



Boonville, Indiana

CityofBoonvilleIndiana.com

UNIFIED DEVELOPMENT ORDINANCE

Effective January 1, 2025

City of Boonville

UNIFIED DEVELOPMENT ORDINANCE

01 ORDINANCE FOUNDATION

02 DISTRICTS

03 USES

04 GENERAL STANDARDS

05 DESIGN STANDARDS

06 IMPROVEMENT STANDARDS

07 SUBDIVISION

08 PROCESS

09 ENFORCEMENT

10 DEFINITIONS



Boonville Unified Development Ordinance

User Guide

The breadth and details of a Unified Development Ordinance can be intimidating for first-time users not familiar with such regulations or even for veteran code users. This guide will help you understand the structure of the Ordinance and point you in the right direction. For those of you using the Ordinance on the City's website, there are links to help you navigate (see [1.2 Ordinance Format and Navigation](#)).

Planning and Zoning 101

What's Regulated? A Unified Development Ordinance (UDO) combines the Zoning Ordinance, Subdivision Regulations, and other land use ordinances into one set of regulations. These regulations cover aspects of the built environment, including:

- What can be constructed (single family, stores, offices, etc.),
- Size, height, and placement of buildings,
- How much parking is needed and standards for parking design,
- Design standards for landscape, lighting, and signs, and
- The design of stormwater management and utilities.

The Comprehensive Plan is the framework for this Ordinance, think of it as the “blueprint” for the future. The Comprehensive Plan describes policies, expectations, and recommendations for the future. One key element is a future land use map that illustrates the intended arrangement of land uses and their density. Some key features in the Plan are recommendations to preserve the historic and natural resources while accommodating new development. Details are provided for future improvements to the transportation system, to give people choices in how they travel. The Plan is occasionally amended, a process typically led by the Plan Commission at the direction of the City Council.

Key Term

Future Land Use Map: a guide for planned future land use. The text of the Comprehensive Plan provides the details on the Future Land Use descriptions.

The Zoning Map is generally based on the Comprehensive Plan's future land use plan and related policies. The zoning map classifies the City into different zoning districts. The Ordinance describes what uses are allowed and the standards for building and site design in that district.

Process to Create and Amend the Ordinance. The ordinances that regulate development go back several decades. The Ordinances have been amended from time to time to respond to changes in federal and state laws, administrative rules, and case law. In addition, amendments are occasionally made to improve the Ordinance, address new opportunities, and to be consistent with changes in planning and policies. Any amendment follows a process with a public hearing at the Plan Commission and followed by a Plan Commission recommendation. The City Council considers the Plan Commission's recommendation and determines if the proposed amendment meets the criteria for amendments. They then vote to approve or reject the amendment.

If you have a hard copy of the ordinance, write the date of receipt on the cover of first page. Refer to this date when asking the planning staff about any Ordinance amendments since that date (particularly to the zoning map).

Key Term

Zoning Map: regulates use of the property today. The UDO provides the details of what can be built and the standards for development for the districts shown on the Zoning Map.

How this Ordinance is Organized

Chapter 1 Ordinance Foundation	Describes the state statutes that authorize the UDO, defines generally where and how the Ordinance applies, the legal framework for the Ordinance, who is involved in administering the Ordinance, and how to handle existing legal uses that may no longer meet the requirements of the Ordinance.
Chapter 2 Zoning Districts	Establishes the various zoning districts explaining the intent of each district and the development standards to follow when building in each district.
Chapter 3 Permitted Uses	Identifies what land uses are permitted in each district and the type of approval necessary. Each use is defined, and special requirements are noted (for example, some uses require a larger separation from residential uses). This chapter also covers temporary uses and events.
Chapter 4 General Standards	Covers standards that apply to all properties and property maintenance standards.
Chapter 5 Design Standards	Identifies items that need to be incorporated into documents submitted for approval. Standards are provided for architectural design, site layout, streets, open space, and easements.
Chapter 6 Improvement Standards	Provides standards for the elements installed on a site including lighting, parking, and signage.
Chapter 7 Subdivisions	Establishes the types of subdivisions and details the approval process for each type.
Chapter 8 Process and Permits	There are separate submittal forms and checklists for different types of requests, such as approvals for a rezoning, site plan or variance. An applicant needs to obtain the appropriate application, fill out the forms, and provide the information listed as required for that type of approval. This chapter also outlines the review and approval process of each application.
Chapter 9 Enforcement	This chapter outlines the procedures for notification and action that can be taken if there is a violation of this Ordinance, i.e., someone knowingly or unknowingly does not comply with regulations set forth in the UDO.
Chapter 10 Definitions	Terms used in Zoning, Subdivision Ordinances and Building Codes do not always match up with what is commonly understood. This chapter defines the meaning of terms used in the UDO that have specific meanings. For example, what is an “accessory use” to a home or what is meant by different use terms like “Child Care Center.”

How do I determine the current zoning and planned use of my property?

Check the Zoning District Map: What is permitted in one district may not be permitted in another. To analyze the permitted uses or design requirements for a piece of property, first look at the Zoning District Map to see how the property is zoned. This map is on the City’s website. The zoning map is periodically amended, such as when a property owner receives approval for rezoning their land. The Planning Department maintains the official current zoning map.

Recommendations from the Comprehensive Plan, and other plans and studies may have recommendations related to your property or proposed project. Generally, rezonings must be consistent with the Future Land Use Map. Proposed developments should also align with the goals and policies of the Comprehensive Plan.

What uses are allowed? What standards apply?

The zoning map classifies land into different zoning districts. Those districts are described in [CHAPTER 2: ZONING DISTRICTS](#). In that chapter you will find a list of the various zoning districts illustrated by colors on the Zoning Map. Those districts include:

AG	Agriculture
AH	Heavy Agriculture
R1	Residential
R2	Residential
R3	Residential
R4	Residential
R5	Residential
C1	Neighborhood Commercial
C2	General Commercial
C3	Highway Commercial
I1	Light Industrial
I2	Heavy Industrial
IN	Institutional
DT	Downtown
PUD	Planned Unit Development

Text for each district that describes the intent of the district, the development standards for each district, and references to other sections of the Ordinance for additional design standards. Development standards, like minimum lot width, lot size, and building setbacks vary from one zoning district to another.

A table of uses allowed in each district can be found in [3.2 Use Matrix](#). This table lists uses in the rows and zoning districts in the columns. Each cell in the table identifies if a use is permitted and the type of approval needed:

P - "Permitted" Uses. If you meet the standards, the use is allowed.

S - "Special Exception" uses are reviewed by the Board of Zoning Appeals using the standards outlined in [8.8 Special Exceptions](#).

Blank Cell - If a cell is blank, the use is not permitted in that zoning district. If a use is not listed on the table, it is not permitted in any zoning district.

Click the use name for a description of the use and any conditions or limitations associated with the use.

The last column of the table gives the minimum number of parking spaces required for that use.

3.2 Use Matrix

P = Permitted Use S = Special Exception Use	AG	AH	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IN	DT	Minimum Parking Requirements
RESIDENTIAL PRIMARY USES															
Dwelling - Single-Family Detached	P		P	P	P	P	P	S					S	P	2 spaces/unit
Dwelling - Duplex	S		S	P	P	P	P						S	P	2 spaces/unit
Dwelling - Triplex				S	P	P	P								2 spaces/unit
Dwelling - Quadplex				S	P	P	P								2 spaces/unit
Dwelling - Townhouse					S	P	P						S	P	2 spaces/unit
Dwelling - Apartment Building: Small (6 DU/building max)					S	P	P	S					P	P	1.25 spaces/unit
Dwelling - Apartment Building: Large (12 DU/building max)						S	P		S				P	P	1.25 spaces/unit
Apartment Complex						S	P								1.25 spaces/unit

What are my options if my intended use is not listed as a permitted or special exception land use?

If your proposed use is not listed as an allowed use on your property, you have several options, including:

- Find an alternative use for your property that is permitted or find a site that is properly zoned for your intended use.
- If your use is not listed anywhere in the Ordinance, you could request that the Administrator consider your intended use based on the "determination of similar uses" as explained in [8.12 Administrative Determination](#). In some cases, the Administrator may take the request to the Planning Commission for input. The Board of Zoning Appeals has final authority if you disagree with the Administrator's interpretation.
- Request to rezone the property. This requires a public hearing before both the Plan Commission and approval by the City Council (depending on where the property is located). [8.2 Rezones](#) lists the criteria applied in reviewing your rezoning request.
- Request to amend the UDO to add your proposed use, either as a Permitted Use or Special Exception Use, in your zoning district.

What is the next step when the proper zoning is in place?

Once proper zoning is in place there are several factors to consider during the early stages of project planning. The list below highlights some of the more distinct options and procedures.

- **Natural Features:** The Comprehensive Plan strives to maximize preservation of existing natural features. The UDO contains specific natural resource regulations for trees and the protection of watershed resources. In some cases, a tree inventory is required. If your site contains wetlands or is along a creek or stream, these areas need protection. There may be floodplain that impact development on the site.
- **Site Plan (for a site) or Subdivisions Plats (for a series of lots):** Most projects, other than construction of a single-family home, require a site plan. Approval of lots and related infrastructure requires submission and approval of a subdivision plat. Most of the design standards are found in Chapters 5, 6, and 7, though other regulations, like the Building Code, also apply. Submittal requirements for those procedures are described in [CHAPTER 8: PROCESS AND PERMITS](#). If your project is expected to generate a significant amount of traffic or is located on a congested corridor, you may be required to submit a transportation impact analysis that must be prepared by a certified traffic engineer or transportation planner.

What is the approval process for my project?

The level of impact matters.

- Simple projects with minor impacts can often be approved at the staff level.
- Projects with bigger impacts require public hearings and board approval.

Approvals may be combined:

- Primary plat, site plan, and modifications may be addressed simultaneously.
- Construction drawing and secondary plat approval may be addressed together.

ORDER OF PROJECT APPROVALS

#1 USE

Is the use approved for the site?

- Rezone (APC & legislative body)
- Special Exception (BZA)
- PUD (APC & legislative body)

CHAPTER 8



#2 PROPERTY LINES

Do property lines need adjusting?

- Administrative or Minor Subdivision (staff)
- Major Subdivision (APC)

CHAPTER 7



#3 SITE DESIGN

Do any development standards need adjusting?

- Development Standards Variance (BZA)
- Modification or waiver (as part of the subdivision or plan site approval)

Is site plan approval required? (APC or staff)

Prepare construction drawings (staff)

Prepare secondary plat - if subdividing (staff)

CHAPTER 8

Improvement Location Permit issued when plans are approved.

How to Determine What Approvals are Necessary

1. Check the Zoning Map and related District text to confirm your use is allowed.
2. Determine which approvals are needed.
3. Obtain the applicable application form:

Copies of the application forms are on the City's web site and available at the Planning Department. The application form includes a schedule of the steps in the review and approval process and a checklist of information you must provide. In most cases, Staff will schedule a pre-application conference to review the procedures and requirements with you.

Once you submit the application, Staff begins the review process. Typically, the first step is an administrative review by representatives of different departments. In most cases, a report is prepared to alert you of any changes your application materials need. Depending upon the type of review, when the application is considered complete, the Administrator will take action on the application or forward your request to the Plan Commission or Board of Zoning Appeals, as appropriate.



Chapter 1

Ordinance Foundation

The legal framework for this UDO

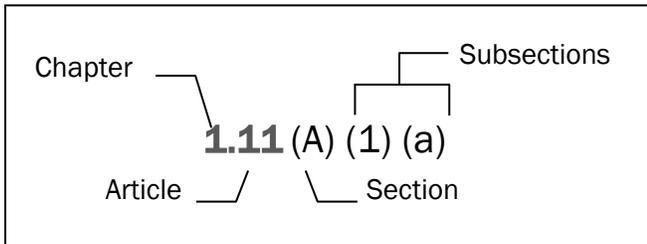
1.1	TITLE	3
1.2	ORDINANCE FORMAT AND NAVIGATION	3
1.3	AUTHORITY AND PURPOSE	3
1.4	INTERPRETATION AND APPLICATION	4
1.5	EXCLUSION	4
1.6	SAVING PROVISION	4
1.7	INCORPORATION OF OTHER DOCUMENTS	5
1.8	REPEAL OF PRIOR ORDINANCE AND EFFECTIVE DATE	5
1.9	ADMINISTRATIVE BODIES	5
1.10	PUBLIC UTILITY INSTALLATIONS	8
1.11	ZONING MAP	9
1.12	NONCONFORMING REGULATIONS	10

1.1 Title

This Ordinance is known as the “Unified Development Ordinance of the City of Boonville,” and may be cited and referred to as the “Zoning Ordinance,” “Subdivision Control Ordinance,” or “Unified Development Ordinance” (referred to here as this “Ordinance”).

1.2 Ordinance Format and Navigation

Format. The Ordinance follows this structure:



How to Use Hyper-Linked Cross-References

- Certain aspects of the electronic format of this document allow the user to quickly navigate the document by clicking on hyperlinks.
- Article headings in the chapter’s table of contents will direct the user to that article within the chapter.
- In-line text cross-references to other articles within this document which are colored and emphasized will direct the user to the cross-referenced article.
- On the Permitted Use Table, [3.2 Use Matrix](#), click the use name to link to a description of the use and any conditions or limitations associated with the use.
- When using a digital version of the document, opening the bookmarks icon on the left side of the screen will allow navigation throughout the document.
- Cross-references to documents and websites outside this document are provided for convenience only. The accuracy of these links is not guaranteed.



Adobe Reader
Bookmark Icon

1.3 Authority and Purpose

- A. **Authority.** This Ordinance is adopted according to the authority of [IC 36-7-4](#) et seq. If sections of Indiana Code or Indiana Administrative Code referenced in this Ordinance are amended or replaced, this Ordinance is amended to refer to the updated section of code.
- B. **Scope.** This Ordinance applies to all real property located within the corporate boundaries of Boonville, Indiana, and areas outside the corporate limits subject to extraterritorial jurisdiction. The use of land and structures must comply with all provisions of this Ordinance, including obtaining all required permits and certificates.

An Improvement Location Permit issued before the effective date of this Ordinance may be completed and occupied according to the approved plans, provided construction begins within one year of the effective date and is diligently pursued to completion. After completion, the structure is subject to the provisions of [1.12\(E\) Nonconforming Uses and Structures](#) if it does not meet the requirements of this Ordinance.

- C. **Purpose.** This Ordinance is intended to guide the growth and development of the community according to the Comprehensive Plan (consistent with [IC 36-7-4-601\(c\)](#) et seq.) to:
1. Promote the public health, safety, and general welfare;
 2. Secure adequate light, air, convenience of access, and safety from fire, flood, and other danger;
 3. Protect the historic and architectural heritage of the community;
 4. Conserve property values and minimize the conflicts between land uses;
 5. Assure adequate and efficient transportation, water, sewerage, schools, parks, drainage, and other public requirements and facilities; and
 6. Promote the efficient and economical use of public funds while being sensitive to the surrounding environment and neighboring development.

1.4 Interpretation and Application

- A. **Severability.** It is the declared intention of the City Council that the provisions of this Ordinance are severable. If any provision or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, that decision does not affect the validity of any portion of the Ordinance except the portion declared invalid.
- B. **Minimum Requirements.** The provisions of this Ordinance are the minimum requirements for the promotion of public health, safety, and general welfare.
1. If two or more provisions within this Ordinance conflict or are inconsistent with one another, then the most restrictive provision controls. Where graphics or illustrations within this Ordinance conflict with the text of the Ordinance, the text provision controls.
 2. Where the provisions of this Ordinance conflict or are inconsistent with applicable State or Federal regulations, the more restrictive provision controls.
 3. This Ordinance is not intended to invalidate any easement, covenant, or any other private agreement. Where the regulations of this Ordinance are more restrictive (or impose higher standards or requirements), the provisions of this Ordinance control.
- C. **Defined Words.** Words used in a special sense in this Ordinance are defined ([CHAPTER 10: DEFINITIONS](#)). All other words have the meaning inferred from their context in this Ordinance or their generally accepted definitions.

1.5 Exclusion

This Ordinance does not restrict any unit of government from exercising the power of eminent domain or the use of property owned or occupied by the State of Indiana or its agencies.

1.6 Saving Provision

Except stated otherwise in this Ordinance, the adoption of this Ordinance does not:

- A. Nullify or reduce a complete application or permit filed prior to the effective date of this Ordinance;

- B. Modify any penalty accruing or about to accrue under any prior zoning ordinance;
- C. Affect the liability of any person, firm, or corporation under any prior zoning ordinance;
- D. Waive any right of the City under any prior zoning ordinance; or
- E. Annul any rights obtained by lawful action of the City under any prior zoning ordinance.

1.7 Incorporation of Other Documents

- A. Improvement Location Permits, site plans, and subdivision plats must conform to the principles and standards established by this Ordinance.
- B. The following documents for each jurisdiction are incorporated, as amended, by cross-reference into this Ordinance:
 - The Comprehensive Plan
 - The Thoroughfare Plan
 - The Construction Standards and Specifications
 - The Parks and Recreation Master Plan
 - The Floodplain Ordinance “2017-3 Ordinance for Flood Hazard Area for the City of Boonville”

1.8 Repeal of Prior Ordinance and Effective Date

- A. This Ordinance comprises a replacement ordinance for the jurisdiction of the City of Boonville, as described in [IC 36-7-4-602\(a\)](#). Accordingly, the prior Boonville Zoning Ordinance and Subdivision Control Ordinance are repealed on the Effective Date of this Ordinance.
- B. The Effective Date of this Ordinance is the latest of:
 - The final day notice of the adoption of the penalty provisions of this Ordinance is published under [IC 36-7-4-610\(a\)](#).
 - The day this Ordinance is filed with the Clerk-Treasurer’s office under [IC 36-7-4-610\(f\)](#).
 - January 1, 2025.
- C. This section applies to any complete application filed before the Effective Date of this Ordinance. The Applicant may request the Administrator treat the application as an application filed according to this Ordinance instead of the prior Zoning Ordinance or Subdivision Control Ordinance. If the Administrator grants the request, the application is then approved or denied by the Planning Department, the Board of Zoning Appeals, the Plan Commission, or the City Council according to the provisions of this Ordinance.

1.9 Administrative Bodies

- A. The decision-making bodies and officials identified in this article have the responsibility for implementing and administering this Ordinance.
- B. **Meeting Schedule.** The Administrator maintains an annual schedule of meetings and filing dates for the Technical Advisory Committee, Plan Commission, and Board of Zoning Appeals (the “BZA”). Modifications of filing dates are considered if determined reasonable by the Administrator. The existence of this calendar does not prohibit special meetings or changes of meeting dates by the Technical Advisory Committee, Plan

Commission, or BZA. The schedule of meeting and filing dates is available in the Planning Department Office.

C. **Fee Schedule.** Filing fees for applications and petitions are set in a fee schedule established by resolution of the City Council. Copies of the Fee Schedule are available in the Planning Department Office.

D. **Administrator**

1. The Planning Director and/or designated staff of the Department, is designated as the Zoning Administrator (the “Administrator”).

2. Authority. The Administrator is authorized and directed to enforce and implement the provisions of this Ordinance, receive applications required by this Ordinance, issue permits, and furnish the prescribed certificates.

3. Duties. The Administer will:

a. Maintain the Comprehensive Plan and the Unified Development Ordinance, as authorized under Indiana law.

b. Maintain rules of procedure for holding meetings and holding public hearings of the Plan Commission and BZA.

c. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission and BZA.

d. Make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission and BZA.

e. Maintain a permitting process and seal used to certify official or approved documents. Keep careful and comprehensive records of applications, permits issued, certificates issued, inspections made, reports rendered, and of notices or orders issued. Retain copies of all documents connected to building work if any part of the related structure remains.

f. Examine premises and enforce laws relating to the construction, alteration, use, occupancy, location, and maintenance of structures and land.

g. Render interpretations of the provisions of this Ordinance.

h. Review and approve or deny applications for permits required by this Ordinance.

i. Other duties set forth here or that may be delegated by the Plan Commission, BZA, or City Council.

E. **Board of Zoning Appeals.** The Board of Zoning Appeals (the “BZA”), per [IC 36-7-4-900](#) et seq. has the powers and duties to:

1. Approve, approve with conditions, or deny any application for a use variance, development standards variance, or special exception.

2. Hear and decide an appeal from any order, requirement, decision, or determination made by the Administrator, Administrator’s designee, or any administrative board, other than the Plan Commission, in the administration or enforcement of this Ordinance.

3. Enforce the provisions of this Ordinance.

4. Adopt rules of procedure for the administration of the BZA’s duties.

F. **City Council.** The City Council has the following powers and duties to:

1. Approve, reject, or amend all or part of the Comprehensive Plan as certified by the Plan Commission.
2. Initiate amendments to this Ordinance and to adopt, reject, or amend proposals to amend or partially repeal the text of this Ordinance.
3. Adopt, reject, or amend proposals to amend the Zoning Map according to the procedures and standards for rezones.
4. Adopt, reject, or amend a Planned Unit Development Ordinance according to the procedures and standards for Planned Unit Developments.
5. Take other actions not exclusively delegated to other bodies, necessary to implement the provisions of this Ordinance.

G. **Design Review Board**

1. **Introduction.** The primary function of the Design Review Board (DRB) is to ensure that new construction and renovation projects meet a certain standard of design excellence.
2. The DRB will consider building materials, colors, architectural styles, and overall visual harmony with the surrounding environment. The board will review aspects like accessibility, pedestrian safety, and efficient use of space. The board acts as a mediator between the interests of developers and the concerns of the community. They ensure that proposed projects are compatible with the overall vision for the area and do not negatively impact the surrounding environment.
3. **Establishment and Membership.** The DRB is created as a subcommittee of the Boonville Technical Advisory Committee and consists of 3 members who may include design professionals, neighborhood representatives, representatives of City agencies, and other agencies or consultants deemed appropriate. The three members are confirmed by the City Council. Members serve a two-year term. A member may be recalled by a supermajority vote of the confirming agency.
4. **Duties.** The DRB meets on an as-needed basis and has the following powers and duties in connection with the implementation of this Ordinance:
 - a. To review and evaluate applications for changes in zoning, variances, or waivers and make recommendations to the staff, Board of Zoning Appeals, or Plan Commission as may be appropriate.
 - b. To review and evaluate site plans and make recommendations to the staff, Board of Zoning Appeals, or Plan Commission as may be appropriate.
 - c. To take other actions as delegated by the Administrator, Board of Zoning Appeals, or Plan Commission, or other bodies that may be desirable and necessary to implement the provisions of this Ordinance.

H. **Plan Commission.** The Plan Commission, established per [IC 36-7-4-200](#) et seq. has the powers and duties to:

1. Initiate amendments to the text of this Ordinance and to the Zoning Map according to the procedures and standards for amendments.
2. Review all proposed amendments to this Ordinance and make recommendations to the City Council according to the procedures and standards for amendments.

3. Review all Planned Unit Development petitions and make recommendations to the City Council for the adoption of the petitions according to the procedures and standards for Planned Unit Developments.
 4. Render a final decision regarding secondary review of all Planned Unit Development petitions according to the procedures and standards for Planned Unit Development.
 5. Review, approve, approve with conditions, or deny all subdivision applications according to the procedures and standards for subdivision approval.
 6. Approve, approve with conditions, or deny all waiver applications for the subdivision regulations, according to the procedures and standards for plat waivers.
 7. Approve, approve with conditions, or deny all site plans according to the procedures and standards for site plans.
 8. Adopt rules of procedure for the administration of the affairs of the Plan Commission's duties.
 9. Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission.
 10. Prepare, publish, and distribute reports, ordinances, and other material related to the Plan Commission's activities as authorized by law or this Ordinance.
 11. Exercise all powers conferred on it by law, local ordinance or rule including to invoke any legal, equitable, or special remedy for the enforcement of state planning and zoning laws or this Ordinance.
- I. **Technical Advisory Committee.** The Technical Advisory Committee is created and vested with the review authority set forth below in connection with the implementation of this Ordinance:
1. Membership. The Technical Advisory Committee is comprised of City departments and outside agencies as deemed necessary and appropriate by the Administrator.
 2. Review Authority. The Technical Advisory Committee has the powers and duties to:
 - a. Review and evaluate applications for primary plats and waivers and make recommendations to the Plan Commission and Administrator, according to the procedures and standards for waivers set forth in the subdivision regulations.
 - b. Review and evaluate all site plans, and make recommendations to the Plan Commission and Administrator, according to the procedures and standards for site plan review.
 - c. Take other actions as delegated by the Plan Commission or Administrator that may be desirable and necessary to implement the provisions of this Ordinance.

1.10 Public Utility Installations

Structures and land used for public utility installations are subject to the provisions of this Ordinance to the extent permitted under Indiana law. All structures for a public utility installation, including substations, require approval of a site plan ([8.6 Site Plan Review](#)) and improvement location permit ([8.16 Improvement Location Permit](#)).

1.11 Zoning Map

- A. **Official Zoning Map.** The zoning map for the jurisdiction of the Plan Commission is included as part of this Ordinance. The map may be known and referred to as the “Official Zoning Map” and as the “Zoning Map”. The Official Zoning Map is in the office of the Planning Department and may be maintained as an [electronic zoning map](#). Copies of the Official Zoning Map must be labeled as copies and contain the last date of modification. The Official Zoning Map should be revised annually or as the Plan Commission determines necessary.
- B. **Determination and Interpretation of District Boundaries.** The following rules apply where uncertainty exists about the exact boundaries of any zoning district as shown on the Zoning Map:
1. Zoning district boundaries shown within or parallel to the lines of streets, easements, railroad lines and rights-of-way follow the centerline of the affected street, easement, or right-of-way. At the boundaries of the jurisdiction of the Plan Commission, district boundaries include the full width of such streets, easements, and rights-of-way.
 2. Zoning district boundaries indicated as following, or being parallel to section or fractional sectional lines, lot lines, or corporate boundaries are interpreted as following or paralleling such lines.
 3. Zoning district boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water are interpreted to follow such centerlines.
 4. Zoning district boundaries indicated as approximately following the boundaries of a parcel are interpreted to follow such parcel lines.
 5. If the boundary line of a district divides a lot in a manner essentially perpendicular to a street, the district which applies to the larger part of the lot applies to the entire lot.
 6. In the case of uncertainty, the Administrator interprets the intent of the Zoning Map and determines the location of the boundary in question. If the Administrator cannot definitively determine the location of a zoning district boundary, the BZA may determine the location of the zoning district boundary.
- C. **Procedure Relating to Annexed or Vacated Areas.** Land annexed into the City is assigned the zoning district closest to its current use, unless changed by an amendment to this Ordinance. Whenever any right-of-way or other similar area is vacated, the zoning districts adjoining each side of the right-of-way or the area automatically extend to the center of such vacation. All areas included in the vacation are subject to all appropriate provisions of the extended zoning district. In the event of a partial vacation, the adjoining zoning district, or zoning district nearest the portion vacated, extends automatically to include all the vacated area.

1.12 Nonconforming Regulations

A. General.

1. Upon the adoption of this Ordinance, the Zoning Map, and potentially upon other government action (e.g., acquisition of right-of-way), some buildings, structures, lots, and uses may no longer conform to the regulations of their zoning district. The nonconforming regulations in this article provide the rules, policies, and regulations that apply to these buildings, structures, lots, and uses.
2. These regulations do not prevent restoring to a safe condition all or part of a structure declared unsafe by an official charged with protecting the public safety. This restoration cannot be used to enlarge the nonconforming structure nor be used as grounds for adding other structures or uses prohibited by this Ordinance.
3. Any nonconforming use or structure previously granted variance or special exception approval remains subject to the conditions imposed when the variance or special exception was granted.
4. Nonconforming sign regulations can be found in [6.4\(l\) Nonconforming Signs](#)

B. **Exemption for Nonconformity Created by Public Acquisition.** Any property, lot, or structure rendered nonconforming solely by the action of a governmental agency modifying any street, is exempt from these nonconformance provisions.

C. Legal Nonconforming and Illegal Nonconforming.

1. **Legal Nonconforming.** Legal nonconformance occurs when the adoption or amendment of this Ordinance results in the property no longer conforming to the standards of the applicable zoning district. When this situation occurs, the property is considered legal nonconforming and is subject to the terms of this Ordinance.
2. **Illegal Nonconforming.** A building, structure, sign, or lot constructed or used without an approved building permit, Improvement Location Permit, or approval from the BZA or Plan Commission is considered illegal nonconforming when it does not conform to this Ordinance. An illegal nonconforming property is subject to enforcement and penalties as set forth in [CHAPTER 9: ENFORCEMENT](#), and all other applicable state or municipal law. The illegal nonconforming property must be altered to conform with all applicable standards and regulations of this Ordinance.

D. Nonconforming Lots of Record.

1. **Single Nonconforming Lots of Record.** In any district, a permitted use and its customary accessory uses may be erected on any single lot of record after the effective date of this Ordinance, despite limitation imposed by this Ordinance. This lot must be in separate ownership and not contain continuous frontage with other lots of the same ownership. This provision applies even though the lots fail to meet the requirements for area and/or width generally applicable in the district. The lots are required to meet all other lot development standards for their district.
2. **Lots in Combination.** If two or more lots have continuous frontage and the same owner, and if all or part of the unimproved lots do not meet the requirements established for lot width and area, the land involved is considered a single parcel to meet the minimum requirements of this Ordinance. No portion of the parcel can be used or sold, nor can the parcel be divided to create a lot, in a manner which diminishes compliance with lot width and area Ordinance requirements.

- E. **Nonconforming Uses and Structures.** The lawful use of a building or premise, existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform to all the provisions of this Ordinance, subject to the following conditions:
1. Whenever a nonconforming use has been changed to a conforming use, it cannot be changed back to a nonconforming use.
 2. A building used by a nonconforming use may be expanded in area and height if the nonconformity is not increased, and the expansion conforms to all applicable standards of this Ordinance.
 3. A nonconforming use may be extended throughout a building.
 4. Buildings cannot be erected upon any premises devoted to a nonconforming use, unless conforming to the provisions of this Ordinance.
 5. If a nonconforming use is discontinued for 6 months, the use cannot be reestablished or resumed. Subsequent use or occupancy of the land or structure must comply with the regulations of the zoning district where the land or structure is located. When a period of discontinuance is caused by government action, strikes, material shortages, or acts of God, and without any contributing fault of the owner or occupant, the period will not be considered in calculating the length of the discontinuance.
 6. Except for single-family dwellings, any legal nonconforming structure damaged or destroyed by more than 50% of the replacement cost cannot be restored unless the replacement structure conforms to the regulations of the zoning district where it is located. This regulation does not authorize the creation of a new nonconformity or increase the degree of any nonconformity existing before such damage or destruction. Restoration or repair of the building or other structure must be started within 6 months from the date of damage or destruction, and diligently prosecuted to completion.
 7. Normal maintenance and repair, including replacement, installation, or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring, or plumbing, may be performed on any structure devoted fully or partially to a legal nonconforming use.



Chapter 2

Zoning Districts

Land use districts and their development regulations

2.1	ESTABLISHMENT OF ZONING DISTRICTS.....	3
2.2	AGRICULTURAL DISTRICT STANDARDS	4
2.3	RESIDENTIAL DISTRICT STANDARDS.....	5
2.4	COMMERCIAL DISTRICT STANDARDS	7
2.5	INDUSTRIAL DISTRICT STANDARDS.....	8
2.6	SPECIAL DISTRICT STANDARDS	9
2.7	HIGHWAY CORRIDOR OVERLAY	10
2.8	HISTORIC OVERLAY.....	12

2.1 Establishment of Zoning Districts

The City of Boonville is divided into the following zoning districts:

A. Agricultural Districts

- AG Agriculture
- AH Heavy Agriculture

B. Residential Districts

- R1 R1 Residential
- R2 R2 Residential
- R3 R3 Residential
- R4 R4 Residential
- R5 R5 Residential

C. Commercial Districts

- C1 Neighborhood Commercial
- C2 General Commercial
- C3 Highway Commercial

D. Industrial Districts

- I1 Light Industrial
- I2 Heavy Industrial

E. Special Districts

- IN Institutional
- DT Downtown
- PUD Planned Unit Development

F. Overlay Districts

- HCO Highway Corridor Overlay
- HO Historic Overlay

2.2 Agricultural District Standards

AG – Agriculture. The **Agriculture** district is established to permit the full range of agricultural activities as well as limited residential uses located to minimize their impact on agricultural uses. Major subdivisions are not permitted in this district.

AH – Heavy Agriculture. The **Heavy Agriculture District** is intended to accommodate intensive, natural resource land uses that may be incompatible with other land use types. The purpose of this district is to provide a protected district for uses such as mineral extraction, wind farms, and solar farms. Unless associated with a primary agricultural use, residential uses are discouraged in this district. Major subdivisions are not permitted in this district.

	AG	AH
LOT REQUIREMENTS		
Minimum Lot Size	5 acres	20 acres
Minimum Lot Width	100'	100'
Minimum Lot Frontage	60'	60'
BUILDING PLACEMENT REQUIREMENTS		
Residential Uses		
Minimum Front Setback	50'	50'
Minimum Side Setback	25'	25'
Minimum Rear Setback	25'	25'
Nonresidential Uses		
Minimum Front Setback	60'	60'
Minimum Side Setback	50'	50'
Minimum Rear Setback	50'	50'
BUILDING REQUIREMENTS		
Maximum Building Height – Residential Uses	35'	35'
Maximum Building Height – Non-Residential Uses	55'	55'
Maximum Impervious Surface	20%	20%
PERMITTED USES		
3.2 Use Matrix		

2.3 Residential District Standards

Purpose

R1 – R1 Residential. The **R1 Residential District** is intended for very low-density residential uses (up to 1 dwelling unit per acre) developed as a transition between rural areas and higher density residential neighborhoods. This district is intended for single-family homes and duplexes that retain single-family home character.

R2 – R2 Residential. The **R2 Residential District** is established to accommodate low-density residential development at densities up to 3 units per acre in suburban-style subdivisions. To encourage diversity in residential lifestyle options and meet the community’s housing goals, single-family homes and duplexes are permitted. Triplexes and quadplexes may be permitted if they retain the single-family character of the district.

R3 – R3 Residential. The **R3 Residential District** is intended to encompass some of the City’s existing single family residential neighborhoods and accommodate new development at densities. This district expands housing to allow more types of attached homes.

R4 – R4 Residential. The **R4 Residential District** is established to provide wider housing options at densities of up to 12 units per acre. The R4 District lends itself to serving as a buffer or transitional zone between lower density residential and non-residential development. Single-family dwellings, small-scale multifamily dwellings, and townhomes are permitted.

R5 – R5 Residential. The **R5 Residential District** is intended to provide the widest range of residential options including large-scale multifamily housing at densities up to 24 units per acre. Uses in this district should have direct access to an arterial or collector street.

	R1	R2	R3	R4	R5
LOT REQUIREMENTS					
Single-Family Detached Dwelling					
Minimum Lot Size (SF)	8,500	6,250	5,500	5,000	3,750
Minimum Lot Width	75'	50'	50'	40'	30'
Minimum Lot Frontage/Street Frontage	40'	40'	40'	35'	30'
Minimum Living Area (SF)	1,200	1,000	950	950	950
Duplex Dwelling	SE				
Minimum Lot Size (SF per dwelling unit)	4,250	3,125	3,125	2,500	1,875
Minimum Lot Width	25'	25'	25'	20'	20'
Minimum Lot Frontage/Street Frontage	20'	20'	20'	20'	20'
Minimum Living Area per Dwelling Unit (SF)	1,100	1,000	950	950	950
Triplex Dwelling		SE			
Minimum Lot Size (SF per dwelling unit)	--	2,100	900	900	900
Minimum Lot Width	--	25'	25'	25'	25'
Minimum Lot Frontage/Street Frontage	--	20'	20'	20'	20'
Minimum Living Area per Dwelling Unit (SF)	--	1,000	950	950	950
Quadplex Dwelling		SE			
Minimum Lot Size (SF per dwelling unit)	--	1,600	900	900	900
Minimum Lot Width	--	25'	25'	25'	25'
Minimum Lot Frontage/Street Frontage	--	20'	20'	20'	20'
Minimum Living Area per Dwelling Unit (SF)	--	1,000	950	950	950

	R1	R2	R3	R4	R5
Townhouse Dwelling			SE		
Minimum Lot Size (SF per dwelling unit)	--	--	2,000	1,400	1,400
Minimum Lot Width	--	--	20'	18'	18'
Minimum Lot Frontage/Street Frontage	--	--	18'	16'	16'
Minimum Living Area per Dwelling Unit (SF)	--	--	950	950	950
Multifamily Dwelling			SE		
Minimum Lot Size (SF per dwelling unit)	--	--	900	900	900
Minimum Lot Width	--	--	40'	40'	80'
Minimum Lot Frontage/Street Frontage	--	--	30'	30'	60'
Minimum Living Area per Dwelling Unit (SF)	--	--	(2)	(2)	(2)
BUILDING PLACEMENT REQUIREMENTS					
Minimum Front Setback	25'	15'	15'	15'	10'
Minimum Street Side Setback	20'	12'	10'	10'	7'
Minimum Side Setback (1)	15'	8'	5'	5'	5'
Minimum Rear Setback	20'	20'	20'	12'	10'
Minimum Setback for Garage Door Facing a Street	25'	25'	25'	20'	10'
<p>SE = Only permitted through the special exception process. See 3.2 Use Matrix and 8.8 Special Exceptions.</p> <p>(1) The side yard setback between attached units within the same building is 0'</p> <p>(2) The multifamily dwelling minimum living area requirement is based upon the type of dwelling:</p> <ul style="list-style-type: none"> • Efficiency unit – 550sf • One-bedroom unit – 650sf • Two-bedroom unit – 800sf • Three-bedroom unit – 1,000sf • For each additional bedroom over three add an additional 100sf 					
BUILDING REQUIREMENTS					
Maximum Building Height	35'	35'	35'	45'	55'
Maximum Impervious Surface	40%	40%	40%	40%	40%
PERMITTED USES					

[3.2 Use Matrix](#)

2.4 Commercial District Standards

Purpose

C1 – Neighborhood Commercial. The **Neighborhood Commercial District** is established for the development of convenience business uses geared to meeting the daily needs of residents living in adjacent residential neighborhoods.

C2 – General Commercial. The **General Commercial District** is intended to accommodate commercial office activities, professional services, and moderate intensity retail sales. Uses within the district typically require high visibility, arterial frontage, good access, and ample parking. This district is intended to be confined to nodes to prevent the creation of commercial strip development.

C3 – Highway Commercial. The **Highway Commercial District** is established to accommodate retail and commercial uses that are auto-dependent or medium- to high-intensity commercial uses.

	C1	C2	C3
LOT REQUIREMENTS			
Minimum Lot Size	2,500 SF	2,500 SF	20,000 SF
Minimum Lot Width	30'	30'	100'
Minimum Parent Tract Street Frontage	50'	50'	50'
BUILDING PLACEMENT REQUIREMENTS			
Minimum Front Setback			
Where abutting a Residential District	25'	40'	50'
All others	10'	30'	40'
Minimum Street Side Setback			
Where abutting a residential district	18'	30'	40'
All others	8'	25'	33'
Minimum Side Setback			
Where abutting a Residential District	10'	25'	30'
All others (1)	5'	20'	25'
Minimum Rear Setback			
Where abutting a Residential District	20'	25'	30'
All others	15'	20'	20'
(1) The side yard setback may be reduced to 0' where commercial buildings abut.			
BUILDING REQUIREMENTS			
Maximum Height	40'	40'	60'
Maximum Impervious Surface	70%	70%	70%
PERMITTED USES			
3.2 Use Matrix			

2.5 Industrial District Standards

Purpose

I1 – Light Industrial. The **Light Industrial District** is established to accommodate light industrial uses in which all operations, including storage of materials, are confined within a building.

I1 – Heavy Industrial. The **Heavy Industrial District** is intended for all types of industrial uses requiring both enclosed and unenclosed spaces for storage, manufacturing, and fabricating.

	I1	I2
LOT REQUIREMENTS		
Minimum Lot Size (sf)	1 acre	3 acres
Minimum Lot Width	100'	250'
Minimum Parent Tract Street Frontage	45'	60'
BUILDING PLACEMENT REQUIREMENTS		
Minimum Front Setback	35'	45'
Minimum Street Side Setback	30'	30'
Minimum Side Setback	20'	20'
Minimum Rear Setback	20'	20'
BUILDING REQUIREMENTS		
Maximum Height	45'	65'
Maximum Impervious Surface	50%	50%
PERMITTED USES		
3.2 Use Matrix		

2.6 Special District Standards

IN – Institutional. The **Institutional District** is established for community-oriented institutional uses including government offices, hospitals, schools, community centers, and religious institutions. Sites may contain a single use or a mix of commercial, office, and residential uses.

DT – Downtown. The **Downtown District** covers the central business district to protect the historic character of the downtown area while establishing the district as a specialty business, residential, and shopping district. This district also permits the development of mixed-use buildings. Uses in this district may be mixed vertically within the same building or horizontally with different uses on adjoining parcels. Storefront first-floor uses should engage passing pedestrians with office and residential uses on the upper floors of the building. This district prohibits large-scale uses not aligned with the form of downtown such as big-box retailers and similar uses.

PUD – Planned Unit Development. The **PUD Planned Unit Development District** provides more development flexibility than is possible through customary zoning regulations. This district is intended to encourage large-scale, identity-building developments that mix uses, building types, and building arrangements; provide greater flexibility for sites with natural constraints to conserve natural resources; and allow a review process for creative building types that do not fit well into other zoning districts. The approval of Planned Unit Developments follows the process in [8.3 Planned Unit Developments](#).

	IN	DT
LOT REQUIREMENTS		
Maximum Density (units/acre)	N/A	25
Minimum Lot Size	2,500 SF	N/A
Minimum Lot Width	80'	N/A
Minimum Parent Tract Street Frontage	50'	25'
SETBACKS		
Minimum Front	30'	0'
Minimum Street Side	20'	0'
Minimum Side	15'	0'
Minimum Rear	20'	0'
BUILDING REQUIREMENTS		
Maximum Height	50'	4 stories
Maximum Impervious Surface	70%	100%
PERMITTED USES		
3.2 Use Matrix		

2.7 Highway Corridor Overlay

- A. **Purpose and Intent.** Certain arterial roadways are important community gateways and areas of economic opportunity. Additionally, these streets serve a vital traffic carrying function for Boonville and surrounding communities. The intent of the Highway Corridor Overlay District is to establish specific requirements to preserve roadway capacity and safety; ensure that development does not inhibit future improvements to these roadways; minimize individual driveway access; protect property values along the corridors; promote economic development; minimize distractions and establish a high quality and inviting image at the entrances to the community.
- B. **Applicability**
1. **Boundaries.** The Highway Corridor Overlay District applies to all property along, and within, 500 feet of the centerline on either side the IN 61, IN 62, and IN 261 corridors. If any parcel, building, structure, or improvement is only partially located within the Overlay district, then the provisions of this Overlay apply to the entire parcel, building, structure, or improvement, unless otherwise waived in writing by the Administrator. When making such a determination, the Administrator considers:
 - a. The extent and location of the proposed improvements (e.g., buildings, parking, drainage, etc.) on the parcel.
 - b. The extent of conflicts in applying the standards of this Overlay with existing and/or planned improvements.
 2. **Relation to Underlying District.** The requirements of this district amend and supersede those imposed on the same lands by the underlying districts.
 3. **Regulated Development.** The regulations of this Overlay district apply in the circumstances cited below.
 - c. Construction of any new building or structure;
 - d. Enlargement or expansion of any existing non-residential building or structure by more than 20% of its gross floor area;
 - e. Proposed subdivision of land for non-residential uses; or
 - f. Proposed construction or expansion of a parking lot by more than five spaces.

Farms and single-family homes are exempt from these regulations unless there is a change in use to a non-farm or non-single-family use.
- C. **Uses.** All uses permitted in the underlying zoning district are permitted within the Overlay except for the following prohibited uses:
1. Adult businesses
 2. Bulk storage of petroleum items not used for on-site manufacturing
 3. Manufacture, use, or storage of explosives
 4. Manufactured home park
 5. Manufactured home sales

6. Advertising signs
7. Penal or correctional institution
8. Retail Sales, Service & Repair, Special Handling
9. Salvage and wrecking
10. Sanitary landfill
11. Self-storage facility
12. Slaughterhouse or rendering plants

D. Site Design Standards

1. Signs. In addition to the signage requirements of [6.4 Signage](#), within the Overlay detached signs are limited to ground signs with a maximum height of 8 feet. Pole signs are prohibited within the Overlay. The area surrounding the base of the sign must be landscaped with shrubs, ground cover and/or other materials that complement the sign but do not obstruct visibility of the sign or vehicles entering or exiting adjacent driveways. Electronic changeable message signs are permitted according to [6.4\(F\) Illuminated and Electronic Signs](#).
2. Outdoor Storage. Outdoor storage may be permitted after special exception approval, if allowed within the underlying zoning district. The outdoor storage area must be in the rear yard and must be screened on all sides with a solid fence, wall, or landscaping ([4.2\(L-M\) Outdoor Storage](#)).
3. Loading Areas. Loading and unloading areas are prohibited in any yard abutting a street. Loading docks cannot face a street and must be screened to block views from any adjacent street or residential district.

E. Building Design Standards

The requirements of this section apply to all non-residential buildings and residential buildings containing 5 or more dwelling units within the Highway Corridor Overlay District.

1. At least three exterior materials, colors, or patterns are used on a building façade visible from a street or oriented to an adjoining residential district.
2. Doors, windows, or other architectural features must be used to break large wall planes into smaller components. Building facades oriented to and visible from an adjacent right-of-way cannot have unbroken wall planes longer than 30% of the length of the façade.
3. Pitched roofs must have a minimum pitch of 4 (vertical units): 12 (horizontal units). Flat roofs are permitted if they are surrounded by a parapet in proportion to the supporting walls that conceals roof-mounted mechanical equipment.
4. Rooftop equipment, excluding vents and stairwell accesses, visible at ground level from the centerline of abutting public right-of-way, must be screened from view through use of parapet walls, screens, or other building elements or design features.
5. Drive-through service windows must be placed on the side or rear building facades.

2.8 Historic Overlay

A. Purpose

1. The purpose of the Historic Overlay is to preserve and protect the historic assets of the City. This includes ensuring the viability of the traditional downtown area, maintaining established residential neighborhoods, enhancing property values, and promoting the educational, cultural, and general welfare of the citizens of Boonville. It is deemed essential by the City that qualities relating to its history and harmonious outward appearance of its buildings be preserved.
2. These purposes are advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance of historic buildings. Compatibility in style, form, proportion, texture, and material between historic buildings and those of contemporary design is desired.
3. It is the intention of the City to preserve and protect historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares, and neighborhoods of the Historic Overlay created in accordance with this article.

B. Applicability

The boundaries of the Historic Overlay are shown on the Official Zoning Map.

1. These regulations apply to all parcels within the Overlay. Design review is required as part of the approval process for changes in zoning, variances, conditional uses, site plans, platting, or Improvement Location Permits involving the expansion of an existing building by 25% or more.
2. The Administrator is authorized to determine whether the standards of this Overlay apply to the entire parcel or if they may be limited to only the proposed improvements. The Administrator may waive the Overlay standards entirely if the Administrator determines the proposed improvements do not adversely impact the purpose of the Overlay. Any waiver provided by the Administrator must be done in writing. The following factors are considered by the Administrator:
 - a. The extent and location of the proposed improvements (e.g. buildings, parking, drainage, etc.) on the parcel.
 - b. The extent of conflicts in applying the standards of this Overlay with existing and/or planned improvements.

C. Powers and Duties of the Design Review Board

1. The Design Review Board is concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in a Historic Overlay. The Design Review Board may only consider details of design, interior arrangements, or building features that are subject to public view. The Design Review Board makes recommendations to prevent development, alteration, or demolition adverse to the purpose of the Historic Overlay.
2. The Design Review Board may adopt architectural guidelines for reviews within the Historic Overlay. If adopted, the architectural guidelines must be published and made readily accessible to the public.
3. Each official of the City who has responsibility for building inspection, building permits, planning, or zoning provides technical or administrative assistance as requested by the Design Review Board.

D. Design Considerations

1. Criteria for Considering the Effect of Actions on a Historic Building. In considering the appropriateness of any reconstruction, alteration, maintenance, or moving of a historic building or any part of or appurtenance to such building (including walls, fences, light fixtures, steps, paving, signs, etc.) the Design Review Board requires the work to be done in a manner that preserves the historical and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the Design Review Board considers the:
 - a. Purposes of this section,
 - b. Historical and architectural value and significance of the building, structure, site, or appurtenance,
 - c. Compatibility and significance of additions, alterations, details, materials, or other non-original elements that may be of a different style and construction date than the original,
 - d. Texture, material, color, style, and detailing of the building, structure, site, or appurtenance,
 - e. Continued preservation and protection of the original or otherwise significant structure, material, and ornamentation,
 - f. Relationship of buildings, structures, appurtenances, or architectural features like the one within the same Historic Overlay, including for primary areas, visual compatibility per [2.9\(E\) Visual Compatibility](#), and
 - g. Position of the building or structure in relation to the street, public right-of-way and to other buildings and structures.
 - h. Any covenants or deed restrictions applicable to the property.
2. Procedure for Demolition. The purpose of this division is to preserve historic buildings that are important to the education, culture, traditions, and economic values of the city, and to afford the City, historical organizations, and other interested persons the opportunity to acquire or to arrange for the preservation of these buildings. If a property owner demonstrates that a historic building is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, the building may be demolished. Before a demolition permit is issued or demolition proceeds, notice of the proposed demolition must be given at least 60 days prior to the demolition by:
 - a. Posting notice on the premises of the building proposed for demolition in a location clearly visible from the street, and
 - b. Publishing notice in a newspaper of general local circulation at least 3 times before demolition. The first publication must occur within 15 days after the application for a demolition permit is filed. The final publication must occur at least 15 days before the date of demolition permit issuance.

E. Visual Compatibility

1. Criteria for New Construction, Contemporary Design and Non-Historic Buildings. To preserve and encourage the integrity of historic buildings, structures, sites, monuments, streetscapes, and neighborhoods and to ensure their compatibility with any new work, the construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any non-historic building, structure, or appurtenance within the primary area of a Historic Overlay must be generally of a design, form,

proportion, mass, configuration, building material, texture, color, and location on a lot compatible with other buildings in the Historic Overlay, particularly with buildings designated as historic, and with squares and places to which it is visually related.

2. Criteria for Considering Visual Compatibility. Within the Historic Overlay, new buildings and buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares, and places to which they are visually related generally in terms of the following visual compatibility factors:
 - a. Height. The height of proposed buildings must be visually compatible with adjacent buildings.
 - b. Proportion of Building's Front Facade. The relationship of the width of a building to the height of the front elevation must be visually compatible with buildings, squares, and places to which it is visually related.
 - c. Proportion of Openings within the Facade. The relationship of the width of the windows to the height of the windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
 - d. Rhythm of Solids to Voids in Front Facades. The relationship of solids to voids in the front facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.
 - e. Rhythm of Spacing of Buildings on Streets. The relationship of a building to the open space between it and adjoining buildings must be visually compatible with buildings, squares, and places to which it is visually related.
 - f. Rhythm of Entrances and Porch Projections. The relationship of entrances and porch projections of a building to sidewalks must be visually compatible with buildings, squares, and places to which it is visually related.
 - g. Relationship of Materials, Texture, and Color. The relationship of the materials, texture, and color of the facade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
 - h. Roof Shapes. The roof shape of a building must be visually compatible with the buildings to which it is visually related.
 - i. Walls of Continuity. Appurtenances of a building such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.
 - j. Scale of Building. The size of a building and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with buildings, squares, and places to which it is visually related.
 - k. Directional Expression of Front Elevation. A building must be visually compatible with buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or non-directional character.

F. Preservation of Character upon Alteration or Relocation

1. A historic building or structure or any part of or appurtenance to such building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance. Protruding window air conditioners are considered an alteration of the building's character and are prohibited.
2. A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with the purpose of the Overlay.

G. Maintenance

1. Maintenance, Retention of Character. Historic buildings must be maintained to prevent the loss of historic material and the deterioration of important character-defining details and features.
2. Ordinary Repairs and Maintenance. Nothing in this chapter prevents the ordinary repairs and maintenance of any historic building, provided the repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of the building.

H. Enforcement

This Overlay is enforced with the provisions of [CHAPTER 9: ENFORCEMENT](#).



Chapter 3

Permitted Uses

The allowed uses and their standards

3.1 PERMITTED USES	3
3.2 USE MATRIX	4
3.3 USE STANDARDS	9
3.4 TEMPORARY USES, EVENTS AND STRUCTURES.....	42

3.1 Permitted Uses

- A. **Applicability.** Land can only be used, and structures can only be used, erected, or structurally altered, for allowable uses in the Zoning District where they are located.
- B. **Land Use Specified.** Each land use is either a permitted, not permitted, or a Special Exception Use in each Zoning District as set forth in [3.2 Use Matrix](#) (the “Use Table”) or elsewhere in this Ordinance.
- C. **Special Exception Uses.** A Special Exception Use designation identifies a use that requires a greater degree of scrutiny because of the potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a Special Exception Use for its characteristics and impacts to determine suitability in a zoning district. The approval of the Special Exception Use is subject to a public hearing by the Board of Zoning Appeals according to [8.8 Special Exception](#).
- D. **Unlisted or Questionable Land Uses.** Any use not listed in the use table or otherwise permitted by this Ordinance is prohibited. The Administrator determines land use placement if it is not specifically listed. This determination may be appealed to the Board of Zoning Appeals consistent with [8.11 Appeals of Administrative Decisions](#).
- E. **Primary Use Classifications.** All primary land uses in the Use Table are organized into one of the following five general land use classifications:
- Residential Primary Uses
 - Civic, Public and Institutional Primary Uses
 - Commercial Sales, Service and Repair Primary Uses
 - Industrial, Manufacturing and Wholesale Primary Uses
 - Agricultural Primary Uses
- F. **Explanation of Table Cell Entries.** Each of the cells on the Permitted Use Table indicates whether a use is permitted or not and what limitations apply to the specific use. If the use name is emphasized, click on the use name to be directed to any specific conditions associated with the use in [3.3 Use Standards](#).
- Permitted Use (“P”). A “P” in a table cell indicates the use is permitted in the respective zone district and subject to compliance with any applicable use limitations.
 - Use Not Permitted (blank cell). A blank table cell indicates the use is **not** permitted in the zone district.
 - Use Subject to Special Exception Use Review (“S”). An “S” in a table cell indicates the use is generally appropriate in the zoning district and goes through Special Exception Use review. Special Exception Uses may have the potential for limited impacts on adjacent properties or on the established character of the neighborhood context or zone district. “S” uses are subject to BZA public hearing according to [8.8 Special Exceptions](#), which grants the Board the authority to impose conditions on the specified use to mitigate any potential impacts.

3.2 Use Matrix

P = Permitted Use S = Special Exception Use	AG	AH	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IN	DT	Minimum Parking Requirements
RESIDENTIAL PRIMARY USES															
Dwelling - Single-Family Detached	P		P	P	P	P	P	S					S	P	2 spaces/unit
Dwelling - Duplex	S		S	P	P	P	P						S	P	2 spaces/unit
Dwelling - Triplex				S	P	P	P								2 spaces/unit
Dwelling - Quadplex				S	P	P	P								2 spaces/unit
Dwelling - Townhouse					S	P	P						S	P	2 spaces/unit
Dwelling - Apartment Building: Small (6 DU/building max)					S	P	P	S					P	P	1.25 spaces/unit
Dwelling - Apartment Building: Large (12 DU/ building max)						S	P		S				P	P	1.25 spaces/unit
Apartment Complex						S	P								1.25 spaces/unit
Accessory Dwelling Unit	P	P	P	P	P	P	P	S	S		S		P	P	1 space/unit
Assisted Living Facilities							S	S	P				P	P	.75 spaces/unit
Childcare Home			S	S	S	S	S	S					S	S	1.25 spaces/unit
Fraternity, Sorority, or Student Housing						S	P						P	S	1.25 spaces/unit
Group Residential Facility			S	S	S	S	S								0.25 spaces/unit
Live/Work Dwelling					S	P	P	S	S				S	P	1.25 spaces/unit
Manufactured Home Park															2 spaces/unit
Nursing Home, Hospice					S	P	P	S	P				P		0.75 spaces/unit
Rooming or Boarding House							S						S		5 spaces/1000 SF GFA
Upper Story Residential								P	P	P	P		P	P	1 space/unit
CIVIC, PUBLIC, AND INSTITUTIONAL PRIMARY USES															
Animal Shelter	S		S						S		S	S	S		2 spaces/1000 SF GFA
Banquet Facilities and Reception Halls	S						S	P	P	P	S		P	S	2.5 spaces/1000 SF GFA
Campground/RV Park	P		S					S	S		S		S		2 spaces/lot or campsite
Cemetery	S	S	S	S	S	S	S		S				S		1 space/25 plots
Childcare Facilities							S	P	P	S	S		P	P	1 space/1000 SF GFA
Club or Lodge	S							P	P	P	S		P	P	0.5 spaces/1000 SF GFA
Community Center	S		S	S	S	S	S	P	P	P			P	P	0.5 spaces/1000 SF GFA
Conference Center								S	P	P	P		P	P	2.5 spaces/1000 SF GFA
Correctional Institution													S		4 spaces/1000 SF GFA

P = Permitted Use S = Special Exception Use	AG	AH	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IN	DT	Minimum Parking Requirements
Fairgrounds	S		S								S		P		2.5 spaces/1000 SF GFA
Golf Course, Country Club, Driving Range	S		S						S		S		S		2.5 spaces/1000 SF GFA
Hospital								S	P	P	P	S	P	S	1 space/2 beds
Libraries and Museums	S		S	S	S	S	S	P	P	P	S		P	P	1 space/1000 SF GFA
Municipal & Government Buildings	P		S	S	S	S	S	P	P	P	P	P	P	P	8 spaces/1000 SF GFA
Parks and Playgrounds	P	P	P	P	P	P	P	P	S	S	P	S	P	P	1 space/50 SF GFA
Public and Religious Assembly	S		S	S	S	S	S	S	P	P	S		S	S	0.5 spaces/1000 SF GFA
Schools – K - 12	P		S	S	S	S	S		P	S			P	S	2 spaces/1000 SF GFA
Schools - Vocational	S								P	P	S	S	P	S	1 space/1000 SF GFA
Sports and/or Entertainment Arena or Stadium									P	P	S		P	S	1 space/4 seats or 1 space/40 SF GFA
University or College									P	P	S		P	S	1 space per 4 students at maximum capacity
Utility, Major Impact	S								P	P	P	S	P	S	0.5 spaces/1000 SF GFA
Utility, Minor Impact	S							S	P	P	S	P	S	S	0.5 spaces/1000 SF GFA
COMMERCIAL SALES, SERVICE, AND REPAIR PRIMARY USES															
Adult Business – All Types												S			8 spaces/1000 SF GFA
Animal Sales and Services, All Others	S								P	S	P	S		S	2.5 spaces/1000 SF GFA
Animal Sales and Services, Household Pets Only								S	P	P				S	2.5 spaces/1000 SF GFA
Arts, Recreation, Entertainment, Indoor	S		S					S	P	P	S	S	S	P	2.5 spaces/1000 SF GFA
Arts, Recreation, Entertainment, Outdoor	S		S						P	S	S		S	S	2.5 spaces/1000 SF GFA
Auction Houses								S	P	P	P		P	S	2.5 spaces/1000 SF GFA
Auto/Motorcycle/Boat/Light Truck Sales or Rentals									P	P	P				0.5 spaces/1000 SF GFA
Automobile Services, Heavy										P	P	P			0.5 spaces/1000 SF GFA
Automobile Services, Light									P	P	P	P			0.5 spaces/1000 SF GFA
Banks and Financial Institutions								P	P	P	P	S	P	P	2.5 spaces/1000 SF GFA
Bed and Breakfast Establishments	S		S				S	S	S					S	2 spaces + 1 space/room
Dental/Medical Office or Clinic								S	P	P	S		S	P	2 spaces/1000 SF GFA
Food Catering Service									P	P	P		S	S	1.8 spaces/1000 SF GFA
Funeral Home and Crematorium	S								P	P	P		S		2.5 spaces/1000 SF GFA
Gas Station/Charging Station									P	P	P		S		2.5 spaces/1000 SF GFA
Grocery or Market								S	P	P			S	S	2.5 spaces/1000 SF GFA

P = Permitted Use S = Special Exception Use	AG	AH	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IN	DT	Minimum Parking Requirements
Gymnastics Facility								S	P	P	P		P	S	2.5 spaces/1000 SF GFA
Health Spa/Fitness Center								P	P	P	S		P	S	2.5 spaces/1000 SF GFA
Hotel or Motel									P	P	P		P	P	1 space/room
Kennel	S	S							S	S	S	S	S		2 spaces/1000 SF GFA
Laundromat								P	P	P	P		P	S	2.5 spaces/1000 SF GFA
Mobile Merchant Activity									P	P			P	P	No requirement
Office								P	P	P	P		P	P	2 spaces/1000 SF GFA
Parking Garage									P	P			P	P	No requirement
Parking Lot									P	P	P		P	S	No requirement
Pawn Shop									S	S		S			2.5 spaces/1000 SF GFA
Playhouse /Theatre									P	P			P	P	2.5 spaces/1000 SF GFA
Restaurants – Table Service								P	P	P			P	P	5 spaces/1000 SF GFA
Restaurants - Counter Service, No Drive-thru								P	P	P	P	S	P	P	5 spaces/1000 SF GFA
Restaurants - Counter Service, With Drive-thru								S	P	P			S	S	5 spaces/1000 SF GFA
Retail Sales, Service & Repair, All Others								P	P	P			S	P	2.5 spaces/1000 SF GFA
Retail Sales, Service & Repair, Outdoor									P	P	S			S	2.5 spaces/1000 SF GFA
Retail Sales, Service & Repair, Special Handling									S	S				S	2.5 spaces/1000 SF GFA
Taverns								P	P	P	S		S	P	4 spaces/1000 SF GFA
Truck Stop/ Travel Center									S	S	S	S			2.5 spaces/1000 SF GFA
Winery or Microbrewery	S		S					S	P	P	S		S	P	2.5 spaces/1000 SF GFA
INDUSTRIAL MANUFACTURING AND WHOLESALE PRIMARY USES															
Airport or Heliport	S											S	S		No requirement
Automobile Parts Recycling Business											S	P			0.5 spaces/1000 SF GFA
Automobile Towing Service Storage Yard									S	S	P	P			0.3 spaces/1000 SF GFA
Bottled Gas Storage and Distribution												S			0.3 spaces/1000 SF GFA
Chemical Manufacturing and Storage												S			0.3 spaces/1000 SF GFA
Communication Services	S							S	P	P	S	P	S	S	0.5 spaces/1000 SF GFA
Composting Facility	S	S										S	S		No requirement
Contractors- General											S	P			0.5 spaces/1000 SF GFA
Contractors- Heavy/Contractor Yard												P			0.5 spaces/1000 SF GFA
Food Preparation and Sales, Commercial										S	P	P	S		0.5 spaces/1000 SF GFA

P = Permitted Use S = Special Exception Use	AG	AH	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IN	DT	Minimum Parking Requirements
Laboratory, Research, and Development Services									P	P	P	S	S		0.5 spaces/1000 SF GFA
Manufacturing or Refinement of Asphalt, Cement, Gypsum, Lime, or Wood Preservatives												P			No requirement
Manufacturing, Fabricating, & Assembly - General											S	P			0.5 spaces/1000 SF GFA
Manufacturing, Fabricating, & Assembly - Heavy												S			0.5 spaces/1000 SF GFA
Mass Transit Facility (Bus/Light-Rail)							S		P	P			P	S	0.5 spaces/1000 SF GFA
Mineral Extraction												P			No requirement
Rail Distribution Yards												S			No requirement
Recycling Center											S	P			0.3 spaces/1000 SF GFA
Recycling Drop-Off Facilities			S	S	S	S	S	P	P	P	P	P	P	S	0.3 spaces/1000 SF GFA
Recycling Plant, Scrap Processor											S	P			0.3 spaces/1000 SF GFA
Salvage or Junk Yards												S			0.3 spaces/1000 SF GFA
Sanitary Landfill or Incineration															No requirement
Self-Storage Facilities	S								S	S	P	P			0.1 spaces/1000 SF GFA
Small Cell Facility			S	S	S	S	S	S	S	S	S	S	S	S	No requirement
Solar Energy Conservation System											S	P	S		No requirement
Solid Waste Facility												S	S		0.3 spaces/1000 SF GFA
Telecommunication Facilities	S							S	S	S	P	P	S	S	No requirement
Transportation Services											S	S			0.5 spaces/1000 SF GFA
Truck Freight Terminal/Distribution Center												S			0.3 spaces/1000 SF GFA
Vehicle Storage, Commercial										S	S	P			0.5 spaces/1000 SF GFA
Wholesale Trade or Storage, General												S			0.5 spaces/1000 SF GFA
Wholesale Trade or Storage, Light											S	P			0.5 spaces/1000 SF GFA
Wind Energy Conservation System											S	P	S		No requirement
AGRICULTURAL PRIMARY USES															
Agricultural Uses - Animal Related	P	P										P			No requirement
Agricultural Uses - Non-Animal Related	P	P									P	P			No requirement
Agricultural Products Sales & Storage	P	S								S					0.3 spaces/1000 SF GFA
Agritourism	P	S													0.3 spaces/1000 SF GFA
Confined Feeding Operation		P										S			No requirement

P = Permitted Use S = Special Exception Use	AG	AH	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IN	DT	Minimum Parking Requirements
Fertilizer Storage & Distribution	S	S										P			0.3 spaces/1000 SF GFA
Food Processing Plants											S	P			0.3 spaces/1000 SF GFA
Grain and Feed Mills	S											P			0.5 spaces/1000 SF GFA
Plant Nursery/Greenhouse	P	P								S	P	P	S		0.5 spaces/1000 SF GFA
Riding Stables and Academies	P		S								S		S		0.5 spaces/1000 SF GFA
Roadside Produce Stand - Permanent	S		S						P	P	S		P		2 spaces/1000 SF GFA
Roadside Produce Stand - Temporary	P	P							S	S			S	S	2 spaces/1000 SF GFA
Sale Barn for Livestock	S											S			0.3 spaces/1000 SF GFA
Slaughterhouse	S											S			0.3 spaces/1000 SF GFA
Sylviculture	P	P													No requirement

3.3 Use Descriptions and Standards

A. RESIDENTIAL PRIMARY USES

Dwelling – Single-Family Detached: A Single-Family Detached Dwelling is a detached structure on a lot containing one dwelling unit not including an Accessory Dwelling Unit. It is typically located within a primarily single-family neighborhood.

Dwelling – Duplex: A Duplex dwelling is a small- to medium-sized structure that consists of two side-by-side or stacked dwelling units, within a single building massing. This type has the appearance of a medium to large single-family home and is appropriately scaled to it within primarily single-family residential neighborhoods or medium-density residential neighborhoods. It enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability. When in a side-by-side configuration, each dwelling unit may be on its own individual lot.

Dwelling – Townhouse: A Townhouse is a small- to medium-sized typically attached structure that consists of 3–6 dwelling units placed side-by-side with each dwelling unit on its own lot. This type may also occasionally be detached with minimal separations between the buildings. This type is typically located within medium-density residential neighborhoods or in a location that transitions from a primarily single-family residential neighborhood into a neighborhood main street. This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.

Dwelling – Apartment Building, Small: An Apartment Building, Small is a structure that consists of 3–6 side-by-side and/or stacked dwelling units on a common lot, typically with one shared entry or individual entries along the front. This type has the appearance of a large-sized family home and is appropriately scaled to fit within traditional residential or mixed density residential. This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability. Parking is typically located in the rear of the lot behind the building.

Dwelling – Apartment Building, Large: An Apartment Building, Large is a medium-to-large-sized structure that consists of 7-30 side-by-side and/or stacked dwelling units on a common lot, typically with one shared entry. Used in an infill development context, this type is appropriately scaled to fit within mixed density residential neighborhoods or sparingly within large lot predominantly single-family residential neighborhoods. This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.

Apartment Complex: An Apartment Complex allows for the construction of multi-family residential units on one parcel. Apartment complexes are comprised of multiple buildings with shared common areas.

Accessory Dwelling Unit: 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.

Assisted Living Facility: A facility for adults in need of some protective oversight or assistance due to functional limitation that provides a living arrangement integrating shelter, food, and other supportive services to maintain a functional residential status.

Childcare Home: A family home that receives 4 to 8 children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12.

Fraternity, Sorority, or Student Housing: A building containing living quarters for students, staff, or members of an accredited college, university, boarding school, theological school, hospital, religious order,

or comparable organization; provided that the building is owned or managed by the organization and contains no more than one cooking and eating area.

Group Residential Facility: A facility licensed by the State of Indiana to provide a homelike setting to the developmentally disabled and/or the mentally ill. This provides the benefits of a group living situation as an alternative to hospitalization or institutionalization. A minimum separation of 1,500 feet is required between locations.

Live/Work Dwelling: A Live/Work Dwelling is a small to medium sized attached or detached structure that consists of one dwelling unit above and/or behind a flexible ground floor space that can be used for service or retail uses. Both the ground-floor flex space and the unit above are owned by one entity. This use is typically located within medium-density neighborhoods or in a location that transitions from a neighborhood into a neighborhood main street. It is especially appropriate for incubating neighborhood-serving retail and service uses and allowing neighborhood main streets to expand as the market demands. Parking is typically located in the rear of the lot behind the building, often in an attached or detached garage.

A Live/Work Dwelling's commercial activity may be any nonresidential primary use permitted in the same zoning districts that the Live/Work Dwelling is established, subject to the limitations below. The following commercial activities, when not otherwise specifically listed as permitted in the applicable zoning districts, are permitted in a Live/Work Dwelling use: art gallery, artist studio, professional studio, office (excluding dental/medical office and clinic) and other similar activities determined by the Administrator.

1. A Live/Work Dwelling use is not a "residential use" or "residential district" or "protected use," nor in any other way be accorded residential protection (e.g., separation) against the effects of surrounding industrial uses as may otherwise be required by this Ordinance.
2. Any repair, assembly, or fabrication of goods is limited to the use of hand tools or domestic mechanical equipment.
3. The commercial activity must not exceed 50% of the gross floor area of the use.
4. The commercial activity cannot have more than 2 employees or assistants on the premises at one time. The employees or assistants may be in addition to residents of the Live/Work Dwelling.
5. Signs are limited to not more than 2 non-animated, non-illuminated wall or window signs with a maximum total area of 20 square feet.
6. Outside storage of any flammable and combustible liquids and flammable gases is prohibited.
7. Nonresidential storage in the Live/Work Dwelling is limited to no more than 10% of the space dedicated to the commercial activity.

Manufactured Home Park: A parcel of land containing two or more dwelling sites, with required improvements and utilities, that are leased for long term placement of manufactured home dwellings. A Manufactured Home Park does not involve sales of Manufactured Home Dwellings in which unoccupied units are parked for inspection or sale.

1. Manufactured home parks must:
 - Be a minimum of 5 acres;
 - Be approved as a Planned Unit Development;
 - Require site plan approval; and
 - Be developed in accordance with the requirements of this article.

2. The PUD ordinance must incorporate the following provisions unless otherwise approved by the City Council:
 - a. An Improvement Location Permit is required for the placement of any manufactured home.
 - b. Manufactured homes must be a minimum of 20 feet wide,
 - c. A manufactured home must not be located under overhead electric lines.
 - d. Manufactured homes must be skirted before occupancy.
 - e. Accessory structures for storage on individual sites must meet setback requirements.
 - f. Driveways must be located for convenient access to service entrances and collection points of buildings.
 - g. Parking for residents and visitors must be provided on the manufactured home site or in common parking facilities. Parking areas must not interfere with pedestrian walkways.
 - h. Sidewalks at least 5 feet wide must be provided along at least one side of the street to provide for continuous, safe pedestrian circulation. Sidewalks on both sides of the street are encouraged. Walkways are encouraged in common areas to connect frequently used public facilities and improve circulation throughout the site.
 - i. Covenants applying to the entire site must be submitted with the PUD and must be recorded prior to issuing an Improvement Location Permit for the site. The covenants must contain the following:
 - Each occupant of a manufactured home site must be provided a copy of the recorded covenants.
 - The placement or replacement of a manufactured home must comply with the requirements of the PUD and this Ordinance.
 - Accessory structures must meet the required setbacks and require an Improvement Location Permit.
 - The manufactured home park owner is responsible for ensuring on-going maintenance of all sites and common areas to ensure neat and orderly condition.
 - On-street parking of boats, trailers, semi-trucks, etc. is prohibited.

Nursing Home, Hospice: A Nursing Home is any institution, whether operated for profit or not, that seeks to provide for a period exceeding 24 hours, nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but, in contradistinction to a hospital, does not include any place providing care or treatment primarily for the acutely ill. A **Hospice** is a facility that provides inpatient care and attends to the emotional, spiritual, social, and financial needs of terminally ill patients and their families.

Rooming or Boarding House: A residential building containing one or more guest rooms used, rented, or hired out, with or without meals, for permanent occupancy. A Rooming and Boarding House makes no provision for cooking in any of the guest rooms occupied by paying guests. A Rooming and Boarding House use is not considered a Residential Care use. A Rooming and Boarding House use is not considered a Student Housing use.

Upper Story Residential: Dwelling units on upper floors of buildings with non-residential uses at street level.

B. CIVIC, PUBLIC, AND INSTITUTIONAL PRIMARY USES

Animal Shelter: A facility used to care for and house lost, stray, homeless, abandoned, or unwanted animals; including those found running at-large or otherwise subject to impoundment consistent with applicable laws. Animal shelter includes facilities for adoption, medical treatment, and cremation.

Banquet Facilities and Reception Halls: A building or a portion of a building rented or reserved by individuals, businesses, or groups to accommodate private functions including banquets, weddings, anniversaries, and other similar celebrations. The facilities may include:

- Kitchen facilities for the preparation or catering of food;
- The sale of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the public; and
- Outdoor gardens or reception facilities.

Campground/RV Park: Any site, lot, field, or tract of land designed with facilities for short term and/or seasonal occupancy by campers using recreational vehicles, travel trailers, tents, cabins, or other temporary accommodations, but not including manufactured homes.

Cemetery: Any land or structure dedicated to and used for the interment, entombment, or inurnment of human or animal remains. A cemetery may include a crematorium. A crematorium must be at least 500 feet from a residential district. Where the use abuts a residential use, a planter area landscaped with tightly spaced shrubs is required to create an effective, year-round screen.

Childcare Facilities: Any place other than a family home in which people receive childcare services during any part of a day not exceeding 13 hours in any 24-hour period and licensed pursuant to the County and State requirements.

1. These standards apply to childcare centers and do not apply to Child Care Homes. A childcare facility is not considered a home occupation.
2. A childcare facility cannot be located on a lot with a property line within:
 - 1,000 feet of any known business that has a permit for hazardous materials or regulated substances, excluding underground fuel storage tanks;
 - 1,000 feet of any known business handling compressed flammable gases more than 1,500 pounds;
 - 1,000 feet of any known business handling flammable liquids more than 10,000 gallons.
 - 500 feet of another childcare facility.
3. Separation distance is measured from the property line of the proposed childcare facility to the use, storage, or handling areas for the regulated substances. For businesses containing a childcare facility on site, the distance is measured from the exterior wall of the childcare center to the areas containing the regulated substances. The childcare facility operator has the burden of proof of demonstrating compliance with the separation requirement.
4. Drop-off and pick-up of children from vehicles is permitted only in driveways, approved parking areas, or the street directly in front of the facility.
5. All outdoor play and activity areas must be enclosed with a fence at least 4½ feet high and separated from vehicular circulation and parking areas, equipment enclosures, storage areas, and refuse and recycling storage areas.

Club or Lodge: An association of persons organized for a common purpose to pursue common goals, interests or activities characterized by certain membership qualifications, payment of fees or dues, regular meetings and a constitution or bylaws.

Community Center: A place, structure, area, or other facility used for and providing programs, information, and services generally open to the public and designed to accommodate and serve significant segments of the community. A community center must comply with the following:

1. A community center cannot have an outdoor public address system or any type of amplified music or sound device.
2. Overnight accommodations are prohibited.
3. Where a community center includes accessory outdoor recreation or entertainment services facilities within or abutting a residential district, all outdoor lighting must be extinguished when the outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, and by 11:00 p.m. Friday and Saturday.

Conference Center: A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. The accommodations can include sleeping, eating, and recreation. A conference center is not designed to be utilized only by the public for overnight purposes.

Correctional Institution: Publicly or privately operated facility housing people awaiting trial or people serving a sentence after being found guilty of a criminal offense.

Fairgrounds: An area where buildings, structures, and land are used for the exhibition of livestock, farm products, etc. and/or for carnival-like entertainment.

Golf Course, Country Club, Driving Range: Golf courses are any area within the ground set aside for the purposes of playing golf and includes any golf driving range, golf practice area, or putting green. A Country Club includes a location with facilities for outdoor sports and social activities for which members pay a membership fee other than a daily fee, periodically for the use of facilities and services by them.

Hospital: An institution licensed by state law providing health services and medical or surgical care to patients and injured persons.

Libraries and Museums: A Library is a public facility for the use, but not sale, of literary, musical, artistic, or reference materials. A museum is an institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

Municipal and Government Buildings: A building or facility utilized in the operation of local government. Municipal buildings and facilities include office space for the operation of administrative functions, police, fire, public works, emergency services, disaster relief, garages, and storage facilities.

Parks and Playgrounds: An area of land designed or reserved for active or passive recreational use, including all natural and man-made open space and landscaping, facilities, playing fields, and buildings that are consistent with the general purposes of recreation, whether such recreational facilities are public operated or operated by other organizations pursuant to arrangements with the public authority owning the public park. Public parks include playgrounds, band shells, picnic grounds, pedestrian trails and paths, landscaped buffers, playgrounds, water features, baseball diamonds, football fields, soccer pitches, and similar outdoor sports fields. Outdoor lighting must be extinguished when outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday.

Public and Religious Assembly: Public and Religious Assembly uses are permanent places where persons regularly assemble for religious worship or secular activities, and which are maintained and controlled by a body organized to sustain the religious or public assembly. In residential districts, a Public or Religious Assembly use must comply with the following:

1. The following operations must be terminated by 11:00 p.m.:
 - Daily operations of uses and activities accessory to a primary public or religious assembly use, such as accessory recreation uses or activities; and
 - Daily operations of other primary uses located on the same zone lot as the public or religious assembly use, such as childcare facilities or elementary or secondary schools, but not including a primary household living use located on the same zone lot.
2. Conference center, club, or lodge use is prohibited.

Schools – K-12: An institution for the teaching of children or adults including primary and secondary schools. This use also includes physical improvements and structures related to the activity of teaching, as well as associated accessory uses and structures, including maintenance areas, parking athletic fields, outdoor study areas, etc.

Schools – Vocational: A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to private entities that do not offer a complete educational curriculum (e.g., professional schools, dance schools, business schools, trade schools, art schools, etc.)

Sports and/or Entertainment Arena or Stadium: A large structure with tiers of seats for spectators at sporting or other recreational events. A Sports and/or Entertainment Arena or Stadium use must be at least 500 feet from a residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

University or College: An institution for post-secondary education, public or private, offering courses in general, technical, or religious education and operated not-for-profit. It operates in buildings owned or leased by the institution for administrative and faculty offices, student and faculty housing, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, community rooms and facilities, athletic facilities, fraternities, and sororities. A university may include for-profit businesses and facilities that are incidental to the educational, cultural, and athletic functions and which lease space from the institution university shall not include trade schools operated for profit.

Utility, Major Impact: A utility use that due to its nature or large scale could have an adverse impact on surrounding properties. Examples include sanitary sewer treatment plants and solid waste facilities. A Major Impact Utility must meet the following standards:

1. Where permitted, the use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.
2. Solid waste facilities must be in a completely enclosed structure and at least 500 feet from any residential district.
3. The expansion of transmission line capacity does not require a zoning permit provided such expansion may be accomplished within an existing right-of-way or with existing structures or poles.

Utility, Minor Impact: A utility use that due to its nature or small scale is unlikely to have an adverse impact on surrounding properties. Examples include public water wells, sanitary lift stations, telephone switching stations, and completely enclosed utilities. A Minor Impact Utility must meet the following standards:

1. Electric substations are prohibited in residential districts.
2. Exposed electric substation transformers must be enclosed by a fence or wall at least 6 feet high and adequate to obstruct view, noise, and passage of persons.
3. A minor impact utility use must be at least 50 feet from the nearest boundary of any lot containing a single- or two-unit dwelling use existing at the time of application for the utility use unless the utility has been sited and designed to assure its compatibility with adjacent dwelling units.
4. Building materials and company vehicles must be screened or located so not visible from a perimeter street or adjacent residential use.

C. COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES

Adult Business: Adult Business are characterized by commercial establishments where the primary use is the sale, rental, display or other offering of live entertainment, dancing, or material characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas. All adult businesses must comply with these regulations that are intended to preserve the integrity and character of residential neighborhoods, to deter the spread of urban blight, and to protect minors from the objectionable operational characteristics of adult business uses by restricting their proximity to the following protected uses:

- A place of worship such as a church, synagogue, or mosque.
- A public or private nursery school or any school serving one or more of grades K through 12.
- A childcare center licensed by the Indiana Family and Social Services Administration.
- A public or private park, playground, playing field, sports facility, or fairground.
- A public or private cemetery.
- A public housing facility.
- Gymnasiums, dance studios, theater companies, and other facilities used by children.
- An Agricultural District.
- A Residential District.

An adult business must be separated at least 1,500 feet from another adult business. This distance is measured in a straight line from the closest exterior wall of each business disregarding intervening structures.

An adult business must be separated at least 1,000 feet from any existing protected use listed above. This distance is measured in a straight line from the closest exterior wall of the adult business to the nearest lot line of the protected use.

Any material depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas must not be visible from any public right-of-way.

An adult business lawfully operating under these regulations will not be deemed to be in violation of the location restrictions solely because:

- A protected use subsequently locates within the minimum required distance of the adult business,

- A business that sells alcoholic beverage subsequently locates within the same building as the adult business, or
- Property within the minimum required distance of an adult business subsequently becomes residential property.

Animal Sales and Services - All Others: An establishment engaged in the retail sale, grooming, care, breeding, or boarding of animals, not restricted to domestic or household pets, and which may include overnight accommodations. Includes provision of veterinary medicine, dentistry, or surgery services by licensed veterinary practitioners and animal kennels or other animal boarding facilities not limited to domestic or household pets. An Animal Sales and Services - All Others use must comply with the following:

1. Wild or dangerous animal boarding and breeding services are prohibited.
2. No more than 25 non-neutered or non-spayed dogs older than 6 months may be kept on the premises at any time.
3. Overnight accommodations are allowed.
4. Where located abutting a residential district, a landscaped buffer must be provided. The buffer is intended to substantially mitigate potential adverse effects from the animal service use.

Animal Sales and Services – Household Pets: An establishment engaged in any of the following:

- The retail sale, grooming, care, or boarding of domestic or household animals only, and which may include overnight accommodations. The retail sale of domestic animals (e.g., pet store) is permitted.
- The maintaining, raising, harboring and/or boarding of 4 or more dogs, or 6 or more cats, or 6 or more dogs and cats is considered a primary “animal services and sales - household pets only” use.
- Provision of veterinary medicine, dentistry, or surgery services by licensed veterinary practitioners for household or domestic pets only.

An Animal Sales and Services - Household Pets use must comply with the following:

1. All sales and services must be for household pets only. Wild or dangerous animal services and sales are prohibited.
2. Overnight boarding is permitted within a completely enclosed building. For uses over 20,000 s.f. in GFA dedicated primarily to retail sales, no more than 15% of the GFA can be devoted to overnight boarding.
3. The use must be completely enclosed except outdoor animal runs or other areas in which dogs are allowed outside of an enclosed structure off leash (an “outdoor run”). An outdoor run must comply with the following conditions:
 - Outdoor runs are not permitted within 20 feet of a residential structure in a residential district.
 - The outdoor run may operate only between 6:30 a.m. and 9:00 p.m.
 - No more than 25 non-neutered or non-spayed dogs older than 6 months may be kept on the premises at any time.

4. Facilities must be constructed, maintained, and operated so animal sounds and smells cannot be discerned on adjacent lots when the outdoor run is not in use.

Art, Recreation, and Entertainment, Indoor: A public or private facility that provides indoor entertainment including, video arcades, virtual reality games, and mechanical rides. In all residential districts, seating capacity in a permitted Arts, Recreation, and Entertainment, Indoor use is limited to no more than 100 people. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen. A minimum separation of 1,500 feet is required between locations.

Arts, Recreation, and Entertainment, Outdoor: A public or private facility that provides outdoor entertainment including waterslides, water parks, go-cart tracks, miniature golf, batting cages and mechanical rides and games.

Auction Houses: An establishment involving a sale barn or sale pavilion and its contiguous surroundings where two or more auctions are held within any twelve-month period. Each day goods or real estate are being offered for sale at auction constitutes one auction. For facilities used exclusively for the auctioning of livestock see Sale Barn for Livestock.

Automobile, Motorcycle, Boat, and Light Truck Sales or Rentals: Establishments primarily engaged in the sales, leasing, rental, and related servicing of new and used automobiles, motorcycles, boats, light trucks, and similar items; excluding dismantling or junk yard. an Auto, Motorcycle, Boat, and Light Truck Sales or Rentals use must comply with the following:

1. Outdoor public address or loudspeaker systems are prohibited.
2. Accessory uses and activities may include the retail sale of vehicle accessories, oil, grease, antifreeze, tires and batteries, and other similar products; and providing services of installing the above items, making minor mechanical adjustment, washing and polishing vehicles.
3. The facility must not include heavy automobile service uses as an accessory or primary use unless permitted as a primary use in the subject zoning district.
4. Adjoining residential districts must be protected from the external effects of permitted outdoor vehicle or equipment display or storage areas by landscape buffers or an opaque fence or wall at least 5 feet high, by landscaped employee or public parking areas, or by other means to achieve the same protection purpose.
5. Vehicles being displayed, serviced, or stored cannot be parked on streets, alleys, public sidewalks, or public landscaped parkways.
6. As permitted, vehicles displayed outside a completely enclosed structure may have individual signs and, when provided, the signs must be located inside the vehicles.
7. For facilities engaged only in the rental of automobiles, the land area assigned for storage of rental automobiles is not included when computing required off-street parking spaces.
8. Sales display areas are not considered parking lots for the purposes of this Ordinance (e.g., parking space size requirements, landscaping requirements, etc.).

Automobile Services, Heavy: Establishments providing major repairs and servicing of automobiles, including engine overhaul or replacement, body work, upholstery work, glass replacement, transmission overhaul, brake repair with drum and disc grinding, replacement of electrical accessories such as starters and alternators, frame alignment, and rebuilding of wrecked automobiles, excluding commercial wrecking,

dismantling, junk yard, truck, and tractor repair. An Automobile Services, Heavy use must comply with the following:

1. The lot must be enclosed with a solid fence or wall except for the street frontage of an automobile retail display area or any portion of a lot line containing a building wall.
2. The fence or wall must be constructed high enough to conceal vehicles, equipment, or parts located on the lot; provided the wall or fence does not interfere with vision clearance at the intersections ([4.10 Vision Clearance](#)).
3. Permitted fence or wall materials consist of wood, brick, masonry, or other similar durable materials as approved by the Administrator. Salvaged doors, corrugated or sheet metal, and chain link are prohibited fence or wall materials.
4. An Automobile Services, Heavy use must be located at least 500 feet from the nearest boundary of any residential district existing at the time of application. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district. No dead storage, repair work, or dismantling is permitted on the premises.

Automobile Services, Light: Establishments providing routine maintenance and minor repair servicing of automobiles, which may include washing, cleaning, waxing, greasing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair and servicing. An Automobile Services-Light use, automobile wash, laundry, detail, or polishing shop must comply with the following:

1. The structure housing the primary use must be setback at least 10 feet from a residential district.
2. Adequate landscaping and solid fencing must be installed to control the effects of noise when a bay is located adjacent to a residential use or a residential district.
3. If the use abuts a residential district, the hours of operation are limited to 7:00 a.m. to 10:00 p.m.
4. In addition to any other required off-street parking, the use must provide for each washing stall, enough hard-surfaced and dust-free space on the lot to accommodate at least 3 vehicles waiting to be washed.

Banks and Financial Institutions: An establishment including a chartered bank, saving association, credit union, or industrial loan company, primarily engaged in the business of providing banking and related financial services to customers, but excluding any establishment whose primary purpose is to provide cash advances, pay day loans, pay day advances, and similar services.

Bed and Breakfast Establishment: A transient lodging establishment, generally in a single-family dwelling or detached guesthouse, primarily engaged in providing overnight or otherwise temporary lodging for the public and may provide meals for compensation.

1. A bed and breakfast must be operated according to applicable County Health Department requirements.
2. A bed and breakfast cannot contain more than 5 guest rooms plus a common area for use by all guests.
3. A bed and breakfast establishment is only permitted in a detached single-family dwelling, designed, and constructed for single family use, which contains at least 1,500 square feet of

useable floor area. For each guest room more than two, an additional 100 square feet of floor area is required.

4. The bed and breakfast must be the primary residence of the owner, who resides there when the bed and breakfast is in operation.
5. Meals for guests must not be available to members of the public other than the owner's family.
6. Cooking facilities are prohibited in bed and breakfast guest rooms.
7. Exterior refuse storage facilities must be screened from view.
8. Site plan approval is required. A floor plan noting the use of each room must be submitted with the site plan application.

Dental/Medical Office or Clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, other health care professionals, or similar professions. up to 20 patients or clients may stay overnight at any one time in a Dental/Medical Office or Clinic use. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.

Food Catering Service: An establishment where food and/or beverages, intended for sale or distribution, are prepared in bulk or individual portions, for service in bulk or individual portions, at another location.

Funeral Home and Crematorium: A funeral home is a business that provides services related to the death of a person. A crematorium is a facility where human remains are burned to ashes.

Gas Station/Charging Station: A building and premises wherein a primary use is the charging of electronic vehicle or the supply and dispensation of retail gasoline, diesel fuel, oil, grease, batteries, tires and motor vehicle accessories, and where minor repair services may be provided. This use does not include major vehicle repair.

Grocery or Market: Establishments primarily engaged in the direct retail sale of food items such as meats, cereals, grains, produce, baked goods, dairy products, canned and frozen prepared food products, beverages, cleaning supplies, pet food and supplies, pharmaceuticals, over-the-counter medicines, personal products, household goods, books and magazines, plants, and other sundry and similar items are available to be purchased by the consumer. Grocery Retail includes grocery stores, supermarkets, meat or fish markets, fruit and vegetable markets, and other uses similar in nature and impact. A Grocery use must comply with the following:

1. Accessory outdoor sales and displays, including outdoor sales of fruits or vegetables, must occupy no greater than 25% of the gross floor area of the structure containing the food sales or market primary use.
2. Outdoor storage is prohibited unless enclosed by a fence or wall adequate to conceal such storage from adjacent residential property or public right-of-way.

Gymnastics Facility: A building or other structure that is used for the practice and competition of gymnastics or cheerleading.

Health Spa/Fitness Center: A facility that uses equipment or other techniques to assist members to improve their physical condition or appearance.

Hotel or Motel: A hotel is a building in which lodging is offered with or without meals principally to transient guests and that provides a common entrance, lobby, halls and stairways. A motel is an establishment

consisting of a group of attached or detached living or sleeping accommodations for transient guests with bathrooms and closet space, located on a single lot and where access to the sleeping accommodations is directly from the outside. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture.

Kennel: An establishment housing 4 or more dogs, cats, or other small animals, and where boarding, grooming, breeding, training, or selling of animals is conducted either for commercial or non-commercial purposes. Where permitted, kennels must comply with the following:

- All primary use activities, other than outdoor dog runs or exercise areas, must be conducted within a totally enclosed building.
- Any dumpsters used by a kennel must be enclosed on all four sides with an opaque fence equipped with a lockable gate and must not be visible from adjacent residential properties. Any disposal of biohazardous waste must be in conformance with State and local requirements.
- Activities must not generate a noise level greater than 60 decibels at the property line for more than 4 hours in any 24-hour period.
- A minimum lot area of 3 acres is required.
- When a kennel is in an agricultural district, the outermost edge of the facility (including the parking area and dog runs) must be at least 100 feet from the property line.
- When a kennel is in an industrial or commercial district, the outermost edge of the facility (including the parking area and dog runs) must be at least 200 feet from the nearest agricultural or residential zoning district.

Laundromat: A building or structure where coin-operated laundry machines, using only water, detergents, and additives, are made available to the public for the purpose of washing and drying laundry.

Mobile Merchant Activity:

1. Definitions. For this use description, the following terms have the following meanings:

Outdoor sales location means any area outside a permanent building or structure that is located either (a) in the public right-of-way or (b) on property where the sale of goods occurs immediately adjacent to, or is visible from, the public right-of-way.

Sale of goods means the display, offer, or sale of food or merchandise by a person who uses a fixed location of unimproved real property, a temporary or mobile building or structure, a vehicle, a cart, a stand, or a table, excluding vending machine sales.

Sale of services means the offer or sale of services by a person who uses a fixed location of unimproved real property, a temporary or mobile building or structure, a vehicle, a cart, a stand, or a table.

Mobile merchant activity means the sale of goods or the sale of services from an outdoor sales location.

2. Temporary Use Permit Required

- a. Mobile Merchant Activity is only permitted after the approval and issuance of a temporary use permit.
- b. A temporary use permit is not required if the Mobile Merchant Activity consists solely of:

- i. The sale of goods or services to benefit a charitable cause, organized and conducted by an organization that is exempt from the Indiana gross retail tax under [IC 6-2.5-5-26](#), provided that: (a) the sale of goods or services occurs for no more than 30 days in a calendar year; and (b) each person who engages in the sale of goods or services possesses a card or letter identifying they are authorized by the organization to engage in such sales,
 - ii. An auction of goods or services that originate primarily on the property where the auction occurs, and that were not moved to the property from another location for the purpose of sale at the auction, conducted by an auctioneer licensed under [IC 25-6.1](#),
 - iii. The sale of goods or services on commercial property that occurs during the regular hours of operation of the business located on the property,
 - iv. A garage sale, or
 - v. The sale of newspapers.
 - c. The Administrator issues a permit to each qualified applicant if:
 - i. The zoning district permits Mobile Merchant Activity at the proposed outdoor sales location, and
 - ii. In the opinion of the Administrator, the Mobile Merchant Activity does not pose a threat to the public health, safety, or welfare, and would not significantly inconvenience nearby residents or other members of the public.
 - d. A temporary use permit is only valid for the approved duration. A vendor who wishes to continue Mobile Merchant Activity after the expiration of the permit must file a new temporary use permit application.
 - e. A temporary use permit cannot be transferred to any other person.
 - f. The Administrator may impose other reasonable restrictions on the issuance of a temporary use permit.
3. Restrictions on Mobile Merchant Activity
 - a. Mobile Merchant Activity cannot:
 - i. Create an unsafe condition or situation,
 - ii. Impede the flow of pedestrian or vehicular traffic, or obstruct or hinder the view of pedestrians or motorists, on any street, alley, sidewalk, or right-of-way,
 - iii. Take place within the travel portion of any street or alley, or any median, while such street or alley is open to vehicular traffic,
 - iv. Locate on any public property or right-of-way without written authorization from the governmental agency with control over the public property,
 - v. Operate between the hours of 10:00 p.m. and 6:00 a.m., except as approved as part of an event,
 - vi. Operate within 1,000 feet of a public or private school between the hours of 7:00 a.m. and 4:00 p.m. on days when school is in session,

- vii. Use more than 1 loudspeaker, bell, or other device to advertise to the general public the food or merchandise for sale,
 - viii. Emit a sound or signal louder than 100 decibels at full volume,
 - ix. Use a loudspeaker, bell, or other device giving an audible signal to advertise the presence of the vehicle while the vehicle is in motion, or
 - x. Generate litter by the vendor or customers that is not promptly removed by the vendor.
 - b. The Mobile Merchant Activity must:
 - i. Display the temporary use permit during its hours of operation, and
 - ii. Display the prices of the food, merchandise, or services being sold.
 - c. If the Mobile Merchant Activity involves food or beverages the following regulations apply:
 - i. The vendor cannot operate and dispense food on the same side of the street within 50 feet of a primary entrance into a ground-level restaurant,
 - ii. Foods that present a substantial likelihood of liquid matter, particles, or part of the food dropping to the street or sidewalk during the process of carrying or eating the food must be sold in proper containers to minimize mess,
 - iii. Beverages dispensed in disposable containers must have any separable opening tabs removed at the time the beverage is sold, unless otherwise requested by the purchaser, and
 - iv. Vendors must take precautions to prevent stains or other damage to the area around the vehicle, stand, cart, etc.
4. Enforcement and Penalties
- a. Any law enforcement officer or the Administrator may determine if a person engaged in Mobile Merchant Activity has a permit and is following the permit requirements. If the Administrator or a law enforcement officer who issues a violation citation and has reason to believe the violation will continue after issuing the citation, may take possession of any tangible goods being offered for sale. The goods may be retained by the City until the enforcement action is concluded.
 - b. The Administrator may revoke a temporary use permit if the application contained a material misstatement, or the operation of the temporary use violates a health code or zoning requirement.
 - c. Any 3 violations of this Ordinance by the same vendor within any 12-month period is automatic cause for revocation of that vendor's temporary use permits and the vendor cannot apply for a temporary use permit for 12 months from the date of revocation.
 - d. Violations of these regulations are also subject to enforcement procedures per [CHAPTER 9: ENFORCEMENT](#).

Office: A use or structure where business or professional activities are conducted and/or business or professional services are made available to the public, including tax preparation, accounting, architecture, legal services, psychological counseling, real estate and securities brokering, and professional consulting

services, but not including drive-through service windows, the cutting and styling or hair, or recreational facilities or amusements.

Parking Garage: A structure of two or more stories used for the temporary parking or storage of more than four motor vehicles. A parking garage is limited to enclosed structures or structures enclosed except for portions of the parking structure over 25 feet above grade. Any unenclosed parking deck must have screening walls at least 4 feet in height. All lighting on the unenclosed parking deck must use fully shielded fixtures, not exceeding 6,500 lumens per fixture, and installed to not project glare off the lot. A Parking Garage is subject to these standards.

1. Site plan approval is required. The site plan must indicate:
 - All individual uses to be served by the parking, including the location, use, and number of parking spaces required for each use;
 - The location of buildings, parking areas, and access points on all adjacent properties;
 - The site layout drawn to scale and dimensioned of proposed entrance and exit driveways, acceleration/deceleration lanes, parking spaces, setbacks, drainage facilities, structures, buildings, landscaping, and buffer screening; and
 - Location, size, and design of proposed lighting, pavement, and signs.
2. Parking facilities must meet the setback requirements for primary uses. Points of ingress and egress must meet the access management requirements of [5.7 Streets and Rights-of-Way](#).
3. Parking as a primary use is encumbered by an instrument approved by the City that links the parking facilities to the uses served. The instrument specifies and binds the time period to the anticipated life of the building or use the parking facility serves. The instrument is filed with the Improvement Location Permits of the Planning Department and recorded in the office of the County Recorder.
4. Any change to a site plan resulting from the conditions of approval must be made to the plans and submitted to the Administrator prior to issuing the Improvement Location Permit. Other changes, such as modifying the number of parking spaces, altering the layout, or placing or removing a structure, require approval of a new site plan.

Parking Lot: An off-street, surfaced, ground level open area used for the temporary parking or storage of more than four motor vehicles. A Parking Lot is subject to these standards.

1. Site plan approval is required. The site plan must indicate:
 - All individual uses to be served by the parking, including the location, use, and number of parking spaces required for each use;
 - The location of buildings, parking areas, and access points on all adjacent properties;
 - The site layout drawn to scale and dimensioned of proposed entrance and exit driveways, acceleration/deceleration lanes, parking spaces, setbacks, drainage facilities, structures, buildings, landscaping, and buffer screening; and
 - Location, size, and design of proposed lighting, pavement, and signs.
2. Parking facilities must meet the setback requirements for primary uses. Points of ingress and egress must meet the access management requirements of [5.7 Streets and Rights-of-Way](#).

3. Parking as a primary use is encumbered by an instrument approved by the City that links the parking facilities to the uses served. The instrument specifies and binds the time period to the anticipated life of the building or use the parking facility serves. The instrument is filed with the Improvement Location Permits of the Planning Department and recorded in the office of the County Recorder.
4. Any change to a site plan resulting from the conditions of approval must be made to the plans and submitted to the Administrator prior to issuing the Improvement Location Permit. Other changes, such as modifying the number of parking spaces, altering the layout, or placing or removing a structure, require approval of a new site plan.

Pawn Shop: An establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the sale of the property. a Pawn Shop cannot be established, operated, or maintained within 1,000 feet of another pawn shop.

Playhouse/Theatre: A building or part of a building devoted to showing dramatic, musical, or live performances.

Restaurant – Table Service: An establishment whose primary business is the sale of edible, prepared food stuffs and/or beverages for consumption on or off the premises. A Table Service Restaurant's primary method of operation includes any two of the following characteristics:

- Customers are provided with an individual menu, are served their food or beverages by wait staff, in non-disposable containers, at the same table items are consumed.
- Cafeteria-type operations where foods or beverages are generally consumed within the restaurant building.
- Carryout service is not the predominant type of service available.

Restaurant – Counter Service, No Drive-thru: An establishment whose primary business is the sale of edible, prepared food stuffs and/or beverages for consumption on or off the premises. A Counter Service, No Drive-thru Restaurant is a restaurant not falling within the classification of Table Service Restaurant and having characteristics of offering food service over a counter, having a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a microwave oven.

Restaurant – Counter Service, With Drive-thru: An establishment whose primary business is the same as Counter Service, No Drive-thru Restaurant, except it offers food service over a counter or through a drive-through facility. A Counter Service, With Drive-thru Restaurant has a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a microwave oven.

Retail Sales, Service & Repair, All Others: A commercial enterprise that provides goods and/or services directly to the consumer, where the goods are available for immediate purchase and removal from the premises.

Retail Sales, Service & Repair, Outdoor: The display and sale of products and services outside of a building or structure, including garden supplies, motor oil, farm equipment, motor homes, burial monuments, building and landscape materials, and similar materials or items.

Retail Sales, Service & Repair, Special Handling: Retail businesses that primarily sell products that require special handling due to risks to public safety. Example businesses include massage parlors, tattoo shops, vapor smoke shops, gun sales, shooting ranges, and hunting stores, and establishments whose primary purpose is to provide cash advances, pay day loans, or similar services.

Tavern: An establishment whose primary business is the sale and service of alcoholic beverages at retail for consumption on the premises. Food and snacks may also be made available for consumption on the premises.

Truck Stop/Travel Center: A facility designed and used to provide services to the trucking industry including, but not limited to, fuel stations, repair shops, truck washes, restaurants, convenience stores, weight scales, and shower facilities, all as part of a unified facility.

Winery and Microbrewery: A facility where wine or beer is sold for consumption onsite or off the premises and may include a restaurant, beverage room, or retail store as accessory uses.

D. INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES

Airport or Heliport: A facility operated by an airport authority or governmental entity that provides infrastructure and services for air travel, together with all activities commonly associated with the operation of a major air carrier facility. Such services, infrastructure, and activities may include but are not limited to: landing fields; facilities for the parking, storage, fueling, repair, and rental of aircraft; passenger and baggage terminals; air cargo operations and associated facilities; public transportation infrastructure, including terminals and stations; safety facilities such as fire and police stations; open space uses such as agriculture, parks, golf courses, and recreation; energy production; retail, concessions, and other uses designed primarily to serve airline passengers, other airport users, and space; and other accessory uses as determined by the Administrator. An Airport must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Automobile Parts Recycling Center: An establishment where motor vehicles are dismantled for selling usable parts and which does not include a junk yard.

Automobile Towing Service Storage Yard: The assembling or standing of damaged or impounded vehicles for indeterminate periods of time, excluding the wrecking, dismantling or repairing of vehicles. An automobile towing service storage yard must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Bottled Gas Storage and Distribution: A facility where compressed gas is stored in pressurized portable tanks and is the origin or destination point of tanks being transported.

Chemical Manufacturing and Storage: An establishment used for the manufacture or storage of any chemical or chemically reactive products. This use must be located at least 500 feet from any residential district.

Communication Services: Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished using electronic and telephonic mechanisms. This use excludes telecommunication facilities. Typical uses include television studios, radio studios, or film and sound recording facilities.

Composting Facility: A commercial or public solid waste processing facility where yard or garden waste is transformed into soil or fertilizer by biological decomposition. A composting facility must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Contractors, General: An establishment providing general contracting and/or building construction services for residential, farm, industrial, or commercial uses, and which typically does not involve outdoor storage of machinery or equipment. This definition includes: general building contractors; plumbing,

heating, air-conditioning; painting and paper hanging; electrical work; masonry, stonework, and plastering; carpentry and floor works; roofing, siding, and sheet metal work; glass and glazing work; installing building equipment; and special trade contractors. Building materials and company vehicles must be screened or located so not visible from a perimeter street or adjacent residential use.

Contractors, Heavy/Contractor Yard: Establishments providing general contracting and/or construction services other than for buildings, such as for highways and streets, bridges, sewers, and flood control projects, and which may involve outdoor storage of machinery or equipment, or a contractor yard for vehicles, equipment, materials and/or supplies. A Contractors, Heavy/Contractor Yard must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Food Preparation and Sales, Commercial: Establishments primarily engaged in the preparation and production of prepared food items in individual servings for off-premises consumption and/or sale by others. Typical uses include wholesale bakeries, commissary kitchens, specialty food packaging and/or processing shops, and flight kitchens.

Laboratory, Research and Development Services: A building or group of buildings containing one or more of the following types of facilities:

- A research and development facility, training facility, production studio, laboratory, display/showroom/sales facility, or other similar use which typically has a high ratio of square feet of floor area per employee.
- A building or part of a building devoted to the testing and analysis of any product. No manufacturing is conducted on the premises except for experimental or testing purposes.
- A business primarily engaged in the development or engineering of computer software or computer hardware, but excluding retail sales, computer hardware manufacturers, and computer repair services.
- A facility for the servicing of technological equipment and/or office machinery, such as computers, copying machines and word processing equipment.
- A facility for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.
- A facility devoted to the testing and analysis of any product, including medical laboratories, biological product manufacturing, and blood and organ banks.
- A laboratory that provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures or similar dental appliances. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services.

A Laboratory, Research and Development Services use may include sales facilities limited to non-retail sales and sales activities occupying no more than 20% of the gross floor area of the structure. Such use may include indoor storage space for parts and supplies.

Manufacturing or Refinement of Asphalt, Cement, Gypsum, Lime, or Wood Preservatives: Establishments primarily engaged in manufacturing asphalt and tar paving mixtures or various compositions of asphalt or tar with other materials; manufacturing plaster, plasterboard, and other products composed wholly or chiefly of gypsum; manufacturing quicklime, hydrated lime, and "dead-burned" dolomite from limestone, dolomite shells, or other substances; or treating wood, sawed or planed in other establishments, with creosote or other preservatives to prevent decay and to protect against fire and insects. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the

Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Manufacturing, Fabricating, and Assembly – General: A manufacturing establishment primarily engaged in the fabrication or assembly of products from prestructured materials or components; or a manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products, and does not produce or utilize in large quantities as an integral part of the manufacturing process, toxic, hazardous, or explosive materials. Because of the nature of its operations and products, little or no noise, odor, vibration, glare, and/or air and water pollution is produced, and, therefore, there is minimal impact on surrounding properties. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Manufacturing, Fabricating, and Assembly – Heavy: A manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products. Toxic, hazardous, or explosive materials may be produced or used in large quantities as an integral part(s) of the manufacturing process. Noise, odor, dust, vibration, or visual impacts, as well as potential public health problems in the event of an accident, could impact adjacent properties. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Mass Transit Facility (Bus/Light Rail): A facility for bus, fixed rail, or other types of transportation service available to the public that move relatively large numbers of people at one time. A Mass Transit Facility use is limited to a stop or station for the mass passenger transit system; and parking for the use of passengers or employees of the passenger transit provider.

Mineral Extraction: Establishments primarily engaged in the process of removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth's crust. This term also includes the preliminary treatment of such ore or building stone. Mineral Extraction is prohibited within urban areas as defined in [IC 36-7-4-1103](#). A fence at least 6-feet tall is required where the use is accessible to the public. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen. The use must be located at least 200 feet from a residential use or district.

Rail Distribution Yards: A facility for the operation of a line-haul or short-line freight railroad. A Rail Distribution Yard must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Recycling Center: A facility where recoverable resources, such as newspapers, magazines, glass, metal cans, plastic materials, tires, grass and leaves, and similar items, except mixed, unsorted municipal waste or medical waste are collected, stored, flattened, crushed, bundled, or separated by grade or type, compacted, baled, or packaged for shipment to others for the manufacture of new products. This use does not include Automotive Parts Recycling Center.

Recycling Drop-off Facilities: A facility for the drop-off and temporary holding of materials such as paper, cardboard, glass, metal, plastic, batteries, and motor oil. Processing of materials is limited to glass breaking and separation.

Recycling Plant, Scrap Processor: A facility at which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal and aluminum cans; waste oil; iron and steel scrap; rubber; organic materials; and/or other products are recycled and treated to return such products to a condition in which they may again be used for production or for retail or wholesale trade.

Salvage or Junk Yards: A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment, but excluding the purchase or storage of used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations. A Salvage or Junk Yard must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Sanitary Landfill or Incineration: A Sanitary Landfill is an area of land or an excavation where waste is placed for permanent disposal. Incineration is an engineered process involving burning or combustion of solid waste to thermally degrade waste materials at high temperatures. This use must be located at least 500 feet from any residential district.

Self-Storage Facility: All or part of a building used for the storage of personal goods and/or materials.

Small Cell Facility: A personal wireless service facility (defined by the Federal Telecommunications Act of 1996, as amended) or a wireless facility satisfying the following requirements:

1. Each antenna, including exposed elements, has a volume of 6 cubic feet or less; and
2. The primary equipment enclosure located with the facility has a volume of 28 cubic feet or less. The volume of the primary equipment enclosure excludes: electric meters, concealment equipment, telecommunications demarcation boxes, ground based enclosures, backup power systems, grounding equipment, power transfer switches, and cutoff switches.
3. Small Cell Facilities must be operated and maintained in a manner that does not interfere with public safety (police, traffic control, fire, and emergency services) equipment.
4. If the Administrator determines a wireless provider's activity in the right-of-way creates an imminent risk to public safety, the Administrator may provide written notice to the wireless provider demanding correction of the risk. If the wireless provider fails to address the risk within 24 hours of the notice, the City may act to reasonably address the risk and charge the wireless provider the documented cost of such actions.
5. Permitted Use. A wireless provider has the right as a permitted use (subject to review and conditions) to collocate Small Cell Facilities and install, maintain, modify, operate, and replace poles in the right-of-way. Structures and facilities must be installed and maintained to not create a safety hazard, obstruct, or hinder the public's safe use of the right-of-way, or obstruct the legal use of the right-of-way by utilities. Approvals granted are not effective until the applicant and the Type have a written agreement setting the terms and conditions to occupy and use and public right-of-way or facilities. Approvals do not confer any exclusive right, privilege, license, or franchise to public rights-of-way or facilities unless specifically established in the written agreement.
6. Permit Requirements
 - a. A permit is required prior to collocating a Small Cell Facility or installing a new, modified, or replacement pole or support structure associated with a Small Cell Facility. The City may require an applicant to obtain additional permits provided the additional permits do not apply exclusively to Small Cell Facilities. If a wireless provider fails to comply with the permit

requirements, the City, in its sole discretion, may restore the right-of-way to its prior condition and charge the wireless provider the documented cost of restoration, plus a penalty not to exceed \$1,000.

- b. Within rights-of-way under the control of the Indiana Department of Transportation (“INDOT”), the City must provide written consent to the wireless provider’s application for an INDOT permit, if required.
- c. Applications required by this Article are filed with the Administrator on forms provided by the Administrator in the number and manner designated. The applicant may designate portions of the application containing proprietary or confidential information by clearly marking each such page as “proprietary” or “confidential.” The City endeavors to protect the designated materials from public disclosure to the fullest extent permitted by State law.

Solar Energy Conservation System: Any system designed to convert solar energy into electricity for the purpose of selling the electricity at wholesale and for use in locations other than where it is generated. Solar panels, collection and feeder lines, generation tie lines, substations, ancillary buildings, solar monitoring stations, and related accessory structures are all considered to be a part of the system. A large-scale solar energy system must comply with all applicable local, state, and federal codes, including the State of Indiana Uniform Building Code and the National Electric Code. Systems with a nameplate capacity less than 10 megawatts are not considered a commercial Solar Energy Conservation System. Large-scale solar energy systems, where permitted, must meet the requirements of this Article.

1. Setbacks. Large-scale solar arrays must meet the zoning district setback requirements. The setback distance is measured from the edge of the solar array to the property line.
2. Separation from a Nonparticipating Property.
 - a. If the separation provided between a solar panel and the outer wall of a dwelling located on a nonparticipating property is 250 feet or less, a landscape buffer is required. If the separation provided is greater than 250 feet no landscape buffer is required.
 - b. The separation and/or buffering requirements above may be waived or modified upon written consent of the owner of each affected nonparticipating property.
3. Height. The solar panels cannot exceed a height of 25 feet when the arrays are at full tilt.
4. Vegetation Requirements. Perennial vegetated ground cover must be planted, established, and maintained around and under solar panels and within any required landscape buffers. Pollinator-friendly vegetative cover is encouraged.
 - a. To the maximum extent feasible for the site conditions, the ground cover should be a diverse seed mix of native species specific to the local area. The applicant should seek guidance from a Landscape Architect, the Soil and Water Conservation District office, or the Indiana Native Plant Society.
 - b. The owner/operator must maintain the ground cover removing invasive or noxious plant species identified by the Indiana Invasive Species Council without harming perennial vegetation.
 - c. Solar energy systems proposing to install, establish, and maintain pollinator-friendly vegetative cover must demonstrate the quality of their habitat by using guides such as Purdue University 2020 Indiana Solar Site Pollinator Habitat Planning Scorecard, or other

third party solar-pollinator scorecards designed for Midwestern ecosystems, soils, and habitat.

- d. Projects certified and maintained as pollinator-friendly compliant are exempt from landscaping requirements and post-construction stormwater management controls that may be otherwise required under the City's development regulations, unless required due to written commitments or conditions of approval.
5. Fencing. A large-scale solar energy system must be completely enclosed with fencing at least 6 feet high. Barbed wire or agricultural woven wire fencing are not permitted as perimeter fencing for the site. Barbed wire fencing is permitted where needed for security at substations and switchyards or where required by applicable codes (e.g. National Electrical Code or Indiana Uniform Building Code).
6. Underground Cables. All cables up to 34.5 kilovolts located between inverter locations and project substations must be buried underground at a depth of at least 36 inches. Module-to-module collection cables, transmission lines, substations, junction boxes, and other typical aboveground infrastructure may be located above ground. Cables and lines located outside of the solar energy system site may be located: (a) above ground or (b) cables or lines up to 34.5 kilovolts may be buried underground at a depth of at least 48 inches.
7. Glare. A large-scale solar energy system must be designed and constructed to minimize glare on adjacent properties and roadways and not interfere with vehicular traffic, including air traffic.
8. Signal Interference. A large-scale solar energy system must be designed and constructed to minimize and mitigate impacts to television signals, microwave signals, agricultural global positioning systems, military defense radar, radio reception, or weather and doppler radar.
9. Sound. The applicant of a large-scale solar energy system must demonstrate the operation of the system will not exceed an hourly average sound level of 50 A-weighted decibels at the outer wall of a dwelling unit located on an adjacent nonparticipating property. This requirement may be waived or modified upon written consent of the owner of each affected nonparticipating property.
10. Foundations. The application for building permits must include a certification by a qualified engineer that the design of the solar panel racking and support is within accepted professional standards, given local soil and climate conditions.
11. Stormwater Requirements. A large-scale solar energy system is subject to stormwater management and erosion and sediment control provisions and Nonpoint Pollution Discharge Elimination System (NPDES) permit requirements. Solar collectors are not considered impervious surfaces if the project complies with the Vegetation Requirements above.
12. Site Plan Required. Site plan approval is required for large-scale solar energy systems per [8.6 Site Plan Review](#). The site plan must show the locations of all solar arrays, electric equipment, and all other solar energy system components relevant to a review of the site.
13. Decommissioning. A decommissioning and site restoration plan and a financial surety are required to ensure that facilities are properly removed after their useful life.
 - a. The surety must be for an amount equal to the estimated cost of decommissioning the solar energy system as calculated by a third-party licensed engineer or person with suitable experience decommissioning solar energy systems, as agreed upon by the project owner and the County. The required surety may be posted in increments as follows:

- i. An amount equal to 25% of the total estimated decommissioning costs posted no later than the start date of the system's full commercial operation.
 - ii. An amount equal to 50% of the total estimated decommissioning costs posted no later than the 5th anniversary of the start date of the system's full commercial operation.
 - iii. An amount equal to 100% of the total estimated decommissioning costs posted no later than the 10th anniversary of the start date of the system's full commercial operation.
 - iv. The total estimated decommissioning costs must be reevaluated by a third-party licensed engineer or person with suitable experience, as noted above, in connection with the surety required at the 10th anniversary of the start date of the system's full commercial operation. Such reevaluation is required at least once every 5 year period after the 10th anniversary of the start date of the system's full commercial operation. The total amount of the surety posted must be adjusted as necessary after each reevaluation.
 - v. The total estimated decommissioning costs may be net of any estimated salvage value attributable to the system at the time of decommissioning.
- b. The decommissioning and site restoration plan must identify the provisions for removing all structures, foundations, roads, gravel areas, and cables associated with the project to a depth of at least 36 inches. The ground must be restored to a condition reasonably similar to the condition before the start of construction activities for the solar energy system.
 - c. The owner must provide the Legislative Body and the County with written notice of the owner's intent to decommission at least 60 days prior to discontinuing commercial operation. After the discontinuation of commercial operation, the decommissioning and site restoration plan is implemented.
 - d. If the solar energy system does not generate electricity for 18 consecutive months, it is considered abandoned. All solar energy system components must be removed by the owner within 1 year of the date of abandonment.
 - e. If the owner fails to remove all of the solar energy system components within 1 year after the proposed date of the final decommissioning or date of abandonment, the Legislative Body may engage qualified contractors to enter the project site, remove the system components, sell any components removed, and remediate the site. The Legislative Body may initiate proceedings to recover any costs incurred.

Solid Waste Facility: An establishment in which municipal solid waste is collected, separated by material, compacted, baled, or packaged for shipment to others for the manufacture of new products or for disposal. No manufacturing, remanufacturing, fabrication, or processing of new products occurs in this facility. This use may include a waste transfer station. A Solid Waste Facility must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Telecommunications Facilities: The plant, equipment, and property, including cables, wires, conduits, ducts, pedestals, antennas, towers, electronics, and other appurtenances used to transmit, receive, distribute, provide, or offer telecommunications services.

1. All cell towers and wireless communications facilities must comply with the provisions of this article. Approvals granted are not effective until the applicant and the City have a written agreement setting the terms and conditions to occupy and use any public rights-of-way or facilities. Approvals do not confer any exclusive right, privilege, license, or franchise to public rights-of-way or facilities unless specifically established in the written agreement.
2. All telecommunication towers exceeding 35 feet require special exception approval in all zoning districts.
3. The facilities listed below are exempt from the provisions of this article unless they are located within a recognized historic district. In historic districts, all Telecommunication Facilities require special exception approval.
 - A single ground- or building-mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying a residential parcel where the radio or television antenna is located; with an antenna height not exceeding 25 feet;
 - A ground- or building-mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed 35 feet;
 - A ground-, building-, or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the amateur radio service, if the height (post and antenna) does not exceed 35 feet;
 - A ground- or building-mounted receive-only radio or television satellite dish antenna, which does not exceed 24 inches in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of the dish does not exceed the height of the ridgeline of the primary building on the parcel;
 - All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of the adoption of this Ordinance;
 - Mobile services providing public information coverage of news events of a temporary nature;
 - Handheld devices such as cell phones, business band mobile radios, walkie talkies, cordless telephones, garage door openers and similar devices as determined by the Administrator or designated agent; and
 - Government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights not exceeding 35 feet.
4. For purposes of [IC 8-1-32-3](#) and [Section 332\(c\)\(7\)\(B\) of the Federal Telecommunications Act of 1996](#) as in effect on July 1, 2015, the BZA will exercise the authority to conduct hearings, to make decisions, and to approve the issuance or denial of Improvement Location Permits (except for co-location) under this chapter. The Administrator will exercise the authority to review applications for completeness, within the meaning of [IC 36-7-4-1109](#), and to issue Improvement Location Permit's under this chapter.
5. The Administrator reviews the completeness of applications to construct or modify wireless facilities. Within 10 business days of filing, the Administrator will notify the applicant if the application is complete and if a public hearing will be required. If no public hearing is required,

- the Administrator acts on the request. When a public hearing is required, the BZA conducts the hearing and acts on the request.
6. To be considered complete, the application must contain the information listed below. Applications requesting co-location only are required to provide the information in a, b, c, and d:
 - f. A statement that the applicant either provides wireless communications service or owns/provides infrastructure required for such service.
 - g. The name, business address, and point of contact of the applicant.
 - h. The location of the proposed or affected wireless support structure or wireless facility.
 - i. A construction plan conforming with all applicable Building Code requirements.
 - j. Evidence showing the application complies with the criteria for a special exception.
 - k. For applications requesting approval for the construction of a new wireless support structure:
 - (i) a construction plan describing the proposed wireless support structure and all equipment and network components, (ii) evidence supporting the proposed location, and (iii) a sworn statement from the individual responsible for the proposed location demonstrating co-location of wireless facilities on an existing wireless support structure is not a viable option because co-location:
 - Would not result in the same wireless service functionality, coverage, and capacity;
 - Is technically infeasible; or
 - Is an economic burden to the applicant.
 - l. For applications requesting modification of a wireless support structure, a construction plan describing the proposed modifications to the affected wireless support structure and all equipment and network components.
 7. Failure by the Administrator to timely notify an applicant of an application's completeness is a nonfinal zoning decision, and the applicant is entitled to expedited judicial review of the nonfinal zoning decision.
 8. Deadlines for Final Action
 - a. For applications for co-location only, final action must occur within 45 days of the date the applicant is notified the application is complete. This type of application does not require a public hearing, but the Administrator reviews the application for compliance with applicable code requirements before issuing the Improvement Location Permit.
 - b. For applications to construct a new wireless support structure or substantially modify a wireless support structure, final action must occur within 90 days of the date the applicant is notified the application is complete, or within 120 days if special exception or variance approval is necessary.
 - c. If an applicant requesting additional time to amend its application agrees to a continuance, the time periods prescribed above are extended for a corresponding amount of time. Failure by the Administrator or BZA to take final action within the required period is a nonfinal zoning decision, and the applicant is entitled to expedited judicial review of the nonfinal zoning decision.

9. The following provisions apply to all applications submitted under this chapter:
 - a. The Administrator and BZA must comply with all applicable provisions of Section 332(c)(7)(B) of the [Federal Telecommunications Act of 1996](#) as in effect on July 1, 2015, and Section 6409(a) of the [Middle Class Tax Relief and Job Creation Act of 2012](#) as in effect on July 1, 2015.
 - b. Neither the Administrator nor BZA may require an applicant to submit information about or evaluate an applicant's business decisions regarding the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.
 - c. Neither the Administrator nor BZA may release to the public any records required to be kept confidential under federal or state law, including the trade secrets of applicants, as provided in the [Access to Public Records Act \(IC 5-14-3\)](#) and other applicable laws.
 - d. The BZA must not impose a fall zone requirement larger than the area where the wireless support structure is designed to collapse per the applicant's engineering certification for the structure, unless evidence submitted by a professional engineer demonstrates the applicant's engineering certification is flawed.
 - e. The Administrator or BZA must not require or impose conditions regarding the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.
 - f. Application fees must be the same or similar to fees for applications for similar types of commercial or industrial development. Fees imposed by a third-party providing review assistance to the Administrator or BZA must be based on actual, direct, and reasonable costs incurred for the review, processing, and hearing of the application, and may not include travel expenses incurred by the third-party in its review of an application or direct payment or reimbursement of third-party fees charged on a contingency basis.
10. All Communication Facilities must meet the following requirements:
 - a. The height of the antenna support structure cannot exceed 200 feet.
 - b. The antenna support structure must be set back a minimum of 40 feet from the property line unless the adjoining parcel is zoned or used for a residential use, in which case the minimum setback equals the height of the support structure.
 - c. Except as required by the Federal Aviation Administration or Federal Communications Commission, the antenna support structure cannot be artificially illuminated and cannot display strobe lights.
 - d. Signs or advertising is prohibited upon an antenna support structure and associated equipment structures.
 - e. The support structure and any antenna located on the support structure must be designed to blend into the surrounding environment using color and camouflaging architectural treatment.
 - f. All utility buildings and structures accessory to the antenna support structure must be architecturally designed to blend into the surrounding area.
 - g. All communication facilities must be designed to accommodate the user's equipment and the equipment of at least 2 additional service providers.

- h. A qualified and licensed engineer must approve the design of the antenna support structure and certify its construction complies with the requirements of this Article.
 - i. All applications must include a notarized letter of intent committing the antenna support structure owner or lessee on behalf of themselves and their successors in interest that the antenna support structure must be shared with additional users if the additional user agrees to meet reasonable terms and conditions of shared use.
 - j. Transmissions from a communication facility cannot interfere with any existing public safety communications.
 - k. Communication facilities or their related improvements cannot be sited in a manner that:
 - Creates a significant threat to the health or survival of rare, threatened, or endangered plant or animal species;
 - Damages an archaeological site or has an adverse effect on the historic character of a historic or cultural resource; or
 - Threatens the health or safety of migratory birds.
 - l. Potential adverse impacts to nearby public use areas such as parks or trails must be minimized.
11. If a wireless communication facility structure is abandoned or remains unused for a period of 6 months, the owner must remove the structure and all associated facilities from the site. Such removal must be completed within 12 months of the cessation of site operations. If a structure is not removed within the required time, the Administrator may remove the structure and associated facilities. The cost of the removal is the responsibility of the owner of the parcel.

Transportation Services: Passenger services provided by public, private, or non-profit entities using modes such as express buses, minibuses, or vans. A Transportation Services use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Truck Freight Terminal/Distribution Center: Any premises used by a motor freight company as a carrier of goods, that is the origin or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading goods, but excluding loading and unloading of freight accessory to an otherwise permitted use on the site. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Vehicle Storage, Commercial: Establishments primarily engaged in the assembling or standing of operable vehicles for periods of more than one day. Such use does not include the storage of damaged, dismantled, or impounded vehicles. This land use need not be enclosed. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Wholesale Trade or Storage, General: Establishments primarily engaged in one or more of the following activities: Selling durable and nondurable goods to retailers, to industrial, commercial, institutional, farm, or building trade contractors; to professional businesses; or to other wholesalers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots; the sale at wholesale and/or storage or warehousing of toxic and/or hazardous materials;

providing support services primarily to other businesses. Operations with more than 25 percent of sales to retail customers are categorized as “retail sales” rather than as “wholesale trade” uses. This use excludes self-storage facilities. This use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.

Wholesale Trade or Storage, Light: Establishments primarily engaged in selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, building trade contractors; to professional business uses; or to other wholesalers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots in such a way as to have a minimal impact on surrounding properties, excluding the sale at wholesale and/or storage or warehousing of toxic and/or hazardous materials.

Wind Energy Conservation System: Any mechanism including blades, rotors and other moving surfaces designed for the purpose of converting wind into mechanical or electrical power. Commercial Wind Energy Conversion Systems (WECS) must meet the following requirements:

1. WECS must conform to all industry standards. The applicant must submit certificates the wind turbine manufacturers have obtained from Underwriters Laboratories or an equivalent third party.
2. WECS must be:
 - a. Installed on a certified tubular free-standing tower, a lattice tower, or a monopole tower. Towers may be guyed or self-supporting.
 - b. Filtered, shielded, or otherwise designed and constructed to not cause electro-magnetic interference.
 - c. Grounded to protect against lightning strikes.
 - d. Designed with automatic over speed control to render the system inoperable when winds are blowing at higher speeds than the machine’s capability.
 - e. Equipped with a redundant braking system, including both aerodynamic over speed controls and mechanical brakes. Mechanical brakes must be operated in a fail-safe mode. Stall regulation is not a sufficient braking system for over speed protection.
 - f. Designed with automatic and manual controls that will render the system inoperable in case of loss of utility power to prevent the WECS from supplying power to a de-energized electrical distribution grid.
 - g. Designed to meet the requirements for interconnection and operation as mandated by the utility managing the electrical grid where the WECS is connecting. All structures, substations, feeder lines, facilities, and accessory equipment must comply with the National Electrical Code and operate per the electrical utility’s service regulations applicable to WECS.
3. The WECS owner and operator must make reasonable efforts to minimize shadow flicker to any occupied building on a nonparticipating landowner’s property.
4. All lighting, including lighting intensity and frequency of strobe, must adhere to but not exceed the requirements established by the Federal Aviation Administration (FAA) permits and regulations. Except for lighting required by the FAA, lighting must be shielded so that no glare extends beyond the WECS.

5. At least 20 feet of clearance is required between the ground and the lowest point of the arc of any protruding blades utilized on a WECS. This minimum clearance may be increased to provide additional clearance where oversized vehicles may travel.
6. The maximum tower height and maximum total height cannot exceed the maximum height permitted by the FAA.
7. Wind turbines must be setback from the property line of any nonparticipating property a distance equal to 110% of the device's blade tip height. This setback requirement may be waived or modified upon written consent of the owner of each affected nonparticipating property.
8. A minimum separation equal to 3 times the device's blade tip height is required between the vertical centerline of the base of the wind power device to the nearest wall of a dwelling located on a nonparticipating property. This separation requirement may be waived or modified upon written consent of the owner of each affected nonparticipating property.
9. Wind turbines must be setback from the nearest edge of the right-of-way for any utility transmission or distribution line a distance equal to 120% of the device's blade tip height.
10. Wind turbines must be setback from the property line of any undeveloped land zoned or platted for residential use a distance equal to 200% of the device's blade tip height.
11. A minimum separation of 1 mile is required between a wind turbine and the property line of a state park.
12. A minimum separation of 1 mile is required between a wind turbine and the corporate boundary of any municipality within the county. The municipality may waive this separation requirement.
13. No new structure may be constructed within 800 feet of a wind turbine unless this requirement is waived by the Plan Commission upon a determination that the structure will not affect the WECS performance. Accessory structures associated with the WECS must meet the setbacks for primary structures for the zoning district where they are located.
14. WECS must be white, light gray, or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes must be matte or non-reflective and meet Federal Aviation Administration color requirements. No advertising or signage is allowed on a WECS.
15. For all guyed towers, visible and reflective objects (such as plastic sleeves, reflectors, or tape) are required on the guy wire anchor points and along the outer- and innermost guy wires to a height at least 8 feet above the finish grade.
16. WECS must be designed and constructed to minimize and mitigate impacts to television signals, microwave signals, agricultural global positioning systems, military defense radar, radio reception, or weather and doppler radar.
17. The applicant of a WECS must demonstrate the operation of the system will not exceed an hourly average sound level of 50 A-weighted decibels at the outer wall of a dwelling unit located on an adjacent nonparticipating property. This requirement may be waived or modified upon written consent of the owner of each affected nonparticipating property.
18. WECS are subject to the Municipality's stormwater management, erosion, and sediment control provisions and Nonpoint Pollution Discharge Elimination System (NPDES) permit requirements and all applicable local, state, and federal regulatory codes, including the State of Indiana Uniform Building Code, as amended, and the National Electric Code, as amended.

19. Site Plan Approval Required. A WECS requires site plan approval by the Plan Commission. In addition to the site plan requirements of [8.6 Site Plan Review](#), the application must include a description of the project addressing: the number and type of turbines, generating capacity, tower design and height, blade arc diameter, total height, means of connection with the electrical grid, potential equipment manufacturers, and all related accessory structures. The site plan must show the location of all underground utility lines associated with the WECS project. The manufacturer's engineer or another qualified professional engineer must certify that the turbine, foundation, and tower design are within accepted professional standards given local soil and climate conditions. If there is an existing WECS within one mile of the proposed WECS, a description of the potential impacts on the existing WECS and wind resources on adjacent properties is required.
20. Several WECS projects may be submitted as a single application and reviewed under joint proceedings, including notices, hearings, reviews, and approvals.
21. Modification. Any physical modification to a WECS that alters the mechanical load, mechanical load path, or major electrical components requires new site plan approval prior to making any physical modifications. Like-kind replacements are considered maintenance and do not require site plan approval.
22. Decommissioning. A decommissioning and site restoration plan and a financial surety are required to ensure that facilities are properly removed after their useful life.
 - a. The surety must be for an amount equal to the estimated cost of decommissioning the WECS as calculated by a third-party licensed engineer or person with suitable experience decommissioning WECS, as agreed upon by the project owner and the County. The required surety may be posted in increments as follows:
 - i. An amount equal to 25% of the total estimated decommissioning costs posted no later than the start date of the system's full commercial operation.
 - ii. An amount equal to 50% of the total estimated decommissioning costs posted no later than the 15th anniversary of the start date of the system's full commercial operation.
 - iii. An amount equal to 100% of the total estimated decommissioning costs posted no later than the 20th anniversary of the start date of the system's full commercial operation.
 - iv. The total estimated decommissioning costs must be reevaluated by a third-party licensed engineer or person with suitable experience, as noted above, in connection with the surety required at the 5th anniversary of the start date of the system's full commercial operation. Such reevaluation is required at least once every 5-year period after the 5th anniversary of the start date of the system's full commercial operation. The total amount of the surety posted must be adjusted as necessary after each reevaluation.
 - v. The total estimated decommissioning costs may be net of any estimated salvage value attributable to the system at the time of decommissioning.
 - b. The decommissioning and site restoration plan must identify the provisions for removing all structures, foundations, roads, gravel areas, and cables associated with the project to a depth of at least 36 inches. The ground must be restored to a condition reasonably similar to the condition before the start of construction activities for the WECS.
 - c. The owner must provide the Legislative Body and the County with written notice of the owner's intent to decommission at least 60 days prior to discontinuing commercial

operation. After the discontinuation of commercial operation, the decommissioning and site restoration plan is implemented.

- d. If the WECS does not generate electricity for 18 consecutive months, it is considered abandoned. All WECS components must be removed by the owner within 1 year of the date of abandonment.
- e. If the owner fails to remove all of the WECS components within 1 year after the proposed date of the final decommissioning or date of abandonment, the Legislative Body may engage qualified contractors to enter the project site, remove the system components, sell any components removed, and remediate the site. The Legislative Body may initiate proceedings to recover any costs incurred.

E. AGRICULTURE PRIMARY USES

Agricultural Uses – Animal Related: Commercial agricultural activities involving the production of animals and the preparation of products for human use, including dairying, poultry, livestock, or aquaculture, but excluding meat processing and packaging operations.

Agricultural Uses – Non-Animal Related: Agricultural and farming activities involving the production and reparation of plants for human use, including horticulture, nurseries, forestry, sugar making, viticulture, grains and seed crops, fruits and vegetables, greenhouse applications, and lands devoted to soil conservation and forestry management; all these uses exclude the processing and packaging of plants, except for viticulture operations and small-scale marketing of processed fruit products, as in fruit markets.

Agricultural Product Sales and Storage: A primary use engaged in the sale or rental of farm tools and equipment, grain, tack, animal care products, and farm supplies. This use includes the sale of large farm implements, such as tractor and combines. Food sales and farm machinery repair services incidental to the primary use are permitted.

Agritourism: Any activity incidental to the operation of a farm that brings members of the public to the farm for educational, recreational, or entertainment purposes, to view or enjoy rural activities, including farming, ranching, historical, cultural, harvest-your-own activities, or natural activities or attractions. Activities may include farm tours and education programs, corn mazes and hayrides, or overnight accommodations on a farm or ranch.

Confined Feeding Operation: (a) Any confined feeding of at least 300 cattle, 600 swine or sheep, 30,000 fowl, or 500 horses or (b) any Animal Feeding Operation defined in [327 IAC 19-2-3](#) electing to be subject to [IC 13-18-10](#) or that is causing a violation of water pollution control laws, any rules established under [IC 13-13-8](#), or the provisions of [IC 13-18-10](#). For purposes of this definition, "confined feeding" means the feeding of animals in lots, pens, ponds, sheds, or buildings where animals are confined, fed, and maintained for at least 45 days during any 12-month period and where ground cover or vegetation is not sustained over at least 50% of the animal confinement area. The term excludes: (1) a livestock market under state or federal inspection where animals are assembled from multiple sources to be publicly auctioned or privately sold on a commission basis, or (2) a livestock sale barn or auction market where animals are kept for not more than 10 days.

1. Site Plan approval by the Plan Commission is required prior to constructing or operating a new Confined Feeding Operation (CFO) or expanding an existing CFO.
2. Minimum Setbacks. A minimum setback of 250 feet is required for all yards. The setback is measured from the property line to the nearest point of the CFO operations (e.g., a building, feed lot, etc.).

- 3. Minimum Road Frontage. The minimum road frontage is 150 feet.
- 4. Permitted Entrances. A CFO site may have up to 2 entrances. Entrances must meet [5.7\(F\)\(6\) Access Point](#) requirements. If an entrance is on a State Highway or State Road, a driveway permit from INDOT must be obtained prior to constructing the entrances.
- 5. Minimum Separation Distances

a. A CFO must be located to meet the following minimum separation distances from non-residential uses:

Min. Separation	Use
5,280 feet	School or educational institution
2,640 feet	Place of worship or religious institution
500 feet	Open legal drain, stream, or river (without a 20-foot filter strip)
300 feet	Open legal drain, stream, or river (with a 20-foot filter strip)
500 feet	Water well (other than the one servicing the CFO)
2,640 feet	High Employment Centers (100+ full-time equivalent employees)
2,640 feet	Business or commercial use (not otherwise specified above)

b. A CFO must meet the following minimum separation distances from residential uses. For a residential dwelling unit not located on the proposed site the applicable separation distances are:

- Foundation to Foundation: At least 2,640 feet measured from the foundation of the CFO structure to foundation of the residential dwelling unit. This separation distance may be reduced to not less than 1,320 feet with the use of odor mitigation tactics listed below.
- Property line to Property Line: At least 1,320 feet measured from the property line of the CFO parcel to the property line of the parcel containing the residential dwelling unit. This separation distance may be reduced to not less than 660 feet with use of odor mitigation tactics listed below.
- Calculation of Separation Reduction: The separation distance may be reduced by using odor mitigation tactics. The reduction is calculated by multiplying the number of mitigation tactics used by 0.125 and then multiplying that product times the required separation distance. The maximum reduction is 50% of the required separation distance.

c. Odor Mitigation Tactics

- Deep pit – Minimum 14-month storage pit pumped once per year.

- Berm and vegetation screens – Combination of berm and vegetation screen around perimeter of site.
 - Dietary program – Diet changed every 21 days to minimize nutrient excretion into pit.
 - Power washing – Animal barns washed and cleaned every 6 months to minimize dust particles that carry odor.
 - Slatted floors – Animals stay clean and reduces manure build up that creates odor.
 - Pit additives – Chemicals or biologicals that reduce omission of odor by reducing pH levels.
 - Solid-liquid separation – Separating urea from solid fecal matter mechanically or with sedimentation basin.
 - Air treatment – Trapping air vented and treating prior to discharge to atmosphere.
 - Anaerobic digester – Process by which microorganisms breakdown biodegradable material in the absence of oxygen.
6. **Truck Turnaround.** A cul-de-sac, T-shaped turnaround area, or internal circulation system must be provided to prevent semi-trailers from backing onto a road. This area must have an all-weather surface with adequate dimensions for a semi-trailer to turn around on the site to prevent mud from being deposited on public roads.

Fertilizer Storage and Distribution: An establishment that stores, distributes, and sells fertilizers primarily for agricultural crop production use.

Grain and Feed Mills: An establishment that produces food, including premixes, supplements, and concentrates, for animal (non-human) consumption from grain, grain byproducts, or alfalfa and other ingredients, without cooking.

Plant Nursery/Greenhouse: An agricultural use in which plants are grown, cultivated, produced, or managed for the on-site or off-site sale of such plants or their products, or for their use in any other business, research, or commerce. Other customarily incidental products may be sold with the plants. Examples of plant nursery uses include: wholesale or retail plant nurseries with greenhouses or garden stores; retail nurseries where plant inventory and related plant products are sold, but which may not be grown or produced on-site; tree farms; vineyards and orchards; flower farms; field nurseries; and sod farms. Plant nursery uses do not include forestry or logging uses, or the keeping of animals or livestock except where expressly permitted as an accessory use.

Riding Stables and Academies: An establishment offering horses for hire or instruction in horsemanship.

Roadside Produce Stand: A structure for the display and sale of agricultural products grown on the site, with no space for customers within the structure itself. Roadside sales stands are limited to fresh or canned produce, jams, and other edible products grown by the property owner.

Roadside Produce Stand – Permanent: A permanent structure, operated on a seasonal or year-round basis, allowing local agricultural producers to retail their products and agriculture-related items directly to consumers and enhance income through value-added products.

Roadside Produce Stand - Temporary A non-permanent structure (tent or table), operated on a seasonal basis which allows for local agricultural producers to retail their products and agriculture-related items directly to consumers and enhance income through value-added products.

Sale Barn for Livestock: Establishments where the public may consign livestock for sale by auction open to public bidding or sold on a commission basis. It does not include breed or livestock associations operating subject to and in compliance with the provisions of the Future Farmer and 4-H groups, auction sales conducted in conjunction with county, state or private fairs, or auction sales conducted for a person whose livestock are sold on premises of the person.

Slaughterhouse: A facility for the slaughtering and processing of animals and the refining of their byproducts.

Sylviculture: The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands to sustainably meet the diverse needs and values of landowners and society.

3.4 Temporary Uses, Events and Structures

All Temporary Uses, Events and Structures must comply with this article.

A. Unless otherwise provided, temporary uses, events and structures require a Temporary Use permit according to this section. Approval by the City Council is required for activities within the right-of-way.

B. The following events are exempt from the provisions of this chapter:

- Events hosted on an individual homeowner's property (e.g. garage sales, estate sales, private parties).
- Government-sponsored events as approved by the City Council.
- Events held on public park property that are part of the recreation program of the City.
- Non-incorporated children's stands, such as a lemonade stand.

C. **General Standards**

1. The Administrator may limit the location for traffic flow or public safety reasons.
2. All temporary structures must meet the setbacks for the zoning district where they are being installed.
3. Goods and display materials must be stored inside a structure during non-event hours.
4. The required parking for the primary use must not be negatively impacted by the temporary use or event. Additional parking may be required if the temporary use or event increases the need for parking.
5. Temporary uses and events must not impede pedestrian traffic nor force pedestrians into vehicle traffic lanes.
6. All equipment, materials, goods, poles, wires, and other items associated with the use or event must be removed within 2 days of the conclusion of the temporary use or event.
7. All temporary events must conform to all State and County Health Department regulations and codes.

D. The Administrator will issue a temporary improvement location permit, according to applicable provisions of this article, for a temporary construction trailer or sales office structure only when used in conjunction with construction work taking place on the site. A trailer or structure used for this purpose must be removed within 30 days of the completion of construction work.

E. Temporary Use Permit

1. Application. Applications for a temporary use and/or event permit are made in writing on forms provided by the Department at least 30 days prior to the scheduled event. Within 5 business days of the permit application, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Within 10 business days of the permit application, the Administrator will issue a permit for applications meeting the permit requirements or notify the applicant of the areas where the permit application does not comply with the permit requirements.
2. Supporting Documentation. Applications must include:
 - a. The name under which the business is to be conducted, and the name, address, and telephone number of the person making the application,
 - b. A written statement describing the requested use, operations plan, traffic control, and the proposed period, and
 - c. A sketch plan showing the locations of proposed activity areas in relation to property lines and existing buildings and structures, pedestrian and vehicular circulation on the site, and parking facilities.
 - d. If a permit for encroaching into any right-of-way is required, a copy of the encroachment request must be submitted with the temporary use/event permit application.
 - e. If alcohol is sold or consumed, then proof of appropriate permits from the State of Indiana, Alcohol and Tobacco Commission is required. If cooking or eating is involved in a temporary event, outdoor café, or some other eating area, then proof of review and approval from the County Health Department must be required with the application.
 - f. If a mobile merchant, a physical description of the building or structure, vehicle, cart, or stand for which the permit is desired,
 - g. If the temporary use or event will take place on public property, a certificate of liability insurance insuring the applicant and naming the City as an additional insured with minimum coverages for personal injury of \$100,000 per person and \$300,000 per accident and property damage of \$50,000 per property and \$100,000 per accident. The applicant agrees to indemnify and hold harmless the City for losses or expenses arising out of the operation of any Mobile Merchant Activity.
3. Exemption. Garage sales that meet the following requirements do not require a Temporary Use Permit:
 - a. A maximum of 2 garage sales per year are permitted at the same location. The maximum duration of a garage sale is 3 consecutive days.
 - b. A garage sale cannot be conducted: (1) within the travel portion of any street or alley, or within any median, while the street or alley is open to vehicle traffic, or (2) on any public sidewalk or right-of-way impeding pedestrian traffic.
 - c. If a garage sale is advertised using signs, the signs must comply with [6.4 Signage](#).



Chapter 4

General Standards

Regulations that apply to all districts and uses

4.1	PRINCIPLES AND STANDARDS	3
4.2	ACCESSORY USES AND STRUCTURES	4
4.3	BUILDINGS	12
4.4	HEIGHT	12
4.5	LOTS.....	13
4.6	PERFORMANCE STANDARDS.....	13
4.7	PROPERTY MAINTENANCE	14
4.8	ABANDONED BUILDINGS	15
4.9	SETBACKS	17
4.10	VISION CLEARANCE	18
4.11	YARDS	18

4.1 Principles and Standards

- A. **Conformance.** Improvement Location Permits (ILP), site plans, and subdivisions must conform to the principles and standards established by this Ordinance. When reviewing plat, site plan, and ILP applications, the Plan Commission or Administrator, as applicable, determines if the plat or site plan conforms to the principles and standards required in this chapter.
- B. **Natural Design.** When subdividing land or developing a site, regard must be shown for natural features such as wooded areas, watercourses, historic sites, or similar conditions which, if preserved, add attractiveness and value to the proposed development.
- C. **Environmental Protection.** Consideration must be given to preventing air and water pollution, proper treatment and disposal of refuse and other waste, and eliminating blighting characteristics.
- D. **Sanitary Sewers and Public Water Supply.** Subdivisions and new developments are required to have public sanitary sewers and public water supply in all zoning districts except the Agriculture and Heavy Agriculture Districts. Waivers of this requirement may only be granted by the City Council.
- E. **Layout.** The layout cannot be injurious to the health, safety, or welfare of the community.
- F. **Construction Standards.** All site plans and subdivision plats must conform to City Construction Standards.
- G. The applicant is responsible for installing all required public improvements at the applicant's expense without reimbursement, unless otherwise agreed upon in writing by the City Council. The applicant is required to maintain all public improvements and provide for snow removal on streets and sidewalks until the public improvements are accepted by the City Council.

4.2 Accessory Uses and Structures

A. Accessory uses and structures are permitted in each zoning district when the Administrator determines:

- The use or structure is incidental to the permitted principal use, and
- the use or structure is consistent with the intent of the zoning district where it is located.

B. **Setbacks.** Accessory buildings for residential uses in Residential Districts must be set back at least 10 feet behind the front facade of the principal building. An accessory building 200 square feet or smaller must be at least 5 feet from the side and rear lot lines and located outside of all easements. An accessory building over 200 square feet must meet the minimum setbacks for principal buildings, except as otherwise established by this article.

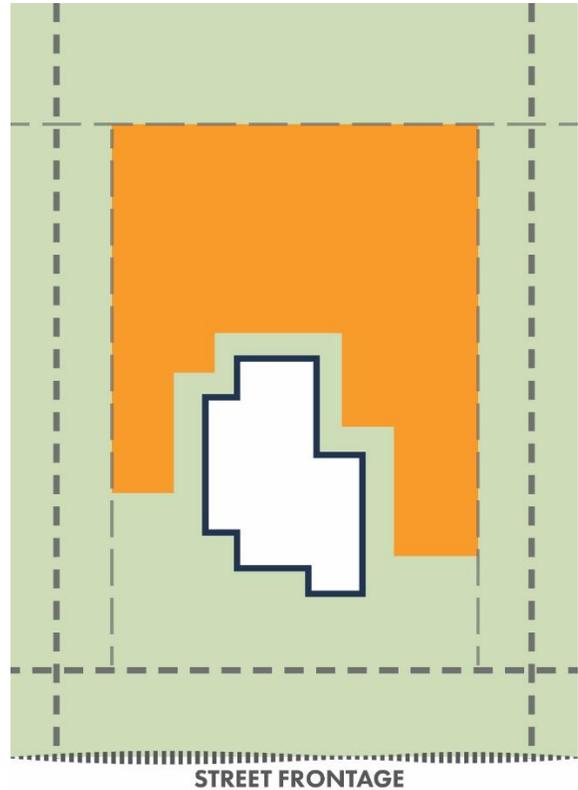
C. **Timing.** Accessory buildings cannot be constructed until construction of the principal building has begun. Accessory buildings cannot be occupied or utilized unless the principal building is first legally occupied for a permitted use within the applicable zoning district. The construction of an accessory building must be completed either:

- Within one year of the issuance of a building permit, if such permit is obtained individually, or
- Within one year of the completion of construction of the principal building if the accessory building's building permit is obtained as part of the building permit for the principal building.

D. Property owners should refer to any applicable Declaration of Covenants, Conditions, and Restrictions that may impose greater restrictions than are found in this Ordinance. This Ordinance does not abrogate any private covenants that may apply to property. Likewise, approval of any addition or improvement pursuant to private covenants does not act as a waiver of any requirements contained in this Ordinance.

E. Accessory Dwelling Unit

1. An accessory dwelling unit is permitted within a single-family detached dwelling or as a separate dwelling unit on the same lot or parcel with a principal dwelling unit.
2. No more than one accessory dwelling unit is permitted on any lot or parcel.
3. The accessory dwelling unit must share the same sewage disposal and water supply systems as the principal dwelling unit.
4. An accessory dwelling unit cannot exceed 50% of the square footage of the principal dwelling unit.



The shaded area is permitted placement for an accessory structure, set 10' back from the primary structure facade.

5. No new access points or driveways may be created or installed on the abutting street for vehicular access to the accessory dwelling unit.
 6. If separated from the principal dwelling unit, the accessory dwelling must meet all setback requirements of the principal building and cannot exceed 25 feet high.
 7. As a condition of approval, the owner must prepare a deed restriction or other legal instrument to be reviewed and approved by the Administrator. Following approval by the Administrator, the applicant records the instrument with the County Recorder and provides a copy to the Administrator. The instrument must include a statement that the principal dwelling and the accessory dwelling will remain in the same ownership, unless the dwellings can be subdivided into individual building lots, each of which complies with the requirements of the Ordinance. The Administrator will not issue a Certificate of Compliance for the accessory dwelling unit until a copy of the recorded instrument is provided to the Administrator.
- F. **Amateur Radio Standards.** Individual amateur transmitting and receiving antennae and associated support structures owned or operated by licensed amateur radio operators are permitted as accessory structures according to these provisions.
1. Amateur Radio Club and repeater station antennae and support structures are permitted to the height necessary to maintain reliable communications.
 2. Antenna structures of amateur radio operators licensed by the FCC cannot exceed 75 feet above grade. The height is measured vertically and includes the height of the building where the antenna support structure is mounted. Antenna structures exceeding 35 feet require special exception approval in all zoning districts.
 3. Antennae may be located above the antenna support structure as necessary for effective radio communications.
 4. Upon the FCC licensed operator's cessation of ownership or leasehold rights in the antenna support structure, or on loss of the operator's federal amateur radio license (whichever occurs first), the operator must safely remove all antenna support structures within 30 days at no expense to the City. If the operator fails or refuses to remove the antenna support structure, the owner of the subject lot is responsible for the removal of all such structures. Failure to remove antenna support structures is a violation of this Ordinance and subject to enforcement ([CHAPTER 9: ENFORCEMENT](#)).
 5. On residential lots, antenna support structures cannot be in a front yard. For a corner lot, the antenna cannot be located within the street side yard.
 6. Nothing in this section affects any existing antenna support structure utilized by any federally licensed amateur radio operator constructed and in place before the passage of this Ordinance.
- G. **Animals.** Keeping of farm animals (chickens, pigs, horses, goats, etc.) is prohibited within the City boundaries except in the AG district, the AH District, or the R1 District on lots 3 acres or larger.
- H. **Carports.** Carports must be consistent in design, appearance, and materials with the principal building.
- I. **Home Occupations.** A home occupation may be approved as a special exception through the BZA ([8.8 Special Exceptions](#)) when incidental to the principal use of the premises as a residence. Home occupations must not adversely affect the residential character of the district or interfere with the reasonable enjoyment of adjoining properties. Home occupations must be of a personal service nature limited to

domestic crafts and professional service. Home occupations cannot include: uses with significant visitors to the home, uses involving animals, nor uses associated with vehicle sales or repair.

1. The operator of the home occupation must be a resident of the dwelling unit.
 2. Except for agricultural districts, a home occupation must be located within the principal building and cannot be conducted in an accessory building. In agricultural districts, a home occupation may be conducted within the principal building or an accessory building.
 3. A home occupation cannot employ more than one person other than a member of the immediate family residing in the residence.
 4. Exterior alterations changing the residential appearance to a business appearance are prohibited.
 5. No more than 25% of the floor area of the principal building may be devoted to the home occupation located within the principal building.
 6. Outside storage of machinery, equipment, or materials is prohibited.
 7. An additional or separate entrance for the home occupation, if provided, must be consistent with the residential character of the dwelling.
 8. One additional off-street parking space is permitted. An additional driveway to serve the home occupation is prohibited.
 9. Display of goods or external evidence of the home occupation is prohibited, except for signs according to [6.4 Signage](#).
 10. Only stock in trade or commodities prepared, produced, or created on the premises by the operator of the home occupation, may be kept or sold on the premises.
 11. Electrical or mechanical equipment must not interfere with local radio communications and television reception nor cause fluctuation in line voltage off the premises.
- J. **Outdoor Eating Areas.** Outdoor cafes and eating areas are subject to these standards.
1. All outdoor eating areas must conform to State and County Health Department regulations and code.
 2. Music and other audio devices must be maintained at a level inaudible 40 feet from the source or 90 decibels or less when measured 6 feet from source.
 3. Outdoor eating areas must not impede pedestrian traffic or force pedestrians into vehicle travel lanes. A 5-foot pedestrian access area must be maintained on the perimeter of the outdoor café and eating area. The pedestrian access area must remain clear of obstructions. Approval by the City Engineer or City Council is required if the outdoor eating area is located within, or impacts, a public right-of-way.
 4. Outdoor eating areas used for more than 7 days in a calendar year are deemed permanent. Permanent outdoor cafes and eating areas require site plan approval to ensure compliance with this Ordinance and compatibility with the surrounding area.
- K. **Outdoor Sales Display.** An outdoor sales display is subject to these standards:
1. Any proposed outdoor display must be delineated on an approved site plan.

- a. The site plan must indicate the types of merchandise and products, location, landscaping, and other improvements of the outdoor display area.
 - b. Outdoor display areas must be compatible with the design of the building and the context of the site.
 - c. Enhanced screening or landscaping ensuring the compatibility of the proposed use with adjoining areas may be required.
 - d. Pedestrian circulation areas must not be obstructed by the outdoor display.
 - e. Prior to altering an outdoor display area, approval of a revised site plan is required.
2. The following uses are exempt from the outdoor sales display requirements:
- Automobile dealerships, and other similar uses as determined by the Administrator or Plan Commission.
 - Outdoor displays that otherwise comply with the outdoor storage standards below.
 - Merchandise associated with a temporary use or event.
- L. **Outdoor Storage in Residential Districts.** Storage or parking of recreational vehicles within residential districts is subject to the following:
1. Recreational vehicles and trailers may be parked or stored within accessory buildings. If parked or stored in the open, only one recreational vehicle or trailer is permitted on the lot. The vehicle or trailer must be stored in the side yard or rear yard without encroaching into any required side yard setback or rear yard setback.
 2. Parked or stored recreational vehicles and trailers cannot be occupied or used for living, sleeping, or housekeeping purposes for more than 14 days per year. Connections to gas, electric, water, or sanitary sewer service are prohibited.
 3. Recreational vehicles and trailers may not be stored on a right-of-way at any time except for the immediate loading and unloading of the vehicle.
 4. Nothing in this Ordinance conveys a right to violate a covenant, restriction, or agreement. Property owners should consult their homeowner's association and their real estate title documents to avoid potential violations.
- M. **Outdoor Storage for Commercial Uses.** Outdoor storage for commercial uses is only permitted if delineated on an approved site plan and according to the following:
1. The outdoor storage area cannot exceed 50% of the gross floor area of the principal building.
 2. Outdoor storage areas must be in a side or rear yard immediately adjacent to the principal building and must not encroach into any required building setback.
 3. Outdoor storage areas must be incorporated into the design of the principal building as follows:
 - Outdoor storage areas must be completely screened from view from any adjacent property or right-of-way.

- Outdoor storage areas must be screened on all sides at least 6 feet high with an opaque wall, fence, or landscaping, or a combination of these elements. A wall or fence must use materials consistent or complementary to the principal building.
 - Access into outdoor storage areas must occur from a side or rear yard. Access gates must be opaque and architecturally compatible with the materials used on the principal building.
4. All materials, products, or merchandise stored in an outdoor storage area must be stacked no higher than the top of the wall, fence, or screen.
- N. **Outdoor Storage for Industrial Uses.** Outdoor storage may be permitted in industrial uses, subject to the following standards:
1. Outdoor storage is not permitted in the established front yard or in a required yard adjoining a residential district.
 2. Outdoor storage areas must be screened as follows:
 - Continuous opaque screening by a combination of walls, fencing, and landscaping.
 - Stored materials must not be stacked higher than the top of the wall, fence, or screen. Equipment and vehicles must be stored at their lowest state.
 3. Within outdoor storage areas, it is recommended that high-volume travel lanes and an area 50 feet deep adjacent to the building be paved with asphalt or concrete. The remainder of the outdoor storage may be finished with stone. Curbing is not required around outdoor storage areas.
- O. **Satellite Dish Antenna.** These regulations apply to satellite dish antenna and other satellite reception devices greater than 2 feet in diameter.
1. Purposes. These regulations are designed to promote public health and safety by:
 - a. Providing criteria for the placement of antenna to ensure installations limit endangerment of life and property on the site and surrounding properties due to collapse or destruction.
 - b. Decreasing the potential for urban blight in residential neighborhoods generated by guy wires, poles, cables, and other appurtenances.
 - c. Allowing satellite dish antenna and other satellite reception devices to exist in a manner that: (1) does not unreasonably delay or prevent the installation, maintenance, or use of the antenna; (2) does not unreasonably increase the cost of installation, maintenance, or use of the antenna; or (3) preclude reception of an acceptable quality signal.
 2. Requirements
 - a. A satellite receiver antenna 2 feet in diameter or less may be installed in any location in accordance with the provisions of [IC 36-7-4-201.1](#).
 - b. Satellite dish antenna greater than 2 feet in diameter may be erected in a Residential District after an Improvement Location Permit is obtained, provided the following criteria are met:
 - The satellite dish antenna is ground mounted.
 - The diameter does not exceed 10 feet.
 - The height does not exceed 12 feet.

- It is located between the principal building and the required rear yard setback line. In case of a corner lot, the antenna must not be located within the street side yard.
- c. On residential buildings 3 stories or taller, a satellite dish antenna may be roof mounted provided the antenna's diameter is no more than 10 feet, and its height is no more than 12 feet. A roof mounted satellite dish antenna must be located at least 10 feet behind the front roofline of the structure. A roof-mounted antenna cannot exceed the maximum height requirement of the zoning district.
- d. Satellite dish antenna may be erected in any non-residential zoning district provided:
 - The antenna diameter must not exceed 12 feet.
 - The height of a ground-mounted antenna cannot exceed 25 feet.
 - The height of a roof-mounted antenna cannot exceed 15 feet.
 - A roof-mounted antenna must not exceed the maximum height requirement of the zoning district. A roof mounted satellite dish antenna must be located at least 10 feet behind the front roofline of the structure.
 - A ground-mounted antenna must comply with the zoning district's principal building setback requirements. Antenna must be located at least 10 feet behind the front façade of the principal building.
- e. Satellite dish antennas must be installed and maintained in compliance with all applicable building and electrical codes and are subject to the following standards:
 - Satellite dish antennae must be solid in color.
 - Only one antenna greater than two feet in diameter is allowed on any lot unless shown on an approved site plan.
 - Advertising, logos, or corporate symbols are prohibited on any satellite dish antenna greater than 2 feet in diameter.

P. Solar Energy Systems as Accessory Use

1. Solar energy systems are a permitted accessory use in all zoning districts, subject to the requirements of this article. Solar carports and associated electric vehicle charging equipment are permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Ground-mounted systems do not count toward the maximum number of accessory structures permitted.
2. Solar energy systems must meet the following height requirements:
 - a. Building or roof-mounted solar energy systems cannot exceed the maximum height allowed in the zoning district where the solar energy system is located. For purposes of height measurement, solar energy systems other than building-integrated systems are permitted the same height exceptions as building-mounted mechanical equipment.
 - b. Ground- or pole-mounted solar energy systems cannot exceed 15 feet in height when oriented at maximum tilt.
 - c. Solar carports in non-residential districts cannot exceed 20 feet in height.

3. A solar energy system must meet the accessory structure setback for the zoning district where it is located and the requirements below.
 - a. Roof- or Building-mounted Solar Energy Systems. The collector surface and mounting devices for roof-mounted solar energy systems cannot extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems is allowed to extend beyond the perimeter of the building on a side yard. Solar collectors mounted on the sides of buildings and serving as awnings are considered building-integrated systems and are regulated as awnings.
 - b. Ground-mounted Solar Energy Systems. Ground-mounted solar energy systems cannot extend into a side or rear yard setback when oriented at minimum design tilt.
4. Solar energy systems in Residential Districts must minimize visual impacts from the public right-of-way to the extent that doing so does not adversely affect the cost or efficacy of the system, consistent with [IC 36-7-2-8](#).
 - a. Building-integrated Photovoltaic Systems. Building-integrated photovoltaic solar energy systems are allowed even if the system is visible from the public right-of-way. If the building component where the system is integrated meets all required setback, land use, or performance standards for the district where the building is located.
 - b. Aesthetic Restrictions. Roof-mounted or ground-mounted solar energy systems cannot be restricted for aesthetic reasons if:
 - The system is not visible from the closest edge of any public right-of-way other than an alley.
 - Roof-mounted systems on pitched roofs visible from a right-of-way have the same pitch as the roof and are no more than 10 inches above the roof.
 - Roof-mounted systems on flat roofs visible from a right-of-way are not more than 5 feet above the finished roof. Such systems are exempt from any rooftop equipment or mechanical system screening requirements.
 - c. Reflectors. Solar energy systems using a reflector to enhance solar production must minimize the glare from the reflector onto adjacent or nearby properties.
5. Solar energy systems requiring a building permit or Improvement Location Permit must provide a site plan with the permit application.
6. Electric solar energy system components must have an Underwriters Laboratory (UL) or equivalent listing and solar hot water systems must have a Solar Rating and Certification Corporation (SRCC) or equivalent rating.
7. Solar energy systems require approval of local building code officials, consistent with the State of Indiana Building Code. Solar thermal systems must comply with HVAC-related requirements of the Energy Code and applicable Indiana State Plumbing Code requirements. Photovoltaic systems must comply with the Indiana State Electric Code.
8. For grid-tied solar energy systems, the interconnection application must be submitted to the utility prior to applying for required permits. Off-grid systems are exempt from this interconnection application requirement.

- Q. **Swimming Pools and Hot Tubs.** All swimming pools and hot tubs must meet the following requirements:
1. Swimming pools cannot be installed without first being issued an Improvement Location Permit according to [8.16 Improvement Location Permits](#).
 2. Swimming pools or hot tubs must meet the minimum setback requirements for a principal building and cannot be located in front of the principal building.
 3. Swimming pools or hot tubs cannot be constructed unless adequate distance from overhead electrical wires is provided according to the current National Safety Code and National Electrical Code.
 4. All swimming pool construction, including associated decking, fencing, and means of access must conform with the regulations set forth in [675 IAC 20-4](#).
- R. **Temporary Construction Buildings.** The standards of this Ordinance do not prevent the use of a temporary construction building to be utilized for the storage of tools, materials, and other equipment during the period of construction.
- S. **Wind Energy Conversion Systems as Accessory Use**
1. Wind energy conversion systems (WECS) are a permitted accessory use in all zoning districts, subject to the requirements of this article. Wind energy conversion systems do not count toward the maximum number of accessory structures permitted. Most of the energy produced by an accessory WECS should be consumed only on the property where it is located.
 2. As accessory uses WECS must be:
 - a. Installed on a certified tubular free-standing tower, a lattice tower, or a monopole tower. Towers may be guyed or self-supporting.
 - b. Filtered, shielded, or otherwise designed and constructed to not cause electro-magnetic interference.
 - c. Grounded to protect against lightning strikes.
 - d. Designed with automatic over speed control to render the system inoperable when winds are blowing at higher speeds than the machine's capability.
 - e. Equipped with a redundant braking system, including both aerodynamic over speed controls and mechanical breaks. Mechanical brakes must be operated in a fail-safe mode. Stall regulation is not a sufficient braking system for over speed protection.
 3. The WECS owner and operator must make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.
 4. A WECS must be setback from property lines at least 120% of the total height of the WECS.
 5. A WECS must comply with the maximum height limitation for the zoning district where it is located.
 6. WECS must be white, light gray, or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes must be matte or non-reflective and meet Federal Aviation Administration color requirements. No advertising or signage is allowed on a WECS.

7. A WECS requires an Improvement Location Permit. The permit application includes a site plan and a description of the project addressing: the number and type of turbines, generating capacity, tower design and height, blade arc diameter, total height, means of connection with the electrical grid, potential equipment manufacturers, and all related accessory structures. The manufacturer's engineer or another qualified professional engineer must certify that the turbine, foundation, and tower design are within accepted professional standards given local soil and climate conditions.
8. Electric WECS components must have an Underwriters Laboratory (UL) or equivalent listing.
9. Wind energy conversion systems require approval of local building code officials, consistent with the State of Indiana Building Code.
10. For grid-tied WECS, the interconnection application must be submitted to the utility prior to applying for required permits. The WECS must be designed to meet the utility's requirements for interconnection and operation. Automatic and manual controls that render the system inoperable in case of loss of utility power is required. Off-grid systems are exempt from these requirements.

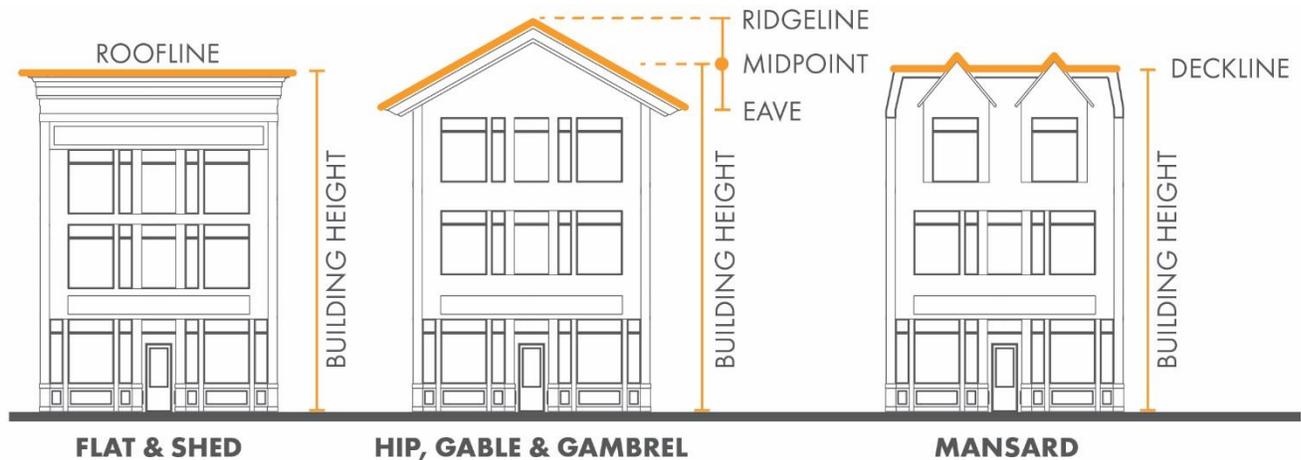
4.3 Buildings

- A. Every building erected must be located on a lot and in accordance with this Ordinance.
- B. A lot used for single-family residential purposes must have only one principal building devoted to residential use, except as otherwise permitted in this Ordinance.
- C. A lot used for multifamily purposes may have more than one principal building devoted to residential use.
- D. A lot in a non-residential district may have more than one principal building devoted to non-residential uses.
- E. Buildings must not be erected, reconstructed, or structurally altered to encroach upon or reduce the yards, lot area, minimum living area, or lot coverage provisions established for the use and the zoning districts where the building is located.

4.4 Height

A structure cannot exceed the height limits established and specified in the zoning district in which the structure is located except as otherwise provided in this Ordinance.

In all zoning districts, spires, church steeples, chimneys, cooling towers, stacks, tanks, water towers, elevator bulkheads, fire towers, scenery lofts, power transmission lines or towers and distribution poles and lines, and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.



4.5 Lots

- A. Lots must meet the area and width requirements for the lot's zoning district.
- B. All Lots must abut on a street, private street, or alley and must have a minimum lot frontage as set forth by the zoning district. For mew lots, a street or alley abutting any side of the lot may count toward the minimum lot frontage requirement.
- C. The front yard setback for mew lots is measured from the lot line abutting the open space to the building façade. For mew lots abutting open space on more than one lot line, the lot line requiring the front yard setback is determined by the Administrator.
- D. Any nonresidential lot without street frontage must have an unobstructed access easement at least 25' wide ([5.3\(E\) Cross-access Easements](#)).

4.6 Performance Standards

The following performance standards apply to uses in all zoning districts.

- A. **Obnoxious Characteristics.** No use can exhibit obnoxious characteristics to the extent it constitutes a public nuisance.
- B. **Fire Protection.** Firefighting equipment and prevention measures acceptable to the Fire Department and any federal, state, county, and/or local authorities with jurisdiction must be readily available and apparent when conducting an activity involving the handling or storage of flammable or explosive materials.
- C. **Electrical Disturbance.** No use can cause electrical disturbance adversely affecting radio, television, or other equipment in the vicinity.
- D. **Noise.** No use can produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness, or vibration. Noises must be muffled or otherwise controlled to not become detrimental.
- E. **Vibration.** No use can cause vibrations or concussions detectable beyond the lot lines without the aid of instruments.

- F. **Odor.** No use can emit across the lot lines malodorous gas or obnoxious odor in such a quantity as to be detectable at any point along a lot line.
- G. **Air Pollution.** No use can discharge across a lot line fly ash, dust, smoke, vapors, noxious, toxic, or corrosive matter, or other air pollutants in such a concentration as to be detrimental to health, animals, vegetation, or property, or conflict with public air quality standards.
- H. **Heat and Glare.** No use can produce heat or glare in a manner to be a nuisance or create a hazard perceptible from any point beyond a lot line.
- I. **Water and Solid Waste Pollution.** No use can produce erosion or pollutants in such quantity as to be detrimental to adjacent properties or conflict with public water quality standards.
- J. No approval of a use under this Ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under Indiana State statute. Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the authorities with rightful jurisdiction.
- K. No use can accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in conflict with applicable public health, safety, and welfare standards and regulations.
- L. The performance standards above do not apply to:
 - 1. Site construction, maintenance, repair, or alterations of buildings or other improvements on or within the lot;
 - 2. The operation of motor vehicles; and
 - 3. Safety or emergency warning signals or alarms.
- M. Any industrial use must conform to any applicable state and federal government regulations. All relevant federal and state permits or approvals are required prior to issuing an Improvement Location Permit.

4.7 Property Maintenance

- A. All land and exterior areas under roof but not enclosed must be maintained free from:
 - 1. Accumulation of garbage, debris, or blight, including graffiti, tires, broken glass, or anything posing a hazard to public health;
 - 2. Tarps, plastic sheeting, or similar materials used as screening, fencing, or wall covering;
 - 3. Abandoned vehicles or inoperable vehicle parts, visible from a right-of-way, except a single inoperable vehicle undergoing minor repair work, not to exceed 72 hours; or lawful commercial activities involving vehicles as allowed by this Ordinance;
 - 4. Commercial appliances, machinery, freezers, refrigerators, or other household items;
 - 5. Any object or landscaping that interferes with the use of any sidewalk, street, alley, highway, or visibility of a traffic light or sign;
 - 6. Landscaping visible from public property that is substantially dead, damaged, or characterized by uncontrolled growth;

7. Anything posing an imminent hazard to public health and safety;
 8. Any unprotected well or excavation more than 2 feet deep;
 9. Any wall or fence missing blocks, boards, or other material, or is otherwise deteriorated to constitute a hazard to people or property; and
 10. Graffiti visible from a public area or right-of-way.
- B. These standards exclude: items kept in covered bins or receptacles; a lawfully established junkyard; any neatly stored materials used in the development of property; and items stored or kept in enclosed trailers or vehicles.
- C. These standards do not apply to the orderly storage of materials in side and rear yards of residential uses provided:
- The storage does not exceed 10% of the area of the yard, and
 - The storage does not exceed the height of any fence or wall enclosing the storage area.
- D. All premises must be kept free from rodent infestation and other noxious pests.
- E. All premises must prevent the accumulation of stagnant water.
- F. All fences and walls must be safe, structurally sound, and uniform in color, structure, and design. They must not constitute a hazard or be in disrepair. Repair of an existing fence or wall must be made with the same or similar materials.
- G. Occupied buildings must have an adequate number of garbage receptacles maintained in clean condition and good repair. The owner or occupant must arrange for the regular removal of garbage from the premises.
- H. Vacant lots or land subject to enforcement action for dumping must be secured to prevent future dumping.
- I. Unenclosed or unsecured excavations, septic tanks, cesspools, and similar conditions must be fully restored to a safe, serviceable condition, or filled with clean fill. Excavations must be maintained in a secure manner to prevent a hazard to public health and safety.
- J. Buildings or structures determined to be unsafe or dangerous as defined in the Building Code must be abated in accordance with the provisions of that code.
- K. Properties in violation of this article will be sent a warning letter. If the property is not brought into compliance within the time frame of the letter, the City may mow or clean-up the property at the owner's expense ([9.11 Municipal Action to Enforce Compliance](#)).

4.8 Abandoned Buildings

- A. **Purpose.** The purpose of this Section is to establish the responsibilities of owners of vacant buildings; and provide administration and enforcement of standards related to vacant buildings.
- B. Upon finding a building vacant or abandoned, the Administrator may issue the owner an order for continuing maintenance pursuant to the Unsafe Building Act, [IC 36-7-9](#), as amended, or similar authority granted by state statute, this Ordinance or other statutes, ordinances, and regulations.

C. Standards of Maintenance

1. The owner of an abandoned building must conduct regular inspections (at least once every 2 weeks) to ensure the property is secured against unlawful entry, cleaned, vegetation is mowed, and the property walkways and driveways have been adequately cleared of snow and ice.
2. The window and door openings of all buildings on the property must be secured against unlawful entry using appropriate locks.
3. To protect a building against unlawful entry or vandalism while it is vacant, an owner may secure the windows and doors of the building using boarding that meets the following standards:
 - a. Doorways and windows must be boarded up using 5/8" or thicker exterior grade plywood, fastened by tamper-proof screws or one-way bolts;
 - b. All boarding must be painted to match the dominant exterior color of the elevation of the structure; and
 - c. For commercial buildings, opaque window coverings may be allowed by the Administrator in lieu of boarding provided all windows are maintained and if broken or cracked, are replaced within 48 hours. The Administrator may revoke the use of this alternative when the owner or responsible party fails to maintain the within the specified period.
4. Boarding a vacant structure is considered a temporary method of securing the building. Any boards applied to secure doors and windows for more than 30 days must be surface coated with exterior grade paint to reduce the blighting effect on the immediate neighborhood.
5. After 6 months, all plywood must be removed and replaced with secure doors or glazed windows.

D. Violations. An owner of an abandoned or vacant building structure not complying with the requirements of this article is subject to enforcement, unless:

1. Documentation has been filed and approved by the Administrator indicating the owner's intent to eliminate the vacant or abandoned status of the property;
2. The owner is current on all property taxes and special assessments; and
3. At least one of the following applies:
 - A valid building permit for repair or rehabilitation is issued for the structure and the owner is proceeding diligently and in good faith to complete the repair or rehabilitation as defined in the enforcement order;
 - The structure is maintained in compliance with this chapter and actively being offered for sale, lease, or rent.
 - The owner demonstrates a diligent and good-faith effort to implement actions approved by the Administrator.
4. If the structure continues to remain vacant beyond the initial 90-day period, and the owner does not meet any of the exceptions in this article, the Administrator may bring enforcement actions per [CHAPTER 9: ENFORCEMENT](#).

4.9 Setbacks

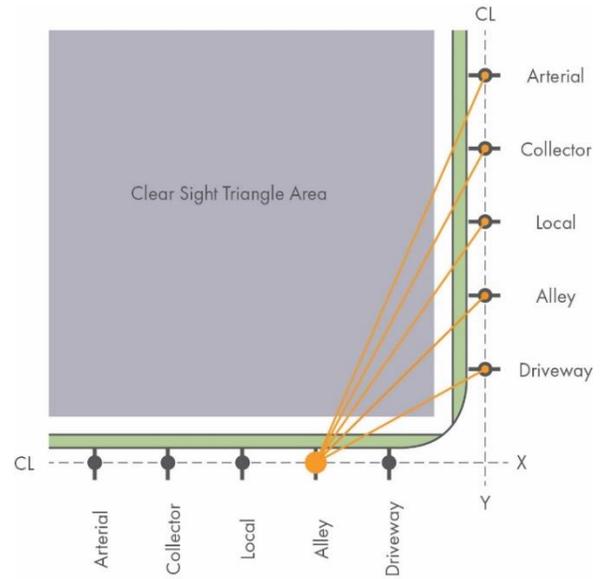
These standards apply in all zoning districts.

- A. Setbacks are measured as the shortest horizontal distance from a lot line or right-of-way line to the required building setback line. Where there is no right-of-way line, the building setback line is measured from the building façade to the edge of pavement or the access easement line, whichever is closest.
- B. The minimum building setback lines and minimum building separation requirements are as set forth in this Ordinance (see [CHAPTER 2: ZONING DISTRICTS](#)).
- C. If a minimum building separation requirement is not provided, the minimum building separation requirement is the district's minimum side yard building setback.
- D. Where 25% or more of the lots in a block frontage are occupied by buildings, then the average building front and side setback lines of buildings on that block may be used instead of the front and side setbacks regulations of this Ordinance. This allows new development on the block to be cohesive with the existing development patterns of the neighborhood.
- E. Setback lines established on a recorded plat establish the setbacks for the subdivisions when they are more restrictive than provided in this Ordinance.
- F. On through lots, the front yard is established by the existing principal buildings in the block.
- G. The front yard setback for mew lots is measured from the lot line abutting the open space to the building façade. For mew lots abutting open space on more than one lot line, the lot line requiring the front yard setback is determined by the Administrator.
- H. All setbacks must be maintained as open space and landscaped with grass, trees, shrubs, or in combination with other suitable groundcover materials, unless otherwise improved according to this Ordinance (e.g., parking areas).

4.10 Vision Clearance

Unless otherwise approved in writing by the Administrator, no sign, fence, wall, landscaping, utility, or other improvement obstructing sight lines between 3 and 9 feet above a street are permitted on a lot, within the triangular area formed by the intersecting centerlines of the streets or driveways and a tangent determined based upon the following street classifications:

STREET CLASSIFICATION	DISTANCE FROM CENTERLINE INTERSECTION
Arterial	200 feet
Collector	150 feet
Local	100 feet
Alley	30 feet
Driveway	20 feet



Distance along centerline of right-of-way according to street classification

4.11 Yards

- A. If an alley has not been developed for carrying traffic, the alley may be included in the lot area.
- B. An established yard is measured as the shortest horizontal distance from a lot line to the nearest outside wall of a building or structure.





Chapter 5

Design Standards

Items shown on a site plan or plat

5.1	BLOCKS	3
5.2	DRAINAGE	3
5.3	EASEMENT	3
5.4	GRADING, EXCAVATIONS, AND FILLS	10
5.5	MONUMENTS AND MARKERS	13
5.6	PEDESTRIAN NETWORKS	14
5.7	STREETS AND RIGHTS-OF-WAY	15
5.8	SURETIES	18
5.9	UTILITIES	21

5.1 Blocks

- A. **Dimensions.** Block length and width within bounding streets must be sufficient to accommodate the lot sizes required by the zoning district and to provide convenient access, circulation, and safety of vehicular and pedestrian traffic.
- B. **Length.** The maximum block length is 800'. This requirement does not apply to blocks containing lots abutting the boundary lines of the parent track of a subdivision. In granting modifications to allow blocks longer than 800', the Plan Commission may require crosswalks and traffic calming measures where useful to facilitate pedestrian circulation.
- C. **Depth.** Residential blocks must have sufficient depth to accommodate two tiers of lots, except where lots back up to an interstate, highway, arterial street, or watercourse.
- D. **Shape.** Blocks should fit easily into the overall design of the subdivision and their design must reflect consideration of lot layout, configuration, traffic flow, and public areas.

5.2 Drainage

A drainage system is required for proper drainage of new developments. The system must be designed and constructed per the [Indiana Department of Environmental Management Construction Stormwater General Permit](#). Stormwater calculations are required for all project regardless of project size unless waived in writing by the Administrator.

5.3 Easement

This article applies to all development.

- A. **Drainage and Utility Easements.** All developments submitted for approval must allocate areas for drainage and utility easements. All easements and corresponding utility location plans must be complete and approved prior to the final approval of any plan. Before determining the location of easements, the plan must be discussed with the local public utility companies to assure proper placement and installation of such services. No improvements (e.g., accessory buildings, buildings, driveways, fences, retaining walls, structures) are permitted within a drainage and utility easement, unless otherwise approved by the Administrator or the appropriate utility provider.
- B. **Surface Drainage.** If any stream or necessary surface drainage course is within the development area, an easement is established along all sides of the drainage course. If the drainage course is a regulated drain, the easement width is established by the County Surveyor or Indiana law. If the drainage course is not a regulated drain, the easement width from the top of the bank to top of bank is a minimum of 12 feet. The easement is for widening, deepening, sloping, improving, or protecting the stream or surface drainage course.
- C. **Easement Instrument Specifications.** Where an easement is required by this Ordinance but the standards for the easement type are not specified, or an easement is required per a commitment or condition of approval, then the property owner (“grantor”) must execute the easement instrument in favor of the appropriate party or entity (“grantee”). The instrument must:
 - 1. Specify the docket numbers of the complete applications of the associated with the easement.
 - 2. Specify the activities the grantee is authorized to perform in the easement.

3. Specify the activities the grantor is prohibited from performing in the easement.
4. Be binding on all heirs, successors, and assigns to the property where the easement is located.
5. Be enforceable by the grantee and the City.
6. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
7. Provide for modification in the manner stipulated in this Ordinance.
8. Be cross-referenced to the most recently recorded deed to the property where the easement is to be established.
9. Include a metes and bounds description of the easement.
10. Be signed by an authorized representative of the property owner of record granting the easement and by an authorized representative of the grantee accepting the easement.

D. Easement Certificate

1. When a secondary plat is being recorded, the applicant may print an easement certificate on the secondary plat, the content of which has been approved by the Administrator or City Council.
2. If a Declaration of Covenants, Conditions, and Restrictions is included or cross-referenced on the secondary plat, an easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

E. Cross-Access Easements

1. Easement Instrument Specifications. When required by this Ordinance, each property owner (“grantor”) must execute a cross-access easement instrument in favor of the adjoining property owner (“grantee”). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the public the right to utilize the easement for purposes of accessing adjoining parking facilities.
 - c. Prohibit the parking of vehicles within the easement.
 - d. Prohibit any person from placing any obstruction within the easement.
 - e. Be binding on all heirs, successors, and assigns to the properties where the easement is located.
 - f. Be enforceable by each party to the easement and by the City.
 - g. Specify any other specially affected persons and classes of specially affected persons that are entitled to enforce the easement.
 - h. Provide for modification or termination in the manner stipulated in this Ordinance.
 - i. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
 - j. Include a metes and bounds description of the easement.

- k. Be signed by an authorized representative of each property owner granting the easement and by an authorized representative of each property owner accepting the easement.

2. Cross-access Easement Certificate

- a. When a secondary plat is being recorded, the applicant may print the following cross-access easement certificate on the plat:

“There are shown on this instrument areas designated as ‘Cross-Access Easement’ or abbreviated as ‘C-A.E.’ Such easements are established in favor of the adjoining property owner (‘grantee’) and grant the public the right to enter the easement for purposes of accessing adjoining parking facilities. These easements prohibit any person from parking vehicles within the easement and prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the City’s Unified Development Ordinance, or its successor ordinance.”

- b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the cross-access easement certificate be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

F. **Private Street Easements**

- 1. Easement Instrument Specification. When required by this Ordinance, the property owner (“grantor”) must execute a private street easement instrument in favor of the owner of the lot (“grantee”) to which the private street provides access. The instrument must:

- a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
- b. Grant the grantee the right to access the easement to access their lot.
- c. Specify the grantee’s financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
- d. Prohibit any person from placing any obstruction within the easement.
- e. Require the private street be built to the standards of the City.
- f. Be binding on all heirs, successors, and assigns to the property where the easement is located.
- g. Be enforceable by the grantee and the City.
- h. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
- i. Provide for modification or termination in the manner stipulated in this Ordinance.
- j. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.

- k. Include a metes and bounds description of the easement.
- l. Be signed by an authorized representative of each property owner granting the easement and by an authorized representative of each property owner accepting the easement.
- m. Include the following language: “The property owner expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision, because the streets are private, that all maintenance, repairs and replacement now and forever must be undertaken at the expense of the lot owners according to the terms and conditions set forth in the owners association bylaws and articles. No governmental entity has any duty or responsibility to maintain, repair or replace any private street.”

2. Private Street Easement Certificate

- a. When a secondary plat is being recorded, the applicant may print the following easement certificate on the plat:

“There are shown on this instrument areas designated as ‘Private Street Easement’ or abbreviated as ‘P.S.E.’ Such easements are hereby established in favor of the adjoining property owners (‘grantee’) and grant the grantee the right to enter the easement for purposes of accessing their lot. These easements prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the City’s Unified Development Ordinance, or its successor ordinance.”

- b. In addition, the secondary plat must include the following language: “The subdivider expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision that because the streets are private all maintenance, repairs and replacement now and forever must be undertaken at the expense of the lot owners according to the terms and conditions set forth in the owners association bylaws and articles. The subdivider, and their successors and assignees, waive all rights to petition a governmental entity to be responsible for the maintenance and ownership of such private streets. No governmental entity has any duty or responsibility to maintain, repair or replace any private street.”
- c. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- d. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the Private Street easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

G. **Shared Driveway Easements**

- 1. Easement Instrument Specifications. When required by this Ordinance, each property owner (“grantor”) must execute a shared driveway easement instrument in favor of the adjoining property owner (“grantee”). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the adjoining property owners the right to access the easement to maneuver vehicles.

- c. Specify the adjoining property owners' financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
- d. Prohibit any person from placing any obstruction within the easement.
- e. Be binding on all heirs, successors, and assigns to the properties where the easement is located.
- f. Be enforceable by the parties to the easement and the City.
- g. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
- h. Provide for modification or termination in the manner stipulated in this Ordinance.
- i. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
- j. Include a metes and bounds description of the easement.
- k. Be signed by an authorized representative of each property owner of record granting the easement and by an authorized representative of each property owner accepting the easement.

2. Shared Driveway Easement Certificate

- a. When a secondary plat is being recorded, the applicant may print the following shared driveway easement certification the plan:

“There are shown on this instrument areas designated as ‘Shared Driveway Easement’ or abbreviated as ‘S.D.E.’ Such easements are hereby established in favor of the adjoining property owners (‘grantee’) and grant the grantee the right to enter the easement for purposes of maneuvering vehicles. The easement prohibits the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the City’s Unified Development Ordinance, or its successor ordinance.”
- b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the shared driveway easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

H. **Subdivision Sign Easements**

- 1. Easement Instrument Specification. When required by this Ordinance, the property owner (“grantor”) must execute a subdivision sign easement instrument in favor of the subdivision’s homeowners’ association (“grantee”). Subdivision sign easements must be exclusive of drainage and utility easements. Improvements with such an easement must comply with [4.10 Vision Clearance](#) The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the grantee the right to alter, repair, maintain, or remove the improvements.

- c. Prohibit any person from placing any obstruction in front of, altering, removing, or otherwise impairing the improvements within the easement.
- d. Be binding on all heirs, successors, and assigns to the property where the easement is located.
- e. Be enforceable by the grantee and the City.
- f. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
- g. Provide for modification or termination of the easement in the manner stipulated in this Ordinance.
- h. Be cross-referenced to the most recently recorded deed to the property where the easement is to be established.
- i. Include a metes and bounds description of the easement.
- j. Be signed by an authorized representative of the property owner granting the easement and by an authorized representative of the grantee accepting the easement.

2. Subdivision Sign Easement Certificate

- a. When a secondary plat is being recorded, the applicant may print the following subdivision sign easement certificate on the plat:

“There are shown on this instrument areas designated as ‘Subdivision Sign Easement’ or abbreviated as [‘_____’]. Such easements are hereby established in favor of the [_____] Homeowners’ Association (‘grantee’) and grant the grantee the right to enter the easement for purposes of altering, repairing, maintaining, or removing the improvements. These easements prohibit the property owner or any other person from placing any obstruction in front of, altering, removing, or otherwise impairing the improvements within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the City’s Unified Development Ordinance, or its successor ordinance.”

- b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the subdivision sign easement certificate must be clearly separate from, and not incorporated into the Declaration of Covenants, Conditions, and Restrictions.

I. **Tree Preservation Easement**

- 1. Easement Instrument Specification. When required by this Ordinance, the property owner (“grantor”) must execute a tree preservation easement instrument in favor of the subdivision’s owners’ association (“grantee”). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - a. Grant the grantee the right to: remove invasive species or an overabundance of combustible material, remove vines from trees, plant native trees, remove trees as directed by a governmental

- agency or utility, install improvements as necessary keeping such improvements to the smallest area of disturbance as practicable.
- b. Prohibit any person from: mowing any portion of naturally vegetated areas, dumping leaves or debris, seeding or sodding of grass, constructing permanent improvements, conducting active recreational activities that adversely impact the natural characteristics of the preservation area.
 - c. Require the grantee to complete maintenance activities according to industry best practices, install signs identifying the tree preservation area, and seek repair of damaged areas to their original state.
 - d. Be binding on all heirs, successors, and assigns to the property where the easement is located.
 - e. Be enforceable by the grantee and the City.
 - f. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
 - g. Provide for modification or termination of the easement in the manner stipulated in this Ordinance.
 - h. Be cross-referenced to the most recently recorded deed to the property where the easement is to be established.
 - i. Include a metes and bounds description of the easement.
 - j. Be signed by an authorized representative of the property owner granting the easement and by an authorized representative of the grantee accepting the easement.
2. Tree Preservation Easement Certificate. When a secondary plat is being recorded and an easement is required or proposed for tree preservation, then an applicant must record an easement, or an applicant may print the following tree preservation easement certificate on the plat:
- “There are shown on this instrument an area(s) designated as ‘Tree Preservation Easements’ or abbreviated as ‘T.P.E.’. These easement(s) must be regulated and maintained according to the following:
3. Permitted Activities. The following activities are permitted:
- Removal of invasive species (e.g., bush honeysuckle), where appropriate, including the use of professionals to apply herbicides or identify and remove such invasive species;
 - Removal of an overabundance of combustible material (e.g., dead, fallen trees, and leaves);
 - Removal of vines growing on and up a tree;
 - Removal of hazardous, exotic and invasive species and/or dead, hazardous and at risk trees;
 - Planting of native trees;
 - Removal of trees directed to be removed by local, county, state or federal agencies or departments or by a public utility;
 - Installation of minor improvements such as identification signs; provided such are designed and installed in a manner that does not remove or damage any trees to the greatest extent possible; and

- Installation, mowing, and maintenance of access easements, paved or unpaved trails, or utility and drainage improvements; provided, however, that any such improvements and easements must be as narrow or small as reasonably possible with no blanket easements.
4. Prohibited Activities. The following activities are prohibited:
 - Mowing any portion of existing, naturally vegetated areas;
 - Dumping of leaves or other debris;
 - Seeding, including grass seed, prairie mix seed, sod, or the planting of any type of vegetable garden;
 - The construction of permanent structural improvements including, but not limited to: pools, sheds, garages, fences, playground equipment, tree houses, fire pits, and other permanent or semi-permanent structures; and
 - Active recreational activities that adversely impact the natural characteristics of the preservation area, including the placement of playground equipment, paving for basketball or tennis courts or swimming pools.
 5. Required Activities. The following are required:
 - All maintenance activity must be completed according to industry standards using the latest ANSI Z133.1 and A-300 approved practices and methods;
 - Signs identifying a “Tree Preservation Area” must be posted every 1,000 feet near the perimeter of all Tree Preservation Easements. Such signs must state “Natural Preservation Area. No mowing or spraying. Restricted Area.”; and
 - Any person or entity causing damage or destruction or that violates the provisions of this easement is responsible for replacing removed or damaged trees with trees (a minimum of 3 inches in caliper) of an equivalent caliper to the removed or damaged vegetation, and to return the damaged areas of the easement to its original natural state.
 6. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
 7. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the tree preservation easement certificate must be clearly separate from, and not incorporated into the Declaration of Covenants, Conditions, and Restrictions.

5.4 Grading, Excavations, and Fills

A. Erosion and Sediment Control

1. Purpose. The purpose of these regulations is to provide minimum standards for the protection of people and property and to promote the public welfare by regulating the design, construction, quality, location, and maintenance of grading activities.
2. Scope. New grading, excavations, fills, or changes to existing grades, including the construction of berms, must conform with these regulations. However, these regulations do not apply to:

- a. Work within an existing street or alley.
- b. Extraction and related activities of a permitted use, such use as landfill operations.

3. Responsibility for Drainage and Sedimentation Control

- a. Whenever stripping vegetation or grading activities cause sedimentation, the person causing the sedimentation must: (i) remove it from all affected properties, drainage systems, and watercourses, and (ii) as quickly as possible repair any damage at their sole expense.
- b. The developer is responsible for maintenance of all drainage facilities and watercourses until they are accepted by the City or appropriate agency.
- c. It is the responsibility of any person doing any work within a floodplain, stream, watercourse, swale, or right-of-way to maintain such features in their present state as much as possible during the work and to return them to their original or better condition after the work is completed.
- d. The property owner is responsible for maintaining drainage facilities or watercourses originating from and completely on their property to the point of discharge at the property line or a communal watercourse within the property.
- e. It is unlawful to block, impede, or alter the flow of any communal stream or watercourse without obtaining prior approval from the City or appropriate agency.
- f. Adequate right-of-way and/or easements must be provided for all drainage facilities and watercourses to be accepted by the City.
- g. Any person who makes surface changes must:
 - i. Collect on-site surface runoff and dispose of it to the point of discharge into the common natural watercourse of the drainage area.
 - ii. Handle off-site runoff through the site by designing and providing stormwater facilities capable of handling stormwater runoff from a fully developed area upstream.
 - iii. Pay their proportional share of the total cost of labor and material needed to widen or improve the upstream or downstream communal watercourse as necessary to accommodate the additional surface waters resulting from the development of the site.
 - iv. Provide and install, at their sole expense, all drainage and erosion control improvements required by the City or appropriate agency.

4. Inspections

- a. The Administrator inspects and approves the work completed or notifies the permit holder where the work fails to comply with the standards. Where an inspection reveals the conditions at the site do not comply with the approved plans, the Administrator may refuse to approve further work until the noncompliance is addressed or approval of a revised grading plan is secured.
- b. Approved grading plans must be maintained on site until the grading work is approved.
- c. The permit holder must provide the Administrator at least 24 hours' notice of a requested inspection. Inspections are recommended when:
 - i. Grading work on the site is about to commence.
 - ii. All rough grading has been completed.

- iii. Drainage facilities are installed but not yet backfilled.
 - iv. When excavations are complete for retaining or crib walls and when reinforcing steel is in place and before concrete is poured.
 - v. When all work has been completed.
- d. At any time during the work, if the Administrator determines further work is likely to endanger property or create hazardous conditions, the Administrator may require reasonable safety precautions be taken to avoid the likelihood of danger. Safety precautions may include specifying a flatter exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing.
5. Maintenance. The property owner is responsible for maintaining in good condition all retaining walls, cribbing, drainage structures, fences, and other protective devices.
6. Appeals. Appeals of determinations made by the Administrator are made according to [8.11 Appeals of Administrative Decisions](#).

B. Design Requirements

1. Acceptable Standards. Measures used to control erosion and reduce sedimentation must meet or exceed these minimum standards.
2. Erosion and Sedimentation Control Principles. Erosion and sedimentation control measures must be performed in accordance with requirements of the Construction Stormwater General Permit (CSGP) coverage and the Indiana Stormwater Quality Manual.
3. Grading for Drainage. To provide more suitable sites for uses, improve surface drainage, and control erosion, the following are required:
 - a. On all lots, tracts, or parcels, the final grading must drain away from buildings without ponding. All land within a development must drain and dispose of surface water without ponding, except where approved.
 - b. All drainage systems must adequately handle surface runoff and carry it to the nearest suitable outlet (such as a curbed street, storm drain, or natural watercourse.) Swales used to convey surface waters must comply with the City Construction Standards.
 - c. Concentrated flow of surface water runoff is only be permitted in swales or watercourses.
4. Excavation and Fills.
 - a. Graded slopes cannot be steeper than 2.5:1 unless stabilized by a retaining wall or cribbing.
 - d. Surface water cannot damage the cut face of excavations or the sloping surfaces of fills.
 - e. Cut and fills cannot endanger adjoining property.
 - f. All fills must be compacted to provide stability of material and to prevent settlement. Fill must be spread in layers. Each layer cannot exceed 12 inches in thickness and must be compacted by a sheepsfoot roller or other approved method. The City may require tests or other information about the fills if deemed necessary.
 - g. Fills placed adjacent to natural watercourses, constructed channels, or floodplains must provide protection against erosion during periods of flooding.

- h. Grading cannot divert water onto the property of another landowner.
- i. During grading operations, dust control measures must be used and sediment deposits on public highways should be minimized. The property owner and contractor are responsible for removing any sediment their work deposits on public streets.
- j. Whenever a fill is to be made with materials other than clean soil or earth, the grading permit is subject to the following requirements:
 - i. The fill shall be completed within a reasonable length of time and that time specified on the grading permit application.
 - ii. Clean soil must be placed on the exposed surfaces of the fill at a minimum depth of 6 inches. A thicker depth may be required to conceal the fill. Where the nature of the fill requires, such placement is required at the end of each day's operations.
 - iii. A performance bond in the amount of 120% of the estimated cost of adequately covering the fill with clean soil is required ([5.8 Sureties](#)).

C. Safety at Excavations

1. A protective fence at least 6 feet high is required around the portions of a quarry or excavation that constitute a hazard to the life or safety of persons when located adjacent to a highway, school, church, park, playground, or dwelling. The fence cannot have openings larger than 4 inches in any dimension except for doors and gates. A building may be used as part of the required barrier. All openings in the barrier must be equipped with self-closing and self-latching devices. Warning signs must be posted on the barrier.
2. The Chief of Police determines the locations of protective fences and signs and gives written notice to the owner and tenant or occupant of any property where fences and signs are required for the protection of the public. It is the duty of the owner, tenant, or occupant to comply promptly with the notice. The owner, tenant, or occupant may appeal the determination to the City Council. The Council will hear the matter at its next regular public meeting if the appeal is filed with the Clerk-Treasurer at least 10 days before the meeting.

- D. **Enforcement.** Any person violating any of the provisions of this article is subject to enforcement action per [CHAPTER 9 – ENFORCEMENT](#).

5.5 Monuments and Markers

A. General Standards

1. Monument and markers must be installed per [Indiana Administrative Code, 865 IAC 1-12-18](#), and the standards set forth in this article.
2. Permanent reference monuments must be placed so the center of the pipe or marked point coincides exactly with the intersection of lines to be marked and the top of the monument or marker is level with the finished grade.
3. Required monuments and markers must include a surveyor's cap as required by Indiana law, and at a minimum, must include a substantial plastic or metal cap permanently affixed showing the registered professional surveyor's surname and professional license number or firm/agency identification number.

4. Upon completion of the development, as-built drawings must be submitted showing where monuments and markers were placed. This must be accompanied by an affidavit by the surveyor, registered in the State of Indiana, attesting to the accuracy of installed monuments and markers and certifying that the monuments and markers are still accurately in place and were not removed, moved, or buried such that they do not accurately denote surveyed lines or cannot be easily located.
 5. Monuments which are damaged or altered must be reset by the party responsible for damage/alteration. If a responsible party cannot be readily determined, then the active developer will bear the costs of having the monuments reset.
- B. Monument Standard.** Monuments must be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of 4 inches by 4 inches by 30 inches, set vertically in place. They must be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross.
- C. Monument Locations.** Monuments must be set:
1. At the intersection of lines forming angles in the boundary of the subdivision,
 2. At least 2 monuments must be set on each side of a straight section of a street and on lot corners near each end of the street,
 3. At least 2 monuments must be set on any straight line over 400 feet in length and on lot corners near each end of the line, and
 4. Any location a bearing changes.
- D. Marker Standard.** Markers must consist of iron pipes or steel bars at least 30 inches long, and not less than 5/8 inch in diameter.
- E. Marker Locations.** Markers must be set on boundaries not covered by required monument locations, including:
1. At the beginning and ending of all curves along street lot lines,
 2. At all points where lot lines intersect curves, either front or rear,
 3. At all angles in lot lines, and
 4. At all other lot corners not established by a monument.

5.6 Pedestrian Networks

- A. Applicability.** All developments must have a pedestrian network of sidewalks and/or asphalt pathways for pedestrian transportation and recreation.
- B. General Standards**
1. All concrete sidewalks, asphalt pathways, and crosswalk improvements must be constructed per the INDOT Standard Specifications and Drawings and comply with requirements of the [Americans with Disabilities Act \(ADA\)](#), as amended, unless waived in writing by the Administrator.
 2. Curb ramps for handicapped accessibility must be provided at all intersections of streets, alleys, and drives (excluding individual residential driveways) and comply with ADA requirements and INDOT

Standard Specifications and Drawings, unless waived in writing by the Administration. Curb ramps are not permitted in driveways.

C. Internal Pedestrian Network Standards

1. Sidewalks must be at least 5 feet wide. When abutting a curb, sidewalks must be at least 6 feet wide.
2. Sidewalks are required on both sides of internal streets in all developments.
3. When a proposed development abuts an existing development or pathway, connection to the sidewalks or pathways is required.

Connector sidewalks must be provided from the sidewalk or path adjacent to the street to the front entrance of all non-residential structures. Where the sidewalk intersects driving lanes or parking aisles within the parking facility, then crosswalks and ramps must be installed according to ADA requirements.

D. Perimeter Pedestrian Network Standards. Developments must participate in the establishment or improvement of the pedestrian network along streets adjacent to their perimeter according to the following:

1. Where a proposed development plan or subdivision abuts an existing right-of-way, multi-use pathways must be provided along the perimeter streets according to the Thoroughfare Plan and constructed per the City's Construction Standards.
2. Required multi-use pathways should be located within the right-of-way. Pathways located outside the right-of-way must be located within an access easement approved by the Administrator or City Council.

5.7 Streets and Rights-of-Way

- A. Applicability.** Proposed developments must allocate adequate areas for new streets in conformity with the City's Construction Standards and the Thoroughfare Plan.
- B. Thoroughfare Plan.** The Thoroughfare Plan, as amended, is declared to be a part of this Ordinance. The Thoroughfare Plan is available for review in the office of the Clerk/Treasurer and in the office of the Department.
- C. Compliance with Thoroughfare Plan.** In addition to meeting requirements of the Americans with Disabilities Act (ADA), developments abutting or adjoining streets designated on the Thoroughfare Plan must conform to the requirements of the Thoroughfare Plan regarding: The dedication of rights-of-way; building setback lines; and any other development or design standards in the Thoroughfare Plan or this Ordinance.
- D. Dedication of Right-of-way.** Developments adjoining or including existing streets not conforming to the minimum right-of-way dimensions established in the Thoroughfare Plan, must dedicate enough additional right-of-way along the streets to meet the requirements of the Thoroughfare Plan. If the development only contains property on one side of the street, then sufficient right-of-way must be dedicated to bring the half right-of-way up to the dimensions required in the Thoroughfare Plan.
1. Passing Blister. Where a passing blister is required and inadequate right-of-way exists to install the passing blister, then the developer must make a good faith effort to acquire property sufficient for the installation of the passing blister. If the property owners where the passing blister is to be installed refuses to sell the property, then the developer must provide the Administrator copies of all surveys, appraisals, and written offers made by the developer to the property owners, and correspondence from the property owners.

2. **Acceleration and Deceleration Lanes.** Where an acceleration lane and/ or deceleration lane is required and the development does not contain street frontage needed to install the lane, then the developer must make a good faith effort to acquire property sufficient for the installation of the acceleration lane and/or deceleration lane. If the property owners where the acceleration lane and/or a deceleration lane is to be installed refuses to sell the property, then the developer must provide the Administrator copies of all surveys, appraisals, written offers made by the developer to the property owners, and correspondence from the property owners.
3. **Eminent Domain.** The installation of passing blisters, acceleration lanes, and deceleration lanes is vital to the health, safety, and welfare of the motoring public. The City may, but is not obligated to, begin eminent domain proceedings according to [IC 32-24](#): Eminent Domain for the acquisition of public right-of-way sufficient for the installation of the passing blister, acceleration lane and/or deceleration lane upon receipt of documentation illustrating the developer's failure to acquire the needed property. Upon completion of the eminent domain proceedings, the developer reimburses the City the price paid by the City for the right-of-way acquisition, including professional and legal expenses, any condemnation and relocation within the acquired right-of-way. The developer then installs the passing blister, acceleration lane and/or deceleration lane according to the City's Construction Standards.

E. Design Principles

1. The street system layout must provide access to all lots and parcels of land within a development. The design of the street system is guided by the following principles:
 - a. Adequate vehicular and pedestrian access is provided to all parcels within the development with extensions or connections to adjacent parcels.
 - b. The street patterns must provide reasonably direct access to the primary circulation system. The access point cannot conflict with the efficiency of primary circulation system.
 - c. Planning and construction of streets must clearly relate to their local function to operate effectively and safely. Pedestrian-vehicular conflict points should be minimized.
 - d. Local streets are designed to minimize impacts to significant topographic features and to discourage excessive speeds.
2. Streets should adjust to the contour of the land to produce useable lots and streets of reasonable gradient. Consideration must be given to natural features, such as existing wooded areas, streams and creeks, historic locations, or similar conditions that, if preserved, will add attractiveness and value to the community.
3. Streets must align and connect with existing or planned streets and provide connections with adjacent property. Where appropriate, proposed streets must extend to the boundary line of the site to provide normal circulation of traffic within the vicinity.
4. Current INDOT Standards, Guides, and Manuals are followed as design standards unless otherwise specified in this Ordinance.

F. Improvement Standards. Streets must conform to:

1. **Street and Right-of-Way Widths.** Widths of streets and minimum rights-of-way widths must conform to the City's Construction Standards and Specifications.
2. **Construction.** Street improvements, must be designed, constructed, and installed according to the City's Construction Standards and Specifications.

- a. Streets and alleys must be completed as shown on approved plans, profiles, and cross-sections.
 - b. Streets must be graded, surfaced, and improved to the dimensions required by the cross-sections and the work must be performed in the manner prescribed in the Indiana Department of Transportation's Standard Specifications.
 - c. Where parkways or special types of streets are involved, the Plan Commission may apply special standards to be followed in their design.
3. Cul-de-sac Design. Cul-de-sacs must conform to:
- a. The cul-de-sac terminus must be designed according to the City's Construction Standards and Specifications.
 - b. A temporarily dead-ended street is permitted if a street is proposed to be extended but is not yet constructed. An adequate easement or right-of-way for a turn-around must be provided if the dead-end street extends 150 feet or more in length. If an easement, is used it must automatically vacate to the abutting property owners when the street is extended.
 - c. The Plan Commission or Administrator may require a pathway or sidewalk to connect a cul-de-sac to an adjacent cul-de-sac or street to provide reasonably direct connection between likely pedestrian destinations. Such connection must be constructed according to [5.6 Pedestrian Network Standards](#) and located within an easement or common area.
4. Alleys. Alleys must be constructed according to the City's Construction Standards and Specifications, unless otherwise approved by the Public Works Department.
5. Intersections. Street intersections must be designed and improved according to [4.1 Principles and Standards](#). Lot line corners must be rounded by arcs with minimum radii in accordance [4.1 Principles and Standards](#).
6. Access Points. The following standards apply to access points for a development. The Plan Commission, City Council, or Administrator may approve access points if, due to the size of the development, or appropriate to improve traffic circulation:
- a. Only one street, driveway or point of vehicle access is permitted from a development onto an arterial or collector.
 - b. Only one street, driveway, or point of vehicle access is permitted from a residential subdivision onto a collector or arterial street for a subdivision of 50 or fewer dwelling units. Two or more streets, driveways, or points of vehicle access are required by the Plan Commission for subdivisions with over 50 dwelling units to improve the safety and traffic circulation in the area.
 - c. Subdivisions with over 50 dwelling units must include streets with a boulevard design if a second entrance is not feasible due to the character of the land, provided the internal street geometrics provides two access points at its termination inside the development.
 - d. Subdivisions with over 100 dwelling units must provide internal circulation routes which provide redundant or alternative access to multiple entrances.
 - e. The primary access for a multifamily development must be from an arterial, if available, and at least two access points must be provided for adequate accessibility for emergency vehicles and school busses.

- f. Direct access from a residential driveway to an arterial or collector is discouraged unless it is the lot's only means of access.
- 7. **Traffic Control Devices.** Traffic control devices must comply with the current edition of the Indiana Manual on Uniform Traffic Control Devices.
- 8. **Subsurface Drainage.** Subsurface drainage for streets must be designed according to the City's Construction Standards and Specifications.
- 9. **Street Names.** All street names and lot addresses are coordinated through the Administrator. Street names that duplicate or may be confused with names of existing streets cannot be used, unless permitted by the Plan Commission. Streets that are logical extensions, continuations, or alignment of existing streets must continue the names of the existing streets.
- G. **Delay of Surface Layer.** Installation of the surface layer of asphalt may be delayed with permission of the City up to one year until the binder layer of asphalt has had enough time to prove its durability under the stress of heavy construction traffic. A separate performance bond covering the cost of installing the surface layer of asphalt is required prior to approving the delayed installation.
- H. **Fire Hydrants.** Fire hydrants must be provided throughout the development as determined by the local fire department having jurisdiction over the site.
- I. **Acceptance of Improvements.** Before any financial surety ([5.8 Sureties](#)) covering a street installation is released, the Plan Commission, City Council, or Administrator may request core borings for thickness determination. The developer must engage the services of an independent testing laboratory to take cores at locations selected by the City. The results of the testing must be provided to the Administrator for review and approval.
- J. **Private Streets**
 - 1. Private streets, if approved, must conform to the street and right-of-way standards of this Ordinance and be constructed according to the City's Construction Standards.
 - 2. Private streets must be established within access easements complying with [5.3 Easement](#).
 - 3. When a private street easement appears on a secondary plat, a private streets certificate ([5.3 Easement](#)) must be printed on the plat. Unplatted easements for private streets must have the same language included on a recorded easement instrument.
 - 4. Financial sureties are required according to [5.8 Sureties](#) and the City's Construction Standards.
 - 5. When the term right-of-way is used in this chapter, it also applies to private street easements in the context of this chapter only.

5.8 Sureties

- A. As a condition of approval of a subdivision, site plan, special exception, or planned unit development, a financial guarantee may be required to assure the installation the improvements such as streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
- B. A bond, irrevocable letter of credit, or other guarantee acceptable to the City ("financial surety") must be executed prior to issuing an Improvement Location Permit for single site developments or recording a secondary plat prior to the completion of improvements.

C. Construction/Performance Surety

1. A performance surety to the City must include any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility to be dedicated to the City. On-site and off-site improvements shown on the approved plans must be covered by the performance surety.
2. The performance surety must:
 - a. Be 120% of the estimated costs determined by the City to be sufficient to complete the improvements in compliance with this Ordinance and the City's Construction Standards;
 - b. Provide surety satisfactory to the City;
 - c. Run to and be in favor of the City;
 - d. Specify the time for the completion of all improvements; and
 - e. Be on a form approved by the City Council.
3. Performance sureties must be effective from the date of approval to begin construction of the project and must not terminate until released by the Public Works Department. The performance surety cannot be released until the Public Works Department certifies the improvements have been installed according to the intent of the approved site plans.
4. A dedicated account is created in a form acceptable to the State Board of Accounts to hold and accumulate all funds paid pursuant to the provisions of this Article. Funds appropriated from the account must only be used for the completion of infrastructure improvements approved by the City and which had not been completed after having been initiated.
5. The City may consider alternative forms of ensuring the proper completion of improvements to be dedicated to the City or for the benefit of the public.
6. Upon completion of all improvements and installations as required by this Ordinance, the developer furnishes appropriate documentation indicating that required improvements and installations have been constructed, installed, and completed in compliance with the provisions of this Ordinance, the requirements of the Plan Commission, and the provisions of other applicable ordinances of the City. The Plan Commission prescribes procedures for determining whether all improvements, installations, and lot improvements have been constructed and completed as required by this Ordinance.
7. Upon acceptance of required improvements or installation, the accepting agency or department provides a completion letter to the developer that officially accepts maintenance responsibility, subject to the terms of the required maintenance guarantees.
8. Two months prior to the expiration of the performance or maintenance guarantee, the City Council determines if the public improvements have been installed consistent with applicable standards and special conditions or requirements, if any, established by the City Council in approving the plat. If the improvements have not been installed to the satisfaction of the City Council, the City Council notifies the developer of their intent to secure the funds pledged by the performance or maintenance guarantee, or at their discretion, to grant one (1) extension for a period up to 12 months, and the developer files with the City Council a new performance or maintenance guarantee within the extension period. The City Council may upon proof of difficulty, grant one additional extension of the completion date for a maximum period of up to 12 additional months, provided that the performance or maintenance guarantee submitted for this extension period meets all other requirements herein and the extension has been requested in writing prior to the expiration of the first extension.

9. Failure to Complete Public Improvements. In cases where a performance guarantee has been posted and the required public improvements have not been installed within its terms, or if the City Council finds upon inspection that any of the improvements have not been constructed according to the approved construction plans, then the City Council may declare the performance guarantee to be in default and cause all public improvements to be installed according to the approved plans regardless of the extent to which development has occurred at that point in time.
10. Release or Reduction of Performance Guarantee. A performance guarantee may be reduced upon actual acceptance of public improvements and any conditions imposed on the plat and then only by the amount originally estimated for the completion of said public improvements. The City Council cannot accept required public improvements, nor reduce a performance guarantee, until the developer has submitted a certificate attesting to satisfactory completion and the developer's engineer or surveyor has provided the City Council with certified "as built" construction plans of the public improvements including the utilities, indicating location, dimensions, materials, and other information required by the City Council and reviewed by the City Engineer or representative. Upon certification and evidence of satisfactory completion, the Administrator recommends acceptance to the City Council and the City Council accepts the applicable public improvements for maintenance according to established procedures.
11. Temporary Public Improvements. The developer must build and pay all costs for temporary public improvements required by the City Council and must maintain the same for the period specified. Prior to construction of any temporary public facility or improvement, the developer files with the City Council a separate suitable performance guarantee for temporary facilities, which insures that the temporary facilities will be properly constructed, maintained, and removed (except for turnaround at ends of the peripheral stub streets intended for connection into adjacent future subdivisions).

D. Maintenance Surety

1. When the improvements are completed and accepted by the City, the performance surety may be released. For 1 year after the date of improvements were accepted by the City or applicable agency, the developer must make all repairs to the improvements which may become necessary due to improper workmanship or materials. Such maintenance does not include any damage to improvements resulting from forces or circumstances beyond the control of the developer.
2. The developer must provide a maintenance surety to the City for any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility dedicated to the City. On-site and off-site improvements shown on the approved plans must be covered by the maintenance surety.
3. The maintenance surety must:
 - a. Run to, and be in favor of, the City;
 - b. Be in a sum of not less than 10% of the total improvements' construction cost of the development;
 - c. Provide surety satisfactory to the City;
 - d. Warrant the workmanship and materials used in the installation of the improvements
 - e. Include a certification from the developer that all improvements have been made according to the approved plans.
4. Maintenance sureties are effective from the date of acceptance and must not terminate until the Public Works Department certifies inspection and approval of the improvements.

- E. **Waiver of Required Public Improvements.** The City Council may defer or waive at the time of primary approval, subject to the appropriate conditions, the provision of any or all such public improvements as in its judgment, are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities.
- F. **Use of Funds.** Any funds received from the performance and maintenance guarantees can only be used for making improvements, installations or repairs that were guaranteed by a bond or irrevocable letter of credit.

5.9 Utilities

- A. This article applies to all development including major subdivisions, improvement location permits and site plans.
- B. Public sanitary sewer and water hook-ups are required for development in all Zoning Districts except the Conservation, Agriculture, and Heavy Agriculture Districts.
- C. Utilities must be installed underground in designated utility easements or rights-of-way.
- D. Development must provide for the collection of all sanitary sewage discharges by the installation of sanitary sewers. These sewers must be tied into a public sanitary sewer system and constructed within right-of-way and/or dedicated sewer and utility easements. When a public sanitary sewer is not available, then a septic sewer system on an individual lot may be provided if permitted by this Ordinance and if constructed according to the minimum requirements of the County Health Department.
- E. Development must provide a complete water main supply system connected to a municipal or a community water supply system approved by the County Health Department. When a municipal or community water supply is not available, then an individual water supply on each lot must be provided according to minimum requirements of the County Health Department.



Chapter 6

Improvement Standards

Elements Installed on a Site

6.1	FENCES AND WALLS	3
6.2	LIGHTING	3
6.3	PARKING	4
6.4	SIGNAGE	9
6.5	STREET SIGNS	20

6.1 Fences and Walls

These standards apply to fences and walls in all zoning districts.

- A. Fences and walls cannot be erected or altered in a manner that obstructs the vision of a vehicle driver ([4.10 Vision Clearance](#)). Fences and walls may be built directly along lot lines; however, they must not encroach into rights-of-way, nor into easements prohibiting the installation of fences or walls (e.g., drainage and utility easements) without prior approval of the easement holder.
- B. **Height Limitations**
 - 1. Fence or wall height is measured from the top of the fence or wall to the adjacent finish grade. When placed upon a mound or berm the fence or wall is measured from the top of the fence or wall to the finish grade at the base of the mound or berm.
 - 2. Fences or walls located within a side, street side, or rear yard of a residential lot cannot exceed 6 feet in height.
 - 3. Fences or walls located within the front yard of a residential lot cannot exceed 42 inches in height.
 - 4. Open wire mesh fences surrounding sports facilities, such as tennis courts and baseball diamond backstops, are exempt from these height limitations.
 - 5. Fences enclosing an institutional, commercial, or industrial property may consist of an open mesh fence not to exceed 10 feet unless otherwise restricted by this Ordinance.
 - 6. Fences for agricultural uses are exempt from these height limitations.
- C. Opaque fences must be installed so the finished side of the fence is facing outward (e.g., toward the lot line). Fences on a lot line in which two or more property owners share in the expense of the fence are exempt from this provision.
- D. Property owners should refer to any applicable Declaration of Covenants, Conditions, and Restrictions, that may impose greater restrictions than listed in this article. This Ordinance does not abolish any private covenants that may apply to property.
- E. Barbed wire and razor wire fencing is prohibited in all zoning districts except agricultural and industrial districts.
- F. Fences and walls must be maintained in good condition and operating order.
- G. In all zoning districts, temporary fences for safety and construction are permitted and are exempt from the standards of this article.

6.2 Lighting

- A. **Purpose and Intent.** The purpose of this article is to provide standards for effective, economical, and attractive outdoor lighting. It is the intent of this article to discourage excessive lighting, minimize glare and light trespass, and create a safe environment in hours of darkness.
- B. **Applicability.** All new or relocated outdoor lights for non-residential uses must comply with these regulations.
- C. **Exceptions.** The following are exempt from these regulations:

- Hazard warning lighting required by Federal and State agencies.
- Temporary emergency lighting required by emergency service providers and utility departments.
- Traffic control and directional lighting.
- Underwater lighting used for the illumination of swimming pools and water features.
- Lighting for temporary festivals, carnivals, and holidays.

D. **Prohibitions.** The following actions are prohibited:

1. The use of laser source light or other similar high-intensity light for outdoor advertising.
2. The operation of searchlights and floodlights for advertising purposes.
3. Neon tubing or LED strip lights cannot be used to outline site elements such as buildings, walls, fences, or windows unless otherwise approved by the Administrator.

E. **General Lighting Standards**

1. All light fixtures must be fully shielded and direct light downward. Internally illuminated signs and electronic signs are exempt from this standard.
2. Lighting sources must be positioned in such a manner as to direct light away from adjacent lots and rights-of-way. Internally illuminated signs or electronic signs are exempt from this standard.
3. Lighting sources must be directed away from reflective surfaces to minimize glare upon adjacent lots and rights-of-way.

6.3 Parking

A. **Purpose and Intent.** The purpose of these regulations is to establish standards for off-street parking and loading of motor vehicles, ensure adequate parking and access are provided in a safe and convenient manner, and to afford reasonable protection for adjacent land uses from light, noise, air pollution, and other effects of parking areas. These regulations are designed to alleviate congestion of streets by establishing minimum requirements for on-site parking, access, storage, loading, and/or unloading. Off-street parking and loading facilities must be provided and maintained for all buildings, structures, or premises according to the provisions of this article.

B. **General Requirements**

1. Applicability of Parking Requirements

- a. When the intensity of use of any building, structure, or premises is increased through the addition of dwelling units, floor area, or other unit of measurement, additional parking and loading facilities must be provided for the increase based on the requirements.
- b. Whenever the existing use of a building, structure, or premises changes or converts to a new use permitted by this Ordinance, parking and loading facilities must be added, if needed, to comply with the parking requirements.
- c. When additional parking is required, the following standards apply:

- i. If the added parking or loading area comprises less than 50 percent of the existing area used for parking or loading, only the added parking or loading facilities are required to conform to the parking requirements.
 - ii. If the added parking or loading area comprises 50 percent or more of the existing area used for parking or loading, the entire parking or loading area must be brought into conformance with the parking requirements.
 - d. Nothing in this Ordinance prevents the voluntary establishment of off-street parking or loading facilities serving existing uses if the parking requirements are met.
 - e. On-street parking is permitted, subject to the rules and conditions of the jurisdiction with authority over the street. Unless otherwise provided in this article, on-street parking does not count toward off-street parking requirements.
2. Limitations on Parking Areas
- a. Required off-street parking facilities can only be used for the parking of passenger vehicles or light trucks for patrons, occupants, or employees of specified uses. Parking facilities cannot be used for storage, display, sale, repair, dismantling, or wrecking of any vehicle, equipment, or material. Inoperable vehicles cannot be stored in an off-street parking area for more than 24 hours, except for areas approved for outdoor storage of vehicles.
 - b. Parking on residential properties is restricted to passenger vehicles and no more than one commercial truck or van.

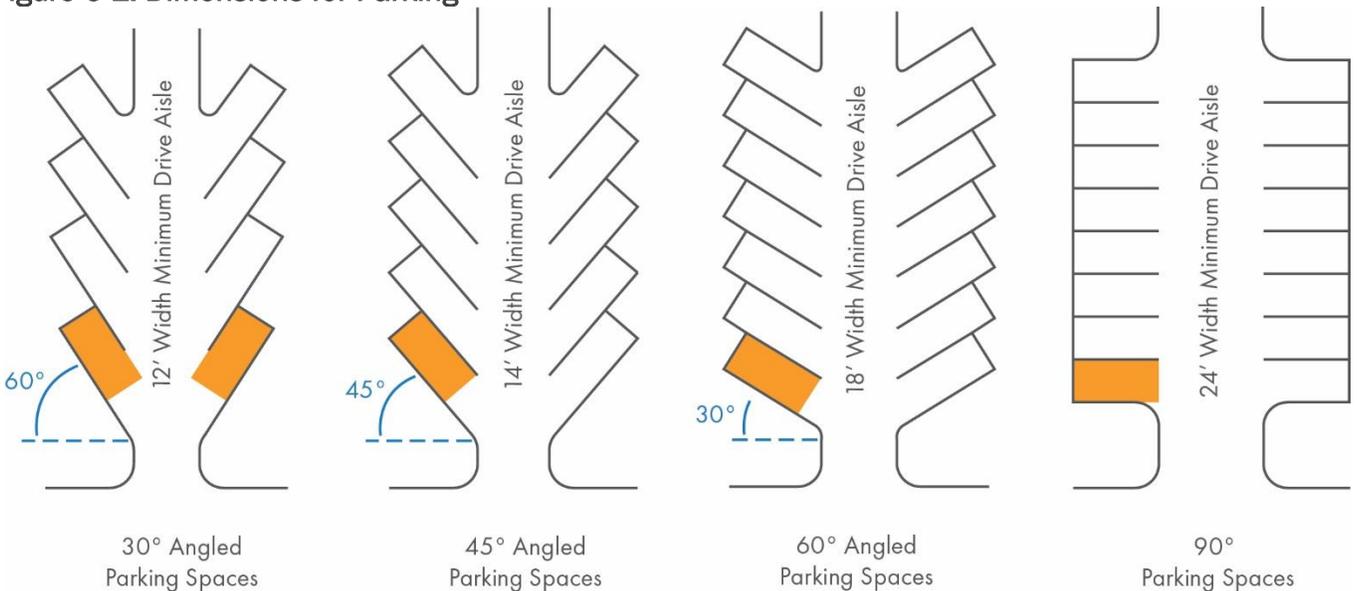
C. Required Off-Street Parking

1. Buildings or structures to be erected or substantially altered require off-street parking spaces in accordance with these regulations. The number of parking spaces to be provided is based upon the number of employees, expected level of customer traffic, or actual counts at similar establishments. Consideration is given to the presence of convenient municipal off-street parking or on-street spaces located adjacent to the site and if walk-in trade is reasonable due to pedestrian connections to adjacent residential neighborhoods or employment centers.
2. The minimum number of parking spaces to be provided is identified on the [3.2 Use Matrix](#). The number of spaces is calculated based on gross floor area of the use to which the parking is accessory, or as otherwise provided on the [3.2 Use Matrix](#).
3. If the calculation of required parking spaces results in a fraction, the fraction is rounded up to the next unit and counted as one additional space.
4. For uses not specified on the [3.2 Use Matrix](#), the minimum number of parking spaces required is determined by the Administrator, based on requirements for similar uses, the gross floor area of the use, and the relationship between the size of the use and the number of persons served or employed.
5. In the DT Downtown District, there is no minimum nor maximum parking requirement. In this district, the owner provides parking spaces based upon the expected level of demand created by the mix of uses on the site.
6. The minimum aisle width for angled parking is:

ANGLE FROM MIDLINE OF PARKING SPACE	MINIMUM AISLE WIDTH
-------------------------------------	---------------------

30 degree	12 feet
45 degree	14 feet
60 degree	18 feet
90 degree	24 feet

Figure 6-1: Dimensions for Parking



D. Design Standards. Off-street parking areas must be developed according to the standards of this section.

1. **Accessibility.** Off-street parking or loading facilities must be designed with vehicular access to a street or alley in a manner that least interferes with traffic movement on that street or alley. Vehicle maneuvering space for parking and loading must be located on the subject property.
2. **Location of Parking and Loading.** Off-street parking and loading spaces must be provided on the same lot as the use served, except as otherwise provided in this Ordinance.
3. **Layout.** Each off-street parking space must open directly upon an aisle or driveway to provide safe and efficient vehicular access to the parking spaces. Aisles or driveways must remain unobstructed and always allow for the passage of emergency vehicles.
4. **Size of Spaces.** Off-street parking spaces must be at least 9 feet wide and 18 feet long with a vertical clearance of 7 feet. Parallel parking spaces must be at least 8 feet wide and 22 feet long. Parking spaces are exclusive of access drives, aisles, ramps, columns, and work areas.
5. **Parking Surface.** Driveways, drive aisles, and parking spaces must be surfaced with asphalt, concrete, or similar material to provide a durable and dustless surface. Gravel driveways and drive aisles are prohibited, unless approved by the Administrator for temporary uses or agricultural operations, including seasonal roadside stands. Pervious parking spaces are encouraged to reduce post-construction stormwater runoff rates, volumes, and pollutant loads. The Administrator may approve the use of permeable surfaces such as pervious concrete, porous asphalt, permeable interlocking concrete pavers, and concrete or plastic grid pavers.

6. Curbing. Curbs and gutters built per the City's Construction Standards are required around the perimeter of all required parking areas and landscape islands within the parking areas to prevent a parked vehicle from extending beyond the parking area onto a street right-of-way or adjacent property and to protect landscaped areas.
7. Residential Driveways. A residential dwelling unit is limited to one driveway with a maximum width of 20 feet measured at the right-of-way line.
8. Drainage or Runoff. Parking areas must be graded and drained, so water does not flow onto adjacent property or public sidewalks. Runoff generated by parking areas must be collected in appropriate drainage facilities per the City's stormwater standards.
9. Striping of Parking. Parking areas must be striped and maintained to identify each parking space.
10. Lighting. Parking lot lighting must comply with the standards of [6.2 Lighting](#).
11. Accessible Parking. Accessible parking must be provided pursuant to the Americans with Disabilities Act (ADA) of 1990, as amended.

E. Parking Options

1. Credit for On-Street Parking. Wherever on-street parking is provided in the improvement of a street, credit toward off-street parking requirements may be granted for every parking space provided. On-street parking is subject to approval by the Administrator and specifically not permitted in the following areas:
 - a. On an arterial street.
 - b. Within 20 feet of a corner.
 - c. Within 5 feet of each side of a driveway or alley.
 - d. Within a fire hydrant zone or other emergency access zone.
2. Shared Parking. Groups of users requiring parking spaces may create a shared parking facility if all the criteria below are met. Approval by the Plan Commission is required.
 - a. Off-site, off-street parking facilities are within 600 feet of the property.
 - b. Safe and convenient pedestrian uses must be provided between the parking facilities and uses.
 - c. Interior vehicle access must connect the properties sharing the parking facilities.
 - d. Shared parking facilities may cross interior lot lines of abutting parcels.
 - e. A written reciprocal parking agreement or similar document with a minimum duration of 20 years, signed by all property owners involved is required. It must include provisions for: easements (if applicable), maintenance, snow removal, ownership, and liability. The agreement must be recorded in the County Recorder's office with a copy provided to the Department. When the reciprocal parking agreement expires or terminates, the uses for which the parking was provided are considered non-conforming. Continuation or expansion of the uses is prohibited unless the use is brought into compliance with the parking regulations of this article.
3. Deferred Parking. When development of a site will occur in phases, the Plan Commission may defer some of the required parking until it is needed if:

- a. A site plan shows all required parking but identifies those spaces that will not be constructed until needed.
 - b. Any area designated for deferred parking must be maintained in a landscaped appearance. Parking lot landscaping required for the deferred spaces can be installed when the deferred parking area is constructed.
 - c. Construction of all or a portion of the deferred parking spaces may be initiated by the owner or required by the City based on actual parking needs.
4. **Bicycle Parking.** Developments are encouraged to provide bicycle parking when appropriate. Bicycle parking areas should be within 60 feet of the main entrance into the structure or located inside the structure. A permanently anchored bike rack should be installed to provide the opportunity for secure parking of bicycles.

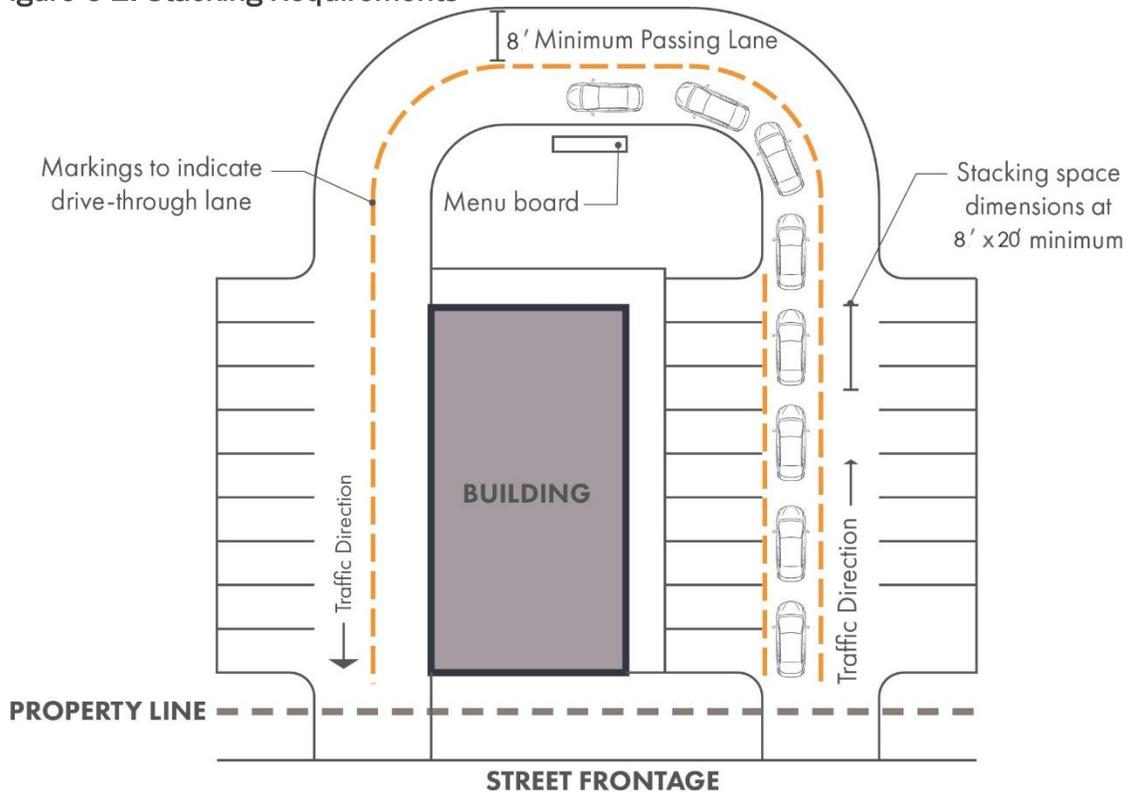
F. Stacking Requirements for Drive-Through Facilities

The following requirements apply to uses with drive-through facilities.

1. Drive-through lanes and required stacking spaces cannot interfere with parking space maneuvering aisles, parking drive aisles, loading spaces, internal site circulation, designated fire lanes or site access points.
2. Drive-through lanes and stacking spaces must be designed to prevent vehicles from stacking in a right-of-way ([Figure 6-2](#)).
3. A stacking space cannot occupy any portion of a right-of-way.
4. A stacking space does not constitute a parking space.
5. All drive-through and stacking lanes must be delineated with pavement markings or otherwise distinctly delineated, as approved by the Administrator.
6. A stacking space must be at least 8 feet wide and 20 feet long with direct forward access to a service window or station of a drive-through facility.
7. A lane at least 8 feet wide lane parallel to a drive-through lane must be provided around the drive-through facility to allow vehicles to exit the drive-through lane and circumvent the stacking lane. This lane may be part of the site's overall circulation plan. If an applicant demonstrates strict compliance with this requirement is impracticable or would result in a less desirable site design, the Administrator may waive this requirement.
8. Below are the minimum number of required stacking spaces, excluding the position at the service window or ordering station.
 - Fast food restaurant and coffee shops with ordering and pick-up: 7 stacking spaces
 - Fast food restaurant and coffee shops with pick-up only: 4 stacking spaces
 - Financial institutions, pharmacies, and takeout restaurants with drive-through 3 stacking spaces per service window
 - All other facilities: 2 stacking spaces per service window

If an applicant demonstrates strict compliance with a requirement is impracticable or would result in a less desirable site design, the Administrator may waive the requirement.

Figure 6-2: Stacking Requirements



- G. **Off-Street Loading Requirements.** When provided, loading areas must meet the following standards.
1. Loading docks must be located so they are not visible from public streets. If such a location is not possible, a loading dock visible from a public street must be screened.
 2. Loading docks must have adequate area for semi tractor trailers to maneuver in and out of the facility without blocking rights-of-way, streets, alleys, aisles, or other internal circulation ways.
 3. Loading docks must be paved with asphalt or concrete.
 4. Loading docks must be constructed to allow proper drainage away from the structure. Filtration strips are required, so loading area drainage systems cannot directly convey water into a storm sewer or waterway.

6.4 Signage

- A. **Intent.** Signs perform an important function in identifying and promoting businesses, services, neighborhoods, events, economic development, and other matters of interest to the public. The intent of this article is to regulate all signs within the City of Boonville: to ensure the signs are appropriate for their respective uses, keep with the neighborhood characteristics desired by the City, prevent traffic hazards, provide safe conditions for pedestrians, and protect public health, safety, and general welfare. These regulations seek to achieve these goals by:
1. Setting content-neutral standards and providing uniform regulations that permit reasonable use of signs;

2. Maintaining the various characteristics found within the zoning districts and neighborhoods throughout the City, regardless of sign content. Signage is scaled appropriately with properties fronting on wide streets with higher speed limits being permitted larger signs than those on narrow streets with lower speed limits;
3. Prohibiting the erection of signs that may create a hazard to pedestrians and motorists due to their number, size, illumination, and location.
4. Avoiding excessive amounts of signs so signage provides adequate identification and direction while minimizing clutter, unsightliness, and confusion; and
5. Establishing a clear process for requiring permits for signs, allowing some signs without permits, and allowing legally nonconforming signs to continue without jeopardizing the useful life of the sign.

B. Permits Required. A sign permit may be required to erect, alter, place, or replace a sign or sign structure as required by this article. Permit requirements are noted in the development standards for the specific types of signs.

1. Application. Application for a permit is made to the Administrator on forms provided by the department with the permit application fee and required information to assure compliance with this Ordinance. Within 5 business days of the permit application, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Within 10 business days of the permit application, the Administrator will issue a permit for applications meeting the permit requirements or notify the applicant of the areas where the permit application does not comply with the permit requirements.
2. Effects of Sign Permit Issuance. Permits issued in accordance with this article do not authorize unlawful signs.
3. Nullification. A sign permit becomes null and void, and the permit fee forfeited, if the authorized work has not been completed within 6 months of the date the permit was issued.

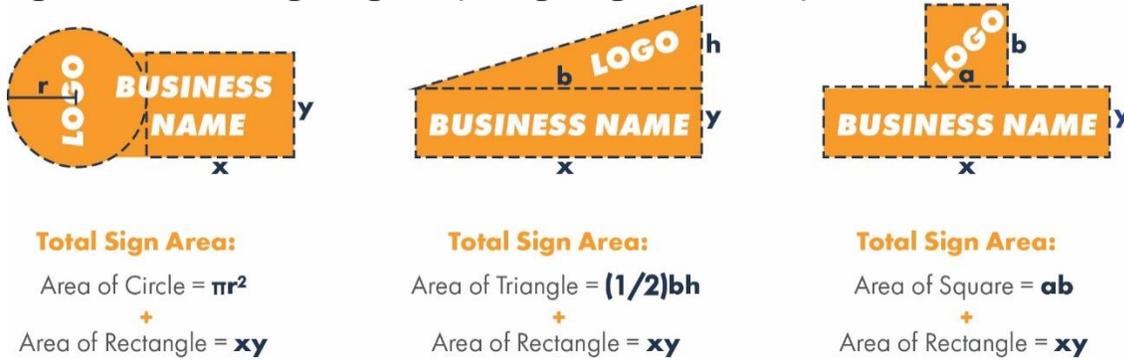
C. General Sign Provisions

1. Signs cannot be placed in, upon, or over any public right-of-way, alley or other public place unless authorized by the City Council.
2. A sign cannot be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic signs, signal, or device, or constitute a nuisance.
3. Light poles, utility poles, or another supporting member of a building or property cannot be used for the placement of any sign unless the owner of the pole or supporting member has given permission for such use and the sign conforms to all requirements of this article.
4. Projecting signs, awnings, canopies, and marquees that extend into rights-of-way must have at least 8-foot clearance from the bottom of the structure to the ground and require an encroachment permit. The following are exempt from this requirement:
 - a. Flags projecting over the right-of-way must be attached to the wall of the building at least 6 feet above the adjacent grade, cannot project more than 3 feet from the face of the wall, and must maintain a clear space of 8 feet from the bottom of the flag to the ground.
 - b. Temporary movable freestanding signs.

D. Measurement Standards

1. For a wall sign which is framed, outlined, or painted to provide a background for a sign display, the area and dimensions must include the entire portion within the background or frame.
2. For a wall sign comprised of individual letters, figures, or elements on the surface of a building one or more regular geometric shapes (rectangle, circle, trapezoid, triangle, etc.) to determine the area of the elements in the sign.

Figure 6-3: Measuring using multiple regular geometric shapes



3. For a detached sign, the sign area includes the frame, if any, but does not include:
 - a. A pole or structural support unless the support is internally illuminated or part of the display.
 - b. Architectural features that are part of the building or freestanding structure which are an integral part of the sign.
4. A multi-faced sign is calculated by measuring each sign face and adding them together.
5. If 2 sign faces are placed back-to-back, this is measured and counted as one sign. If one of the sign faces is larger, the sign area is calculated using the larger of the 2 faces.
6. If 2 sign faces are placed back-to-back and separated by more than a 45-degree angle, each face is calculated independently, and they are counted as a multi-faced sign.
7. The height of a detached sign is measured as the vertical distance from the highest point of the sign to the grade of the ground immediately beneath the sign (not including any artificial mounds or berms).
8. The setback of a sign is measured from the leading edge of the sign to the property line.

E. Permanent Signs

1. Wall Sign

- a. Description. A sign attached parallel to or painted on the wall of a building. Wall signs cannot extend beyond the edge of the wall. The distance between the face of the wall and the face of the sign should be 12 inches or less. If the distance exceeds 12 inches, the sign is considered a projecting sign. A sign permit is required.
- b. Permitted in Zoning Districts. Wall signs are permitted in all zoning districts.
- c. Maximum Height. Wall signs cannot extend above the bottom of the second-floor windowsill on multi-story buildings nor above the roofline on single-story buildings.
- d. Maximum Sign Area. Wall sign area is allocated as follows:



ZONING DISTRICT	MAXIMUM SIGN AREA PER LINEAL FOOT OF BUILDING OR TENANT FRONTAGE (SF)	MINIMUM SIGN AREA ALLOWED FOR EACH TENANT (SF)
DT Downtown	1.75	20
C1 Neighborhood Commercial	2.25	25
C2 General Commercial IS Institutional	2.5	30
C3 Highway Commercial	2.75	30
AG Agriculture AH Heavy Agriculture	2.25	25
I1 Light Industrial I2 Heavy Industrial	2.25	30
RI-R5 Residential	Max. sign area is 2 SF	n/a
RI-R5 Non-Residential Use in a Residential District	2.25	25

- e. Maximum Number. Each tenant may have multiple wall signs if the total wall sign area does not exceed the maximum sign area permitted.
- f. Minimum Setback. Not applicable

g. Design Standards.

- i. The wall sign cannot exceed 80% of the length of the tenant space for a multi-tenant building nor 80% of the length of the building frontage for single-tenant buildings.



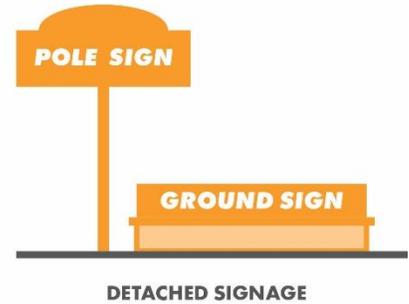
- ii. The area of any wall sign may be increased by 25% when the building is at least 200 feet from the public right-of-way. The sign area may be further increased an additional 25% for each additional 200 feet of distance from the right-of-way up to a maximum increase of 100%.



- h. Additional Wall Signs for Multi-Story Buildings. Additional wall sign area is permitted on each of the building's frontages for multi-story buildings. For a building with two stories, the additional permitted sign area is 25 SF for each frontage. An additional 15 SF of sign area is permitted for each additional building floor. The additional sign area must be placed at the floor for which the bonus has been granted.
- i. Building Directory. In addition to the wall signs permitted by these regulations, an additional sign up to a maximum of 24 SF is permitted for the purpose of identifying upper floor tenants and first floor tenants that do not have outside building frontage.

2. Detached Sign

- a. Description. A sign permanently anchored to the ground and not attached to a building. A sign permit is required.
- b. Permitted in Zoning Districts. Detached signs are permitted in all zoning districts except the Mixed-Use District and the Downtown District.
- c. Maximum Height and Sign Area. Detached sign height and area is allocated as follows:



Zoning District	Maximum Height (FT)	Maximum Sign Area (SF)	Min./Max. Setback from Right-of-Way (FT)
DT Downtown	n/a	n/a	n/a
C1 Neighborhood Commercial	12	36	0/30
C2 General Commercial IS Institutional	20	60	5/40
C3 Highway Commercial	30	90	5/40
AG Agriculture AH Heavy Agriculture	12	36	5/35
I1 Light Industrial I2 Heavy Industrial	15	45	10/50
RI-R5 Residential	n/a	n/a	n/a
RI-R5 Non-Residential Use in a Residential District	8	24	5/30

- d. Maximum Number. 1 per street frontage per parcel.
- e. Minimum Setback. No portion of a detached sign can encroach into the public right-of-way. Additional detached signs are permitted for every 100 feet of street frontage more than 150 feet and for corner lots.
- f. Multi-Tenant Signs
 - i. Parcels containing 2 or more tenants must use a multi-tenant sign.
 - ii. A minimum of 50 feet must be maintained between all other detached signs, including multi-tenant signs.
 - iii. A multi-tenant sign can only advertise tenants located on the premises. A tenant advertising on a multi-tenant sign cannot have another detached sign.
 - iv. Organizations advertising on a multi-tenant sign may also have a wall sign or a projecting sign as permitted by this article.

3. Projecting Signs

- a. Description. A double-faced sign attached to a building or wall or under a continuous canopy projecting from the building for the purpose of identifying the business for a pedestrian walking along the same side of the street as the business advertised on the sign. A sign permit is required.
- b. Permitted in Zoning Districts. Projecting signs are permitted in all non-residential districts.
- c. Maximum Height. Signs cannot extend above the bottom of the second-floor windowsill.
- d. Maximum Sign Area. 6 square feet.
- e. Maximum Number. One per business per street frontage.
- f. Design Standards. Projecting signs must have at least 8 feet of clearance between the bottom of the sign and the sidewalk. Projecting signs cannot project more than 36 in from the face of a building or wall. At least 20 feet of separation is required between projecting signs.



4. Awning, Canopy, Marquee Signs

- a. Description. A building-mounted sign that also provides shelter. A sign permit is required.
- b. Permitted in Zoning Districts. Awning, Canopy, and Marquee signs are permitted in all zoning districts.
- c. Maximum Height. Signs must not extend above the bottom of the 2nd floor windowsill.
- d. Maximum Area. 2 square feet per linear foot of building width.
- e. Maximum Number. One per face of the awning, canopy, or marquee.
- f. Minimum Setback. Awnings, canopies, and marquees extending over the public right-of-way must have at least 8 feet of clearance between the bottom of the sign and the sidewalk.



5. Building Identification Signs

- a. Description. A sign containing the name and/or address of the premises, for the primary purpose of identifying the premises. A sign permit is required.
- b. Permitted in Zoning Districts. Building identification signs are permitted in all districts on buildings at least 3 stories in height.
- c. Maximum Height. 10 feet. The sign cannot extend vertically beyond the eave line.
- d. Maximum Area. 30 square feet per sign.
- e. Maximum Number. 2 per building.
- f. Illumination. A building identification sign may only be illuminated internally.

- g. Design Standards. A building identification sign cannot include a tenant name or logo. The sign may be a wall sign or projecting sign located on the upper floors of the building.

6. Drive-Thru Signs

- a. Description. Menu or information board as an accessory structure for commercial use with a drive through window. Additional signage is allowed for drive-thru restaurants with the following standards. A sign permit is required.
- h. Permitted in Zoning Districts. Drive-Thru signs are permitted in all non-residential districts.
- i. Maximum Height. 6 feet.
- j. Maximum Area. 32 square feet.
- k. Maximum Number. 1 per drive-through lane.
- l. Design Standards. Drive-thru signs cannot be readable from the public right-of-way.

7. Directional Signage

- a. Description. For a parcel containing multiple buildings, business parks, or master-planned communities, additional signage may be installed for the purpose of directing traffic, in addition to other allowed signs. A sign permit is not required.
- b. Permitted in Zoning Districts. Directional signs are permitted in all zoning districts.
- c. Maximum Area. 12 square feet.
- d. Maximum Number. 1 sign is permitted per intersection. Directional signs should only be placed where needed to provide information to navigate the site. Only the necessary number of signs should be used.
- e. Design Standards. Directional signs must be placed at the interior of the parcel and cannot be readable from the public right-of-way.

F. Illuminated And Electronic Signs

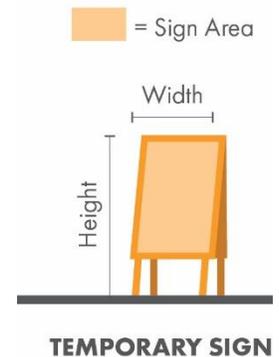
1. All signs may be internally or externally illuminated, except for temporary signs. If externally illuminated, the light source must be enclosed and directed to prevent light from shining directly onto traffic or residential properties.
2. Signs cannot scroll, flash, blink, oscillate, or have any other appearance of movement.
3. Sign Lighting
 - a. Light fixtures used to illuminate a sign, other than an internally illuminated sign, should be mounted on top of or above the sign structure and must comply with the shielding requirements of this article.
 - b. Ground-mounted or bottom-mounted light fixtures must be fully shielded, and all light output directed onto the sign surface.
 - c. Lamps used for the internal illumination of wall signs must be turned off at 11:00 p.m. or when business closes.
4. Electronic Reader Board Signs
 - a. A sign permit is required for electronic reader board signs.

- b. Electronic reader board signs, otherwise known as Electronic Message Centers (EMCs), must have an instantaneous change between messages, with a minimum 7 second delay between displays.
- c. EMCs are not permitted within Residential Districts.
- d. Electronic reader board signs are permitted on a wall or detached sign, but only on one such sign at the property, not on both.
- e. Glare must be reduced or minimized to maintain an appropriate level of contrast during the day and at night.
- f. In the Downtown District, EMCs must be located no higher than the first floor of the building.

G. Temporary Signs

1. Temporary Detached Sign

- a. Description. A detached sign not anchored or secured to a building or the ground. A sign permit is not required.
- b. Permitted in Zoning Districts. Temporary detached signs are permitted in all non-residential zoning districts.
- c. Maximum Height. 48 inches.
- d. Maximum Area. 10 square feet.
- e. Maximum Number. 1 per business.
- f. Design Standards
 - i. The sign must be located within one foot of the building containing the business using the sign.
 - ii. At least 6 feet of unobstructed sidewalk must be maintained. The sign cannot be placed in a manner that obstructs or impedes pedestrian traffic or creates a visibility hazard for vehicular, bicycle, or pedestrian traffic.
 - iii. Temporary detached signs cannot be illuminated.
 - iv. The sign can only be displayed during hours the business is open to the public. The entire sign structure, including the sign panel and supporting structure, must be removed and placed indoors when not on display.



2. Temporary Display

- a. Description. Temporary displays containing pennants, streamers, banners, balloons, balloon signs, feather signs, and other similar temporary signs for promoting a special event. A sign permit is required for temporary displays in non-residential districts.
- b. Permitted Zoning Districts. Temporary displays are permitted in all zoning districts.
- c. Maximum Height. Ground-mounted signs, such as balloon signs and feather signs, cannot exceed 6-foot height. Pennants, streamers, and similar style signs must comply with the height requirements of the zoning district.
- d. Maximum Area. 10 square feet for ground-mounted signs.
- e. Maximum Number. 1 ground-mounted sign per tenant.

- f. Design Standards
 - i. Temporary displays must comply with the setback requirements for accessory structures in the zoning district.
 - ii. Temporary displays must not be displayed for more than 14 consecutive days in non-residential districts and no more than 3 consecutive days in residential districts. Temporary displays must be removed within 48 hours of the conclusion of the event.
 - iii. No more than 2 permits will be issued per calendar year, per tenant or property owner.
- 3. Temporary Project Signs
 - a. Description. Temporary signs commonly associated with a construction or renovation project are allowed. A sign permit is not required.
 - b. Permitted Zoning Districts. Temporary project signs are permitted in all zoning districts.
 - c. Maximum Height. 8 feet
 - d. Maximum Area. 32 square feet
 - e. Maximum Number. 1 per project
 - f. Design Standards
 - i. A detached sign cannot be located within any public right-of-way, vision clearance triangle, or easement.
 - ii. A wall sign must be attached tautly to the façade of the building or tenant space.
 - iii. Temporary project signs are intended to be temporary and must be removed after completion of construction and/or prior to the acceptance of maintenance for any roads by the City.
- 4. Temporary Sales Office Signs
 - a. Description. Temporary sales offices customarily have a need for additional temporary signage for identification and wayfinding. Such signs are allowed. A sign permit is required.
 - b. Permitted Zoning Districts. Temporary sales office signs are permitted in all zoning districts.
 - c. Maximum Height. 4 feet
 - d. Maximum Area. 24 square feet
 - e. Maximum Number. 4 signs per lot. The aggregate area of the signs cannot exceed the maximum sign area permitted.
 - f. Design Standards
 - i. Temporary sales office signs must be removed within 7 days of the permanent closure of the sales office.
 - ii. Signs cannot be located within any public right-of-way, vision clearance triangle, or easement.
- 5. Holiday Decorations. Temporary decorations or displays, when clearly incidental to and commonly associated with any national, local, or religious holiday/celebration.

H. Prohibited Signs

1. Pennants, streamers, banners, balloons, or feather signs are not allowed as permanent signs. These signs may be permitted as temporary signs in some cases. [6.4\(G\) Temporary Signs](#)
2. Signs that employ any flashing, moving, oscillating, blinking, or variable intensity light, such as rolling, fading, moving, or animated parts that are designed to give the appearance of movement are prohibited.
3. Roof signs are prohibited.
4. Billboards and advertising signs are prohibited. The following types of signs are not considered billboards or advertising signs:
 - a. Multi-tenant signs located on a shared access drive.
 - b. Conforming signs that have subsequently been separated from their original parcel may continue to be used as originally intended.
 - c. Joint signage where adjacent property owners entered into a written agreement to have joint signage. No additional sign area for any individual property is granted due to a joint signage agreement.
5. Abandoned signs are prohibited. A business that has been closed for 60 consecutive days must ensure that all their signs are removed from the property.
6. Any vehicle (including trailers) with the primary function of acting as a sign is prohibited unless a temporary sign permit has been issued.

I. Nonconforming Signs

1. Nonconforming signs may not be expanded, enlarged, or extended; however, they may be maintained and repaired to continue the useful life of the sign.
2. A nonconforming sign may be diminished in size and may have the message or design changed.
3. Any nonconforming sign, sign structure, or frame substantially destroyed by neglect, deterioration, fire, accident, or other casualty loss (50% or more of its replacement value) cannot be restored or rebuilt unless it conforms to this article.

J. Maintenance Of Signs

1. All signs must be maintained free of peeling paint or paper, sun fading, staining, rust, or other conditions that impairs the legibility of such sign. Routine maintenance does not require a permit. Exact replacement of faded or worn letters, and similar repairs, is considered routine maintenance.
2. Any signs permitted by the provisions of this article, including all supports, braces, guys, and anchors, must be maintained in conformance with this article and in such a manner so as not to cause a hazard to the public.

K. Signs Exempt from Permits. The following signs may be installed or erected without a permit:

1. Historic markers placed under the authority of the local, state, or federal government.
2. Address numbers and building identification signs.
3. Hours of operation and other similar business information.

4. Window signs applied to the exterior of the window/door glass where the sign does not exceed 15% of the glass area. Windows that are immediately adjacent, on the same wall face of the same building, may be averaged together.
5. Non-commercial flags
6. Advertising flags at non-residential properties with a maximum size of 15 square feet, with one per business per street frontage. Other types of flags, or multiple flags are allowed as a temporary sign with a permit.
7. Non-commercial signs in all zoning districts subject to the following:

STREET FRONTAGE	MAXIMUM TOTAL SIZE	MAXIMUM HEIGHT	MAXIMUM NUMBER
Up to 60 linear ft	12 sf	6 ft	No limit on the number of signs, but the total area of all signs added together cannot exceed the "total size."
61-200 linear ft	24 sf	6 ft	
201-400 linear ft	32 sf	6 ft	
Over 400 linear ft	64 sf	6 ft	

8. Handicap signage with the international symbol of accessibility or van accessible recognized logo for Americans with Disability Act (ADA) compliance and accessibility.
9. Fabric umbrellas with writing or logos that are an integral part of the fabric, used primarily to provide shade or cover to customers.

L. Violations

1. Unsafe Signs. If the Administrator determines any sign is unsafe or constitutes a hazard to the public, such as obstructing vision of vehicle drivers or pedestrians, they may have the sign removed or require its immediate removal.
2. Signs in Violation. If the Administrator determines any sign has been constructed, erected, or maintained in violation of the provisions of this article, the Administrator may have the sign removed or require its immediate removal.
3. Unauthorized Signs on Public Property. Any sign placed or erected in a public right-of-way or other public land, without being specifically approved, is deemed an unlawful sign. The City may remove such sign or require its immediate removal, and the City is not required to notify any party of the removal of the sign in advance.
4. Enforcement. A person who violates or fails to comply with the requirements of this article is subject to enforcement action per [CHAPTER 8: PROCESS AND PERMITS](#).

6.5 Street Signs

- A. Streets must have the minimum number of street signs necessary to create a safe environment for drivers and pedestrians and convey information to efficiently find a certain street or address.
- B. A street name sign is required at each intersection within and at the perimeter of the development.
- C. Street signs must comply with the current edition of the [Indiana Manual on Uniform Traffic Control Devices](#) and the City's Construction Standards.

- D. Street name and regulatory signs must be installed prior to any street being opened to the public or the issuance of building permits within the development section.
- E. Decorative street signs may differ from the City's Construction Standards if approved by the Plan Commission. Decorative street signs must be installed at the expense of the developer and maintained by the property owners' association. An agreement between the City and the property owner's association is required to establish that the property owner's association is responsible for replacing the decorative street signs and poles when the original signs installed are lost or damaged. If the City must replace a street sign, it is not obligated to install a decorative sign.



Chapter 7

Subdivision Regulations

Standards applying to the division of land

7.1	ESTABLISHMENT OF CONTROLS.....	3
7.2	SUBDIVISION TYPES.....	3
7.3	APPROVAL PROCESS OVERVIEW	4
7.4	SKETCH PLAN REVIEW PROCEDURE.....	4
7.5	SKETCH PLAN SUBMITTAL REQUIREMENTS	4
7.6	PRIMARY PLAT APPROVAL PROCEDURE	5
7.7	PRIMARY PLAT SUBMITTAL REQUIREMENTS	7
7.8	SECONDARY PLAT APPROVAL PROCEDURE	9
7.9	SECONDARY PLAT SUBMITTAL REQUIREMENTS.....	10
7.10	COMMERCIAL AND INDUSTRIAL SUBDIVISIONS	11
7.11	RE-SUBDIVISION OF LAND	11
7.12	VACATION OF PLATS.....	11
7.13	MODIFICATIONS OF SUBDIVISION REGULATIONS.....	11
7.14	PLAT CERTIFICATES AND DEED OF DEDICATION.....	12

7.1 Establishment of Controls

Subdivision plats, replats, amendments or corrections to a recorded plat cannot be recorded until approved according to this chapter. Approval must be in writing on the plat by the Administrator. Amendments or corrections to a recorded plat must be cited as an addendum to the approved plat.

7.2 Subdivision Types

This article establishes the process for subdividing land to ensure conformity to the standards of this chapter. Subdivision applications are generally considered favorably by the Plan Commission and Administrator. There are three types of subdivisions that require approval: administrative subdivisions, minor subdivisions, and major subdivisions. Subdivisions of all types are permitted in all zoning districts unless otherwise specified in [CHAPTER 2: ZONING DISTRICTS](#).

The following types of land divisions are exempt from these subdivision regulations:

- A division of land for the sale or exchange of tracts to correct errors in an existing legal description, provided that no additional lots are created by the division.
 - 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.
 - A division of land for the acquisition of street right-of-way or easement.
 - A division of land for the sale or exchange of tracts between adjoining landowners, provided no additional lots are created by the division and the lots meet the minimum standards of the zoning district of the land's location.
 - A division of land into cemetery plots for the purpose of burial of corpses.
- A. **Administrative Subdivisions.** An administrative subdivision applies to proposed adjustments of property lines when no new lots are created or when parcels are merged. The following situations qualify:
1. Adjusting lot lines where the resulting lots conform to the standards of this Ordinance. When the existing lots currently do not conform, the adjustment should not increase nonconformance.
 2. Combining common ownership lots to lessen the total number of buildable lots.
 3. Adjusting lot lines to address issues of property line encroachment or buildings across property boundaries.
- B. **Minor Subdivisions.** A minor subdivision results in four or fewer lots (including the parent parcel) and does not involve the creation of new interior streets, adjustments to design standards, or the creation of common areas.
- C. **Major Subdivisions.** A major subdivision is any subdivision other than an administrative subdivision, or a minor subdivision.

7.3 Approval Process Overview

- A. **Administrative Subdivision.** Approval of an administrative subdivision is a one-step process involving the approval of a secondary plat. The approval or disapproval of an administrative subdivision is delegated to the Administrator.
- B. **Minor Subdivision.** Approval of a minor subdivision is a one-step process involving the approval of a secondary plat. The approval or disapproval of a minor subdivision is delegated to the Administrator. This type of subdivision may be used until the lot limitation of the minor subdivision process is reached. The creation of lots exceeding the lot limitation requires approval as a major subdivision.
- C. **Major Subdivision.** Approval of a major subdivision is a two-step process including the approval of a primary plat and a secondary plat. The approval or disapproval of a primary plat is delegated to the Plan Commission. After a primary plat approval, a property is eligible for secondary plat approval. The approval or disapproval of a secondary plat is delegated to the Administrator.
- D. **Appeal.** If the applicant does not agree with the conditions of approval or the disapproval of a plat by the Administrator, the applicant may appeal the decision to the Plan Commission. Appeals must be filed in writing at least 10 days before the next Plan Commission meeting.

APPROVAL PROCESS BY SUBDIVISION TYPE	
ADMINISTRATIVE	Secondary Plat
MINOR	Secondary Plat
MAJOR	Sketch Plan
	Primary Plat
	Construction Drawings
	Secondary Plat

7.4 Sketch Plan Review Procedure

- A. **Purpose.** The sketch plan review helps minimize development planning costs, avoid misinterpretation, identify required approvals, discuss checkpoint agency and technical reviews, identify the need for modifications or variances, and ensure compliance with the requirements of this Ordinance.
- B. **Application Requirements.** Sketch plan review is required for major subdivisions and recommended for the other types of subdivisions, unless waived in writing by the Administrator. The applicant meets with the Administrator bringing: (1) an application provided on forms provided by the Department, (2) a sketch plan, (3) all applicable fees, and (4) any supplemental information required by the Administrator.
- C. **Review Process.** At the meeting, the Administrator reviews the proposed subdivision with the applicant discussing the approval process for subdivisions and possible modifications required to comply with the requirements of this Ordinance. The Administrator may send a copy of the sketch plan to members of the Technical Advisory Committee for their review and comment. If significant redesign is necessary to the meet the Ordinance requirements, the Administrator may require another sketch plan review of the revised design prior to filing a primary plat application.

7.5 Sketch Plan Submittal Requirements

- A. The Sketch Plan must include, unless waived in writing by the Administrator:

1. Location of the property, name of the subdivision, lot, section, township, range and county, graphic scale, north arrow, and date.
 2. Name, address, and telephone number of the owner and the professionals responsible for the design of the subdivision, its public improvements, and surveys. If the application is made by an owner's authorized agent, a consent form signed by the owner and notarized must accompany the application.
 3. The name of the owner of each parcel of property involved in the proposed subdivision.
 4. A plan drawn at a scale of no more than 1" = 100', showing the location of property lines, existing easements, pipelines, transmission lines, burial grounds, railroad rights-of-ways, water courses, floodplains, wetlands, boundaries of wooded areas, and individual trees 8" or more in diameter within areas to be impacted by site disturbing activities.
 5. Location, width, and names of all existing or platted streets or other public ways within or immediately adjacent to the tract.
 6. Names of adjoining property owners abutting any perimeter boundary of the subdivision.
 7. Location, sizes, elevations, and slopes of existing sewers, water mains, culverts, and other underground structures within and adjacent to the tract.
 8. Existing permanent buildings and utility poles on or adjacent to the site and utility easements.
 9. Topography at two-foot contour intervals unless otherwise approved by the Administrator.
 10. The approximate location and widths of proposed streets.
 11. The approximate location, dimensions, and areas of proposed lots and parcels proposed to be set aside for parks or other common areas.
 12. Preliminary designs for water, sanitary, and stormwater systems.
- B. **Supplemental Information.** The Administrator may require the following information:
1. Existing covenants or zoning commitments recorded on the property.
 2. Whenever a sketch plan covers only a part of an applicant's contiguous property, the applicant submits a plan showing the proposed subdivision design for the remaining property including the street and infrastructure layout.
 3. A vicinity map showing streets and other general development of the surrounding area.
 4. A soil survey map showing the soil limitations based upon the intended use of the subdivision parcels.
 5. An area map showing the total drainage area containing the proposed subdivision.

7.6 Primary Plat Approval Procedure

- A. **Concurrent Primary Site Plan Approval.** The primary plat application also serves as the primary site plan application. This simultaneous filing allows the Plan Commission to review and approve modifications to this Ordinance's standards as outlined in [8.20 Modifications](#). The approval or rejection of the primary plat application is also approval or rejection of the primary site plan application. Secondary plat approval will not be granted unless a detailed site plan is approved before, or simultaneously with, the secondary plat (see [8.6 Site Plan Review](#)).

B. Application Requirements. The applicant files:

1. An application provided on forms provided by the Department,
2. A primary plat,
3. All applicable fees, and
4. Supplemental information required by the application or Administrator.

C. Compliance. Primary plats must be substantially similar to the sketch plan as reviewed.

D. Phasing. A primary plat may include all or only a part of a larger overall development. However, a primary plat must include the entire parent tract being subdivided unless otherwise deemed unnecessary by the Administrator or Plan Commission. This requirement seeks to avoid the creation of remainder parcels not complying with this Ordinance or inhibiting orderly development.

E. Placement on the Plan Commission Agenda. The Administrator reviews the application for completeness. Applications determined to be complete and allowing for a full review are numbered and docketed for a public hearing by the Plan Commission.

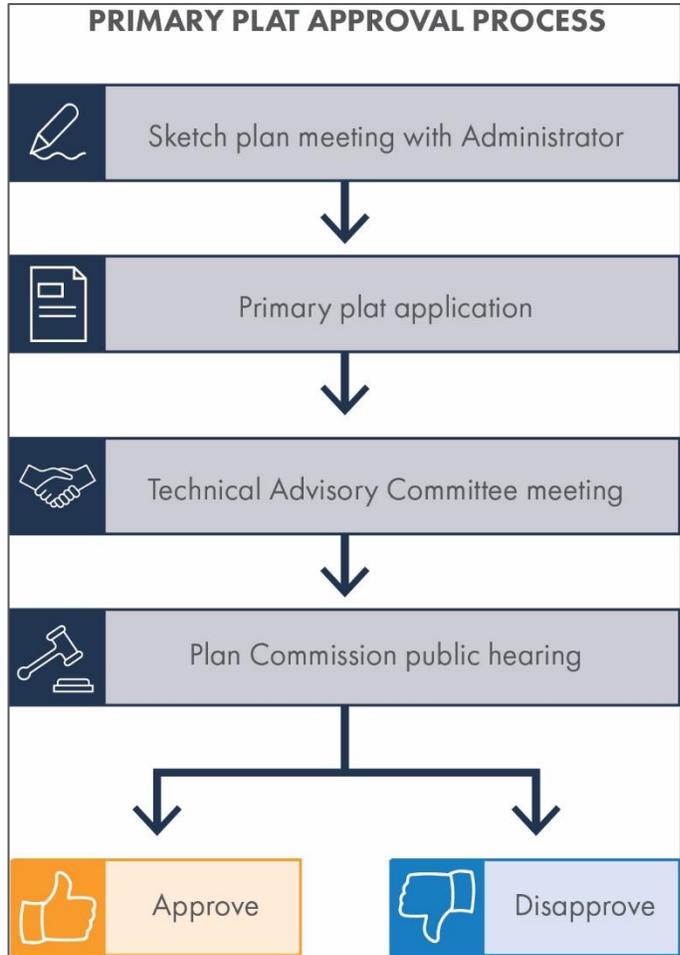
F. Review of Complete Applications. The Technical Advisory Committee reviews a primary plat prior to the Plan Commission’s consideration. The Administrator may submit a written report to the Plan Commission stating facts concerning the characteristics of the area involved in the primary plat, surrounding land uses, public facilities available to service the area, or other pertinent facts. The report may also contain a report from members of the Technical Advisory Committee. A copy of the report is made available to the applicant and the public.

G. Public Hearing Notice. A public hearing by the Plan Commission is required for all primary plats. Notification of the public hearing must comply with the Plan Commission’s Rules of Procedure.

H. Public Hearing and Plan Commission Action. The Plan Commission will hold the public hearing and review the application and supporting information and act on the application according to this Ordinance, Indiana law, and the Plan Commission’s Rules of Procedure. The Plan Commission may:

1. Approve the primary plat;
2. Approve the primary plat with conditions;
3. Disapprove the primary plat; or
4. Continue the application to a future meeting.

I. Written Commitments. The Plan Commission or Administrator may require the applicant to prepare written commitments concerning the primary plat prior to formal action on the application. If written commitments are part of the primary plat approval, they must be recorded in the office of the County Recorder within 90



days of primary plat approval. A copy of the recorded commitments must be provided to the Department within 30 days of being recorded. The secondary plat will not be approved until the recorded written commitments are provided to the Department.

- J. **Effect of Approval.** Approval of a primary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for approvals, such as a secondary plat, construction plans, or improvement location permit.
- K. **Effective Period of Primary Approval.** Unless extended, the approval of a primary plat is valid for a period of 3 years. At the end of this time, primary approval is null and void, and the applicant is required to resubmit a new application beginning with sketch plan review and subject to all the zoning restrictions and subdivision regulations in effect at the time of resubmission. Prior to the expiration of the approval period, the applicant may submit a written request to extend the approval period. The Plan Commission may extend the approval of a primary plat in increments of up to 12 months beyond an expiration date without further notice and public hearing.

7.7 Primary Plat Submittal Requirements

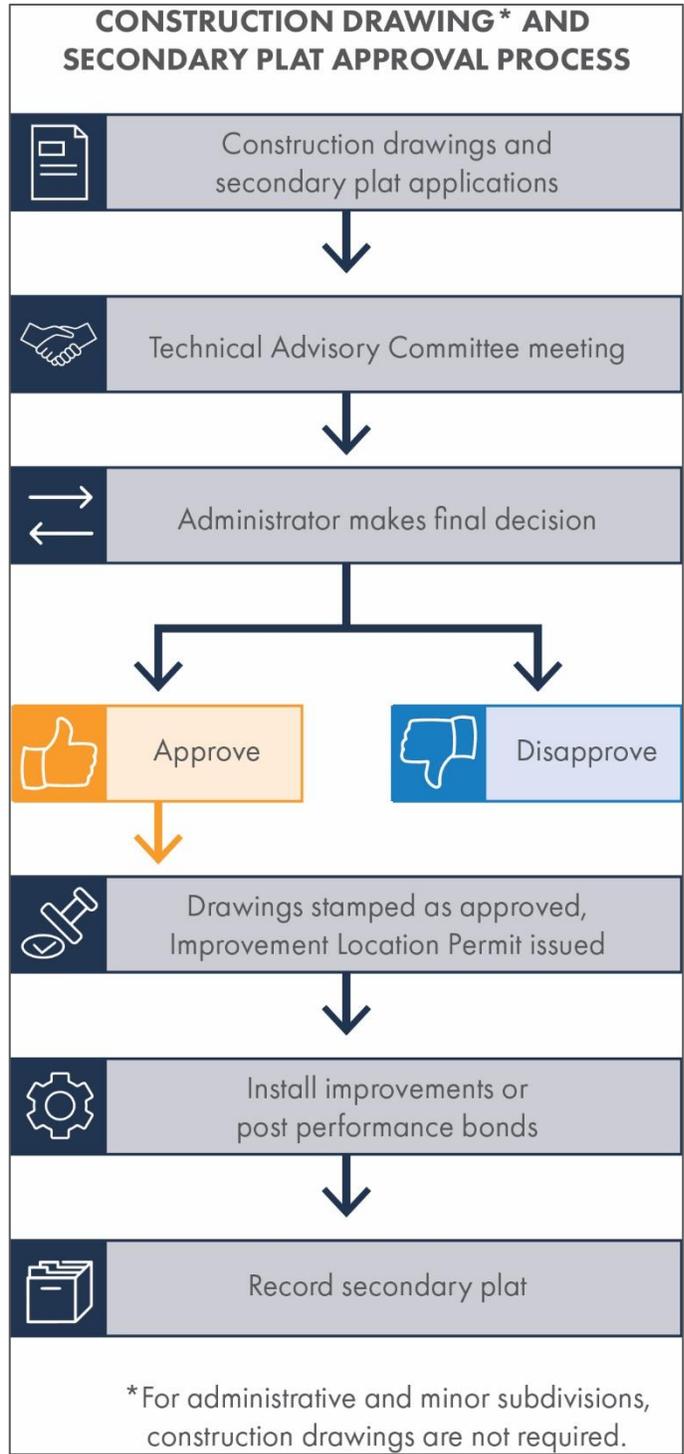
- A. **Preparation.** The primary plat is prepared by a land surveyor licensed by the State of Indiana at a scale of no more than 1" = 100' and the sheets must be numbered in sequence if more than one sheet. The Administrator may waive in writing any of the submittal requirements below the Administrator determines unnecessary to allow a complete review of the application.
- B. **General.** The primary plat includes:
 - 1. A vicinity map showing the location of the site and surrounding property and streets, the names of adjoining streets, and the names of all adjoining property owners and adjoining developments.
 - 2. Legal description of the subject property.
 - 3. The names and addresses of: (a) the owners of the land being subdivided, (b) the applicant, if other than the owner, and (c) the consultants involved in the preparation of the plat. If the application is made by someone other than the owner, a consent form signed by the owner and notarized must accompany the application.
 - 4. Signature, seal, and certification of a land surveyor registered in the State of Indiana.
 - 5. The date of the plat, approximate true north point, and scale.
- C. **Existing Conditions.** The primary plat must show existing conditions including:
 - 1. The location, bearings, and dimensions of all boundary lines of the property with references to section, township, and range lines or corners.
 - 2. The location of existing streets, walkways, easements, pipelines, transmission lines, water bodies, streams, and other pertinent features such as railroads, buildings, parks, cemeteries, drainage ditches, and bridges.
 - 3. Location and size of existing water, storm water, and sanitary sewer systems.
 - 4. The location and width of all existing rights-of-ways.
 - 5. The locations, dimensions, and areas of all existing lots.
 - 6. Existing contours with intervals not more than 5 feet where the slope is greater than 10% and not more than 2 feet where the slope is 10% or less. Elevations must be based on the National Geodetic Vertical Datum of 1929 unless waived in writing by the Administrator.

7. If required by the Administrator, subsurface conditions on the tract such as: the location and results of tests made to ascertain subsurface soil, rock, and groundwater conditions; depth to groundwater unless test pits are dry at a depth of 5 feet, the location and results of soil percolation tests if individual sewage disposal systems are proposed.
 8. Other conditions on adjacent land: approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of buildings, railroads, power lines, towers, and other nearby nonresidential land uses or adverse influences; owners of adjacent unplatted land. For adjacent platted land, refer to the subdivision plat by name, recording data and number, and the approximate percent built-up, typical lot size, and dwelling type.
 9. Current zoning and, if applicable, proposed zoning on the tract plus zoning on abutting tracts.
 10. Proposed public improvements, such as highways or other major improvements planned by public authorities for future construction on or near the subject tract.
- D. **Site Improvements.** The primary plat application must show all proposed site improvements including:
1. Names of the subdivision and all new streets.
 2. Indication of the use of any lot (single-family, two-family, multifamily, townhouse) and all non-residential uses proposed by the applicant.
 3. The location and width of proposed streets, alleys, other public ways, rights-of-ways, easements, and building setback lines.
 4. Proposed changes in streams, lakes, floodplains, etc.
 5. Proposed location of surface and subsurface drains.
 6. Proposed location of storm sewers, stormwater management facilities, and sanitary sewers. For private sewage systems, a statement from the County Health Department confirming a private septic system can be used on the property.
 7. A statement concerning the location and size or capacity of utilities to be installed.
 8. Building and structures to be removed or relocated.
 9. The locations, dimensions, and areas of all proposed lots and blocks. Lots are numbered consecutively. Blocks are lettered in alphabetical order.
 10. Building setback line with dimensions.
 11. Legends and notes.
 12. The location, dimensions, and areas of all proposed common areas, park, or playground use, or other public or private reservation including conditions of the dedication. Common areas are lettered in alphabetical order.
 13. Topography in two-foot contour intervals unless otherwise approved by the Administrator.
 14. Sufficient data acceptable to the Administrator to determine the location, bearing, and length of all lines and the location of all proposed monuments.
- E. **Supplemental Information.** The Plan Commission or Administrator may require the following information:
1. Traffic Impact Analysis.
 2. Sanitary Sewer Analysis.
 3. Building elevations.

4. Existing covenants or zoning commitments recorded on the property.
5. Proposed covenants and restrictions if they are cross-referenced or incorporated on the plat or if they establish or grant rights related to the plat (e.g., easements).
6. Recorded deed, instrument number, and date recorded of all parcels involved in the subdivision.
7. Additional information necessary to evaluate the proposal.

7.8 Secondary Plat Approval Procedure

- A. **Submission Dates.** Secondary plat approval occurs after approval of the primary plat and site plans. Applications must be filed according to the schedule of meetings and filing deadlines. Applications for secondary plat approval and site plan approval may be filed concurrently. Secondary plat applications may be submitted within the time provided for appeal under [IC 36-7-4-708](#). However, approval of a secondary plat will not be granted until 30 days after the approval of a primary plat.
- B. **Submission Procedure and Requirements.** The applicant files: (1) an application provided on forms provided by the Department, (2) a secondary plat, (3) all applicable fees, and (4) supplemental information required by the Administrator.
- C. **Compliance.** The secondary plat must be substantially similar to the approved primary plat.
- D. **Review of Complete Applications.** The Administrator reviews the application for completeness. The Technical Advisory Committee may review any secondary plat prior to approval. The Administrator reviews the secondary plat and notifies the applicant in writing of revisions or changes needed for approval.
- E. **Approval.** The applicant revises the secondary plat as needed and resubmits it to the Administrator. The Administrator determines if the revised plat needs reviewed by any of the Technical Advisory Committee members. When the Administrator determines the plat complies with the requirements of this Ordinance, the plat is approved by the Administrator.



- F. **Effect of Approval.** Approval of a secondary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for permits including an improvement location permit or building permit.
- G. **Signing of Plat.** Unless otherwise approved by the Administrator, a secondary plat will not be signed until:
- Performance sureties are secured assuring the installation of public improvements ([5.8\(C\) Performance Sureties](#)); or
 - Streets, curbs, gutters, sanitary sewers, fire hydrants, storm sewers and like infrastructure are constructed per the City's Construction Standards, and maintenance sureties for public improvements are secured according to [5.8\(D\) Maintenance Sureties](#).
- H. **Recording of Secondary Plat.** No secondary plat or amendment of a subdivision will be recorded until the plat is approved and signed according to this Ordinance. Upon approval, the applicant must record the signed secondary plat within 90 days of plat approval. The applicant must record the plat, covenants, and any applicable owners association documents in the County Recorder office within 30 days of receiving the fully signed plat. The applicant must provide electronic copies of the recorded plat and associated documents to the Department within 30 days of being recorded.

7.9 Secondary Plat Submittal Requirements

- A. **Preparation.** The secondary plat is prepared by a land surveyor licensed by the State of Indiana at a scale of no more than 1"=50'. The size of the plate pages is determined by the County Recorder.
- B. **General.** The secondary plat includes, unless waived in writing by the Administrator:
1. Proposed name of the subdivision.
 2. Names and addresses of the owners and consultants involved in the preparation of the plat.
 3. Title, scale, north arrow, and date.
 4. Accurate boundary lines, with dimensions and angles, to provide a survey of the tract, closing with an error of not more than one foot in 5,000 feet.
 5. Accurate distances and direction to the nearest established street corners or official monuments. Reference corners must be accurately described on the plat.
 6. Accurate locations and names of all existing and recorded streets intersecting the boundaries of the tract.
 7. Accurate metes and bounds description of the boundary.
 8. Source of title to the land to be subdivided as shown by the books of the County Recorder office.
 9. Complete curve notes for all curves included in the plan.
 10. Street lines and street names with accurate dimensions in feet and hundredths of feet, with angles to street and lot lines.
 11. Lot and block numbers and dimensions.
 12. Accurate locations and limitations of easements.
 13. Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use.
 14. Building setback lines and dimensions.

15. Location, type, material, and size of all monuments and lot markers.
 16. Plat certificates and deeds of dedication.
 17. Notation of any self-imposed restrictions and locations proposed building lines if required by the Plan Commission, according to this Ordinance.
 18. Contain a statement to the effect that the City Council, Plan Commission, or Board of Zoning Appeals may enforce subdivision covenants unless otherwise noted.
- C. **Supplemental Information.** The Administrator may require the following information:
1. A financial surety for public improvements according to this Ordinance.
 2. A copy of the covenants and restrictions if they are cross-referenced or incorporated on the plat or if they establish or grant rights related to the plat (e.g., easements).

7.10 Commercial and Industrial Subdivisions

- A. **Review.** It is recognized that commercial and industrial subdivisions face unique considerations of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis when reviewing non-residential subdivisions is on the street layout, block arrangement, and infrastructure design.
- B. **Process.** The initial secondary plat is expected to show the street and block layout. Then, as prospective buyers express interest in lots sized to their required specifications, the applicant submits for approval to amend the recorded secondary plat. Approval of the re-plat follows the procedural requirements for a secondary plat. Improvements built following an approved set of site plans associated with a previously approved secondary plat do not have to be rebuilt if changes in design standards and specifications have been adopted by the City.

7.11 Re-Subdivision of Land

Any change affecting the street layout, area reserved for public use, or a lot line of an approved secondary plat must be approved by the Plan Commission as a major subdivision unless the proposed change qualifies as an administrative subdivision, or minor subdivision. The Administrator may refer any case to the Plan Commission for review and approval.

7.12 Vacation of Plats

The procedure to vacate a recorded secondary plat follows the requirements of Indiana Code ([IC 36-7-4-711](#)). The vacation of a secondary plat cannot be used to vacate rights-of-way or easements. Rights-of-way are vacated following the requirements of [IC 36-7-3-12](#). Easements are vacated following the requirements of [IC 36-7-3-16](#).

7.13 Modifications of Subdivision Regulations

The Plan Commission may modify or waive submittal requirements or subdivision standards in this chapter per [8.19 Modifications](#).

7.14 Plat Certificates and Deed of Dedication

Plat certificates are available in the Department's office. Secondary plats must contain certificates that attest to:

- A. The approval of the plat by the Plan Commission;
- B. Acceptance of any public rights-of-way being dedicated to the City;
- C. A statement by the surveyor preparing the plat that the monuments have been installed;
- D. A statement that the improvements installed in the subdivision comply with the City's specifications; and
- E. Any appropriate easement certificated according to [5.3 Easements](#).



Chapter 8

Process and Permits

The review and approval of each process

8.1	GENERAL PROVISIONS	3
Approvals Granted by the City Council		3
8.2	REZONES (ZONING MAP AMENDMENTS)	3
8.3	PLANNED UNIT DEVELOPMENTS	6
8.4	ZONING TEXT AMENDMENTS	9
Approvals Granted by the Plan Commission		10
8.5	SUBDIVISIONS	10
8.6	SITE PLAN REVIEW	11
8.7	DESIGN REVIEW PROCESS	13
Approvals Granted by the Board of Zoning Appeals		14
8.8	SPECIAL EXCEPTIONS	14
8.9	DEVELOPMENT STANDARDS VARIANCE	16
8.10	USE VARIANCE	18
8.11	APPEALS OF ADMINISTRATIVE DECISIONS	19
Approvals Granted by the Administrator		21
8.12	ADMINISTRATIVE DETERMINATION	21
8.13	CONSTRUCTION DRAWINGS	22
8.14	AS-BUILT DRAWINGS	23
8.15	IMPROVEMENT LOCATION PERMIT	24
8.16	CERTIFICATE OF OCCUPANCY	24
8.17	SIGN PERMITS AND APPLICATIONS	24
8.18	TEMPORARY USE AND EVENTS PERMITS	24
Modifications and Commitments		24
8.19	MODIFICATIONS	24
8.20	WRITTEN COMMITMENTS	26

8.1 General Provisions

- A. **Description.** This chapter outlines the procedure for approvals and permits as required by this Ordinance.
- B. **Application.** Application and informational packets may be obtained through the Department and/or online.
- C. **Fees.** A schedule of fees for applications, permits, and other purposes required by this Ordinance is established by the City Council and kept in the office of the Administrator. Until all applicable fees, charges and expenses have been paid in full, no final action can be taken on any application or permit. This requirement applies not only to fees due for the specific application or permit, but also to fees and fines owed relative to any previously issued permit or violation of this Ordinance.
- D. **Meeting Schedule.** The Administrator maintains an annual schedule of meetings and filing dates for the Technical Advisory Committee, Plan Commission, and BZA. Modifications of filing dates are considered if determined reasonable by the Administrator. The existence of this calendar does not prohibit special meetings or changes of meeting dates by the Technical Advisory Committee, Plan Commission, or BZA. The schedule of meeting and filing dates is available in the Department office.
- E. **Permits and Licenses Void if in Conflict.** Any permit or license issued in conflict with the provisions of this Ordinance are considered null and void from the date of issue.

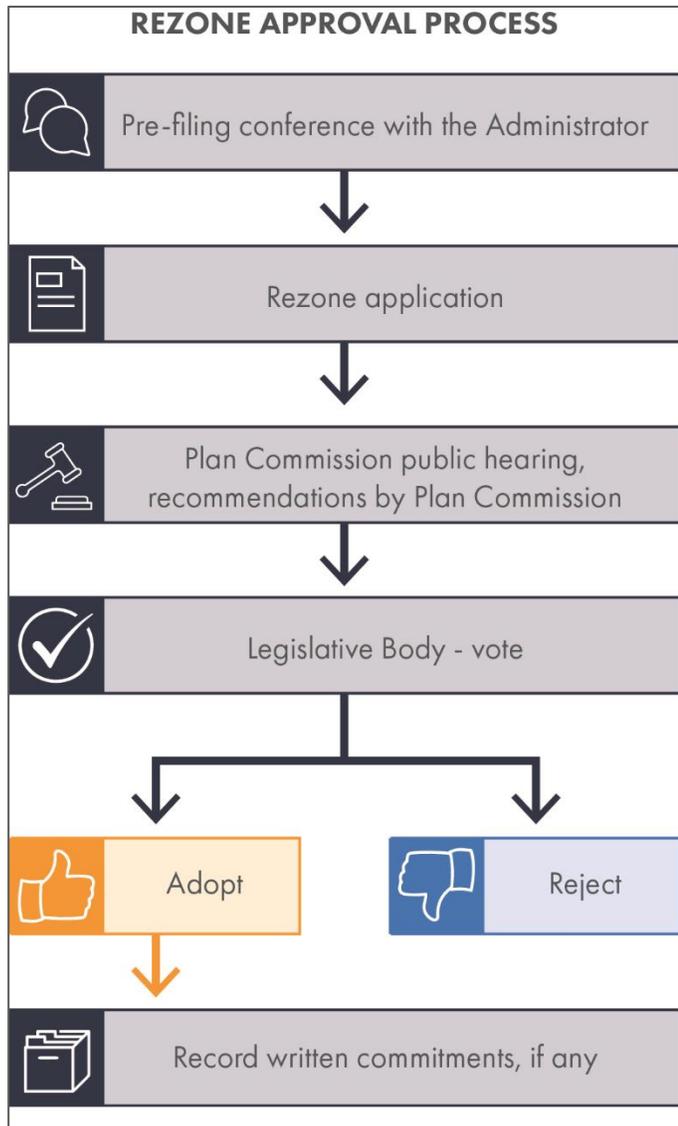
Approvals Granted by the City Council

8.2 Rezones (Zoning Map Amendments)

- A. **Applicability.** This article applies to applications requesting to amend the Zoning Map.
- B. **Initiation.** Proposals to amend the Zoning Map may be initiated by the Plan Commission, the City Council, or through an application signed by property owners of at least 50% of the land involved.
 - 1. City Council Initiation. The Administrator prepares the application for Zoning Map amendment if the Plan Commission or City Council initiates the application. The Administrator serves as the representative of the applicant for such proposals.
 - 2. Property Owner Initiation. Property owners requesting a Zoning Map amendment are the applicants and are responsible for preparing the application.
- C. **Application Procedures**
 - 1. Pre-Filing Conference. Unless waived by the Administrator, a pre-filing conference with the Administrator is required prior to filing an application. The applicant is encouraged to incorporate the Administrator's comments into the application before filing.
 - 2. Filing Deadline. Applications are filed according to the schedule of meeting and filing deadlines. The applicant may be responsible for distributing a copy of the application to members of the Technical Advisory Committee if the Administrator determines such a review is necessary.
 - 3. Forms of Filing. The applicant submits a completed application to the Administrator on forms provided by the Department with supporting information and the application fee. The Administrator establishes the number of copies of the application required for filing.

4. Application Requirements for Property Owner Initiated Applications

- a. If an application is filed by a property owner’s authorized agent, a consent form signed by the property owner must accompany the application.
- b. A copy of the most current deed for each parcel involved in the rezone.
- c. A list obtained from the County Auditor of adjoining property owners required to be served public notice according to the Plan Commission Rules of Procedure.
- d. Supporting Information
 - i. A conceptual site plan showing all features relevant to the application.
 - ii. A vicinity map showing the use and zoning of all properties within 500 feet of the proposed Zoning Map amendment.
 - iii. A narrative stating the reasons for the zoning change, including a detailed description of any proposed development. The narrative should include any written commitments made by the applicant.



D. **Public Notice.** Notification for the public hearing must be completed consistent with the requirements of the Plan Commission’s Rules of Procedure.

E. **Plan Commission Public Hearing.** At a public hearing, the Plan Commission reviews the application and supporting information.

1. Representation. The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any Plan Commission questions.
2. Testimony. The Plan Commission considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
3. Procedures. The conduct of the public hearing follows the requirements of the Plan Commission’s Rules and Procedure.
4. Possible Action. Following the public hearing, the Plan Commission may either forward the application to the City Council with a favorable recommendation, an unfavorable

recommendation, or no recommendation according to Indiana Code; or continue the request to a subsequent Plan Commission meeting.

- F. **Continuances.** The application may be continued by: the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Plan Commission that additional information is required prior to acting on the request. The continuing of applications and any potential additional legal notice must be consistent with the Plan Commission's Rules and Procedure.
- G. **Certification.** The Plan Commission certifies its recommendation to the City Council according to Indiana Code. The Administrator forwards the Plan Commission certification, the application and supporting information, any Department reports regarding the application, and an ordinance to the City Council for consideration.
- H. **City Council Action.** The City Council reviews the rezoning application and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the City Council fails to act within 90 days of the Plan Commission's certification, and the applicant has not otherwise withdrawn the request or requested additional consideration by the Plan Commission, the rezone ordinance becomes effective or be defeated with the provisions of [IC 36-7-4-608](#). The City Council may also seek modifications or additions to any written commitments permitted by this Ordinance.
- I. **Decision Criteria.** In reviewing a rezone application, the Plan Commission and City Council consider:
1. The Comprehensive Plan;
 2. Current conditions and the character of current structures and uses in each district;
 3. The most desirable use for which the land in each district is adapted;
 4. The conservation of property values throughout the jurisdiction; and
 5. Responsible development and growth.

8.3 Planned Unit Developments

A. **Applicability.** These regulations apply to Planned Unit Development District (PUD) proposals and to any proposed amendment to an existing Planned Unit Development that would affect either the text of the PUD Ordinance or the Ordinance’s referenced exhibits.

B. **Intent.** The Planned Unit Development zoning district provides for the development of mixed zoning classifications, densities, and uses under a common classification when presented to the Plan Commission in a well-prepared, organized, and documented plan. This zoning district is intended to:

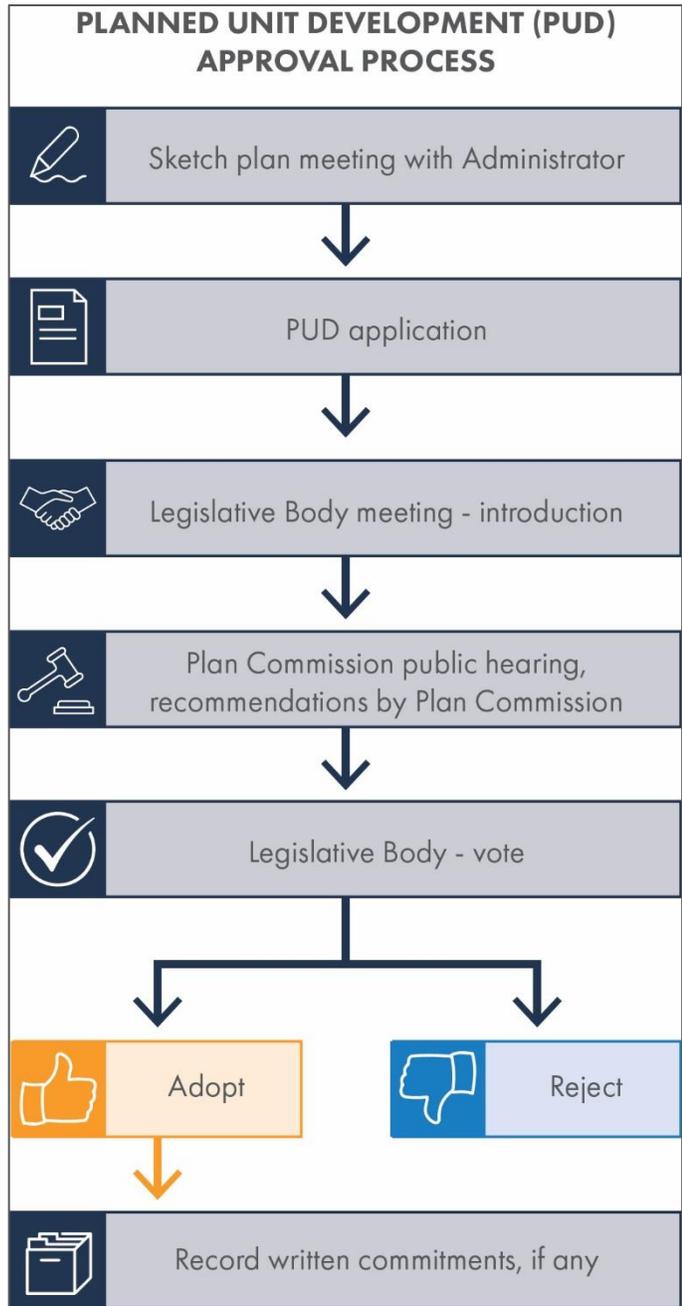
- Encourage large-scale, identity-building developments that mix uses, building types, and building arrangements;
- Provide greater flexibility for sites with natural constraints to conserve natural resources; and
- Allow a review process for creative building types that do not fit well into other zoning districts.

C. **Required Approvals.** A Planned Unit Development District requires the following approvals:

1. Ordinance and Concept Plan (collectively, “PUD Ordinance”)
2. Site Plan ([8.6 Site Plan Review](#))
3. Approval of Primary Plat and Secondary Plat, if applicable.

D. **PUD Ordinance Application Procedures**

1. **Sketch Plan Conference:** A sketch plan conference with the Administrator is required before the filing of any PUD application. This conference is held to allow the applicant to discuss characteristics of the development in relation to adopted Comprehensive Plan policies. The conference allows the Administrator to review PUD procedures, development standards, and policies with the applicant. A draft of the proposed PUD Ordinance is required for the Sketch Plan conference. The applicant is encouraged to incorporate the Administrator’s comments into the proposal before filing the application. The Sketch Plan conference is intended only for discussion purposes; neither the applicant nor the Plan Commission is bound by any decision made during the conference.



2. Who May File: Applications may be filed by a petition signed by the Property owners of the real estate involved in the petition, or the property owner's authorized agent. If an authorized agent, then a consent form signed by the property owner must accompany the application.
3. Filing Deadline: Applications must be filed according to the schedule of meeting and filing deadlines.
4. Forms of Filing: An applicant submits a completed application to the Administrator on forms provided by the Department with documentation and required supporting information. The Administrator establishes the number of copies of complete applications and supporting documentation required to be filed.
5. Docketing by Administrator: Each filed application is reviewed for completeness. Applications determined to be in proper form according to the guidelines established are numbered and docketed by the Administrator.
6. Review and Approval: After docketing, an application is reviewed and considered by the Plan Commission and City Council according to [8.2 Rezones \(Zoning Map Amendments\)](#).
7. When considering a PUD Ordinance, the Administrator, Plan Commission, and City Council consider the extent to which the proposed PUD:
 - a. Meets the requirements, standards, and stated purpose of the PUD regulations;
 - b. Departs from the zoning and subdivision regulations applicable to the property and why such departures are in the public interest;
 - c. Meets the purposes of the Comprehensive Plan and other policies and objectives of the jurisdiction;
 - d. Provides public services, manages circulation and traffic, establishes common open space, and enhances the community as a whole;
 - e. Is compatible with adjacent properties and does not diminish their value;
 - f. Enhances the physical development, tax base, and economic well-being of the City;
 - g. Preserves ecological, natural, historical, architectural, and human-made resources to the extent possible; and
 - h. Will not damage the public health, safety, and general welfare.
8. Decision Criteria. In reviewing the PUD application, the Plan Commission and City Council consider:
 - a. The Comprehensive Plan;
 - b. Current conditions and the character of current structures and uses in each district;
 - c. The most desirable use for which the land in each district is adapted;
 - d. The conservation of property values throughout the jurisdiction; and
 - e. Responsible development and growth.
9. Effect of Approvals of PUD Ordinance: A PUD Ordinance becomes effective after it is approved by the City Council and is recorded by the City the in Office of the County Recorder. The Zoning Map is amended accordingly. The use and development of the property are then governed by the PUD Ordinance, subject to review and approval of subsequent permits and approvals as

required by this article and Ordinance, and any other regulatory processes that may be required prior to beginning construction within the PUD.

- E. **Site Plan Approval.** Site plan approval, as set forth in [8.6 Site Plan Review](#), is required for all PUDs. Site plans must conform to the approved PUD Ordinance and this Ordinance. An application for site plan approval must be filed within 18 months of PUD Ordinance approval. If needed, applicants may seek a time extension of up to 18 months from the City Council.
- F. **Permits.** No permit of any kind will be issued within a PUD except according to the approved site plan, and after acceptance by the City of all required guarantees for improvements according to this Ordinance.
- G. **PUD Ordinance Requirements.** PUD Ordinances and supporting data must include the following documentation. The Administrator in writing may waive or relax any of the requirements listed that are irrelevant or unnecessary for a thorough review of the development.
 - 1. **PUD Ordinance:** The PUD Ordinance must follow a standard format adopted by the City Council for PUD Ordinances.
 - 2. **Concept Plan:** A drawing of the PUD (“Concept Plan”) must be included at a scale at least 1”=100’, or at a scale the Administrator considers appropriate.
 - a. **General Concepts:** The concept plan must show in general terms the following: major circulation; location and dimensions of buildings, structures, and parking facilities; open space areas; recreation facilities; and other details indicating the character of the proposed development.
 - b. **Detailed Concepts:** The concept plan must include in detailed terms the following:
 - i. A site location map showing the project location and other development projects in the vicinity.
 - ii. The name of the development, with the words “Concept Plan”.
 - iii. Boundary lines and acreage of each land use component.
 - iv. Existing easements, including location, width, and purpose.
 - v. Existing land use on abutting properties.
 - vi. Other conditions on the site and adjoining land: topography (at two-foot contours) including any embankments or retaining walls; use and location of buildings, railroads, power lines, towers, and other influences; name of any adjoining subdivision.
 - vii. Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, pathways and bridges and other drainage structures.
 - viii. Proposed public improvements: collector and arterial streets and other major improvements planned by the public for future construction on or adjacent to the tract.
 - ix. Existing utilities on the tract.
 - x. Any land on the tract within the floodway and floodway fringe as shown on the Flood Insurance Rate Maps.
 - xi. Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, existing structures, and other significant features such as significant isolated trees.

- xii. Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.
 - xiii. Map data such as north point, graphic scale, and date of preparation.
3. Written Statement of Character. A written statement of character of the PUD must provide an explanation of the character of the PUD and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement must include:
- a. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies affecting the land in question.
 - c. General details of the proposed uses:
 - i. Residential uses must indicate gross area, architectural concepts (narrative, sketch, or representative photo), and number of dwelling units for each residential component;
 - ii. Nonresidential uses must indicate specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.
4. Traffic Impact Study: A Traffic Impact Study may be required at the discretion of the Administrator, the Plan Commission, or City Council. If a Traffic Impact Study is required, it must be prepared by a registered professional engineer and must evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to beginning the study, an applicant meets with the Administrator to determine the appropriate scope for the study.
5. Additional Materials: The Administrator informs the applicant in writing of any additional information, documents, or data necessary to support a thorough review of the proposed development.

G. PUD Ordinance Amendments

- 1. Changes requiring an amendment to a PUD Ordinance include altering the concept or intent of the initial PUD, as determined by the Administrator, which include:
 - a. Increases in density or intensity.
 - b. Changes in the proportion or allocation of land uses.
 - c. Changes in the list of approved uses.
 - d. Changes in the locations of uses outside of the parameters set forth by the PUD Ordinance.
 - e. Changes in functional uses of open space constituting an intensification of use of the open space.
 - f. Changes in the final governing agreements that conflict with the concept plan approval.
- 2. The procedure for amending an approved PUD Ordinance is the same as the procedure for the adoption of the initial PUD Ordinance.

8.4 Zoning Text Amendments

- A. **Applicability**. This article applies to applications requesting to amend the text of this Ordinance.
- B. **Initiation**. Proposals to amend the text of this Ordinance may be initiated by the Plan Commission or submitted to the Plan Commission by the City Council. The Administrator prepares the amendment application and serves as the representative of the applicant.

- C. **Application Procedures.** Applications are filed according to the schedule of meeting and filing deadlines.
- D. **Public Notice.** Notification for the public hearing must be completed consistent with the requirements of the Plan Commission's Rules of Procedure.
- E. **Plan Commission Public Hearing.** At a public hearing, the Plan Commission reviews the application and supporting information.
 - 1. **Representation.** At the public hearing the Administrator presents the application and addresses any Plan Commission questions.
 - 2. **Testimony.** The Plan Commission considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
 - 3. **Procedures.** The conduct of the public hearing follows the requirements of the Plan Commission's Rules and Procedure.
 - 4. **Possible Action.** Following the public hearing, the Plan Commission may either forward the application to the City Council with a favorable recommendation, an unfavorable recommendation, or no recommendation according to Indiana Code; or continue the request to a subsequent Plan Commission meeting.
- F. **Continuances.** The application may be continued by the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to acting on the request. The continuing of applications and any potential additional legal notice must be consistent with the Plan Commission's Rules and Procedure.
- G. **Certification.** The Plan Commission certifies its recommendation to the City Council according to Indiana Code. The Administrator forwards the Plan Commission certification, the application and supporting information, any Department reports regarding the application, and an ordinance to the City Council for consideration.
- H. **City Council Action.** The City Council reviews the application and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the City Council fails to act within 90 days of the Plan Commission's certification, the ordinance becomes effective or is defeated with the provisions of [IC 36-7-4-607](#).
- I. **Decision Criteria.** In reviewing the change of zoning application, the Plan Commission and City Council consider:
 - 1. The Comprehensive Plan;
 - 2. Current conditions and the character of current structures and uses in each district;
 - 3. The most desirable use for which the land in each district is adapted;
 - 4. The conservation of property values throughout the jurisdiction; and
 - 5. Responsible development and growth.

Approvals Granted by the Plan Commission

8.5 Subdivisions

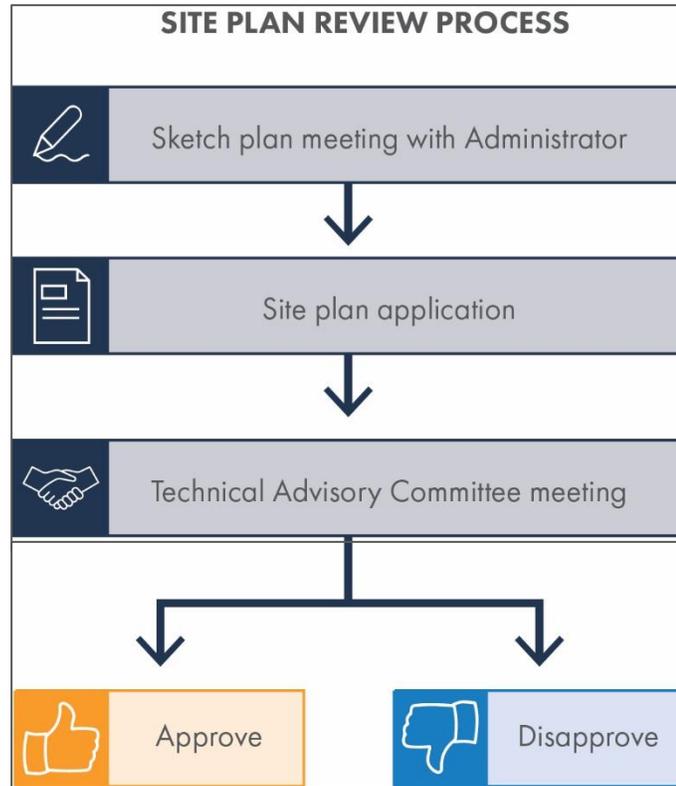
For subdivision approval, refer to [CHAPTER 7: SUBDIVISION REGULATIONS](#).

8.6 Site Plan Review

A.

B. Site Plan Review Procedure

1. Submission Dates. Site plan approval occurs after primary plat approval and prior to secondary plat approval. Applications must be filed according to the schedule of meetings and filing deadlines in the format specified by the Department. Applications for site plan approval may be filed concurrently with applications for secondary plat approval.
2. Submission Procedure and Requirements. The applicant submits in the format specified by the Administrator:
 - a.
 - b. An application provided on forms provided by the Department,
 - c. Detailed site plans and specifications,
 - d. All applicable fees, and
 - e. Supplemental information required by the Administrator.
3. Compliance. Site plans must be substantially similar to the approved primary plat.
4. Review of Complete Applications. The Administrator reviews the application for completeness. Applications determined to be in proper form are docketed for review by the Technical Advisory Committee. The Technical Advisory Committee members review the plans and provide comments on modifications needed for the plans to comply with the requirements of this Ordinance, written commitments made regarding the property, and any other development requirements. These comments are provided to the Administrator and the applicant and are made available to the public. The applicant revises the plans as needed and resubmits them to the Administrator. The Administrator determines if the revised plans need to go to any of the Technical Advisory Committee members for review.
5. Site Plan Approval. When the Administrator determines the plans comply with the Technical Advisory Committee comments and all applicable development standards, the Administrator approves the site plan.
6. Written Commitments. The Administrator may require the applicant to prepare written commitments concerning the site plans prior to formal action on the application. If written commitments are part of the plan approval, they must be recorded per [8.21\(D\) Recording](#).



7. Effect of Approval. Approval of a site plan does not authorize the development, construction, alteration or moving of any building or structure. The approval authorizes the filing and processing of applications for permits or approvals required, such as an improvement location permit, building permit, or certificate of occupancy.
- C. **Site Plan Submittal Requirements**. Site plans are drawn at a scale of no more than 1"=50' unless otherwise approved by the Administrator. The Administrator may waive in writing any of the submittal requirements below the Administrator determines unnecessary to allow a complete review of the application. The plans must show:
 1. General. The site plan includes:
 - a. A vicinity map showing the location of the site and surrounding property and streets, the names of adjoining streets, and the names of all adjoining property owners and adjoining developments.
 - b. The names and addresses of: (a) the owners of the land being subdivided, (b) the applicant, if other than the owner, and (c) the consultants involved in the preparation of the site plan. If the application is made by someone other than the owner, a consent form signed by the owner and notarized must accompany the application.
 - c. The date of the site plan, approximate true north point, and scale.
 2. Existing Conditions. The site plan must show existing conditions including:
 - a. Topography in two-foot contour intervals unless otherwise approved by the Administrator.
 - b. The location, bearings, and dimensions of all boundary lines of the property to be expressed in feet and tenths of a foot with references to section, township, and range lines or corners.
 - c. The location of existing streets, walkways, easements, pipelines, transmission lines, water bodies, streams, and other pertinent features such as wetlands, floodplains, railroads, buildings, parks, cemeteries, drainage ditches, bridges, boundaries of wooded areas, and individual trees 8 inches or more in diameter within areas to be impacted by site disturbing activities.
 - d. Location and size of existing water, storm water, and sanitary sewer systems.
 - e. The location and width of all existing rights-of-ways.
 - f. The locations, dimensions, and areas of all existing lots.
 - g. A soil survey map showing the soil limitations based upon the intended use of the subdivision parcels.
 3. Site Improvements. The site plan must show all proposed site improvements including:
 - a. The location and dimensions of proposed improvements including buildings, parking lots, streets, rights-of-ways, and easements.
 - b. Proposed location of storm sewers, stormwater management facilities, and sanitary sewers.
 - c. Buildings and structures to be removed or relocated.
 - d. Proposed changes in site grades, and modifications to streams, lakes, floodplains, etc.
 4. Supplemental Information. The Plan Commission or Administrator may require the following information:

- a. Traffic Impact Analysis.
- b. Sanitary Sewer Analysis.
- c. Building elevations.
- d. Existing covenants or zoning commitments recorded on the property.
- e. Proposed covenants and restrictions if they establish or grant rights related to the site plan (e.g., easements).
- f. Recorded deed of all parcels involved in the site plan.
- g. Additional information necessary to evaluate the proposal.

8.7 Design Review Process

- A. **Purpose.** The purpose of the Design Review process is to ensure the compatibility of new development or construction with the existing development of the surrounding neighborhood.
- B. **Applicability.** Unless otherwise waived in writing by the Administrator, the Design Review process is required as part of the site plan review process for applications located within the Historic Overlay or on an infill site. An infill site is one where the proposed development is located on vacant or underutilized land substantially enclosed by other buildings and developments.
- C. **Design Review Criteria.** Design review seeks to ensure compatibility through the application of the following principles, listed in order of importance:
 1. Building Form – The scale of the building and how it is positioned on the site. This is regulated by requirements on lot width, setbacks, building height, lot coverage, and building floor area.
 2. Frontage – How the building relates to the public realm, typically the public street. The interaction between the building and the street is regulated by front setbacks, window, and door placement, and building features such as porches.
 3. Site Elements – How components other than the building are placed on the site. This is regulated by requirements for pedestrian and vehicular access, parking, signage, and landscaping and screening.
 4. Use – The activities that are permitted on the lot. Permitted uses and specific use standards have the greatest influence on the uses of the property.

In addition to the criteria identified in [8.6 Site Plan Review](#), site plans submitted as part of the Design Review process are reviewed for compatibility of the proposed development with visually-related building and the surrounding neighborhood on the following requirements:

- The pattern of buildings on the street, including the spacing between buildings along the street and how far buildings are set back from the street.
- The building's mass and scale, including the size of the building footprint, building height, and the horizontal and vertical proportion of the building's front façade.
- The roof design and shape, including the height of the eaves.
- The location and treatment of entryways, including porch heights.
- The proportions openings in the façade, such as windows, bays, doorways, etc.

- The pattern of solids to voids in front facades, including shadow patterns created from massing and features.
 - Surface materials, textures, and colors.
 - Site features such as wall, fences, and landscaping that form cohesive walls of enclosure along the street.
- D. **Application Documentation.** All applications for design review must include the documentation and supporting information set forth in this article. Other information necessary to support a thorough review of the project may be requested in writing by the Plan Commission or Administrator. The Administrator may waive or relax any of the required documentation the Administrator deems unnecessary for a thorough review of the application. The Administrator must identify in writing the elements being waived or relaxed.
1. **Lighting Plan:** A lighting plan according to [6.2 Lighting](#), is required as part of any site plan.
 2. **Sign Plan:** A sign plan according to [6.4 Signage](#) may be required with the any site plan submission; however, all signs are subject to approval and obtaining a sign permit ([6.4\(B\) Sign Permits](#)) before erection.
 3. **Building Elevations:** Drawings of proposed buildings must be filed in connection with the detailed site plan submission. The buildings must be drawn to scale and include the following (see also [CHAPTER 2: ZONING DISTRICTS](#)):
 - Address of the property and graphic scale.
 - Proposed name of the development.
 - Elevations for each building facade (360 degree).
 - Specifications or samples of the type and color of exterior materials to be used for all wall, window, roof, and other architectural features.
 - A separate true color rendering, or other realistic depiction, of the proposed building, including any areas designated for signage.
 - Details of any exterior architectural lighting.

Approvals Granted by the Board of Zoning Appeals

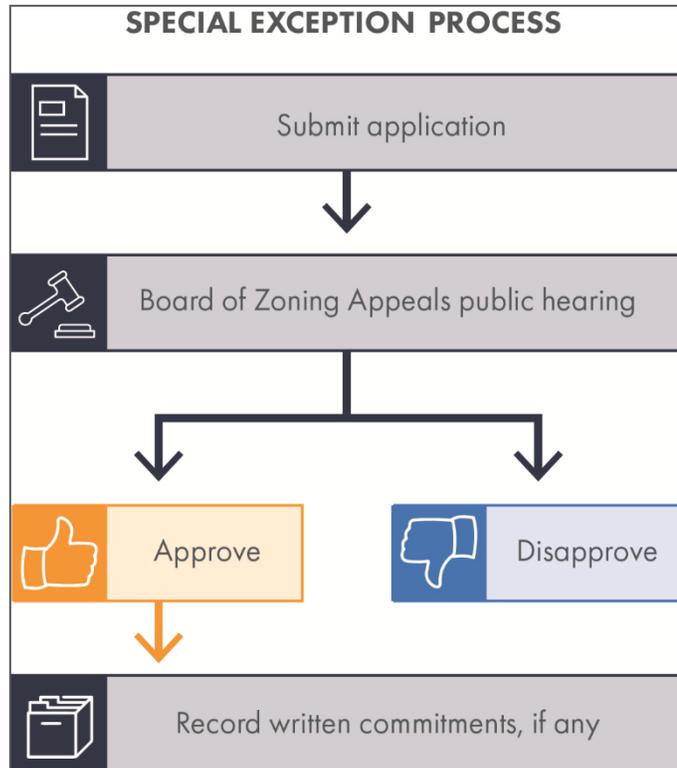
8.8 Special Exceptions

- A. **Permitted.** The BZA may approve a use listed as a special exception in [CHAPTER 3: PERMITTED USES](#), and their accessory buildings and uses, according to the procedures in this article, and other regulations of the zoning district where the subject property is located. This article establishes the review procedure for special exceptions and the statutory criteria that must be met for all special exceptions. More specific requirements are established for certain uses to mitigate their potential negative impacts.
- B. **Purpose.** A special exception is a use that requires more review because of its potential adverse impact upon the immediate neighborhood and the community. The BZA reviews a special exception, its characteristics, and impacts to determine its suitability for the zoning district. These uses are generally consistent with the purpose of the zoning district in which they are permitted but, due to unique operational characteristics, may not be desirable or compatible in all locations within the

district. Factors such as traffic, hours of operation, noise, odor, or similar potential impacts require that the special exception be evaluated relative to its appropriateness on a case-by-case basis.

C. Procedures

1. Application: Applications must be filed according to the schedule of meeting and filing deadlines. An applicant submits a completed application to the Administrator on forms provided by the Department with the filing fee and the required supporting information. The Administrator establishes the number of copies of complete applications and supporting documentation required to be filed.
2. Action by the Administrator: The Administrator reviews the application for completeness. Applications determined complete are docketed for a hearing by the BZA.
3. Investigation of Application: At the Administrator’s discretion, the Technical Advisory Committee may review an application for special exception prior to the BZA’s consideration.



4. Public Notice: Notification for the scheduled public hearing regarding the application must be completed consistent with the BZA’s Rules of Procedure.
5. Public Hearing: At a public hearing, the BZA reviews the facts and circumstances of each application and supporting information. The applicant or applicant’s representative must appear at the public hearing.

D. Review Criteria. The BZA may approve a special exception upon a determination in writing that the proposed use:

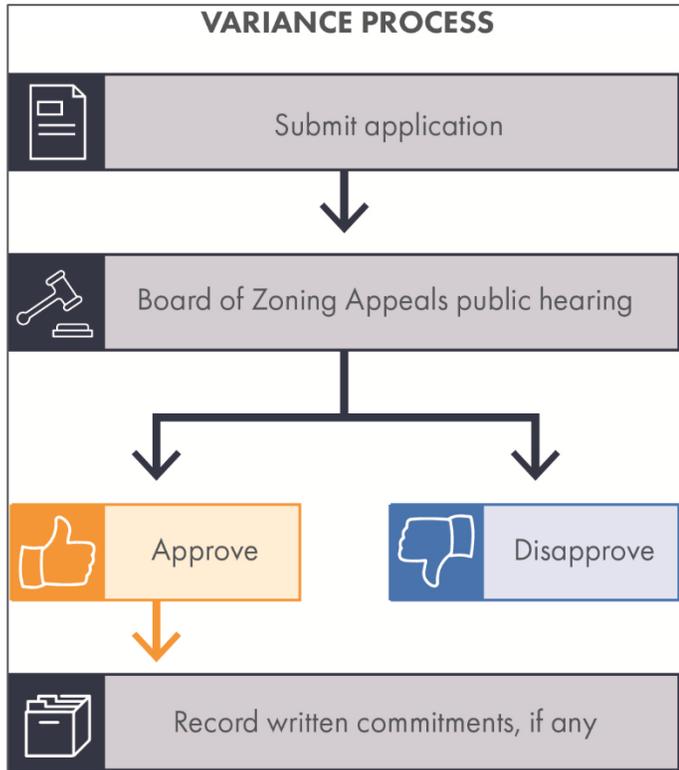
1. Is consistent with the vision, goals, and objectives of the Comprehensive Plan.
2. Complies with the requirements of this Ordinance.
3. Is compatible with the character of the general vicinity.
4. Can be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage systems, refuse disposal, water and sewers, and schools.
5. Does not create circumstances detrimental to people, property, or the general welfare by producing excessive traffic, noise, smoke, fumes, glare, odor, or other conditions incompatible with the uses permitted in the zoning district. and
6. Allows orderly development of the surrounding property for uses permitted in the district.

- E. **No Presumption of Approval.** The listing of a special exception on the Permitted Use Table does not constitute a presumption of approval. Each special exception is evaluated on an individual basis regarding compliance with the standards and whether the use is appropriate at the location and in the manner proposed.
- F. **Resubmittal of Special Exception Application.** A special exception application denied by the BZA cannot be resubmitted for 12 months from the date of the denial, except when new evidence or information regarding changing circumstances or other relevant factors is submitted that might alter the decision. The Administrator determines if the new information constitutes a substantive change.
- G. **Conditions of Approval.** Reasonable conditions may be imposed on the approval of a special exception to protect the public health, safety, and general welfare, ensure adequate public services can be provided, enhance compatibility with adjacent conforming land uses or activities, and protect natural resources.
- H. **Limitations of Approval.** Approval only authorizes the special exception at the premises where the approval was granted. It is not conditioned upon the property owner or operator of the approved use.
- I. **Effect of Approval.** The approval of a special exception does not authorize the development, construction, alteration, or moving of any building or structure. The approval authorizes the filing and processing of applications for permits or approvals required, such as approval of a site plan, improvement location permit, building permit, and certificate of occupancy.
- J. **Existing Use.** An existing use in a zoning district where such use is listed as a special exception may be permitted is considered a conforming use if the use meets the minimum lot area requirements of the zoning district. Any expansion of the special exception involving the enlargement of buildings, structures, and land area requires a new special exception approval.
- K. **Commitments.** The BZA may require the property owner to make written commitments concerning the use or development of the property per [8.20 Written Commitments](#).
- L. **Expiration.** Approval of a special exception expires 36 months after it is granted unless construction is complete, or commencement of the use has occurred. Prior to the expiration of the initial approval, the applicant may request in writing to the Administrator an extension of the approval period. The BZA may extend the approval 12 months or more upon finding there are no new conditions requiring reconsideration of the special exception.
- M. **Enforcement.** Violations of any conditions or commitments imposed on a special exception approval are subject to enforcement procedures.

8.9 Development Standards Variance

- A. **Description.** A development standards variance allows relief from the provisions of this Ordinance, other than use provisions, due to special circumstances applicable to the property.
- B. **Application.** The applicant files:
 - 1. A development standards variance application,
 - 2. Property owner consent if the applicant is someone other than the property owner,
 - 3. The applicable filing fee,
 - 4. A site plan drawn to scale showing the layout of the property and all features relevant to the request,

- 5. A statement of intent describing the details of the variance being requested and stating how the request is consistent with the decision criteria. The statement should include any written commitments being made by the applicant, and
 - 6. A copy of the most current property deed.
- C. **Review.** The Administrator reviews a filed application for completeness. Applications determined complete are docketed for a hearing by the BZA. At the Administrator’s discretion, the Technical Advisory Committee may review an application for variance prior to the BZA’s consideration.
- D. **Public Notice.** Notification for the scheduled public hearing regarding the variance request must be completed consistent with the schedule of meeting and filing dates and the BZA’s Rules of Procedure.
- E. **Public Hearing.** At a public hearing, the BZA reviews the development standards variance application and required supporting information. The applicant and/or applicant’s representative must be present at the public hearing to present the application and address the decision criteria. The presentation of reports and testimony and all other aspects of the public hearing must be consistent with the BZA’s Rules of Procedure.
- F. **Review Criteria.** A development standards variance may be approved upon determining:
1. The use will not be injurious to the public health, safety, morals, and general welfare of the community.
 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 3. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property.
- G. **Possible Action.** The BZA may approve, approve with conditions, deny, or continue the application according to [IC 36-7-4-918.5](#).
- H. **Conditions of Approval.** Reasonable conditions may be imposed on the approval of a development standards variance to protect the public health, safety, and general welfare, ensure adequate public services can be provided, enhance compatibility with adjacent conforming land uses or activities, and protect natural resources.
- I. **Commitments.** The BZA may require the property owner to make written commitments concerning the use or development of the property ([8.20 Written Commitments](#)).
- J. **Resubmittal of Development Standards Variance Application.** The BZA will not consider an application that is substantially similar to a development standards variance application denied



within the prior 12 months. The Administrator determines if the new information constitutes a substantive change.

- K. **Effect of Approval.** Approval of a development standards variance does not authorize the development, construction, alteration or moving of any building or structure. The approval authorizes the filing and processing of applications for permits or approvals required, such as approval of a site plan, improvement location permit, building permit, and certificate of occupancy.
- L. **Acknowledgement of Variance.** Approval of a development standards variance must be recorded in an acknowledgement of variance instrument prepared by the Administrator. The instrument must specify the granted variance and any commitments made or conditions imposed in granting of the variance. The applicant must record the instrument in the Office of the County Recorder within 14 days of the variance approval. The applicant must return a copy of the recorded instrument to the Department within 14 days of recording. New applications for approvals or permits for the property will not be processed until a copy of the recorded instrument is provided to the Department.
- M. **Compliance and Violations.** A permit will not be issued unless it complies with an approved development standards variance, conditions of approval, and commitments. Violations of an approved variance, conditions of approval, and commitments are subject to enforcement procedures.

8.10 Use Variance

- A. **Description.** A use variance allows the establishment of a use that is otherwise prohibited in the zoning district due to special circumstances applicable to the property. Use variances should rarely be used. The proper method to address uses on a property is the rezoning process ([8.2 Rezones](#)).
- B. **Application.** The applicant files:
 - 1. A use variance application,
 - 2. Property owner consent if the applicant is someone other than the property owner,
 - 3. The applicable filing fee,
 - 4. A site plan drawn to scale showing the layout of the property and all features relevant to the request,
 - 5. A statement of intent describing the details of the variance being requested and stating how the request is consistent with the decision criteria. The statement should include any written commitments being made by the applicant, and
 - 6. A copy of the most current property deed.
- C. **Review.** The Administrator reviews a filed application for completeness. Applications determined complete are docketed for a hearing by the BZA.
- D. **Public Notice.** Notification for the scheduled public hearing regarding the use variance request must be completed consistent with the schedule of meeting and filing dates and the BZA's Rules of Procedure.
- E. **Public Hearing.** At a public hearing scheduled consistent with the schedule of meeting and filing dates, the BZA reviews the use variance application and required supporting information. The applicant and/or applicant's representative must be present at the public hearing to present the complete application and address the decision criteria. The presentation of reports and testimony and all other aspects of the public hearing must be consistent with the BZA's Rules of Procedure.

- F. **Review Criteria.** A use variance may be approved upon determining:
1. The use will not be injurious to the public health, safety, morals, and general welfare of the community.
 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 3. The need for the variance arises from some condition particular to the property involved.
 4. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property.
 5. The use does not interfere substantially with the Comprehensive Plan.
- G. **Possible Action.** The BZA may approve, approve with conditions, deny, or continue the application according to [IC 36-7-4-918.4](#).
- H. **Conditions of Approval.** Reasonable conditions may be imposed on the approval of a use variance to protect the public health, safety, and general welfare, ensure adequate public services can be provided, enhance compatibility with adjacent conforming land uses or activities, and protect natural resources.
- I. **Commitments.** The BZA may require the property owner to make written commitments concerning the use or development of the property (see [8.21 Written Commitments](#)).
- J. **Resubmittal of a Use Variance Application.** The BZA will not consider an application that is substantially similar to a use variance application denied within the prior 12 months. The Administrator determines if the new information constitutes a substantive change.
- K. **Effect of Approval.** Approval of a use variance does not authorize the development, construction, alteration, or moving of any building or structure. The approval authorizes the filing and processing of applications for permits or approvals required, such as approval of a site plan, improvement location permit, building permit, and certificate of occupancy.
- L. **Acknowledgement of Variance.** Approval of a use variance must be recorded in an acknowledgement of variance instrument prepared by the Administrator. The instrument specifies the use variance granted and any commitments made or conditions imposed in granting of the variance. The applicant must record the instrument in the Office of the County Recorder within 14 days of the variance approval. The applicant must return a copy of the recorded instrument to the Department within 14 days of recording. New applications for approvals or permits for the property will not be processed until a copy of the recorded instrument is provided to the Department.
- M. **Compliance and Violations.** A permit will not be issued unless it complies with an approved use variance, conditions of approval, and commitments. Violations of an approved use variance, conditions of approval, and commitments are subject to enforcement procedures.

8.11 Appeals of Administrative Decisions

- A. **Description.** There may be situations where a property owner or another party believes the Administrator made an error in administering this Ordinance. The BZA reviews alleged administrative errors, unless otherwise required by local or Indiana law.
- B. **Initiation.** Anyone disagreeing with a final decision of the Administrator may file an appeal to the BZA. If an appeal of an enforcement action is filed according to this article, the Administrator takes no

further enforcement action on the matter pending the Board’s decision, except for unsafe circumstances presenting an immediate danger to the public.

C. **Applications.** Within 30 days of the decision being appealed, the applicant files:

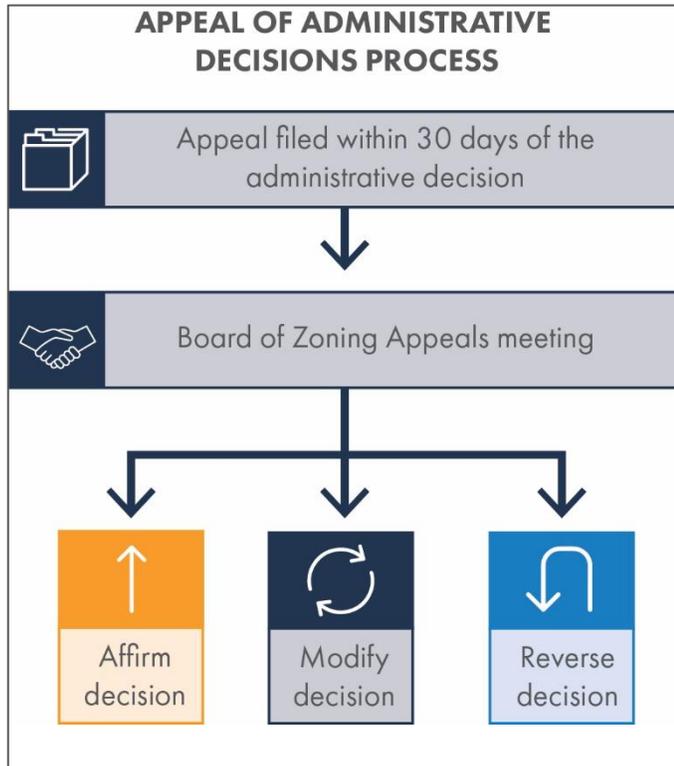
1. An administrative appeal application;
2. The applicable filing fee;
3. Copies of all materials pertaining to the decision being appealed;
4. Copies of any written decisions that are the subject of the appeal; and
5. A letter describing the reasons for the appeal, noting specific sections of this Ordinance and other applicable standards as the basis for the appeal.

D. **BZA Review.** At a regularly scheduled meeting, the BZA reviews the administrative appeal application and supporting information.

1. Representation: The applicant or applicant’s representative must be present at the meeting to present the appeal.
2. Testimony: At the meeting, the BZA will consider a report from the Administrator and enforcing party, testimony from the applicant, and testimony from witnesses and interested parties.
3. Procedures: The conduct of the hearing follows the Rules and Procedures of the Board.

E. **Decision.** The BZA may affirm, affirm with modifications, reverse, or continue the appeal.

1. Affirm: If the BZA finds the administrative decision was consistent with the provisions of this Ordinance, the BZA affirms the determination in writing.
2. Affirm with Modifications: If the BZA determines the proper interpretation is not consistent with the administrative decision nor the interpretation requested by the applicant, the BZA will affirm the determination with modifications in writing.
3. Reverse: If the BZA finds the administrative decision was inconsistent with the provisions of this Ordinance, the BZA reverses the determination in writing.
4. Continuances: The appeal may be continued based on a request by the Administrator or applicant, an indecisive vote, or a determination by the BZA that additional information is required before action is taken on the request. The continuing of applications follows Rules and Procedures of the Board.



Approvals Granted by the Administrator

8.12 Administrative Determination

- A. **Description.** The interpretation authority established by this Ordinance recognizes that the provisions of this Ordinance, though detailed, cannot address every specific situation to which they may have to be applied. Many such situations can be addressed by an interpretation of the specific provisions of this Ordinance considering the general and specific purposes for which those provisions have been enacted. The interpretation authority established is an administrative, not legislative, authority. It is not intended to add to or change the essential content of this Ordinance. It is intended only to allow authoritative application of content to specific cases.
- B. **Authority.** The Administrator may render interpretations of the provisions of this Ordinance and of any rule or regulation issued according to it (“Administrative Interpretation” or “Administrative Determination”) by written order, subject to the procedures, standards, and limitations of this Ordinance.
- C. **Parties Entitled to Seek Interpretations.** Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation. Interpretations based on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion will not be entertained.
- D. **Procedure for Review and Decision**
1. **Application:** Applications for interpretations of this Ordinance are filed according to the requirements of this Article.
 2. **Action on Application:** Within 10 working days of the submission of a completed application, the Administrator provides the applicant a determination in writing, stating the specific precedent, reasons, and analysis upon which the determination is based. Failure of the Administrator to act within 10 working days is deemed a decision denying the application.
 3. **Records:** Records of all applications for determinations are kept on file in the office of the Administrator and may be recorded in the Office of the County Recorder at the Administrator’s discretion.
 4. **Appeal:** Appeals of interpretations rendered by the Administrator are made according to [7.3 Appeals of Administrative Decisions](#).
- E. **Standards for Interpretations.** The following standards are considered when issuing determinations:
1. A use will not be permitted in a zoning district unless evidence is presented that demonstrates:
 - a. The use is consistent with the purpose and intent of the zoning district;
 - b. The use will comply with the general regulations established for the zoning district; and
 - c. The use is like other uses permitted in the zoning district and is more similar to those uses than to uses permitted in a more restrictive zoning district.
 2. If a proposed use is most like a use permitted only as a special exception in the zoning district where it is proposed to be located, the use requires special exception approval according to [8.8 Special Exceptions](#).
 3. **Effect of Favorable Interpretations.** A determination permitting a proposed use does not authorize the establishment of a use nor the development, construction, alteration, or moving of

any building or structure, but only authorizes the preparation, filing, and processing of applications for any permits and approvals that may be required by this Ordinance and other Municipal ordinances such as a building permit, a certificate of occupancy, a primary or secondary plats, or site plan approval.

4. Limitations on Interpretations. A determination is limited to the circumstance for which it was issued. It does not authorize any allegedly similar circumstance for which a separate determination is needed, unless otherwise provided for in the determination.

8.13 Construction Drawings

A. Construction Drawing Approval Procedure

1. Submission Dates. Construction drawing approval is required prior to starting work on any improvements. Construction drawing approval occurs after primary plat approval or site plan approval and prior to secondary plat approval. Applications must be filed according to the schedule of meetings and filing deadlines in the format specified by the Department. Applications for construction drawing approval may be filed concurrently with applications for site plan approval or secondary plat approval.
2. Submission Procedure and Requirements. The applicant submits in the format specified by the Administrator:
 - a. An application provided on forms provided by the Department,
 - b. Detailed site plans and specifications,
 - c. All applicable fees, and
 - d. Supplemental information required by the Administrator.
3. Compliance. Construction drawings must be substantially similar to the approved primary plat or site plan.
4. Review of Complete Applications. The Administrator reviews the application for completeness. Applications determined to be in proper form are docketed for review by the Technical Advisory Committee. The Technical Advisory Committee members review the construction drawings and provide comments on modifications needed for the plans to comply with the requirements of this Ordinance, written commitments made regarding the property, and any other development requirements. These comments are provided to the Administrator and the applicant and are made available to the public.
5. Revised Drawings. The applicant revises the construction drawings as needed and resubmits them to the Administrator. The Administrator determines if the revised drawings need to go to any of the Technical Advisory Committee members for review.
6. Construction Drawing Approval. When the Administrator determines the drawings comply with the Technical Advisory Committee comments and all applicable development standards, the construction drawings are approved by the Administrator.

7. **Approved Plans.** After approval of construction drawings and before the installation of improvements, a preconstruction meeting is scheduled with the Administrator. Three sets of approved construction drawings and specifications are stamped “APPROVED City of Boonville.” The stamped drawings are the only official plans approved for construction.
- B. Construction Drawing Submittal Requirements.** Construction drawings are drawn at a scale of no more than 1”=50’ unless otherwise approved by the Administrator. The plans must show:
1. Location, size elevation, and other appropriate description of any existing facilities or utilities including existing streets, sewers, drains, water mains, easements, water bodies, streams, floodplains, and other pertinent features such as railroads, buildings, or prominent site features.
 2. Topography in one-foot contour intervals unless otherwise approved by the Administrator. All data provided is the latest applicable United States Coast and Geodetic Survey data.
 3. Profiles showing existing and proposed elevations along centerlines of all streets at 50-foot intervals including low points. Exact radii of all curves, lengths of tangents, and central angles of all streets.
 4. Where steep slopes exist, the Administrator may require cross-sections of all proposed streets at 100-foot stations.
 5. Plans and profiles showing the locations and typical cross-section of street pavements including curbs and gutters, sidewalks, drainage facilities and easements, rights-of-ways, manholes, and catch basins; the locations of street and traffic signage; the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas, or other underground utilities or structures.
 6. All specifications and references required by the applicable construction standards, including a site grading plan for the entire subdivision.
 7. Title, name, address, and signature of the professional engineer and/or surveyor, and date, including revision dates.

8.14 As-Built Drawings

- A. Preparation.** After improvements installed on a site are approved by the City, as-built drawings must be prepared and certified by a surveyor or engineer licensed by the State of Indiana. Hard and electronic copies must be provided to the Administrator.
- B. As-Built Plan Contents.** As-built plans must contain, unless waived in writing by the Administrator:
1. Grades for the lakes or ponds at the top of bank, normal pool, and spillway.
 2. Sanitary sewer system plans and profiles, including:
 - a. Invert elevations and percent of slope.
 - b. Top of casting elevations.
 - c. Lateral locations based on distances along main from manholes.
 - d. Locations of each manhole or structure (to make sure they are sufficiently within designated easements to permit future excavation to system if needed).

- e. Designate any material changes from approved construction plans. Where plans show alternates, indicate the alternate constructed.
- 3. Storm sewer plans and profiles, including:
 - a. Invert elevations and percent of slope.
 - b. Top of casting elevations.
 - c. Location of pipe and structure (to make sure they are within designated easements).
 - d. Designate any material change from design plans. Where plans show alternates, indicate the alternate constructed.

8.15 Improvement Location Permit

An Improvement Location Permit issued by the Administrator is required prior to beginning construction on structures or establishing a use on any land.

- A. Except for variances approved by the Board of Zoning Appeals or an order of a court, an improvement location permit will not be issued for the erection, alteration, or use of any building or structure, or for the use of any land unless it complies with all provisions of this Ordinance and any conditions of approval imposed on the building, structure, or use.
- B. A record of all improvement location permits is kept on file in the office of the Administrator.
- C. Vacant land cannot be used and existing uses of land or buildings cannot be changed to a different class of use unless an improvement location permit is first obtained for the new or changed use. Uses resulting in an increase in parking spaces require an Improvement Location Permit.

8.16 Certificate of Occupancy

No building or structure erected or altered after the date of adoption of this Ordinance can be occupied or used unless a certificate of occupancy has been issued for that building or structure upon completion of construction. A certificate of occupancy constitutes certification that the building, structure, use, parking, and all other required improvements fully comply with the provisions of the Ordinance and any conditions imposed on the approval.

8.17 Sign Permits and Applications

Refer to [6.4\(B\) Sign Permits](#) for sign permit requirements.

8.18 Temporary Use and Events Permits

Refer to [3.4\(E\) Temporary Use Permits](#) for temporary use permit requirements.

Modifications and Commitments

8.19 Modifications

- A. **General.** The Plan Commission or City Council may approve modifications if they do not conflict with the intent and purpose of this Ordinance.

B. Authority

1. **City Council.** The City Council may modify or waive construction standards and utility standards under the control of the City Council.
2. **Plan Commission.** In connection with a primary plat, secondary plat, or site plan, the Plan Commission may modify or waive the provisions in [CHAPTER 5: DESIGN STANDARDS](#), [CHAPTER 6: IMPROVEMENT STANDARDS](#), and [CHAPTER 7: SUBDIVISION REGULATIONS](#).
3. **Board of Zoning Appeals.** The Board of Zoning Appeals may grant a development standards variance ([8.9 Development Standards Variance](#)) for the standards prescribed in this Ordinance other than [CHAPTER 7: SUBDIVISION REGULATIONS](#).

C. Procedures

1. The applicant submits a written petition for modification with the plat or site plan application. The petition must clearly state the conditions requiring the modification and provide proposed findings of fact for the approval.
2. If modifications are required for administrative, or minor subdivisions, the modification must be approved by the Plan Commission prior to approval of the subdivision. If modifications require City Council approval, the modification must be approved by the City Council prior to any subdivision approvals.
3. For items where final approval has been delegated to staff, the Administrator has the authority to grant modifications. In all other circumstances, the Plan Commission may grant a modification after a public hearing.
4. In granting the modification, the Plan Commission or Administrator may impose conditions of approval necessary to secure the purposes of this article. The applicant retains the right to petition the BZA for a development standards variance from as provided in [IC 36-7-4-918.5](#).

D. Decision Criteria. When evaluating petitions for modifications, the Plan Commission or City Council consider whether:

1. The proposed modification is not injurious to the public safety, health, or welfare,
2. The proposed modification results in a development that enhances the use or value of area properties,
3. The strict application of the Ordinance standard results in a development less desirable when compared to the proposed development,
4. The proposed development is consistent or compatible with other development located in the area, and
5. The modification is consistent with the purpose and intent of the Comprehensive Plan and this Ordinance.

E. Conditional Approval. In approving a modification, the Plan Commission, City Council, or Administrator granting the approval may require conditions of approval to comply with requirements of this Ordinance. The Plan Commission, City Council, or Administrator granting the approval may

require written commitments ([8.20 Written Commitments](#)) before taking formal action on the application. If written commitments are part of the approval, they must be recorded per [8.20\(D\) Recording](#). Further approvals or permits for the project will not be granted until a copy of the recorded written commitments are provided to the Department.

8.20 Written Commitments

- A. **Applicability.** An applicant may be required to make a commitment to the Plan Commission, BZA, or Administrator as a condition of approval of a rezoning proposal, a primary plat, a site plan, a plat vacation, special exception, variance, or modification.
- B. **Form.** Commitments must be in writing, in a recordable form approved by the Administrator, and signed by the owners of the real estate.
- C. **Expiration.** A commitment may contain terms stating the commitment automatically terminates: (i) if the property's zoning classification is changed; (ii) if the commitment's use is changed; or (iii) otherwise according to the rules of procedure of the Plan Commission or BZA. If not otherwise provided, commitments remain in effect until otherwise modified or terminated per [8.20 Modifications of Commitments](#).
- D. **Recording.** The applicant must record the commitments in Office of the County Recorder within 14 days of the approval of the application. The applicant must return a copy of the recorded commitments to the Department within 14 days of recording. New applications for approvals or permits for the property will not be processed until a copy of the recorded commitments is provided to the Department.
- E. **Enforcement.** The Plan Commission, BZA, City Council, owners of real estate adjoining the subject real estate, all owners of real estate within the area included in the application who were not applicants for approval, and others specifically designated in the commitments are entitled to enforce the commitments according to [IC 36-7-4-1015](#), or as otherwise provided by applicable law.
- F. **Modification of Commitments.** A commitment may be modified or terminated only by a decision of the Plan Commission, BZA, or City Council to which the commitment was made. The decision is made at a public hearing by the Plan Commission, BZA, or City Council after notice has been provided according to the applicable Rules of Procedure. The modification or termination of the commitments is not effective until:
 - 1. Written in a form approved by the Administrator;
 - 2. Approved by the Plan Commission, BZA, or City Council;
 - 3. Executed by the current property owner of the real estate; and,
 - 4. Recorded in Office of the County Recorder. The applicant is responsible for recording the commitments per [8.20\(D\) Recording](#).



Chapter 9

Enforcement

Actions taken for violations of this Ordinance

9.1	ENFORCEMENT AUTHORITY	3
9.2	COMPLAINTS REGARDING VIOLATIONS.....	3
9.3	PERSONS LIABLE	3
9.4	RIGHT OF ENTRY	3
9.5	ENFORCEMENT AUTHORITY	3
9.6	VIOLATION	3
9.7	ENFORCEMENT OPTIONS	4
9.8	PENALTY SCHEDULE	5
9.9	CITATIONS FOR ZONING VIOLATIONS.....	5
9.10	STOP WORK ORDERS	6
9.11	MUNICIPAL ACTION TO ENFORCE COMPLIANCE	7
9.12	CORRECTING IMMEDIATE PUBLIC RISK VIOLATIONS.....	8
9.13	ADMINISTRATIVE ENFORCEMENT	9
9.14	ENFORCEMENT THROUGH JUDICIAL PROCEEDINGS	9
9.15	REVOCAION OF DEVELOPMENT REVIEW APPROVALS.....	10
9.16	COMMON NUISANCE.....	11
9.17	PRIVATE REMEDIES RESERVED	11

9.1 Enforcement Authority

The Administrator is designated to enforce the terms and provisions of this Ordinance.

9.2 Complaints Regarding Violations

When the Administrator receives a complaint alleging a violation of this Ordinance or has reason to suspect a violation is occurring, the Administrator investigates the complaint or suspicion and acts as warranted.

9.3 Persons Liable

The owner or occupant of any building, structure, land, or other person creating or maintaining a situation contrary to the requirements of this Ordinance is responsible for the violation, the penalties, and is subject to enforcement.

9.4 Right of Entry

The Administrator may enter any premises at a reasonable time to inspect all buildings, structures, or premises located within the jurisdiction of this Ordinance to determine compliance with the provisions of this Ordinance. All inspections are subject to the following standards and conditions.

- A. The Administrator must furnish the owner, tenant, or occupant of the building, structure, or premises under inspection enough identification and information to demonstrate the person is a representative of the City and the purpose of the inspection.
- B. The Administrator may apply to any court of competent jurisdiction for a research warrant or other legal process for the purpose of securing entry to any premises if the owner, tenant, or occupant refuses to grant entry.

9.5 Enforcement Authority

The Administrator, City Council, Plan Commission, BZA, and their delegates are designated to enforce the provisions, regulations, and intent of this Ordinance, according to [IC 36-7-4-100](#), et. seq., as amended.

9.6 Violation

- A. Violation of any of the provisions of this Ordinance or any decision or ruling of the Plan Commission, BZA, or City Council is considered a common nuisance and may be abated as nuisances are abated under existing law. Violations may include:
 1. The erection, demolition, or conversion of any structure, building, or sign without the required approvals,
 2. The use of any land or premises used in violation of any provisions of this Ordinance, or
 3. Failure to comply with any condition, requirement, or commitment established with the approval of a variance, special exception, site plan, planned unit development, certificate of compliance, or other development approval under this Ordinance.
- B. Any person who violates or resists the enforcement of any provisions of this Ordinance is subject to judgment for each offense. Each day a violation exists constitutes a separate offense. A violation exists until corrected. Correction may include:
 1. Stopping an unlawful practice;
 2. Removal of a building, structure, or improvement;

3. Faithful or otherwise-approved restoration or replacement of a building, structure, site, or natural feature;
4. Any other remedy specified in this Ordinance; and/or
5. Other remedy acceptable to the City.

9.7 Enforcement Options

A. **Options for Enforcement.** The following options are available to enforce this Ordinance:

1. Issue a citation to a person alleged to have committed a violation of this Ordinance. The citation may be processed through the City Court, according to [IC 33-36](#) and [9.9 Citations for Zoning Violations](#).
2. Issue a stop work order under [9.10 Stop Work Orders](#).
3. Enter onto property and take action to bring that property into compliance with this Ordinance, according to [IC 36-1-6-2](#) and [9.11 Municipal Action to Enforce Compliance](#) or [9.12 Correcting Immediate Public Risk Violations](#).
4. Initiate enforcement through an administrative proceeding before the BZA, according to [IC 36-1-6-9](#) and [9.12 Correcting Immediate Public Risk Violations](#).
5. To bring a civil action in the County Circuit Court, according to [IC 34-28-5-1](#) and [9.13 Administrative Enforcement](#).

B. **Exercise of Options.** The exercise of the options specified in this chapter, including the imposition of any penalties for an Ordinance violation, are not prerequisites for taking any other action against an alleged violator of this Ordinance, nor do they prohibit the City from taking any further action.

C. **Warnings.** Before exercising any of the options under this section, the Administrator may issue a warning to a person alleged to be in violation of this Ordinance and give the person at least 10 days but not more than 60 days to remedy the alleged violation.

ORDINANCE ENFORCEMENT OPTIONS	
	Issue Citation
OR	
	Issue Stop Work Order
OR	
	Municipal Action to Enforce Compliance
OR	
	Correct Immediate Public Risk
OR	
	Initiate Administrative Proceeding with BZA
OR	
	Civil Action

9.8 Penalty Schedule

- A. **Maximum Penalties.** According to [IC 36-1-3-8](#) and [IC 36-7-4-1018](#), the maximum civil penalty for the first violation of a provision of this Ordinance is a fine of \$2,500. The maximum civil penalty for the second or subsequent violation of a provision of this Ordinance (other than a provision that regulates parking) is a fine of \$7,500.
- B. **Penalty Schedule.** According to [IC 33-36-3-1\(a\)](#), the City Council designates the following schedule of Ordinance provisions subject to the jurisdiction of the applicable court. The first and second (or subsequent) admission of the same violation within a 12-month period is subject to the fixed civil penalty described in this section.

ORDINANCE VIOLATION	FINE FOR FIRST VIOLATION	FINE FOR SUBSEQUENT VIOLATION
Permanent signage without permit	\$250	\$500
Parking on an unimproved surface	\$50	\$100
Temporary use without permit	\$500	\$1,000
Illegal land use	\$1,000	\$2,000
Alteration of land or structure without ILP	\$250	\$400
Failure to comply with written commitments	\$500	\$1,000
Failure to comply with certificate of compliance	\$250	\$500
Failure to comply with development standards	\$100	\$200
Any other violation of this Ordinance	\$100	\$200

- C. **Subsequent Violations.** The penalties listed above for subsequent violations apply whenever the responsible party commits an additional violation of the same provision within 12 months of the first violation, regardless of whether the additional violation is on the same property as the first violation.

9.9 Citations for Zoning Violations

- A. **Notice to Alleged Violator.** An enforcement official may issue a notice citation for a violation of this Ordinance. The enforcement official must advise the alleged violator that the violation may be admitted and, if admitted, is subject to payment of the fixed civil penalty listed in [9.8\(B\)](#). A copy of the citation must be filed with the applicable court no later than the next business day following its issuance. Failure to file a copy of the citation does not affect its validity or the alleged violator's option to admit the violation and pay the fixed civil penalty.
- B. **Form of Citation.** Citations must be numbered and contain the following information:
 1. The date and time issued;
 2. The specific Ordinance violation for which the citation is issued;
 3. The amount of the civil penalty fixed for that violation under [9.8\(B\)](#);
 4. The date and location of the violation;
 5. The name and address of the person alleged to have committed the violation, if known or readily obtainable;

6. The signature of the enforcement official issuing the citation or the enforcement official's name (and badge number, if any) in computer generated form; and
 7. The duty of the alleged violator to appear.
- C. **Service of Citation.** A citation is served by the enforcement official upon the alleged violator. If the alleged violator is present, the citation must be delivered personally to the alleged violator. If the alleged violator is not present and the violation involves specific premises, it must be served on the owner or other person in possession of the premises either in person or by first class mail.
- D. **Duty to Appear.** Any person receiving a citation must appear in person or by attorney at the applicable court, to admit or deny the alleged violation at the time prescribed by the court administrator. Payment of the civil penalty fixed under [9.8\(B\)](#) within 10 days of the issue date of the citation fulfills the duty to appear in person or by attorney and is deemed an admission of the violation.
- E. **Procedure on Admission of Violation.** If a violation is admitted to the court, the civil penalty fixed under [9.8\(B\)](#) for the violation must be paid to the City in a manner authorized by the violations clerk. Whenever a person assessed a civil penalty fails to mail or deliver payment to the court within 10 days of the date the citation is issued, the violations clerk adds a late charge in the amount of \$25. Late payments are accepted by the violations clerk only with the consent of the Administrator if the violation has been referred to the Administrator under section (F).
- F. **Procedure on Denial of Violation, Failure to Appear, or Failure to Pay.** If a person served a citation:
1. Appears at the court and denies the alleged violation;
 2. Fails to appear and admit or deny the alleged violation within 10 days of the issuance of the citation;
or
 3. Fails to pay the fixed civil penalty within 10 days after admitting the violation;
 4. The violations clerk reports the circumstances to the Administrator to begin appropriate administrative or judicial proceedings against the person.
 5. **Limitations.** The fixed civil penalties specified in [9.8\(B\)](#) apply only to violations admitted as provided in this section and are considered offers in compromise. If administrative or judicial proceedings are initiated for an alleged violation, the maximum penalty specified for the violation in [9.8\(A\)](#) is applicable to the violation.

9.10 Stop Work Orders

- A. **Occurrence of Violation.** If the Administrator finds that a violation is occurring or has occurred on a construction site, the Administrator may place a stop work order on any land/property improvement process.
- B. **Procedure.** Stop work orders must be a written letter stating the nature of the violation and requiring the work and any other illegal activity to stop immediately until the matter is resolved. If someone other than the property owner occupies the property, a copy of the stop work order must be provided to the occupant. This letter must be posted in a conspicuous place and be delivered or mailed to the property owner.
- C. **Reasons.** Reasons for a stop work order may include:
1. Not complying with any element of the development standards or any regulation of the Ordinance.
 2. Not obtaining a permit or approval prior to the construction or installation of any improvement requiring a permit or approval by this Ordinance.

3. Not completing structures or other site improvements consistent with any approved improvement location permit, variance, special exception, site plan, or other approval.
 4. Not meeting the commitments imposed upon the approval of a special exception, variance, rezoning, site plan, subdivision plat, or other approval, whether recorded or not.
 5. Not meeting the conditions of a PUD Ordinance or other rezoning, or any written commitment imposed upon an approval, whether recorded or not.
 6. Illegal use or expansion of use of structures, or structures and land in combination.
- D. **Appeals.** Any stop work order may be appealed to the BZA. Upon the resolution of the violations to the satisfaction of the Administrator or the BZA, the stop work order is lifted and construction activity may resume.

9.11 Municipal Action to Enforce Compliance

- A. **Entry into Property.** According to [IC 36-1-6-2\(a\)](#), if violation of a provision of this Ordinance exists on real property, the Administrator may have employees or contractors of the City enter the property and take appropriate action to bring the property into compliance with the Ordinance.
- B. **Notice Requirement.** Before taking action to bring a property into compliance, anyone holding a substantial interest in the property must be given at least 10 days but not more than 60 days to bring the property into compliance. Notice must be served on such persons in person or by first class mail. In addition, continuous enforcement orders (as defined in [IC 36-7-9-2](#)) may be enforced, and liens may be assessed, without the need for additional notice.
- C. **Expenses Constitute a Lien.** Whenever the Administrator takes action to bring compliance under this section, the resulting expenses incurred by the City constitute a lien against the property. The lien attaches when notice of the lien is recorded in the Office of the County Recorder. The lien is superior to all other liens except liens for taxes and cannot exceed:
1. \$10,000 for real property that: (a) contains one or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings, or (b) is unimproved; or
 2. \$20,000 for all other real property not described in subsection (1).
- D. **Issuance of Bill to Owner.** According to [IC 36-1-6-2\(b\)](#), the Administrator may issue a bill to the owner of the real property for all expenses incurred by the City in bringing the property into compliance, including administrative costs and removal costs. According to [IC 36-1-6-2\(c\)](#), a bill issued under this section is delinquent if the owner of the property fails to pay the bill to the County Clerk or Clerk-Treasurer within 30 days after the bill is issued.
- E. **Collection of Fees and Penalties.** According to [IC 36-1-6-2\(d\)](#), the County Clerk or Clerk-Treasurer's office may prepare a list of delinquent fees and penalties enforceable under this section, including:
1. The names of the owners of each lot or parcel of real property on which fees or penalties are delinquent;
 2. A description of the premises, as shown on the records of the County Auditor; and
 3. The amount of the delinquent fees or penalties.
- F. **Preparation and Recording of Instrument.** The County Clerk or Clerk-Treasurer's office may then prepare an instrument for each lot or parcel of real property on which fees or penalties are delinquent. The instrument is recorded with the County Recorder, who charges a recording fee under the fee schedule established in [IC 36-7-2-10](#).

- G. **Placement of Lien on Tax Duplicate.** According to [IC 36-1-6-2\(f\)](#), the amount of a lien is placed on the tax duplicate by the County Auditor. The total amount, including any accrued interest, is collected in the same manner as delinquent taxes are collected and is disbursed to the general fund of the City.
- H. **Enforcement of Lien against Subsequent Owner.** According to [IC 36-1-6-2\(g\)](#), a fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the City must notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than 15 days after the date of the notice. If payment is not received within 180 days after the date of the notice, the amount may be considered a bad debt loss.
- I. **Release of Lien.** According to [IC 36-1-6-2\(h\)](#), the City releases:
1. Liens filed with the County Recorder after the recorded date of conveyance of the property; and
 2. Delinquent fees incurred by the seller; upon receipt of a written demand from the purchaser or a representative of the title insurance company or agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.
- J. **Removal of Lien from Tax Duplicate.** According to [IC 36-1-6-2\(i\)](#), the County Auditor removes the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner, upon receipt of a copy of the written demand under Section I.

9.12 Correcting Immediate Public Risk Violations

- A. **General Requirements.** According to [IC 36-1-6-2\(a\)](#), if a condition violating a provision of this Ordinance presents an immediate risk to public health, safety, or welfare or to property, the Administrator may opt to have employees or contractors of the City enter the property and take immediate action to bring the property into compliance. The Administrator is not required to provide prior notice to the property owner or other person responsible for the violation.
- B. **Immediate Public Risks.** Immediate public risk violations may include:
1. **Obstructions.** Signs, structures, landscaping, or other materials placed in an easement, sight visibility triangle, or rights-of-way in violation of this Ordinance;
 2. **Distractions.** Any sign, structure, landscaping, or other material located on private property that serves to distract or inhibit operators of motor vehicles on adjacent public ways, pedestrians, or other members of the public; and
 3. **Other Threats.** Any other immediate threat to public welfare as determined by the Administrator or the BZA.
- C. **Seizure of Materials.** Any sign, structure, landscaping, or other material constituting an immediate public risk violation may be seized by the Administrator in a manner resulting in the least damage to the material or the property on which it is located.
- D. **Notice of Violation.** The Administrator provides notice to the owner of the property, as listed in the records of the County Auditor, where the violation was located, or any discernible appropriate owner of materials placed within a public way in violation of this Ordinance, by placing a notice in a conspicuous place on the property and mailing a letter to that property owner. All notice letters are sent to the property owner via certified mail within 24 hours of the seizure. Any notice posted on the property must be posted at the time the material is seized. The letter and posted notice must include:

1. A description of the materials seized;
 2. A citation of the sections of this Ordinance that were violated and the characteristics of the violation that posed an immediate threat to public welfare;
 3. The address and phone number of the Administrator and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized items; and
 4. Instructions describing how, where, and when the seized items may be claimed.
- E. **Storage and Retrieval of Seized Materials.** The Administrator stores any sign, structure, landscape materials or other items seized in a secure location for a period of no less than 30 days from the date notice was mailed to the property owner. The property owner may claim the seized property following its seizure upon the payment of the fine specified in [9.8 Penalty Schedule](#) and the establishment of a Memorandum of Agreement between the property owner and Administrator regarding the future use of the item in a manner consistent with this Ordinance.
- F. **Liability.** Neither the Administrator, the City, nor any other official or entity involved in the seizure is liable for any damage to the seized materials or the property from which they were taken.

9.13 Administrative Enforcement

- A. **Provisions that Restrict or Prohibit Actions Harmful to the Land, Air, or Water.** According to [IC 36-1-6-9](#), the City may opt to enforce any provision of this Ordinance that restricts or prohibits actions harmful to the land, air, or water, through an administrative proceeding before the BZA. The BZA must find that the violation has been proved by a preponderance of the evidence. Upon finding a violation, the BZA may assess a civil penalty within the limits in [9.8 Penalty Schedule](#).
- B. **Appeal to Court.** According to [IC 36-1-6-9\(e\)](#), a person who is assessed a civil penalty under this section may appeal the BZA's order imposing the penalty to the County Circuit or Superior Court. An appeal under this section must be filed not more than 60 days after the date on which the BZA enters the order.
- C. **Payment of Civil Penalty.** Unless a person who is assessed a civil penalty under this section files an appeal, the person must pay the penalty to the City in a manner authorized by the County Clerk or Clerk-Treasurer. Whenever a person liable for a civil penalty under this section fails to deliver payment to the City within 75 days after the date on which the administrative body enters the order imposing the penalty, the County Clerk or Clerk-Treasurer reports the circumstances to the Administrator for the initiation of appropriate judicial proceedings against the person.
- D. **Effect of Administrative Process.** An Ordinance violation processed under this section does not constitute a judgment for the purposes of [IC 33-37](#). An ordinance violation costs fee may not be collected from the defendant under [IC 33-37-4](#).

9.14 Enforcement through Judicial Proceedings

- A. **Initiation.** According to [IC 36-7-4-1014](#), the Administrator or the BZA may bring a civil action to enforce a provision of this Ordinance, or any conditions imposed by the Plan Commission or BZA under the Area Planning Law. The action is brought in the name of the Administrator or the BZA as plaintiff. According to [IC 34-28-5-1](#), the plaintiff need not prove this Ordinance is valid, unless its validity is controverted by affidavit. The plaintiff may invoke any legal, equitable, or special remedy in an action brought under this section. Actions must be filed in the County Circuit Court.

- B. **Procedure in General.** An action to enforce a provision of this Ordinance must be brought within 2 years after the alleged violation occurred. Proceedings initiated under this section are conducted according to the Indiana Rules of Trial Procedure. The plaintiff must prove the commission of a violation by a preponderance of the evidence. The complaint and summons described in [IC 9-30-3-6](#) (without the provisions relating to the operation of a vehicle) may be used in any Ordinance enforcement case.
- C. **Right to Trial.** A person charged with an Ordinance violation is entitled to a court trial as provided by law unless the person waives the right to trial and enters an admission of the violation.
- D. **Judgment.** A judgment may be entered against the defendant upon a finding by the court that the defendant violated this Ordinance. A judgment up to the amount requested in the complaint may be entered for the violation. A defendant against whom a judgment for a violation is entered is liable for costs. Costs are part of the judgment and may not be suspended; however, whenever a judgment is entered against a person for the commission of 2 or more ordinance violations, the court may waive the person's liability for costs for all but one of the violations, as specified by the court.

9.15 Revocation of Development Review Approvals

A. Authority

1. The Administrator may, according to this section, revoke any approval granted by an appointed body at a previous public hearing; including any site plan review approval, variance, special exception, plat approval, or any other approval, under the following circumstances:
 - a. It is determined that the approval was obtained without adhering to the applicable procedures within the appropriate section of this Ordinance, including but not limited to:
 - Failure to properly notify adjoining property owners as required by statute;
 - Failure to demonstrate consent of owners of included properties as required by statute;
 - Any other failure to satisfy a statutory provision of the applicable approval procedure as specified within this Ordinance.
 - b. It is determined that the approval was obtained based on factual errors in the submittal.
 - c. It is determined that the approval was obtained based on falsified information.
2. The Administrator may revoke any approval granted administratively, including any improvement location permit, sign permit, or certificate of occupancy.

B. Appeal.

Any party aggrieved by the revocation of any approval by the Administrator may appeal the decision.

1. The board or body responsible for the applicable approval and the original hearing conducts any public hearing related to any proposed revocation according to the Rules of Procedure applicable to that board or body.
2. Any revocation of an approval granted administratively may be appealed to the BZA according to [8.11 Appeals of Administrative Decisions](#).

C. Result of Revocation.

No person may continue to make use of land or buildings in the manner authorized by any approval after the approval has been revoked.

D. Records.

A record of any decision to revoke any review is added to the original petition file.

9.16 Common Nuisance

According to [IC 36-7-4-1012 et seq.](#) any structure, land, or premises found to be in violation of this Ordinance is declared to be common nuisance. Any owner or possessor of the structure, land, or premises is, in addition to any other fine or civil penalty, liable for maintaining a common nuisance.

9.17 Private Remedies Reserved

Nothing in this chapter should be interpreted to prevent any person entitled to relief in law or equity by reason of a violation of the provisions of this Ordinance from bringing an appropriate action to secure relief.



Chapter 10

Definitions

Terms used in the UDO with specific meanings

10.1	RULES OF CONSTRUCTION	3
10.2	DEFINITIONS	4
Aa		4
Bb		4
Cc		5
Dd		6
Ee		6
Ff		7
Gg		7
Hh		7
Ii		7
Jj		8
Kk		8
Ll		8
Mm		9
Nn		9
Oo		10
Pp		10
Qq		11
Rr		11
Ss		12
Tt		13
Uu		14
Vv		14
Ww		14
Xx		14
Yy		14
Zz		15

10.1 Intent

For interpreting this Ordinance, certain words, concepts, and ideas are defined in this chapter. Unless defined in this chapter, all other words used in this Ordinance have the everyday meaning determined by a dictionary definition. For descriptions of specific uses, see [3.3 Use Descriptions and Standards](#).

10.2 Rules of Construction

In the application and interpretation of this Ordinance, the following rules apply:

- A. The specific controls the general.
- B. The phrase “used for” includes arranged for, designed for, intended for, maintained for, and occupied for.
- C. A building or structure includes any of its parts.
- D. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions “and,” “or” or “either...or,” the conjunction is interpreted as follows:
 1. “And” indicates that all the connected items, conditions, provisions, or events apply.
 2. “Or” indicates the connected items, conditions, provisions, or events may apply singly or in any combination.
 3. “Either...or” indicates that the connected items, conditions, provisions, or events apply singly, but not in combination.
- E. Words used in the present tense include the future tense.
- F. Words used in the singular number include the plural and the plural includes the singular, unless the context clearly indicates the contrary.
- G. The word “must” is always mandatory and not discretionary. The word “may” is permissive.
- H. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text controls.

10.3 Definitions

Aa

Accessory Building or Structure. A detached, subordinate structure, the use of which is incidental to, customarily associated with, and related to the principal structure or use of the land and is located on the same lot as the principal structure or use.

Accessory Use. A use customarily incidental to, subordinate to, and supportive of the principal use of the parcel.

Administrator. The officer appointed by and/or delegated the responsibility for the administration of this Ordinance by the Plan Commission and the City Council.

Advisory Plan Commission. See **Plan Commission**.

Agricultural District. The AG or AH districts.

Agriculture. The use of land for agricultural purposes with the intent of selling any products produced by this activity. Agricultural uses include farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, along with necessary accessory uses. Agricultural use does not include the operation or maintenance of a commercial stockyard, slaughterhouse, feed lot or feeding of garbage or offal to swine or other animals.

Alley. A minor private or public thoroughfare which is not a street but affords a secondary means of access to abutting property, is generally used for service purposes, and is not intended for general traffic circulation.

Applicant. Any person, firm, partnership, joint venture, association, corporation, group, or organization who may apply for any permit, approval, or decision required by this Ordinance.

Architectural Detail. That portion of a building containing any architectural projection, relief, cornice, column, change of building material, pattern, color, or texture, or window or door opening.

Architectural Feature. A prominent or significant part or element of a building, structure, or site.

Bb

Basement. A room or rooms, or any part of a room having a floor level more than 48 inches below grade. Except when used for business purposes, a basement is not be counted as a story in height or floor area measurement if the vertical distance between the basement floor and the average level of the finished grade is greater than the distance between the average level of the finished grade and the basement ceiling.

Berm. A man-made, formed earth mound of definite height and width used for landscaping, screening, and buffering purposes.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

Board. The City of Boonville Board of Zoning Appeals.

Bond. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council.

Buffer Landscaping. That portion of a lot set aside with adequate natural or planted vegetation to accomplish visual and sound screening to separate a potentially incompatible zoning district from an abutting zoning district.

Building. Any structure attached to the ground which has a roof and walls or roof supports and which is designed for the shelter, housing or enclosure of persons, animals or property of any kind.

Building Code. The Indiana State Building Code, as amended.

Building Height. The vertical distance from the average finished grade to the highest point of the roof for a flat roof; the midpoint between the eaves and ridge line for a gambrel, gable, or hip roof; to the deck line of a mansard roof; or to an equivalent point on any other roof.

Building Official. The person, officer, or official whom the Boonville City Council has designated as its agent for enforcing, in conjunction with the Zoning Administrator, the regulations of this Ordinance relating to building construction and permitting.

Building Permit. A certificate issued by the Administrator of the Commission permitting a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, or convert any building or structure within its jurisdiction, or cause the same to be done.

Building, Principal. The primary building containing the principal use of a lot.

Cc

Caliper. A standard trunk diameter measurement for trees, taken 6 inches above the finished grade for trees with a diameter of 4 inches or less, and 12 inches above the finished grade for larger sizes.

Certificate of Occupancy. A permit authorized and issued by the Administrator indicating that the use or the building or land in question is in conformity with this Ordinance, or that a legal variance has been approved.

City. The City of Boonville, Indiana.

Co-location. The placement and arrangement of multiple providers' antennas and equipment on a single support structure or equipment area.

Commercial Districts. The C1, C2, or C3 districts.

Commission. See **Plan Commission**.

Common Area. An area held in common ownership by an owners' association, not located in rights-of-way, and not located on individually owned private property.

Comprehensive Plan. The inclusive physical, social, and economic plans and policies in graphic and verbal statement forms for the development of the City prepared and adopted by the City Council pursuant to State law and including any part of such plan and/or policies separately adopted and any amendment to such plan and/or policies.

Condominium. The division of building(s) and the related land into horizontal property interests meeting the requirements of and controlled by Indiana statutes for condominiums as prescribed by the [IC 32-1-6-1](#) through [32-1-6-31](#).

Construction Drawings. The plans and details showing the specific location and design of improvements to be installed on a site according to the requirements of this Ordinance and other development ordinances applicable to the site.

Council. The City Council of the City of Boonville, Indiana

County. Warrick County, Indiana.

County Recorder. The County Recorder of Warrick County, Indiana.

County Surveyor. The County Official designated by the laws of the State of Indiana to maintain information such as benchmarks, USGS Topo Maps, Flood Zone Maps, Survey Records, historical aerial photography, legal drain information such as legal descriptions and watershed maps, and annexation descriptions for each city and town. The Surveyor maintains a Legal Survey Record Book for all legal surveys within the county.

Cul-de-sac. A short, dead-end street terminating in a vehicular turnaround area.

Dd

Deck. An open structure at least 12 inches above the ground which may be attached to a building and is commonly used for outdoor leisure activities.

Density. The total number of residential dwelling units to be located on a parcel of property divided by the total acreage of the property.

Department. The City of Boonville Planning & Zoning Department.

Designated Officials. Those officials of the Commission designated in this Ordinance as required signatories for the execution of secondary plat approval.

Development. Any land disturbing activity which:

- Adds to or changes the amount of impervious cover on land, or which decreases the infiltration of precipitation into the soil, or
- Action such as subdividing undertaken to make land more useful, or
- Any area of a site where clearing, grading, parking, structures, walks, or related work takes place for the construction, operation, and maintenance of a site.

Disturbed Area. That area of the land's surface disturbed by any work or activity upon the property by means including, grading; excavating; stockpiling soil, fill, or other materials; clearing; vegetation removal; removal or deposit of any rock, soil, or other materials; or other activities which expose soil. "Disturbed area" does not include the tillage of land that is zoned for agricultural use.

Drainage Board. The Warrick Drainage Board for legal drains and the Storm Water Utility Board for land within City limits.

Drive-in or Drive-through Facility. An accessory use for a business (such as banks, restaurants, dry cleaners, or pharmacies) where the delivery of customer services is done, usually from within the building via a service window, while patrons are in their motor vehicles.

Drives, Private. Vehicular streets, and driveways paved or unpaved which are wholly within private property except where they intersect with other streets within public rights-of-way.

Dwelling Unit. A permanent building, or any part of a permanent building, having cooking and sanitary facilities, designed, or used exclusively for residential occupancy by one family as a single housekeeping unit, but not including automobiles, hotels/motels, trailer coaches, recreational vehicles, tents, or portable buildings.

Ee

Easement. A grant of one or more rights by a property owner to and/or for specific persons, the public, corporations, utilities, or others.

Extraterritorial Jurisdiction (ETJ). That land lying beyond the corporate limits of City of Boonville and within the extraterritorial jurisdiction boundary as delineated on the official zoning map of the City of Boonville according to [IC 36-7-4-205](#). The authority is granted to a locality to exercise zoning powers for a specified distance

outside its boundaries. It is intended to protect activities on the edge of communities from being encroached on by incompatible adjacent activities.

Ff

Family. One or more persons related by blood, marriage, or legal adoption; or two or more unrelated persons occupying a dwelling unit and living as a single housekeeping unit. The term "family" does not include any fraternity, sorority, club, hotel, organization, or institutional group.

Feasibility Report. A written report prepared by a professional engineer or land surveyor pertaining to the suitability of the site for various types of water and sewage systems; for drainage retention or detention; and the subsoil conditions for various methods of street construction.

Fence. A barrier or partition of wood, masonry, stone, metal or similar manufactured material or combination of materials, used to prevent or control entrance, confine within, mark a boundary or act as a screen.

Floor Area, Gross. (GFA) The sum of all gross horizontal areas of all the floors of a building or buildings, measured from the outside dimensions of the structure or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than 6 feet.

Floor Area, Usable. That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers, measured from the interior faces of the exterior walls. Areas used principally for the storage or processing of merchandise, for hallways, stairways, and elevator shafts, or for utilities or sanitary facilities is be excluded from this computation.

Footcandle (FC). A unit of illuminance amounting to one lumen per square foot.

Frontage. The linear distance where a property line is coterminous with a street right-of-way line.

Gg

Grade. The slope of a street, ditch, swale, pipe, other public way, and other applicable development features specified in percentage (%) terms.

Grade, natural. The elevation of the ground level in its natural state, before construction, filling, or excavation.

Grade, finished. The average elevation at ground level at the front wall of the building after construction and grading is complete.

Hh

Health Department and Warrick County Health Officer. The agency and that person designated by Warrick County to administer the health regulations within the County's jurisdiction.

Home Occupation. A vocational activity conducted as an accessory use in a dwelling unit by a member or members of the resident family, which is clearly accessory and incidental to the principal residential use of the dwelling.

Household Pets. Companion animals commonly kept as pets, whose primary value is personal enjoyment including, but not limited to, dogs, cats, birds, fish, turtles, rabbits, rodents (bred, such as gerbils, hamsters, or guinea pigs) and lizards (non-poisonous). Wild, vicious, or exotic animals are not considered household pets.

Ii

Impervious Surface. Improvements including street pavement, driveways, gravel areas, buildings, and other structures covering the soil surface that prevent infiltration of water into the soil.

Improvements. Any change in use, major exterior remodeling of a structure or grounds, addition to a structure or parking area, or interior remodeling of over 30 percent of the gross floor area of a structure.

Improvement Location Permit. A permit signed by the Zoning Administrator stating that a proposed improvement complies with the provisions of this Ordinance and all other applicable Ordinances.

Indiana Code. The latest edition with any amending supplements of the Indiana Statutes Code Edition (abbreviated as IC herein) which codifies all Indiana statutes for reference purposes.

Industrial Districts. The I1 or I2 Districts.

Institutional District. The IN District.

Interested Parties. Those parties who are the owners of property, to whom legal notice must be given for a particular proceeding.

Jj

Junk. An automobile, truck, other motor vehicle, watercraft, large appliances, furniture, or like materials that have been damaged to such an extent that they cannot be operated under their own power or used and/or will require major repairs before being made usable. This also includes such a vehicle which does not comply with State or County vehicle licensing or other laws or ordinances.

Kk

Ll

Loading Space. An off-street portion of a parcel designated for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel.

Local Street. A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

Lot. A legally described and recorded parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings or utilized for a principal use and its accessory uses, together with such yards and open spaces as are required by this Ordinance.

1. **Lot, Corner.** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting a curved street is considered a corner lot if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.
2. **Lot, Interior.** Any lot other than a corner lot.
3. **Lot, Mew.** A lot fronting an open space or common area and served by an alley or street. The front yard setback for a mew lot is measured from the narrowest property line abutting the open space or common area.
4. **Lot, Through.** An interior lot having frontage on two streets that are approximately parallel.

Lot Area. The total horizontal area within the lot lines of the lot, excluding any road right-of way or easement dedicated for street purposes.

Lot Coverage. The percentage of the lot occupied by buildings, including accessory buildings.

Lot Depth. The horizontal distance between the front and rear lot lines, measured along the midpoint between the side lot lines.

Lot Improvement. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

Lot Line.

1. **Lot line, front.** The line separating a lot from the abutting street or street right-of-way. For a corner lot, a line separating the narrowest street frontage of the lot from the street, unless otherwise determined by the Administrator.
2. **Lot line, rear.** The line opposite the front lot line. In the case of a lot that is pointed at the rear, the rear lot line is an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line and wholly within the lot.
3. **Lot line, side.** Any lot line other than the front, street side, or rear lot line. A side lot line separating a lot from another lot is an interior side lot line.
4. **Lot line, street side.** A lot line, other than a front lot line or a rear lot line, that abuts a street. A street side lot line does not include lot lines that abut an alley.

Lot of Record. A parcel of land separately described on a plat or metes and bounds description recorded in the office of the County Recorder on the effective date of this Ordinance.

Lot Width. The horizontal distance between the side lot lines, measured at the two points where the front setback line intersects the side lot lines.

Mm

Manufactured Home. A factory-built, single-family structure, transportable in one or more sections, which is built on a permanent chassis in compliance with the [National Manufactured Home Construction and Safety Standards Act \(42 U.S.C., sec. 4301\)](#) and designed to be used as a single-family dwelling with or without a permanent foundation when connected to the required utilities. The term “manufactured home” includes “mobile home.” Recreational vehicles and modular homes are not included in this definition.

Manufactured Home Community. A parcel or tract containing spaces for three or more manufactured homes with required improvements that are leased for the long-term placement of manufactured homes as year-round residences on a non-recreational basis, which may also include services and facilities for the residents.

Mixed Use. Two or more uses within the same building, or in multiple buildings by adjacency or proximity.

Model Home. A dwelling unit used initially for display purposes which typifies the kind of units that will be constructed in subdivision.

Modular Home. A factory-fabricated, transportable building unit that is not a manufactured home, placed upon a permanent foundation, and joined to make a single residential structure.

Nn

Nonconforming Lot. A lot that was legally established and in existence at the time this Ordinance or any amendment was adopted but which does not conform to the current area and width requirements of the district in which it is located.

Nonconforming Building or Structure. A building or structure that was legally established at the time this Ordinance or any amendment was adopted, and which does not conform to the current regulations of the district in which it is located.

Nonconforming Use. A use of a building, structure, or land that was legally established and operating at the time this Ordinance or any amendment was adopted, and which is no longer permitted in the district in which it is located.

Oo

Open Space. An area of land unoccupied by buildings, structure, storage, or parking areas, except for recreational structures and which is generally for the purpose of active or passive recreation, environmental protection, preservation of scenic views or similar purposes. Open space does not include street rights-of-way or easements or required yards.

Ordinance. The Unified Development Ordinance.

Overlay District. A special purpose zoning district that encompasses all or a portion of one or more underlying zones and imposes additional requirements beyond those required by the underlying zone.

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

Pp

Parcel. A separate division of land legally described and of record to show the actual boundaries of the property.

Parking Lot. A ground-level open area or plot of ground, usually improved, used for the temporary storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

Parking Space. A defined off-street space of adequate size for parking a vehicle with room for opening doors on both sides and maneuvering.

Perimeter Street. Any existing street that abuts a parcel of land on only one side.

Permeable Surface. Allowing the movement of some water and/or air around the surface material to infiltrate sub-surface areas.

Person. Any person, firm, or corporation, public or private, the State of Indiana and its agencies or political subdivisions, and the United States of America, its agencies and instrumentality, and any agent, servant, officer, employee of any of the above.

Plan Commission. The City's Plan Commission as established according to Indiana law, also known as the Area Plan Commission or the Commission.

Planned Unit Development (PUD). A tract of land developed as a unit under single ownership or unified control that is unique and incorporates one or more of the following: a variety of uses, varied density of development, dedicated open space, preservation of significant natural features, reduced lot sizes or similar attributes that typically would not be easily achieved under conventional zoning districts.

Plat. A map indicating the subdivision or re-subdivision of land filed or intended to be filed for record with the County Recorder.

Porch. A horizontal surface consisting of a deck, slab or other similar construction, covered and attached to a main building and designed for outdoor seating, shelter from the elements or as a means of entry to the building.

Primary Façade. The building façade with a frontage line on a street. In cases where a building fronts on more than one street, the primary façade is determined by the Administrator.

Primary Plat. The preliminary drawing, described in this Ordinance, indicating the proposed manner or layout of subdivision to be submitted to the Commission for approval.

Principal Structure. A structure that accommodates the principal use of the site. Standards recognized by the Indiana Administrative Building Council are used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

Principal Use. The primary use of any lot.

Public Improvement. Any drainage ditch, street, highway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the City Council may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City Council responsibility is established.

Public Right-of-Way. The publicly owned land in which any street, road, alley or pedestrian/bicycle way or other special purpose way or utility installation is constructed or reserved for public use.

Public Sanitary Sewer. A municipal sewer system, including collection and treatment facilities, established by a developer or the municipality to serve new or existing development.

Public Water Supply. A municipal water supply system including new and existing wells, and/or surface water sources and intakes, treatment facilities, and distribution lines established by a developer or the municipality to serve new or existing development.

Qq

Rr

Recreational Vehicle. Any type of vehicle used temporarily or periodically for recreational or leisure pursuits. Examples include, but are not limited to, travel trailers, motor homes, boats, special purpose automobiles, floats, rafts, trailers, detachable travel equipment of the type adaptable to light trucks, personal watercraft and other vehicles or equipment of a similar nature, as well as any trailer used to transport them.

Registered Land Surveyor. A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Professional Engineer. An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Residential District. The R1, R2, R3, R4, and R5 Districts.

Restrictive Covenants. The limitations of various kinds on the usage of lots within a subdivision which are proposed by the developer or subdivider.

Right-of-Way. A strip of land occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for another special use. The usage of the term "right-of-way" for land platting purposes means that every right-of-way established and shown on a secondary plat is separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of the lots or parcels. The width of the right-of-way is the distance between property lines measured at right angles to the centerline of the right-of-way. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening, or special landscaping, or any other use involving maintenance by the City Council must be dedicated to public or utility use by the developer or subdivider on whose plat such right-of-way is established.

Ss

Sale or Lease. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, intestate succession, or other written instrument.

Screen or Screening. A visual barrier that surrounds a potentially offensive activity.

Secondary Final Plat. A map establishing real estate interests for recording with the county recorder prepared by an Indiana Registered Surveyor, drawn in accordance with the requirements of [CHAPTER 7: SUBDIVISION REGULATIONS](#).

Secondary Plat. The map, drawing, or plan described in this Ordinance of a subdivision and any accompanying material submitted to the Administrator for secondary approval, and which if approved and signed by the designated officials, may be submitted to the County Recorder for filing.

Setback. The minimum required horizontal distances measured from front, side, street side, and rear lot lines that describe an area beyond which the main walls of a principal building may not extend. A “setback line” is the line established by the minimum horizontal distance for each yard. See “Yard” definitions.

Shade Tree. A tree in a public place, street, special easement, or right-of-way adjoining a street as provided in this Ordinance.

Shrub. An upright plant growing one to 20 feet in height at maturity planted for ornamental or screening purposes.

Sign Permit. A permit reviewed, approved, and issued by the Zoning Administrator for the City of Boonville to erect a sign.

Site Plan. A map to scale showing the proposed improvements for a project.

Sketch Plan. An informal, informational drawing, as described in this Ordinance, preparatory to the drawing of the primary plat to enable the developer or subdivider to save time and expense in reaching a general agreement with the Commission as to the form of the plat and conformance to the objectives of this Ordinance.

Soil Survey. The National Cooperative Soil Survey prepared by the U.S. Department of Agriculture, Soil Conservation Service in cooperation with Purdue University.

Special Exception Use. Those uses of land and structures which are not essentially incompatible with the other uses permitted in a zoning district, but which possess characteristics of operation or locational qualities that may require individual review and restriction.

Specified Anatomical Areas. Any of the following:

- Less than completely, and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
- Human male genitals in a discernably turgid state, even if completely or opaquely covered.

Specified Sexual Activities. Any of the following:

- Human genitals in state of sexual stimulation or arousal;
- Acts of human masturbation, sexual intercourse, or sodomy;
- Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;
- Flagellation or torture in the context of a sexual relationship;

- Masochism, erotic, or sexually oriented torture, beating or infliction of pain;
- Erotic touching, fondling, or other such contact with an animal by a human being; or
- Human excretion, urination, menstruation, vaginal or anal irrigation as part of in connection with any of the activities set forth in 1 through 6 above.

State Law. Such legislative acts of the State of Indiana as they affect this Ordinance.

Steep Slopes. Slopes equal to or steeper than 12%. The percent slope is measured as a 6 foot fall or greater in any 50 foot distance.

Story, Half. An uppermost story, lying under a sloping roof, having an area of at least 200 square feet, with a clear height of at least 7 feet 6 inches. For the purposes of this Ordinance, the usable floor area of a half story is only that area having at least 4 feet clear height between floor and ceiling.

Street. The space or area within a right-of-way or access easement and designed as a way for vehicular traffic, however designated, and including those illustrated in the Comprehensive Plan.

Street Classification. The hierarchy of street types denoting their relative function and traffic carrying capability.

1. **Arterial.** A connected network of continuous routes serving intra- and interstate travel, as well as interurban travel. Arterials accommodate high traffic volumes generally at higher speeds. Access to abutting land is subordinate to moving through traffic.
2. **Collector.** Those streets which collect traffic from local streets and channel it to arterial streets. Collector streets carry moderate traffic volumes and primarily provide for local traffic movements with a minor amount of through traffic. While traffic movement remains their primary function, collectors do provide for a higher degree of land access than arterials.
3. **Local.** A street that provides direct access to adjacent land and access to higher street classifications. All streets not otherwise classified are "local."

Street, Private. Any vehicular access not dedicated to the public that has been platted and recorded as a private street.

Street, Public. A right-of-way dedicated to the City or other governmental entity and owned by the City or other governmental entity for public purposes.

Structural Alterations. Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

Structure. Anything constructed, erected, or placed that requires location on or in the ground or is attached to something having a location on the ground, including buildings, manufactured homes, gazebos, play structures, decks, towers, fences, and swimming pools.

Subdivider. Any person or legal entity who participates as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease of a development.

Subdivision. The division of any parcel of land into two or more parcels or lots or the combination of two or more smaller parcels or lots into one lot for the purpose of transfer or ownership, leasing, or development.

Tt

Technical Advisory Committee. A committee comprised of persons with technical knowledge of various municipal, county, state and federal regulations and standards regarding development responsible for working with developers or subdividers in reviewing technical aspects of plans and other development projects and

making technical findings for the Plan Commission and Administrator for their consideration in reviewing such plans.

Temporary Improvement. Improvements built and maintained during construction and intended to be replaced by a permanent improvement prior to release of the performance bond or turn-around improvements at the ends of stub streets intended to be replaced when the adjoining area is developed and the through street connection made.

Tract. A lot, or contiguous group of lots, in single ownership or under single control, and usually considered a unit for purposes of development.

Uu

Usable Living Area. The floor area of a dwelling unit, measured from the outside dimensions of the building's exterior walls, exclusive of unfinished basements, open porches, breezeways, terraces, garages, and exterior stairways.

Vv

Variance, Development Standard. A modification, authorized by the Board of Zoning Appeals, from the strict requirements of this Ordinance relative to dimensional provisions or other requirements of the Ordinance.

Variance, Use. A specific approval, authorized by the Board of Zoning Appeals, to conduct a principal use on a lot or parcel that is otherwise not permitted within the zoning district in which the property is located.

Ww

Wetlands. Those areas that are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Xx

Yy

Yard. An open space on the same lot with a building or structure, unoccupied and unobstructed between the building and the nearest lot line, except as otherwise provided (see also "lot line").

1. Yard, front. The yard extending across the full width of the lot, the depth of which is the shortest horizontal distance between the front lot line and the front setback line.
2. Yard, rear. The yard extending the full width of the lot, the depth of which is the shortest horizontal distance between the rear lot line and the rear setback line.
3. Yard, side. The yard between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the shortest horizontal distance from the side lot line and the side setback line.
4. Yard, street side. The yard between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the shortest horizontal distance from the side lot line abutting a street and the side setback line.

Zz

Zoning Administrator. See **Administrator**.

Zoning District. A section designated in the Ordinance text and delineated on the zoning map, prescribing the requirements for the use of land and development standards.

Zoning Map. A visual representation of the City's land use, showing the different areas of land designated for specific uses.

