

UDO

Unified Development Ordinance



City of Rushville
cityofrushville.in.gov

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Table of Contents

Chapter 1 - Basic Provisions

Chapter 2 - Zoning Districts

Chapter 3 - Land Uses

Chapter 4 - General Standards

Chapter 5 - Design Standards

Chapter 6 - Improvement Standards

Chapter 7 - Subdivision Regulations

Chapter 8 - Process and Permits

Chapter 9 - Enforcement

Chapter 10 - Definitions





Rushville 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 web site, 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-household dwellings, 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, with a goal 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 City Council.

Key Term

Future Land Use Map: a guide for planned future land use. The text of the Comprehensive Plan provides the detail 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 Land 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 landscaping, lighting, parking, and signage.
Chapter 7 Subdivision Regulations	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:

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
IS	Institutional
CBD	Central Business District
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	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IS	CBD	Minimum Parking Requirements
RESIDENTIAL PRIMARY USES													
Dwelling - Single-Household Detached	P	P	P	P	P	S					S	P	2 spaces/unit
Dwelling - Duplex	S	P	P	P	P						S	P	2 spaces/unit
Dwelling - Triplex		S	S	P	P								2 spaces/unit
Dwelling - Quadplex		S	S	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 [8.11 Administrative Determination](#). In some cases, the Administrator may take the request to the Plan 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-household dwelling, 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 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.

The legal framework for this UDO

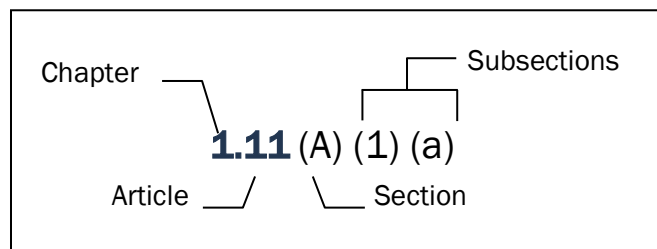
1.1	TITLE	3
1.2	ORDINANCE FORMAT AND NAVIGATION	3
1.3	AUTHORITY AND PURPOSE.....	3
1.4	INTERPRETATION AND APPLICATION	4
1.5	EXCLUSION.....	4
1.6	SAVING PROVISION.....	5
1.7	INCORPORATION OF OTHER DOCUMENTS.....	5
1.8	REPEAL OF PRIOR ORDINANCE AND EFFECTIVE DATE	5
1.9	ADMINISTRATIVE BODIES	6
1.10	PUBLIC UTILITY INSTALLATIONS	8
1.11	ZONING MAP.....	8
1.12	NONCONFORMING REGULATIONS	9

1.1 Title

This Ordinance is known as the “Unified Development Ordinance of the City of Rushville,” 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 of this document are provided for convenience only. The accuracy of these links is not guaranteed.



Adobe Reader
Bookmark Icon

1.3 Authority and Purpose

- 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.
- Scope.** This Ordinance applies to all real property located within the corporate boundaries of Rushville, Indiana, and to those 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 prior to 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 Map
 - City Construction Standards
 - The Parks and Trails Plan
 - Rushville Park Master Plan
 - Economic Development Strategic Plan
 - Safe Streets for All Plan

1.8 Repeal of Prior Ordinance and Effective Date

- A. This Ordinance comprises a replacement ordinance for the jurisdiction of Formal Entity, as described in [*IC 36-7-4-602\(a\)*](#). Accordingly, the prior Rushville 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\(f\)*](#).
 - **August 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 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 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 Administrator 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 :

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. Floodplain Administrator

1. The Zoning Administrator and/or designated staff of the Department is designated as the Floodplain Administrator.
2. Duties. The Floodplain Administrator has the duties outlined in [2.6\(E\)\(3\)](#).

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.
 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 ([8.13 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 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 [6.5\(l\) 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.

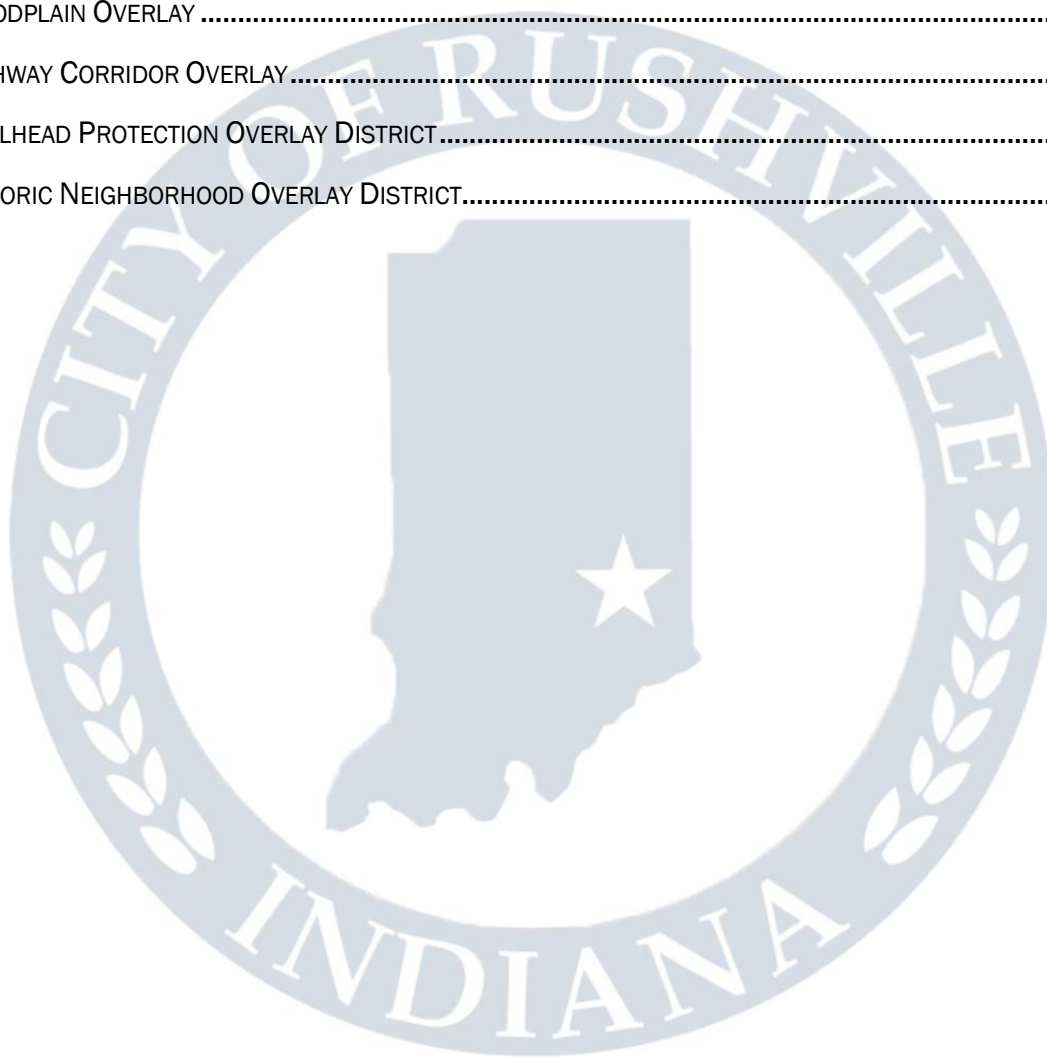
E. Nonconforming Uses and Structures. The lawful use of a building or premise, existing at the time of the adoption or amendment of this Ordinance, may be continued although the use does not conform to all the provisions of this Ordinance, subject to the following conditions:

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 expansion conforms to all applicable standards of this Ordinance, the expansion is used by a conforming use, and the nonconforming use is not increased,
3. Buildings cannot be erected upon any premises devoted to a nonconforming use, unless conforming to the provisions of this Ordinance.
4. If a nonconforming use is discontinued for 12 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.
5. Except for single-household 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 prior to 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 pursued to completion.
6. 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.
7. Per [IC 14-22-31.5-8](#), the maintenance, repair, renovation, modernization, or expansion of buildings, structures, or facilities used in connection with a shooting range (including improvements to safety, security accessibility, or environmental controls), is a continuation of a permitted use and may not be

treated by the local government as: (1) an expansion of a nonconforming use; or (2) a basis to deny, delay, or condition approval of any permit that is otherwise required under applicable building codes or safety regulations. The local government must review and act upon any application for a permit for an existing Shooting Range using the same objective standards and procedures that apply to similarly situated commercial, industrial, or agricultural properties, without regard to the: type of goods or services offered by the Shooting Range, or status of the property with respect to annexation. A local government cannot condition the approval, issuance, or timely processing of a permit on the owner's consent to annexation by a municipality or waiver of any right granted to the owner. A local government may enforce generally applicable building, fire, or safety codes that are: neutral and of general applicability and not adopted or applied for the purpose of restricting, hindering, or causing the closure of a shooting range.

The land use districts and their development regulations

2.1	ESTABLISHMENT OF ZONING DISTRICTS.....	3
2.2	RESIDENTIAL DISTRICT STANDARDS	4
2.3	COMMERCIAL DISTRICT STANDARDS	6
2.4	INDUSTRIAL DISTRICT STANDARDS	7
2.5	SPECIAL DISTRICT STANDARDS	8
2.6	FLOODPLAIN OVERLAY	9
2.7	HIGHWAY CORRIDOR OVERLAY	35
2.8	WELLHEAD PROTECTION OVERLAY DISTRICT.....	42
2.9	HISTORIC NEIGHBORHOOD OVERLAY DISTRICT.....	44



2.1 ESTABLISHMENT OF ZONING DISTRICTS

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

A. Residential Districts

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

B. Commercial Districts

C1	Neighborhood Commercial
C2	General Commercial
C3	Highway Commercial

C. Industrial Districts

I1	Light Industrial
I2	Heavy Industrial

D. Special Districts

IS	Institutional
CBD	Central Business District
PUD	Planned Unit Development

E. Overlay Districts

FPO	Floodplain Overlay
HCO	Highway Corridor Overlay
WPO	Wellhead Protection Overlay
HN	Historic Neighborhood Overlay

2.2 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-household dwellings and duplexes that retain single-household 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-household dwellings and duplexes are permitted. Triplexes and quadplexes may be permitted if they retain the single-household character of the district.

R3 – R3 Residential. The **R3 Residential District** is intended to encompass some of the City's existing single-household 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-household dwellings, small-scale multi-household 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 multi-household housing at densities up to 24 units per acre. Uses in this district should have direct access to an arterial or collector street.

S = Special Exception approval requires	R1	R2	R3	R4	R5
LOT REQUIREMENTS					
Maximum Density (units/acre)	3	5	8	12	24
Single-Household Detached Dwelling					
Minimum Lot Size (SF)	10,000	7,200	4,000	3,300	3,100
Minimum Lot Width	50'	50'	40'	30'	30'
Minimum Lot Frontage/Street Frontage	40'	40'	35'	30'	30'
Minimum Living Area (SF)	1,300	1,000	900	850	800
Duplex Dwelling					
	S				
Minimum Lot Size (SF per dwelling unit)	5,000	3,600	2,100	1,900	1,600
Minimum Lot Width	30'	25'	25'	20'	20'
Minimum Lot Frontage/Street Frontage	25'	20'	20'	15'	15'
Minimum Living Area per Dwelling Unit (SF)	900	900	900	800	800
Triplex Dwelling					
		S	S		
Minimum Lot Size (SF per dwelling unit)	--	2,500	1,700	1,500	1,400
Minimum Lot Width	--	25'	30'	25'	25'
Minimum Lot Frontage/Street Frontage	--	20'	25'	20'	20'
Minimum Living Area per Dwelling Unit (SF)	--	900	900	800	800
Quadplex Dwelling					
		S	S		
Minimum Lot Size (SF per dwelling unit)	--	2,000	2,500	2,000	1,800
Minimum Lot Width	--	25'	30'	25'	25'
Minimum Lot Frontage/Street Frontage	--	20'	25'	20'	20'
Minimum Living Area (SF)	--	900	900	800	800

S = Special Exception approval requires	R1	R2	R3	R4	R5
Townhouse Dwelling			S		
Minimum Lot Size (SF per dwelling unit)	--	--	2,000	1,400	1,400
Minimum Lot Width	--	--	18'	18'	18'
Minimum Lot Frontage/Street Frontage	--	--	18'	16'	16'
Minimum Living Area (SF)	--	--	900	800	800
Multi-Household Dwelling			S		
Minimum Lot Size (SF per dwelling unit)	--	--	1,500	1,500	1,200
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'	20'	20'	15'	10'
Minimum Corner Setback	16'	15'	15'	10'	8'
Minimum Side Setback (1)	8'	8'	8'	5'	5'
Minimum Rear Setback	10'	10'	10'	10'	10'
Minimum Setback for Garage Door Facing a Street	30'	25'	25'	20'	15'
S = Only permitted through the special exception process. See 3.2 Use Matrix and 8.8 Special Exceptions (1) The side yard setback between attached units within the same building is 0'. (2) The multi-household dwelling minimum living area requirement is based upon the type of dwelling: • 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 (3)	35'	35'	40'	50'	55'
Maximum Lot Coverage	60%	60%	60%	70%	80%
(3) For Dwelling- Apartment Building, Large, either individually or within an Apartment Complex, any structure within 50 feet of a property line cannot exceed 15 feet above the highest point of the nearest residential structure.					
PERMITTED USES					
3.2 Use Matrix					
ARCHITECTURAL STANDARDS					
5.3(A) Architectural Standards: Small Scale Residential Dwellings					
5.3(B) Architectural Standards: Multi-Household Dwellings					

2.3 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	11,000 SF	20,000 SF	20,000 SF
Minimum Lot Width	75'	100'	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 Corner Setback			
Where abutting a residential district	18'	33'	40'
All others	8'	25'	33'
Minimum Side Setback			
Where abutting a Residential District	10'	30'	30'
All others (1)	5'	20'	25'
Minimum Rear Setback			
Where abutting a Residential District	20'	30'	30'
All others	15'	20'	20'
(1) The side yard setback may be reduced to 0' where commercial buildings abut.			
BUILDING REQUIREMENTS			
Maximum Height	35'	50'	60'
Maximum Lot Coverage	65%	75%	70%
PERMITTED USES			
3.2 Use Matrix			
ARCHITECTURAL STANDARDS			
5.1 Architectural Standards: Commercial and Mixed-Use			

2.4 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.

I2 – 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	23,000 SF	3 acres
Minimum Lot Width	100'	250'
Minimum Parent Tract Street Frontage	45'	100'
BUILDING PLACEMENT REQUIREMENTS		
Minimum Front Setback	35'	35'
Minimum Corner Setback	28'	28'
Minimum Side Setback	20'	20'
Minimum Rear Setback	20'	20'
BUILDING REQUIREMENTS		
Maximum Height	50'	65'
Maximum Lot Coverage	65%	65%
PERMITTED USES		
3.2 Use Matrix		
ARCHITECTURAL STANDARDS		
5.2 Architectural Standards: Industrial		

2.5 SPECIAL DISTRICT STANDARDS

IS – 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.

CBD – Central Business. The **Central Business District** is established 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](#).

	IS	CBD
LOT REQUIREMENTS		
Maximum Density (units/acre)	N/A	25
Minimum Lot Size	20,000 SF	N/A
Minimum Lot Width	100'	N/A
Minimum Parent Tract Street Frontage	50'	N/A
SETBACKS		
Minimum Front	35'	0'
Minimum Corner	25'	0'
Minimum Side	15'	0'
Minimum Rear	20'	0'
BUILDING REQUIREMENTS		
Maximum Height	50'	4 stories
Maximum Lot Coverage	65%	100%
PERMITTED USES		
3.2 Use Matrix		
ARCHITECTURAL STANDARDS		
5.1 Architectural Standards: Commercial and Mixed-Use		

2.6 FLOODPLAIN OVERLAY

The flood hazard areas of the City of Rushville are subject to periodic inundation resulting in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, that adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage contribute to the flood loss. To minimize the threat of such damages and to achieve the purposes of this article, these regulations are adopted pursuant to [IC 14-28-1](#) et. seq.

A. Purpose

The purpose of this article is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health.
2. Minimize expenditure of public money for costly flood control projects.
3. Minimize the need for rescue and relief efforts associated with flooding undertaken at public expense.
4. Minimize prolonged business interruptions.
5. Minimize damage to public facilities and utilities (such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges) located in floodplains.
6. Maintain a stable tax base by providing uses of flood prone areas that minimize flood blight.
7. Ensure that occupants of special flood hazard assume responsibility for their actions.
8. Minimize the impact of development on adjacent properties in and around flood prone areas.
9. Ensure the flood storage and conveyance functions of the floodplain are maintained.
10. Minimize the impact of development on the natural, beneficial values of the floodplain.
11. Prevent floodplain uses that are either hazardous or environmentally incompatible.
12. Meet community participation requirements of the National Flood Insurance Program.

B. Methods of Reducing Flood Loss

To accomplish its purposes, these regulations include provisions for:

1. Restricting or prohibiting uses that are dangerous to health, safety, and property due to water hazards, or that result in damaging increases in flood heights or velocities.
2. Requiring uses vulnerable to floods be protected against flood damage at the time of initial construction.
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers that accommodate or channel flood waters.
4. Controlling filling, grading, dredging, excavating, and other development activities that may increase flood damage.

5. Preventing or regulating the construction of flood barriers that divert flood waters or increase flood hazards in other areas.

C. Definitions

Unless specifically defined below, words or phrases used in this article are interpreted with the meanings they have in common usage and to give these regulations the most reasonable application.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard, or change the direction and/or velocity of the flow of water during conditions of the base flood.

Accessory structure means a structure with a floor area of 400 square feet or less on the same parcel as a principal structure, the use of which is incidental to the use of the principal structure. An accessory structure excludes structures used for human habitation.

1. Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
2. Examples of accessory structures include detached garages, carports, storage and tool sheds, and small boathouses.
3. The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
 - Structures in which any portion is used for permanent or temporary human habitation, either as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;
 - Structures used by the public, such as a place of employment or entertainment; and,
 - Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Area of special flood hazard is the land within a community subject to a 1% or greater chance of being flooded in any given year.

Base flood means the flood having a 1% chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or 100-year flood.

Base Flood Elevation (BFE) means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

Basement means that portion of a structure having its floor below ground level on all sides.

Best Available Flood Layer (BAFL) means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

Building – See "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

Compensatory Storage means the artificial storage used to balance the loss of natural flood storage capacity as a result of placing fill material or other obstructions within a flood plain. Compensatory storage cannot be required at greater than 3:1 (mitigate/filled land).

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

Development means, for floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

1. Construction, reconstruction, or placement of a structure or any addition to a structure;
2. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than 180 days;
3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
4. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
5. Mining, dredging, filling, grading, excavation, or drilling operations;
6. Construction and/or reconstruction of boat lifts, docks, piers, and seawalls;
7. Construction and/or reconstruction of bridges or culverts;
8. Storage of materials; or
9. Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting; reroofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Elevation Certificate means a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget that is encouraged to be used to collect certified elevation information.

Enclosed area (enclosure) is an area of a structure enclosed by walls on all sides.

Enclosure below the lowest floor – See "Lowest Floor" and "Enclosed Area."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Fill means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water because of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

Flood hazard area means areas subject to the 1% annual chance flood. (See "Special Flood Hazard Area")

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) means the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

Flood prone area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Floodplain")

Flood Protection Grade (FPG) is the Base Flood Elevation plus 2 feet at any given location in the SFHA.

Floodplain or flood prone area means any land area susceptible to being inundated by water from any source. (See "Flood")

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes state or local regulations in any combination, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls can resist hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the Flood Protection Grade.

Floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

Freeboard means a factor of safety, usually expressed in feet above the Base Flood Elevation, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe or Flood Fringe is the portion of the floodplain lying outside the floodway.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out near water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The City of Rushville Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structure means any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

Hydrologic and hydraulic engineering analysis means analyses performed by a professional engineer licensed by the State of Indiana, according to standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

International Code Council-Evaluation Service (ICC-ES) Report means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified and installed.

Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

1. **Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
2. **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
3. **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
4. **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
5. **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
6. **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means, for floodplain management purposes, the lowest elevation described among the following:

1. The lowest floor of a building.
2. The basement floor.
3. The garage floor if the garage is connected to the building.
4. The first floor of a structure elevated on pilings or pillars.
5. The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
 - The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
 - At least 2 openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one square inch for every one square foot of enclosed area. The bottom of all such openings must be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.
6. The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1) if it meets the requirements of 44 CFR 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

Natural grade for floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

New construction for floodplain management purposes means any structure for which the "start of construction" commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See “Regulatory Flood.”

Physical Map Revision (PMR) is an official republication of a community’s FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Prefabricated Building is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

Principally above ground means that at least 51% of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck;
4. designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

Regulatory flood means the flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area (SFHA), synonymous with “areas of special flood hazard” and floodplain, means those lands within the jurisdiction of the City of Rushville subject to a 1% or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies as Zones A, AE, A99. The SFHA includes areas that are flood prone and designated from other federal, state, or local sources of data including but not

limited to best available flood layer maps provided by or approved by IDNR, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

Solid waste disposal facility means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

Variance is a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.

Violation means the failure of a structure or other development to be fully compliant with this ordinance.

Walled and roofed means a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

Watercourse means a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

D. General Provisions

1. Applicability: This article applies to all SFHAs and known flood prone areas within the jurisdiction of the City of Rushville.
2. Basis for Establishing Regulatory Flood Data: This section's protection standard is the regulatory flood. The best available regulatory flood data is listed below.
 - a. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of Rushville, delineated as an "AE Zone" on the Flood Insurance Rate Map is determined from the 1% annual chance flood profiles in the Flood Insurance Study of and the corresponding Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone", the limits of the floodway will be according to the best available flood layer as provided by IDNR.
 - b. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of Rushville, delineated as an "A Zone" on the Flood Insurance Rate Map, prepared by the Federal Emergency Management Agency with the most recent date, must be according to the best available flood layer provided by IDNR, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to IDNR for review and subsequently approved.
 - c. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas is according to the best data available as provided by IDNR, provided the upstream drainage area from the subject site is greater than one square mile.
 - d. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study is utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.
3. Establishment of Floodplain Development Permit. A Floodplain Development Permit is required in conformance with the provisions of this article prior to the commencement of any development activities in areas of special flood hazard.
4. Compliance. No structure can be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this article and other applicable regulations. No land or stream within the SFHA can be altered without full compliance with the terms of this article and other applicable regulations.
5. Abrogation and Greater Restrictions. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, the more stringent restrictions apply.
6. Discrepancy between Mapped Floodplain and Actual Ground Elevations
 - a. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles governs.

- b. If the elevation of the site in question is below the base flood elevation, that portion of the site is included in the SFHA and regulated accordingly.
 - c. If the elevation (natural grade) of the site in question is above the Base Flood Elevation, that portion of the site is considered outside the SFHA and the floodplain regulations will not be applied. The property owner should apply for a Letter of Map Amendment (LOMA).
7. Interpretation. In the interpretation and application of this article all provisions are considered as minimum requirements; construed in favor of the governing body; and, deemed neither to limit nor repeal any other powers granted under state statutes.
8. Warning and Disclaimer of Liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this article does not create any liability on the part of the City, IDNR, or the State of Indiana, for any flood damage that results from reliance on this article or any administrative decision lawfully made.
9. Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance is deemed a violation of this Ordinance and subject to enforcement.
 - a. A separate offense occurs each day the violation continues to exist.
 - b. The Administrator informs the owner that such a violation is considered a willful act to increase flood damages and therefore may cause suspension of a Standard Flood Insurance Policy.
 - c. The City is not prevented from taking other lawful action to prevent or remedy violations. All enforcement costs, including attorney fees, accrue to the persons responsible.

E. Administration

1. Designation of Administrator. The City Council appoints the Administrator to administrate and implement the provisions of this section and is referred to as the Floodplain Administrator.
2. Permit Procedures. Application for a Floodplain Development Permit is made to the Floodplain Administrator on forms furnished by the Department prior to any development activities and may include plans describing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, and drainage facilities.
 - a. At the application stage the following information is required:
 - A description of the proposed development;
 - Location of the proposed development sufficient to accurately locate property and structures in relation to existing roads and streams;
 - A legal description of the property;
 - For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;

- A site plan showing existing and proposed improvements and existing and proposed land grades;
 - A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met;
 - Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures with plumbing;
 - Elevation of the top of the lowest floor (including basement) of all proposed structures in Zones A and AE. Elevation should be in NAVD 88;
 - Elevation in NAVD 88 to which any non-residential structure will be floodproofed;
 - Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;
 - Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;
 - Plans showing how any proposed structure will be anchored to resist flotation or collapse;
 - Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are designed and/or located. Elevation should be in NAVD 88;
 - Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required, and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See [2.6\(E\)\(5\)\(a\)](#) for additional information.)
 - Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
- b. At the construction stage the following information is required: Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it is the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator reviews the elevation certificate. Any deficiencies detected during the review must be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required is cause to issue a stop-work order for the project.
- c. At the completion of construction, the following information is required:
- Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the “as-built” lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate is prepared by or under the direct supervision of a registered land surveyor and certified by the same.
 - Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
 - Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing

certificate is prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

3. Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator is authorized to enforce the provisions of this section. The Floodplain Administrator is authorized to render interpretations of this section consistent with its intent and purpose. Duties and responsibilities of the Floodplain Administrator include:
- a. Enforce the provisions of this ordinance.
 - b. Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
 - c. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
 - d. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
 - e. Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
 - f. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
 - g. For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator:
 - Verifies and documents the market value of the pre-damaged or pre-improved structure;
 - Compares the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;
 - Determines and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of “substantial improvement” for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage; and
 - Notifies the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards of this ordinance are required.

- h. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
 - i. Ensure that construction authorization has been granted by IDNR for all development projects subject to 2.6(D) of this article and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
 - j. Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map.
 - k. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.
 - l. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures.
 - m. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed.
 - n. Make on-site inspections of projects.
 - o. Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
 - p. Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with plumbing.
 - q. Provide information, testimony, or other evidence as needed during variance hearings.
 - r. Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions.
 - s. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this article.
 - t. Coordinate map maintenance activities and associated FEMA follow-up.
 - u. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
 - v. Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
4. Administrative Procedures
- a. Inspections of Work in Progress. As the work pursuant to a permit progresses, the Floodplain Administrator makes as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper

credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

b. Stop Work Orders

- Upon notice from the Floodplain Administrator, work on any building, structure, or premises done contrary to the provisions of this article must immediately cease.
- The notice is in writing and given to the owner of the property, or to his agent, or to the person doing the work, and states the conditions under which work may be resumed.

c. Revocation of Permits

- The Floodplain Administrator may revoke a permit or approval issued under the provisions of the Ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Ordinance.

d. Floodplain Management Records

- Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance must be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
- These records are available for public inspection at the Department Office.

e. Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

5. Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Rushville flood maps, studies, and other data accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

a. Requirement to Submit New Technical Data

- i. For all development proposals that impact floodway delineations or base flood elevations, the community ensures that technical data reflecting such changes be submitted to FEMA within

6 months of the date such information becomes available. These development proposals include:

- Floodway encroachments that increase or decrease Base Flood Elevations or alter floodway boundaries;
 - Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- ii. It is the responsibility of the applicant to have the required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. IDNR will review the submittals as part of a partnership with FEMA. The submittal should be mailed to IDNR at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions are the responsibility of the applicant.
- iii. The Floodplain Administrator requires a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
- iv. Floodplain development permits issued by the Floodplain Administrator are conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.
- b. Right to Submit New Technical Data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission includes appropriate supporting documentation made in writing by the City Council of the City of Rushville and may be submitted to FEMA at any time.
- c. Annexation/Detachment. Upon occurrence, the Floodplain Administrator notifies FEMA in writing whenever the boundaries of the City of Rushville have been modified by annexation or the community has assumed authority over an area or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Rush County, Indiana, and Incorporated Areas Flood Insurance Rate Map accurately represent the City of Rushville boundaries, include within such notification a copy of a map of the City of Rushville suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Rushville has assumed or relinquished floodplain management regulatory authority.

6. Variance Procedures.

- a. The BZA hears and decides appeals and requests for variances from requirements of this article.
- b. The BZA hears and decides appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the administration of this article. Any person aggrieved by the decision of the BZA may appeal the decision to the Rush County Circuit Court.

- c. In acting upon applications, the BZA considers all technical evaluations, relevant factors, standards specified in other sections of this Ordinance, and;
 - The danger of life and property due to flooding or erosion damage.
 - The danger that materials may be swept onto other lands to the injury of others.
 - The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - The importance of the services provided by the proposed facility to the community.
 - The necessity of the facility to a waterfront location, where applicable.
 - The compatibility of the proposed use with existing and anticipated development.
 - The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
 - The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- d. The applicant submits written findings addressing each of the above factors with the proposed variance application.
- e. Variances from the provisions of this ordinance are only granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
 - A showing of good and sufficient cause.
 - A determination that failure to grant the variance results in exceptional hardship.
 - A determination that granting the variance does not increase flood heights, increase threats to public safety, add extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- f. No variance for a residential use within a floodway subject to 2.6(D) of this article may be granted.
- g. Any variance granted in a floodway subject to 2.6(D) of this article requires a permit from IDNR.
- h. Variances to the Provisions for Flood Hazard Reduction are granted only when a new structure is located on a lot 0.5 acres or less in size, contiguous to and surrounded by lots with existing structures constructed below the FPG.
- i. Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
- j. Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.

- k. Variances are only issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- l. Upon consideration of the factors listed above and the purposes of this ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- m. Any applicant to whom a variance is granted is given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- n. The Floodplain Administrator maintains the records of appeal actions and reports any variances to FEMA or IDNR upon request.

F. Provisions for Flood Hazard Reduction

1. Floodplain Status Standards

- a. Floodways (Riverine). Located within SFHAs are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and have erosion potential. Under the provisions of the Flood Control Act ([IC 14-28-1](#)) a permit for construction in a floodway from IDNR is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act ([IC 14-28-1](#) and [312 IAC 10](#)) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.
 - If the site is in a regulatory floodway, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to the IDNR and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption ([IC 14-28-1](#) or [312 IAC 10](#)).
 - No action can be taken by the Floodplain Administrator until approval has been granted by the IDNR for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit must meet the provisions contained in this article.
 - The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the IDNR, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) take precedence.
 - In floodway areas identified on the FIRM, development cannot cause an increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision. A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.

- In floodway areas identified by the IDNR through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, cannot adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
 - For all projects involving channel modifications or fill (including levees) the City submits the data and request that FEMA revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.
- b. Fringe (Riverine). If the site is in the fringe (either identified on the FIRM or identified by IDNR through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.
- c. SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)
- i. Drainage area upstream of the site is greater than one square mile:
- If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to IDNR for review and comment.
- No action can be taken by the Floodplain Administrator until written approval from IDNR (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from the IDNR.
- Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from IDNR, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from IDNR and the provisions contained in this section have been met.
- ii. Drainage area upstream of the site is less than one square mile:
- If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator requires the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.
- Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.

d. SFHAs not Identified on a Map

- If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator verifies the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to IDNR for review and comment.
- No action can be taken by the Floodplain Administrator until written approval from IDNR (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from the IDNR.
- Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from IDNR, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from IDNR and the provisions contained in this article have been met.

2. General Standards. In all areas of special flood hazard, the following provisions are required:

- a. All new construction, reconstruction, or repairs made to a repetitive loss structure, and substantial improvements must be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b. New construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage below the FPG.
- c. New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
- d. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be located at/above the FPG or designed to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- e. New and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
- f. New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
- g. On-site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during flooding.
- h. Any alteration, repair, reconstruction, or improvements to a structure that follows the provisions of this ordinance must meet the requirements of “new construction” as contained in this ordinance.

- i. Base Flood Elevation data must be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- j. Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- k. Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3' horizontal to 1' vertical.
- l. Non-conversion agreements are required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
- m. Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities are not permitted in areas of special flood hazard.
- n. Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE must be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume must be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
 - i. The excavation takes place in the same floodplain on the same property on which the authorized fill or structure is located, provided sufficient space exists. If sufficient space does not exist on the same property, the excavation takes place in the same floodplain no further than 1,000' from the site of the authorized fill or structure, provided authorization/permission has been granted by the owners of any property where the excavation is proposed.
 - ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it must not be refilled.
 - iii. The excavation provides for true storage of floodwater but cannot be subject to ponding when not inundated by floodwater.
 - iv. The excavation must be sufficiently stabilized and compacted to remain firm and resist erosion.
 - v. A restrictive covenant stating the approved compensatory cut area (excavation) cannot be altered without approval from the Floodplain Administrator must be executed and recorded in the County Recorder's Office that runs with the property.
 - vi. The fill or structure cannot obstruct a drainage way leading to the floodplain.
 - vii. The grading around the excavation must be such that the excavated area is accessible to the regulatory floodwater.

- viii. The fill or structure must be of a material deemed stable enough to remain firm and in place during periods of flooding and must include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement. When a structure is placed on fill it must follow additional requirements of 2.6(F)(4)(d) and 2.6(F)(5)(d).
- ix. Plans depicting the areas to be excavated and filled must be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant provides to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

3. Specific Standards - Building Protection Requirement

In addition to the general standards described in 2.6(F)(2), structures located in the SFHA must be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

- a. Construction or placement of a residential structure.
- b. Construction or placement of a non-residential structure.
- c. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.
- d. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
- e. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- f. Reconstruction or repairs made to a repetitive loss structure.
- g. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

4. Specific Standards - Residential Construction

- a. New construction or substantial improvement of any residential structures must meet provisions described in 2.6(F)(4) and applicable general standards described in 2.6(F)(2).
- b. In Zone A and Zone AE, new construction or substantial improvement of any residential structure must have the lowest floor, including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters must be provided according to the standards of 2.6(F)(4)(c). Should fill be used to elevate a structure, the standards of 2.6(F)(4)(d) must be met.
- c. Fully enclosed areas formed by foundation and other exterior walls below the FPG must meet the following requirement:

- i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls.
 - The bottom of all openings must be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
 - If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG;
 - Doors and windows do not qualify as openings;
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
 - Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
 - ii. The floor of such enclosed area must be at or above grade on at least one side.
 - d. A residential structure may be constructed on a fill according to the following:
 - i. Fill must be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance must be retained in the permit file.
 - ii. Fill must extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - iii. Fill must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3' horizontal to 1' vertical.
 - iv. Fill must not adversely affect the flow of surface drainage from or onto neighboring properties.
 - v. Fill must be composed of clean granular or earthen material.
 - e. A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.
5. Specific Standards – Non-Residential Construction

- a. New construction or substantial improvement of any non-residential structures (excludes accessory structures) must meet provisions described in 2.6(F)(5) and applicable general standards described in 2.6(F)(2).
- b. In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) must either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters must be provided according to the standards of 2.6(F)(5)(c). Should fill be used to elevate a structure, the standards of 2.6(F)(5)(d) must be met.
- c. Fully enclosed areas formed by foundation and other exterior walls below the FPG must meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - The bottom of all openings must be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
 - Doors and windows do not qualify as openings.
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
 - ii. The floor of such enclosed area must be at or above grade on at least one side.
 - iii. The interior portion of such enclosed area cannot be partitioned or finished into separate rooms.
- d. A nonresidential structure may be constructed on a permanent land fill according to the following:
 - i. Must be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance must be retained in the permit file.
 - ii. Must extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - iii. Must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3' horizontal to 1' vertical.

- iv. Cannot adversely affect the flow of surface drainage from or onto neighboring properties.
- v. Must be composed of clean granular or earthen material.
- e. A nonresidential structure may be floodproofed according to the following:
 - i. A Registered Professional Engineer or Architect certifies the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design takes into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. The certification is provided to the Floodplain Administrator.
 - ii. Floodproofing measures must be operable without human intervention and without an outside source of electricity.
- f. A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

6. Specific Standards – Manufactured Homes and Recreational Vehicles

- a. These requirements apply to all manufactured homes to be placed on a site in the SFHA:
 - i. The manufactured home must be elevated on a permanent foundation such that the lowest floor must be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG must be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 2.6(F)(4)(c).
 - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- b. Recreational vehicles placed on a site in the SFHA must either:
 - i. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
 - ii. Meet the requirements for “manufactured homes” as stated earlier in this section.

7. Specific Standards – Accessory Structures

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- a. Must have a floor area of 400 square feet or less.
- b. Use is limited to parking of vehicles and limited storage.
- c. Cannot be used for human habitation.

- d. Must be constructed of flood resistant materials.
- e. Must be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- f. Must be firmly anchored to prevent flotation.
- g. Service facilities such as electrical and heating equipment must be elevated or floodproofed to or above the FPG.
- h. Must be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 2.6(F)(5)(c).
- i. Cannot have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

8. Specific Standards – Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- a. Must have open sides (having not more than one rigid wall).
- b. Must be anchored to prevent flotation or lateral movement.
- c. Must be constructed of flood resistant materials below the FPG.
- d. Any electrical, heating, plumbing and other service facilities must be located at/above the FPG.
- e. Cannot have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

9. Specific Standards – Above Ground Gas or Liquid Storage Tanks

Within SFHAs, all newly placed aboveground gas or liquid storage tanks must meet the requirements for a non-residential structure as required in 2.6(F)(5).

10. Standards for Subdivision and Other New Developments

- a. All subdivision proposals and all other proposed new development must be consistent with the need to minimize flood damage.
- b. All subdivision proposals and all other proposed new development must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals and all other proposed new development must have adequate drainage provided to reduce exposure to flood hazards.
- d. In all areas of special flood hazard where base flood elevation data area not available, the applicant provides a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including

manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or 5 acres, whichever is less.

- e. All subdivision proposals must minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- f. All subdivision proposals must ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- g. Streets, blocks, lots, parks, and other public grounds must be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains must be included within parks or other public grounds.

11. Standards for Critical Facilities

Construction of new critical facilities must be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities must be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA must have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG must be provided to all critical facilities to the extent possible.

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 Rushville 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

- a. The Highway Corridor Overlay District applies to all property along and within 250 feet of the centerline on either side of:
 - i. State Road 3 (also known as Main Street)
 - ii. State Road 44 (also known as 1st Street and 2nd Street)
 - iii. US Highway 52 (also known as Main Street and West 3rd Street)

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 by the Plan Commission.

- b. Exception to Boundaries. For properties located within the Overlay district and the Central Business Zoning District, only the [*Public Spaces and Community Art*](#) standards of the Overlay apply.

2. Relation to Underlying District. The requirements of this district amend and supersede those imposed by the underlying zoning districts.
3. Regulated Development. The regulations of this Overlay district apply to:
 - a. Construction of any new building or structure;
 - b. Enlargement or expansion of any existing non-residential building or structure by more than 20% of its gross floor area;
 - c. Proposed subdivision of land for non-residential uses; or
 - d. Proposed construction or expansion of a parking lot by more than five spaces.

Farms and single-household dwellings are exempt from these regulations unless there is a change in use to a non-farm or non-single-household use.
4. The BZA determines if the standards of this Overlay apply to the entire lot or if they may be limited to only the proposed improvements. The following factors are considered:
 - a. The extent and location of the proposed improvements (e.g., buildings, parking, landscaping, drainage, etc.) on the parcel.
 - b. The extent of conflicts in applying the standards of this Overlay with existing and/or planned improvements.
- 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. Billboards
 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 Plan.** A site plan is required to determine compliance with the requirements of this Overlay district. The site plan must include:

1. Building or structure design, including the roof design and exterior building materials.
2. Site design, including: access point and driveway locations, parking, pedestrian circulation, public spaces, community art, landscaping, lighting, outdoor merchandise displays, trash collection or compaction, loading areas, drive-thru windows, signage, drainage, utilities, and other similar items.

E. Site Design Standards

1. Signs. In addition to the signage requirements of [6.5 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 [6.5\(F\) 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. Pedestrian Circulation. The following provisions are intended to maximize safety for vehicle and pedestrian users.
 - a. A designated, continuous pedestrian walkway at least 6 feet wide must be provided between the perimeter public sidewalk or public ROW and the primary customer entrance of the building. The walkway must be at least 8 feet wide along exterior walls with a customer entrance.
 - b. The walkway surface must be distinguishable from vehicular surfaces by the use of one or more of the following:
 - i. Special pavers,
 - ii. Bricks,
 - iii. Decorative, weather-appropriate paint, or
 - iv. Scored concrete.
4. Parking Areas. Parking is discouraged between the front lot line and the building or structure when other suitable parking areas exist on the site. No more than 50% of the required parking may be placed between the front lot line and the building or structure.
5. 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 (see [6.2\(L\) Screening](#)).
6. Outdoor Display, Sale, and Storage of Merchandise.
 - a. Outdoor display and the sale and storage of merchandise within the corridor overlay is limited to vehicles, motorcycles, recreational trailers, and agriculture implements as part of a dealership. Display lots must be hard surfaced.
 - b. The area dedicated to outdoor display or sales cannot exceed 10% of the allowable lot area.

- c. Parking of vehicles, motorcycles, recreational trailers, and agriculture implements as part of a dealership cannot exceed 75% of the area between the front lot line and the front façade of the building.

F. Building Design Standards

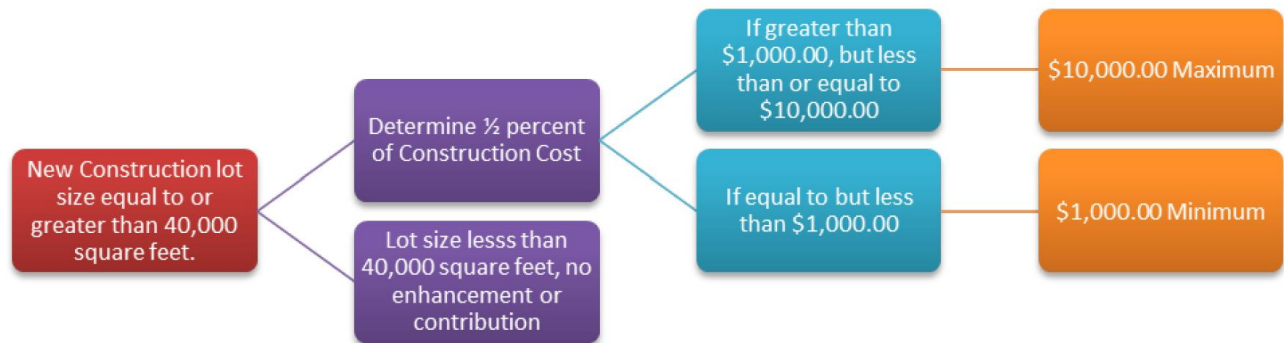
The requirements of this section apply to all residential and non-residential buildings within the Highway Corridor Overlay District, except residential buildings containing 4 or less dwelling units.

1. The following exterior materials are permitted within the Overlay: brick, masonry, stone, glass curtain walls or glass block, or exposed aggregate, bush-hammered, sand blasted or similarly finished concrete (including precast concrete panels). The following materials may be used as accents:
 - a. Wood or fiber cement siding, not exceeding 15% of any building façade.
 - b. Exterior Insulation and Finish System (EIFS), not exceeding 25% of the area of any first-floor of a building façade.
2. 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.
3. 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.
4. Entryway features are required at primary entrances to the building and structure and must include one of the following design elements:
 - a. Raised corniced parapets over the door,
 - b. Peaked roof forms having an average roof pitch of at least 5:12,
 - c. Arches, or
 - d. Architectural details such as tile work and moldings that are integrated into the building structure and design.
5. Enhanced exterior lighting, such as wall sconces, building mounted accent lights, or decorative pedestal lights.
6. Pilasters projecting from the façade wall plane by at least 8 inches and/or architectural or decorative columns to create visual breaks and interest in the façade walls.
7. Exterior wall colors must be low reflectance and subtle tones. The use of high intensity, primary, metallic, black, or fluorescent colors is prohibited. Building trim and accent areas may feature brighter colors not to exceed 10% of any exterior façade excluding all windows, doors, and glass construction materials.
8. Permitted roofing materials include architectural/dimensional shingles, cedar shake with fire protection, architectural/dimensional metal of a base color with a low-gloss finish, tile, slate, and rubber membrane (flat roofs only).
9. Pitched roofs must have a minimum 4:12 pitch. Flat roofs are permitted if they are surrounded by a parapet in proportion to the supporting walls that conceal roof-mounted mechanical equipment.

10. 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.
11. Drive-through service windows must be placed on the side or rear building facades.
12. Entrances to service bays for vehicle repair businesses must be oriented away from view of the corridor street. Vehicle repair and service uses must take place within a fully enclosed area of the building.
13. Chain-link fences and unpainted or unfinished block walls are prohibited. Walls and fences visible at ground level from a public right-of-way or an adjacent parcel must be architecturally finished (i.e., brick, wood, or textured concrete masonry units).
14. Properties with multiple tenants or multiple structures must provide pedestrian connections between tenants and structures via walks or paths at least 5 feet wide. Where applicable, walks or paths must align with and connect to adjacent properties.
15. All four sides of a detached accessory building must have the same architectural features or be architecturally compatible with the principal building.

G. Public Spaces and Community Art

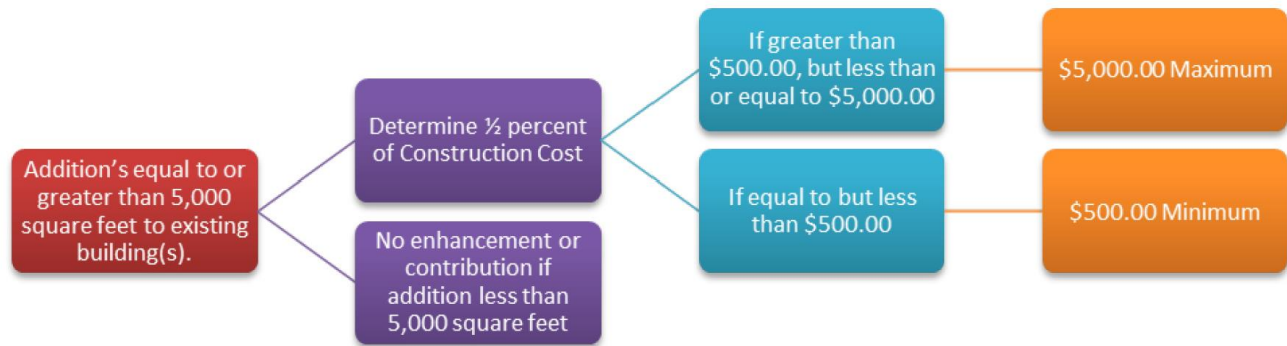
1. For the purposes of this section, construction costs are expenses incurred by a contractor for labor, material, equipment, financing, services, utilities, etc., plus overhead and contractor profit. Construction costs do not include costs for land, architectural design, consultants, and engineering fees.
2. This section does not apply to façade renovations or interior remodels/renovations confined to the existing building footprint.
3. New Construction. Proposed projects with a lot area greater than 40,000 square feet must contribute to the enhancement of the community and its public spaces by providing improvements that are aesthetically consistent with the development standards set out in the corridor overlay district. Each proposed project must provide at least 2 of the following:
 - a. Landscaped patio/seating area,
 - b. Pedestrian plaza with benches,
 - c. Window shopping walkway,
 - d. Outdoor playground area,
 - e. Water feature, not related to required detention or retention ponds,
 - f. Architectural elements as part of the primary entrance, or
 - g. Another deliberately shaped area, focal feature, or amenity that adequately enhances the environment, public spaces, or aesthetic quality of the project at the sole judgment of the Planning Office Staff or Rushville Board of Public Works.
4. In lieu of providing any item listed in Section [2.7\(H\)\(3\)](#) above, the developer may elect to contribute to the City of Rushville's Art Commission an amount equal to 0.5% of the total construction cost of the project, provided the total contribution must be at least \$1,000.00 but cannot exceed \$10,000.00.



5. Additions to Existing Buildings

- a. Proposed building additions where the added floor area is equal to or greater than 5,000 square feet must contribute to the establishment or enhancement of the community and its public spaces by providing enhancements that are aesthetically consistent with the development standards set out in the corridor overlay district. Each proposed addition must contribute to the establishment or enhancement of the community and public spaces by providing at a minimum one of the following:
 - i. Landscaped patio/seating area,
 - ii. Pedestrian plaza with benches,
 - iii. Window shopping walkway,
 - iv. Outdoor playground area,
 - v. Water feature, not related to required detention or retention ponds,
 - vi. Architectural elements either as part of the primary entrance, or
 - vii. Another deliberately shaped area, focal feature, or amenity that adequately enhances the environment, public spaces, or aesthetic quality of the project at the sole judgment of the Planning Office Staff or Rushville Board of Public Works.

6. In lieu of providing any item listed in Section [2.7\(H\)\(5\)](#) above, the developer may elect to contribute to the City of Rushville's Art Commission an amount equal to 0.5% of the total construction cost of the project, provided the total contribution must be at least \$500.00 but cannot exceed \$5,000.00.



7. In lieu of section [2.7\(H\)\(3\)](#) or section [2.7\(H\)\(5\)](#) above, the developer may contribute to the purchase of art on behalf of the City of Rushville's Art Commission.
- The estimated value of proposed art to be purchased must be:
 - New Construction. Lot area equal to or greater than 40,000 square feet: \$10,000.00.
 - Additions. Equal to or greater than 5,000 square feet: \$5,000.00.
 - Proposed art to be purchased must follow this process:
 - Develop a design;
 - Present proposed design, including estimated value, to the City of Rushville's Art Commission;
 - Present City of Rushville's Art Commission–approved design and estimated value to the Planning Office Staff.
8. If desired, a plaque will be affixed to the art purchased by the developer or designated persons in recognition of their contribution. Public art must be displayed in a location that is visible from U.S. Highway 52, State Road 3, or State Road 44, or other crossing streets, or a public plaza.

2.8 WELLHEAD PROTECTION OVERLAY DISTRICT

- A. **Statement of Purpose.** Certain land uses involve the storage, utilization, or manufacture of products that pose a threat to public health, safety, and general welfare, if discharged into the environment. Areas located near the drawdown area of water supply production wells are especially sensitive to potential contamination. This Wellhead Protection Overlay District identifies where care is required in locating and operating land uses. Therefore, additional development standards are applied in these areas to protect the aquifer from contamination pursuant to [327 IAC 8-4.1](#) et. seq..
- B. **Applicability.** In addition to all other applicable zoning regulations, the regulations of this article apply to all land within the Overlay.
- C. **District Boundary.** The boundaries of this Overlay may be shown on the Official Zoning Map as the WPO District. The WPO District applies to all property within 1,000 feet of a public water supply well.
- D. **Upgrades to Legally Established Nonconforming Uses.** Legal, nonconforming uses may be repaired or upgraded to comply with federal, state, or local regulations provided the repairs or upgrades do not increase in the intensity of the nonconforming use or increase in the total amount of hazardous materials located or stored on the premises.
- E. **General Development Standards.**

The following development standards apply to all uses within the Overlay:

1. Underground storage of any toxic or hazardous materials or any other contaminant is prohibited.
2. Storage of any toxic or hazardous materials or any other contaminant outside a containment area, containment vessel, or a fuel delivery containment facility is prohibited.
3. Any toxic or hazardous materials or any other contaminant delivered to a lot must be placed into an appropriate containment area or containment vessel as soon as practical, but in all cases by the end of each business day. Any fuels delivered to a lot must be placed directly into a fuel storage tank located within a fuel delivery containment facility.
4. A building containing any toxic or hazardous materials, or any other contaminant must have sealed concrete floors designed to function as a containment area to prevent the migration of any fluids or other materials outside the building.
5. All containment areas, containment vessels and fuel delivery containment facilities containing any toxic or hazardous materials, or any other potential contaminant must be capable of containing a spill 125% of the volume of the largest tank, drum, or container stored within the containment areas, containment vessels, and fuel delivery containment facilities.
6. The total volume of any toxic or hazardous materials or any other contaminant stored on the site cannot exceed 500 gallons.
7. All sanitary, wastewater discharge, and floor drains from any building must be connected to:
 - a. A public sanitary sewer system,
 - b. A temporary holding tank that is regularly pumped with the contents being transported to a licensed disposal facility for proper disposition, or
 - c. A self-contained recapture and recycling system.

8. The prohibitions against underground storage contained in this article do not prohibit the use of an under-floor collection system, sump system, and tank as part of a containment area or a fuel delivery containment facility where the under-floor collection system, sump system, and tank is:
 - a. Designed to temporarily collect any toxic or hazardous materials or any other contaminant that may escape, and
 - b. Approved by the Rush County Board of Health, the tanks are regularly pumped out and inspected to maintain their ability to contain contaminants.
- F. **Automotive Facilities Standards.** Automotive facilities utilizing any toxic or hazardous materials or any other contaminant must be located within an enclosed building equipped with:
 1. A recapture and recycling system designed to prevent the migration of any contaminants outside the building or into a sanitary sewer system, or
 2. A temporary holding tank that is regularly pumped with the contents being transported to a licensed disposal facility for proper disposition.
- G. **Outdoor Storage Standards**
 1. Within the Overlay, an outdoor storage area that is not hard surfaced is limited to items or materials that do not contain contaminants or threaten contamination of the aquifer.
 2. Trucks, semi-trailers, semi-tractors, or other heavy vehicles or equipment may be stored in an outdoor storage area that is not hard surfaced provided:
 - a. The vehicles or equipment are routinely inspected for leakage of any contaminants,
 - b. The storage area is routinely inspected for indications of leakage, and
 - c. All leaking vehicles or equipment are promptly removed from the area, and any contaminated stone and soil is promptly removed from the site and disposed of in compliance with federal, state, and local regulations.
 3. All heavy vehicles or equipment designed for the bulk transportation of any toxic or hazardous materials or any other contaminant must be parked or stored on hard surfaced areas.
- H. **Fueling Area Standards**
 1. Any fueling area or fuel storage tank must be located within a fuel delivery containment facility constructed with watertight concrete floors and sidewalls.
 2. Fuel storage is limited to a maximum capacity of 5,000 gallons and must be located above-ground.
 3. Fueling areas must be covered to minimize exposure of the fueling area to weather conditions that may contribute to the dispersal of contaminants.
- I. **Excavation and Site Reclamation**
 1. De-watering of any excavation site within the Overlay is prohibited.
 2. No form of solid waste, sludge, or waste material, including construction or demolition debris can be used as fill material in any site reclamation.

J. **Remote Fueling Operations Standards**

Uses involving fueling or maintaining equipment without removing the equipment from the site are subject to the following requirements:

1. Except for fuels or fluids reasonably contained on the equipment, storage of any toxic or hazardous materials or any other contaminant is prohibited on the site.
2. Fueling operations must utilize dry disconnect couplings on all fuel handling elements including the tanker trucks, the equipment, and the connection point between the tanker truck's hose and the equipment or its hose.
3. A containment vessel is required under the point of connection of the hose from the tank truck with the hose from the equipment. The containment vessel must be sized to contain a volume of fuel equal to the capacity of the hose from the tank truck or the hose from the equipment, whichever is greater.
4. Equipment must be fitted with a secondary containment unit made of waterproof materials under any fuel or hydraulic tanks located on the equipment.

K. **Enforcement**

In addition to the enforcement provisions of this Ordinance, the Plan Commission and the Rush County Board of Health have the following inspection and enforcement rights within the Overlay:

1. Staff of the Plan Commission or Rush County Board of Health may access any portion of a lot located within the Overlay at all reasonable times and upon 24-hour notice to the owner of the property in question for purposes of inspecting containment areas, containment vessels, fuel delivery containment facilities and the operations being conducted on the property.
2. The Plan Commission and the Rush County Board of Health have the right to injunctive relief against any owner or user of land subject to this Overlay in the event of a violation or threatened violation of these regulations or any contamination or threat of contamination of ground water resulting from activities on the property.

2.9 HISTORIC NEIGHBORHOOD OVERLAY DISTRICT

- A. **Purpose and Intent.** The intent of this article is to preserve, protect, and encourage rehabilitation and preservation of sites, structures, and districts of historic interest within the City of Rushville.
- B. **Historic Preservation Officer.** The Administrator, or Administrator's designee, provides technical, administrative, and clerical assistance as required by the Historic Board.
- C. **Historic District Boundaries.** Historic District is bounded by 12th Street.
- D. **Relationship to Zoning Districts.** Zoning districts lying within the boundaries of the historic district are subject to the regulations for both the zoning district and the historic district.
- E. **Certificate of Appropriateness Required.** The Historic Board must issue Certificate of Appropriateness prior to the issuance of any permit for:
 1. Demolition of any building,
 2. Moving of any building,
 3. Any change to the exterior color by additions, reconstruction, alteration, or maintenance. Construction of a new primary or accessory building that is viewable from the public right-of-way,

4. Changes to existing walls and fences, or
5. Construction of walls and fences, at public rights-of-way.

F. Application for Certificate of Appropriateness

1. Application for a Certificate of Appropriateness is made in the Planning and Zoning Department on forms provided by the Historic Board.
2. Drawings, sketches, plans, photographs, descriptions, or other information showing the proposed exterior, alterations, additions, changes, or new construction must be reasonably clear for the Historic Board to render a decision.

G. Action on Applications for Certificates of Appropriateness

1. The Historic Board may advise and make recommendations to the applicant before acting on an application for a Certificate of Appropriateness.
2. If an application for a Certificate of Appropriateness:
3. If an application for a Certificate of Appropriateness is approved by the Historic Board or is not acted on by the Historic Board within 30 days of its filing date, a Certificate of Appropriateness is issued by the Administrator. If the Certificate is issued, the application is processed in the same manner as applications for building or demolition permits required by the city. If a building or demolition permit is not required by the City, the applicant may proceed with the work authorized by the Certificate.
4. If an application for a Certificate of Appropriateness is denied by the Historic Board within 30 days of its filing date, the Certificate cannot be issued. The Historic Board must state, in writing, its reasons for the denial and advise the applicant. An applicant that has been denied cannot obtain a building or demolition permit or commence work.
5. The Historic Board may grant an extension of 30 days for just cause.
6. The Certificate of Appropriateness expires one year after approval if the demolition, construction, or alteration has not commenced.

H. Development Standards

1. A historic building or structure, or any appurtenances, 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.
2. A historic building may be relocated to another site only if it is shown that preservation on the building's current site is inconsistent with the purpose of this ordinance.

I. Preservation Rights, Demolition, and Appeal. The purpose of this section is to preserve historic districts that are important to the education, culture, traditions, and economic values of the city and to afford the city's historical organizations, and other interested people, the opportunity to acquire or to arrange for the preservation of these buildings.

1. If a property owner shows that a historic building is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, and the Historic Board fails to approve a Certificate of Appropriateness, the building may be demolished.
2. A notice of proposed demolition must be provided at least 60 days prior to the issuance of a demolition permit or commencement of demolition.

3. The notice must be posted on the premises of the proposed demolition in a location clearly visible from the street. Additionally, notice must be published in the paper of general, daily circulation for the City of Rushville. The applicant must provide proof of publication of the notice to the Historic Board.
- J. **Visual Compatibility Factors.** New construction (including relocated, reconstructed, altered, or repaired buildings) must be visually compatible with existing buildings within the Historic Neighborhood Overlay District, regarding:
1. Height.
 2. Proportion of building's front façade.
 3. Proportion of openings into the facility.
 4. Front façade appearance.
 5. Spacing of buildings.
 6. Entrance and porch projections.
 7. Material, texture, and color.
 8. Roof shapes.
 9. Scale of a building.
- K. **Filing Fees and Forms.** Applications for a Certificate of Appropriateness are made on forms prescribed by the Historic Board and available from the Administrator. The Certification of Appropriateness application is submitted to the Historic Board through the Administrator. Filing fees must be submitted to the Clerk-Treasurer and deposited in the Historic Board's non-reverting fund.

The allowed uses and their standards

3.1	PERMITTED USES	3
3.2	USE MATRIX	4
3.3	USE DESCRIPTIONS AND STANDARDS	9
3.4	TEMPORARY USES, EVENTS AND STRUCTURES.....	40



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 Exceptions](#).
- 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 Descriptions and 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	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IS	CBD	Minimum Parking Requirements
RESIDENTIAL PRIMARY USES													
Dwelling - Single-Household Detached	P	P	P	P	P	S					S	P	2 spaces/unit
Dwelling - Duplex	S	P	P	P	P						S	P	2 spaces/unit
Dwelling - Triplex		S	S	P	P								2 spaces/unit
Dwelling - Quadplex		S	S	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
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		2 spaces/1000 SF GFA
Banquet Facilities and Reception Halls					S	P	P	P	S		P	S	2.5 spaces/1000 SF GFA
Campground/RV Park	S						S		S		S		2 spaces/lot or campsite
Cemetery	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						P	P	P	S		P	P	0.5 spaces/1000 SF GFA
Community Center	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	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IS	CBD	Minimum Parking Requirements
Fairgrounds	S								S		P		2.5 spaces/1000 SF GFA
Golf Course, Country Club, Driving Range	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	P	P	P	S		P	P	1 space/1000 SF GFA
Municipal & Government Buildings	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	S	S	P	S	P	P	1 space/50 SF GFA
Public and Religious Assembly	S	S	S	S	S	S	P	P	S		S	S	0.5 spaces/1000 SF GFA
Schools – K - 12	P	P	P	P	P	P	P	P	P	P	P	P	2 spaces/1000 SF GFA
Schools - Vocational							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							P	P	P	S	P	S	0.5 spaces/1000 SF GFA
Utility, Minor Impact						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							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	P	P	S	S	S	P	2.5 spaces/1000 SF GFA
Arts, Recreation, Entertainment, Outdoor	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	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							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	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IS	CBD	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		2 spaces/1000 SF GFA
Laundromat						P	P	P	P		P	S	2.5 spaces/1000 SF GFA
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
Retail Sporting Goods Store						P	P	P					2.5 spaces/1000 SF GFA
Shooting Range						P	P	P	P	P			1 space/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	P	P	S		S	P	2.5 spaces/1000 SF GFA
INDUSTRIAL MANUFACTURING AND WHOLESALE PRIMARY USES													
Airport or Heliport										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	P	P	S	P	S	S	0.5 spaces/1000 SF GFA
Composting Facility										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

P = Permitted Use S = Special Exception Use	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IS	CBD	Minimum Parking Requirements
Food Preparation and Sales, Commercial								S	P	P	S		0.5 spaces/1000 SF GFA
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	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	S	S		No requirement
Solid Waste Facility										S	S		0.3 spaces/1000 SF GFA
Telecommunication Facilities						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	S	S		No requirement
AGRICULTURAL PRIMARY USES													
Agricultural Uses – Animal Related										P			No requirement
Agricultural Uses – Non-Animal Related									P	P			No requirement
Agricultural Products Sales & Storage								S					0.3 spaces/1000 SF GFA
Confined Feeding Operation										S			No requirement

P = Permitted Use S = Special Exception Use	R1	R2	R3	R4	R5	C1	C2	C3	I1	I2	IS	CBD	Minimum Parking Requirements
Fertilizer Storage & Distribution										P			0.3 spaces/1000 SF GFA
Food Processing Plants									S	P			0.3 spaces/1000 SF GFA
Grain and Feed Mills										P			0.5 spaces/1000 SF GFA
Plant Nursery/Greenhouse								S	P	P	S		0.5 spaces/1000 SF GFA
Riding Stables and Academies	S								S		S		0.5 spaces/1000 SF GFA
Roadside Produce Stand - Permanent	S						P	P	S		P		2 spaces/1000 SF GFA
Roadside Produce Stand - Temporary							S	S			S	S	2 spaces/1000 SF GFA
Sale Barn for Livestock										S			0.3 spaces/1000 SF GFA
Slaughterhouse										S			0.3 spaces/1000 SF GFA

3.3 Use Descriptions and Standards

A. RESIDENTIAL PRIMARY USES

Dwelling – Single-Household Detached: A Single-Household 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-household residential neighborhood. Single-Household Detached Dwellings may be constructed off-site, such as manufactured dwellings and modular homes.

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-household dwelling and is appropriately scaled to it within primarily single-household 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 – Triplex: A Triplex is a small- to medium-sized structure that consists of three side-by-side and/or stacked dwelling units on a common lot, within a single building massing. This type has the appearance of a large single-household or duplex dwelling and is appropriately scaled to fit within medium-density residential neighborhoods. It enables appropriately scaled densities by providing greater 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 – Quadplex: A Quadplex is a medium-sized structure that consists of four side-by-side and/or stacked dwelling units on a common lot, within a single building massing. This type is appropriately scaled to fit within medium-density residential neighborhoods and provides a transitional housing form between lower-density residential uses and larger apartment buildings. 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-household 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 single-household 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-household residential neighborhoods. This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability. Any structure within 50 feet of a property line cannot exceed 12 feet above the highest point of the nearest residential structure.

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

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: Per [IC 12-7-2-28.6](#), a residential structure in which at least 8 children, or at least 4 children under 12 months of age, (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider: (1) while unattended by a parent, legal guardian, or custodian; (2) for regular compensation; and (3) for more than 6 hours per day but less than 24 hours per day for 10 consecutive days, not including Saturdays, Sundays, and holidays. The term includes a class I child care home and a class II child care home. A child who is: (1) a relative of a provider; (2) under the custody or guardianship of a provider; or (3) at least 14 years of age and does not require child care is not a child described above.

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: A dwelling unit constructed in a factory on a permanent chassis, bearing a HUD certification seal issued pursuant to the Federal Manufactured Housing Construction and Safety Standards (42 U.S.C. § 5401 et seq.), and installed and anchored on a permanent foundation and perimeter enclosure in accordance with the Indiana One and Two Household Dwelling Code, as amended. This term includes a mobile home, as defined in [IC 9-13-2-103.2](#).

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. A manufactured home must not be located under overhead electric lines.
 - c. Manufactured homes must be skirted before occupancy.
 - d. Accessory structures for storage on individual sites must meet setback requirements.
 - e. Driveways must be located for convenient access to service entrances and collection points of buildings.
 - f. 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.
 - g. 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.
 - h. 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 (not to exceed 14 consecutive days) 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 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.

Childcare Facilities: Any place other than a single-household dwelling 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-based business.
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 child care 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. Per [IC 36-7-2.4-6](#), public schools, charter schools, and nonpublic schools are considered a permitted use in all districts.

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 does 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 they are 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.
- 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 minimum 50-foot-wide 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 ([4.11 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-household dwelling or detached guesthouse, primarily engaged in providing overnight or otherwise temporary lodging for the public and may provide meals for compensation. A bed and breakfast is not considered a short-term rental.

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-household dwelling, designed, and constructed for single-household 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 household.
6. Cooking facilities are prohibited in bed and breakfast guest rooms.
7. Exterior refuse storage facilities must be screened from view on all sides per [6.2\(L\) Screening](#).
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 electric vehicle or the supply and dispensation of retail gasoline, diesel fuel, oil, grease, batteries, and motor vehicle accessories, with or without the sale of food and beverages. This use does not include 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 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 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.

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 of 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 [5.12 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 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 [5.12 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 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, hunting stores, and establishments whose primary purpose is to provide cash advances, pay day loans, or similar services.

Retail Sporting Goods Store. A commercial retail store that is primarily engaged in retailing new sporting goods, including items such as: bicycles and bicycle parts, camping equipment, exercise and fitness equipment, athletic uniforms, specialty sports footwear, firearms, and other sporting goods, equipment, and accessories. Per [IC 36-7-4.2](#), Retail Sporting Goods Stores are permitted by right in commercial zoning districts, except Special Exception approval is required if the Retail Sporting Goods Store is located within a historic area, historic zoning district, floodplain, or an area zoned for commercial use that authorizes mixed use residential projects. Retail Sporting Goods Stores must comply with all federal and state laws regarding firearm safety, environmental controls, and occupational health.

Shooting Range. A fully enclosed facility designed and operated for the discharge of firearms, equipped with a bullet resistant backstop, ventilation system, and sound attenuation measures to prevent the escape of projectiles, excessive noise, or airborne contaminants. Per [IC 36-7-4.2](#), indoor shooting ranges are permitted by right in all commercial and industrial zoning districts, except Special Exception approval is required if the Shooting Range is located within a historic area, historic zoning district, floodplain, or an area zoned for commercial use that authorizes mixed use residential projects. Site plan review is required. Indoor shooting ranges must meet the following conditions:

1. Walls, ceilings, floors, and backstops must be constructed with materials capable of containing all projectiles fired within the facility.
2. Reasonable effort must be made in the design, construction, and maintenance of the indoor shooting range to limit noise that could significantly impact adjacent properties.
3. All federal and state laws regarding firearm safety, environmental controls, and occupational health must be met.

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 they are 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 used primarily for scientific research, investigation, testing, analysis, experimentation, or the development and engineering of computer software or hardware. Qualifying facilities may include research and development facilities, training facilities, production studios, laboratories, display or showroom spaces, product testing and analysis facilities, medical or diagnostic laboratories, and facilities for servicing technological or office equipment. No manufacturing is permitted on the premises except for experimental, testing, or incidental purposes, and no in-patient or overnight care, animal hospitals, or veterinary services are permitted. Retail sales are excluded, though non-retail sales and associated sales activities are permitted provided they occupy no more than 20% of the gross floor area. Indoor storage of parts and supplies is allowed as an accessory use.

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 [I.C. 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. The storage units cannot be individually owned or used as offices, workshops, or dwelling units. .

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 City 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 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 meeting or exceeding [6.2\(E\)\(4\) High Intensity Buffer Standards](#) 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 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. Anit-climb 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 City.
 - i. The required surety may be posted no later than the start date of the system's full commercial operation.
 - ii. 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 least once every 5 year period after 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.
 - iii. 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 City Council and the City 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 City may engage qualified contractors to enter the project site, remove the system components, sell any components removed, and remediate the site. The City Council 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 Permits 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:
 - a. A statement that the applicant either provides wireless communications service or owns/provides infrastructure required for such service.
 - b. The name, business address, and point of contact of the applicant.
 - c. The location of the proposed or affected wireless support structure or wireless facility.
 - d. A construction plan conforming with all applicable Building Code requirements.
 - e. Evidence showing the application complies with the criteria for a special exception.
 - f. 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.
 - g. 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 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. Signage 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. A landscape plan for the communication facility must be submitted with the application and must be substantially similar to landscaping required for other uses in business or industrial districts.
 - h. All communication facilities must be designed to accommodate the user's equipment and the equipment of at least 2 additional service providers.
 - i. 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.
 - j. 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.
 - k. Transmissions from a communication facility cannot interfere with any existing public safety communications.
 - l. 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.
 - m. 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 at 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. 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.

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. **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.
19. Several WECS projects may be submitted as a single application and reviewed under joint proceedings, including notices, hearings, reviews, and approvals.
20. **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.
21. **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 City. The required surety may be posted in increments as follows:
 - i. The required surety may be posted no later than the start date of the system's full commercial operation.

- ii. 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 least once every 5-year period after 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.
- iii. The total estimated decommissioning costs may be net of any estimated salvage value attributable to the system at the time of decommissioning.
- h. 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.
- i. The owner must provide the City Council and the City 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.
- j. 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.
- k. 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 City Council may engage qualified contractors to enter the project site, remove the system components, sell any components removed, and remediate the site. The City Council 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.

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 13-18-8](#), 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 [5.12 Streets and Rights-of-Way](#) 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.

Food Processing Plants: A facility where raw agricultural commodities or food products are commercially manufactured, processed, packaged, bottled, canned, frozen, smoked, cured, fermented, or otherwise transformed for wholesale distribution or retail sale. Typical uses include canneries, cold storage facilities, grain processing operations, specialty food manufacturing, and similar operations. This use excludes restaurants, catering establishments, and other food service uses where food is prepared solely for on-site consumption.

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 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.

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 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 temporary use activity.

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	ACCESSORY DWELLING UNIT	11
4.4	BUILDINGS	12
4.5	HEIGHT.....	13
4.6	LOTS	14
4.7	PERFORMANCE STANDARDS	14
4.8	PROPERTY MAINTENANCE	15
4.9	ABANDONED BUILDINGS.....	16
4.10	SETBACKS.....	17
4.11	VISION CLEARANCE.....	19
4.12	YARDS.....	20
4.13	SINGLE-HOUSEHOLD TO MULTIHOUSEHOLD CONVERSION STANDARDS.....	20
4.14	SHORT-TERM RENTAL.....	21

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 the elimination of 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. 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.

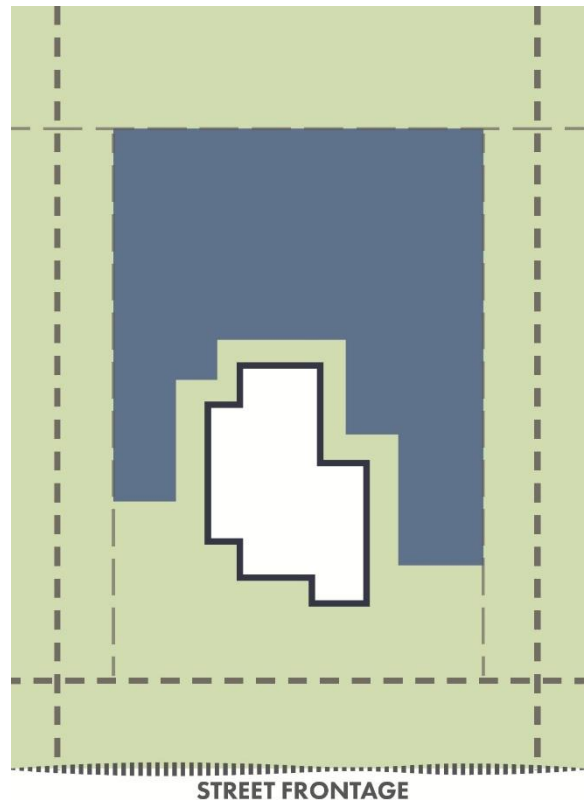
C. **Timing.** Accessory buildings cannot be constructed until construction of the principal building has begun. Accessory buildings cannot be occupied or utilized unless the principal building is first legally occupied for a permitted use within the applicable zoning district. The construction of an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



The shaded area is permitted placement for an accessory structure, set 5' back from the primary structure facade.

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 corner 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.
- F. **Carports.** Carports must be consistent in design, appearance, and materials with the principal building.
- G. **Home-Based Business.** A home-based business is permitted when incidental to the principal use of the premises as a residence. Home-based businesses must not adversely affect the residential character of the district or interfere with the reasonable enjoyment of adjoining properties. Home-based businesses must be of a personal service nature limited to domestic crafts and professional service. Home-based businesses 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-based business must be a resident of the dwelling unit.
 2. A home-based business must be located within the principal building and cannot be conducted in an accessory building.
 3. A home-based business cannot employ more than one person other than a member of the immediate household 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-based business located within the principal building.
 6. Outside storage of machinery, equipment, or materials is prohibited.
 7. An additional or separate entrance for the home-based business, 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-based business is prohibited.
 9. Display of goods or external evidence of the home-based business is prohibited, except for signs according to [6.5 Signage](#).
 10. Only stock in trade or commodities prepared, produced, or created on the premises by the operator of the home-based business, 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.

H. **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.

I. **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.

J. **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. 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.
- K. **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.
- L. **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 at least 6 feet high.
 - 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.
- M. **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 corner 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.

N. 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.
- O. **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 [8.13 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](#).
- P. **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.
- Q. **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 breaking 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 Accessory Dwelling Unit

A. Standards that apply to all Accessory Dwelling Units

- 1. After special exception approval by the BZA, an accessory dwelling unit is permitted within a single-household detached dwelling or as a separate dwelling unit on the same lot or parcel with a principal dwelling unit.
- 2. Only 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, unless otherwise approved by the providing utility company.
- 4. The living area of an accessory dwelling unit cannot exceed 75% of the interior habitable gross floor area of the principal dwelling unit or 1,000 square feet.
- 5. The owner of the property must live on the premises, either in the principal dwelling unit or the accessory dwelling unit and maintain that address as the primary place of residence.

6. No new access points or driveways may be created or installed on the abutting street for vehicular access to the accessory dwelling unit. One additional parking space is required for the accessory dwelling unit.
 7. If separated from the principal dwelling unit, the accessory dwelling must meet all setback requirements of the principal building.
 8. 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.
- B. **Specific Standards for Residential Districts.** A detached accessory dwelling unit must conform to all applicable building design and material requirements of [5.3 Architectural Standards](#), applicable to the principal building.

4.4 Buildings

- A. Every building erected must be located on a lot and in accordance with this Ordinance.
- B. A lot used for single-household residential purposes must have only one principal building devoted to residential use, except as otherwise permitted in this Ordinance.
- C. A lot used for multi-household 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.
- F. Residential Building Standards. All Single-Household Detached Dwellings, Duplex Dwellings, Triplex Dwellings, Quadplex Dwellings, and Townhouse Dwellings must meet the following standards:
 1. The dwelling unit must be installed on a permanent foundation.
 2. Each dwelling unit must have a minimum living area of 900 square feet unless otherwise specified in this Ordinance.
 3. The main roof of the dwelling unit must have a minimum 6:12 roof pitch. Elements such as porches, bays, and dormers may have a lower roof pitch.
4. Roof Materials
 - a. Permitted roof materials include: architectural asphalt shingles, standing seam metal, clay or concrete tile, slate, wood shingles or shakes, composite or synthetic materials designed to replicate the appearance of slate, wood shake, or tile.
 - b. Prohibited roof materials include: exposed rolled roofing paper or tar paper, corrugated fiberglass panels, unpainted or unfinished metal, and materials not specifically listed as permitted above.

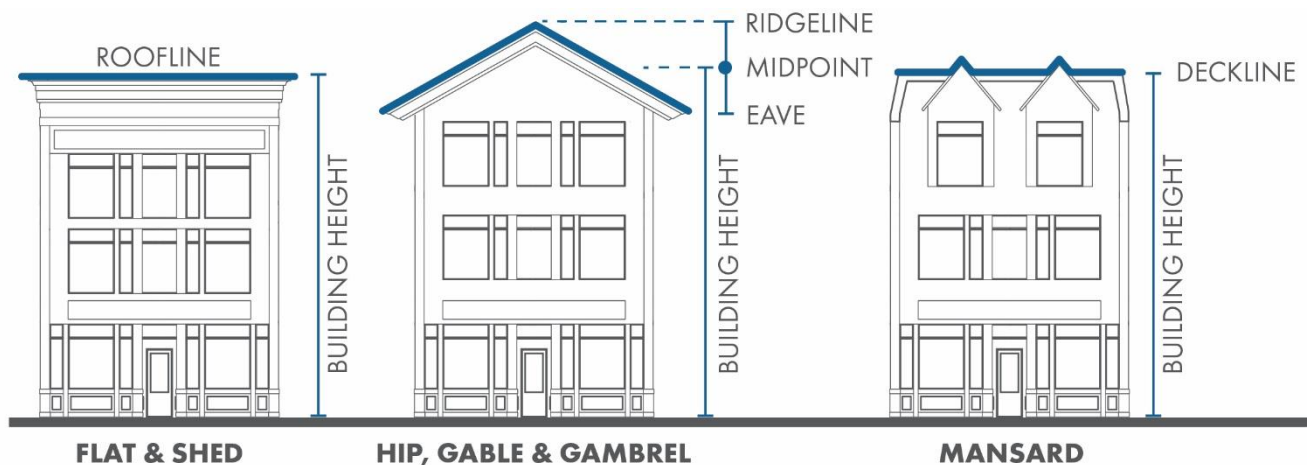
5. Exterior Siding Materials

- a. Permitted siding materials include brick, stone or manufactured stone, wood siding, fiber cement siding, vinyl siding, stucco or synthetic stucco (EIFS), and cedar shakes or shingles. Architectural metal panels may be used as building accents. Vinyl siding must meet the standards of 5.3(A)(4).
- b. Prohibited siding materials include aluminum siding and any material not specifically listed as permitted above.
- c. A combination of materials may be used on a single structure, provided all materials are from the permitted list. Any change in siding material should occur at inside corners, outside corners, or along horizontal trim lines.

4.5 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.



4.6 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 ([5.6\(E\) Cross-access Easements](#)).

4.7 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.

4.8 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 any property, 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.

4.9 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.

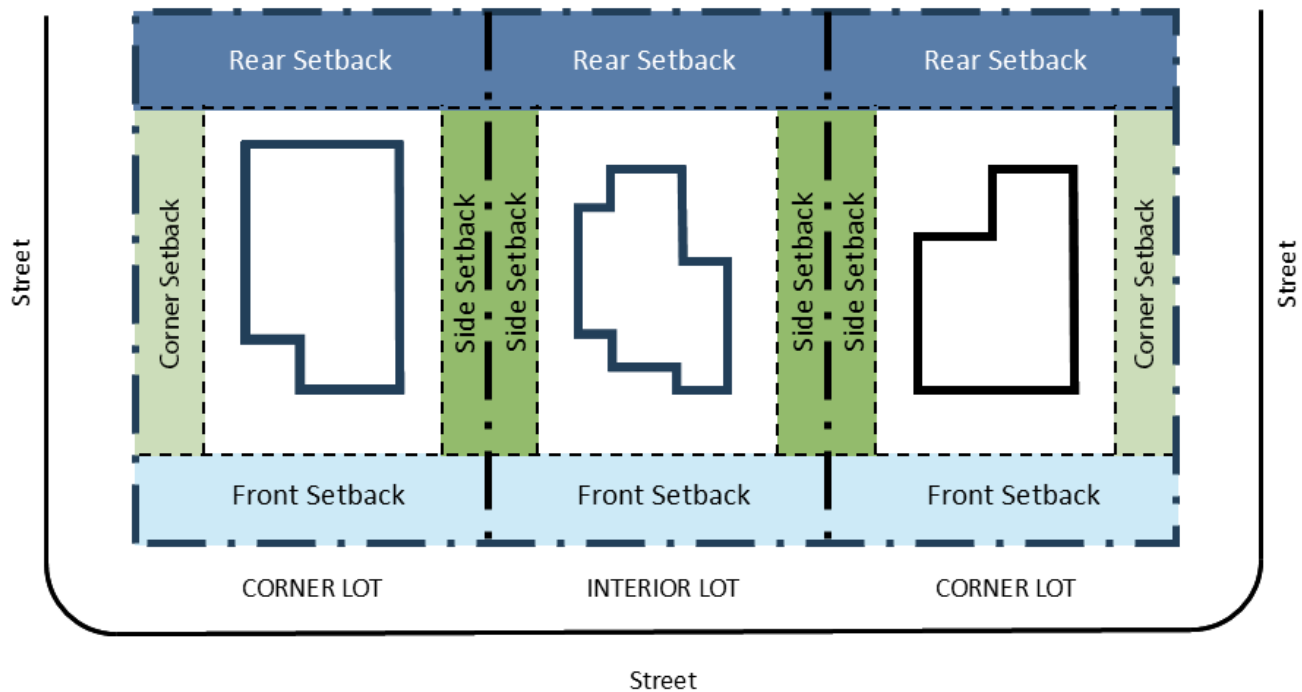
4. Boarding a vacant structure is considered a temporary method of securing the building. Any boards applied to secure doors and windows for more than 30 days must be surface coated with exterior grade paint to reduce the blighting effect on the immediate neighborhood.
 5. After 6 months, all plywood 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](#).

4.10 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.

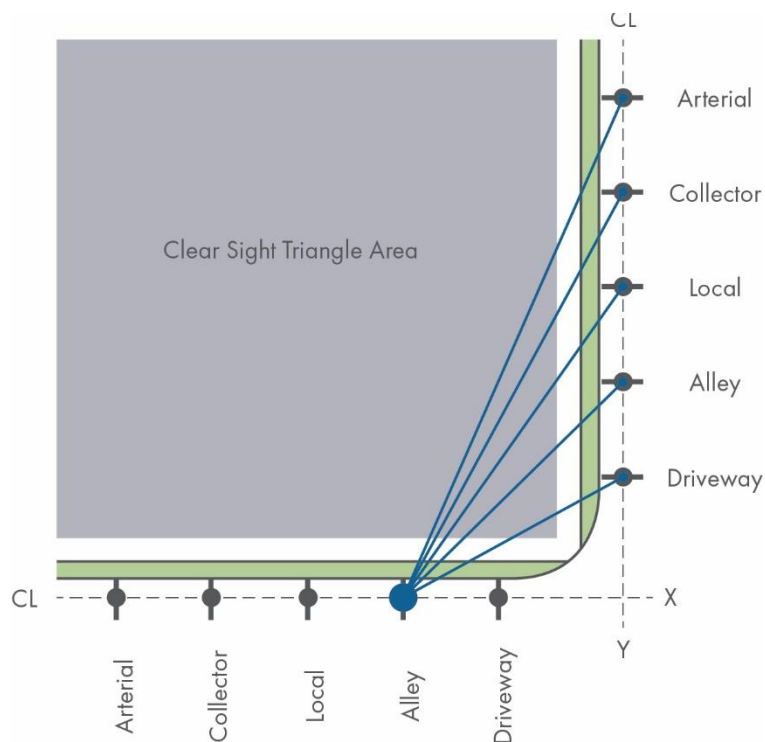
- G. The front yard setback for new lots is measured from the lot line abutting the open space to the building façade. For new lots abutting open space on more than one lot line, the lot line requiring the front yard setback is determined by the Administrator.
- H. All setbacks must be maintained as open space and landscaped with grass, trees, shrubs, or in combination with other suitable groundcover materials in compliance with [6.2 Landscape](#), unless otherwise improved according to this Ordinance (e.g., parking areas).



4.11 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:

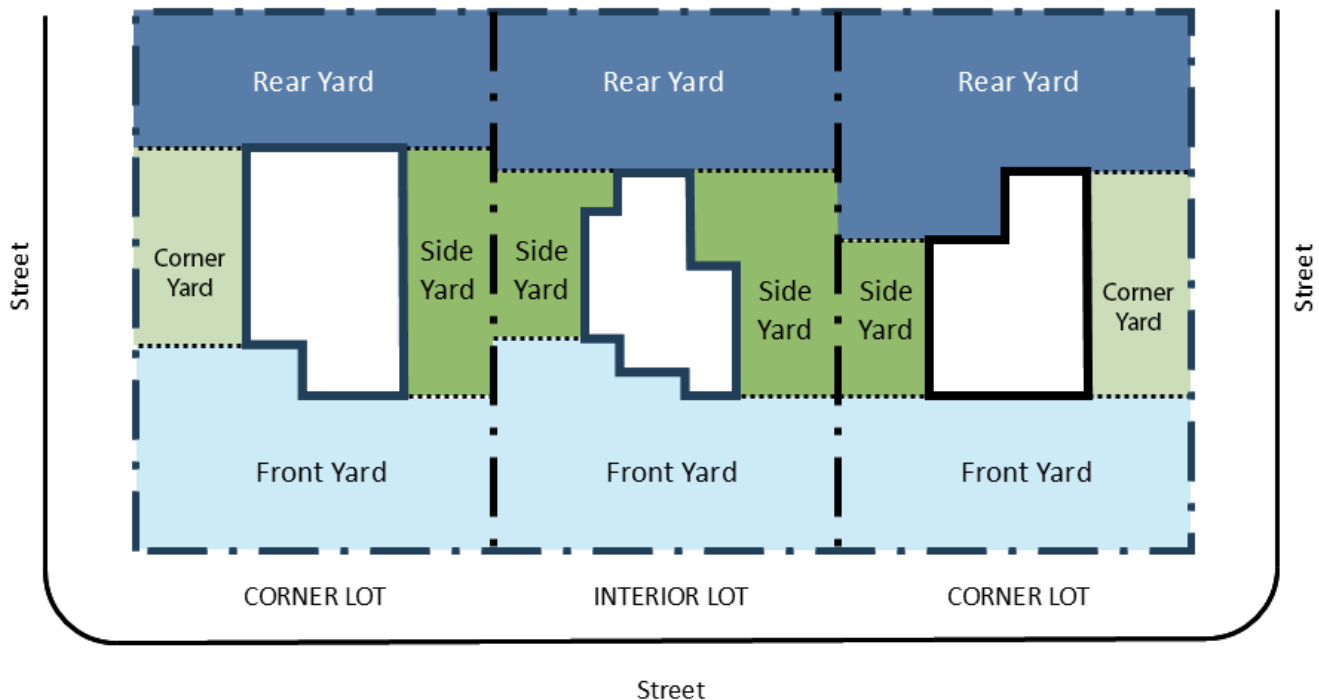
STREET CLASSIFICATION	DISTANCE FROM CENTERLINE INTERSECTION
Arterial	200 feet
Collector	150 feet
Local	100 feet
Alley	30 feet
Driveway	20 feet



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

4.12 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.



4.13 Single-Household to Multihousehold Conversion Standards

In residential districts where multifamily dwellings are permitted, the following provisions apply to the conversion of a dwelling designed for single-household occupancy into a building containing two or more dwelling units.

- A. Special Exception approval from the BZA is required prior to creating the additional units. A Certificate of Compliance is required after conversion and prior to occupancy of the units.
- B. A conversion that results in overcrowding, lack of privacy, lack of sufficient light and air, unsafe or unsanitary living conditions, or inadequate provisions for off-street parking and open space is prohibited.
- C. Single-Household Dwellings converted into multihousehold buildings must comply with the development standards of the zoning district in which the building is located and with the following conditions:
 - 1. Conversions are only allowed in a district permitting the desired residential use. Special Exception approval is required even if the use is permitted in the zoning district.

2. Any new dwelling unit must contain separate kitchen and bathroom facilities and must conform to all applicable provisions of local codes, building codes, fire code, and utility requirements.
3. Parking must be provided as required for the desired residential use. The parking must be located behind the building and screened from views from any public street or adjacent residential use according to the provisions in [6.2 Landscaping](#). The Administrator may waive this provision if, in the Administrator's sole discretion, parking is better provided elsewhere on the lot.
4. A conversion must maintain the single-household character of the building. All fire escapes or stairways to upper floor must be enclosed within the building.

4.14 Short-Term Rental

Short-term rental refers to the rental of a single-household home, a dwelling unit in a single-household home, a dwelling unit in a two-household or multihousehold home, or a dwelling unit in a condominium, cooperative, or time share for a period of less than 30 days at a time ([IC 36-1-24-6](#)). The term includes a detached accessory structure (including a guest house), or other living quarters that are intended for human habitation, if the entire property is designated for a single-household residential use. The term does not include property that is used for any nonresidential use. These standards are intended to ensure compatibility between short-term rentals and the residential character of the surrounding neighborhood. Short-term rentals must meet the standards contained in this article and be operated so the average neighbor, under normal circumstances, is not aware of their existence.

The following circumstances do not constitute a short-term rental:

- Household occupancy: Any member of a household and the household's guests may occupy a dwelling if owned by the household. Household occupancy extends to guest houses or similarly separate dwellings legally located on the same premises as the primary building and used without remuneration to the owner.
- House sitting: During the temporary absence of the owner and the owner's household, the owner may permit non-owner occupancy without remuneration to the owner.
- Dwelling sales: Occupancy of up to 90 days after closing by a prior owner after the sale of a dwelling is permitted.
- Estate representative: Occupancy by a personal representative, trustee, or guardian of the estate, with or without remuneration is permitted.
- Bed and breakfast: A private, owner-occupied business with 2 to 10 guest rooms where overnight accommodations and a morning meal are provided to the public for compensation and that is operated primarily as a business ([IC 36-1-24-6](#)).

Per [IC 36-1-24-8](#), an Owner-Occupied short-term rental is permitted by right for all residential uses. Non-Owner-Occupied short-term rentals may be permitted as a primary use if a Special Exception is obtained.

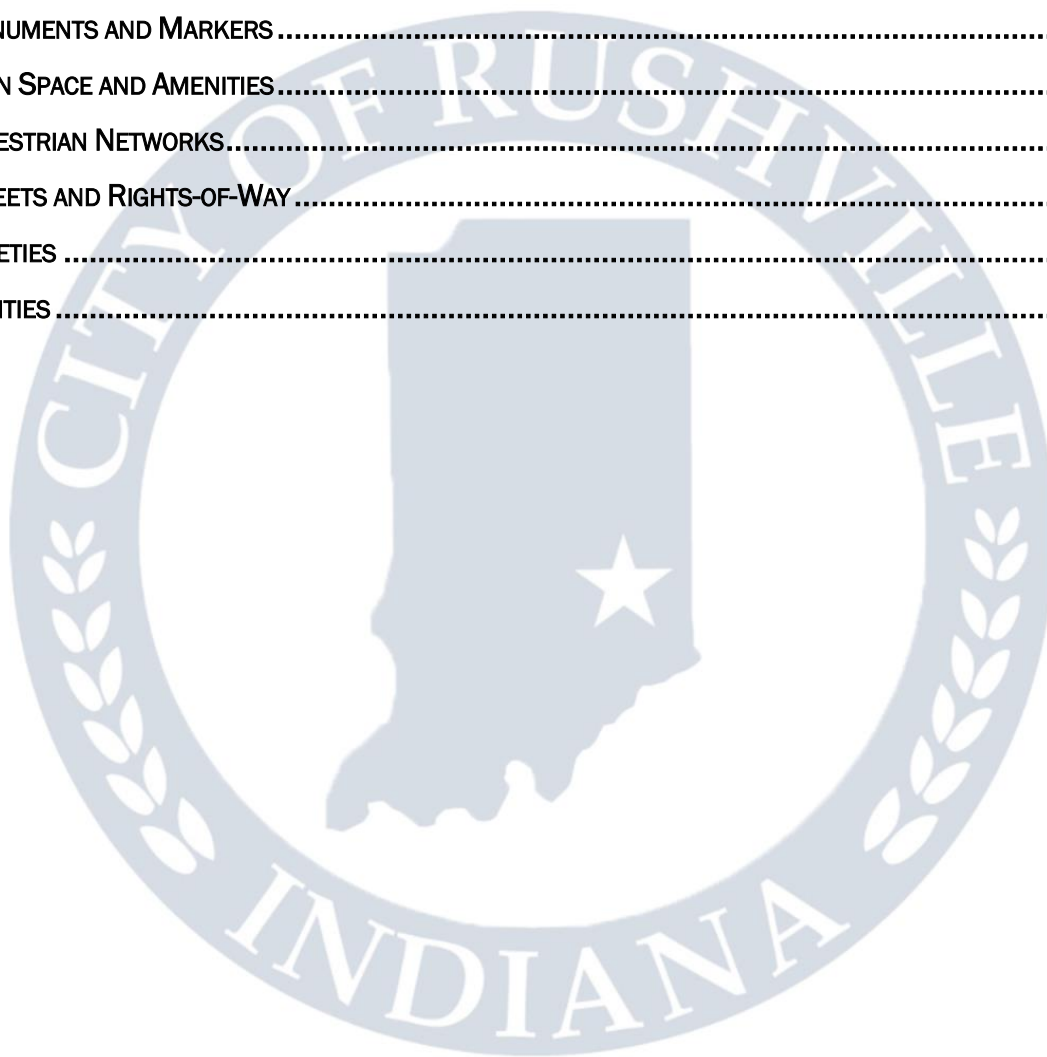
All short-term rentals are subject to the following performance standards:

- A. When provided, off-street parking must occur only on designated paved portions of the lot, such as driveways.
- B. Rental of the dwelling is done in a manner consistent with the character of the surrounding neighborhood.

- C. The owner provides the renter the following information prior to occupancy and posts this information in a conspicuous location within the dwelling:
- Notification of the maximum occupancy permitted in the dwelling;
 - The name and telephone number of the contact person who may be reached any time the dwelling is rented;
 - Notification and instructions of the parking locations; and
 - Notification that a renter may be cited or fined by the City, in addition to any other remedies available at law, for violating any provisions of this chapter.
- D. The owner's contact person must always be available to accept calls when the dwelling is rented. The contact person must have a key to the dwelling and be capable of being physically present at the dwelling within 3 hours to address issues.
- E. The appearance of the dwelling must not conflict with the residential character of the neighborhood. The dwelling must be properly maintained and kept in good repair, so the use does not detract from the general appearance of the neighborhood.
- F. Renters must not encroach on neighboring properties.
- G. The premises must be maintained free of debris and unwholesome substances. Garbage must be kept in a closed container and disposed of on a regular, weekly schedule.
- H. Renters must not create a nuisance. For purposes of this chapter, a nuisance includes, but is not limited to, any activity that violates the City noise regulations or fireworks regulations.
- I. Short-term rentals must not be used to house sex offenders; operate a structured sober living home; manufacture, exhibit, distribute, or sell illegal drugs, liquor, pornography, or obscenity; or operate an adult business as defined in [IC 12-7-2-1.8](#).

Items shown on a site plan or plat

5.1	ARCHITECTURAL STANDARDS: COMMERCIAL AND MIXED-USE	3
5.2	ARCHITECTURAL STANDARDS: INDUSTRIAL	4
5.3	ARCHITECTURAL STANDARDS: RESIDENTIAL.....	5
5.4	BLOCKS	10
5.5	DRAINAGE.....	10
5.6	EASEMENT.....	10
5.7	GRADING, EXCAVATIONS, AND FILLS	18
5.8	MONUMENTS AND MARKERS	22
5.9	OPEN SPACE AND AMENITIES.....	23
5.10	PEDESTRIAN NETWORKS.....	24
5.11	STREETS AND RIGHTS-OF-WAY	25
5.12	SURETIES	29
5.13	UTILITIES	32



5.1 Architectural Standards: Commercial and Mixed-Use

All new nonresidential buildings or additions located within a Commercial District or the Central Business District must comply with the following:

- A. Buildings and structures within a single development should have complementary architectural themes.
- B. All roof or ground mounted mechanical equipment must be completely enclosed. Ground-mounted enclosures must be landscaped on all sides not facing the building being served according to [6.2\(L\) Screening](#).
- C. Each building façade visible from a street or oriented to an adjoining residential district (an “external façade”) must be:
 - 100% masonry materials, excluding window, door, roofing, fascia, and soffit materials; or
 - Incorporate 2 or more building materials (excluding window, display window, door, and roofing materials) provided 60% of the building façade is masonry materials.
 - For all other building facades, up to 25% of the façade, exclusive of windows (including faux windows and glazing), doors and loading berths, may be covered with metal, fiber cement siding, polymeric cladding, E.I.F.S., stucco, or vinyl exterior building materials.
 - The exterior building material selection for all building façades must be further enhanced with: (i) the use of multiple colors, multiple textures (e.g., rough, smooth, striated, etc.); or (ii) the addition of architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.).
 - Loading spaces, loading docks or oversized service doors are prohibited on an external façade. However, if all building façades are determined to be external façades, then loading spaces, loading docks or oversized service doors may be permitted on the least visible external façade if screened according to the [6.2\(L\) Screening](#).
- D. All external façades must be constructed with the same building material quality and level of architectural detail.
- E. All external façades must have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated, cornice or molding. Building façades 90 feet or greater in length must have offsets at intervals no greater than 60 feet apart. Buildings less than 10,000 square feet in gross floor area must have offsets at no more than 40-foot intervals. Offsets can project or recess. They must extend the entire vertical plane of the building façade. The offset must be at least 4 feet in depth and at least 20% of the overall building façade length. Architectural elements (e.g., arcades, columns, piers, etc.) meeting the offset requirements may be used to fulfill this requirement.
- F. Gutters and downspouts must be visually integrated with the architectural style of the structure. The color of gutters and downspouts should complement or be consistent with the building materials.
- G. Pitched roof designs must have a main roof with a minimum 5:12 pitch, contain 3 or more roof slope planes, and be covered with high quality roofing materials such as natural clay tiles, slate, concrete tiles (with natural texture and color), high quality standing seam metal roofing, wood shakes or shingles (with adequate fire protection), three-dimensional asphalt or fiberglass shingles. Metal roofs must have a low-gloss finish to reduce glare.

- H. Flat roof designs must be edged by a parapet wall with an articulated, three-dimensional cornice or molding. Parapet walls must be fully integrated into the building's architectural design to create seamless transitions between the main building mass and roof-mounted architectural elements. Modulation or variation of the roofs and/or roof lines is required to eliminate the appearance of box-shaped buildings. Flat roofs are prohibited for one-story buildings unless otherwise approved by the Plan Commission or Administrator after consideration of the building architecture, context, and sensitivity to the character of the area.
- I. All visible vents, attic ventilators, turbines, flues, and other visible roof penetrations must be painted to match the color of the roof or flat black; and oriented to minimize their visibility from adjacent lots and streets.
- J. Building entrances must be clearly defined and articulated by multiple architectural elements such as lintels, pediments, pilasters, columns, awnings, porticos, and other design elements appropriate to the architectural style and details of the building. The location, orientation, proportion, and style of doors must complement the style of the building.
- K. Window designs must be compatible with the style, materials, color, details, and proportion of the building. The number of windowpanes, the number of window openings, window trim and other design elements to accent the windows must be consistent and complementary to the architectural style of the building.
- L. Window trim and other design elements to accent the windows are required for all windows. Acceptable design elements include shutters, keystones, masonry arches, awnings, decorative stone frames, masonry rowlock frames, or other trim or design elements as approved by the Plan Commission or Administrator.
- M. Fixed or retractable awnings are permitted if they complement the building's architectural style, material, colors, and details. Awnings must be made of a non-reflective material kept in good repair. Awnings used to comply with the architectural design requirements of this Ordinance cannot be removed unless the building façade otherwise complies with the architectural design requirements without the awnings.
- N. The support structures for gasoline service station canopies must be wrapped in materials complementing the principal building and the canopy roof materials must match the color and texture of the principal building. To reduce the visual impact of the canopy, the clearance between the underside of the canopy and ground cannot exceed 16 feet and the canopy fascia cannot be more than 30 feet wide.
- O. The Plan Commission or Administrator may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

5.2 Architectural Standards: Industrial

All new nonresidential buildings or building additions located within an Industrial District must comply with the following:

- A. Buildings and structures within a single development should have complementary architectural themes.
- B. All roof or ground mounted mechanical equipment must be completely enclosed. Ground-mounted enclosures must be landscaped on all sides not facing the building served according to [6.2\(L\) Screening](#).
- C. Each building façade visible from a street or oriented to an adjoining residential district, must have at least 60% masonry materials on the building façade (exclusive of window and doors). As an alternative, the building façade must be enhanced with: (i) the use of multiple colors and textures (e.g., rough, smooth,

striated, etc.); or (ii) the addition of architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.)

- D. Loading spaces, loading docks or oversized service doors are prohibited on a building façade visible from a street or oriented to an adjoining residential district. However, if all building façades are determined to be external façades, then loading spaces, loading docks or oversized service doors may be permitted on the least visible external façade if screened according to [6.2\(L\) Screening](#).
- E. The Plan Commission or Administrator may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

5.3 Architectural Standards: Residential

A. Architectural Standards for Small-Scale Residential Dwellings

1. General Provisions. The purpose of these design standards is to ensure quality construction for developments and create variation and interest in the built environment. These standards apply to all residential buildings containing one to four dwelling units located on an unplatted parcel or within a subdivision containing five or more dwelling units.
2. Neighborhood Design Standards for Appearance from the Street. The relationship of buildings to each other and to streets is important in creating community character. The standards in this section seek to improve architectural diversity along roadways, improve the appearance of houses backing up to existing public streets, and enhance the visible facades of corner lots.
 - a. Homes Facing Streets. To improve the architectural diversity along a streetscape, homes of the same elevation and color scheme are not permitted next to or directly across the street from each other. Additionally, the home color scheme may not be repeated for two homes on either side of the subject home and the five homes directly across the street from the subject home. [Figures 5-1, 2, and 3: Architectural Diversity Standards](#) illustrate the application of this requirement for various lots within a subdivision. In the illustrations:
 - Lots indicated with the number 1 must use a different elevation and color scheme than the subject property, however, they may use the same trim color as the subject property.
 - Lots indicated with the number 2 must use a different color scheme than the subject property, however, they may use the same trim color and brick or stone color as the subject property. These lots may use the same building elevation as the subject property.
 - Lots indicated with the number 3 may use the same elevation and color scheme as the subject property.

In determining if a building elevation meets these standards, the reviewer evaluates differentiation in the colors of the (a) siding, (b) siding accents, (c) trim, (d) front door, (e) shutters, and (f) brick or stone.

Figure 5-1: Architectural Diversity Standards – Midblock Lot

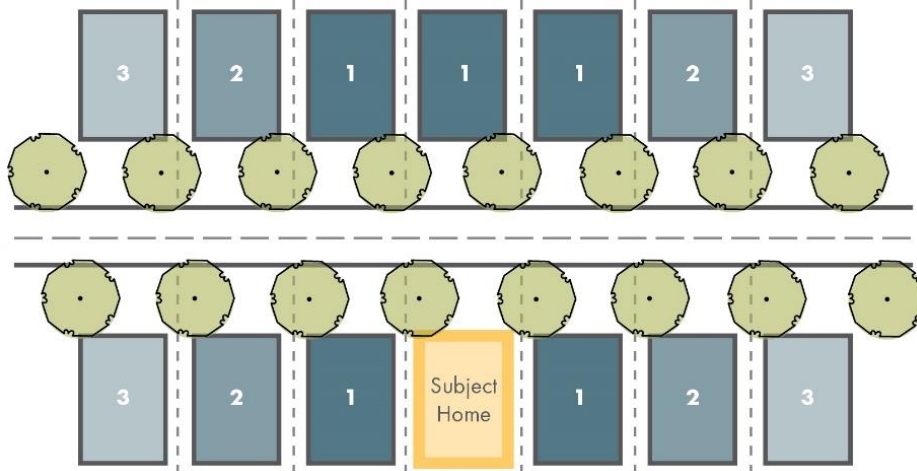


Figure 5-2: Architectural Diversity Standards – Cul-de-sac Lot

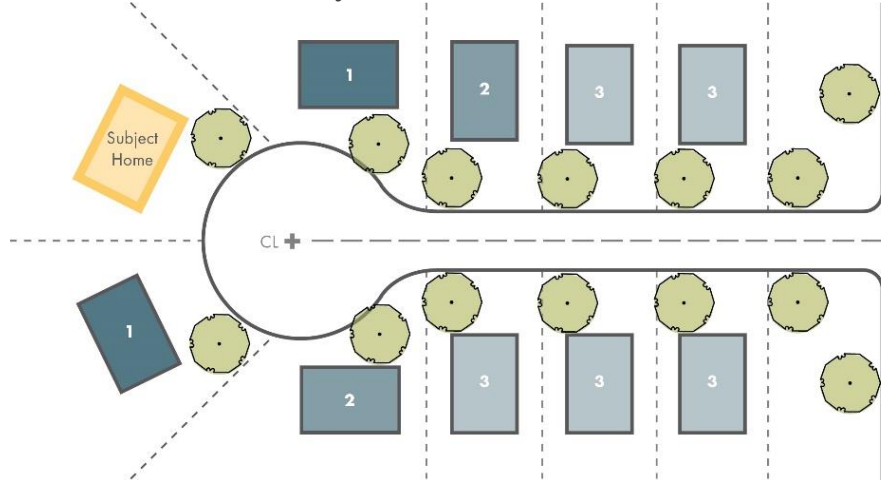
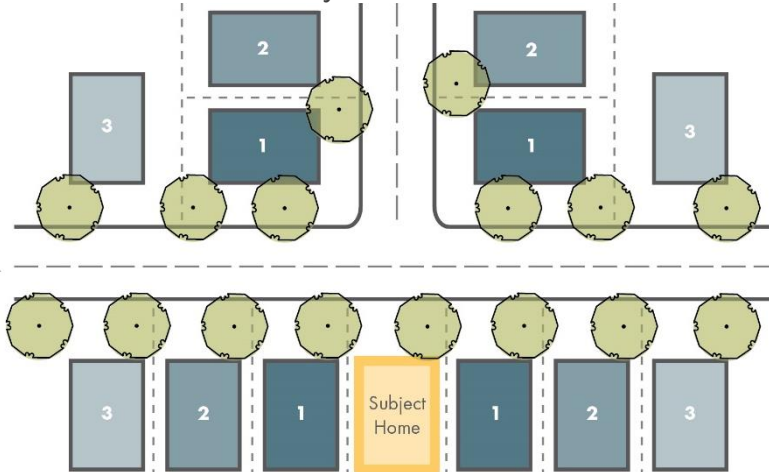
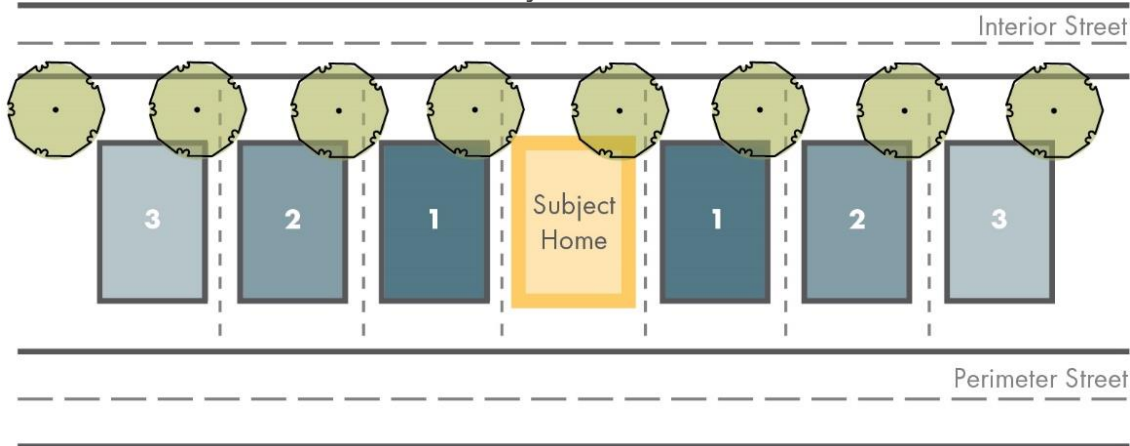


Figure 5-3: Architectural Diversity Standards – Lot at Intersection



- b. Perimeter Lot Enhancements. These standards are intended to improve the appearance at the interface between new residential developments and existing perimeter streets. Long, straight lines of homes, berming, or landscaping parallel to perimeter streets is discouraged. Homes facing the perimeter street and variation in the distance between homes and perimeter streets is encouraged.
 - i. For purposes of this section, a perimeter lot includes lots abutting a perimeter street or a common area abutting a perimeter street. If a lot abutting a common area is not within the viewshed from the perimeter street, then the perimeter lot standards do not apply.
 - ii. Homes of the same elevation and color scheme are not permitted next to each other. Additionally, the home color scheme may not be repeated for two homes on either side of the subject home. In [Figure 5-4: Perimeter Architectural Diversity Standards](#) the homes located on the same side of the street as the subject lot illustrate this requirement.

Figure 5-4: Perimeter Architectural Diversity Standards



- c. Corner Lot Enhancements. Corner lot side facades adjacent to the street must have similar architectural design and detailing as the front façade. Additionally, landscape plantings of at least 1 shade tree, 1 ornamental or evergreen tree, and 5 shrubs may be installed in lieu of the architectural detailing.
3. Building Design Standards for Individual Homes. Individual residential dwelling units must provide elements of architectural design to enhance the building's design and minimize the occurrence of flat, blank walls on homes. The standards in this section seek to reach this goal by requiring articulation of the building's facades, creating visual interest using multiple colors, materials, or textures, providing minimum window requirements, and encouraging elements that enhance roof design.
 - a. Building Articulation. Front facades and rear facades of residential buildings must be articulated to avoid flat building facades. These variations in the façade plane may be achieved through:
 - Projections or recessions created by one offset at least 4 feet deep and a minimum height equivalent of one story or two offsets at least 2 feet deep and a minimum height equivalent of one story.
 - Front-load garage doors recessed at least 2 feet behind the front façade of the building or 4 feet behind the posts of the front porch.

- A covered porch with at least 40 square feet in area on the front facade or corner facade.
 - A sunroom or screened porch at least 64 square feet in area on the corner facade or rear facade.
 - An exterior fireplace chase extending at least 18 inches from the building facade, finished in masonry material, and extending above the roofline.
 - A bay window projecting at least 12 inches from the wall.
 - A second-floor cantilever projecting at least 12 inches over the first floor for at least 30% of the length of the building facade.
 - A covered patio or covered porch, as a projection or recession, at least 120 square feet in area.
- b. Exterior Variety. At least 3 exterior colors, materials, or patterns must be used on each building facade. A well-chosen selection of contrasting field and accent colors can draw attention to architectural details. Care should be taken in selecting a color palette that accents the building's architecture while being harmonious in the context of the surrounding neighborhood.
- c. Garages. A minimum of a one-car garage is required for all dwelling units. Front-load garages cannot protrude more than 8 feet in front of the portion of the front facade containing the living area of the house.
4. Vinyl Siding. Vinyl siding used on residential dwellings must meet the following specifications:
- a. Material Requirements
- Vinyl must have a minimum thickness of 0.044 with a minimum butt or panel projection of $\frac{3}{4}$ inch.
 - Heavy duty lock extended return leg is required.
 - A full rollover/ double nail hem or approved hammer stop is required if the vinyl is less than 0.048 inches thick.
 - The maximum panel width between butts is 5 inches, except for panels with foam backing.
- b. Sheathing Requirements
- Use of 7/16-inch minimum thickness OSB or plywood is preferred.
 - Rigid foam insulation boards must have a minimum thickness of $\frac{1}{2}$ inch, have a reinforced plastic membrane surface on both sides, and a minimum compression strength of 15 PSI.
 - All sheathing materials must have a weather resistant barrier.
- c. Construction/Installation Requirements
- Shutters, downspouts, utility connections and other attachments must be connected to the building in a manner that does not restrict the movement of the vinyl siding. All attachment hardware must pass through the siding into substrate with nail-holding strength. All penetrations in the siding must be properly sealed to prevent moisture infiltration.
 - All wall penetrations must be properly flashed according to the manufacturer's instructions.

B. Architectural Standards for Multi-Household Dwellings. All new multi-household buildings containing five or more dwellings must comply with the following:

1. Design detailing must continue completely around the building consistent with the intended architectural style. Detailing elements include, but are not limited to, number and style of windows, window placement, trim detailing, roof design, and exterior materials.
2. Permitted exterior materials include Exterior Insulation and Finish System (E.I.F.S.), synthetic stucco, masonry materials, wood, fiber cement siding, and polymeric cladding. Aluminum and vinyl siding are prohibited.
3. At least 75% of each building façade, excluding windows and doors, must be masonry materials or fiber cement siding.
4. Each building façade must utilize at least 2 different exterior building materials (excluding window, door, and roofing materials), colors, or patterns.
5. Windows: A building façade must incorporate a minimum of one window (a minimum of 15 square feet) per dwelling unit located along the building façade. Required windows may be located anywhere on the building façade, as architecturally appropriate. All windows must have shutters matching the size of the window or casing at least 3 ½ inches in width. Windows in a building façade of masonry material must have a casing or sill of natural or masonry material. Windows in a building façade of a non-masonry material must be trimmed to match the architectural style of the building.

6. Roof Design

- a. The roof pitch of the main roof must be at least 6:12. Elements such as porches, bays, walkways, may have a lower roof pitch. Lower roof pitches may occur on rear elevations if concealed by side roof elements.
- b. The roof overhangs must be at least 11 inches, as measured prior to the installation of masonry materials.
- c. The roof form and pitch design of a building must include, where appropriate, varied pitches and ridge levels according to the intended architectural style of the building and the building façade projections.

7. Streetscape Diversity

Building elevations of similar floor plans must have variety in style, massing, use of materials, and detailing of elements. The same elevation may occur as buildings are grouped together if each building plan has a minimum of 2 different elevation styles.

If more than 1 building is proposed, then the building(s) must be located so no more than 2 buildings are in a straight, unbroken line. An unbroken line includes an offset in the building setback at least 1/3 the height of the adjacent building.

8. Transition Standards

Any structure within 50 feet of the property line cannot exceed 12 feet above the highest point of the nearest residential structure.

- C. The Plan Commission or Administrator may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

5.4 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 a 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.

5.5 Drainage

A drainage system is required for proper drainage of new developments. The system must be designed and constructed per the City's Stormwater Drainage Manual.

5.6 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. When located between lots, easements should be centered on the lot line so each lot is encumbered by half the easement width, unless otherwise approved by the Administrator or the appropriate utility provider. 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 City Surveyor 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 is at least 20 feet per side measured from the top of the bank. 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.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. Be binding on all heirs, successors, and assigns to the property where the easement is located.
 - f. Be enforceable by the grantee 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 of the easement in the manner stipulated in this Ordinance.
 - i. Be cross-referenced to the most recently recorded deed to the property 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 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.

5.7 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.
 - 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.

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. Grading Certificates.

- a. If the final inspection finds all grading work is satisfactorily completed, a grading certificate stating the work is approved is issued to the permit holder by the Administrator.
- b. The Administrator may revoke a grading certificate if the work covered by the certificate has been altered without a permit or any retaining walls, cribbing, drainage structures, fences, or other protective devices are not being maintained. Before revocation, the Administrator must give written notice to the permit holder and property owner specifying the defective condition and stating that, unless remedied within a specified time, the grading certificate may be revoked.

7. Appeals. Appeals of determinations made by the Administrator are made according to [8.12 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. The following measures are approved as effective means for minimizing erosion and sedimentation and must be included where applicable in the erosion control plan:
 - a. Stripping of vegetation, grading or other development must be done in a manner that minimizes erosion.
 - b. Development plans must preserve significant natural features, minimize keep cut and fill operations, and conform with the natural topography as much as possible to lessen erosion potential and adequately handle stormwater runoff.
 - c. Whenever feasible, natural vegetation should be retained, protected, and supplemented.
 - d. The disturbed area and the duration of exposure should be kept to a minimum.
 - e. Disturbed soils must be stabilized as quickly as practicable.
 - f. Use temporary vegetation and/or mulching to protect exposed critical areas during development.
 - g. The permanent vegetation and erosion control measures must be installed as soon as practical.
 - h. Effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, the rate of surface water runoff must be mechanically retarded.
 - i. Sediment in the runoff water must be trapped until the disturbed area is stabilized using debris basins, sediment basins, silt traps, or similar measures.
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.
 - b. In the Open Space (OS) District, land disturbing activity is prohibited on slopes equal to or steeper than 18%, measured as a 9-foot fall or greater in any 50 foot distance.
 - 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 cannot encroach on natural watercourses, constructed channels, or floodplain areas.
- h. Fills placed adjacent to natural watercourses, constructed channels, or floodplains must provide protection against erosion during periods of flooding.
- i. Grading cannot divert water onto the property of another landowner.
- j. 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.
- k. 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 must 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 ([5.12 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](#).

5.8 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.

5.9 Open Space and Amenities

- A. **Applicability.** This article applies to all residential major subdivisions containing five or more dwelling units. All residential developments must set aside open space according to this article.

B. **Minimum Open Space**

1. Minimum. The minimum open space required for each development, as a percentage of its gross acreage:

ZONING DISTRICT	MINIMUM OPEN SPACE REQUIRED
R-1	5%
R-2	8%
R-3	10%
R-4	12%
R-5	15%

2. Exemption. Residential developments with a gross density of 0.33 dwelling units per acre or less are exempted from providing open space under this article.
 3. Plantings. Open space must be supplemented with tree plantings according to the minimum lot landscaping requirements of [6.2 Landscape](#).
- C. **Access.** A public way, crosswalk, or easement not less than 15 feet in width must be provided for access to required open space.
- D. **Connectivity.** Open space should be placed adjacent to or connected to existing or proposed open space located within the development and/or on adjoining properties. Open space should be located within reasonable walking distance to those uses it serves, except when the open space is used to preserve existing features.
- E. **Open Space Ownership.** The ownership and maintenance of open space, common areas, and amenities must be documented and recorded to protect them from future development and to make sure they are properly maintained. Open space and amenities must be conveyed in one of the following forms:
1. To a municipal or public corporation;
 2. To a not-for-profit corporation or entity established to benefit the owners and tenants of the PUD. All conveyances must be structured to ensure the grantee has the obligation and the right to effect maintenance and improvement of the amenities and the duty of maintenance and improvement is enforced by the owners and tenants of the PUD; or
 3. To owners other than those specified in subsections (i) and (ii) above, and subject to restrictive covenants describing and guaranteeing the amenities, its maintenance and improvement, running with the land for the benefit of residents of the PUD or adjoining property owners or the community.

F. Open Space and Development Amenity Improvements

1. Approval. Open space and amenity improvements (e.g., fencing, walls, mounds, pathways, playgrounds, amenities) must be installed according to a site plan reviewed and approved by the Administrator, according to [8.6 Site Plan Review](#).
2. Timing of Installation. Open space and amenity improvements must be installed within 12 months of the issuance date of the first building permit in the secondary plat containing the open space and amenity improvements.

G. Qualifying Site Features

1. A maximum of 50% of required open space may come from: wetlands, third party regulated utility easements existing prior to the development of the property (e.g., gas or oil pipelines) and equivalent land, as determined by the Plan Commission or Administrator.
2. Detention and retention areas may only qualify as open space if they are located and designed for public use and benefit as an amenity to the development.
3. Required buffer yards, external street frontage landscaping areas, and tree preservation areas, as set forth in [6.2 Landscape](#), may qualify towards required open space if placed within common areas or recorded protective easement such as a landscape easement, tree preservation easement, or conservation easement.
4. Street medians may qualify towards required open space if the following criteria are met:
 - a. Medians are platted as common areas maintained by the homeowners' association;
 - b. Medians are a minimum of 12 feet wide from back of curb to back of curb; and
 - c. Medians are landscaped to the street tree requirements set forth in [6.2 Landscape](#).

- H. Amenity Center Construction Timing.** Amenity center facilities must be installed or constructed prior to the sale of 75% of the subdivision lots, upon construction of 65% of the primary structures, or upon construction of 95% of the primary structures within any given phase of the subdivision, whichever is less.

5.10 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 City's Construction Standards and comply with requirements of the [Americans with Disabilities Act \(ADA\)](#), as amended.
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. 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.

XConnector 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, 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.

5.11 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 Rushville Thoroughfare Plan Map.
- B. **Compliance with Thoroughfare Plan Map.** Developments abutting or adjoining streets designated on the Thoroughfare Plan Map in the [Comprehensive Plan](#) must dedicate rights-of-way in conformance with the dimensions established in the City Standard Details and must comply with the requirements of the Americans with Disabilities Act (ADA),
- C. **Dedication of Right-of-Way.** Where a development adjoins or includes an existing street with a right-of-way width that does not meet the minimum dimensions established in the City Standard Details, the developer must dedicate sufficient additional right-of-way to bring the street into conformance. Where the development includes property on only one side of the street, the dedication must be sufficient to bring the half right-of-way width to the required dimension.
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.

D. 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. Cul-de-sacs are discouraged and are only permitted where street continuation is prevented due to topography or other physical condition, or unless the Plan Commission finds such extension is unnecessary for the coordination of development within the development or between the development and adjoining property.
5. Current INDOT Standards, Guides, and Manuals are followed as design standards unless otherwise specified in this Ordinance.

E. Improvement Standards. Streets must conform to:

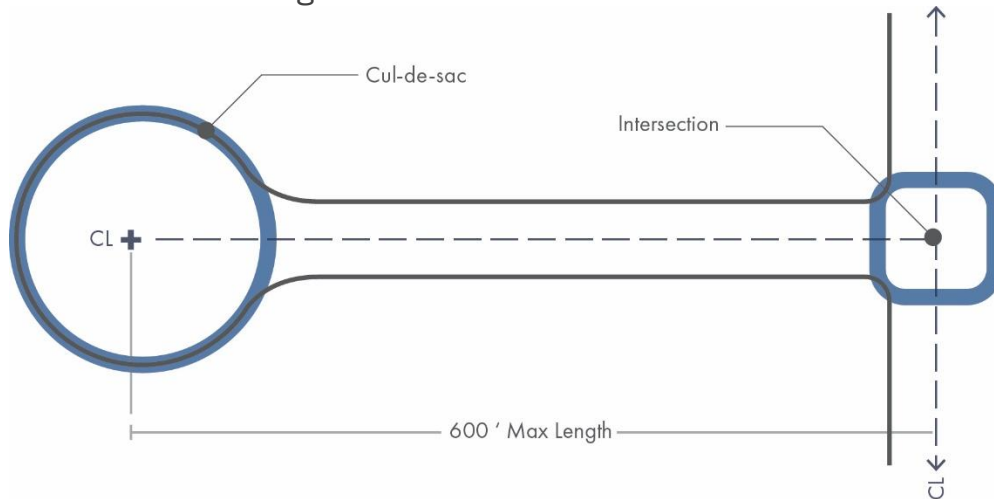
1. Street and Right-of-Way Widths. Widths of streets and minimum rights-of-way widths are as follows:

STREET CLASSIFICATION	MINIMUM RIGHT-OF-WAY WIDTH	MINIMUM NUMBER OF LANES
Principal Arterial	100 feet	2-4
Minor Arterial	90 feet	2-4
Major Collector	70 feet	2
Minor Collector	60 feet	2
Local	50 feet	2

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 maximum length of a cul-de-sac is 600 feet, measured along the centerline from the center of the circle to the intersection of the nearest through street ([Figure 5-2](#)).
 - b. The cul-de-sac terminus must be designed according to the City's Construction Standards and Specifications.
 - c. A clear area 20 feet wide and 10 feet deep adjacent to the paved street and located opposite the cul-de-sac entrance must be provided to accommodate snow removal. This clear area must be free of above ground improvements (e.g., driveways, mailboxes, fire hydrants, landscaping, and public utility installations), unless otherwise approved by the Administrator.
 - d. 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.
 - e. 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 [5.10 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 multi-household 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.

Figure 5-5: Cul-de-Sac Length



- F. **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.
- G. **Fire Hydrants.** Fire hydrants must be provided throughout the development as determined by the local fire department having jurisdiction over the site.
- H. **Acceptance of Improvements.** Before any financial surety ([5.12 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.
- I. **Private Streets**
 - 1. Private streets are permitted but 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 [5.6 Easement](#).
 - 3. When a private street easement appears on a secondary plat, a private streets certificate ([5.6 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 [5.12 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.

5.12 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 3 years 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 25% 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

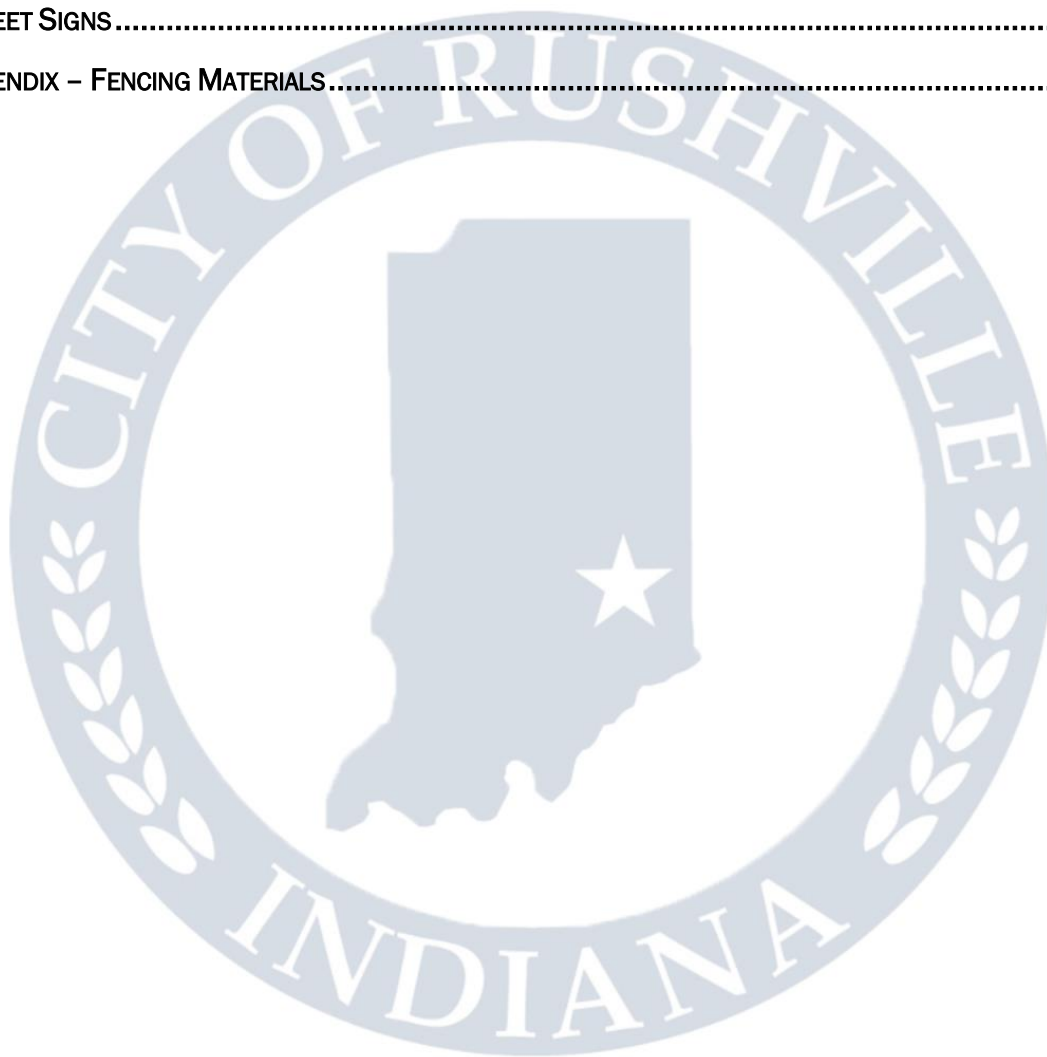
- e. Include a certification from the developer that all improvements have been made according to the approved plans.
- 4. Maintenance sureties are effective from the date of acceptance and must not terminate until the Public Works Department certifies inspection and approval of the improvements.
- E. **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.

5.13 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.
- 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.

Elements installed on a site

6.1	FENCES AND WALLS.....	3
6.2	LANDSCAPE.....	4
6.3	LIGHTING.....	18
6.4	PARKING	20
6.5	SIGNAGE	25
6.6	STREETLIGHTS	37
6.7	STREET SIGNS.....	37
6.8	APPENDIX – FENCING MATERIALS.....	38



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 ([4.11 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. For applications where a fence or wall is within 10 feet of the property line of an abutting property, one of the following is required to be submitted with the application: (1) A survey of the site prepared by a licensed surveyor, or (2) A notarized letter from each neighbor with property near the proposed fence or wall stating they do not object to the location of the fence or wall. A site plan indicating the location of the proposed fence or wall is required to be part of the notarized letter. The notarized letter must be recorded in the County Recorder's Office to run with the property.
- 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, corner, 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. See [6.8 Appendix – Fencing Materials](#) for examples of fencing materials and styles.
- D. 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.
- E. 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.
- F. Chain link fence is prohibited in front yards. Barbed wire, and razor wire fencing is prohibited in all zoning districts except industrial districts.
- G. Fences and walls must be maintained in good condition and operating order.
- H. In all zoning districts, temporary fences for construction are permitted during active construction and are exempt from the standards of this article.

6.2 Landscape

- A. **Purpose and Intent.** This article establishes regulations for the preservation of natural features and minimum standards for the provision, installation, and maintenance of landscape materials. These regulations are intended to promote the health, attractiveness, and safety of the community; foster aesthetically pleasing and environmentally sensitive development that protects and preserves the appearance and character of the community; and encourage the preservation of natural areas.
- B. **Applicability.** These regulations apply to development in all zoning districts except for detached single-household and two-household dwellings not located in a subdivision. Plantings and landscaping features required by this Ordinance are subject to inspection to verify continued compliance with these regulations.
- C. **Landscape Plan Review**
1. A landscape plan is required as a part of all site plan and permit applications unless the Administrator determines compliance with the provisions of these regulations can be demonstrated without the use of a landscape plan. A landscape plan may be combined with other required application materials if compliance with these regulations can be demonstrated in the combined materials. The plans must indicate all existing or proposed utilities and easements to ensure the proposed landscaping is not affected by, nor interfering with utilities. The plans must include:
 - a. All proposed landscaping with circles indicating the anticipated plant size at maturity.
 - b. A table listing all proposed plants including the scientific name, common name, quantities, size at planting and plant type (e.g., shade tree, evergreen tree, large shrub, medium shrub, etc.)
 - c. Calculations illustrating how the plan complies with the requirements of this article.
 - d. Existing natural and man-made landscape features and proposed buildings and structures.
 - e. All existing trees (8-inch caliper or greater) located in portions of the site that will be built upon or otherwise altered. Trees must be labeled "To Be Removed" or "To Be Saved" on the plan. Existing trees located outside of areas to be disturbed may be illustrated as a tree mass.
 - f. Measures to protect existing trees to be saved must be noted on the plans.
 - g. Contours shown at:
 - i. No more than 10-foot intervals in undisturbed areas of the site (5-foot contours are preferred), and
 - ii. No more than 2-foot intervals in disturbed areas of the site (1-foot contours are preferred).
 2. **Review.** Landscaping plans are subject to Plan Commission or Administrator review and approval.
 3. **Modifications.** The Plan Commission or Administrator may modify the requirements of this section under any of the following circumstances:
 - a. Existing vegetation or topographic features make compliance with requirements unnecessary or difficult to achieve.
 - b. The application of requirements will result in a significant loss of existing vegetation, or natural or cultural features.
 - c. Modification of requirements will clearly result in a superior design that could not be otherwise achieved.

4. Additional Conditions. The Plan Commission or Administrator may impose conditions on landscaping as part of site plan review.
5. Performance Guarantee. To ensure that all landscaping is installed as shown on the plan and in conformance with the requirements of this article, the Plan Commission may require the applicant to provide a financial guarantee, as provided in [5.12 Sureties](#).

D. Landscaping General Requirements

1. Required Plant Materials. All plant material must be from the City-approved plant list (see Rushville City Code [Chapter 98: Trees](#)), hardy to the local climate, suitable for the site, free of disease and insects, and conform to the American Standard for Nursery Stock ([ANSI Z60.1-2004](#)). The use of native plants is strongly encouraged ([indiananativeplants.org](#)). Plants listed on the Indiana Invasive Species Council [Invasive Plant List](#) cannot be used to fulfill any requirement of this Ordinance.
2. Minimum Living Materials. Within required landscaping areas, a minimum of 60% of the surface area must be covered by living materials, not gravel, stone, or other non-living materials.
3. Soil Condition and Planting Beds
 - a. Landscaping required by this Ordinance must be planted in uncompacted soil at least 2 feet in depth.
 - b. Stone mulch is not permitted in required landscape areas or planting bed except as part of a stormwater best management practice.
 - c. Landscaped areas must be protected from vehicular encroachment by curbs or wheel stops. Curbs must be provided with openings to accommodate surface collection of stormwater runoff in vegetated swales or detention facilities.
4. Minimum Plant Sizes at Installation. Unless otherwise specifically noted, the minimum plant size at the time of installation is according to [Table 6-1: Minimum Plant Sizes](#).

Table 6-1: Minimum Plant Sizes

PLANT MATERIAL TYPE (ASNS TYPES)	MINIMUM SIZE
Deciduous/ Overstory Shade Tree (Type 1 or Type 2)	
Single Trunk	2 in. caliper
Multi-Trunk	10 ft. in height
Evergreen/Coniferous Tree	6 ft. in height
Ornamental/ Understory Tree Single Trunk	1.5 in. caliper
Ornamental/ Understory Tree Multi-trunk	6 ft. in height
Large Shrub – Deciduous (Type 2 or 3)	24 in. in height
Large Shrub – Evergreens (Types 4, 5 or 6)	30 in. in height
Small Shrub – Deciduous (Type 1)	18 in. in height
Small Shrub – Evergreens (Type 1, 2 or 3)	24 in. in spread
Ground cover	3 in. in height

5. Plant Material Clearance. Except for buffer yard plantings, trees and shrubs cannot be placed closer than 3 feet to any lot line. A minimum 5-foot clear area is required around valve vaults, manholes, fire hydrants, and fire department connections. Plants must have a minimum 5-foot separation from underground utilities. Any landscaping placed within an easement is done at the owner's risk. Should

the plant material need to be removed to access the easement, the owner is responsible for the costs of removing and replacing the plants.

6. Plant Material Spacing. Plant materials may be grouped but must be located within the landscape area where it will be credited. The Administrator may authorize adjustments to these spacing requirements when necessary due to topography, drainage, utilities, or obstructions, provided the total amount of required landscaping is not reduced.
7. Species Variation. No one species of tree may make up more than 35% of the total number of trees. No one species of shrub may make up more than 35% of the total number of shrubs.
8. Protection of Vision Clearance Areas. All landscaping must comply with [4.11 Vision Clearance Standards](#).
9. Existing Vegetation Credit and Bonus
 - a. If existing vegetation meets the intent of these landscape regulations, preserved existing vegetation may be credited for landscape materials required by this Ordinance. Credit will not be given for existing vegetation listed on the [Invasive Plant List](#).
 - b. If any vegetation required by this Ordinance dies or is removed, replacement plant materials must be installed according to these standards. Existing vegetation used to meet landscaping requirements must be protected during construction by a fence erected around the area encompassing an area 1 foot beyond the drip line of the vegetation. The enclosed area must be protected from any land disturbing activity, including placing materials within this protected area.
 - c. Preservation of trees and surrounding vegetation will be given credit toward fulfilling landscaping requirements as follows:
 - i. Existing trees and surrounding vegetation may be credited only one time towards any one buffer, screen, or other landscape area requirement.
 - ii. Existing trees and surrounding vegetation must be located within the required landscape area to which it will be credited.
 - iii. Existing trees to be used for credit must have their location, species, caliper, and drip line indicated on the required landscape plan.
 - iv. Existing trees are credited based on the tree size and surrounding landscape area according to the criteria of [Table 6-2: Existing Tree Credits](#).
 - v. In the event an existing tree that was given credit is removed or dies within 3 years of the Improvement Location Permit issuance date, replacement trees must be planted per [Table 6-2: Existing Tree Credits](#). If the site cannot accommodate the number of replacement trees required, the Administrator may authorize an alternate location for the planting of the replacement trees within the City as close to the site as feasible.

Table 6-2: Existing Tree Credits

EXISTING TREE SIZE (INCHES)	MINIMUM WIDTH OF SURROUNDING LANDSCAPE AREA (FEET)	NUMBER OF TREES CREDITED	NUMBER OF TREES TO BE PLANTED TO REPLACE AN EXISTING TREE
Over 36 DBH	15	10	10
24 to 36 DBH	15	8	8
12 to 24 DBH	10	6	6
8 to 12 DBH	8	4	4
4 to 8	5	2	4
2.5 to 4	5	1	2

10. Native Vegetation and Natural Landscaping Areas

- a. Growing native vegetation including ferns, grasses, sedges, rushes, forbs, shrubs, and trees is permitted in lieu of turfgrass lawn. Natural landscape areas are permitted if planned and designed to control, direct, and maintain the growth of natural vegetation, primarily native, and may include the detention and infiltration of stormwater runoff in the natural landscape area.
- b. Natural landscaping areas must not be located within 2 feet of a front lot line, or within 4 feet of any other lot line, except where the natural landscaping is separated from adjacent lots by fencing or continuous shrub growth 3 feet or more in height, or where the natural landscaping area abuts another permitted natural landscaping area on an abutting lot.
- c. Where a natural landscaping area is installed or preserved, a sign not exceeding one square foot should be installed indicating that the area is a natural landscape area and generally not mowed.

11. Rain Gardens, Bioswales and Stormwater Management Features. Areas included in rain gardens or vegetated site features created to meet stormwater management requirements may be counted towards any required interior site or parking lot landscaping, and if vegetated to meet the requirements for any landscaped buffers may count towards those buffer requirements. Where rain gardens or vegetated site features serving a stormwater management purpose are installed, a sign not exceeding one square foot should be installed indicating the area should not be mowed.

12. Retention and Detention Facilities. Landscaping must be provided around the perimeter of all retention and detention basins. Such landscaping must consist of trees, shrubs, and emergent plantings in a quantity, species, and arrangement that will maintain an ecologically functional environment. Tall plantings in the aquatic bench are desirable to keep waterfowl from the site. Retention and detention basins should be designed to resemble natural landforms, whenever possible. Such landscaping must be integrated with the littoral zone of emergent vegetation around the pond perimeter with the safety bench. Trees, shrubs, and upland plantings are to be located above the normal water line. Emergent or wetland plantings are to be located below the normal water line. Vegetation must be established on all side slopes to prevent erosion. A stormwater management easement and operation and maintenance agreement are required for each facility, clearly marking inlet/outlet structures and easements for inflow/outflow piping. Vegetation must not obstruct inlet/outlet structures and inflow/outflow piping areas.

13. Alternative Landscaping. The Administrator may approve an alternate landscape plan that does not meet the specific landscaping requirements if the Administrator determines the alternative plan:

- a. Is consistent with the purposes of this article;

- b. Does not include invasive vegetation;
- c. Does not include a reduction of tree planting requirements;
- d. Provides equal or superior buffering of adjacent properties from anticipated impacts of the proposed development; and
- e. Provides equal or superior visual appearance of the property when viewed from the street;

14. Installation and Delay of Installation Due to Season

- a. Landscaping material used to meet the requirements of this Ordinance must be installed in accordance with the planting procedures established by the ANSI A300 Tree Care Operations: Standard Practices for Tree, Shrub and Other Woody Plant Maintenance.
- b. Landscaping material must be installed prior to issuing a Certificate of Occupancy. The Administrator may authorize a delay in installation up to 120 days due to periods of adverse weather, availability of plant material, or conflicts between construction scheduling and proper planting conditions. As a condition of authorizing a delay in installation, a surety or other guarantee may be required in the estimated amount of the installation. During any delay in installation, site management must comply with all applicable provisions for sediment and erosion control.

15. Maintenance

- a. All landscaping required by this Ordinance must always be maintained. Dead, missing, or damaged landscaping, or landscaping that supports less than 50% healthy leaf growth or shows dead branches over a minimum of 50% of the normal branching pattern must be replaced with healthy, live plants by the end of the growing season to maintain compliance with this Ordinance.
- b. The owner is responsible for the maintenance, repair, and replacement of all required landscaping, screening, and curbing.
- c. Fences, walls, and other barriers must be maintained in good repair. All barriers that are damaged, broken, or with failing paint must be repaired, replaced, or refinished.
- d. Tree topping is prohibited. Tree topping is the practice of removing whole tops of trees, large branches, or trunks from the tops of trees, leaving stubs or lateral branches that are too small to assume the role of a terminal leader.

E. Landscape Buffers on Side and Rear Lot Lines Between Incompatible Land Uses

1. General Standards

- a. A buffer zone is required along shared property lines between abutting land uses to reduce the incompatibility between uses. There are 3 levels of buffers.
 - i. A Low Intensity Buffer is required where a detached single-household dwelling, duplex, triplex, or quadplex abuts a multi-household or townhome use.
 - ii. A Moderate Intensity Buffer is required where a multi-household use or townhome use abuts a commercial or institutional use.
 - iii. A High Intensity Buffer is required where (a) where a detached single-household dwelling, duplex, triplex, or quadplex abuts a commercial, institutional, or industrial use or (b) a multi-household or townhome use abuts an industrial use.

Table 6-3: Required Buffer Level

	INCOMING USE							
	SF Home	Duplex	Triplex or Quadplex	Townhomes	Apartments	Commercial	Industrial	Institutional
SF Home	Low	Low	Low	Moderate	High	High	High	Low
Duplex	Low	Low	Low	Moderate	High	Moderate	High	Low
Triplex or Quadplex	Low	Low	Low	Low	Moderate	Moderate	High	Low
Townhomes	Low	Low	Low	Low	Moderate	Moderate	High	Low
Apartments	Moderate	Moderate	Moderate	Low	Low	Moderate	High	Low
Commercial	High	High	High	High	Moderate	None	None	Moderate
Industrial	High	High	High	High	High	None	None	Moderate
Institutional	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate	None

- b. On properties with multiple owners, it is preferred that the buffer be located on private lots within a landscape easement rather than in a common area around the perimeter of the site. The owner's association must have the right to maintain or replace the required landscaping within the landscape easement if the property owner fails to do so.
 - c. The buffer area must contain natural landscape materials such as grasses, ground cover, shrubs, and trees. Plant spacing should be designed to minimize sound, light, and noise impacts.
 - d. Parking or impervious surfaces are prohibited within the buffer area except for access drives or private streets, determined by the Plan Commission or Administrator to be necessary to provide safe access to a property.
 - e. If the adjacent property is undeveloped, the Plan Commission may allow the installation of the buffer to be deferred until the adjacent property is developed. A performance guarantee is required to ensure the buffer is installed when the adjoining property is developed. ([5.12 Sureties](#)).
2. Low Intensity Buffer Standards. One or a combination of the options on [Table 6-4 Low Intensity Buffer](#) may be used to satisfy the Low Intensity Buffer requirement.

Table 6-4: Low Intensity Buffer

	OPTION 1 BASE STANDARD	OPTION 2 FENCE/WALL	OPTION 3 VEGETATIVE SCREEN
Buffer Width (min.)	10'	5'	5'
Tree Planting (min.)	1 shade or evergreen tree per 25 linear feet	n/a	1 shade tree per 25 linear feet
Shrub Planting (min.)	3 large shrubs per 25 linear feet	3 medium shrubs per 25 linear feet	Continuous planting at least 6' high and 50% opacity
Fence/Wall (min.)	n/a	6' high 50% opacity	n/a

3. Moderate Intensity Buffer Standards. One or a combination of the options on [Table 6-5: Moderate Intensity Buffer](#) may be used to satisfy the Moderate Intensity Buffer requirement.

Table 6-5: Moderate Intensity Buffer

	OPTION 1 BASE STANDARD	OPTION 2 FENCE/WALL	OPTION 3 VEGETATIVE SCREEN
Buffer Width (min.)	15'	8'	12'
Tree Planting (min.)	1 shade or evergreen tree per 25 linear feet	1 shade tree per 50 linear feet	1 shade tree per 35 linear feet
Shrub Planting (min.)	4 large shrubs per 25 linear feet	4 medium shrubs per 25 linear feet	Continuous planting at least 6' high and 75% opacity
Fence/Wall (min.)	n/a	6' high 75% opacity	n/a

4. High Intensity Buffer Standards. One or a combination of the options on [Table 6-6 High Intensity Buffer](#) may be used to satisfy the High Intensity Buffer requirement.

Table 6-6: High Intensity Buffer

	OPTION 1 BASE STANDARD	OPTION 2 FENCE/WALL	OPTION 3 VEGETATIVE SCREEN
Buffer Width (min.)	20'	8'	12'
Tree Planting (min.)	1 shade or evergreen tree per 20 linear feet	n/a	1 shade tree and 1 evergreen tree per 35 linear feet
Shrub Planting (min.)	3 large shrubs per 20 linear feet	3 medium shrubs per 20 linear feet	Continuous planting at least 6' high and 100% opacity
Fence/Wall (min.)	n/a	6' high 100% opacity	n/a

F. Street Trees

1. In all districts, street trees consisting of shade trees at a maximum spacing of 35 feet on center must be planted within the right-of-way in the tree lawn located between the curb and sidewalk ([Figure 6-1](#)).
2. If overhead electric distribution lines are present in the right-of-way, the shade trees are substituted with ornamental trees at a maximum spacing or 20 feet on center. The ornamental trees cannot exceed a maximum mature height of 15 feet ([Figure 6-2](#)).
3. Where the sidewalk extends from the back of curb to the lot line, tree wells may be installed in the right-of-way to accommodate the required street trees. For tree wells adjacent to sidewalks measuring 5 feet wide or less, the tree well opening must be covered with a tree grate or surrounded by a fence or wall at least 18 inches in height. The opening in a tree grate for the trunk must be expandable or otherwise accommodate the mature diameter of the tree.

Figure 6-1: Street Trees in Tree Lawn within ROW



Figure 6-2: Street Trees in Tree Lawn within ROW when Overhead Power Lines are Present

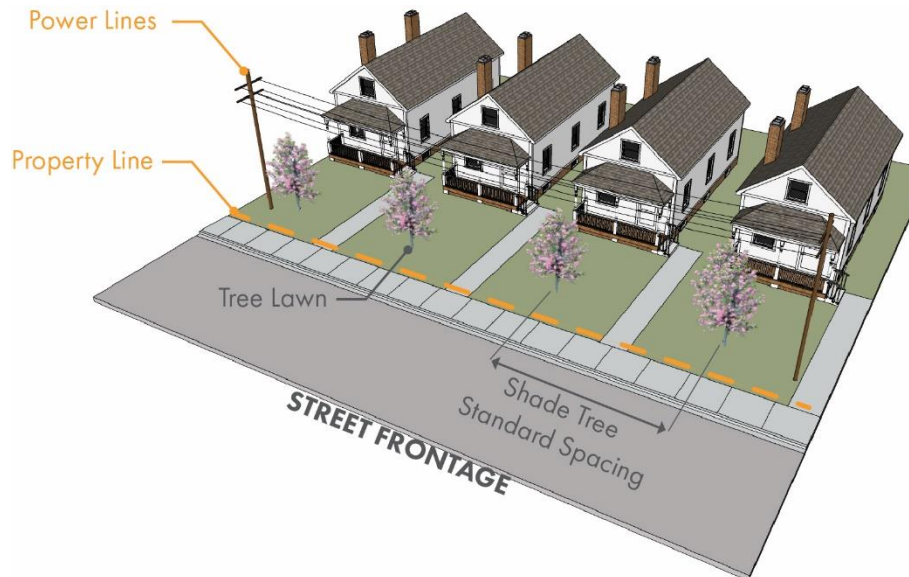


4. Where landscaping within the right-of-way is not possible, the street trees are planted in the front yard. The street trees must be shade trees at a maximum spacing of 35 feet on center and planted within 25 feet of the right-of-way ([Figure 6-3](#)).
5. If overhead electric distribution lines are present in the front yard, the shade trees are substituted with ornamental trees at a maximum spacing or 20 feet on center. The ornamental trees cannot exceed a maximum mature height of 15 feet ([Figure 6-4](#)).

Figure 6-3: Street Trees Placed in Front Yard (outside ROW)



Figure 6-4: Street Trees Placed in Front Yard (outside of ROW) when Overhead Power Lines are Present



6. On lots adjacent to a landscaped median in the right-of-way, up to 50% of the trees in the median may be credited towards the street tree requirements of this section.
- G. **Front Yard Landscaping.** Where the use fronts a public right-of-way, minimum landscaping shown on [Table 6-7: Street Frontage Landscaping](#) is required. The amount of landscaping required is determined by the length of frontage.

Table 6-7: Street Frontage Landscaping

– MINIMUM # OF PLANTS PER 100 LINEAR FEET–				
	SHADE OR EVERGREEN TREES	ORNAMENTAL TREES	SHRUBS ⁽¹⁾	ADDITIONAL REQUIREMENTS
Residential Uses ⁽²⁾	1	1	5	30% of all plantings must be evergreen
Commercial Uses	1	1.5	10	40% of all plantings must be evergreen
Industrial Uses	1.5	2	10	60% of all plantings must be evergreen
All Other Uses	1	1	10	30% of all plantings must be evergreen

Notes:

(1) Up to 25% of the required shrubs may be substituted with ornamental grasses at least 3 feet in height.

(2) Applies to multiple residential buildings on a parcel, not to individual lots within a subdivision.

H. Lots Abutting Streets

- Where the rear yard or side yard of a residential lot abuts or is within 50' of an existing public right-of-way, perimeter landscaping must be provided within a landscape area at least 15' wide abutting the right-of-way. The landscape area must be planted at a minimum rate of 2 shade trees, 3 evergreen trees, 1 ornamental tree, and 15 shrubs per 100 lineal feet. The required landscaping must be placed within a landscape easement on the lot or within a common area abutting the right-of-way.
- Where the rear yard or side yard of a non-residential lot abuts or is within 50' of an existing public right-of-way, perimeter landscaping must be provided within a landscape area at least 10' wide abutting the right-of-way. The landscape area must be planted at a minimum rate of 3 shade trees, 4 evergreen trees, and 25 shrubs per 100 lineal feet. The required landscaping must be placed within a landscape easement on the lot or within a common area abutting the right-of-way.
- In areas where a 6-foot-high opaque fence or wall is provided, the amount of planting may be reduced. For residential lots abutting a street, the planting rate may be reduced to 1 shade tree, 1 evergreen tree, 1 ornamental tree, and 8 shrubs per 100 lineal feet. For non-residential lots abutting a street, the planting rate may be reduced to 1.5 shade trees, 2 evergreen trees, and 12 shrubs per 100 lineal feet. The required landscaping must be placed on the street-side of the fence. To avoid a tunnel effect along the street, straight sections of fence or wall paralleling the street cannot exceed 80 feet in length. Offsets or breaks in fence should be used to create interest and disrupt the monotony of the same landscape treatment along the street.

I. Open Space Landscaping. Open space landscaping is meant to promote a beautiful community appearance and provide recreation opportunities. These open space planting requirements are in addition to the other planting requirements of this Ordinance.

- In all districts, shade trees must be preserved or planted on site at a rate of 8 shade trees per acre of open space and common area.
- Calculation of Open Space and Common Areas. On-site plantings are calculated for the overall development or phase of development. The plantings may be distributed throughout the open spaces

and common areas of the project. When calculating the size of open spaces and common areas, the following areas may be subtracted from the gross acreage:

- Athletic fields and sport courts
- Coaching and spectator viewing areas (associated with fields, courts, tracks)
- Play areas with playground equipment
- Parking areas
- Racetracks

3. **Tree Substitutions.** To provide design flexibility and diversity in the landscape, up to 50% of the required open space shade trees may be substituted with an ornamental or evergreen tree at a 2:1 ratio (e.g., 2 evergreen trees substituted for 1 shade tree).

- J. **Residential Lot Landscaping Requirements.** At the completion of home construction, the following minimum landscaping is required on the individual lots:

Table 6-8: Individual Residential Lot Landscaping

Lot Size (SF)	Minimum Plants Required by Type			
	Shade Trees	Evergreen Trees	Ornamental Trees	Shrubs
Up to 3,999	1	0	1	4
4,000-9,999	2	1	1	8
10,000-19,999	2	1	2	12
20,000 and above	3	2	2	16

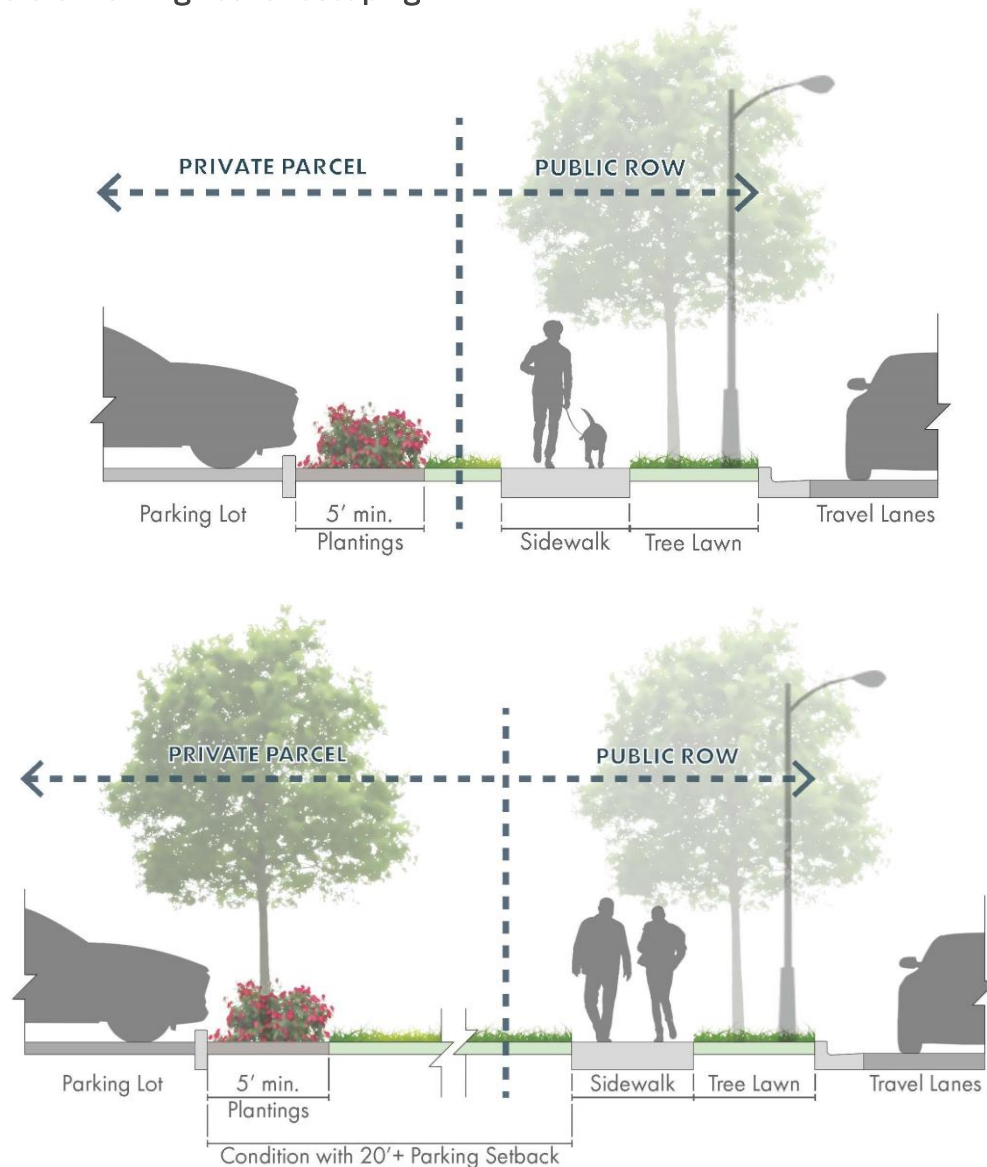
Substitutions: 12 shrubs, at least 5-gallon in size, may be substituted for any one tree.

- K. **Parking Lot Landscaping.** Parking lots must provide at least the following landscaping unless otherwise required by this Ordinance.

1. **Street Frontage Landscaping**

- a. In addition to the required street trees, where a parking lot is within 50 feet of a street, a landscape area at least 5 feet wide must be provided between the parking lot and the street. This landscape area must be planted with 7 medium-sized shrubs per 35 linear feet ([Figure 6-5: Parking Lot Landscaping](#)).
- b. Where the parking lot is located 20 feet or more away from the right-of-way, shade trees planted at 35 feet on center are required in the parking lot landscaping area.
- c. If an opaque fence or wall is installed, the shrub requirement is reduced to 3 small shrubs per 35 linear feet. The fence or wall must be located at least 2 feet from the edge of the parking lot pavement. The fence or wall must be at least 3 feet tall and a maximum of 4 feet tall. All required landscaping must be planted on the street side of the fence or wall.

Figure 6-5: Parking Lot Landscaping



2. Interior Landscaping

- a. Any parking lot with 20 or more parking spaces must provide interior landscaping.
- b. Landscape islands are required: (1) at the ends of interior rows of parking, and (2) intermittently to break up long rows of parking. There can be no more than 10 continuous parking spaces in a row without a landscape island. Landscape islands should be distributed evenly throughout the parking lot.
- c. Landscape islands must be at least 6 feet wide with a minimum area of 160 SF.
- d. Landscape islands must be planted with one shade tree per island. Trees must be planted at least 3 feet from the edge of the curb or pavement.

L. Screening

1. **Screening of Trash Receptacles.** Screening is required around all garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas and other similar facilities in all zoning districts except for detached single-household dwellings on individual lots:
 - a. Garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas, loading areas and other similar facilities must be completely and permanently screened from view of rights-of-way and where possible, adjoining properties.
 - b. Trash enclosures cannot be in the front yard of the primary building or in any side or rear yard setback.
 - c. The enclosure must be solid on all sides and not less than 6 feet in height above grade or 2 feet above the receptacle, whichever is greater.
 - d. Enclosures must be constructed of materials that match or complement the primary building.
 - e. Enclosures must have opaque gates. The gates cannot be oriented towards residential properties or rights-of-way, where possible.
 - f. Trash enclosures should provide convenient pedestrian access for daily waste disposal. The access should be provided without swinging or moveable doors.
 - g. Gates and doors on enclosures must be kept closed when not in use.
2. **Screening of Loading Areas.** Screening is required around loading areas and other similar facilities in all zoning districts. Screening is required even if the surrounding area or adjacent properties are not developed.
 - a. Requirements. Unless otherwise permitted in accordance with this Section, a screen consists of a solid, sight-obscuring fence or wall meeting the following specifications:
 - i. Six feet high minimum.
 - ii. Located to block views of the loading area from streets and adjacent properties.



Trash enclosure with opaque gates



Trash enclosure with opaque gates and pedestrian access



Loading area screened by a wall

- iii. Constructed of masonry, treated wood or other material approved by the Plan Commission or Administrator. Materials must be durable, weather resistant, rust proof and easily maintained.
- b. If approved by the Plan Commission or Administrator, a screen may consist of berms and/or landscaping as a substitute for a fence or wall. The alternate design must provide the same degree, or enhanced screening as required by this section.

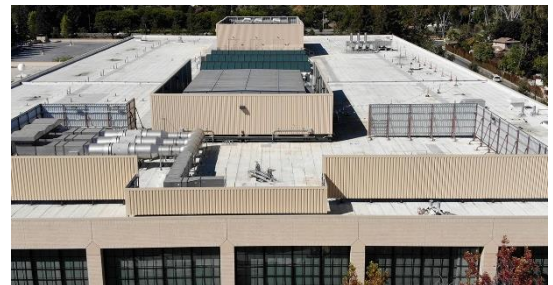


Loading area with a vegetative screen

3. Screening of Outdoor Storage Areas. Screening is required around outdoor storage areas and other similar facilities in all zoning districts. Screening is required even if the surrounding area or adjacent properties are not developed.

- a. Requirements. Unless otherwise permitted in accordance with this section, a screen consists of a solid, sight-obscuring fence or wall meeting the following specifications:
 - i. At least 6 feet but no more than 8 feet high.
 - ii. The wall or fence must use materials consistent or complementary to the primary building. Chain link fencing is prohibited.
 - iii. Constructed of masonry, treated wood or other material approved by the Plan Commission or Administrator. Materials must be durable, weather resistant, rust proof and easily maintained.
- b. If approved by the Plan Commission or Administrator, a screen may consist of berms and/or landscaping as a substitute for a fence or wall. The alternate design must provide the same degree, or enhanced screening as required by this section.

4. Screening of Mechanical Equipment. Screening is required in all zoning districts around mechanical equipment (HVAC units, back-up power generators, etc.) and other similar facilities. Screening is required even if the surrounding area or adjacent properties are not developed. Mechanical equipment must be completely and permanently screened from the view of rights-of-way and adjoining properties.



- a. Roof-mounted equipment screening options include parapet walls, enclosures, or other similar architectural elements that match or complement the primary building.
- b. Ground-mounted equipment screening options include a mound or berm, an opaque wall or fence, or a combination of these methods.
- c. The screening must be at least as tall as, and completely enclose the equipment being screened.



Ground-mounted equipment screening

6.3 Lighting

- A. **Purpose and Intent.** The purpose of this article is to provide minimum standards for effective, economical, and attractive outdoor lighting. It is the intent of this article to:
- Discourage excessive lighting.
 - Minimize glare and light trespass
 - Create a safe environment in hours of darkness.
 - Regulate the type of light fixtures, lamps, and standards.
- B. **Applicability.** These regulations apply to all newly installed or relocated outdoor lighting. Outdoor light fixtures permitted prior to the adoption of these regulations are exempt from the shielding requirements of this article. When an outdoor light fixture becomes inoperable, the replacement light fixture must comply with the standards of this article.
- C. **Exceptions.** The following are exempt from the regulations of this article.
- All hazard warning lighting required by Federal and State regulatory agencies.
 - All temporary emergency lighting required by local law enforcement, emergency service and utility departments.
 - All traffic control and directional lighting.
 - All underwater lighting used for the illumination of swimming pools and water features are exempt from the lamp type and shielding standards of this article.
 - All lighting for temporary festivals, carnivals, and holidays.
 - All low wattage residential accent and landscape lighting fixtures having a maximum output of 1600 lumens (equal to one 100-watt incandescent light) per fixture.
- D. **Prohibitions.** The following actions are prohibited:
1. The use of any mercury vapor lamp or low-pressure sodium lamp.
 2. The use of laser source light or other similar high-intensity light for outdoor advertising.
 3. The operation of searchlights and floodlights for advertising purposes.
 4. The use of any lighting source on towers is prohibited except as required by the Federal Aviation Administration.
 5. LED strip lights and similar lighting cannot be used to outline site elements such as buildings, walls, fences, or windows unless approved by the Plan Commission.
- E. **General Lighting Standards**
1. All light fixtures must be fully shielded and direct light downward. Internally illuminated signs or electronic signage is 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 signage is exempt from this standard.
 3. Lighting sources must be directed away from reflective surfaces to minimize glare upon adjacent lots and rights-of-way.

4. Light fixtures must be coordinated throughout the project to be of uniform design, materials, and color.
5. Light pole height cannot exceed the lesser of 25 feet or the height of the building. Light fixtures in parking facilities must be designed and located to confine emitted light to the parking facility. Light pole height cannot exceed 15 feet when within 90 feet of a Residential District.
6. Light fixtures must meet City Building Code requirements.
7. Parking lots should be illuminated with a minimum light level of 1 foot-candle throughout the entire parking area. Uniformity of lighting throughout the parking area should not exceed 3:1 measured as a ratio of the average light level reading taken throughout the parking area and the lowest light level reading.
8. The color temperature of any outdoor light source must not exceed 3500 Kelvin. Outdoor light sources used exclusively for colorful decorative illumination of certain building façade or landscape features are exempt from this requirement.

F. Multi-Household Residential, Commercial, and Industrial Standards

1. All light fixtures must be positioned so the source of the light is not visible from a residential lot or right-of-way when viewed at ground level. Internally illuminated signs or electronic signage is exempt from this standard.
2. Light meter readings must not exceed 0.1 foot-candles at the lot lines of any residential use and 0.3 foot-candles at the lot lines of any non-residential use.
3. Lights on poles, stands, or mounted on a building must have a shield, adjustable reflector, and non-protruding diffuser.
4. Canopy structures must have lights with diffusers which are recessed, and which do not extend below the surface of the canopy.
5. Lighting under awnings and canopies must only illuminate a front building façade, a sign under an awning or canopy, or the sidewalk, but must not illuminate the awning or canopy itself.
6. Except for security lighting, parking facility lighting must be turned off or dimmed by at least 30% within 30 minutes of closing of the last business or no later than 11:00 p.m.
7. Outdoor sports or recreational facilities must not be illuminated after 11:00 p.m., except to conclude a scheduled recreational or sporting event in progress prior to 11:00 p.m.

G. Lighting Plans. A lighting plan for proposed outdoor lighting must include:

1. A site plan indicating the location of all existing and proposed lighting structures, supports and light fixtures.
2. A graphic and textual description of all existing and proposed lighting fixtures. The description may include cut sheets and illustrations by the manufacturer, lamp types, wattages, and lumen outputs.
3. A lighting plan with illuminance levels superimposed on the site plan in the form of an iso foot-candle diagram or point-by-point grid diagram. An iso foot-candle diagram must plot foot-candle increments of 0.5 foot-candle or less on a point-by-point grid diagram.
4. Lighting levels must be depicted at ten-foot intervals or less.
5. Photometric data depicting the angle of cut off of light emissions.

6. Any other information the Administrator determines necessary to ensure compliance with the provisions of this article.

6.4 Parking

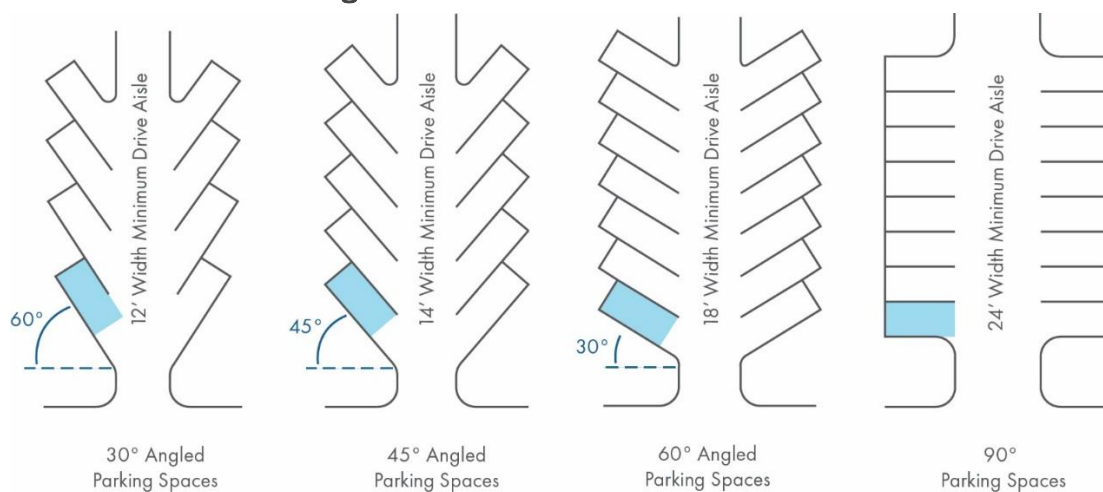
- A. **Purpose and Intent.** The purpose of these regulations is to establish standards for off-street parking and loading of motor vehicles, ensure adequate parking and access are provided in a safe and convenient manner, and to afford reasonable protection for adjacent land uses from light, noise, 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 with a maximum capacity of three tons capacity (manufacturer's rating).

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 [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 [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 [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 CBD, Central Business 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 6-6: 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 10 feet wide and 20 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 [6.3 Lighting](#).
11. Landscaping. Off-street parking areas must be landscaped in accordance with [6.2\(K\) Parking Lot Landscaping](#).
12. 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 for non-residential uses 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 access 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 nonconforming. 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 should provide bicycle parking.
 - a. Bicycle parking areas should be within 60 feet of the main entrance into the structure or located inside the structure.
 - b. A permanently anchored bike rack must be installed to the ground.
 - c. Bicycle racks must support the bicycle upright by its frame in 2 places above the bicycle's center of gravity;

- d. Bicycle racks must enable the frame and one or both wheels to be secured with a lock and must not require the bicycle to be lifted to use any of the rack's parking positions.
- e. Bicycle Racks should be decorative, artistic, or custom to also serve the purpose of functional street art.
- f. All non-residential uses are encouraged to provide bicycle parking based on the number of required automobile parking spaces in accordance with Table 6-9: Bicycle Parking Requirements.

Table 6-9: Bicycle Parking Requirements

TOTAL REQUIRED VEHICLE PARKING SPACES	RECOMMENDED BICYCLE SPACES
1- 25 Parking Spaces	1
26 – 250 Parking Spaces	2
Over 250 Parking Spaces	4

F. Stacking Requirements for Drive-Through Facilities

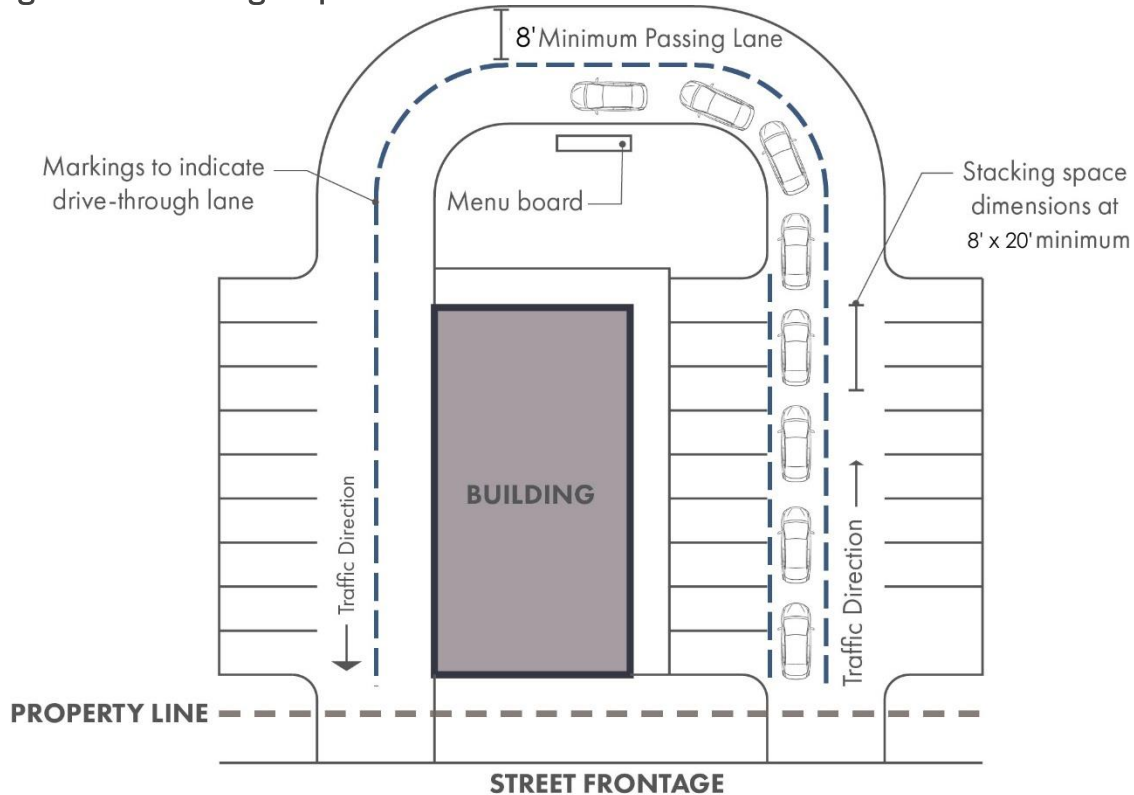
The following requirements apply to uses with drive-through facilities.

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 6-7](#)).
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 6-7: 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 according to [6.2\(L\) Screening](#).
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.

6.5 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 Rushville: 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.

D. Measurement Standards

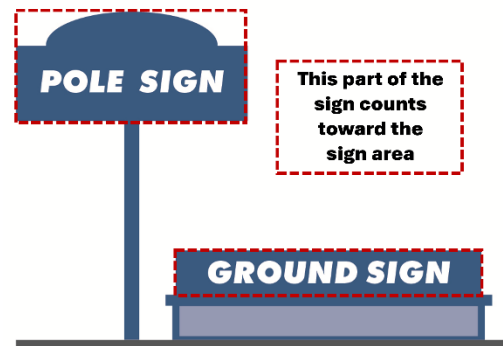
1. For a wall sign which is framed, outlined, or painted to provide a background for a sign display, the area and dimensions must include the entire portion within the background or frame.

2. For a wall sign comprised of individual letters, figures, or elements on the surface of a building one or more rectangles to determine the area of the elements in the sign.

Figure 6-8: 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)
CBD Central Business	1.75	20
C1 Neighborhood Commercial	2.25	25
C2 General Commercial IS Institutional	2.5	30
C3 Highway Commercial	2.75	30
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.



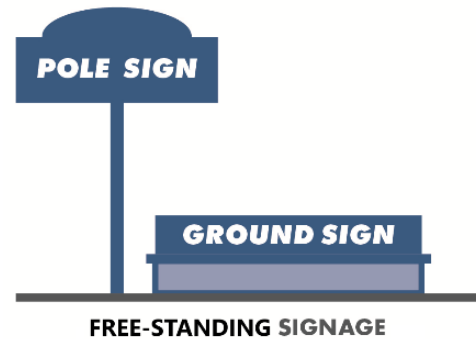
- ii. The area of any wall sign may be increased by 25% when the building is at least 200 feet from the public right-of-way. The sign area may be further increased an additional 25% for each additional 200 feet of distance from the right-of-way up to a maximum increase of 100%.



- 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 Central Business 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)
CBD Central Business	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
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.

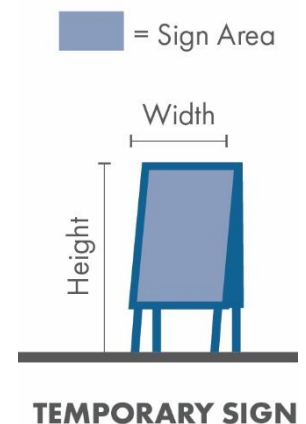
4. Electronic Reader Board Signs

- 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 the Central Business District and 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.

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 for temporary signs.
- e. Maximum Number. 1 per tenant.
- f. Design Standards
 - i. The sign must be located within one foot of the building containing the business using the sign.
 - ii. The sign must be weighted to resist being moved by wind.
 - iii. 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.
 - iv. Temporary detached signs cannot be illuminated.
 - v. 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 temporary signs.
- e. Maximum Number. 1 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, are exempt from the requirements of this article.

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. [6.5\(G\) 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. Vehicle (including trailers), shipping containers, pallets, hay bales, dumpsters, or similar items, 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.
10. Political signs complying with [IC 36-1-3-11](#).

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, PERMITS, AND ENFORCEMENT](#).

6.6 Streetlights

- A. Streetlights must be installed at all intersections, development entrances, and along internal streets as required by the provisions of this Article. The Plan Commission may direct streetlights at other locations if it determines they are necessary to provide vehicular or pedestrian safety.
- B. Streetlights providing the illumination necessary for vehicular and pedestrian safety at all intersections within the development must be installed per the City's Construction Standards and the public utility providing the lighting. The Plan Commission may reduce the number of intersections required to have street lighting. The provision of streetlights at major intersections involving Collectors or Arterials within the development cannot be waived.
- C. Lighting between intersections must be accomplished by:
 - 1. Installing streetlights at the midpoint of the block or every 15 lots, whichever provides the shorter spacing between streetlights,
 - 2. Installation of dusk-to-dawn lights on the street-side of each home with such lights maintained in good operating condition by the property owner in perpetuity, or
 - 3. A combination of the above options.
- D. If the City has established a streetlight standard along the street where the entrance is located, the development must install the same lighting standard. Luminaires must be shielded to prevent glare on residential properties.
- E. Decorative streetlights may differ from the City's Construction Standards if approved by the Plan Commission. Decorative streetlights 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 establishing that the property owner's association is responsible for replacing the decorative streetlights and poles when the original streetlights installed are lost or damaged. If the City or public utility providing the lighting must replace a street light, it is not obligated to use a decorative street light.

6.7 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.

6.8 Appendix – Fencing Materials

These images are provided for reference purposes as examples to assist with clarity. The written text of this Ordinance governs.

A. Examples of Permitted Fencing Materials:



Figure 1 Brick



Figure 2 Chain Link (PVC coated or non-coated)



Figure 3 Live Hedge (non-noxious nature)



Figure 3a Live Hedge (non-noxious nature)



Figure 4 Masonry (Architectural Finish)



Figure 5 Masonry (Decorative)



Figure 6 Ornamental Wrought Iron

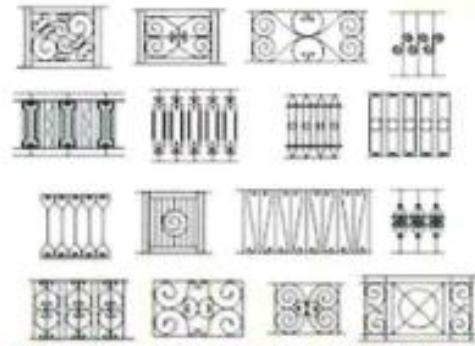


Figure 6a Variations Ornamental Wrought Iron



Figure 7 Stone



Figure 8 PVC/Vinyl



Figure 9 Treated Wood (stockade)



Figure 9a Treated Wood (picket)

B. Examples of Prohibited Fencing Materials:



Figure 1 Barbed Wire



Figure 1a Concertina or Razor Wire

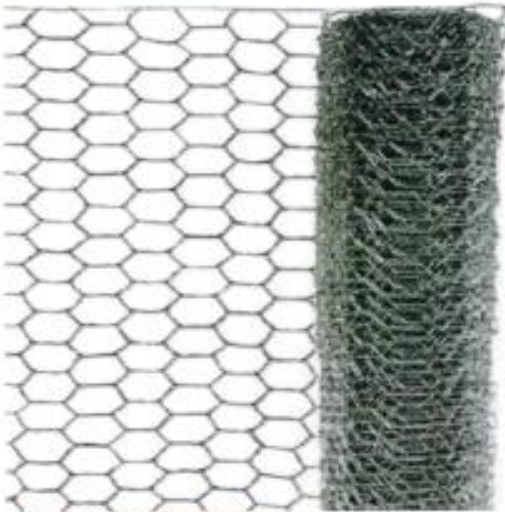


Figure 2 Chicken Wire



Figure 3 Construction Fence



Figure 3a Construction Fence



Figure 4 Pallet/Skid



Figure 5 Fiberglass Sheet Panel



Figure 5a Fiberglass Sheet Panels



Figure 6 Plywood



Figure 6a Oriented Strand Board (OSB)



Figure 7 Scrap Lumber



Figure 8 Sheet Metal



Figure 9 Woven Wire

C. Styles of Fencing:



Figure 4 Decorative (wood)



Figure 5 Decorative (PVC/Vinyl)



Figure 6 Decorative (metal insert)



Figure 7 Decorative or Privacy (PVC/Vinyl)



Figure 8 Decorative or Privacy (PVC/Vinyl)



Figure 9 Decorative or Privacy (Treated Wood)



Figure 10 Decorative or Privacy (PVC/Vinyl)



Figure 11 Picket Fence (Treated Wood)



Figure 12 Picket Fence (PVC/Vinyl)



Figure 13 Split Rail (PVC/Vinyl)



Figure 14 Split Rail (Treated wood)



Figure 15 Stockade (Treated Wood)



Figure 16 Stockade (PVC/Vinyl)



Figure 17 Stockade (Treated Wood)

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	5
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.....	11
7.10	COMMERCIAL AND INDUSTRIAL SUBDIVISIONS.....	11
7.11	RE-SUBDIVISION OF LAND	12
7.12	VACATION OF PLATS.....	12
7.13	MODIFICATIONS OF SUBDIVISION REGULATIONS.....	12
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 into tracts or lots, with each lot having an area of at least 10 acres. Each lot must have at least 250 feet of frontage on an existing public road.
 - 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. 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 applicant can elect to have this meeting satisfy the stakeholder meeting requirement of [IC 36-7-4-703\(b\)](#). 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 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.
1. Preliminary designs for water, sanitary, and storm water 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. **Submission Dates.** Applications must be filed according to the schedule of meetings and filing deadlines. The applicant is responsible for distributing a copy of the application, primary plat, and supplemental information to members of the Technical Advisory Committee.
- B. **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 [8.22 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](#)).

C. Application Requirements. The applicant files:

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

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

E. 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.

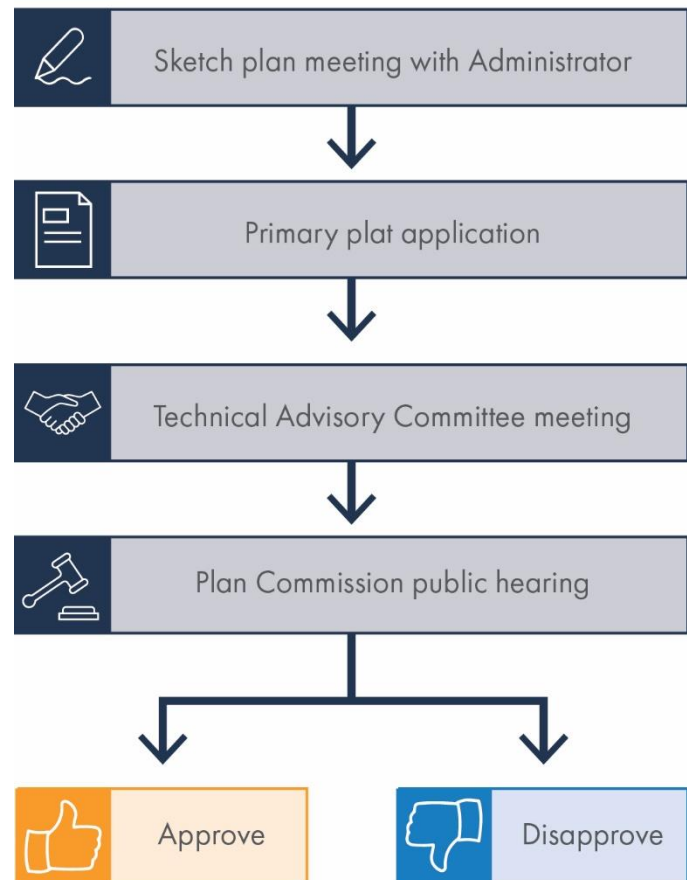
F. Placement on the Plan Commission Agenda. The Administrator reviews the application for completeness. Per [IC 36-7-4-705](#), within 15 days of submission of an application, the Administrator must notify the applicant of any deficiencies in the application. Within 30 days of the submission of an application, applications determined to be complete and allowing for a full review are numbered and docketed for a public hearing by the Plan Commission. The public hearing must occur within 60 days of the submission of an application.

G. Review of Complete Applications.

1. If the applicant did not elect to have the sketch plan review meeting satisfy the stakeholder meeting requirement of [IC 36-7-4-703\(b\)](#), the Administrator must meet with the applicant and any persons with a demonstrated financial interest in the application within 30 days of submission of an application.
2. 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 the Administrator's opinions concerning the primary plat proposal and a report from members of the Technical Advisory Committee. A copy of the report is made available to the applicant and the public.

H. 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.

PRIMARY PLAT APPROVAL PROCESS



- I. **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.
- Per [IC 36-7-4-707\(c\)](#), if the Plan Commission fails to make written findings and a decision granting or denying primary plat approval within 60 days of the public hearing, then the plat is considered to have received primary approval.
- J. **Documentation of Plan Commission Decision.** Per [IC 36-7-4-707](#):
1. If the Plan Commission determines the primary plat complies with the standards of this Ordinance, it makes written findings and grants primary plat approval. The decision must include any conditions imposed or waivers granted. The Administrator (as Plan Commission Secretary) documents and signs the decision providing a copy of the decision to the applicant and making it available to the public.
 2. If the Plan Commission disapproves the plat, the Plan Commission makes written findings stating its reasons and a decision denying primary approval. The Administrator (as Plan Commission Secretary) documents and signs the decision providing a copy of the decision to the applicant and making it available to the public within 15 days of the Plan Commission's decision.
- K. **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.
- L. **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.
- M. **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. Topography in two-foot contour intervals unless otherwise approved by the Administrator.
2. 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.
3. The location of existing streets, walkways, easements, pipelines, transmission lines, water bodies, streams, and other pertinent features such as swamps, jurisdictional wetlands, flood plains, floodways, railroads, buildings, parks, cemeteries, drainage ditches, bridges, boundaries of wooded areas, and individual trees 8" or more in diameter within areas to be impacted by site disturbing activities.
4. Location and size of existing water, storm water, and sanitary sewer systems.
5. The location and width of all existing rights-of-ways.
6. The locations, dimensions, and areas of all existing lots.
7. Designated wetland areas.
8. A soil survey map showing the soil limitations based upon the intended use of the subdivision parcels.

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-household, two-household, multi-household, 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. Landscape Plan.
 2. Traffic Impact Analysis.
 3. Sanitary Sewer Analysis.
 4. Building elevations.
 5. Existing covenants or zoning commitments recorded on the property.
 6. 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).
 7. Recorded deed, instrument number, and date recorded of all parcels involved in the subdivision.
 8. 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. The applicant is responsible for distributing a copy of the complete application to members of the Technical Advisory Committee if required by the Administrator. 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.

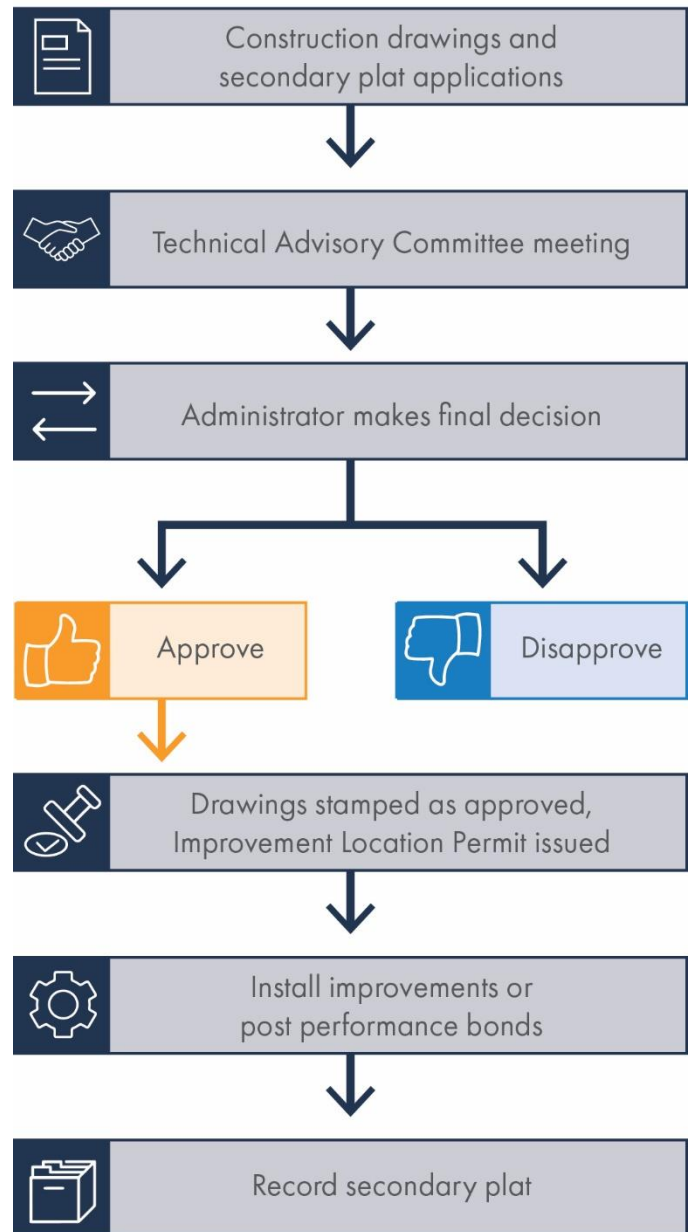
F. **Effect of Approval.** Approval of a secondary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for permits including an improvement location permit or building permit.

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 ([5.12\(C\) Performance Sureties](#)).
- 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 [5.12\(D\) Maintenance Sureties](#); or

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.

CONSTRUCTION DRAWING* AND SECONDARY PLAT APPROVAL PROCESS



*For administrative and minor subdivisions, construction drawings are not required.

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 [8.22 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 [5.6 Easements](#).

Chapter 8

Process and Permits

The review and approval of each process

8.1	GENERAL PROVISIONS	2
Approvals Granted by the City Council		2
8.2	REZONES (ZONING MAP AMENDMENTS).....	2
8.3	PLANNED UNIT DEVELOPMENTS	5
8.4	ZONING TEXT AMENDMENTS	9
Approvals Granted by the Plan Commission		10
8.5	SUBDIVISIONS	10
8.6	SITE PLAN REVIEW.....	10
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	17
8.10	USE VARIANCE.....	18
8.11	APPEALS OF ADMINISTRATIVE DECISIONS.....	20
Approvals Granted by the Administrator		21
8.12	ADMINISTRATIVE DETERMINATION	21
8.13	FLOODPLAIN DEVELOPMENT PERMIT	22
8.14	CONSTRUCTION DRAWINGS.....	22
8.15	AS-BUILT DRAWINGS.....	24
8.16	GRADING PERMIT	25
8.17	IMPROVEMENT LOCATION PERMIT	26
8.18	CERTIFICATE OF OCCUPANCY	26
8.19	CERTIFICATE OF COMPLIANCE	27
8.20	SIGN PERMITS AND APPLICATIONS	27
8.21	TEMPORARY USE AND EVENTS PERMITS	27
Modifications and Commitments.....		27
8.22	MODIFICATIONS	27
8.23	WRITTEN COMMITMENTS.....	29
8.24	ADMINISTRATIVE ADJUSTMENT	29

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. 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

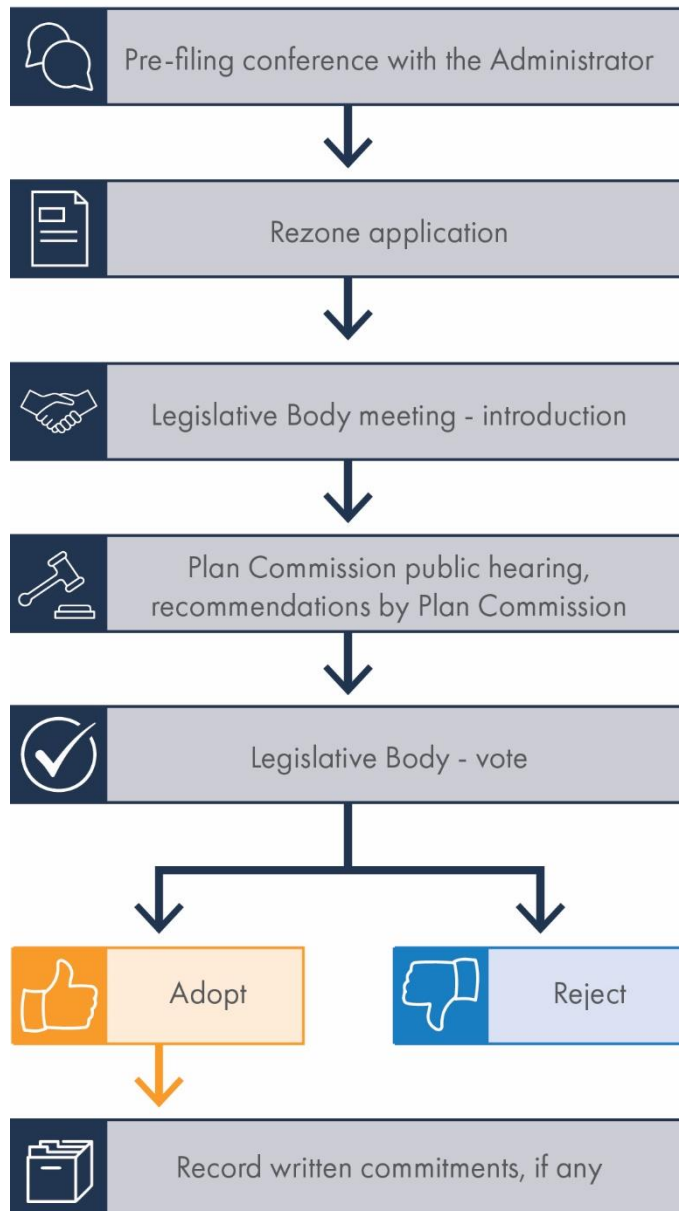
- a. If an application is filed by a property owner's authorized agent, a consent form signed by the property owner must accompany the application.
- b. A copy of the most current deed for each parcel involved in the rezoning.
- c. A list obtained from the County Auditor of adjoining property owners 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. **City Council Informational Appearance**

1. The proposed zoning map amendment is presented by the applicant to the City Council at a regularly scheduled meeting for an informational presentation of the proposal.
2. The informational meeting is not the required public hearing for the proposed zoning map amendment but rather an opportunity to alert the City Council of the rezoning application.
3. No action may be taken on any proposed zoning map amendment at an informational meeting. Comments provided by the City Council to the applicant are not considered binding.

REZONE APPROVAL PROCESS



- F. **Plan Commission Public Hearing.** Within 60 days of receiving a complete application (or the initiation of a rezone by the Plan Commission), the Plan Commission holds a public hearing to review 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.
- G. **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.
- H. **Certification.** Within 10 business days after the Plan Commission determines its recommendation, it certifies its recommendation to the City Council according to [IC 36-7-4-605](#). 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.
- I. **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.
- J. **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.

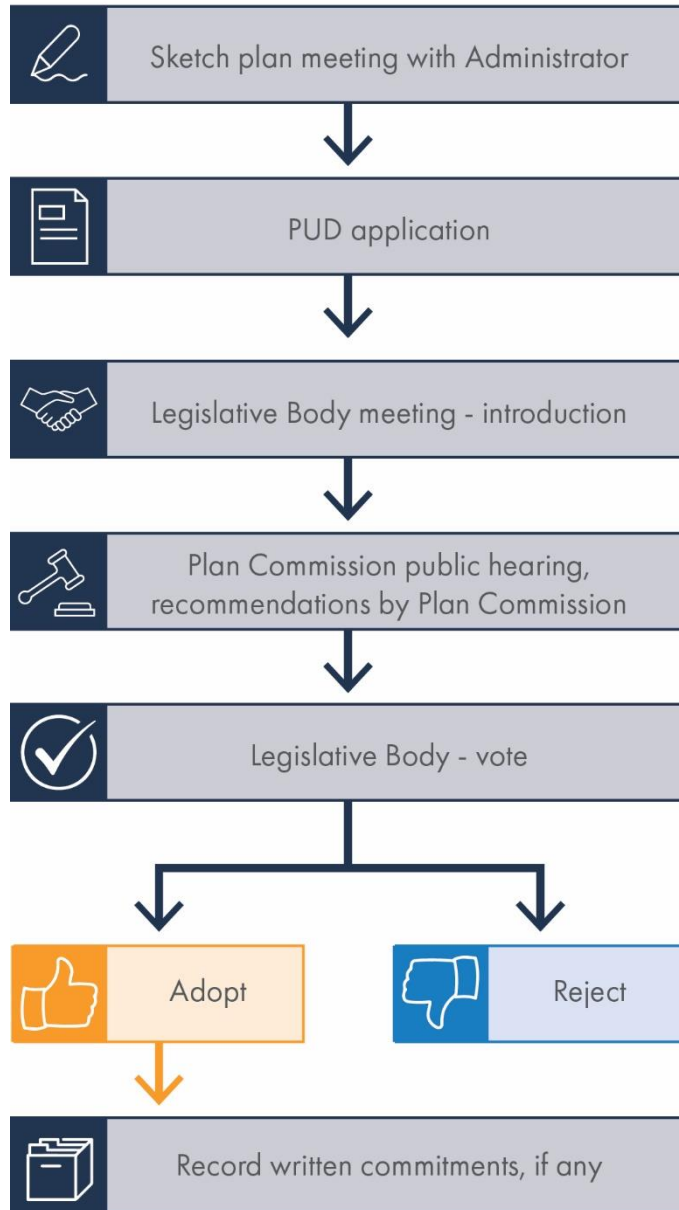
C. **Required Approvals.** A Planned Unit Development District requires the following approvals:

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 prior to filing the application. The Sketch Plan conference is intended only for

PLANNED UNIT DEVELOPMENT (PUD) APPROVAL PROCESS



discussion purposes; neither the applicant nor the Plan Commission is bound by any decision made during the conference.

2. Who May File: Proposals for a PUD may be initiated by the Plan Commission, the City Council, or through an application signed by 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. Neighbor Meeting: Applicants requesting approval of a PUD Ordinance, or amendments to a previously approved PUD ordinance, are encouraged to host a neighbors' meeting and submit a written report to the Administrator summarizing the meeting prior to the Plan Commission public hearing. At minimum, applicants should invite the interested parties required to receive mailed notice of the Plan Commission public hearing to the neighbor meeting.
7. Review and Approval: After docketing, an application is reviewed and considered by the Plan Commission and City Council according to [8.2 Rezones \(Zoning Map Amendments\)](#).
8. 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.
9. 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.

10. **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 in the 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.
 - b. Development phasing indicating building phases, including the area, density, use, public facilities, and open space to be developed with each phase, and projected dates for beginning and completion of each phase. Each phase must be described and mapped.
 - 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. Development Amenities and Open Space. The PUD Ordinance must include a statement of recreational amenities and open space. Such statements must designate and convey active and/or passive recreational areas according to the following:
- a. Recreational amenities and open space must be allocated to the property in proportion to the uses assigned in the PUD and be located within reasonable walking distance to those uses; however, when preserving existing features, the recreational amenities do not need to be in proximity to the use.
 - b. If the PUD Ordinance provides for development in stages, then amenities and open space must be provided in each stage in proportion to that stage, unless otherwise indicated and approved in the PUD Ordinance.
5. 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.

6. 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.** Within 60 days of receiving a complete application (or the initiation of a rezone by the Plan Commission), the Plan Commission holds a public hearing to review the application and supporting information. The Plan Commission must vote on the proposal within 60 days of the date of the public hearing.
 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.** Within 10 business days after the Plan Commission determines its recommendation, it certifies its recommendation to the City Council according to [IC 36-7-4-605](#). 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, within 90 days of the certification, must approve, amend, or deny the ordinance. If the City Council adopts or amends the ordinance, it becomes effective. If the City Council denies the ordinance, further consideration of the ordinance is prohibited for one year after the date the ordinance was rejected.
- 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. 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. 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. 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.

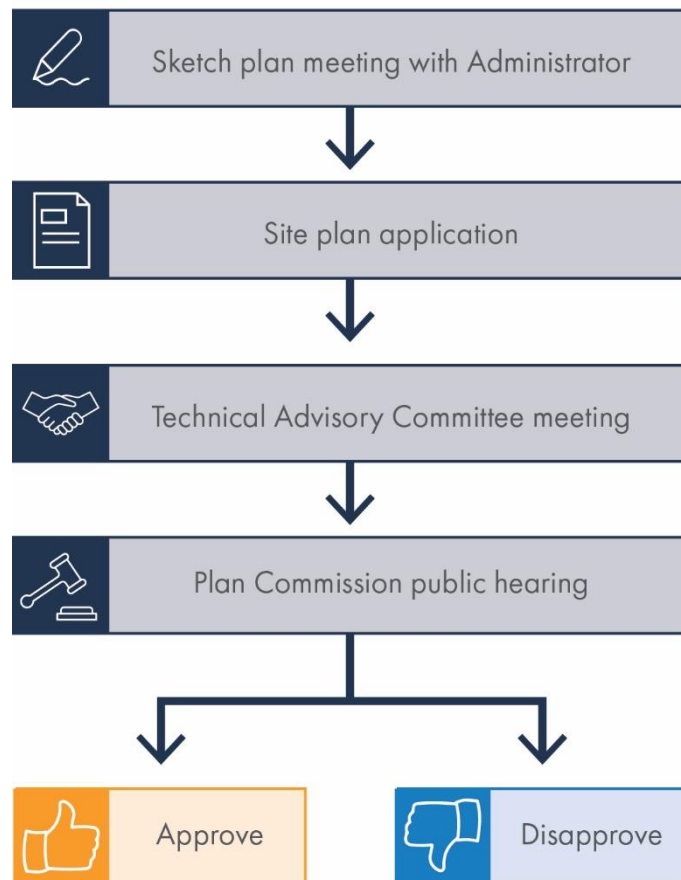
5. Site Plan Approval. When the Administrator determines the plans comply with the Technical Advisory Committee comments and all applicable development standards, the site plan is forwarded to the Plan Commission for approval unless the Plan Commission has delegated site plan approval authority to the Administrator.

6. Plan Commission Action. The Plan Commission conducts a public hearing and reviews the application and supporting information. The Plan Commission acts on the application according to this Ordinance, Indiana law, and the Plan Commission's Rules of Procedure. Public notice is required.

7. 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 [8.23\(D\) Recording](#).

8. 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.

SITE PLAN REVIEW PROCESS



B. 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. Landscape Plan.
 - b. Traffic Impact Analysis.
 - c. Sanitary Sewer Analysis.

- d. Building elevations.
- e. Existing covenants or zoning commitments recorded on the property.
- f. Proposed covenants and restrictions if they establish or grant rights related to the site plan (e.g., easements).
- g. Recorded deed of all parcels involved in the site plan.
- h. 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 Central Business District, 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. Landscape Plan: A landscape plan according to [6.2 Landscape](#), is required as part of any site plan and must detail perimeter areas, buffer yards, common areas, entryways, and any other open space as considered appropriate by the Plan Commission or Administrator. Landscape plans for a detailed site plan must be site or lot specific showing compliance with parking area, buffer yard, and on-site or foundation requirements.
2. Open Space and Amenity Plan: A statement of the nature and extent of all existing and proposed open space and amenities must be provided either on the submitted landscape plan or in writing, along with any necessary explanatory materials or graphics, as part of any site plan.
3. Lighting Plan: A lighting plan according to [6.3 Lighting](#), is required as part of any site plan.
4. Sign Plan: A sign plan according to [6.5 Signage](#) may be required with any site plan submission; however, all signs are subject to approval and obtaining a sign permit ([6.5\(B\) Sign Permits](#)) before erection.
5. 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.

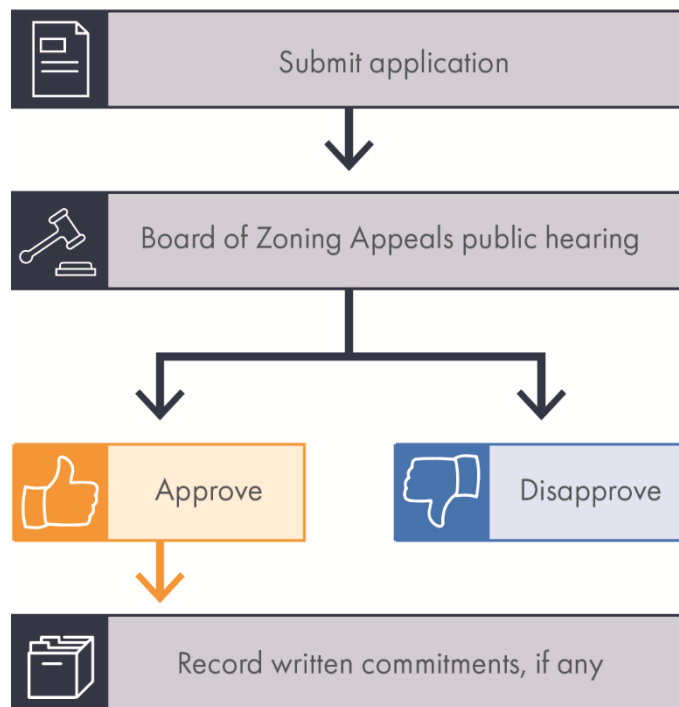
C. **Procedures**

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.

SPECIAL EXCEPTION PROCESS



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 [8.23 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.

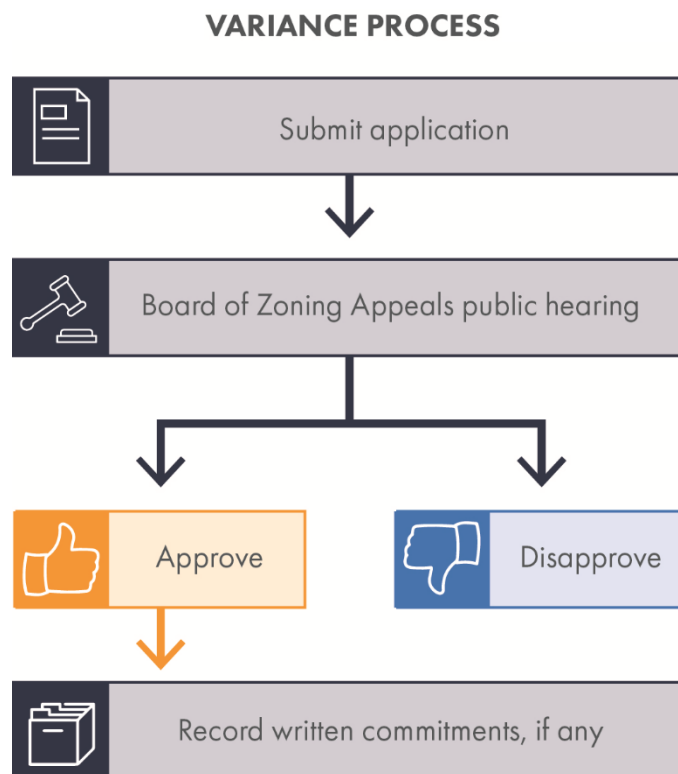
C. **Review.** The Administrator reviews a filed application for completeness. Applications determined complete are docketed for a hearing by the BZA. At the Administrator's discretion, the Technical Advisory Committee may review an application for variance prior to the BZA's consideration.

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 ([8.23 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 [8.23 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.

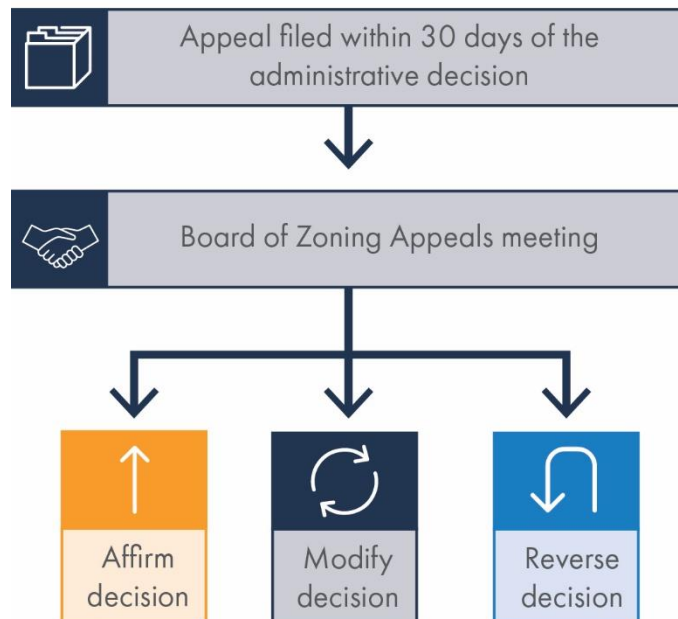
- C. **Applications.** Within 30 days of the decision being appealed, the applicant files:

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.

APPEAL OF ADMINISTRATIVE DECISIONS PROCESS



- 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 Floodplain Development Permit

Refer to [2.6 Floodplain Overlay](#) for Floodplain Development Permit requirements.

8.14 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 The City of Rushville." 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, wetlands, floodplains, and other pertinent features such as railroads, buildings, or prominent site features, tree masses that will not be disturbed, and each tree with a diameter of 8 inches or more within areas of land disturbing activity.
 2. The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high and low water elevations of such lakes or streams. All elevations are referred to the United States Coast and Geodetic Survey datum plane. If the subdivision borders a lake, river or stream, the distances and bearings of a meander line established at least 20 feet back from the ordinary high-water mark of such waterways.
 3. 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.
 4. 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.
 5. Where steep slopes exist, the Administrator may require cross-sections of all proposed streets at 100-foot stations.
 6. 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 trees, street lighting standards, and 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.
 7. All specifications and references required by the applicable construction standards, including a site grading plan for the entire subdivision.

8. Title, name, address, and signature of the professional engineer and/or surveyor, and date, including revision dates.

8.15 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 in the format and data layers specified by the City and 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 following locations:
 - a. Major drainage swales and percent of slope.
 - b. Lot corner and grade brakes.
 - c. Pad grades.
 - d. Street grades along the centerline and curb if street is bituminous pavement with concrete curb. Centerline only if streets are concrete and placed with electronic control (Maximum 50 ft. spacing).
 - e. Street sag and crest points.
 - f. Paved swales, if any, at 50 ft. intervals.
 - g. Lakes or ponds at the top of bank, normal pool, safety ledge, bottom, and spillway.
 - h. Locations of sidewalk ramps.
 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.
 4. Street plans and profiles, including:
 - a. Grades.

- b. All low and high points.
- c. All percent of slope.
- d. Any deviation of alignment.
- e. Grades and dimensions on accel and decel lanes, if applicable.

8.16 Grading Permit

- A. **Required.** It is unlawful to perform any grading, excavation, fill, topsoil removal, or removal of vegetative cover without first obtaining a grading permit. A separate grading permit is required for each site. One permit may cover both excavation and fill made on the same site. A grading permit is not required in the following situations, but the provisions of this article still apply:
- 1. An excavation not exceeding 20 cubic yards of total material removed.
 - 2. A fill not exceeding 40 cubic yards of material deposited.
 - 3. An excavation below finished grade for basements or footings of a dwelling unit, swimming pool, or underground structure authorized by an improvement location permit or building permit.
 - 4. Excavation for a driveway or walk between a dwelling unit and the street and associated site grading including the additional of topsoil for seedbed preparation.
- B. **Submittal Requirements.** An applicant submits a completed application to the Administrator on forms provided by the Department with the filing fee and required supporting information. The Administrator establishes the number of copies of complete applications and supporting documentation required to be filed. Within 5 business days of the permit application, the Administrator informs 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. The application must include the following information unless waived in writing by the Administrator:
- 1. A description of the grading work to be done and the purpose for the work, including the location of the proposed work by lot, block, tract, street address, or similar description that easily identifies and locates the site.
 - 2. Plans and specifications prepared by a registered engineer or surveyor, including:
 - a. A contour map showing the present contours of the land and the proposed grading.
 - b. A plot plan showing the location of grading, boundaries, lot lines, neighboring streets and alleys, buildings, trees over 10 inches in diameter, sufficient dimensions and other data to show the location of all work.
 - c. A description of the type and classification of the soil.
 - d. Details and location of any proposed drainage structures and pipes, walls, and cribbing.
 - e. The nature of fill material.
 - f. Cross section plans indicating existing and proposed elevations. Cross sections are at 30-foot intervals and where extreme changes in grade exist or are anticipated. End area

calculations are required. The cubic yard volumes of cut and fill between stations and for the entire project are required.

- g. All plans must be dated and contain the names of the applicant, landowner, and person who prepared the plans.
 - h. A plan for minimizing erosion and sedimentation.
- 3. The estimated dates for commencing and completing the grading work.
 - 4. Any additional information the Administrator may require for a complete review of the application.
- C. **Denial.** The Administrator denies an application where the proposed work fails to meet City standards or creates hazardous conditions. When making this determination, the Administrator considers: possible saturation by rains, earth movements, run-off or surface waters, subsurface conditions such as the stratification and faulting of rock, and the nature and type of the soil or rock.
- D. **Expiration.** A grading permit expires and becomes void if the permitted work does not commence within 6 months or is not completed within 12 months of the permit approval date. The Administrator may grant reasonable extensions of time if the applicant presents satisfactory evidence that unusual difficulties have prevented work from being started or completed within the specified time limits. The applicant must request an extension of time before the expiration date of the permit.

8.17 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.

8.18 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, landscaping, and all other required improvements fully comply with the provisions of the Ordinance and any conditions imposed on the approval.

8.19 Certificate of Compliance

- A. **Applicability.** An application for a Certificate of Compliance (“CofC”) may be filed according to this Article. A CofC may: (i) be required by this Ordinance; (ii) serve as written confirmation that a property or use complies with this Ordinance; or (iii) serve as a written verification of a property’s zoning. The Administrator may provide a CofC for:
1. A change in use (e.g., change from residential to commercial use).
 2. Exterior building or site improvements that would not otherwise require an Improvement Location Permit or site plan approval.
 3. Conditions of approval associated with an approval of the BZA, Plan Commission or City Council.
 4. Other similar circumstances as determined by the Administrator.
- B. **Application.** An applicant submits a completed application on forms provided by the Department, or a detailed written request to the Administrator with supporting information. Within 5 days, applications, requests, plans, and specifications filed by an applicant must be checked by the Administrator for compliance with this Ordinance. If the Administrator is satisfied that the property, plans, and information provided in the application conforms to the requirements of this Ordinance and other applicable laws and ordinances, the Administrator issues a Certificate of Compliance to the applicant.
- C. **Effect.** A CofC does not authorize the establishment of a use nor the development, construction, alteration, or moving of any building or a structure. A CofC certifies compliance of an existing property, use and/or improvements made according to an approved permit on the date issued. The filing and processing of applications for any permits and approvals may be required by this Ordinance including, a building permit, a certificate of occupancy, primary and secondary plats, or site plan approval, for proposed improvements or uses.
- D. **Limitations.** A CofC is limited only to the circumstance for which it was issued and at the time it was issued. The CofC does not authorize any allegedly similar circumstance requiring a separate review or certificate or a change in circumstances, unless otherwise provided for in the CofC.
- E. **Records of Certificate of Compliance.** Every CofC issued according to this article is kept on file in the office of the Department. Copies are provided upon request to anyone having a proprietary or tenancy interest in the building or land affected.

8.20 Sign Permits and Applications

Refer to [6.5\(B\) Sign Permits](#) for sign permit requirements.

8.21 Temporary Use and Events Permits

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

Modifications and Commitments

8.22 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 ([8.23 Written Commitments](#)) before taking formal action on the application. If written commitments are part of the approval, they must be recorded per [8.23\(D\) 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.

8.23 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 [8.23\(F\) 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 [8.23\(D\) Recording](#).

8.24 Administrative Adjustment

- A. **Purpose.** The Administrative Adjustment provides a streamlined mechanism for minor deviations from numerical development standards where strict application would produce a result inconsistent with the intent of the zoning district or this Ordinance, without materially affecting surrounding properties or the public interest.

- B. **Authority.** The Administrator may approve, approve with conditions, or deny an Administrative Adjustment in accordance with this Section. This authority does not extend to variances, special exceptions, or other relief governed elsewhere in this Ordinance or Indiana Code.
- C. **Applicability**
1. Eligible Standards. An Administrative Adjustment may be requested for any numerical development standard in this Ordinance, such as setbacks, building height, lot dimensions, parking counts, landscaping quantities, open space requirements, and sign dimensions.
 2. Limitation. An adjustment cannot exceed 10% of the applicable standard. This limit cannot be compounded with any prior variance, adjustment, or other relief previously granted for the same standard on the same property.
 3. Ineligible Matters. An Administrative Adjustment cannot be granted for:
 - Any standard imposed as a condition of approval. Relief from such conditions must be sought from the original approving authority,
 - Use regulations,
 - Flood hazard area standards, or
 - Any standard for which the BZA has denied a variance within the preceding 12 months, unless circumstances have materially changed.
- D. **Application Requirements.** The petitioner submits a detailed written statement documenting the specific standard and deviation requested expressed numerically and as a percentage; a dimensioned site plan; a written narrative addressing the approval criteria; and the applicable fee.
- E. **Approval Criteria.** The Administrator may only approve an Administrative Adjustment upon finding all of the following:
1. Ordinance Intent. The adjustment is consistent with the purpose of this Ordinance and the intent of the applicable zoning district.
 2. Compatibility with Surroundings. The adjustment will not adversely affect adjacent or nearby properties with respect to privacy, light and air, parking and circulation, drainage, nuisance conditions, or the scale and character of surrounding development.
 3. Physical Site Conditions. The need for the adjustment is attributable to parcel shape, size, topography, orientation, existing easements or rights-of-way, utility locations, or preservation of natural features — not solely to achieve greater economic return or development yield.
 4. Minimum Relief. The adjustment is the minimum necessary to achieve a reasonable development outcome and does not constitute de facto variance-level relief.
 5. No Conflicting Approvals. The adjustment does not conflict with any overlay standard, subdivision regulation, or condition of any prior approval on the subject property.
 6. Public Interest. The adjustment will not be detrimental to public health, safety, or general welfare.

- F. **Procedure.** The Administrator must act on a complete application within 10 business days. The determination is issued in writing, with findings, and notice provided to the applicant and all adjoining property owners. Approved adjustments are retained in the Planning Department's official records.
- G. **Effect, Appeal, and Expiration.** An approved Administrative Adjustment runs with the land. Any adversely affected party may appeal to the BZA within 30 days of the Administrator's determination. The approval expires if the associated permit is not issued within 12 months, with one extension of up to 6 months available for good cause.

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	AUTHORIZED ENFORCEMENT BODIES.....	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.....	10
9.15	REVOCATION 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 Authorized Enforcement Bodies

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-household 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.

Terms used in the UDO with specific meanings

10.1	INTENT.....	3
10.2	RULES OF CONSTRUCTION	3
10.3	DEFINITIONS.....	4
Aa	.....	4
Bb	.....	5
Cc	.....	5
Dd	.....	6
Ee	.....	7
Ff	.....	7
Gg	.....	7
Hh	.....	8
Ii	.....	8
Jj	.....	8
Kk	.....	8
Ll	.....	8
Mm	.....	9
Nn	.....	10
Oo	.....	10
Pp	.....	10
Qq	.....	12
Rr	.....	12
Ss	.....	12
Tt	.....	14
Uu	.....	14
Vv	.....	15
Ww	.....	15
Xx	.....	15
Yy	.....	15
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 definitions associated with Floodplain, see [2.6 Floodplain Overlay](#). 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 Dwelling Unit. Per [IC 36-7-1-1.5](#), an Accessory Dwelling Unit is a self-contained living unit internal to or on the same lot or parcel as a single family dwelling that:

1. Does not exceed 75% of the interior habitable gross floor area of the single family dwelling or 1,000 square feet;
2. Includes its own cooking, sleeping, and sanitation facilities; and
3. Complies with or is otherwise exempt from any applicable building codes, fire safety codes, and other public health and safety laws.

The term does not include a manufactured home (as defined in [IC 36-7-4-1106\(b\)](#)) that is subject to the standards and requirements set forth in [IC 36-7-4-1106](#).

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**.

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. A person who submits an application that requires a fee for approval of an application related to:

1. Construction or reconstruction of residential buildings; commercial buildings, industrial buildings; any other building or building space; or an appurtenance to a building described herein; or
2. Zoning, development, subdivision, classification, or reclassification of land.

This includes a fee designated as a permit fee (including a fee for a permit under [IC 36-7-4-1109\(f\)](#)), application fee, inspection fee, processing fee, or by another name.

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 Rushville 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 Line. See **Setback**.

Building Official. The person, officer, or official whom the Rushville 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 Rushville, 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 32-25-2-7](#) through [32-25-2-10](#).

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 Rushville, Indiana

County Rush. County, Indiana.

County Recorder. The County Recorder of Rush 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 Rushville Planning and 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 Rush County 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 household as a single housekeeping unit, but not including 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.

Ff

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.

Graffiti. Any inscription, word, figure, marking, or design that is written, marked, etched, scratched, drawn, painted, or otherwise affixed to any surface of public or private property — including buildings, structures, fences, walls, sidewalks, or other improvements, and which is visible from a public right-of-way or adjoining property.

Hh

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

Home-Based Business. A vocational activity conducted as an accessory use in a dwelling unit by a member or members of the resident household, 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.

Homeowners' Association. A corporation or another entity that is organized and operated for the benefit of 2 or more dwelling owners, acting to manage, maintain, or improve the land related to the dwellings owned by the members of the corporation or entity. A Homeowners' Association may be governed by a board that sets policies or otherwise oversees the activities and responsibilities of the corporation or entity (*IC 32-25.5-2-4*).

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.

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 a lot area covered by the combined footprints of all principal and accessory buildings, measured from the exterior faces of exterior walls or the outer edge of any roofed area without walls. Driveways, parking areas, patios, walkways, and other surfaces not covered by a building roof are excluded.

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, corner.** A lot line, other than a front lot line or a rear lot line, that abuts a street. A corner lot line does not include lot lines that abut an alley.
2. **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.
3. **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.
4. **Lot line, side.** Any lot line other than the front, corner, or rear lot line. A side lot line separating a lot from another lot is an interior side lot line.

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-household 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-household 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.

Minimum Living Area. The smallest floor area required within a dwelling unit that is necessary to provide adequate space for basic residential living functions. This area is measured as the total interior floor area of habitable rooms, excluding unfinished basements or attics, garages, and areas with ceiling heights less than 7 feet.

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

Mobile Home. A dwelling unit constructed in a factory prior to June 15, 1976, bearing a seal of compliance with standards established by the Indiana Administrative Building Council pursuant to Indiana Public Law 135 (1971), transported to a site on its own chassis, and connected to required utilities. This term includes a manufactured home, as defined in [IC 9-13-2-96\(a\)](#).

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 Advisory 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, corner, 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 Rushville 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, corner.* 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.
2. *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.
3. *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.
4. *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.

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. The official graphic representation which delineates and identifies the boundaries of different zoning districts within the City’s jurisdiction.

