

**INTER-LOCAL COOPERATION AGREEMENT BETWEEN
DEKALB COUNTY AND THE TOWN OF WATERLOO, INDIANA
REGARDING PLANNING, ZONING, SUBDIVISION CONTROL, PERMITTING
AND ENFORCEMENT JURISDICTION**

- WHEREAS, Indiana Code § 36-1-7-1 et seq. permits governmental entities to jointly exercise powers through Inter-Local Cooperation Agreements; and
- WHEREAS, Indiana Code § 36-7-4-205 authorizes a municipality to exercise planning and zoning jurisdiction in unincorporated areas up to two (2) miles beyond the corporate boundaries, with permission of the County; and
- WHEREAS, The governmental entities have determined that it is prudent, rational, and in the best interest of the citizens for the Town to exercise planning, zoning, subdivision control, permit issuance, and enforcement over specific unincorporated areas that are surrounded by or immediately adjacent to areas within the Town boundaries, to be known as Extra-territorial Jurisdiction (ETJ); and
- WHEREAS, This Inter-Local Cooperation Agreement reflects the commitments and understandings agreed to by the legislative bodies of the governmental entities in order to efficiently and effectively provide the delegation of powers from DeKalb County to the Town of Waterloo.

NOW, THEREFORE, DeKalb County and the Town of Waterloo, Indiana hereby agree as follows:

PART 1: DEFINITIONS

- Agreement: Shall mean the Inter-Local Cooperation Agreement between DeKalb County and the Town of Waterloo, Indiana regarding planning, zoning, subdivision control, permitting and enforcement jurisdiction.
- Town: Shall mean the Town of Waterloo.
- County: Shall mean DeKalb County.

PART 2: ZONING

- Section 2.1 The Town shall have zoning jurisdiction over the unincorporated areas designated as described in Part 5 and in Exhibit A, Extra-territorial Jurisdiction Map as updated, amended, and recorded.
- Section 2.2 The Town shall maintain a valid comprehensive plan that acknowledges the boundaries of the ETJ and designates future land uses consistent with the County's comprehensive plan.
- Section 2.3 The Town shall maintain a valid zoning ordinance that is complementary of the Town's comprehensive plan, especially the future land use plan.
- Section 2.4 The Town's zoning ordinance shall contain, and meet or exceed the following development standards.
- A. Drainage
 1. Projects shall be subject to review by and approval from the DeKalb County Surveyor and/or the DeKalb County Drainage Board.
 - B. Floodplain Management
 1. Restrict all structures from the floodway, except bridges, pedestrian trails, park equipment, park structures, open pavilions and stages, ball fields, flood mitigation measures, dams, levies, and underground utilities.
 2. Restrict all residential uses from building in the flood fringe.
 3. Require homes within 75 feet of the flood fringe to be established at an elevation where the lowest habitable floor is two (2) feet above the established 100-year flood elevation.
 4. Restrict filling of the floodplain that will result in an increase to the base flood elevation by fourteen-hundredths (0.14) of one foot or greater.
 - C. Wellhead Protection
 1. Restrict dry cleaners, gas stations, chemical or fuel storage over 500 gallons, junk yards, hazardous waste or material storage, transfer stations, confined feeding operations, waste treatment facilities, cemeteries, chemical processing, open lagoons associated with raising of farm animals or industrial use, and automobile mechanics from locating within wellhead protection areas.
 2. Require any facility that stores 50 gallons or more of fuel or chemicals for over 24 hours to establish a secondary containment area equal to 110% of the volume in the tank. Such secondary containment shall be built to control the escape of contaminants into ground water for a minimum of 72 hours, and to not contain rainwater, such that it impairs the capacity to contain a 100% spill.
 3. Allow a special exception or conditional use provision for gas stations if they can prove that no other viable sites are available within the appropriate zoning in the community. Special exceptions or conditional uses shall only be granted if the underground fuel storage tanks are double walled, have a release detection system, all piping has release detection, and maintenance of the facilities is required. Also, a provision that would allow the municipality, at its discretion, to require the gas station to pay for up to two test wells to be drilled per any given calendar year to monitor for contaminants shall be written into the ordinance.
 4. Excavation Activities:
 - a. Require the extraction of sand, gravel or other minerals when done below the ground water level to be done so with dragline, floating dredge, or alternative wet excavation method.
 - b. Restrict de-watering of sites utilized for mining or extraction.
 - c. Excavation sites shall not utilize anything other than clean natural earth fill materials to fill or alter the contour of the site. Construction debris shall not be considered clean natural earth fill.

- d. Restrict all fuel, oil, lubricant, hydraulic fluid, petroleum products or similar material from being stored on site without fully being within a secondary containment area with 110% capacity to contain a 100% spill.

D. Sewer Hookup

1. Require all new development and new construction of homes, businesses, industries, and institutions within 300 feet of a gravity sewer system to hook into the municipal system. Require all other new development and new construction of homes, businesses, industries, and institutions to hook into the city sewer system unless the cost of doing so is two times (2X) the cost of installing a septic system on the site. For developments with two or more lots, the cumulative cost of installing septic systems for each lot shall be used. The Town may bridge the financial gap on a project where sewer hookup will exceed the two times (2X) rule in order to require the development to connect to the sewer system.

E. Airport Overlay

1. If the Town's extra-territorial jurisdiction extends within five (5) nautical miles of the airport take-off and landing flight path of the DeKalb County airport, the Town shall adopt the county's overlay district designed to protect this vital component of the regional and national transportation network.
2. The County reserves the right to revoke extra-territorial jurisdiction within five (5) nautical miles of the airport take-off and landing flight path of the airport if the Town grants one or more waivers or variances allowing incompatible uses or structures into the airport protection areas, counter to FAA Advisory Circulars, terms of the DeKalb County Airport's Grant-In-Aid contracts, or best management practices.

PART 3: SUBDIVISION CONTROL

- Section 3.1 The Town shall have authority and control of hearing of subdivisions of land over the unincorporated areas designated as described in Part 5 and in Exhibit A, Extra-territorial Jurisdiction Map, as updated, amended, and recorded.
- Section 3.2 The Town shall maintain a valid subdivision control ordinance that is complementary of the Town's comprehensive plan and zoning ordinance.
- Section 3.3 The Town's subdivision control ordinance shall contain, and meet or exceed the following design standards.
- A. Drainage
 1. Projects shall be subject to review by and approval from the DeKalb County Surveyor and/or the DeKalb County Drainage Board.
 - B. Street Standards: As per Exhibit B
 - C. Sidewalk Standards: As per Exhibit C
 - D. Cul-de-sac Standards: As per Exhibit D
 - E. Addressing
 1. The Town and County shall coordinate the issuance of new addresses. Address numbers shall follow the County's address schema and be endorsed by County planning staff prior to being presented to the Town's Plan Commission for final approval.
 2. The Town shall distribute new addresses with the ETJ to the appropriate agencies.
 3. Address postings shall meet both the Town's address posting requirements and the County's posting requirements per Ordinance 98-5.

PART 4: PERMITTING, ADMINISTRATION, PETITIONS, APPEALS AND ENFORCEMENT

- Section 4.1 The Town shall have permitting, administration, petitions, appeals and enforcement authority and control over the unincorporated areas designated as described in Part 5 and in Exhibit A, Extra-territorial Jurisdiction Map, as updated, amended, and recorded.
- Section 4.2 Permitting shall include:
- A. Improvement Location Permits, zoning compliance, and building code/permits compliance.
- Section 4.3 Administration shall include:
- A. Receiving submittals and collecting payments
 - B. Reviewing plans and developments
 - C. Determining compliance with the zoning and subdivision control ordinance.
 - D. Exercising administrative discretions, as the Town's ordinances allow
 - E. Maintaining records and archiving
 - F. Scheduling projects for hearings and review by the Plan Commission and BZA
 - G. Assuring that documents and drawings are recorded as mandated by law (e.g. covenants, commitments, conditions, plats).
 - H. Coordinating the issuance of addresses and the disbursement of address information
- Section 4.4 Petitions shall include:
- A. Utilizing the Town's Board of Zoning Appeals to hear and decide variance requests, conditional uses, and special exceptions when applicable.
 - B. Utilizing the Town's Plan Commission to hear and decide waiver requests, rezoning requests, and planned development requests.
- Section 4.5 Appeals shall include:
- A. Utilizing the Town's Board of Zoning Appeals to hear administrative appeals.
- Section 4.6 Enforcement shall include:
- A. Documenting complaints
 - B. Investigating complaints and notices of violations
 - C. Searching for violations as staff resources allow
 - D. Citing violators and correcting violations
 - E. Litigating violations as appropriate and necessary

PART 5: EXTRA-TERRITORIAL JURISDICTION AREA DETERMINATION

- Section 5.1 When a development proposal meets the criteria listed below, the Town shall have the planning authority and control determined by this Agreement. Extra-territorial jurisdiction shall be either static or dynamic. The static jurisdiction shall be documented on Exhibit A, Extra-territorial Jurisdiction Map, as updated, amended, and recorded. The dynamic jurisdiction shall be documented by policy and not illustrated on Exhibit A, Extra-territorial Jurisdiction Map.
- Section 5.2 Static jurisdiction shall be comprised of the following criteria. These criteria shall be directly translated to Exhibit A, Extra-territorial Jurisdiction Map, as amended.
- A. Wellhead protection areas: The following methods for interpretation apply:
 - 1. All areas within the one, five and ten-year flow district as delineated by a certified wellhead protection area study shall be included in Exhibit A, Extra-territorial Jurisdiction Map, as amended.
 - B. Projected growth areas: The following methods for interpretation apply:
 - 1. Through the use of formula, the estimated land area necessary to accommodate ten years of growth and development shall be included in Exhibit A, Extra-territorial Jurisdiction Map, as updated, amended, and recorded. The formula for calculating the projected growth areas shall be as follows:
 - a. The best available information shall be used to determine the projected growth rate for the municipality over the next ten years. If sufficient data is not available, the growth rate of 6.5% over ten years shall be used. This percentage is based on U.S. Census Bureau projections for the County. Use this percentage to calculate the projected population in ten years.
 - b. Determine the projected increase in population by subtracting the current population from the projected population.
 - c. Determine the average number of persons per acreage within the Town's corporate limit.
 - d. Determine the amount of land necessary to accommodate ten years of projected growth. Do this by multiplying the projected increase in population by the average number of persons per acreage. This number is the acreage necessary to accommodate 10 years of growth and development in the Town.
 - 2. The geographic placement of this area shall be determined by the Town.
 - C. Island areas: The following methods for interpretation apply:
 - 1. Any area that is fully surrounded by the Town's jurisdiction (i.e. an island) as of the effective date of this Agreement shall be included in Exhibit A, Extra-territorial Jurisdiction Map, as amended.
 - D. Areas formerly considered dynamic: Areas where water and sewer utility services have been established, but that are not yet incorporated into the Town.
 - E. By owner's request: The owner of a parcel may request a development be incorporated into the Extra-territorial jurisdiction. The development shall utilize both Town water and sewer utility services. Both the Town and the County shall approve the request.
- Section 5.3 The County reserves the right to increase, but not decrease, the static extra-territorial jurisdiction boundaries by amending the currently updated and recorded Exhibit A, Extra-territorial Jurisdiction Map, by vote of the County Commissioners at a normally scheduled County Commissioner meeting.
- Section 5.4 Dynamic jurisdiction shall be comprised of the following policies.
- A. Sewer and water utility service availability: The following methods for interpretation apply:

1. Any parcel utilizing Town water and sewer service or if any portion of the parcel is within 300-feet of Town water and sewer service may be considered the Town's planning jurisdiction if each of the following statements is true.
 - a. The owner wishes to be served by Town water and sanitary sewer.
 - b. The Town's utility has documentation that indicates it has the capacity to serve the site/development; and either has the distribution system in place or has a plan to do so prior to occupancy of the improvement.
 2. As per State law, in no case shall ETJ be extended partially or fully beyond two-miles. If a parcel straddles the two-mile threshold, it shall be the County's planning jurisdiction.
- B. Any parcel that straddles an imaginary line created by applying the static rules in Section 5.2 shall be the Town's planning jurisdiction if either of these statements are true.
1. The owner of the property has submitted a full and complete application to improve the property and has paid the applicable application fee; and the proposed structure (not the lot) is fully within the Town's jurisdiction.
 2. The owner of the property has submitted a full and complete application to improve the property and has paid the applicable application fee; and 50% or more of the lot is fully within the Town's jurisdiction.

PART 6: RECITALS OF COMMITMENT, PURPOSE, DURATION AND RENEWAL OF AGREEMENT

- Section 6.1 The level of cooperation recited in this Agreement is intended to exist in perpetuity to provide government services to the citizens of the County in the most efficient and effective manner possible; and to reduce redundancy of process, to minimize county and municipal staff resources, to improve consistency of regulations, and to improve clarity in planning jurisdictions. However, both parties recognize that modifications may be required, both to the Agreement itself and to the practices, procedures and terms that bring the intent of the inter-local agreement to fruition.
- Section 6.2 The spirit of good planning and fiscally responsible decision making shall prevail on behalf of the Cities, Towns and DeKalb County to the end that:
- A. Under no circumstances shall the Town engage in approving a residential subdivision that it cannot feasibly annex within a reasonable period of time under current State Statutes.
 - B. Under no circumstances shall the Town fail to initiate annexation of residential subdivisions, commercial developments and industrial developments within a reasonable period from the time of the development's approval as are subject to the current annexation regulations of the State of Indiana.
 - C. Under no circumstances shall the Town zone property or otherwise approve a tall structure within 5 nautical miles of the take-off and landing flight path of any private or public airport unless the structure does not exceed the imaginary surfaces as defined by FAR part 77 or IC 8-21-10 and does not raise the published minimums at any public-use airport.
 - D. Under no circumstances shall the Town zone property or otherwise approve incompatible land uses (e.g. residential dwellings, nursing homes, schools, churches, and the like) within the planning jurisdiction of the DeKalb County airport property.
 - E. The above statements of commitment may be waived under special circumstances by the County Commissioners if determined that the development is be well within the spirit of good planning and fiscally responsible decision making.
- Section 6.3 The Town shall maintain a legally established Plan Commission and BZA under State Law, including maintaining representation from the unincorporated planning jurisdiction.
- Section 6.4 The Town shall collect all fees associated with zoning and subdivision control processes, reviews, permits and the like in the areas noted in Exhibit A, Extra-territorial Jurisdiction Map, as updated, amended, and recorded. Until corporate limits change, all road funds shall continue to be collected by the County and used at their discretion to maintain the roads in the unincorporated areas.
- Section 6.5 The Terms of this Agreement shall be valid for approximately four years, effective _____.
- Other terms of the Agreement include:
- A. Both parties agree to formally review and amend extra-territorial jurisdiction boundaries on a four year basis.
 - B. Four-year revisions of the Agreement are intended to primarily adjust Exhibit A, Extra-territorial Jurisdiction Map, as amended, to reflect additional extra-territorial jurisdiction for the Town; unless no annexation has occurred in the preceding four-year period of time.
 - C. If the Agreement is not revised, it shall remain in full force and effect until modified by the City and County.
 - D. Termination of the Agreement may be initiated by the County Commissioners for cause. Cause shall be interpreted to mean that the participating municipality is not complying with the spirit, intent, or a term of the Agreement. Termination for cause shall be done in the two-step process as follows:
 - 1. Notice: The Town shall be given written notice that it no longer is in compliance with the spirit, intent or a term of the Agreement. The Town shall have three (3) months to fully comply with the notice. If the Town fully corrects the issue, the County shall not terminate the Agreement.

2. Termination: After the three-month notice period, if the Town still fails to comply with the spirit, intent, or a term of the Agreement identified in the notice, the County has the right to terminate the Agreement. Termination of the Agreement shall be initiated and decided at a regularly scheduled meeting of the County Commissioners.
 3. The County shall also have the right to terminate the agreement if the Town repeats the same violation of spirit, intent or term of the agreement within two years from the original offense cited in 1. Notice.
- D. The Agreement shall be void if any State of Indiana or Federal law; or case law is determined to prohibit such delegation of planning jurisdiction.

PART 7: SEVERABILITY

Section 7.1 If any provision of this agreement is declared, by court of competent jurisdiction, to be invalid, null, void, or unenforceable, the remaining provisions shall not be affected and shall have full force and effect.

This Agreement is effective once both entities have authorized its execution by appropriate ordinance.

PART 8: EXECUTION OF AGREEMENT

EFFECTIVE DATE: _____

SO AGREED this ____ day of _____, 2017.

DEKALB COUNTY INDIANA

TOWN OF WATERLOO

Donald D. Grogg, President
DeKalb County Commissioner

David Bolton, President
Town Council

Randall J. Deetz, Vice President
DeKalb County Commissioner

Dorsey Brown, Vice President
Town Council

Jacqueline R. Rowan
DeKalb County Commissioner

William Hubartt
Town Council

Alan C. Middleton, President
DeKalb County Council

Jess Jessup
Town Council

Richard Ring, Vice President
DeKalb County Council

Ken Surber
Town Council

Bob Krafft
DeKalb County Council

William VanWye
DeKalb County Council

Eldonna King
DeKalb County Council

David Yarde
DeKalb County Council

Martin Grimm
DeKalb County Council

ATTEST:

Jan Bowman, Auditor

ATTEST:

Renata Ford, Town Clerk

This instrument prepared by: Chris Gaumer, Director, Department of Development Services, DeKalb County. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

EXHIBIT A

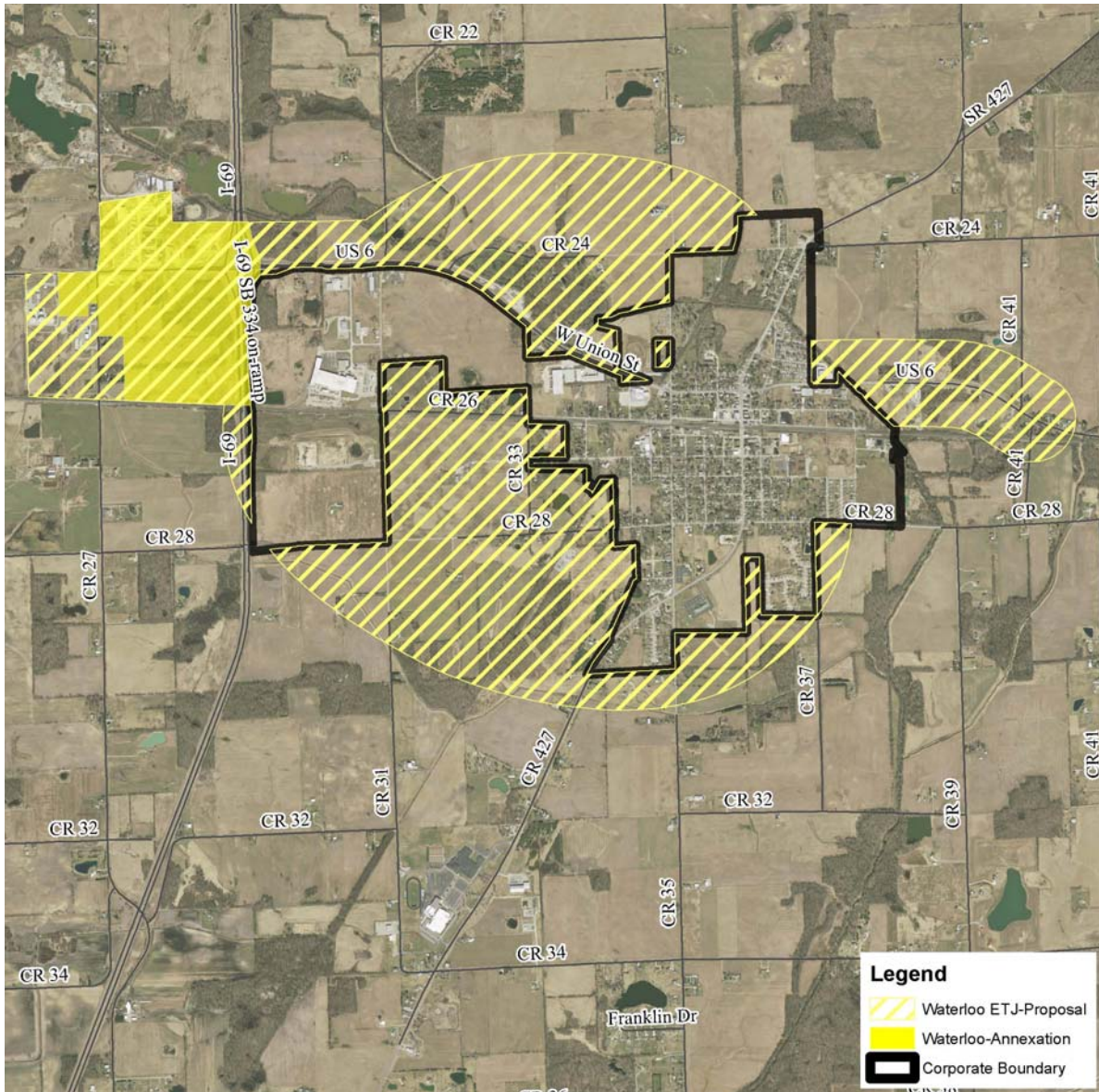


EXHIBIT B

Street Type	Minimum Road Width	Minimum Right-of-Way	Minimum Asphalt Base	Minimum Asphalt Surface	Minimum Concrete Base	Minimum Concrete Surface
Major Arterial	<ul style="list-style-type: none"> • 12 foot lanes • On-street parking in urban areas optional 	<ul style="list-style-type: none"> • Class I: 150 feet • Class II: 120 feet 	<ul style="list-style-type: none"> • 14 inches total aggregate • 10 inches of #1 or #2 • 4 inches of #53 or #73 	<ul style="list-style-type: none"> • 4 inches of intermediate • 1 inch of finish 	<ul style="list-style-type: none"> • 4 inches total aggregate • #53 or #73 	<ul style="list-style-type: none"> • 8 inches of concrete
Minor Arterial	<ul style="list-style-type: none"> • 12 foot lanes • On-street parking in urban areas optional 	<ul style="list-style-type: none"> • 100 feet 	<ul style="list-style-type: none"> • 14 inches total aggregate • 10 inches of #1 or #2 • 4 inches of #53 or #73 	<ul style="list-style-type: none"> • 4 inches of intermediate • 1 inch of finish 	<ul style="list-style-type: none"> • 4-inches total aggregate • #53 or #73 	<ul style="list-style-type: none"> • 8 inches of concrete
Collector Street	<ul style="list-style-type: none"> • 11-foot lanes • 8-foot on-street parking lane optional 	<ul style="list-style-type: none"> • 80 feet 	<ul style="list-style-type: none"> • 14- inches total aggregate • 10 inches of #1 • 4 inches of #53 	<ul style="list-style-type: none"> • 4.5 inches of intermediate • 1.5 inch of finish 	<ul style="list-style-type: none"> • 4-inches total aggregate • #53 or #73 	<ul style="list-style-type: none"> • 7 inches of concrete
Local Street	<ul style="list-style-type: none"> • Minimum 28 feet back of curb to back of curb • Parking permitted 	<ul style="list-style-type: none"> • 60 feet 	<ul style="list-style-type: none"> • 8 inches total aggregate • 5 inches of #1 • 3 inches of #53 	<ul style="list-style-type: none"> • 3 inches of intermediate • 1 inch of finish 	<ul style="list-style-type: none"> • 4-inches total aggregate • #53 or #73 	<ul style="list-style-type: none"> • 6 inches of concrete

EXHIBIT C

	Required	Minimum Width	Minimum Thickness	Joint Spacing	Location
Sidewalks	<ul style="list-style-type: none"> • Required in all subdivisions • Both sides of internal streets 	<ul style="list-style-type: none"> • 4 feet 	<ul style="list-style-type: none"> • 4 inches • 6 inches at driveways 	<ul style="list-style-type: none"> • 5-feet maximum 	<ul style="list-style-type: none"> • 1 foot from right-of-way line

EXHIBIT D

	Minimum Pavement Radius	Right-of-Way	Length
Cul-de-sacs	<ul style="list-style-type: none"> • 45 foot 	<ul style="list-style-type: none"> • 60 foot radius 	<ul style="list-style-type: none"> • 30 lots maximum or 1000-feet • Whichever is most restrictive

EXHIBIT E
ZONING FOR INTER-LOCAL COOPERATION AGREEMENT
BETWEEN DEKALB COUNTY AND THE TOWN OF WATERLOO, IN 2017

Waterloo zoning reflects development goals as set forth in the Comprehensive Plan, 2013. Heavy industry is zoned in the western portion of the EDA and town limits which includes the Industrial Park, Light and Heavy Industry in the area west of I-69, General Business is located along U.S. 6 both east and west of I-69, Central Business is located in the downtown and light industry is located along the railroad south and east of the downtown. Neighborhood Business zoning currently exists along the west side of Center Street between U.S. 6 and Van Vleek Street, designating this corridor for future commercial use in the comprehensive plan to complement the Train Station improvements. Future neighborhood development is expected in the area between Waterloo and the Jr-Sr High Schools.

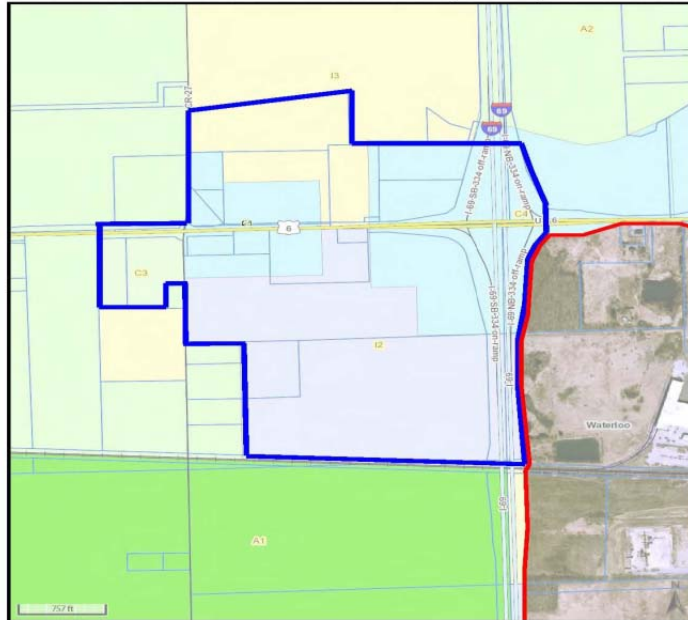
The map of the Extra Territorial Jurisdiction area is provided as Attachment A and corresponds to the recommendations set forth below.

AREA 1) WATERLOO ECONOMIC DEVELOPMENT EXPANSION AREA/ANNEXATION AREA

The Waterloo Economic Development Area Plan covers an area within the Town of Waterloo, Indiana and in parts of currently unincorporated Grant and Smithfield townships, in DeKalb County, State of Indiana. Some of this area is in the process of annexation. Zoning for the annexation area is noted in the EDA plan as follows:

Zoning Districts DeKalb County Current	Town of Waterloo Zoning Conversion
C3: General Commercial	GB: General Business
C4: Highway Commercial	GB: General Business
I-2: Low-Intensity Industrial	LI: Light Industrial
I-3: High Intensity Industrial	HI-O: Heavy Industrial - Open

Town of Waterloo U.S. 6 and I-69 Economic Development Expansion Area Map



Legend	
— Existing Town of Waterloo Boundary	
— Potential Annexation Area	
A1: Conservation Agriculture	C4: Highway Commercial
A2: Agriculture	I2: Low-Intensity Industrial
C3: General Commercial	I3: High-Intensity Industrial

AREA 2) ETJ ADJACENT TO ANNEXATION AREA WEST OF I-69

Land west of the Waterloo Economic Development Expansion Area is currently utilized as agricultural use though the area is viable for industry. Zoning would be converted with the intent to allow business development in the corridor.

Zoning Districts DeKalb County Current	Town of Waterloo Zoning Conversion
A2: Agricultural	AG: Agricultural
I3: High Intensity Industrial	HI-O: Heavy Industrial Open
C3: General Commercial	GB: General Business

AREA 3) NORTHWEST SIDE OF TOWN LIMIT ALONG US HIGHWAY 6

Land along US 6 has been identified for small business development with residential prospects along CR 24.

Zoning Districts DeKalb County Current	Town of Waterloo Zoning Conversion
R1: Low Density Residential	SR: Suburban Residential
R2: Medium Density Residential	SR: Suburban Residential
C4: Highway Commercial	GB: General Business
IN: Institutional	GB: General Business

AREA 4) SOUTHWEST CORRIDOR

Land south of the town limits serve in the well head protection area and connect industrial sectors with residential housing. The area is primarily agricultural in use.

Zoning Districts DeKalb County Current	Town of Waterloo Zoning Conversion
A1: Conservation Agricultural	AG: Agricultural
A2: Agricultural	HI-O: Heavy Industrial Open
IN: Institutional	AG: Agricultural
R2: Medium Density Residential	SR: Suburban Residential
I2: Low Intensity Industrial	LI: Light Industrial and
	SR: Suburban Residential

AREA 5) EAST SIDE OF TOWN LIMIT ALONG US HIGHWAY 6

Land along US 6 has been identified for small business development with some residential.

Zoning Districts DeKalb County Current	Town of Waterloo Zoning Conversion
C2: Neighborhood Commercial	GB: General Business
C4: Highway Commercial	GB: General Business
R1: Low Density Residential	SR: Suburban Residential

