

ORDINANCE NO. 2016-_____

**AN ORDINANCE AMENDING THE
“WASHINGTON COUNTY ZONING ORDINANCE”**

AN ORDINANCE AMENDING THE WASHINGTON COUNTY ZONING ORDINANCE, FOR THE PURPOSE OF UPDATING ADMINISTRATIVE PROVISIONS, IN ACCORDANCE WITH THE PROVISIONS OF INDIANA STATE LAW.

NOW, THEREFORE, it is proposed by the Washington County Plan Commission to amend the Washington County Zoning Ordinance by adding the language underlined and by striking the language that is stricken through as follows:

General Information, Section 100:

106. Interpretation:

106.1 CONFLICTING REQUIREMENTS: Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule or regulations, the regulations, rules or restrictions which are more restrictive or which impose higher standards or requirements shall govern.

106.2 OVERLAPPING REGULATIONS: When this ordinance, along with private covenants, private contracts, commitments, permits, agreements, state or federal laws or other regulations applies to a structure or parcel of land, the greater restriction shall control. In no instance shall this ordinance be interpreted as altering or negating any other applicable regulations.

106.3 MEANINGS: The following rules of construction shall apply to the text of this ordinance:

106.3.1. The particular and specific provisions of this ordinance shall supersede any general requirements that are established by it.

106.3.2. The words “shall” “must” and “will” are always mandatory and not discretionary. The words “may” and “should” are permissive.

106.3.3. Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.

106.3.4. The phrase “used for” includes “arranged for, designed for, intended for, maintained for, or occupied for.”

106.3.5. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

106.3.6. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, or “either . . . or,” the use of the conjunction is defined as follows:

106.3.6.1. “And” means that all the connected items, conditions, provisions, and

events apply together and not separately.

106.3.6.2. “Or” means that the connected items, conditions, provisions, or events apply separately or in any combination.

106.3.6.3. “Either . . . or” means that the connected items, conditions, provisions, or events shall apply separately but not in combination.

106.3.7. The word “includes” does not limit a term to the specified examples, but is intended to extend the term’s meaning to all other instances or circumstances of like kind or character.

107. Effective Date: This ordinance shall be in full force and effect from and after

Board of Zoning Appeals, Administration, Section 200:

200. Board of Zoning Appeals: There shall hereby be established the Washington County Advisory Board of Zoning Appeals consisting of five (5) members who shall be appointed and serve in accordance with Indiana Code Sections 36-7-4-900 et seq.

210. Legislative Body

210.1. The Washington County Board of County Commissioners shall have the following jurisdiction and authority subject to the provisions of this ordinance and the applicable provisions of the Indiana Code:

210.1.1. Washington County Comprehensive Plan -- To initiate, approve, amend, or reject proposed amendments to the County’s Comprehensive Plan and its components;

210.1.2. Zoning Ordinance -- To initiate, adopt, or reject any amendment to the text of this UDO in accordance with IC 36-7-4-600 Series: Zoning Ordinance;

210.1.3. Zoning Map -- To initiate, adopt, or reject any amendment to the Zoning map in accordance with IC 36-7-4-600 Series: Zoning Ordinance;

210.1.4. Conditions and Commitments -- To impose reasonable conditions, condition the issuance of an improvement location permit on the providing of certain assurances, and allow or require the property owner to make written commitments as part of a rezoning in accordance with IC 36-7-4-1015 Series;

210.1.5 Other Powers and Duties -- To exercise such other powers and perform such other duties as are allowed by Indiana law in connection with this zoning ordinance.

220. Plan Commission

220.1. JURISDICTION AND AUTHORITY: The Advisory Plan Commission (PC) is hereby authorized to perform those duties and functions specified in Indiana Code (IC) 36-7-4-400 et seq. and other applicable sections of Indiana law. The PC shall have the following jurisdiction and authority:

220.1.1. Comprehensive Plan -- To initiate, hear, review, and approve to the County Commissioners on replacement of or proposed amendments to the Washington County Comprehensive Plan in accordance with IC 36-7-4-500 Series: Comprehensive Plan, and its components;

220.1.2. Unified Development Ordinance -- To initiate, hear, review, and certify recommendations to the County Commissioners on replacement or any proposed amendment to the text of this ordinance in accordance with IC 36-7-4-600 Series;

Zoning Ordinance;

220.1.3. Zoning Map -- To initiate, hear, review, and certify recommendations to the County Commissioners on replacement or any amendment to the Zoning map in accordance with IC 36-7-4-600 Series: Zoning Ordinance;

220.1.4. Subdivisions -- To review and approve or disapprove plats and replats of subdivisions, as required pursuant to the Washington County Subdivision Control Ordinance, in accordance with IC 36-7-4-700 Series: Subdivision Control Ordinance, which shall include the power to approve with conditions, to permit or require commitments, and to require bonding or other financial assurances for public improvements;

220.1.5. Planning Assistance -- To aid and assist others, including the County Commissioners, other County elected officials, County Departments, County Boards, or other County Commissions. This planning assistance may include:

220.1.5.1. Implementation of the Comprehensive Plan;

220.1.5.2. Planning, developing, and completing specific projects;

220.1.5.3. Reviewing and reporting on any matters referred to it by the County Commissioners;

220.1.5.4. Upon reasonable written request, to make its special knowledge and expertise available to any to aid them in the performance of their respective duties relating to the planning and development of the County.

220.1.6. Delegation of Responsibilities -- To delegate responsibilities relating to ordinance administration and enforcement to the Plan Director and to other appropriate executive departments and personnel;

220.1.7. Rules and Procedures-- To adopt rules for the administration and conduct of the PC and its business, including uniform rules pertaining to investigations and hearings. Adopting and maintaining a schedule of uniform fees for permits, processes and official actions of the County Commissioners and the Planning Department may be included in the Plan Commission's rules;

220.1.8. Records -- To keep a complete record of all proceedings, and to record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission;

220.1.9. Materials -- To prepare, publish and distribute reports, ordinances and other materials relating to the activities authorized under this chapter;

220.1.10. Seal -- To adopt a Plan Commission seal;

220.1.11. Certification -- To certify to all official acts;

220.1.12. Addressing -- To approve or delegate the assignment of street numbers to lots and structures and the naming of streets, including renumbering or renaming pursuant to Per IC 36-7-4-405;

220.1.13. Plat Committee -- To authorize a Plat Committee pursuant to IC 36-7-4-701(e);

220.1.14. Written Commitments -- To permit, require, modify and terminate commitments, in accordance with IC 36-7-4-1015: Commitments; enforcement;

220.1.15. Other Powers and Duties -- To exercise such other powers and perform such other duties as are allowed by Indiana law in connection with this zoning ordinance.

220.2. MEMBERSHIP, TERMS AND ORGANIZATION: The Plan Commission shall be composed in accordance with Indiana statute IC-36-7-4-200.

220.3. QUORUM AND OFFICIAL ACTION: No official action shall be taken by the Plan Commission without a quorum being present. A quorum is defined by IC 36-7-4-301 as a majority of the entire membership of the Plan Commission, who are qualified by IC 36-7-4-300 Series: Plan Commission Organization to vote. Official action of the Plan Commission requires authorization by a majority of the entire membership of the Plan Commission at a regular or special meeting.

220.4. ALTERNATE MEMBERS: In accordance with IC 36-7-4-220, the appointing authority may also appoint an alternate member to participate with the Plan Commission in a hearing or decision if the regular member appointed by the appointing authority has a disqualification due to conflict of interest. An alternate member has all the powers and duties of a regular member while participating in the hearing or decision.

220.5. MEETINGS, HEARINGS AND PROCEDURES

220.5.1. Regular meetings of the Plan Commission shall be held as provided by the Plan Commission Rules of Procedure.

220.5.1.1. All meetings and hearings of the PC shall be open to the public except when closed pursuant to the provisions of applicable State law.

220.5.2. The Plan Commission shall adopt its own Rules of Procedure, subject to the limitations of the Indiana Code. The adoption, amendment, or revision of such rules shall be by a majority vote of all members of the Plan Commission.

220.5.3. Special meetings of the Plan Commission may be called as provided by IC 36-7-4-307.

220.6. RECORD: The transcript of testimony, if any; minutes; all applications, exhibits, and papers filed in any proceeding before the Plan Commission; the staff report; and the decision of the Plan Commission shall constitute the record. The record shall be maintained for public inspection in the Planning Department.

220.7. DECISIONS: Every recommendation or decision of the Plan Commission upon an application filed pursuant to this ordinance shall be repeated in the summary minutes. Where required by law, such decisions shall include written findings of fact upon criteria used in making the decision. The minutes shall expressly set forth any limitations, commitments or conditions recommended or imposed by the Plan Commission.

220.8. CONFLICTS

220.8.1. Pursuant to IC 36-7-4-223, a member of either the Plan Commission or County Commissioners may not participate in a hearing or decision of the Plan Commission or County Commissioners concerning a zoning or subdivision matter in which he has a direct or indirect financial interest or determines that he may not act impartially. The Plan Commission or County Commissioners shall enter in its records the fact that its member has such a disqualification. As used in this section, "zoning matter" does not include the preparation or adoption of a Comprehensive Plan.

220.8.2. A member of the Plan Commission or County Commissioners may not directly or personally represent another person in a hearing before the Plan Commission or County Commissioners concerning a zoning or subdivision matter.

220.9. ESTABLISH COMMITTEES: The Plan Commission may establish advisory and review committees as necessary, and shall determine the powers and duties, authority and membership of said committees. These committees may include, but are not limited to:

220.9.1. Plat Committee: The Plan Commission may establish a Plat Committee to review and decide petitions for minor plats, secondary plats, and administrative subdivisions.

220.9.2. Technical Assistance Committee: A Technical Assistance Committee (TAC) may be established to assist the Plan Commission in the technical review of planned unit developments, development plans, and subdivision plats, and to perform such duties as are outlined for the Committee.

230. Plan Director

230.1. JURISDICTION AND AUTHORITY: The Director of Planning (here forth Plan Director) shall be charged with the administration of this ordinance and, in particular, shall have the jurisdiction, authority and duties described in this section:

230.1.1. Assistance to Plan Commission and BZA – To provide such technical and clerical assistance as the Plan Commission (PC) and Board of Zoning Appeals (BZA) may require, including:

230.1.1.1. Attend the meetings of each such body;

230.1.1.2. Inform each such body of all facts and information at the Planning Department's disposal with respect to any matter brought before each such body;

230.1.1.3. Assist each such body by performing research and making recommendations on matters brought before each such body; and

230.1.1.4. Perform such other duties as may be assigned to the Plan Director by other local ordinances.

230.1.2. Final Plat Approvals -- If authorized by the Plan Commission, to approve Final Plats of subdivisions pursuant to the subdivision control ordinance;

230.1.3. Ordinance Interpretation – To make interpretations, as necessary, of permitted use and other specific provisions of this zoning ordinance or the subdivision control ordinance;

230.1.4. Public Information – To provide and maintain a public information service relative to all matters of the Plan Commission and arising out of the zoning and subdivision control ordinances, other questions of land use, and related County ordinances, plans and policies;

230.1.5. Applications – To receive all applications for any petition, permit or process required to be filed pursuant to the zoning and subdivision control ordinances. Upon receipt of any such application, the Plan Director shall see to its processing, which may include its prompt referral to and retrieval from each official, department, board or commission of the County or any other governmental unit or agency with any interest or duty with respect to such application.

230.1.6. Compliance -- To conduct Zoning Compliance Reviews regarding any Plan Commission or BZA application, or any permit pertaining to the alteration, erection, construction, reconstruction, moving, division, enlargement, demolition, use or maintenance of lands, buildings or structures;

230.1.7. Enforcement -- To ensure enforcement of this ordinance, the Plan Director may initiate investigations and inspections as warranted, and may take all actions necessary and appropriate to abate and redress such violations.

230.1.8. Permits – To review, approve, or disapprove all Improvement Location Permits and other permits and keep permanent records of applications made and actions taken;

230.1.9. Inspections -- Conducting inspections of structures and properties to determine compliance with the requirements of this ordinance and all approvals granted by the Plan Commission, BZA, Plat Committee, or other body in the execution of its duties as established by this ordinance and the Indiana State Code.

230.1.10. Analysis – To conduct research and collect and analyze, on a continuing basis, all pertinent data on the growth and development of the County in order to provide a foundation for the planning program.

230.1.11. Other Duties -- To exercise such other powers and perform such other duties as are allowed by Indiana law.

230.2. RECORDS: The Plan Director shall maintain permanent and current records of the Plan Commission and BZA:

230.2.1. Ordinances -- The Plan Director shall prepare and have available for examination in the Planning Department the compiled text of the zoning and subdivision control ordinances, including all amendments thereto;

230.2.2. Zoning Map -- The Plan Director shall prepare and have available for examination in the Planning Department the Zoning map, including all amendments thereto.

230.2.3. Planning Body Records -- The Plan Director shall collect all maps, amendments, interpretations, and decisions rendered respectively by the BZA, the Plan Commission, the Plat Committee (if used), and the Plan Director, together with relevant background files and materials. The records shall be maintained for public inspection in the Planning Department.

230.3. FEES: The Plan Director shall maintain a schedule of fees for all applications, permits, and other processes outlined in this ordinance. Until all applicable fees have been paid in full, no action shall be taken on any application or petition.

230.4. CALENDAR: The Plan Director shall prepare and maintain an annual Calendar of Meeting and Filing Dates for the Plan Commission to approve.

500. Definitions Section

Contiguous –Having a common border, including being separated from such a common border by a right-of-way, street, alley, easement, body of water, or other feature.

Operator- an individual that is responsible for the daily care and operation of the feeding operation (AFO, CFO, or CAFO)

Owner –The individual holding title of record, as shown on the records of the Washington County Recorder’s Office.

APPENDIX "B"

Score Sheet Criteria	Available Points	Points Received
Existing Land Use (FSA definitions)		
Tilled	10	
Wooded	20	
Pasture	35	
Residence Density (Residences within 1/2 mile radius)		
0 - 5	60	
6 - 10	40	
11 – 17	30	
18 – 23	25	
24 – 38	10	
39 – 49	5	
50+	0	

Separation from house/public use facility/church		
Meets Required Standard		0
At Least 250' More Than Required Standard		50
At Least 500' More Than Required Standard		70
At Least 750' More Than Required Standard		80
At Least 1000' More Than Required Standard		100
At Least 1250' More Than Required Standard		120
IDEM/EPA Violation		-150
Owner <u>Operator</u> On-Site Residence Award		85
Odor Abatement Strategies		115
<u>Total Points</u>		
To receive a permit without a special exception 220 points out of 415 points is required.		

Criteria Section Explanations

Existing Land Use (tilled, wooded, and pasture) as defined by USDA. (Applies to perimeters covered by proposed operation. Where mixed “uses” were employed up to time of application, points will be awarded in proportion to time and scope of allocation to each prior use).

Residence Density

- Information for this will be taken from Washington County GIS mapping data.
- “Density” will be measured within a ½ mile radius from center of site location and will be based on the number of residences with the measured area—not population.
- Addresses shall be verified as “residences” as defined in this ordinance.

Separation from house/public use facility/church

- The stated standard refers to the minimum distance allowed, according classification of operation (AFO, CFO, CAFO) as defined herein.
- Distance will be measured from closest point of livestock, poultry, manure, or compost structure from the nearest point of a residence, public use facility or church.

IDEM/EPA Violations

- This refers only to a violation of water or air quality that resulted in enforcement action.
- Record or inspection violations that have no enforcement action are not classified as “violations” for purposes of this point system.

~~Owner~~ Operator on-site residence award

- The residence must located on the commonly-viewed, contiguous property or farm used as the subject operation.
- The "Residence" must qualify as such in the definitions section.

- An occupant of the "residence" must be operator of land, facility and buildings.
*The operator shall have 15% or more ownership of operation to qualify for the operator on site residence award

Odor abatement Strategy (s)

- Odor abatements must be exercised and maintained for compliance.
- Post-approval non-compliance can report in an enforcement action.
- Multiple strategies are encouraged, a maximum of 115 points is allowed.
- Strategies recognized, with points allowed per strategy.
 - Dead animal compost 35pts
 - Manure compost (dry) 35pts
 - Green barrier (AIR filtration) 35pts *
 - Anaerobic digester (liquid) 35pts
 - Solid separation and composting (liquid) 35pts
 - Impermeable covers for manure 35pts
 - Exhaust fan filtration 35pts
 - Landscaping 20pts**
 - Exhaust fan minimum impact placement 20pts***
 - Diet formulation for odor and fly control 10pts
 - Other strategies not listed can be presented as viable odor abatements to the plan commission for approval.

*This generally refers to tall vegetation such as trees and conifers to deflect dust and air plumes from operations that create a barrier. Points are awarded for "green barrier" strategy upon the issuance of an approved plan by the local office of NRCS (Natural Resources Conservation Service, of the United States Department of Agriculture). Such plan and its approval will demonstrate conformity with that agency's publication, "Conservation Practice Standard Windbreak/Shelterbelt Establishment," dated November 2012 and must be presented to the Plan Director with the application.

**"Landscaping" is an award of points for mitigation of the aesthetic impact of operating and will consist of a combination of low vegetation or aggregate as ground cover, and storm water retention.

***Placement of exhaust fans projecting objectionable exhaust in the opposite direction of offsite residences, public use facilities or churches.

SO APPROVED AND ADOPTED by the Board of Commissioners of the County of Washington, Indiana, this _____ day of _____, 2016.

BOARD OF COMMISSIONERS

_____ Phillip Marshall (President)
_____ David Brown (Vice-President)
_____ Preston Shell

Attest: _____
Randall Bills, Washington County Auditor