

CASE NUMBER 1401-ZOA-01

PETITIONER Monroe County Plan Commission

REQUEST Amendments to the Monroe County Zoning Ordinance:
Chapter 801 – DEFINITIONS
Chapter 802- ZONES AND PERMITTED USES
Chapter 804- HEIGHT, BULK, AREA, AND DENSITY PROVISIONS
Chapter 813- CONDITIONAL USES
Chapter 826- ZONING ORDINANCE: CLUSTER SUBDIVISION
DESIGN
Chapter 827- BUSINESS AND INDUSTRIAL OVERLAY
Chapter 836- SLIDING SCALE OVERLAY (New Chapter)

Amendments to the Monroe County Subdivision Control Ordinance:
Chapter 852- DEFINITIONS
Chapter 854- APPLICATION AND APPROVAL PROCEDURES
Chapter 856- IMPROVEMENT, RESERVATION AND DESIGN STANDARDS
Chapter 860- DOCUMENT SPECIFICATIONS

EXHIBITS

1. Proposed Text and Draft Ordinance for amendments and the creation of a new chapter 836 defining the purpose and specific regulations associated with the use.

BACKGROUND

The Monroe County Plan Commission is requesting to amend multiple Chapters of the Monroe County Zoning and Subdivision Control Ordinance to create two (2) new zoning districts, supporting uses, associated definitions and a sliding scale subdivision provision. Additionally, a new Chapter 836 is being proposed to define the purpose and specific regulations associated with the Sliding Scale Overlay and associated subdivision process and densities.

The purpose of the Sliding Scale Overlay (Sliding Scale) is to encourage development and redevelopment of areas designated as Farm and Forest and Rural Residential in a manner consistent with the adopted Monroe County Comprehensive Plan. The Sliding Scale option is well-suited for owners who wish to subdivide their property for the benefit of their children while ensuring that successive applications of the Sliding Scale development pattern are restricted. In general the Sliding Scale regulations seek to:

- Promote, in urbanizing areas, relatively higher development densities and use intensities;
- Preserve, in rural districts, large areas of sparse and low residential density; and,
- Protect and enhance, in all districts, Vulnerable Lands.

The Sliding Scale when implemented in conjunction with the baseline development standards set forth in the Farm and Forest and Rural Residential zoning districts should serve to:

- Support and sustain the agricultural use and productivity of the Monroe County,
- Preserve large tracts capable of supporting farming, forestry or agricultural related production and to preserve the open road rural landscape appearance of the Monroe County.
- Provide the ability to create some residential lots to allow for family expansion and fulfill limited development needs. However, this residential development must be limited to the fewest lots possible to maintain the low density, rural oriented growth that is consistent with the County's physical constraints as described in the Comprehensive Plan.

NOTE:

All Staff Identified Changes/Proposals are in Blue

All ORC Changes/Proposals/Directions are in Red

Exhibit One: Proposed Ordinance and Text Amendments to Zoning and Subdivision Control Ordinance

ORDINANCE NUMBER 2014-__

The purpose of this ordinance is to amend the Monroe County Zoning Ordinance by the addition of regulations concerning the creation of two (2) new zoning districts, supporting uses, associated definitions and a sliding scale subdivision provision.

WHEREAS, Indiana Code 36-7-4-601 authorizes the Board of Commissioners of the County of Monroe, Indiana (■Board of Commissioners●), to adopt planning and zoning ordinances and amendments ~~thereto~~, including maps, for the following purposes: securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, ~~morals~~, convenience, and general welfare; and otherwise accomplishing the purposes of Indiana Code Chapter 36-7-4;

WHEREAS, the Board of Commissioners adopted a comprehensive replacement Monroe County Zoning Ordinance on December 20, 1996 through the passage of Ordinance 96-36 and have subsequently amended that zoning ordinance (“Zoning Ordinance”);

WHEREAS, Indiana Code 36-7-4-602 authorizes local plan commissions to prepare, conduct public hearings on, approve and certify planning and zoning ordinances, and amendments thereto, for consideration by the local board of commissioners;

WHEREAS, the Monroe County Plan Commission (■Plan Commission●) prepared amendments (■farm and forest, rural residential and sliding scale amendments●) to Chapters 802, 804, 813, 826, 827, 836 of the Zoning Ordinance and Chapters 852, 854, 856, and 860 of the Subdivision Control Ordinance, which it deemed necessary and advisable to promote the public health, safety, and welfare within the County Jurisdictional Area;

WHEREAS, the Plan Commission advertised for and conducted a public hearing on the proposed farm and forest, rural residential and sliding scale amendments;

WHEREAS, following the public hearing, the Plan Commission voted to forward the farm and forest, rural residential and sliding scale amendments to the Board of Commissioners with a favorable recommendation;

WHEREAS, the Plan Commission certified the proposed farm and forest, rural residential and sliding scale amendments and its recommendation ~~thereon~~ to the Board of Commissioners for consideration pursuant to Indiana Code Sections 36-7-4-602 through 605;

WHEREAS, in accordance with Indiana 5-14-1.5-5, the Board of Commissioners

provided public notice of its intention to consider the proposed farm and forest, rural residential and sliding scale amendments in ordinance form during its _____, 2014 meeting, and accepted public comment on the proposed farm and forest, rural residential and sliding scale amendments during its _____, 2014 meeting;

WHEREAS, based on public comment received by the Plan Commission and the Board of Commissioners and ~~on the studies identified in Exhibit A~~ to this ordinance, the Board of Commissioners finds that the proposed farm and forest, rural residential and sliding scale amendments, if adopted, would reasonably and efficiently advance the statutorily recognized zoning ordinance purposes, which include, among other purposes, the promotion of the health, safety, ~~morals~~, convenience, order, and general welfare of the citizens of Monroe County, Indiana, would provide reasonable opportunities for the establishment of farm and forest and rural residential uses and sliding scale subdivision opportunities within the County Jurisdictional Area; and that the proposed amendments should be adopted;

WHEREAS, the Board of Commissioners finds and confirms that in the preparation and/or consideration of the proposed farm and forest, rural residential and sliding scale amendments, both the Board of Commissioners and the Plan Commission gave reasonable regard to: the Comprehensive Land Use Plan of Monroe County, Indiana; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible development and growth;

NOW, THEREFORE, be it resolved by the Board of Commissioners as follows:

Section 1. Monroe County Zoning Ordinance Chapter 802 shall be, and hereby is, amended by the addition of the following amendments:

CHAPTER 802

ZONING ORDINANCE: ZONES AND PERMITTED USES

802-1. Establishment of Zones

(A) The County Jurisdictional Area is ~~hereby~~ classified and divided into the following twenty (20) zones (also referred to as "districts"):

AG/RR	Agriculture/Rural Reserve;
FR	Forest Reserve;
CR	Conservation Residential;
ER	Estate Residential;
LR	Low Density Residential;
SR	Suburban Residential;
MR	Medium Density Residential;
HR	High Density Residential;
UR	Urban Residential;
LB	Limited Business;
GB	General Business;
PB	Pre-Existing Business;
IP	Institutional/Public;
LI	Light Industrial;
HI	Heavy Industrial;
ME	Mineral Extraction;
PUD	Planned Unit Development and
REC	Recreation.
<u>FF</u>	<u>Farm and Forest</u>
RUR	Rural Residential

(B) In addition to the zones listed above, portions of the County Jurisdictional Area may be classified according to one or more of the following overlay zones (also referred to as "overlay districts"):

SFHA	Special Flood Hazard Area;
HP	Historic Preservation (Primary or Secondary);
ECO	Environmental Constraints Overlay;
BI	Business and Industrial Overlay; and
WCF	Wireless Communications Facilities Overlay.
<u>SSO</u>	<u>Sliding Scale Overlay</u>

(C) The foregoing zones and overlay zones are defined as follows:

Farm and Forest (FF) District. The Farm and Forest District is intended to preserve and enhance the rural, low density character and natural resources of the rural portions of the county where agriculture, forest and open space uses predominate, as well as to accommodate limited amounts of low density residential development that is generally not served by public wastewater systems. This district is generally intended to apply to

lands designated in the comprehensive plan as Farm and Forest areas.

Rural Residential (RR) District. The Rural Residential District is composed of certain quiet, low-density, residential areas with a rural character, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life, to provide for an orderly transition from predominately agricultural or forestry uses to mostly rural residential uses, and to **strictly limit carefully monitor** activities of a commercial nature. To these ends, development is limited to relatively low densities and permitted uses are limited basically to single-family dwellings for the residents, home-occupation uses for compatible home-based businesses, as well as certain additional institutional uses such as schools, parks and churches that serve the residents of the district. The purpose of the R-R district is to accommodate residential development of a strictly rural nature, and therefore is generally not intended to be served with public water and wastewater services.

802-5. Permitted Land Uses

(D) The uses listed in Table 2-1 are defined as follows:

(1) AGRICULTURAL USES

Accessory structures for agricultural use. A **uninhabited** structure for the storage of farm animals, implements, supplies, or products that contains no residential use and is not open to the public. Includes: barns, grain elevators, silos, and other similar structures, but not commercial greenhouses; or structures for agricultural processing activities. Also may include: coops, corrals, pens, stables, etc., and wind machines for water pumping or other conversion of wind energy to mechanical or thermal power.

Agriculture. Farming, including plowing, tillage, cropping, and installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting.)

Agricultural-related industry.

(1) Packaging plants: May include but are not limited to the following activities: washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agricultural product remains essentially unaltered. Does not include processing activities, or slaughterhouses, animal reduction yards, and tallow works.

(2) Processing plants: May include but are not limited to those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughterhouses or rendering plants.

(3) Storage facilities: Includes controlled atmosphere and cold storage warehouses and warehouses for the storage of processed and/or packaged agricultural products.

Agritourism /Agritainment. Farming-related activities offered on a working farm or other agricultural setting for entertainment or educational purposes.

Animal Rescue. A facility, other than a private residential dwelling and its surrounding grounds, that is used to house or contain animals and that is owned, operated, or maintained by a nongovernmental entity including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of providing temporary kenneling and finding permanent adoptive homes for animals.

Composting Operation. An establishment for the composting of waste materials accumulated as the

result of the care of lawns, shrubbery, vines, and trees. However, property on which the principal use is residential and on which composting of such materials, accumulated exclusively on-site, is conducted, shall not be considered a landscape waste composting facility.

Equestrian center. Commercial horse, donkey, and mule facilities including: horse ranches, boarding stables, riding schools and academies, horse exhibition facilities, pack stations. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

Facilities for the sale, repair, and service of agricultural equipment, vehicles, feed, or supplies. Establishments selling, renting, or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

Farm roadside stand- A ~~temporary~~ building or structure ~~designed for seasonal~~ use, not to exceed a gross floor area of 500 square feet, from which agricultural products produced on the premises are sold.

Horse farm. A building or structure and/or land whose operator keeps equines primarily for breeding, ~~training~~ and boarding and which operation may or may not be incidental to the owner's primary occupation.

Kennels, including commercial animal breeding operations. The boarding, breeding, raising, grooming, or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

Limited Farm. A parcel of land of less than 5 acres under single ownership or leasehold and used for agriculture.

Nursery/greenhouse. An establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

Orchard. A group of fruit or nut trees, either small and diverse and grown for home use, or large and uniform (i.e., of one variety) and cultivated for revenue. Such a collection must be planted, managed, and renewed by the property owner or farmer and should not be confused with a naturally occurring grove.

Pick-your-own operation. Commercially grown fruit or vegetables are picked by the customer for purchase at the place of production.

Retail sale of nursery and garden materials. A place of business where retail and wholesale products and produce are sold ~~to the consumer~~. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

Tree farm. Any parcel of land used to raise or harvest trees for wood products such as lumber, posts and poles, fuel wood, and Christmas trees where forest products are sold on-site or transported to market.

Winery. An agricultural processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations

(2) RESIDENTIAL USES

Accessory Dwelling Units – A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

(4) Business and Personal Services

Animal Rescue. A facility, other than a private residential dwelling and its surrounding grounds, that is used to house or contain animals and that is owned, operated, or maintained by a nongovernmental entity including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of providing temporary kenneling and finding permanent adoptive homes for animals.

(6) AUTOMOTIVE AND TRANSPORTATION SERVICES

Automobile Repair Services, Minor. The replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, ~~minor~~ painting and upholstery service. Above stated is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross weight. Outdoor storage areas shall not be visible from streets and/or adjacent properties. (needs more work)

TABLE 2-1

AGRICULTURAL USES (NEW)	<u>FF</u>	<u>RR</u>
<u>Agriculture</u>	<u>P</u>	<u>P</u>
<u>Farm roadside stand</u>	<u>P</u>	<u>P</u>
<u>agricultural-related industry</u>	<u>P</u>	<u>C</u>
<u>Accessory structures for agricultural use</u>	<u>P</u>	<u>P</u>
<u>Agritourism /Agritainment (using crafts, corn mazes, petting zoos, entertainers, hay tunnels, etc.)</u>	<u>P</u>	<u>P</u>
<u>Nursery/greenhouse</u>	<u>P</u>	<u>P</u>
<u>Horse farm</u>	<u>P</u>	<u>P</u>
<u>Equestrian center</u>	<u>P</u>	<u>C</u>
<u>Winery</u>	<u>P</u>	<u>P</u>
<u>Tree Farm</u>	<u>P</u>	<u>C</u>
<u>Pick-your-own operation</u>	<u>P</u>	<u>C</u>
<u>Orchard</u>	<u>P</u>	<u>P</u>
<u>Facilities for the sale, repair, and service of agricultural equipment, vehicles, feed, or supplies</u>	<u>C</u>	<u>C</u>
<u>Kennels, including commercial animal breeding operations</u>	<u>C</u>	<u>C</u>
<u>Retail sale of nursery and garden materials</u>	<u>C</u>	<u>C</u>
<u>Composting Operation</u>	<u>C</u>	<u>C</u>
<u>Limited Farm.</u>	<u>P</u>	<u>P</u>
RESIDENTIAL USES (NEW)	FF	RR
<u>Accessory Dwelling Units (conditions needed)</u>	<u>P</u>	<u>P</u>
Business and Personal Services (NEW)	FF	RR
<u>Animal Rescue (conditions needed)</u>	<u>C</u>	<u>C</u>

AUTOMOTIVE AND TRANSPORTATION SERVICES (NEW)	FF	RR
Small Engine and Motor Repair	<u>P</u>	<u>P</u>
AGRICULTURAL USES (EXISTING)	FF	RR
Accessory Use	P	P
Agricultural Uses-Land Animal	P	P
Agricultural Uses-Non Animal	P	P
Aquaculture	P	P
Commercial Non-Farm Animals	P	P
RESIDENTIAL USES (EXISTING)	FF	RR
Accessory Apartments	P	P
Accessory Livestock	P	P
Accessory Use	P	P
Guest House	P	P
Home Based Business	P	P
Home Occupation	P	P
Residential Storage Structure	P	P
Single Family Dwelling	P	P
Temporary Dwelling	P	P
Two Family Dwelling	P	P
PUBLIC/SEMI-PUBLIC USES (EXISTING)	FF	RR
Accessory Use	P	P
Cemetery	P	P
Governmental Facility	P	P
Religious Facilities	P	P
Remote Garbage/Rubbish Removal	<u>C</u>	<u>C</u>
Telephone and Telegraph <u>Wired Communication Services</u>	P	P
Utility Service Facility	P	P
Wastewater Treatment Facility	<u>C</u>	<u>C</u>
Water Treatment Facility	P	P
Business and Personal Services (EXISTING)	FF	RR
Accessory Use	P	P
Artisan Crafts	C	C
Bed and Breakfast	P	P
Composting Operation	P	
Greenfill	P	
Kennel	C	C

Real Estate Sales office Or Model	P	P
Taxidermist	P	P
Temporary Seasonal Activity	P	<u>C</u>
Tourist Home	P	P
Veterinary Service (Indoor)	P	P
Veterinary Service (Outdoor)	P	<u>C</u>
Retail and Wholesale Trade (EXISTING)	FF	RR
Accessory Use (reconcile with similar ag uses above)	P	<u>P</u>
Agricultural Sale Barn	P	
Fruit Market	P	
Garden Center	P	
Amusement and Recreational (EXISTING)	FF	RR
Accessory Use	P	P
Camping Facility (refine definition)	P	<u>C</u>
Park and Recreational Services (refine definition)	P	<u>C</u>
Private Recreational Facility (refine definition)	P	<u>C</u>
Manufacturing, Mining Construction and Industrial (EXISTING)	FF	RR
Sawmill	C	C
Wood Products	C	C

Section 2. Monroe County Zoning Ordinance Section 804 shall be, and hereby is, amended by the addition of the following amendments:

CHAPTER 804

ZONING ORDINANCE: HEIGHT, BULK, AREA, AND DENSITY PROVISIONS

804-4. Special Requirements

Special requirements are established to clarify certain conditions pertaining to the use of lots and access points:

(E) Legal, Pre-existing nonconforming lots. Legal, Pre-existing nonconforming lots of record below the minimum lot size but that meet all other development standards may be developed further without a variance, in accordance with current standards.

Table 4-1

Height, Bulk, Area, and Density Requirements for Zoning Districts		
Requirement	<u>FF</u>	<u>RR</u>
Gross Density	0.06	0.08
Minimum Lot Area (acres)	<u>17</u>	<u>13</u>
Minimum Lot Width at Building Line (feet)	<u>200</u>	<u>150</u>
Minimum Required Setbacks (feet)		
Front Yard Fronting (abutting any Street)		
Local	25 60 (H)	25 60 (H)
Minor Collector	30 60 (H)	30 60 (H)
Major Collector	35 60 (H)	35 60 (H)
Minor Arterial	50 60 (H)	50 60 (H)
	-	-

Principal Arterial	<u>60 (H)</u>	<u>60 (H)</u>
Side Yards	- <u>50</u>	- <u>25</u>
Rear Yard	- <u>50</u>	- <u>25</u>
Minimum Open Space Area (percent)	-	-
Maximum Height (feet)	<u>40</u>	<u>40 Principal Residential Use Structures</u> <u>30 Accessory Residential Use Structures</u>
Maximum Lot Coverage	<u>15,000 Square Feet (G)</u>	<u>15,000 Square Feet (G)</u>
Maximum Floor Area Ratio	---	---

(G) Excluding ~~agricultural buildings~~, buildings and structures that contain less than 120 square feet of floor area and that are not built on permanent foundations, ~~and property owner must register with the Planning Department as a farm use, this registration is for planning purposes only, not for assessment/deed purposes.~~ BRING BACK EXAMPLES (I.E. Stanger/Peden)

(H) Measured from Right of Way Line of a Public Road in the Current Thoroughfare Plan, or 50' if no direct frontage on a road

Section 3. Monroe County Zoning Ordinance Section 813 shall be, and hereby is, amended by the addition of the following amendments:

CHAPTER 813

ZONING ORDINANCE: CONDITIONAL USES

813-5. Standards for Approval

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

- (A) the requested conditional use is one of the conditional uses listed in Chapter [802 Table 2-1, 813-8, or 813-10 \(C\)](#) (for the traditional County planning jurisdiction) or Table 33-3 (for the former Fringe) for the zoning district in which the subject property is located. In addition to the other relevant standards imposed by or pursuant to this chapter, the standards, uses and conditions set forth in Section 813-8 are hereby incorporated as standards, uses and conditions of this chapter;

813-10. Specific Criteria for Conditional Use Approvals

- (C) Additional Criteria for Certain Categories of Conditional Use in the Standard County Jurisdiction. All conditional uses are subject to the criteria established in Chapter 813-5 and referenced in 813-10(A). Additional criteria as specified in this section must be met by the following categories of conditional use:

- (9) [Bed and breakfast establishments \(conversion of existing residential structures only\). \(similar to tourist home conditions\)](#)
- (10) [Facilities for the sale, repair, and service of agricultural equipment, vehicles, feed, or supplies](#)
- (11) [Kennels, including commercial animal breeding operations](#)
- (12) [Retail sale of nursery and garden materials](#)
- (13) [Veterinary Services \(Indoor/Outdoor\)](#)
- (14) [Composting Operation](#)
- (15) [Sawmill](#)
- (16) [Wood Products](#)

[ADD IN NEW CONDITIONAL USES](#)

Utilize general conditional standards for uses
(send out general standards to members for consideration)

Section 4. Monroe County Zoning Ordinance Section 826 and 827 shall be, and hereby is, deleted by the addition of the farm and forest, rural residential and sliding scale amendments amendments:

Delete the following chapters:

CHAPTER 826
ZONING ORDINANCE: CLUSTER SUBDIVISION DESIGN

CHAPTER 827
ZONING ORDINANCE: BUSINESS AND INDUSTRIAL OVERLAY DISTRICT

Agreed to deletion - 1/27/14 by ORC Members present

Section 5. The Monroe County Code shall be, and hereby is, amended by the addition of Chapter 836, titled “Sliding Scale Overlay,” which Chapter reads as follows:

CHAPTER 836

Sliding Scale Zoning Overlay

836-1 **Purpose and Intent**

The purpose of the Sliding Scale Overlay (Sliding Scale) is to encourage development and redevelopment of areas designated as Farm and Forest and Rural Residential in a manner consistent with the adopted Monroe County Comprehensive Plan. The Sliding Scale option is well-suited for owners who wish to subdivide their property for the benefit of their children while ensuring that successive applications of the Sliding Scale development pattern are restricted. In general the Sliding Scale regulations seek to:

- Promote, in urbanizing areas, relatively higher development densities and use intensities;
- Preserve, in rural districts, large areas of sparse and low residential density; and,
- Protect and enhance, in all districts, Vulnerable Lands.

The Sliding Scale when implemented in conjunction with the baseline development standards set forth in the Farm and Forest and Rural Residential zoning districts will serve to:

- Support and sustain the agricultural use and productivity of the Monroe County,
- Preserve large tracts capable of supporting farming, forestry or agricultural related production and to preserve the open road rural landscape appearance of the Monroe County.
- Provide the ability to create some residential lots to ~~allow for family expansion or to and~~ fulfill limited development needs. However, this residential development must be limited to the fewest lots possible to maintain the low density, rural-oriented growth that is consistent with the County’s physical constraints as described in the Comprehensive Plan.

Use of the Sliding Scale is optional for development activity in the areas under the zoning designation of Farm and Forest and Rural Residential as adopted. ~~, though the applicant shall state,~~ At the time of filing ~~permits or petitions,~~ the applicant must elect either to use the prevailing traditional minimum lot size subdivision option or the Sliding Scale subdivision option.

836-2 **Applicability**

The Sliding Scale, 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 chapter, 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 Sliding Scale.

836-3 Definitions of Terms

Accessory Building or Structure. A building or structure, the use of which is customarily incidental and subordinate to the use of the principal building or the principal use of the land on which the structure is located. If a substantial part of the wall of a building housing an accessory use is a part of the wall of the principal connected for example by a roof, the accessory building shall be considered a part of the principal building.

Accessory Use. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Buildable Area. Buildable area is that area remaining on a lot or parcel after all yard and open space, septic, vulnerable land and setback requirements have been complied with. The remaining area may be built upon provided it complies with applicable requirements.

Buildable Area. The lot area for purposes of determining compliance with the minimum lot area requirements of the Zoning Ordinance is the contiguous area of a lot which is sufficient in area to accommodate the construction of water supply systems, sewage treatment systems (including sewer lines), buildings, and driveways, while still providing for adequate setbacks.

- The following kinds of vulnerable land shall not be included in calculating the lot area:
- Floodways;
- Wetlands;
- Rights-of way/road easements;
- Slopes in excess of 15%; (DRAFT)
- Sinkhole conservancy areas;
- Property below the ordinary high water mark of a public water as recognized by the Indiana Department of Natural Resources;
- Within 25 feet of the stream/vegetation interface line of a river or stream;
- Poor soils which are unsuitable for individual sewage treatment systems;
- The pole of a flag lot.

Conditional Use. A use which, because of its unique characteristics, cannot be properly classified as a permitted use, or a use which allows the Planning Commission to retain control over the way in which a building or land can be utilized.

Improvements. Any change to a building, structure, parking facility, fence, gate, wall, work or art, underground utility service or other similar object constituting a physical alteration.. See Lot Improvements or Public Improvements

Interested Parties. Those persons who are to be notified by mail of a public hearing, or other action, on a proposed division of land, as identified in the Plan Commission Rules of Procedure; ~~namely, the applicant or developer of the property to be divided and the fee simple owners (executive officer or board of governmental owner) of those properties that share a common boundary line or point with the property to be divided or that would share a common boundary line or point with the property to be divided but for the existence of a public or private street or a distinct parcel owned by the applicant or developer (see Commission Rules for Procedure). If an abutting property consists of "common areas" that are owned and/or maintained by a subdivision/condominium property owners' association, the association, rather than the individual subdivision lot/condominium owners, shall be deemed the "interested party" for~~

~~purposes of notice, unless, additionally, the Administrator orders that certain individual owners be provided with notice as interested parties. The identity of interested parties shall be determined from the following sources: (1) the subdivision application; (2) the Auditor's Plat Books; and (3) the Auditor's Transfer Books.~~

~~**Open Space, Usable.** That portion of a zoning lot which is not covered by building or paved areas. For the purposes of this ordinance, outdoor roof gardens, patios and decks may be counted, providing a maximum of 100 square feet per dwelling unit may be included as usable open space. Pools and other recreational facilities may be included in the usable open space.~~

Original Parent Parcel-The lot(s) size prior to the utilization of the sliding scale subdivision process.

Owner. Any person or other legal entity having legal title to or significant proprietary interest in the land.

Parent Parcel Remainder- The largest lot remaining after the subdivision.

Pre-existing Lawful Non-Conforming Use. Any use of land, building or structure which ~~use~~ is not currently permitted in the zoning district ~~in which the use is located~~, but which was previously a legal utilization of the property.

Principal Building. The building in which ~~is conducted~~ the principal use of the ~~a~~ zone lot. ~~on which it is located is conducted.~~ Zone lots for which multiple principal uses are authorized ~~with multiple principal uses~~ may have multiple principal buildings, ~~but s-~~ See Accessory Buildings or Structures. ~~Storage buildings, garages, and other clearly accessory buildings uses shall not be considered principal buildings.~~ Standards recognized by the Indiana Administrative Building Council shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist. ~~Do we really need this definition any longer since we now have a cap on all accessory structures?~~

~~**Recreational Facility, Outdoor.** A use of land for recreational purpose, either public or private, which requires no structure for the principal activity. Related functions such as changing rooms or restrooms, and maintenance may be created. Uses so defined shall include but not be limited to golf courses, outdoor tennis courts, and swimming pools, but shall not include uses such as miniature golf, bungee jumping, amusement parks or other similar commercial recreation uses. Do we really need this definition any longer since we now have a cap on all accessory structures?~~

Rural Area. An area ~~designated on Planning Commission Maps as Farm and Forest or Rural Residential or other preexisting non conforming use areas~~ that ~~may~~ ~~are~~ not ~~be~~ classified as an urban area ~~or Designated Rural Communities~~.

Setback. A line parallel to and equidistant from the relevant lot line (front, back, side) or right-of-way line, between which no buildings or structures may be erected, except as expressly provided in these regulations.

Sliding Scale Subdivision Zoning. An alternative method of allocating the number of lots that can be created by dividing a parent plot of ground, which preserves the parent plot as a large lot, allowing some individual lot sizes subsequently created to vary from the minimum size ~~required under the traditional subdivision method. allowed in a given zone.~~

Small Lot-

Sub-divider. Any person, ~~or other legal entity~~ ~~who~~, having a proprietary interest in land, ~~that~~ causes it, directly or indirectly, to be divided into additional plots of ground; or ~~who~~, directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel site, unit, or plat ~~in a subdivision~~; or ~~who~~ engages directly, or through an agent, in the business of selling, leasing, developing, or offering for sale, lease, or development ~~a subdivision~~ of any interest ~~in a lot, parcel, site, unit, or plat in a subdivision~~; and ~~who is~~ directly or indirectly ~~is~~ controlled by, or under direct, or indirect common control with any of the foregoing.

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

Subdivision, Administrative. A subdivision of land that is specifically exempted from the preliminary and final plat approval procedures and requirements of the Subdivision Control Ordinance. An administrative subdivision must be one of the following types of division:

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

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

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

(D) A division of land for federal, state or local government to acquire street right-of-way;

(E) A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division.

(F) A division of land into cemetery plots for the purpose of burial of corpses.

Subdivision, Major. Any ~~subdivision not classified as a minor subdivision,~~ division of land including but not limited to subdivisions of five (5) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

Subdivision, Minor. Any subdivision containing not more than four (4) lots. ~~not in conflict with any provision or portion of the Comprehensive Plan, Official Zone Map or this ordinance.~~

Subdivision, Nonresidential. A subdivision intended for nonresidential use, such as ~~the farming of cropland,~~ agricultural uses, commercial ~~or~~ or other similar industrial uses.

Subject Property. The land, building or structure concerning which an application for a permit, certificate, review or other determination authorized by the Zoning Ordinance or the Subdivision Control Ordinance, has been filed.

Use, Nonconforming. Any use of land, building or structure which use is not currently permitted in the zoning district in which the use is located, ~~but which was previously a legal utilization of the property.~~

Variance. A deviation from any term or standard contained in the Zoning Ordinance or the Subdivision Control Ordinance which is authorized by the Board of Zoning Appeals, the Plan Commission or the County Commissioners.

836-4

Applicable Sliding Scale Zoning Districts

Farm and Forest (FF) District. The Farm and Forest District is intended to preserve and enhance the rural, low density character and natural resources of the rural portions of the county where agriculture, forest and open space uses predominate, as well as to accommodate limited amounts of low density residential development that is generally not served by public wastewater systems. This district is generally intended to apply to lands designated in the comprehensive plan as Farm and Forest areas. (make consistent with earlier changes)

Rural Residential (RR) District. The Rural Residential District is composed of certain quiet, low-density, residential areas with a rural character, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life, to provide for an orderly transition from predominately agricultural or forestry uses to mostly rural residential uses, and to strictly limit activities of a commercial nature. To these ends, development is limited to relatively low densities and permitted uses are limited basically to single-family dwellings for the residents, home-occupation uses for compatible home-based businesses, as well as certain additional institutional uses such as schools, parks and churches that serve the residents of the district. The purpose of the R-R district is to accommodate residential development of a strictly rural nature, and therefore is generally not intended to be served with public water and wastewater services. (make consistent with earlier changes)

836-5

references)

General Development Standards in Sliding Scale Option (change all other

The Sliding Scale Overlay provides an alternate lot size and density distribution from the baseline development standards set forth in Chapter 804 of this ordinance to allow for the creation of smaller lots while retaining larger lots of undeveloped and/or vulnerable land. Land developed under the Sliding Scale Overlay will be allowed to create small lots based upon the total amount of land involved in the proposed subdivision.

(A) General design considerations for all Sliding Overlay :

- (1) If two, or more lots are identical in size, the petitioner shall be allowed to designate the Parent Parcel Remainder.
- (2) The designated Parent Parcel Remainder shall not be further subdivided for a period of twenty-five (25) years from the date of recording of the Final Plat. This Restriction shall be a recorded commitment referenced recorded on the Final Plat and incorporated as a Deed Restriction (which states the day, year and month in which the Parent Parcel Remainder becomes eligible for further subdivision. ~~into any deed conveying the Parent Parcel Remainder.~~
- (3) ~~Exception to~~ The 25 year moratorium recorded commitment may be waived by the Plan Commission in the event Sanitary Sewer Service will be connected to is serving each residential use residence on the property.
- (4) Lots not utilizing a shared driveway must be accessible from a Monroe County or INDOT road or from a hard-surface road designed by a professional engineer to meet current Monroe County subdivision street requirements.
- (5) ~~Large lots may be subdivided into as many 40-acre lots (or larger) as the size of the parent lot~~

allows.

- (6) Any lots created by the sliding scale subdivision process must meet all other ordinance requirements including but not limited to: driveway requirements, slope restrictions, karst restriction requirements as well as other restrictions on vulnerable land forms and all other factors which may impact health, safety and the public welfare.
- (7) ~~All lots~~ **Each buildable lot** must contain **an approved septic** site by the Monroe County Health Department. ~~if it is designed for either Presby or mound system use. If a finger system is either planned for or in use, the lot must contain 2 septic sites. Follow Health Dept Standards~~
- (8) Subdivisions of 4 Lots or less to be created utilizing the Baseline Development Standards may be approved by the Plat Committee. [All Sliding Scale subdivision petitions will require Plan Commission approval.](#)

(B) Farm and Forest (FF) Specific Development Standards

The following standards apply to the original parent parcel and the number and design of small and parent parcel remainder lots allowed to be created under the Sliding Scale subdivision process:

(1) Sliding Scale Development Standards for Small Lots

Original Parent Parcel	Total Number of Lots Permitted* (including Parent Parcel subject to 25 yr. deed restriction)
Up to 7 acres	1 (existing), No additional small lot permitted
More than 7 and up to 17 acres	2 (1 additional small lot)
More than 17 and up to 24 acres	3 (2 additional small lots)
More than 24 acres	4 (3 additional small lots)

**Subject Buildable Lot Determination*

(2) Sliding Scale Height, Bulk, Area, Density Standards for Small Lots

Minimum Buildable Lot Size** <i>**Parent Parcel must be a minimum of 50%</i>	2 acres
Maximum Buildable Lot Size** <i>**Parent Parcel must be a minimum of 50%</i>	5 acres
Minimum Lot Width (Measured from any one side lot line to another measured at any point)	200
Maximum lot coverage (excluding agricultural buildings*, buildings and structures under 120 square feet) <i>*property owner must register with the Planning Department as a farm use, this registration is for PLANNING purposes only, not for assessment / deed purposes</i>	10,000 SF
Setbacks	Front – 60', from Right of Way for Public Road in Current Thoroughfare Plan, or 50' if no direct frontage on a road Side- 50' Rear- 50'
Height Standards	40' Maximum

(3) Sliding Scale Development Standards for Parent Parcel Remainder

Minimum Lot Size	50% of the original Parent Parcel
Minimum Lot Width (Measured from any one side lot line to another measured at any point and at right of way frontage*) <i>*Frontage requirements may be waived if designated for conservation or agricultural purposes.</i>	200
Maximum lot coverage (excluding agricultural buildings*, buildings and structures under 120 square feet) <i>*property owner must register with the Planning Department as a farm use, this registration is for PLANNING purposes only, not for assessment / deed purposes</i>	15,000 S.F. MAXIMUM
Setbacks	Front – 60', from Right of Way for Public Road in Current Thoroughfare Plan, or 50' if no direct frontage on a road Side- 50' Rear- 50'
Height Standards	40' Maximum

(C) Rural Residential (RR) Specific Development Standards

The following standards apply to the original parent parcel and the number and design of small and parent parcel remainder lots allowed to be created under the Sliding Scale subdivision process:

(1) Sliding Scale Development Standards for Small Lots

Original Parent Parcel	Total Number of Lots Permitted* (including Parent Parcel)
Up to 7 acres	1 (existing), No additional lot permitted
More than 7 and up to 13 acres	2 (1 additional small lot)
More than 13 and up to 20 acres	3 (2 additional small lots)
More than 20	4 (3 additional small lots)

**Subject Buildable Lot Determination*

(2) Sliding Scale Height, Bulk, Area, Density Standards for Small Lots

Minimum Buildable Lot Size** <i>**Parent Parcel must be a minimum of 50%</i>	2 acres
Maximum Buildable Lot Size** <i>**Parent Parcel must be a minimum of 50%</i>	5 acres
Minimum Lot Width (Measured from any one side lot line to another measured at any point)	150
Maximum lot coverage (excluding agricultural buildings*, buildings and structures under 120 square feet) <i>*property owner must register with the Planning Department as a farm use, this registration is for PLANNING purposes only, not for assessment / deed purposes</i>	10,000 S.F. MAXIMUM
Setbacks	Front – 60', from Right of Way for Public Road in Current Thoroughfare Plan, or 50' if no direct frontage on a road Side- 25' Rear- 25'
Height Standards	40' Maximum, principal use residential structures 30' Maximum, residential accessory structures

(3) Sliding Scale Development Standards for Parent Parcel Remainder

Minimum Lot Size (acres of buildable area)	50% of the original Parent Parcel
Minimum Lot Width (Measured from any one side lot line to another measured at any point and at right of way frontage*) <i>*Frontage requirements may be waived if designated for conservation or agricultural purposes.</i>	150
Maximum lot coverage (excluding agricultural buildings*, buildings and structures under 120 square feet) <i>*property owner must register with the Planning Department as a farm use, this registration is for PLANNING purposes only, not for assessment / deed purposes</i>	15,000 S.F. MAXIMUM
Setbacks	Front – 60’, from Right of Way for Public Road in Current Thoroughfare Plan, or 50’ if no direct frontage on a road Side- 25’ Rear- 25’
Height Standards	40’ Maximum, principal use residential structures 30’ Maximum, residential accessory structures

836-6 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 zoning districts in the following manner.

(A) FARM AND FOREST (FF) AND RURAL RESIDENTIAL (RR) USES

(1) SMALL LOT & PRE-EXISTING LOTS UNDER 5 ACRES

a) Permitted:

AGRICULTURAL USES (NEW)	<u>FF</u>	<u>RR</u>
<u>Farm roadside stand</u>	<u>P</u>	<u>P</u>
<u>Accessory structures for agricultural use</u>	<u>P</u>	<u>P</u>
<u>Limited Farm.</u>	<u>P</u>	<u>P</u>
RESIDENTIAL USES (NEW)	FF	RR
<u>Accessory Dwelling Units</u>	<u>P</u>	<u>P</u>
Business and Personal Services (NEW)	FF	RR
<u>Animal Rescue</u>	<u>P</u>	<u>P</u>
AUTOMOTIVE AND TRANSPORTATION SERVICES (NEW)	FF	RR

Small Engine and Motor Repair	<u>P</u>	<u>P</u>
RESIDENTIAL USES (EXISTING)	FF	RR
Accessory Apartments	P	P
Accessory Livestock	P	P
Accessory Use	P	P
Guest House	P	P
Home Based Business	P	P
Home Occupation	P	P
Residential Storage Structure	P	P
Single Family Dwelling	P	P
Two Family Dwelling	P	P
PUBLIC/SEMI-PUBLIC USES (EXISTING)	FF	RR
Accessory Use	P	P
Cemetery	P	P
Governmental Facility	P	P
Religious Facilities	P	P
Remote Garbage/Rubbish Removal	P	P
Telephone and Telegraph Services	P	P
Utility Service Facility	P	P
Wastewater Treatment Facility	P	
Water Treatment Facility	P	P
Business and Personal Services (EXISTING)	FF	RR
Accessory Use	P	P
Artisan Crafts	C	C
Bed and Breakfast	P	P
Kennel	C	C
Real Estate Sales office Or Model	P	P
Taxidermist	P	P
Temporary Seasonal Activity	P	
Tourist Home	P	P
Veterinary Service (Indoor)	P	
Veterinary Service (Outdoor)	P	
Retail and Wholesale Trade (EXISTING)	FF	RR
Accessory Use	P	
Agricultural Sale Barn	P	
Fruit Market	P	
Garden Center	P	
Amusement and Recreational (EXISTING)	FF	RR

Accessory Use	P	P
Park and Recreational Services	P	P
Private Recreational Facility	P	P

(2) PARENT PARCEL

AGRICULTURAL USES (NEW)	<u>FF</u>	<u>RR</u>
<u>Agriculture</u>	<u>P</u>	<u>P</u>
<u>Farm roadside stand</u>	<u>P</u>	<u>P</u>
<u>agricultural-related industry</u>	<u>P</u>	-
<u>Accessory structures for agricultural use</u>	<u>P</u>	<u>P</u>
<u>Agritourism /Agritainment (using crafts, corn mazes, petting zoos, entertainers, hay tunnels, etc.)</u>	<u>P</u>	<u>P</u>
<u>Nursery/greenhouse</u>	<u>P</u>	<u>P</u>
<u>Horse farm</u>	<u>P</u>	<u>P</u>
<u>Equestrian center</u>	<u>P</u>	-
<u>Winery</u>	<u>P</u>	<u>P</u>
<u>Tree Farm</u>	<u>P</u>	-
<u>Pick-your-own operation</u>	<u>P</u>	-
<u>Orchard</u>	<u>P</u>	<u>P</u>
<u>Facilities for the sale, repair, and service of agricultural equipment, vehicles, feed, or supplies</u>	<u>C</u>	<u>C</u>
AGRICULTURAL USES (NEW) cont.	<u>FF</u>	<u>RR</u>
<u>Kennels, including commercial animal breeding operations</u>	<u>C</u>	<u>C</u>
<u>Retail sale of nursery and garden materials</u>	<u>C</u>	<u>C</u>
<u>Composting Operation</u>	<u>C</u>	<u>C</u>
<u>Limited Farm.</u>	<u>P</u>	<u>P</u>
RESIDENTIAL USES (NEW)	FF	RR
<u>Accessory Dwelling Units (NEW)</u>	<u>P</u>	<u>P</u>
Business and Personal Services (NEW)	FF	RR
<u>Animal Rescue</u>	<u>P</u>	<u>P</u>
AUTOMOTIVE AND TRANSPORTATION SERVICES (NEW)	FF	RR
<u>Small Engine and Motor Repair</u>	<u>P</u>	<u>P</u>
AGRICULTURAL USES (EXISTING)	FF	RR
Accessory Use	P	P
Agricultural Uses-Land Animal	P	P
Agricultural Uses-Non Animal	P	P
Aquaculture	P	P
Commercial Non-Farm Animals	P	P

RESIDENTIAL USES (EXISTING)	FF	RR
Accessory Apartments	P	P
Accessory Livestock	P	P
Accessory Use	P	P
Guest House	P	P
Home Based Business	P	P
Home Occupation	P	P
Residential Storage Structure	P	P
Single Family Dwelling	P	P
Temporary Dwelling	P	P
Two Family Dwelling	P	P
PUBLIC/SEMI-PUBLIC USES (EXISTING)	FF	RR
Accessory Use	P	P
Cemetery	P	P
Governmental Facility	P	P
Religious Facilities	P	P
Remote Garbage/Rubbish Removal	P	P
Telephone and Telegraph Services	P	P
Utility Service Facility	P	P
Wastewater Treatment Facility	P	
Water Treatment Facility	P	P
Business and Personal Services (EXISTING)	FF	RR
Accessory Use	P	P
Artisan Crafts	C	C
Bed and Breakfast	P	P
Composting Operation	P	
Greenfill	P	
Kennel	C	C
Real Estate Sales office Or Model	P	P
Taxidermist	P	P
Temporary Seasonal Activity	P	
Tourist Home	P	P
Veterinary Service (Indoor)	P	
Veterinary Service (Outdoor)	P	
Retail and Wholesale Trade (EXISTING)	FF	RR
Accessory Use	P	
Agricultural Sale Barn	P	
Fruit Market	P	

Garden Center	P	
Amusement and Recreational (EXISTING)	FF	RR
Accessory Use	P	P
Camping Facility	P	P
Park and Recreational Services	P	P
Private Recreational Facility	P	P
Manufacturing, Mining Construction and Industrial (EXISTING)	FF	RR
Sawmill	C	C
Wood Products	C	C

836-7 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. 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.

(End of chapter)

Section 6. Monroe County Zoning Ordinance Section 852 shall be, and hereby is, amended by the addition of the following amendments:

**CHAPTER 852
SUBDIVISIONS: DEFINITIONS**

852-2. Definitions

Accessory Building or Structure. A building or structure, the use of which is customarily incidental and subordinate to the use of the principal building or the principal use of the land on which the structure is located. ~~If~~ a substantial part of the wall of a building housing an accessory use is a part of the wall of the principal connected for example by a roof, ~~the accessory~~ building shall be considered a part of the principal building.

Accessory Use. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Buildable Area. Buildable area is that area remaining on a lot or parcel after all ~~yard and open space, septic, vulnerable land and setback requirements~~ have been complied with. ~~The remaining area may be built upon provided it complies with applicable requirements.~~

Buildable Area. The lot area for purposes of determining compliance with the minimum lot area requirements of the Zoning Ordinance is the contiguous area of a lot which is sufficient in area to accommodate the construction of water supply systems, sewage treatment systems (including sewer lines), buildings, and driveways, while still providing for adequate setbacks.

- [The following kinds of vulnerable land shall not be included in calculating the lot area:](#)
- [Floodways;](#)
- [Wetlands;](#)
- [Rights-of way/road easements;](#)
- [Slopes in excess of 15%; \(DRAFT\)](#)
- [Sinkhole conservancy areas;](#)
- [Property below the ordinary high water mark of a public water as recognized by the Indiana Department of Natural Resources;](#)
- [Within 25 feet of the stream/vegetation interface line of a river or stream;](#)
- [Poor soils which are unsuitable for individual sewage treatment systems;](#)
- [The pole of a flag lot.](#)

Conditional Use. A use which, because of its unique characteristics, cannot be properly classified as a permitted use, or a use which allows the Planning Commission to retain control over the way in which a building or land can be utilized.

Improvements. Any change to a building, structure, parking facility, fence, gate, wall, work or art, underground utility service or other similar object constituting a physical alteration.. See Lot Improvements or Public Improvements

Interested Parties. ~~Those persons who are to be notified by mail of a public hearing, or other action, on a proposed division of land, as identified in the Plan Commission Rules of Procedure.; namely, the applicant or developer of the property to be divided and the fee simple owners (executive officer or board of governmental owner) of those properties that share a common boundary line or point with the property to be divided or that would share a common boundary line or point with the property to be divided but for the existence of a public or private street or a distinct parcel owned by the applicant or developer (see Commission Rules for Procedure). If an abutting property consists of "common areas" that are owned and/or maintained by a subdivision/condominium property owners' association, the association, rather than the individual subdivision lot/condominium owners, shall be deemed the "interested party" for purposes of notice, unless, additionally, the Administrator orders that certain individual owners be provided with notice as interested parties. The identity of interested parties shall be determined from the following sources: (1) the subdivision application; (2) the Auditor's Plat Books; and (3) the Auditor's Transfer Books.~~

~~**Open Space, Usable.** That portion of a zoning lot which is not covered by building or paved areas. For the purposes of this ordinance, outdoor roof gardens, patios and decks may be counted, providing a maximum of 100 square feet per dwelling unit may be included as usable open space. Pools and other recreational facilities may be included in the usable open space.~~

[Original Parent Parcel-The lot\(s\) size prior to the utilization of the sliding scale subdivision process.](#)

Owner. Any person or other legal entity having legal title to or significant proprietary interest in the land.

[Parent Parcel Remainder- The largest lot remaining after the subdivision.](#)

Pre-existing Lawful Non-Conforming Use. Any use of land, building or structure which ~~use is~~ not currently permitted in the zoning district ~~in which the use is located~~, but which was previously a legal utilization of the property.

Principal Building. The building in which is conducted the principal use of the a zone lot. ~~on which it is located is conducted.~~ Zone lots for which multiple principal uses are authorized ~~with multiple principal uses~~ may have multiple principal buildings, ~~but s~~ See Accessory Buildings or Structures. ~~Storage buildings, garages, and other clearly accessory buildings uses shall not be considered principal buildings.~~ Standards recognized by the Indiana Administrative Building Council shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist. **Do we really need this definition any longer since we now have a cap on all accessory structures?**

Recreational Facility, Outdoor. ~~A use of land for recreational purpose, either public or private, which requires no structure for the principal activity. Related functions such as changing rooms or restrooms, and maintenance may be created. Uses so defined shall include but not be limited to golf courses, outdoor tennis courts, and swimming pools, but shall not include uses such as miniature golf, bungee jumping, amusement parks or other similar commercial recreation uses.~~ **Do we really need this definition any longer since we now have a cap on all accessory structures?**

Rural Area. An area **designated on Planning Commission Maps as Farm and Forest or Rural Residential or other preexisting non conforming use areas** that ~~may are~~ not ~~be~~ classified as an urban area or **Designated Rural Communities.**

Setback. A line parallel to and equidistant from the relevant lot line (front, back, side) or right-of-way line, between which no buildings or structures may be erected, except as expressly provided in these regulations.

Sliding Scale Subdivision Zoning. **An alternative method of allocating the number of lots that can be created by dividing a parent plot of ground, which preserves the parent plot as a large lot, allowing some individual lot sizes subsequently created to vary from the minimum size required under the traditional subdivision method.** ~~allowed in a given zone.~~

Small Lot-

Sub-divider. Any person, **or other legal entity who**, having a proprietary interest in land, **that** causes it, directly or indirectly, to be divided into additional plots of ground; or ~~who~~, directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel site, unit, or plat ~~in a subdivision~~; or ~~who~~ engages directly, or through an agent, in the business of selling, leasing, developing, or offering for sale, lease, or development ~~a subdivision~~ of any interest **in a** lot, parcel, site, unit, or plat ~~in a subdivision~~; and ~~who is~~ directly or indirectly ~~is~~ controlled by, or under direct, or indirect common control with any of the foregoing.

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

Subdivision, Administrative. A subdivision of land that is specifically exempted from the preliminary and final plat approval procedures and requirements of the Subdivision Control Ordinance. An administrative subdivision must be one of the following types of division:

- ~~(A) A division of land into two (2) or more tracts of which all tracts are at least five (5) acres in size;~~
- (B) A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;**
- (C) A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;**
- (D) A division of land for federal, state or local government to acquire street right-of-way;**
- (E) A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal use building sites are created by the division.**

(F) A division of land into cemetery plots for the purpose of burial of corpses.

Subdivision, Major. Any ~~subdivision not classified as a minor subdivision~~, division of land including but not limited to subdivisions of five (5) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

Subdivision, Minor. Any subdivision containing not more than four (4) lots. ~~not in conflict with any provision or portion of the Comprehensive Plan, Official Zone Map or this ordinance.~~

Subdivision, Nonresidential. A subdivision intended for nonresidential use, such as ~~the farming of cropland, agricultural uses,~~ commercial or ~~or other similar~~ industrial uses.

Subject Property. The land, building or structure concerning which an application for a permit, certificate, review or other determination authorized by the Zoning Ordinance or the Subdivision Control Ordinance, has been filed.

Use, Nonconforming. Any use of land, building or structure which use is not ~~currently~~ permitted in the zoning district in which the use is located, ~~but which was previously a legal utilization of the property.~~

Variance. A deviation from any term or standard contained in the Zoning Ordinance or the Subdivision Control Ordinance which is authorized by the Board of Zoning Appeals, the Plan Commission or the County Commissioners.

Section 7. Monroe County Zoning Ordinance Section 854 shall be, and hereby is, amended by the addition of the following amendments:

CHAPTER 854

SUBDIVISIONS: APPLICATION AND APPROVAL PROCEDURES

854-3. Classification of Land Divisions

All land to be divided shall be classified by the Administrator as one of the following three (3) main types of land division (see definition of subdivision): major subdivision; minor subdivision; or administrative subdivision. Each subdivision type is subject to the Improvement, Reservation, and Design Standards of Chapter 856 of the Subdivision Control Ordinance as outlined in the table below. Other standards from the Zoning Ordinance may also be applicable depending on the specific characteristics of the subdivision (e.g., subdivision location in the Lake Monroe Watershed).

Applicable standards of Chapter 856

	<u>Subdivision type</u>		
	Administrative	Minor	Major

Applicable standards from Chapter 856	1-5, 7-10, 11 (Type A only) , 24-25, 34-35, 39 (Type A only) , 44	1-11, 21, 24-25, 27, 29-30, 32-44	All
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854-14. Administrative Subdivision Procedure

~~(D) — In addition to definitional requirements, a land division qualifying as a type A administrative subdivision (see Monroe County Code Section 802-1 definition of "subdivision") shall be shown as meeting the following conditions:~~

- ~~(1) — lots shall be five (5) or more acres in size.~~
- ~~(2) — If the parcel does not have present access to a public sewage disposal system, the parcel shall contain within its boundaries sufficient soil of a kind specified in 410 IAC 6-8.1, or its successor, to allow for the proper installation of a private sewage disposal system, and shall comply with all Monroe County Board of Health ordinances concerning private sewage disposal systems.~~
- ~~(3) — The Land Divider shall dedicate to the public real property of a width sufficient to meet one-half (1/2) of the required right-of-way width for that specific public road as indicated on the County Thoroughfare Plan or the Official Map and of a length along that public road equal to the length of that parcel along that roadway.~~
- ~~(4) — Each parcel shall have a minimum lot width of two hundred (200) feet.~~
- ~~(5) — The Applicant shall provide the Director with copies of the driveway permit issued by the County or State Highway Department, as appropriate, or a driveway permit application, for the parcel.~~
- ~~(6) — All lots shall have a minimum of fifty (50) feet of frontage on an existing publicly maintained road:~~
- ~~(7) — Lots may not be further subdivided through the administrative subdivision procedure (i.e., manipulated through the Type E provisions) if the resulting lots would be less than five (5) acres; and,~~
- ~~(8) — Land in the Lake Monroe Reservoir watershed or in the Lake Griffey watershed may not be subdivided through the administrative subdivision process, unless:

 - ~~(a) — the Commission, rather than the Director, determines that the submissions required by these regulations have been made and that the proposed subdivision qualifies for administrative subdivision approval under these regulations; and~~
 - ~~(b) — each lot resulting from the administrative subdivision has a minimum area of twenty-five (25) acres.~~~~

~~Prior to making its determination, the Commission shall conduct a public hearing on the administrative subdivision application, in accordance with Subsection 854-7(E) of these regulations.~~

Section 8. Monroe County Zoning Ordinance Section 856 shall be, and hereby is, amended by the addition of the following amendments:

**CHAPTER 856
SUBDIVISIONS: IMPROVEMENT, RESERVATION AND DESIGN STANDARDS**

856-7. Lots: Arrangement

The lot arrangement shall permit no foreseeable difficulties for reasons of topography or other conditions in securing building permits to build on each of the created lots in compliance with the Zoning Ordinance and Health Regulations, and in providing driveway access to buildings on lots from an approved street, and in adequately providing for access by emergency and public services to created lots. [Sliding Scale Subdivisions lots not utilizing a shared driveway must be accessible from a Monroe County or INDOT road or from a hard-surface road designed by a professional engineer to meet current Monroe County subdivision street requirements.](#)

856-39. Sewage Disposal System

- (A) If access to a public sewage disposal system is available, a complete sanitary sewer system that connects to the public sewage disposal system shall be installed to the specifications of the sewage disposal utility which will serve the subdivision and/or with all other applicable Indiana statutes, rules, regulations, orders and specifications.

- (B) If access to a public sewage disposal system is not available, the Subdivider shall require on each lot, as a condition of sale, the installation of a private sewage disposal system in accordance with all minimum standards and requirements of the Indiana State Board of Health or other State or County agency.
- (C) All sewage disposal systems installed to serve the subdivision or any lot thereon must be inspected and approved by the officially designated State, County or municipal agency and by any water utility concerned.
- (D) If access to a public sewage disposal system is not available and private sewage disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Ordinance or of any other County ordinance establishing lot areas for private sewerage disposal systems.
- (E) Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be provided to all manholes.
- (F) All lots must contain 1 septic site approved by the Monroe County Health Department. If it is designed for either Presby or mound system use. If a finger system is either planned for or in use, the lot must contain 2 septic sites.

856-42.

Easements

- (C) Easements provided to allow access via a private driveway or privately maintained road shall contain a minimum width based on the number of existing or created lots utilizing the private driveway or privately maintained road. If a private drive is to be used by four existing or created lots or less, a minimum easement width of 25 feet shall be required. If a privately maintained road is to be used by five or more existing or created lots, a minimum right-of-way width of 50 feet shall be required. This requirement shall not be waived. Sliding Scale Subdivisions lots not utilizing a shared driveway must be accessible from a Monroe County or INDOT road or from a hard-surface road designed by a professional engineer to meet current Monroe County subdivision street requirements.

Section 9. Monroe County Zoning Ordinance Section 860 shall be, and hereby is, amended by the addition of the following amendments:

CHAPTER 860

SUBDIVISIONS: DOCUMENT SPECIFICATIONS

860-5. Administrative Subdivisions

The following information must be provided in order for the Director to determine whether a proposed subdivision may be approved as a type "A," "B," "C," "D," "E," or "F" administrative subdivision:

- ~~(A) for type "A" administrative subdivisions, a metes and bounds legal description of the administrative subdivision and the land from which it is being divided, including not more than one exception or addition, a plat, drawn to scale, showing dedicated right-of-way and lot design and a copy of the Auditor's plat map;~~
- (B) for type "B" administrative subdivisions, the old legal and new legal descriptions and a copy of the Auditor's plat map;
- (C) for type "C" administrative subdivisions, a copy of the court decree showing by legal description how the land is to be divided;

- (D) for type "D" administrative subdivisions, a legal description and plat, drawn to scale, showing the parcel and the location of the street right-of-way;
- (E) for type "E" administrative subdivisions, a legal description, including not more than one exception or addition, a plat, drawn to scale, showing the tract to be divided and the tract(s) to be added to and a copy of the Auditor's plat map; and,
- (F) for type "F" administrative subdivisions, a plat, drawn to scale, of the cemetery showing the layout of the private drives, parking areas, and size of burial lots.

860-10 Sliding Scale Subdivision Plat

- (A) The preliminary Sliding Scale Subdivision plat shall comply with 860-1(A-B) with the following exceptions:
 - (1) With respect to 860-1(B)(10), only subsections a-c for existing roads need to be shown
 - (2) Proposed contours per 860-1(B)(11) are required only if grading is proposed
 - (3) 860-1(B)(13) need be met only where applicable
 - (4) The plat need not comply with 860-1(B) (14).

- (B) The final Sliding Scale Subdivision plat shall comply with Section 860-4(A-B) with the following exceptions:
 - (1) Subsections 860-4(B) (3), (6), and (9) shall not apply.
 - (2) The plat shall show the name of the subdivision (including the word "Subdivision") followed by the term "Final Plat."
 - (3) The designated Parent Parcel Remainder in the Sliding Scale Subdivision shall not be further subdivided for a period of twenty-five (25) years from the date of recording of the Final Plat. This Restriction shall be recorded on the Final Plat and incorporated as a Deed Restriction (which states the day, year and month in which the Parent Parcel Remainder becomes eligible for further subdivision) into any deed conveying the Parent Parcel Remainder.

Section 10. The terms and provisions of this ordinance are separable. If any part or provision of this ordinance or the application thereof to any persons or circumstances is adjudged invalid by a court of competent jurisdiction on procedural grounds, or on any other grounds, such judgment shall be confined in its operation to the part, provision, procedure or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the applications thereof to other persons or circumstances. The Board of Commissioners hereby declares that it would have enacted the remainder of this ordinance even without any such part, provision, procedure or application.

SO APPROVED AND ADOPTED by the Board of Commissioners of the County of Monroe, Indiana, this ___ day of _____, 2014.

BOARD OF COMMISSIONERS

AYES

NAYS

IRIS KIESLING

IRIS KIESLING

PATRICK STOFFERS

PATRICK STOFFERS

JULIE THOMAS

JULIE THOMAS

ATTEST: STEVE SAULTER, Auditor _____