

ORDINANCE NO.: 2011-1655

ORDINANCE AMENDING THE ZONING AND SUBDIVISION CONTROL
ORDINANCE FOR THE CITY OF MARTINSVILLE, INDIANA

BE IT ORDAINED by the Common Council of the City of Martinsville, Indiana, that:

WHEREAS, the Martinsville Plan Commission initiated a proposal to amend the Zoning and Subdivision Control Ordinance of the City of Martinsville consistent with Indiana Code 36-7-4-601; and,

WHEREAS, these proposed amendment pays reasonable regard to the Comprehensive Plan for the City of Martinsville, the current conditions and the character of current structures and uses in each zoning district, the most desirable use for which the land in each zoning district is adapted, the conservation of property values, and responsible development and growth; and,

WHEREAS, the Martinsville Plan Commission, after public notice according to statute, held a public hearing on the proposed amendments on the 27th day of April, 2010, and received and considered public comment; and,

WHEREAS, on July 27, 2010, the Martinsville Plan Commission held a public meeting in which the Plan Commission certified with a favorable recommendation the proposal to amend the Zoning and Subdivision Control Ordinance of the City of Martinsville; and,

WHEREAS, the Common council of the City of Martinsville originally rejected the Plan Commission's amendment and made certain suggestions; and,

WHEREAS, the Martinsville Plan Commission, on April 26, 2011 again certified with a favorable recommendation a modified proposal to amend the Zoning and Subdivision Control Ordinance of the City of Martinsville; and,

NOW, THEREFORE, BE IT ORDAINED by the City Council of Martinsville, Indiana, as follows:

1. The Zoning and Subdivision Control Ordinance adopted by the Martinsville City Council on or about November 19, 2001 in Ordinance 2001-1478 and including all subsequent amendments is hereby amended to include the proposed amendments which have been recommended by the Martinsville Plan Commission and which are attached hereto and marked as Exhibit A.

2. The Zoning and Subdivision Control Ordinance as amended is effective upon passage and after the publication of certain fines and penalties.

PASSED AND ADOPTED by the Martinsville City Council of the State of Indiana this ____ day of _____, 2011.

Mayor, Phil Deckard

Gary Lester

Eric Bowlen

David Trout

Phil Deckard, II

Terry Buster

Rick Kivett

Gordon Burgin

ATTEST: Mary Lou Peden

Prepared by Rodric D. Bray, #7880-55, 210 E. Morgan Street, Martinsville, IN 46151,
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EXHIBIT A

**2010 REVISIONS TO THE 2001 CITY OF
MARTINSVILLE ZONING ORDINANCE, 2001-1478 AS
REVISED IN 2004 PER ORDINANCE 2004-1530**

**Following are the revisions, additions and corrections to the City of
Martinsville Zoning Ordinance 2001 as revised 2004:**

**ZONING ORDINANCE OF MARTINSVILLE INDIANA
INDEX OF CHANGES**

(Page number refers to page in the 2004 Ordinance)

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SECTION 1.4 – GENERAL DEFINITIONS

ACCESSORY BUILDING: A subordinate building located on the same lot as a principal building which does not alter or change the character of the premises and which is not used for human occupancy.

ADVERTISING STRUCTURE: Any outdoor structure designed for the purpose of advertising or making known any service or commodity that is not available upon the property on which the structure is located including billboards of any size or shape. Also included in this definition is any semi-trailer, motor home, or similar vehicle, licensed or unlicensed, that remains in the same location for more than 90 days, which has prominently displayed, visible to the public, a sign, message, logo, design or any other written or graphic message to announce, advertise or make known any off premises, retail, commercial, industrial, or business use or service, including political campaign advertising. Advertising Structures must meet the requirements of Section 3.7-E.

DWELLING: A building or part of a building that is used primarily as a place of abode, but not including a hotel, motel lodging house, boarding house, tourist home, or mobile home as defined in this ordinance. Use of any other structure, travel trailer, camper, tent, garage or similar structures as a dwelling for a period of more than fourteen (14) days in any calendar year is prohibited unless it is in a district where such use is specifically permitted.

DWELLING, DOUBLE: A two family dwelling that is a single building designed to house two families living side by side and used exclusively for residential purposes.

DWELLING DUPLEX: A two family dwelling that is a single building designed to house two families living one above the other and used exclusively for residential purposes.

FARM: An area used for agricultural operations including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry except as defined under “Farm, Confinement Feeding”, and not including the raising and breeding of dogs or other small animals commonly kept as household pets; or the processing of farm products produced on the farm by the resident owner or tenant, but not including commercial or custom slaughtering. Unless otherwise allowed in this ordinance, keeping or maintaining livestock and poultry in any district other than “Agricultural” is prohibited.

LIVESTOCK: Animals commonly maintained, raised or kept on a farm including, cattle, horses, swine, goats, sheep and poultry. Also, included in the definition are fish or other aquatic animals such as shrimp or prawns raised in ponds or lakes for commercial purposes.

LOT: Any lot, parcel, or tract, of land abutting upon a street or on a recorded easement that has a separate and distinct legal description. A lot will have a unique parcel number in the records of the Auditor of Morgan County, Indiana. In determining lot area, no part thereof shall be included that is within the limits of a dedicated street or within the limits of a private access easement.

SIGN, POLITICAL: See "Advertising Structure" defined.

SECTION 3.1 – RESIDENTIAL USES AND REQUIREMENTS

Residential and related uses are permitted in the districts indicated in Section 3, Table 1, when complying with the requirements of Table 2a, and the provisions and exceptions of Section 3.3; or when in an approved planned development under Chapter 6. Use of any structure, travel trailer, camper, tent, garage or similar structures as a dwelling or residence, or is intended to be used as such, for a period of more than fourteen (14) days in any calendar year is prohibited unless it is in a district where such use is specifically permitted. Further, occupancy of any single dwelling unit by more than four (4) unrelated adults, as their place of residence, at any time is prohibited. The relationship of any adult to the principal owner or occupant other than the following is considered unrelated: husband, wife, son, daughter, stepson, stepdaughter, mother, father, grandmother, or grandfather.

SECTION 3.3 – PROPERTY DEVELOPMENT STANDARDS

B. ACCESSORY BUILDINGS AND STRUCTURES USES

Accessory uses as listed below are permitted in all districts and may be installed in any required yard, provided they otherwise comply with all other requirements of this ordinance.

- (a) Bird baths and bird houses
- (b) Curbs
- (c) Fences and hedges
- (d) Lamp posts
- (e) Mail boxes
- (f) Name plates
- (g) Parking spaces
- (h) Retaining walls
- (i) Trees, shrubs, etc.
- (j) Utility installations for local service

EXCEPT, substations, regulators, booster stations, lift stations or any other utility facility that requires an area, above ground, that exceeds 150 square feet shall be submitted for approval per this ordinance. However transportation, transmission, storage and distribution facilities of any utility that is regulated by the Indiana Utility Regulatory Commission (IURC) is exempt from this ordinance per under Indiana Law.

- (k) Walks

5. In all residential and B1 zoning districts accessory buildings shall not exceed 12 feet in height above ground at the lowest eave. Accessory buildings area shall be restricted to the maximum lot coverage per Table 2a-1. Only one (1) accessory building per lot is allowed in residential and B1 zoning districts. Further, a garage or other accessory building that is not an integral part of the principal building and is only attached to the principal building by a breezeway, porch, patio or other similar construction shall be considered a separate accessory building and shall conform to all provisions, restriction and limitations for said buildings.
6. In all residential and B1 zoning districts only one mini-barn type storage structure and one open sided carport structure is allowed per lot. The maximum area of mini-barn type

storage structures and carport structures, not installed or constructed on a permanent foundation, is 200 square feet. All such structures shall meet the setback requirements for accessory buildings in the respective district. Any structure exceeding 200 square feet in ground coverage shall be placed on a permanent foundation and shall conform to the requirements for accessory buildings. Total area of all accessory buildings, including those not installed on a permanent foundation, are subject to the area restriction of lot coverage per Table 2a-1.

SECTION 3.7 – SIGNS AND ADVERTISING STRUCTURES

D. SIGNS

Signs are permitted in all districts subject to the restrictions of the district in which the sign is located as established by this section, plus the following general requirements that shall also apply to all signs.

10. No exterior sign shall be permitted to display flashing, intermittent, revolving, or animated lighting or illumination, or any illumination that simulates or displays motion. LED signs, and similar electronic displays are permitted provided the display does not flash, show animation or change screen message less than eight (8) second intervals. LED signs and electronic displays are not allowed on advertising structures.

E. ADVERTISING STRUCTURES

4. An advertising structure may contain no more than two displays per facing, the maximum combined area of which shall not exceed 512 square feet. No advertising structure excluding supports and frames shall exceed 16 feet in height or 32 feet in length.

SECTION 9.2 – DOCUMENTATION

- A. The applicant must furnish a copy of a dimensioned site plan, prepared by an Indiana Registered Land Surveyor or Indiana Professional Engineer, drawn to scale showing the following unless a waiver is granted per Item 10.
 10. The City Superintendent may waive the requirement that the site plan be prepared by a surveyor or engineer if the proposed improvements are of such a minor nature that a professionally prepared site plan is not warranted. **A PROFESSIONALLY PREPARED SITE PLAN IS REQUIRED FOR A NEW PRINCIPAL BUILDING AND CANNOT BE WAIVED.** However, for accessory buildings and building additions in Agricultural (AG), Single and Two Family Residential (R1 & R2) Districts the professionally prepared site plan requirement may be waived under the following conditions:
 - a) The distance from each side of the proposed accessory building or addition to the lot is not less than 1-1/2 times respective setback required for the district.
 - b) There is no evidence of utility use or easements within or near the required setback.
 - c) City Superintendent and City Engineer agree a professional site plan is not needed to protect the interest of the public or City.

- G. The applicant shall submit three (3) complete sets of construction plans for the proposed improvements. Additionally, if a professionally prepared site plan is required then the site plan shall also be submitted as an electronic file in a format approved by the City Engineer.

SECTION 10.0 – FILING PROCEDURES

- A. NOTICE PROCEDURE FOR ALL PUBLIC HEARINGS: All petitions before the Martinsville Plan Commission and Board of Zoning Appeals shall be filed at the Office of the City Superintendent at least **twenty (20)** days prior to the date of public hearing at which the petitions are to be heard and must be on file prior to the date any public notices are sent out. Petition shall include three copies of any plans, plats or exhibits. Petitioner is responsible for cost and preparation of: all filing documents; legal notice; notice to adjacent owners; notice to agencies; notice to commission and board members; placement of “Notice of Public Hearing”; plans, plats and exhibits; and all other requirements for filing and presentation of a petition before the Commission or Board.
- D. PROPERTY NOTICE POSTING: Petitioner shall post on the land that is the subject of the petition before the Commission or Board a “Notice of Public Hearing” The notice will be provided by the City Superintendent at the time of application. Notice shall be prominently located and easily visible from the on the road or street at the address of the property and shall remain until final action by the Commission or Board.
- E. NOTICE TO ADJACENT OWNERS: *No Change*
- F. NOTICE TO CHECKPOINT AGENCIES: *No Change*
- G. NOTICE TO COMMISSION & BOARD MEMBERS: Each member of the Plan Commission or Board of Zoning Appeals, as the case may be, shall be sent by regular mail at their address as provided by the Commission, not less than **fifteen (15)** day prior to the hearing, a notice per Section C above. Also, the notice to Commission or Board members shall contain any exhibits, plans or other documents that were filed with the application. Further, should any meeting of the Commission or Board be continued to allow the Petitioner more time to gather additional information then any documents or exhibits that Petitioner wishes to use shall be mailed, 10 days in advance of the continued meeting date, to the City Superintendent and the respective Commission or Board members. In the event that the Petitioner fails to provide the necessary information in a timely manner, the Commission or Board may continue the hearing until the information is provided or deny the petition.

Remaining subsections in this Section are to be re-labeled “H to L” as follows:

- H. AFFIDAVIT OF NOTICE:
- I. PLAN COMMISSION MEETING DATE:
- J. Proposed Forms for Rezoning, Minor Plats, Subdivisions, ...
- K. All filing fees are posted with the Clerk/Treasures Office...
- L. Filing forms, example letter to adjacent property owners, petition application,...

FOR PLAN COMMISSION CONSIDERATION
REVISED FEES & PENALTIES - 03/22/2011
TABLE – APPENDIX `A`

- A. The filing fee hereinafter specified shall accompany applications and petitions filed pursuant to the provisions of these regulations.
- B. Filing fees may be returned if the building inspector is unable to approve the issuance of a building permit because of technical defects, also filing fees may be returned if the applicant withdraws the application prior to permit issuance or prior to a hearing, but in no case shall filing fees be returned after a permit has been issued or after a hearing has been held.
- C. If construction of a structure begins prior to the issuance of all applicable permits, the permit fee for said application shall be double the normal fee specified herein. Any excavations of foundation materials shall constitute beginning of construction.

BUILDING PERMITS, LICENSE FEES and OTHER PERMITS

FEES LISTED IN THIS TABLE SUPERSEDE THE FEES GIVEN IN THE MARTINSVILLE
BUILDING CODE ORDINANCE NO. 96-1389

(a)	New Single Family Residential	\$ 200.00	Plus \$0.10 per sq. ft. over 1500 sq. ft.
(b)	Duplex or Two Family Residential	\$ 300.00	
(c)	Multi-Family	\$ 300.00	Per project Plus \$75.00 per living unit
(d)	New Business, Industrial, Commercial	\$ 400.00	Plus \$0.10 per sq. ft.
(e)	Accessory Building	\$ 100.00	
(f)	Swimming Pool	\$ 100.00	
(g)	Electrical – Residential	\$ 75.00	\$50.00 for upgrade, relocation or extension
(h)	Electrical – Business, Industrial, Commercial	\$ 150.00	\$100.00 for upgrade, relocation or extension
(i)	Addition or Remodel (residential)	\$ 100.00	For every two units if multi-family
(j)	Addition (business, industrial, commercial)	\$ 300.00	Plus \$0.10 per sq. ft.
(k)	Signs	\$ 100.00	
(l)	Advertising structures	\$ 400.00	
(m)	Re-inspection	\$ 50.00	
(n)	Remodel Business, Industrial, Commercial	\$ 200.00	Plus \$0.10 per Sq. Ft.
(o)	Under Ground Tanks	\$ 200.00	Per tank
(p)	Adult Entertainment	\$ 1000.00	
(q)	Adult Entertainment Renewal	\$ 500.00	
(r)	Adult Entertainment Transfer	\$ 1000.00	
(s)	Imp. Loc. Permit – Residential	\$ 50.00	
(t)	Imp. Loc. Permit – Multi-Family	\$ 200.00	\$100.00 If Permit Obtained Under (c)
(u)	Imp. Loc. Permit – Business Commercial	\$ 300.00	\$200.00 If Permit Obtained Under (d)
(v)	Imp. Loc. Permit – Industrial Commercial	\$ 400.00	\$300.00 If Permit Obtained Under (d)
(w)	Imp. Loc. Permit – Subdivision or PUD	\$ 400.00	\$300.00 If Stormwater & Erosion Control Management Plan Permit Obtained
(x)	Imp. Loc. Permit – Wellhead Protection Area	\$ 400.00	In Addition to any other permit
(y)	Cellular or Microwave Tower Permit	\$ 500.00	Renewal required every two years.
(z)	Demolition Permit	\$ 100.00	
(hd)	Historic District	\$ 50.00	Permit for Historic Building Maintenance

Moving or changing the location of an existing structure carries the same as fees for new construction. Re-inspection fee will be invoked any time the inspector has to return to the site due to the work not being completed, corrections required, or access not available.

ZONING APPLICATIONS

(a)	Amend Zoning Map (rezoning)	\$ 400.00	+ Recording fee
(b)	Use or Development Variance	\$ 300.00	
(c)	Special Exception & Wellhead Overlays	\$ 400.00	
(d)	Subdivision Plat – Major	\$ 500.00	+ \$40.00 per lot
(e)	Planned Unit Development Final Detailed Plat, Per Section or Phase (Requires Prior Rezoning)	\$ 500.00	+ \$40.00 per lot or \$100 per acre
(f)	Subdivision Plat – Minor	\$ 400.00	No per lot fee
(g)	Special Meeting Plan Commission	\$ 750.00	If approved by Chairman
(h)	Special Meeting Board of Zoning Appeals	\$ 350.00	If approved by Chairman
(i)	Appeal of City Superintendent Zoning Decision	\$ 200.00	See Section 11.3

PENALTY FEE TABLE – APPENDIX 'B'

PENALTIES LISTED IN THIS TABLE SUPERSEDE THE PENALTIES GIVEN IN THE MARTINSVILLE BUILDING CODE ORDINANCE NO. 96-1389.

(a)	Signs, Section 3.7	Not less than \$100.00 or more than \$500.00 per day
(b)	Development Standards	Not less than \$100.00 or more than \$500.00 per day
(c)	Building Code Residential	Not less than \$100.00 or more than \$500.00 per day
(d)	Building Code Business, Industrial, Commercial	Not less than \$200.00 or more than \$1,000.00 per day
(e)	Industrial Violation, Section 3.4	Not less than \$500.00 or more than \$1,000.00 per day
(f)	Any Other Zoning Violation	Not less than \$100.00 or more than \$1,000.00 per day

PROPOSED TABLE 2a-1

DESCRIPTION OF RESTRICTION (Excludes downtown district and existing improvements as of the date of adoption of this table)	AG	R1/R2/B1 Lot Size 10,000 sq ft or less	R1/R2/B1 Lot Size 10,001 sq ft to 20,000 sq ft	R1/R2/B1 Lot Size 20,001 sq ft to 30,000 sq ft	R1/R2 - Lot Size greater than 30,001 sq ft	B1 - Lot Size greater than 30,001 sq ft
Lot Coverage by Primary Structure (Building)	30% with maximum of 12,000 sft	30% (3,000 sft max.)	30% (3,000 to 6,000 sft)	30% with a maximum of 8,000 sft	8,000 sft maximum	40% maximum
Lot Coverage by Accessory Buildings including non-permanent storage buildings (mini-barns) & carports	10% maximum	10% (1,000 sft max.)	10% with 1,500 sft max.	10% with 2,500 sft max.	10% with 3,500 sft max.	10% maximum
Lot Coverage by All Improvements including, permanent structures, accessory buildings, and non-permanent storage buildings (mini-barns)/carports. Also, impervious surfaces including but not limited to: driveways, patios, decks, sidewalks, swimming pools, parking areas, and similar improvements	40% maximum	60% (6,000 sft max.)	60% (6,000 to 12,000 sft)	60% (12,000 to 18,000 sft)	60% with 20,000 sft maximum	80% maximum