

# MONROE COUNTY ORDINANCE REVIEW COMMITTEE



**July 11, 2022  
4:00 pm**

## **Hybrid Meeting In-person**

Monroe County Government Center  
Planning Department  
501 N. Morton Street, Suite 224  
Bloomington, IN 47404

**Virtual:** <https://monroecounty-in.zoom.us/j/84961227024?pwd=ZUISOUQweHVT0HVLNmVUaHdxVERjUT09>. If calling in, dial 312-626-6799 and enter the Meeting ID: 849 6122 7024 and Password: 346950 when prompted.

**A G E N D A**  
**ORDINANCE REVIEW COMMITTEE**  
**of the Monroe County Plan Commission**

Monroe County Planning Department  
HYBRID

**When:** July 11, 2022 at 4:00 PM

**Where:** 501 N Morton St, Suite 224

Or via Zoom: <https://monroecounty-in.zoom.us/j/84961227024?pwd=ZUISOUQweHVTOHVLTmVUaHdxVERjUT09>

If calling into the Zoom meeting, dial: 312-626-6799.

When prompted, enter the Meeting ID #: 849 6122 7024

Password: 346950

**ADMINISTRATIVE BUSINESS: NONE.**

**OLD BUSINESS: NONE.**

**NEW BUSINESS:**

**TOPICS FOR DISCUSSION:**

1. CDO Discussion – Review of Ordinance Chapters for Removal/Modification:   PAGE 3  
Chapter 826 – Cluster Subdivisions  
Chapter 827 – Business and Industrial Overlay  
Chapter 835 – Rural Community Zoning Overlay  
Chapter 890 – Airport Zoning
2. Any other business properly brought before the committee

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Monroe County, should contact Monroe County Title VI Coordinator Angie Purdie, (812)-349-2553, [apurdie@co.monroe.in.us](mailto:apurdie@co.monroe.in.us), as soon as possible but no later than forty-eight (48) hours before the scheduled event.

Individuals requiring special language services should, if possible, contact the Monroe County Government Title VI Coordinator at least seventy-two (72) hours prior to the date on which the services will be needed.

The meeting will be open to the public.

## CHAPTER 826

### ZONING ORDINANCE: CLUSTER SUBDIVISION DESIGN

#### 826-1. Purpose

The purpose of this chapter is to allow developers greater flexibility and variety in the creation of residential subdivisions while preserving significant community and natural resources by allowing developers to cluster the residential units on areas of the project site best suited for development and protecting the remaining land as open space.

#### 826-2. Standards for Design

This chapter acknowledges the right of the property owner to develop land to the gross density indicated on Table 4-1 *Height, Bulk, Area, and Density Requirements for Zoning Districts* in Chapter 804. Residential development may not exceed the gross density of the zoning district except as provided in 826-2 (B). No minimum lot size is required, but all of the other development standards of the residential zoning classification most appropriate to the design density of the cluster subdivision must be met.

##### A Determining Density or Yield

1 Applicants have the option of estimating the legally permitted density on the basis of mathematical percentages and formulas contained in this ordinance, or on the basis of a yield plan. The yield plan is conceptual in nature and not intended to involve significant engineering costs, but it must be realistic and not show potential house sites or streets in areas that would not be legally permitted in a conventional layout.

2 A yield plan consists of conventional lot and street layouts conform to the Subdivision Control Ordinance. A yield plan includes, at minimum, basic topography, location of wetlands, 100-year floodplain, steep slopes, karst areas, and soils subject to slumping, expansion, or erosion as indicated in the Geological Survey for Monroe County prepared by the State of Indiana Department of Natural Resources. The yield plan must be realistic and not show potential house sites or streets in areas that would not be legally permitted in a conventional layout.

3 On sites not served by public sewerage or a centralized private sewage treatment facility, soil suitability for individual septic systems shall be documented in a written certified statement by a soil scientist or Monroe County Health Department sanitarian.

##### B Density Incentives

###### 1 To Encourage the Use of Cluster Subdivisions

A density bonus of 15 percent above the permitted gross density for the zoning district is offered to encourage the use of cluster subdivisions. A minimum bonus of one dwelling unit is guaranteed by this provision.

###### 2 To Endow Maintenance Fund

Monroe County allows a density bonus to generate additional income for the applicant for the express and sole purpose of endowing a permanent fund to offset open space maintenance costs. The amount designated for the Endowment Fund shall be 20 times the amount estimated to be required on a yearly basis to maintain the open space. 75 percent of the net selling price of the density bonus lots shall be donated to the Endowment Fund for the preservation of open space lands within the subdivision. Such estimates shall be prepared by an agency or organization with experience in open space management acceptable to the Plan Commission. This fund shall be transferred by the developer to the designated entity with ownership and maintenance responsibilities (e.g. a homeowners association, a land trust, or the County).

3 To Encourage Public Access

A density bonus is offered for the dedication of land for public use, including trails, active recreation, municipal spray irrigation fields, etc. The density bonus is calculated on the basis of one dwelling unit per five acres of publicly accessible open space. The decision whether to accept an applicant's offer to dedicate open space for public access shall be at the discretion of the County Commissioners with a recommendation provided by the County Parks and Recreation Board, and shall be guided by the recommendations contained in the County's *Comprehensive Plan for Recreation, Parks, and Green Space*, particularly those sections dealing with trail networks and/or recreation facilities.

4 To Encourage Low and Moderate Income Housing

A density increase is permitted where the subdivision proposal provides on-site or off-site housing opportunities for low- or moderate-income (LMI) families. For each LMI housing unit provided under this section, one additional building lot or dwelling unit shall be permitted, up to a maximum 15 percent increase in dwelling units. LMI housing is herein defined as units to be sold or rented to families earning 70 to 120 percent of the county median income, adjusted for family size, as determined by the US Department of Housing and Urban Development.

C Minimum Percentage of Open Space

The minimum percentage of land that shall be designated as permanent open space, and protected through a conservation easement shall be as specified below:

1. The open space shall comprise a minimum of 50 percent of the buildable area of the tract. The buildable area of the tract is calculated by excluding the following:
  - a. Special Flood Hazard Area as specified in Chapter 808;
  - b. Wetlands as specified in Chapter 801;
  - c. Slopes 15% or greater as specified in Chapter 825 Area 2 Regulations;
  - d. Sinkhole Conservancy Areas as specified in Chapter 829;
  - e. Drainage Easements as specified in Chapter 856;
  - f. Riparian Conservancy Areas as specified in Chapter 801;
  - g. Rights-of-way as specified in Chapter 801;

- h. Easements for access and in excess of 250 feet in length and 25 foot in width;
  - i. Pole of a flag lot as specified in Chapter 801; and,
  - j. Setbacks as specified by Ordinance.
- 2. All undivided open space shall be restricted from further subdivision, except as permitted under Chapter 827, through a permanent conservation easement, in a form acceptable to the County and duly recorded in the County Recorder's Office.
  - 3. The required open space may be used for underground drainage fields for individual or community septic systems.
  - 4. Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground pipelines.

#### A Location of Open Space

Two types of land comprise the open space: Primary Conservation Areas and Secondary Conservation Areas. All lands within both Primary and Secondary Conservation Areas are required to be protected by a permanent conservation easement, prohibiting any further development.

1 Primary Conservation Areas. This category consists of the unbuildable land described in 826-2 (C)(1).

2 Secondary Conservation Areas. Land that would otherwise be buildable under local, state, and federal regulations if not for this ordinance's open space requirement.

Secondary Conservation Areas shall include a 50-foot deep greenway buffer along all waterbodies and watercourses, and wetlands soils classified as "very poorly drained" in the County soil survey prepared by the USDA Soil Conservation Service. A recent soil analysis of the site, prepared by a qualified professional, that offers more accurate information may be used instead of the soil survey.

Secondary Conservation Areas shall be guided by the maps and policies contained in the Plan Strategies and Policies section of the Monroe County Comprehensive Land Use Plan, and shall typically include areas with natural, architectural, or cultural significance.

#### 3 General Locational Standards

Undivided open space shall be directly accessible to the largest practicable number of lots within a cluster subdivision. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of farmland, or other resource areas vulnerable to trampling damage or human disturbance). Where the undivided open space is designated as separate, noncontiguous parcels, no parcel shall consist of less than three (3) acres in area nor have a length-to-width ratio in excess of 4:1, except such areas that are specifically designed as village

greens, ballfields, upland buffers to wetlands, waterbodies or watercourses, or trail links.

#### 4 Interconnected Open Space Network

The protected open spaces that would be open to the public are those lands that have been required to be dedicated to public use, never more than 10 percent of a development parcel's gross acreage, and typically configured in a linear fashion as an element of the County's long-range open space network.

### D Evaluation Criteria

In evaluating the layout of lots and open space, the following criteria will be considered by the Plan Commission as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. The Plan Commission shall evaluate proposals to determine whether the proposed Plan:

1 Protects and preserves all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the County for essential infrastructure or active or passive recreation amenities).

2 Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.

3 Avoids siting new development on prominent hilltops or ridges by taking advantage of lower topographic features.

4 Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the US Environmental Protection Agency, and/or the Indiana Department of Natural Resources.

5 Designs around and preserves sites of historic, archaeological, or cultural value, and their environs, as needed to safeguard the character of the feature, including but not limited to stone walls, spring houses, barn foundations, cellar holes, earthworks, and burial grounds.

6 Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads.

7 Provides active recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby zone lots.

8 Provides open space that is reasonably contiguous. Fragmentation of open space should be minimized so that resource areas are not divided into numerous small parcels located in various parts of the development, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential open space land on adjacent parcels. Such subdivision open space shall be designed as

part of larger, contiguous and integrated greenway systems per the Plan Strategies and Policies section of the Monroe County Comprehensive Land Use Plan.

826-3. Site Planning Procedures

A Elements of the Cluster Subdivision Process

Plans prepared under the Cluster Subdivision Chapter shall meet the provisions, procedures, and design standards of the Monroe County Subdivision Control Ordinance unless otherwise stated.

1 Pre-Application Conference. A meeting introducing the applicant and site designer(s) to the County's Zoning and Subdivision Control Ordinances and procedures, to discuss the applicant's objectives in relation to the County's official policies and ordinance requirements.

2 Conceptual Plan. As used in this chapter, Conceptual Plan refers to a preliminary sketch plan drawn to scale by a registered land surveyor or registered professional engineer to illustrate a conceptual layout for open space lands, house sites, and street alignments. After receiving the Conceptual Plan, the Planning Staff shall approve it, approve it with conditions, or disapprove it, stating its reasons in writing.

3 Preliminary Plat Submission, in accordance with the procedures and requirements described in the Subdivision Control Ordinance.

4 Final Plat Submission, in accordance with the procedures and requirements described in the Subdivision Control Ordinance.

826-4. Ownership and Maintenance of Open Space

A Ownership Standards

Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the County. The ultimate owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc.

1 Offer of Dedication. The County shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The County may, but shall not be required to, accept undivided open space provided: (1) such land is accessible to the residents of the County; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and (3) the County agrees to and has access to maintain such lands. Where the County accepts dedication of common open space that contains improvements, the County may require the posting of financial security to ensure structural integrity of said improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15 percent of the actual cost of said improvements and installation.

2 Homeowners Association. The undivided open space and associated facilities may be held in common ownership by a homeowners association. The association shall be formed and operated under the following provisions:

a The developer shall provide the Plan Commission a description of the association, including its bylaws and methods for maintaining the open space.

b Membership in the association is automatic and mandatory for all purchasers of homes therein and their successors.

c The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the County on the association.

d The homeowners association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands, but such a lease agreement shall provide:

- (1) that the residents of the development shall at all times have access to the open space lands contained therein, except croplands during the growing season;
- (2) that the undivided open space to be leased shall be maintained for the purposes set forth in this ordinance; and
- (3) that the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the County, at the election of the developer and/or homeowners association, as the case may be.

e Lease agreements so entered upon shall be recorded with the County Recorder within 30 days of their execution and a copy of the recorded lease shall be filed with the County Planning Department.

### 3 Condominiums

The undivided open space and associated facilities may be controlled through the use of a condominium agreement, approved by the County.

### 4 Dedication of Easements

The County may accept easements for public use of any portion or portions of undivided open space land, title of which is to remain in ownership by condominium or homeowners association, provided: (1) such land is accessible to County residents; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and (3) a satisfactory maintenance agreement is reached between the developer, condominium or homeowners association, and the County.



5        Transfer of Easements to a Private Conservation Organization

An owner may transfer easements to a private, nonprofit organization, among whose purpose it is to conserve open space and/or natural resources, provided that:

- a        the organization has demonstrated a perpetual existence;
- b        the conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
- c        a maintenance agreement acceptable to the homeowners association board is entered into by the developer and the organization.

B        Maintenance Standards

1        In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the County may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.

2        Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of this ordinance. The County is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the violation(s) within 20 days.

3        Should any bill(s) for maintenance of undivided open space by the County by unpaid by November 1 of each year, a late fee of 15 percent shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

**[end of chapter]**

## **CHAPTER 827**

### **ZONING ORDINANCE: BUSINESS AND INDUSTRIAL OVERLAY DISTRICT**

#### **827-1. Purpose**

The purpose of the Business and Industrial (BI) Overlay District is to retain the potential for business and industrial development in areas identified on the Comprehensive Land Use Plan as best suited for such uses while permitting limited residential development in cluster subdivisions. The restrictions of the BI Overlay to allow future business and industrial uses are designed to permit the development of the property for the general welfare of the entire community.

#### **827-2. Applicability**

The provisions of this ordinance apply to parcels of land within the Agriculture/Rural Reserve district designated with the Business and Industrial Overlay as indicated on the Official Zoning Maps.

#### **827-3. Agricultural Uses within the BI Overlay**

The permitted agricultural uses are limited to the following categories: Agricultural Uses-Land Animal Related and Agricultural Uses-Non-Animal Related.

#### **827-4. Business and Industrial Uses within the BI Overlay**

The permitted uses are limited to those allowed in the Light Industrial and Heavy Industrial districts. The Agriculture/Rural Reserve designation will remain in place until a developer files a rezone petition for a Light Industrial or Heavy Industrial designation with the preliminary plat of a project. The County will administer the rezone process and make the necessary map changes. The rezone is required prior to final plat approval.

#### **827-5. Residential Uses within the BI Overlay**

- A Residential uses acknowledge the right of the property owner to develop the land to the gross density indicated on Table 4-1 *Height, Bulk, Area, and Density Requirements for Zoning Districts* in Chapter 804.
- B Residential development within the BI Overlay must be clustered, not to exceed the gross density of the zoning district. This allows attainment the full residential development potential to be concentrated on a portion of the property while retaining the remaining land as open space. The open space is deed restricted to allow only the agricultural uses specified in 827-3 and the business and industrial uses specified in 827-4.
- C Residential lots created within the BI Overlay shall have a note placed on the deed to the parcel notifying potential buyers of the probability of agricultural, business, and industrial uses on the adjacent lots.

#### **827-6. Standards for Cluster Subdivision Design within the BI Overlay District**

A The requirements and process for cluster subdivision design within the BI Overlay are the same as those of Chapter 826 *Cluster Subdivision Design* with the provisions noted below. The parenthetical citations note the section of Chapter 826 to which the provision applies.

1 A maximum residential density of 1 dwelling unit per every 5 acres shall apply to all land in the BI Overlay. The maximum total residential development on a tract shall not exceed twenty (20) percent of the total buildable area of the tract, based on the procedures defined in Chapter 826 of this ordinance.

2 While Primary Conservation Areas shall be protected with a permanent conservation easement, Secondary Conservation Areas designed for future business and industrial development shall be protected with a conditional conservation easement that allows for the agricultural uses specified in 827-3 and the business and industrial uses specified in 827-4 [826-2(C)(2) and 826-2(D)];

3 The active recreation requirement does not apply [826-2(C)(3)].

4 Land well suited for business and industrial uses can be counted toward the Secondary Conservation Area requirements [826-2(D)(2)];

5 Secondary Conservation Areas designed for future business and industrial development shall be buffered from the lots of the cluster subdivision. Pedestrian access between the two areas shall be limited if provided at all. [826-2 (D)(3)]; and

6 The Evaluation Criteria focus on whether the project preserves and maintains mature woodlands and creates sufficient buffer areas to minimize conflicts between residential and agricultural, business, and industrial uses [826-2 (E)(2)].

7 House shall be located no closer than 100 feet from Secondary Conservation Areas designed for future business and industrial development [826-3 (B)(6)(b)].

**[end of chapter]**

## **CHAPTER 835**

### **RURAL COMMUNITY ZONING OVERLAY**

#### **835-1      Purpose**

The purpose of the Rural Community Zoning Overlay (RCZO) is to encourage development and redevelopment of areas designated as rural communities consistent with the adopted rural community plans. Further, the RCZO: encourages flexibility in the development and redevelopment of areas to promote its most appropriate use; improves the design, character, and quality of developments and defines a compatible mixture of uses. In comparison to other zoning codes, this overlay represents a shift from objective to subjective decision-making. The RCZO also provides a mechanism for arranging land uses, buildings, utilities, landscaping, streets, and other features in a manner that is consistent with and promotes the principles of traditional neighborhood development as described in the adopted rural community plans.

Use of the RCZO is optional for development activity in the rural communities, though the applicant shall state, at the time of filing permits or petitions, the intent to use the prevailing “standard” county or RCZO regulations.

#### **835-2      Utilization of the RCZO Regulations**

The RCZO regulations seek to minimize obstacles to development and redevelopment in the rural community areas. These guidelines encourage greater attention to the continuation of the traditional neighborhood patterns found in the rural communities and lesser attention to a site’s particular use. The guidelines follow the format of a “form-based code,” whose main purpose is to regulate a community’s physical form, namely through the relationship of buildings and public spaces or public ways. The use of a building under a form-based code is less important than in traditional zoning methods, where separation of use is most important. A petitioner or applicant’s primary concern, therefore, should be with the appearance of built structures and aesthetics of the lot containing the structures.

#### **835-3      Applicability**

The RCZO, as a specific zoning and land use instrument, may fall silent in certain areas of regulation. In such instances, the underlying regulations of all chapters of the Monroe County Zoning Ordinance shall apply.

The provisions of this overlay, when in conflict, shall take precedence over those of other codes, ordinances, regulations, and standards except those promulgated by the Monroe County Health and Building Departments, the State of Indiana, and the federal government.

Terms used throughout this overlay shall take their commonly accepted meanings or as defined in the Definitions of Terms. In the event conflicts between these definitions and those of the Zoning Ordinance or Subdivision Control Ordinance, those of this overlay shall take precedence in the applications of the RCZO.

The intent of the overlay is to enable, encourage, and qualify the implementation of:

**County Scope**

- a. The county should retain its natural infrastructure and visual character derived from topography, woodlands, farmlands, riparian corridors, and reservoirs.
- b. Growth strategies should encourage infill and redevelopment within the rural communities.
- c. Development within the county's rural community areas should be structured in a neighborhood development pattern, integrated into the existing neighborhood pattern, and with sufficient contiguity to allow two streets to interface so as to provide two points of interconnectivity with an existing subdivision.
- d. Affordable housing should be distributed throughout the county to avoid concentrations of poverty.
- e. Transportation corridors should be planned and reserved in coordination with land use so as to maintain the existing level of road service
- f. Green corridors should be used to define and connect urbanized areas.
- g. A framework of transit, pedestrian, and bicycle systems that provide alternatives to the automobile should be included.
- h. New development should not be permitted if it will cause overcrowding of schools.

**Rural Communities Scope**

- a. Neighborhoods should be compact, contiguous, pedestrian-oriented and encourage mixed-uses.
- b. Neighborhoods should be the preferred pattern of development and districts specializing in a single use should be the exception.
- c. Ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not use automobiles.
- d. Interconnected networks of streets should be designed to disperse and reduce the length of automobile trips.
- e. Within neighborhoods, a range of housing types and price levels should be provided to accommodate various ages and incomes.
- f. Civic, institutional, and commercial activity should be embedded in town and village centers, not isolated in remote single-use complexes.
- g. Schools should be sized and located to enable children to walk or bicycle to them.
- h. A range of open spaces including parks, squares, and playgrounds should be distributed within neighborhoods and town centers.

**Block and the Building Scope**

- a. Buildings and landscaping should contribute to the physical definition of streets as civic places, where the public is invited and feels safe and welcome to circulate.
- b. Development should adequately accommodate automobiles while respecting public space, pedestrian use, and alternative modes of transportation.
- c. The design of streets and buildings should reinforce safe environments, but not at the expense of accessibility.
- d. Architecture and landscape design should grow from local climate, topography, history, and building practice.
- e. Buildings should provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
- f. Civic buildings and public gathering places should provide locations that reinforce community identity and support self-governance.
- g. Civic buildings should be distinctive and appropriate to a role more prominent than the other buildings that constitute the fabric of the community.

- h. The preservation and renewal of historic buildings should be facilitated to affirm the continuity and advancement of society.
- i. The harmonious and orderly progression of community areas should be secured through graphic codes of tables, sketches, and other illustrations that serve as guides for change.

### **835-5 Definitions of Terms**

The Definitions of Terms contain regulatory language that is integral to this overlay. Terms not appearing in Chapter 801 (Definitions) or that have a different meaning than that used elsewhere in the Zoning Ordinance are listed below:

**Building Location:** The placement of a building on its lot, as well as the form of the building, based on its massing, private frontage, and height.

**Character Zone:** Similar to the zoning districts in the zoning ordinance, such as those found in Chapter 802. These zones are the overlay's most specific classification of land use and development, including not only common planning regulations such as setbacks and height limitations but also density, landscaping, building location on the lot, building frontage as it relates to nearby streets, and parking requirements.

**Density:** The number of dwelling units within a standard measure of land area, usually given as units per acre.

**Exception:** A specific type of variance ruling to permit a practice that is not consistent with a provision of or the intent of this chapter, and involves a more significant deviation than a warrant. An exception is granted by the Board of Zoning Appeals.

**Frontage:** The orientation of a lot or building toward a street or property line and ordinarily regarded as the front of the lot. The side of a lot or building serving as the principal entrance is considered to be the primary frontage, though buildings or lots on a street corner may have more than one frontage.

**Hearing Officer:** Staff member designated by the Plan Commission to review requests for minor deviation from the height, bulk, and density requirements of the RCZO. The Hearing Officer's decision is binding, and may be appealed to the BZA. See 835-17 for more information on the Hearing Officer rules of procedure.

**Intent:** Provisions of this overlay are described by "shall" when required; "should" when expected; and "may" when permitted.

**Level of Service (LOS):** A quantitative stratification of the effectiveness of a road's capacity to carry a given amount of traffic. A continuum of letter grades, with "A" being the best, most free-flowing travel and "F" being a standstill, is used to quantify travel for a roadway segment.

**Mixed-use:** Multiple functions within the same building through superimposition or adjacency, or in multiple buildings within the same area by adjacency. This technique is a tenet of form-based zoning to encourage, compact urban areas, pedestrian activity, reduction of dependence on automobiles and parking facilities, among other benefits.

**Rural Community Area:** Aggregation of adjoining parcels within Monroe County, generally centered by a town, in which a special district has been established for the purposes of both current and long-range planning and zoning. The four Rural Community Areas are Ellettsville, Harrodsburg, Smithville-Sanders, and Stinesville. The towns of Stinesville and Ellettsville have their own planning jurisdictions; as a consequence the plans for these areas are for the land use beyond the corporate boundaries.

Smithville, Sanders, and Harrodsburg do not have municipal zoning bodies, and the plans for these areas include the unincorporated towns.

**Sector:** A specific geographic area that regulates and organizes the rural community plans' intended development patterns. Sectors are adapted from the rural communities' recommended land use maps.

**Special District (SD):** Designation assigned to areas that, by their function, disposition, or configuration, cannot conform to one of the Character Zones or Sectors. Examples of areas in Monroe County's rural community areas include quarries or other mineral extraction and processing activities, public utilities such as a water or sewage treatment plant, or large parks and recreation facilities.

**Variance:** A deviation from any term or standard contained in the Zoning Ordinance, Subdivision Control Ordinance, or RCZO which is authorized by the Board or the Commission, as appropriate. A variance is the parent term for two categories: a warrant, and an exception, which are different kinds of variances. A variance is granted at a public hearing by the Board of Zoning Appeals. An important distinction is made when considering a variance determined to be allowed as a practical difficulty or hardship and denied as a privilege.

**Warrant:** A type of variance decision permitting a practice that is not consistent with a specific provision of this overlay, but is justified by hardship. This is generally a minor deviation from the standards, and is granted by the Hearing Officer or BZA.

## **835-6 Process**

The geographic determination of sectors and the standards for each character zone were determined through the development and adoption of each of the rural community plans. As a result of this public consultation process, projects that require warrants and exceptions shall be processed by the BZA (or Hearing Officer, where applicable) without further recourse to public consultation. Commercial or industrial applications, including confined feeding operations shall require site plan approval through administrative approval or Plan Commission action.

## **835-7 Sector and Character Zone Categories**

### **(A) Sectors (Geography)**

The RCZO sectors order and organize the rural community plans' intended development pattern into five categories, which are as follows:

- **O1 sector (Rural Conservation).**  
Both present and future development is discouraged in this area. In some cases adjacent floodplains, floodprone soils, karst features, or other land types deemed in need of significant protection may be included.
- **O2 sector.**  
These areas include significant karst or steep slope constraints, which may be adjacent to quarry lands, and are for the most part still large parcels. These areas are generally designated as rural conservation in the rural community plans.
- **G1 sector.**  
These areas are identified in the Rural Community Plans for limited development activity (e.g. rural reserve) and where lot sizes are recommended by the Rural Community Plans to remain at 2.5 acres. Clustering is permitted and allows lot sizes of 1 acre minimum, though density

does not increase above that permitted with the 2.5 acre lot size. No clustering may take place without sewer and water infrastructure.

- **G2 sector.**

These areas are identified in the Rural Community Plans for development activities. Some of these areas should maintain lower densities (1-4 dwelling units/acre) and offer limited non-residential activities (designated in the plans as secondary growth areas).

These areas are generally designated in the Rural Community Plans as community core or neighborhood growth areas. Development in this sector shall be contiguous to an existing neighborhood, and allow for a minimum of two streets to provide connectivity between the developments. Development shall not negatively impact the local road network so as to cause a drop in a road's level of service below the existing LOS, nor shall the development be permitted if it will reduce the response time or effectiveness for delivery of emergency services, including (but not limited to): ambulance, police, and fire protection services. This sector is the primary area for mixed-use development, and seeks to blend uses found in the ER, SR, and LR zones of the current County Zoning Ordinance.

- **SD sector.**

These areas are unique compared to the rest of the rural community (either currently or as planned) and often contain public facilities or land. These areas retain their current zoning and shall only be revised following a public hearing to establish use and development standards or will require a public hearing for use with development standards already contained in an applicable section of this chapter.

## **Sectors**

<b>Rural Community Plans</b>	<b>RCZO Equivalent</b>
(No development recommended)	O1 Rural Conservation
Rural Conservation	O2 Significantly Constrained
Rural Reserve	G1 Rural-Town/Village Transition
Neighborhood Growth/Community Core	G2 Primary Growth Area
Institutional/Public Area	SD Special District

### **(B) Character zones (Uses)**

Character zones are similar to zones in the county under the standard zoning ordinance. They are the overlay's most specific classifications of land use and development, including not only common planning regulations such as setbacks and height limitations but also density, landscaping, building location on the lot, building frontage as it relates to nearby streets, and parking requirements. This chapter contains five character zones, as follows:

- **Character Zone 1 (Z1)—Preserved**

This zone is the least permissive for development. It conserves and preserves existing open space and natural features. This zone is applicable to all sectors.

- **Character Zone 2 (Z2)—Rural Reserved**

This zone allows limited development. It is intended to preserve existing open space and the pre-existing low density residential pattern on large tracts of land (generally five acres or more). This is only allowed with adequate sewer and water infrastructure. Development shall not negatively impact the local road network so as to cause a drop in a road's level of service below the existing LOS, nor shall the development be permitted if it will reduce the response time or effectiveness for delivery of emergency services, including (but not limited to): ambulance, police, and fire protection services.



## Character Zones

Zoning Ordinance, Ch. 802	RCZO Equivalent	Side/Rear Setbacks	Minimum Open Space per lot
(No development recommended) AG/RR, FR, CR ER, SR ER, SR, LR, (some LB, GB, LI) SR, LR, MR, HR, UR, LB, GB, LI	Z1 Preserved Z2 Rural Reserved Z3 Town/Village-Rural Transition Z4 Town/Village Border Z5 Town/Village Center	----- 15'/35' 5'/10' 5'/10' 5'/10'	65% 40% 30% residential; 20% non-res. 15%

- Character Zone 3 (Z3)—Town/Village-Rural Transition**  
 This zone is the least dense of the urban zones. It is suitable for the areas immediately adjacent to the rural towns and villages and provides a transition between rural areas and more urban areas. Development shall not negatively impact the local road network so as to cause a drop in a road's level of service below the existing LOS, nor shall the development be permitted if it will reduce the response time or effectiveness for delivery of emergency services, including (but not limited to): ambulance, police, and fire protection services.
- Character Zone 4 (Z4)—Town/Village Border**  
 Allows many mixed uses and more commercial applications. More than one principal use may be allowed on lots in this designation. Development shall not negatively impact the local road network so as to cause a drop in a road's level of service below the existing LOS, nor shall the development be permitted if it will reduce the response time or effectiveness for delivery of emergency services, including (but not limited to): ambulance, police, and fire protection services.
- Character Zone 5 (Z5)—Town/Village Center**  
 The traditional town "main street" area. The broadest variety of uses is permitted and in the highest densities. More than one principal use may be allowed on lots in this designation.

Sector/Character Zone Interface					
	Z1 Preserved	Z2 Rural Reserved	Z3 Town/Village- Rural Transition	Z4 Town/Village Border	Z5 Town/Village Center
<b>O1</b>	<b>P</b>				
<b>O2</b>	<b>P</b>				
<b>G1</b>		<b>P</b>	<b>P</b>	<b>P</b>	
<b>G2</b>			<b>P</b>	<b>P</b>	<b>P</b>
<b>SD</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>

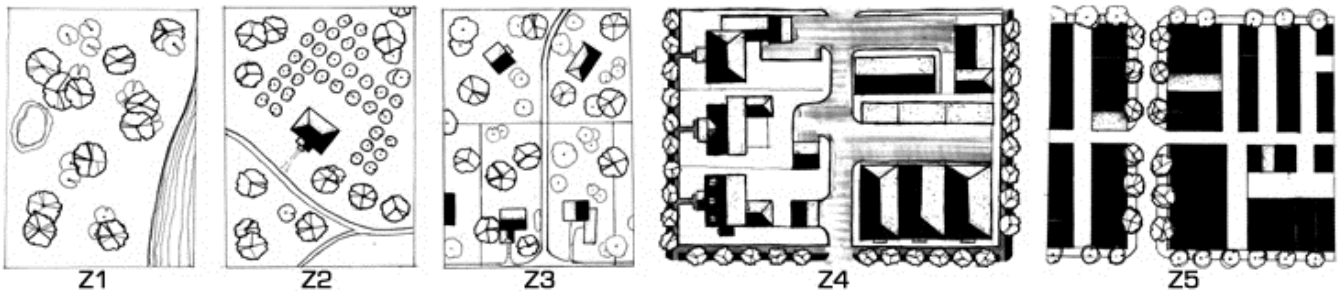


Illustration of progression from Preserved to Town/Village Center Character Zones (M. Yates, Monroe County Planning)

### **835-8 Permitted Land Uses**

All land use definitions as defined by Chapter 802-5 are applicable to this chapter. All permitted and conditional uses shall retain its status unless otherwise designated by the Plan Commission and County Commissioners. Land uses described in the land use/zoning table of Chapter 802 shall correspond to the sectors in the following manner. Allowed uses are subject to their impact on the local infrastructure, schools, and other public facilities.

- O1 sector.  
Agricultural uses, as listed in the land use/zoning table of Chapter 802, except the following: Confined Feeding Operations, Stockyard, and Adult Oriented Businesses. No other permitted uses without variance approval.
- O2 sector.  
Uses permitted in the AG/RR zone district, except the following:  
Confined Feeding Operations, Stockyard, Remote Garbage/Rubbish Removal and Adult Oriented Businesses.
- G1 sector.  
Uses permitted in the AG/RR, CR, ER, and LB zone districts, except the following: Confined Feeding Operations, Stockyard, Remote Garbage/Rubbish Removal and Adult Oriented Businesses. These and any LB uses may be permitted by exception from the BZA.
- G2 sector.  
Uses permitted in the ER, SR, LR, MR, HR, and UR residential zones, LB and GB commercial zones, and LI industrial zone district, except the following:  
Remote Garbage/Rubbish Removal, Manufactured Home Park, Stockyard, Boarding House, Air Cargo and Package Service, Aircraft Charter Service, Airport Transportation Service, Boat Storage, Kennel, Veterinary Service (Outdoor), Manufactured Home Sales, Used Merchandise (Flea Market), Gasoline Services Station, Paper Products, Warehousing and Distribution, and Wood Products and Adult Oriented Businesses. These may be permitted by exception from the BZA.
- SD sector.  
Uses permitted only by public hearing of the Plan Commission.  
Examples may include (but are not limited to): all Mineral Extraction uses, Rock Crushing, Sawmill, School (K-12), Equipment Rental, Building Materials, Heavy Machinery Sales, Adult Oriented Businesses and Rodeo.

### Percentages of Zones by Sector

	<b>Z1</b> Preserved	<b>Z2</b> Rural Reserved	<b>Z3</b> Town/Village- Rural Transition	<b>Z4</b> Town/Village Border	<b>Z5</b> Town/Village Center
<b>O1</b>	<b>No Min.</b>	<b>No Min.</b>			
<b>O2</b>	<b>No Min.</b>	<b>No Min.</b>	<b>10-30%</b>		
<b>G1</b>		<b>50-75%</b>	<b>20-40%</b>	<b>30-50%</b>	<b>10-30%</b>
<b>G2</b>			<b>10-30%</b>	<b>30-50%</b>	<b>50-70%</b>
<b>SD</b>	<b>(varies)</b>	<b>(varies)</b>	<b>(varies)</b>	<b>(varies)</b>	<b>(varies)</b>

A reevaluation component to reclassify zones (much like a Comprehensive Plan/Zoning Ordinance update) will be utilized to review sectors and the types of growth (which character zones) that are occurring within them. If necessary, an area may be recategorized for more appropriate sector/character zone(s) designations.

#### **835-9**      **Landscaping**

The county zoning ordinance has fairly rigid standards for the installation of landscaping, with little differentiation between small- and large-scale developments. This chapter seeks to simplify landscaping in the rural communities by suggesting simple formulas and featuring native Indiana species. For all lots fronting on a publicly or privately maintained street, a standard of one shade tree, as defined in Chapter 830, per 30 feet apply, unless this requirement is waived via a variance request. Improvement shall be made to the lot of record outside of the road right-of-way, and on all lot frontages facing a street, unless permitted by variance.

#### **835-10**      **Building Location and Frontage**

This chapter strongly encourages the placement of buildings near the sidewalk in more urban areas to facilitate easy access for pedestrians traveling without vehicles. As this is a form-based model for zoning, buildings and their appearance should be the primary focus; therefore, a structure's main entrance should face the primary road by which it is served. One building should not dominate another. Standards for setbacks are intended to reduce this risk, as do bufferyards and screening or fencing. Sidewalks are required for all improvements, whether remodeling or new construction.

#### **835-11**      **Parking**

This chapter adopts the parking standards found in Chapter 806 and reduces the required total for commercial and industrial uses by 1/3 of the current minimum requirement. No reduction is made for residential uses or those uses in special districts, unless approved by administrative warrant. Parking facilities are strongly encouraged in the rear portions of lots, thereby drawing attention to buildings rather than their parking areas. This further encourages buildings to be closer to streets, concurrently improving pedestrian safety and access and reinforcing walkable, compact communities. For this reason, the use of common alleys is encouraged to facilitate rear yard parking areas.

Conditions for parking area requirements:

1. A change in use will require the minimum number of parking spaces to be met for the new use

(unless the new use requires fewer spaces than the previous use).

2. For a mixed use site with more than one principal use, the site's required parking shall be the sum of the required parking for the individual principal uses. (For example, if a commercial use requires nine spaces in Chapter 806, you would add the six spaces—the 1/3 reduction makes this six total spaces—to the four required for the residential use on the property, yielding a total of ten spaces.) The number of spaces shall be rounded to the nearest whole number.

3. No more than double the minimum requirement for parking spaces shall be allowed to serve a project, including on-street parking where applicable.

### **835-12**      **Signage**

Signage shall be permitted as authorized by Chapter 807 of the Zoning Ordinance.

### **835-13**      **Height/Bulk/Density**

As an alternative to traditional zoning, the RCZO offers slightly different regulations in regard to height, bulk, and density requirements. These are established below:

#### (A)      Height

For buildings in the O1, and O2 sectors, and Z1, Z2, and Z3 zone designations, a two-story maximum from average building grade on the structure's main frontage shall apply. (This permits residences with walk-out basements.)

*Chapter 801 of the ordinance reads thusly in defining building height:*

***Building Height.*** *The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest elevation of the roof in the case of a slant or flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade and the front of the building.*

For buildings in the G1, G2, Z4, and Z5 designations, a two-story minimum and three-story maximum from average building grade on the structure's main frontage shall apply.

A variance may be requested for deviation from these regulations.

#### (B)      Bulk

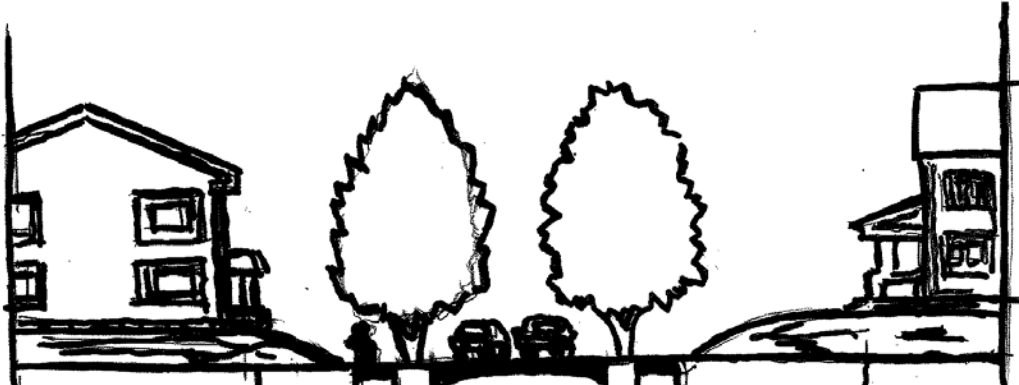
The RCZO encourages traditional development in the rural communities. A wide variety of structures is present in the communities and care should be taken to appropriately match a structure with its lot and surroundings. Lot coverage bonuses (allowing the structure's main floor to cover as much as 80 percent of the lot) should be encouraged for those structures in the Z4 and Z5 zones, which offer a mix of uses.

#### (C)      Density

Values for net density of dwelling units per acre or finished floor area for commercial or industrial uses are linked to sectors in the RCZO.

O1, O2 sectors:	one dwelling unit/10 acres minimum
G1 sector:	1 d.u./2.5 acres minimum (may be reduced to 1 d.u./1 acre if clustered; net density stays same as 2.5 acre standard and sewer is

G2 sector: required  
 1-4 d.u./acre in lower density areas; sufficient sewer, water, and roadway infrastructure must be in place sufficient to maintain the existing level of road service, schools may not become overcrowded, nor emergency services impaired  
 4-8 d.u./acre in higher density areas; sufficient sewer, water, and roadway infrastructure must be in place sufficient to maintain the existing level of road service, schools may not become overcrowded, nor emergency services impaired



Building disposition, frontages, and streetscape elevation (M. Yates, Monroe County Planning)

#### **835-14**      **Variances**

There shall be two types of variances: Warranted variances (Warrants) and Exceptional Variances (Exceptions). Both of these may be granted by the BZA, but warrants may alternatively be accepted for ruling by the Hearing Officer if meeting specific criteria (see Appendix A for further details).

(A) Warrants permit a practice that is different than and in conflict with a specific provision of this overlay, but is justified by its intent or by hardship (that is, deprives the owner of all economic use).

(B) Exceptions permit a practice that is in conflict with an included provision and the intent of this overlay (see 835-5).

The request for a warrant or an exception shall not subject the entire application to public hearing, but only that portion necessary to rule on the issue under consideration.

Warrants and exceptions shall be considered unique and shall not set precedent for others.

#### **835-15**      **Hearing Officer**

The Hearing Officer, an alternate procedure for reviewing and ruling on certain petitions, is outlined in Chapter 822-18 of the Zoning Ordinance.

### **835-16**      **Incentives**

To encourage use of this overlay, the Board of County Commissioners approves the following incentives, to the extent authorized by Indiana Code:

- a.      A minor subdivision shall be processed administratively rather than through a public meeting, provided it is at least 20 percent contiguous to the existing neighborhood and an adequate level of service on adjacent road(s) is maintained post-development. Two road interfaces should be planned to allow connectivity.
- b.      The application shall be placed first on the appropriate meeting agendas. If more than one project using these rules is on an agenda, they will be heard in the order received at application.
- c.      Filing/review planning fees may be reduced to fifty percent (50%) of the ordinary fee.

### **835-17**      **Authority**

The action of Monroe County, Indiana in the adoption of this overlay is authorized under Indiana Code § 36-1-3-4 and Indiana Code § 36-7-4-1, et seq., as amended.

This overlay is adopted as one of the instruments of implementation of the public purposes and objectives of the adopted Monroe County Comprehensive Land Use Plan and the Harrodsburg Area Rural Community Plan, the Ellettsville Area Rural Community Plan, the Smithville-Sanders Area Rural Community Plan, and the Stinesville Area Rural Community Plan. This overlay is declared to be in accord with these plans, to the extent required by Indiana Code § 36-1-3-4 and Indiana Code § 36-7-4-1, et seq., as amended.

This overlay was adopted and amended by vote of the Monroe County Board of County Commissioners.

**(end of chapter)**

## CHAPTER 890

### AIRPORT ZONING ORDINANCE

#### 890-1. Short Title

This chapter shall be known and may be cited as the "Monroe County Airport Zoning."

#### 890-2. Definitions

As used in this chapter, unless the context otherwise requires:

**"Airport"** means Monroe County Airport.

**"Airport Elevation"** means the established elevation of the highest point on the usable landing area.

**"Airport Hazard"** means any structure, tree or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking-off at the airport.

**"Airport Reference Point"** means the point established as the approximate geographic center of the airport landing area and so designated.

**"Board of Aviation Commissioners"** means the Monroe County Board of Aviation Commissioners.

**"Height"** for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**"Instrument Runway"** means a runway equipped, or to be equipped, with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.

**"Landing Area"** means the area of the airport used for the landing, take-off or taxiing of aircraft.

**"Non-Conforming Use"** means any structure, tree or use of land that is lawfully in existence at the time the regulation prescribed in this chapter, or an amendment thereto, becomes effective and does not then meet the requirements of the regulation.

**"Non-Instrument Runway"** means a runway other than an instrument runway.

**"Person"** means an individual, firm, partnership, corporation, company, association, joint stock association or body politic and includes a trustee, receiver, assignee, administrator, executor, guardian or other representative.

**"Runway"** means the paved or unpaved surface of an airport landing strip.

**"Structure"** means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks and overhead transmission lines.

**"Tree"** means any object of natural growth.

### 890-3. Zones

- (A) In order to carry out the provisions of this chapter, there are hereby created and established certain zones that include all of the land lying within the instrument approach zones, non-instrument approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on the Monroe County Airport Zoning Map. The various zones are hereby established and defined as follows:

**INSTRUMENT APPROACH ZONE:** An instrument approach zone is established at each end of the instrument runway for instrument landings and take-offs. The instrument approach zone shall have a width of one thousand feet (1,000') at a distant of two hundred feet (200') beyond each end of the runway, widening thereafter uniformly to a width of sixteen thousand feet (16,000') at a distant of fifty thousand two hundred feet (50,200') beyond each end of the runway, and its centerline is the continuation of the centerline of the runway.

**NON-INSTRUMENT APPROACH ZONE:** A non-instrument approach zone is established at each end of all non-instrument runways on the Monroe County Airport for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of four hundred feet (400') at a distance of two hundred feet (200') beyond each end of the runway, widening thereafter uniformly to a width of two thousand four hundred feet (2,400') at a distance of ten thousand two hundred feet



(10,200') beyond each end of the runway, and its centerline is the continuation of the centerline of the runway.

**TRANSITION ZONES:** Transition zones are hereby established adjacent to each instrument and non-instrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of runways have variable widths as shown on the zoning map. Transition zones extend outward from a line four hundred feet (400') on either side of the centerline of the non-instrument runway for the length of such runway plus two hundred feet (200') on each end and five hundred feet (500') on either side of the centerline of the instrument runway for the length of such runway plus two hundred feet (200') on each end and are parallel and level with such runway centerlines. The transition zones along such runways slope upward and outward one foot (1') vertically for each seven feet (7') horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to both instrument and non-instrument approach zones for the entire length of the approach zones. These transition zones have variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one foot (1') vertically for each seven feet (7') horizontally to the points where they intersect the surfaces of the horizontal and conical zones. Additionally, transition zones are established adjacent to the instrument approach zone where it projects through and beyond the limits of the conical zone, extending a distant of five thousand feet (5,000') measured horizontally from the edge of the instrument approach zones at right angles to the continuation of the center line of the runway.

**HORIZONTAL ZONE:** A horizontal zone is hereby established as the area within a circle with its center at the airport reference point and having a radius of seven thousand feet (7,000'). The horizontal zone does not include the instrument and non-instrument approach zones and transition zones.

**CONICAL ZONE:** A conical zone is hereby established as the area that commences at the periphery of the

horizontal zone and extends outward therefrom a distance of five thousand feet (5,000'). The conical zone does not include the instrument approach zones and transition zones.

- (B) The Monroe County Airport Zoning Map is incorporated by reference and shall be considered to be a part of this chapter. Two (2) copies of the Monroe County Airport Zoning Map shall be on file in the office of the Monroe County Auditor for public inspection.

#### **890-4. Height Limitations**

- (A) Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow or maintained in any zone created by this chapter to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

**INSTRUMENT APPROACH ZONE:** One foot (1') in height for each fifty feet (50') in horizontal distance beginning at a point two hundred feet (200') from, and at the elevation of, the end of the instrument runway and extending to a distance of ten thousand two hundred feet (10,200') from the end of the runway, thence one foot (1') in height for each fourth foot (40') in horizontal distance to a point fifty thousand two hundred feet (50,200) from the end of the runway.

**NON-INSTRUMENT APPROACH ZONES:** One foot (1') in height for each forty feet (40') in horizontal distant beginning at a point two hundred feet (200') from and at the elevation of the end of the non-instrument runway and extending to a point ten thousand two hundred feet (10,200') from the end of the runway.

**TRANSITION ZONES:** One foot (1') in height for each seven feet (7') in horizontal distant beginning at a point four hundred feet (400') normal to, and at the elevation of, the centerline of the non-instrument runway and extending two hundred feet (200') beyond each end thereof, and five hundred feet (500') normal to, and at the elevation of, the centerline of the instrument runway, extending two hundred feet (200') beyond each end thereof, and extending to a height of one hundred fifty feet (150') above the airport elevation, which

eight hundred forty-six feet (846') above mean sea level. In addition to the foregoing, there are established height limits of one foot (1') vertical height for each seven feet (7') horizontal distant measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces. Further, where the instrument approach zone projects through and beyond the conical zone, a height limit of one foot (1') for each seven feet (7') of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of five thousand feet (5,000') from the edge of the instrument approach zone measured normal to the centerline of the runway extended.

- (B) Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.
- (C) Nothing in this chapter shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to forty-five feet (45') above the surface of the land.

#### **890-5. Use Restrictions**

Notwithstanding any other provisions of this chapter, no use may be made of land within any zone established by this chapter in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking-off or maneuvering of aircraft.

#### **890-6. Non-Conforming Uses**

- (A) **Regulations Not Retroactive:** The regulations prescribed by this chapter shall not be construed to require the removal, lowering or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of this chapter or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of

any structure, the construction or alteration of which was begun prior to the effective date of this chapter and is diligently prosecuted.

- (B) **Marking and Lighting:** Notwithstanding the preceding provision of this section, the owner of any non-conforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Board of Aviation Commissioners or its duly authorized agent or representative to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of Monroe County.

## **890-7. Permits**

(A) Future uses:

- (1) Except as specifically provided in subsections (2), (3) and (4) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
- (2) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than forty-five feet (45') of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zone.
- (3) In the areas lying within the limits of the instrument and non-instrument approach zones but at a horizontal distance of not less than four thousand two hundred feet (4,200') from each end of the runways, no permit shall be

required for any tree or structure less than forty-five feet (45') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument approach zone.

- (4) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than forty-five feet (45') of vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.
  - (5) Nothing contained in any of the foregoing exceptions shall be construed as permitting, or intending to permit, any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this chapter, except as set forth in Section 890-4.
- (B) **Existing Uses:** No permit shall be granted that would allow the establishment or creation of any airport hazard or permit a non-conforming use, structure or tree to be made or become higher or become a greater hazard to air navigation than it was on the effective date of this chapter or any application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- (C) **Non-Conforming Uses Abandoned or Destroyed:** Whenever the Board of Aviation Commissioners or its duly authorized agent or representative determines that a non-conforming structure or tree has been abandoned or more than sixty percent (60%) torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- (D) **Variances:** Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this chapter shall petition to the Monroe County Plan Commission for variance from such regulations.

Written notice shall be given to the Monroe County Board of Aviation Commissioners by the Monroe County Plan Commission when any person petitions for a variance to this chapter. Such variances shall be allowed where it is duly found that a literal application or practical difficulty or unnecessary hardship and the relief granted would no be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this chapter.

- (E) **Hazard Marking and Lighting:** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and to be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Monroe County Airport at its own expense to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the present of an airport hazard.

#### **890-8. Enforcement**

- (A) It shall be the duty of the Monroe County Plan Commission to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Monroe County Plan Commission. Petitions required by this chapter to be submitted to the Monroe County Plan Commission shall be promptly considered and granted or denied by it. Petitions for action by the Monroe County Board of Zoning Appeals shall be forthwith transmitted by the Monroe County Plan Commission.
- (B) The Board of Aviation Commissioners may, by condemnation and upon payment of due compensation, prevent the erection of and require removal of hazards that are a hazard to airport travel.
- (C) The Board of Aviation Commissioners, by majority vote of its members, may from time to time, on its own motion or on the written application of any affected taxpayer or political subdivision located within the airport hazard area, petition to amend, change, or supplement these regulations. No such amendment or change shall be made except after public hearing at which parties in interest and citizens shall have an opportunity to be heard and after proper notice has been published. Notice shall be published once a week for two (2) weeks

in a paper of daily circulation in Monroe County.  
A public hearing shall be held anytime after ten  
(10) days from the date of the last published  
notice.

**890-9. Board of Zoning Appeals--Powers and Duties**

- (A) The Monroe County Board of Zoning Appeals shall have and exercise the following powers:
  - (1) to hear and decide appeals from any order, requirement, decision or determination made by the Monroe County Plan Commission in the enforcement of this chapter;
  - (2) to hear and decide special exceptions to the terms of this chapter upon which such Board of Zoning Appeals under such regulations may be required to pass; and
  - (3) to hear and decide specific variances.
- (B) The Monroe County Board of Zoning Appeals shall adopt rules for its governance and procedure in harmony with the provisions of this chapter. Meetings of the Monroe County Board of Zoning Appeals shall be held at the call of the chairman and at such other times as the Monroe County Board of Zoning Appeals may determine. The chairman, in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Monroe County Board of Zoning Appeals shall be public. The Monroe County Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Planning Coordinator and shall be a public record.
- (C) The Monroe County Board of Zoning Appeals shall make written findings of fact and conclusions of law, giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination that comes before it under the provisions of this chapter.

#### **890-10. Appeals**

- (A) Any person aggrieved or any taxpayer affected by any decision of the Monroe County Plan Commission made in its administration of this chapter, if of the opinion that a decision of the Monroe County Plan Commission is an improper application of these regulations, may appeal to the Monroe County Board of Zoning Appeals.
- (B) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Monroe County Board of Zoning Appeals by filing with the Monroe County Plan Commission a notice of appeals specifying the grounds thereof. The Monroe County Plan Commission shall forthwith transmit to the Monroe County Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.
- (C) An appeal shall stay all proceedings in furtherance of the action appealed.
- (D) The Monroe County Board of Zoning Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, by agent or by attorney.
- (E) The Monroe County Board of Zoning Appeals may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from any may make such order, requirement, decision or determination as may be appropriate under the circumstances.

#### **890-11. Judicial Review**

Any person aggrieved or any taxpayer affected by any decision of the Monroe County Board of Zoning Appeals may appeal within thirty (30) days to the circuit court of the county in which the affected real estate lies.



**890-12. Violations and Penalties**

- (A) A person who violates this chapter or any regulation, order or ruling promulgated hereunder commits a Class C Ordinance Violation, and a judgment of not more than Three Hundred Dollars (\$300.00) may be entered against the violator.
- (B) Each day a violation continues to exist constitutes a separate violation.

**890-13. Conflicting Regulations**

Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent limitation or requirement shall govern and prevail.

**[end of chapter]**