permit for such a sign for temporary use to advertise such business' products or services for a maximum period of seven (7) consecutive days and no more than fourteen (14) days during any calendar year. However, the Building Commissioner may issue no more than four (4) such temporary sign permits at any given time.

27.3.11 Vehicles and Trailers. No vehicle or trailer shall be continuously or repeatedly placed or parked on property in a manner that any display of words or symbols painted or affixed to the vehicle or trailer is intended to serve as a sign for the time placed or parked.

27.3.12 Vision No sign may be erected that obstructs vision in violation of Section 19.2 of this Ordinance.

27.4 SIGNS IN RESIDENTIAL USE AREAS. The following provisions shall govern signs located on (a) parcels having residential uses, regardless of the zoning classifications of those parcels; and (b) unimproved parcels of land zoned for residential uses (i.e. R-1, R-2, and R-3).

27.4.1 Addresses Address number in numerals shall be not less than three (3) inches high, and shall be positioned on the residence within two feet of the main entrance or the most highly visible location from the street. For each dwelling unit, one unlighted name plate, not exceeding two square feet in area indicating the name or address of the occupant(s). No permit is required.

27.4.2 Public Signs Directional signs, public information signs and/or traffic control signs shall be allowed as placed by the Town of DeMotte, County Highway Department, or State Highway Department, not exceeding four (4) square feet in size. No permit is required.

27.4.3 For Sale Signs

27.4.3.1 Each single family residence or single parcel less than two (2) acres in size may have one (1) sign not exceeding six (6) square feet indicating that the premises on which the sign is located are “For Sale”. Such signs shall be removed within thirty (30) days after the sale of the premises. No permit is required.

27.4.3.2 Each multiple family unit, single parcel greater than two acres, or group of lots totaling more than two acres may have one sign which shall not exceed twenty (20) square feet in size indicating that the premises on which the sign is located is “For Sale” provided that such signs do not remain for more than twelve (12) months. All “For Sale” signs shall be removed within thirty (30) days after the closing of the sale of the parcel. A permit is required for such signs.

27.4.4 Subdivision Identification Signs Signs identifying a subdivision may be displayed at a street entrance to a subdivision on the subdivision lot which is closest to the entrance. A permit is required for these signs.

27.4.4.1 All subdivision identification signs shall be constructed of materials generally considered to be maintenance free.

27.4.4.2 No subdivision identification sign shall exceed twenty (20) square feet in sign area. No subdivision identification sign shall be mounted or installed in such a way that the top of the sign is more than six (6) feet above the elevation of the adjacent subdivision street.

27.4.4.3 No subdivision identification signs shall be located on any Town, County, or State right-of-ways, shall not be located on any areas reserved for drainage easements, and shall be at least ten (10) feet from any public right-of-way.

27.4.4.4 The Developer shall file a separate sign permit application for each subdivision identification sign and pay a separate fee for each such sign.

27.5 SIGNS IN BUSINESS, COMMERCIAL, AND INDUSTRIAL USE AREAS

(excepting shopping centers and malls). The following provisions shall govern signs located on (a) parcels having business, commercial or industrial uses regardless of the zoning classifications of those parcels; and (b) unimproved parcels of land zoned for business, commercial or industrial uses (i.e. B-1, B-2, I-1, and I-2).

27.5.1 Addresses Address number in numerals shall be not less than three (3) inches high, and shall be positioned on the business within two (2) feet of the main entrance or the most highly visible location from the street. No permit is required.

27.5.2 Public Signs Directional signs, public information signs and/or traffic control signs shall be allowed as placed by the Town of DeMotte, County Highway Department, or State Highway Department, not exceeding four (4) square feet in size. No permit is required.

27.5.3 For Sale Signs

27.5.3.1 Each single parcel less than two acres in size may have one sign not exceeding sixteen (16) square feet indicating that the parcel on which the sign is located is “For Sale”. No permit is required.

27.5.3.2 Each parcel greater than two acres, or groups of lots totaling more than two acres, may have one sign not exceeding twenty-four (24) square feet indicating that the parcel(s) on which the sign is located is “For Sale” provided that such signs do not remain for more than twelve (12) months. All “For Sale” signs shall be removed within thirty (30) days after the closing of the sale of the premises. A permit is required for such signs.

27.5.4 Signs on Buildings Any sign which pertains to the use or uses conducted upon the premises may be displayed flat against the wall of a building so long as it does not project above the roof line or beyond the side wall of said building. A permit is required for these signs.

27.5.4.1 Such signs may not protrude more than one (1) foot from the surface of the building’s facade.

27.5.5 Free Standing Signs Each individual lot, except lots located within a designated shopping center or mall as defined hereinafter, within a commercial or industrial district may have one free-standing sign advertising the use or uses of the property upon which the sign is located. The size limitation for such sign shall be fifty (50) square feet. An additional attachment (advertising space) for the purpose of interchangeable messages may be added to such sign with a size limitation of

twenty-four (24) square feet. Such attachments shall not extend beyond the widest outside edge of the primary sign. Gasoline retailers may also have an additional thirty-two (32) square feet for display of gasoline prices. Permits are required for all such signs.

27.5.5.1 If such signs are internally illuminated, outdoor light pollution shall be kept to a minimum. If externally illuminated, light fixture setback and spacing between fixtures shall allow good uniformity and provide sharp light cutoff resulting in an absolute minimum of light spill. No light trespass shall produce visual discomfort or disabling glare.

27.6 SHOPPING CENTERS OR MALLS. The following signs shall be permitted in shopping centers or malls which are defined as a group of two or more contiguous retail stores on a tract of land containing one or more lots originally planned and developed as a single unit with immediately adjoining off-street parking facilities.

27.6.1 Addresses Address number in numerals shall be not less than three (3) inches height, and shall be positioned on the business within two (2) feet of the main entrance of the most highly visible location from the street. No permit is required.

27.6.2 Public Signs Directional signs, public information signs and/or traffic control signs shall be allowed as placed by the Town of DeMotte, County Highway Department, or State Highway Department, not exceeding four (4) square feet in size. No permit required.

27.6.3 For Sale (or Lease) Signs

27.6.3.1 Each single parcel less than two acres in size may have one sign not exceeding sixteen (16) square feet indicating that the parcel on which the sign is located is "For Sale". No permit is required.

27.6.3.2 Each parcel greater than two acres, or groups of lots totaling more than two acres, may have one sign not exceeding twenty-four (24) square feet indicating that the parcel(s) on which the sign is located is "For Sale" provided that such signs do not remain for more than twelve (12) months. All "For Sale" signs shall be removed within thirty (30) days after the closing of the sale of the premises. A permit is required for such signs.

27.6.4 Signs on Buildings Any sign which pertains to the use or uses conducted upon the premises may be displayed flat against the wall of a building so long as it does not project above the roof line or beyond the side wall of said building. A permit is required for these signs.

27.6.4.1 Such signs may not protrude more than one (1) foot from the surface of the building's facade.

27.6.5 Additional Signs One additional sign not to exceed fifty (50) square feet per retail business or three hundred (300) square feet, whichever is less, advertising only the name of the shopping center and/or a directory of the retail stores located within and/or any special events scheduled within the center, is permitted. The bottom edge of such sign shall be at least ten (10) feet above ground level so as to not obstruct the view of traffic and/or the activities conducted upon the premises. A permit is required for these signs.

27.7 AGRICULTURAL USES The following provisions shall govern signs located on (a) parcels having agricultural uses, regardless of the zoning classifications of those parcels; and (b) unimproved parcels of land zoned for agricultural use (i.e. A-1 and A-2);

27.7.1 Addresses. For residential dwellings, address number in numerals shall be not less than three (3) inches high, and shall be positioned on the residence within two feet of the main entrance or the most highly visible location from the street. For each dwelling unit, one unlighted name plate, not exceeding two (2) square feet in area indicating the name or address of the occupant(s). No permit is required.

27.7.2 Public Signs. Directional signs, public information signs and /or traffic control signs shall be allowed as placed by the Town of DeMotte, County Highway Department, or State Highway Department, not exceeding four (4) square feet in size. No permit required.

27.7.3 For Sale (or Lease) Signs

27.7.3.1 Each residential use may have one sign not exceeding six (6) square feet indicating that the premises on which the sign is located are “For Sale”. Such signs shall be removed within thirty (30) days after the sale of the premises. No permit required.

27.7.3.2 ”For Sale” signs indicating that the agricultural property is for sale or lease shall be permitted. The signs shall not measure more than sixteen (16) square feet and shall be limited to two (2) per parcel. No permit is required.

27.7.4 Temporary Directional Temporary directional and name identification signs may be located off premises during the harvesting season for those farmers who grow agricultural products to be sold directly to the consumer and not for resale; provided, any one sign shall not exceed sixteen (16) square feet in size, is located not less than ten (10) feet from the highway right of way line and does not interfere with or obstruct the clear vision at highway intersections.

27.7.4.1 Before the erection of any sign pursuant to this section, the named owner shall file a signed statement with the Plan Commission office stating

the following: a) type and nature of the sign; b) size and height of sign; c) placement location; d) time period during which the sign will be maintained. No fee is required to be paid for filing this notification.

27.7.4.2 If any owner fails to make notification as required by this section for two successive years, thereafter he shall be required to make application for sign placement pursuant to the procedures for special exceptions. The normal fee for a Special Exception is required.

TITLE 28

REGULATION OF CONSTRUCTION, BUILDING CODE

28.1 TITLE. This section, and all ordinances supplemental or amendatory hereto, shall be known as the “Building Code of the Town of DeMotte, Indiana”, may be cited as such, and will be referred to herein as “this code”.

28.2 PURPOSE. The purpose of this code is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of buildings and structures.

28.3 AUTHORITY. The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this code. Whenever in this code, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Town, this shall be construed to give such officer only the discretion of determining whether this code has been complied with. Nothing in this code shall be construed as giving any officer discretionary powers as to what this code shall be, or power to require conditions not prescribed by Ordinance or to enforce this code in any arbitrary or discriminatory manner. Any variance from adopted building rules are subject to approval under I.C. 22-13-2-7.

28.4 SCOPE. The provisions of this code apply to the construction, alterations, repairs, use, occupancy, maintenance and additions to all buildings and structures in the jurisdictional area of the Planning Commission of the Town of DeMotte.

28.5 ADOPTION OF RULES BY REFERENCE

28.5.1 Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the Indiana Administrative Code are hereby incorporated by reference in the Building Code and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein.

28.5.2 Copies of adopted building rules, codes and standards are on file in the office of the Town Manager.

28.6 BUILDING PERMIT REQUIRED. A permit shall be obtained before beginning construction, alteration or repair of any building or structure, the cost of which exceeds \$250.00, using forms furnished by the Building Commissioner and all fees required by this code shall be paid to the Town of DeMotte.

28.7 APPLICATIONS FOR BUILDING PERMITS. No building permit shall be issued for the foregoing purposes, unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications

showing the work to be done. In addition, a copy of a Design Release, issued by the State Building Commission and the State Fire Marshall pursuant to IC 22-15-3-1, shall be provided by such Design Release.

28.8 COMPLIANCE OTHER ORDINANCES. All work done under any building permit shall be in full compliance with all other applicable ordinances, and in addition to the fees for building permits there shall be paid the fees prescribed in such ordinances.

28.9 FEES. As established from time to time by resolution of the Town Council.

28.10 REVIEW OF APPLICATION. Prior to the issuance of any building permit, the Building Commissioner shall:

28.10.1 Review all building permit applications to determine full compliance with the provisions of this code.

28.10.2 Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

28.10.3 Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the proposed repair (1) uses construction materials and utility equipment that are resistant to flood damage, and (2) uses construction methods and practices that will minimize flood damage.

28.10.4 Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the home (1) is protected against flood damage, (2) is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, flood damage, and (3) uses construction methods and practices that will minimize flood damage.

28.11 INSPECTIONS. After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to insure full compliance with the provisions of this Ordinance and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this code.

28.12 INSPECTION ASSISTANCE. The Chief of the Fire Department, or his designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the Building Commissioner.

28.13 ENTRY. Upon presentation of proper credentials, the Building Commissioner or his duly authorized representatives may enter at reasonable times any building structure or

premises in the jurisdictional area of the Commission to perform any duty imposed upon him by this code.

28.14 STOP ORDER. Whenever any work is being done contrary to the provisions of this code, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Commissioner to proceed with the work.

28.15 CERTIFICATE OF OCCUPANCY.

28.15.1 No land shall be occupied or used, and no building shall be constructed, reconstructed, or structurally altered, and no building shall be occupied or used, in whole or in part, for any purpose whatever, unless a Certificate of Occupancy has first been issued by the Building Commissioner stating that the building and use comply with all of the provisions of this Ordinance applicable to the district in which the building, premises or use is located. The fee for a Certificate of Occupancy is established by resolution of the Town Council.

28.15.2. 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 erection, construction, reconstruction, or structural alteration of such building, provided that adequate notice is provided to the Building Commissioner for a final inspection.

28.15.3 A temporary certificate of occupancy may be issued by the Building Commissioner after application has been made for completed portions of a development plan which has been approved by the Board of Zoning Appeals as a special exception, or by the Plan Commission as a planned unit development, provided that a certificate of occupancy has been applied for upon completion of the total development plan. The Building Commissioner may also issue a temporary certificate of occupancy for parking areas or other areas to be paved when weather conditions delay their completion. The fee for a temporary certificate of occupancy is established by resolution of the Town Council.

28.15.4 A record of all Certificates of Occupancy shall be kept on file in the office of the Building Commissioner and copies shall be furnished upon request to any person.

28.16 WORKMANSHIP. All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

28.17 VIOLATIONS. It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve,

remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences in the jurisdictional area of the Planning Commission of the Town of DeMotte or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

28.18 RIGHT OF APPEAL. All persons shall have the right to appeal a decision of the Building Commissioner relating to variances from fire safety and building codes first through the Board of Zoning Appeals of the Town of DeMotte and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of I.C. 22-13-2-7 and I.C. 4-21.5-3-7. Other decisions of the Building Commissioner may be appealed to the Board of Zoning Appeals in accordance with Title 6.

28.19 REMEDIES. The Building Commissioner shall in the name of the Town of DeMotte bring actions in the Superior or Circuit Court of Jasper County, Indiana for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this Ordinance.

28.20 PENALTIES. If any person, firm or corporation shall violate any of the provisions of this Ordinance, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this Ordinance for each such violation, failure or refusal, such person, firm or corporation shall be subject to enforcement in accordance with Title 7.

TABLE OF PERMITTED USES

USE	SE	FP	A	R-1	R-2	R-3	B-1	B-2	I-1	I-2
Adult Business							S	S	S	
Airport			S							
Antique and Art Shop							P	P		
Apparel Shop, Dressmaker & Tailor							P	P		
Appliance Shop, Sales or Repair							P	P		
Asphalt and Concrete Manufacturers										S
Auditorium and Indoor Theatre								P		
Automobile Dismantling										S
Auto, Farm Equipment and Truck Repair Services								S	P	
Bakery, Retail							P	P		
Banks							P	P		
Barber Shops							P	P		
Bars, Lounges, Taverns & Night Clubs							S	P		

USE	SE	FP	A	R-1	R-2	R-3	B-1	B-2	I-1	I-2
Beauty Shops							P	P		
Bicycle Shops							P	P		
Building Materials (Enclosed Storage)								P	P	
Building Materials (Outdoor Storage)									P	
Bulk Storage Plants										P
Cemeteries	S								S	P
Chick Hatcheries			S							
Churches	S									
Clubs and Lodges							P	P	P	
Cold Storage Lockers									P	
Confined Feeding Operations			S							
Contractor's Offices & Yards									S	P
Dairy Stores, Retail							P	P		
Department Stores, Retail & Discount								P		

USE	SE	FP	A	R-1	R-2	R-3	B-1	B-2	I-1	I-2
Drug Stores							P	P		
Dry Cleaning Establishments							P	P		
Feed and Grain Sales									P	
Fire Station, Police Station and Municipal Buildings	S									
Flower and Gift Shops							P	P		
Furniture Store							P	P		
Garden Supply Shops								P	P	
Gasoline Service Stations								S	S	S
Golf Courses & Country Clubs	S									
Grocery, Supermarkets, & Meat Markets							P	P		
Hardware Stores							P	P		
Heliports			S							S
Home Occupations			S	S	S	S				
Hospitals, Medical Clinics							P	P		

USE	SE	FP	A	R-1	R-2	R-3	B-1	B-2	I-1	I-2
Hotels/Motels								P		
Jewelry Stores							P	P		
Junk Yards or Refuse Dumps										S
Kennels			S							
Landfills			S				S	S		
Laundry & Cleaning, Commercial								P	P	
Laundry & Cleaning, Self-Service							P	P		
Livestock Auction Arena			S							
Machine Shop & Manufacturing									P	P
Meat Processing & Packing										P
Mining Operations, Sand & Gravel		S	S							
Mobile Home Dealers									P	
Mobile Home Parks			S			S				
Motels								P		

USE	SE	FP	A	R-1	R-2	R-3	B-1	B-2	I-1	I-2
Motorcycle Dealer								S	P	
Nursery Schools, Day Care			S			S	S	S		
Nursing Homes			S			S		S		
Offices							P	P	P	
Outdoor Theatre									S	
Paint Store							P	P		
Park and Playgrounds	S									
Photographic Studios							P	P		
Planned Unit Developments			S	S	S	S				
Plant Nursery		S	P							
Produce Stand			A					S	S	
Recreation Facilities, Indoor						S		S	S	
Recreation Facilities, Outdoor		S	S	S	S	S		S	S	
Residential:										

USE	SE	FP	A	R-1	R-2	R-3	B-1	B-2	I-1	I-2
Single-Family		S	P	P	P	P				
Two-Family		S			P	P				
Multi-Family		S				P				
Restaurants (not including drive-in)							P	P		
Restaurants (drive-in)								P		
Sanitary Land Fill			S							S
Schools:										
Elementary, Jr., Sr. High Schools	S									
Technical and Vocational	S									
Shoe Store							P	P		
Storage, Outdoor										P
Storage, Outdoor (Hazardous Material)										S
Storage, Indoor									P	P
Tire Sales and Service								P	P	

USE	SE	FP	A	R-1	R-2	R-3	B-1	B-2	I-1	I-2
Truck Freight Terminals									P	P
Utility Substations, Television and Radio Towers, Power Transmission Lines	S									
Variety Stores							P	P		
Vehicle Dismantling and Impoundment Yards									S	S
Veterinary Clinics and Animal Hospitals			S					S	S	
Wholesalers									P	

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