



Huntingburg Unified Development Ordinance

EFFECTIVE: 04-01-2021

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Introductory Provisions

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CHAPTER 1: INTRODUCTORY PROVISIONS

A. Title.

This ordinance shall be formally known as the “Unified Development Ordinance,” or the “UDO” for the jurisdiction of the City of Huntingburg Advisory Plan Commission.

B. Authority.

This UDO is enacted by the City Council pursuant to the authority granted in *IC 36-7-4-600 series* and other applicable state and federal statutes as amended from time-to-time.

C. Purpose.

The purpose of this UDO is to combine the Zoning Ordinance and the Subdivision Control Ordinance into a single document in order to reduce redundancy and improve efficiency in the application of land development laws for the jurisdiction.

- 1. Subdivision Control Ordinance Provisions.** The regulations established for the administration of a Subdivision Control Ordinance under *IC 36-7-4-700 series* are covered specifically in this UDO by **Chapters 5, 6, and 7**.
- 2. Zoning Ordinance Provisions.** The regulations established for the administration of a Zoning Ordinance under *IC 36-7-4-600 series* are covered by **Chapters 2, 3, 4, 8, 9, and 10** of this UDO.

D. Jurisdiction.

This UDO shall apply to all land within the jurisdiction as well as the unincorporated land within the area of extended jurisdiction as shown on the Jurisdictional Area Map on file in the Office of the Plan Commission and the County Recorder’s Office.

E. Intent.

The intent of this UDO is to promote the public health, safety, morals and general welfare of the jurisdiction, and more specifically to:

- 1.** Accomplish the purposes of *IC 36-7-4 series: Local Planning and Zoning*; and further such other purposes as are stated hereinafter within specific provisions of this UDO;
- 2.** Guide the orderly, responsible, and sustainable development and redevelopment in accordance with the *Comprehensive Plan* and all of its components;
- 3.** Define the powers and duties of administrative officers and bodies as provided herein, and to establish procedures for the implementation and enforcement of this UDO;
- 4.** Establish reasonable standards and procedures for subdivisions, in order to further the orderly layout and use of land;

5. Reduce traffic congestion in public streets and ensure safe, convenient, and efficient traffic circulation;
6. Prevent the pollution of air, water, and soil;
7. Protect the character and stability of residential, institutional, business, industrial, and natural areas;
8. Encourage compatibility between different land uses and to protect the scale and character of existing development from the encroachment of incompatible uses;
9. Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public facilities;
10. Establish corrective and punitive recourse for violations or noncompliance regarding the provisions of this UDO.

F. Application.

It is not intended by this UDO to interfere with, abrogate, or amend any existing easements, covenants or other agreements between parties, nor is it intended by this UDO to repeal, abrogate, annul or in any way interfere with any existing provisions of laws or Ordinances not specifically repealed by this UDO, or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises. This UDO shall not affect valid private covenants whose standards are above and beyond those of this UDO and which are not enforceable by the Plan Commission.

G. Other Requirements.

Nothing in this UDO shall eliminate the need for obtaining any other approval or entitlement required by other provisions of the jurisdiction, Dubois County, the State, or Federal Agency.

H. Defined Terms.

Specific words and terms relative to this UDO are as defined in **Chapter 10: Definitions**. Words or terms used in this UDO that are not defined shall be as defined by the most recent version of the Merriam-Webster Dictionary.

I. Administration.

The Administrator shall have the primary responsibility of administering the UDO within the jurisdiction.

J. Severability.

If any provision or the application of any provision of this UDO is held unconstitutional or invalid by the courts, the remainder of the UDO or the application of such provision to other circumstances shall not be affected.

K. Statutory Changes.

If any Indiana Code cited in this UDO has been amended, this UDO shall be deemed amended in reference to the new or revised code.

L. Repealer.

The following titles of the participating jurisdictions are hereby repealed and are replaced by the adoption of this UDO and the Official Zoning Map:

1. Chapter 154 of the Huntingburg Municipal Code previously adopted by Ordinance No. 99-16, as amended (*Zoning*); and
2. Chapter 153 of the Huntingburg Municipal Code previously adopted by Ordinance No. 99-16 (*Subdivisions*).

M. Transition Policies.

The following policies apply for applications and approvals that are in progress at the time of adoption of this UDO.

1. **Pending Applications.** Applications that are received and complete prior to the adoption of this UDO shall continue their respective process pursuant to the rules and provisions that were in place at the time of filing. This includes applications before the City Council, the Plan Commission (PC), and the Board of Zoning Appeals (BZA) as well as applications for Land Alteration Permits (LAP), and Improvement Location Permits (ILP).
2. **Permits Issued.** A permit for an ILP or LAP that was issued prior to the adoption of this UDO shall remain valid for the timeframe and provisions established by the regulations that were in effect at the time of filing. If applicable, a valid permit may be renewed per the provisions established by the regulations that were in effect at the time of filing. Permits that have expired per the provisions established by the regulations that were in effect at the time of filing and need to be resubmitted shall now be subject to the regulations established by this UDO.
3. **Subdivisions.** Because subdivisions are subject to two (2) phases of approval (primary plat and secondary plat), the following policies for transition apply:
 - a. **Primary Plat.** Any primary plat that was approved by regulations that were in place prior to the adoption of this UDO, that has not expired, and is otherwise still valid under said previous regulations, shall continue its respective process pursuant to the rules and provisions that were in place at the time of filing. If the previous provisions did not identify an expiration for primary plat approval and an application for secondary plat (all or in part) has not been received and completed within two (2) years of the adoption of this UDO, then said primary plat shall automatically expire two (2) years after the date of the adoption of this UDO.
 - b. **Secondary Plat.** As long as the approved primary plat for a subdivision remains valid and has not expired, the lot standards, structure standards, and utility standards

that were in place at the time the primary plat was approved shall apply to the secondary plat (all or in part) included in the primary plat approval.

4. Commitments or Conditions. Commitments or conditions (whether recorded or not) that were made as part of an approval before the legislative body, *APC*, or *BZA* or part of an application for an *ILP* or *LAP* prior to the adoption of this *UDO* shall remain in full effect regardless of any resulting changes in regulations that are established by this *UDO*. Commitments or conditions may be modified pursuant to the applicable process outlined in **Chapter 8: Zoning Administration and Procedures** of this *UDO* and/or the applicable *PC Rules and Procedures* or *BZA Rules and Procedures*.

5. Annexation, Disannexation, and Property Not Included.

- a. Annexation.** Property annexed into the city subsequent to the effective date of the *UDO*, upon the effective date of such annexation, shall be designated as the *AG-Agriculture* zoning district unless the legislative body assigns another zoning district as part of the annexation process.
- b. Disannexation.** Property detached from an incorporated city subsequent to the effective date of this *UDO*, upon the effective date of such disannexation, shall be declared to be in the closest zoning district classification in the appropriate jurisdiction until otherwise recommended for change by the appropriate *PC*, and approved by the appropriate legislative body.
- c. Property Not Included.** Property that has not been specifically included within a district, for whatever reason, is hereby declared to be in the *AG-Agriculture District* (except for property designated as limited-access or interstate highway right-of-way).

N. Effective Date.

This ordinance shall be in full force and effect from as of April 1, 2021.

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Zoning
Districts

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CHAPTER 2: ZONING DISTRICTS

A. General Provisions.

- 1. Zoning Districts Identified.** The jurisdictional area is hereby classified and divided into the zoning districts outlined below.

Name of District	Abbreviation
Agriculture District	AG
Low-Density Residential District	R-1
Medium-Density Residential District	R-2
High-Density Residential District	R-3
Parks/Institutional District	P
Downtown Mixed-Use District	DMU
Mixed-Use District	MU
Neighborhood Commercial District	B-1
Light Commercial District	B-2
Heavy Commercial District	B-3
Light Industrial District	I-1
Heavy Industrial District	I-2

- 2. Overlay Districts Identified.** The following overlay districts outlined below have been established for the purpose identified.

Name of Overlay District	Abbreviation
Aircraft Overlay District	A-O
Floodplain Overlay District	F-O
Watershed Protection Overlay District	W-O

- 3. Official Zoning Map.** The Official Zoning Map is a geographic coverage layer that is maintained as part of the jurisdiction’s geographic information system (GIS) under the direction of the Administrator.

- a. District Boundaries.** The location and boundaries of the zoning districts are hereby established on a map entitled “Official Zoning Map,” as it may be amended from time to time, which accompanies and is hereby incorporated in and made a part of this UDO by reference.
- b. Interpretation of Boundaries.** All questions concerning the exact location of zoning district boundary lines shall be determined by the Administrator. An appeal of the Administrator’s interpretation may be filed with the BZA per **Chapter 8, Section D.1: Appeals Procedures.**

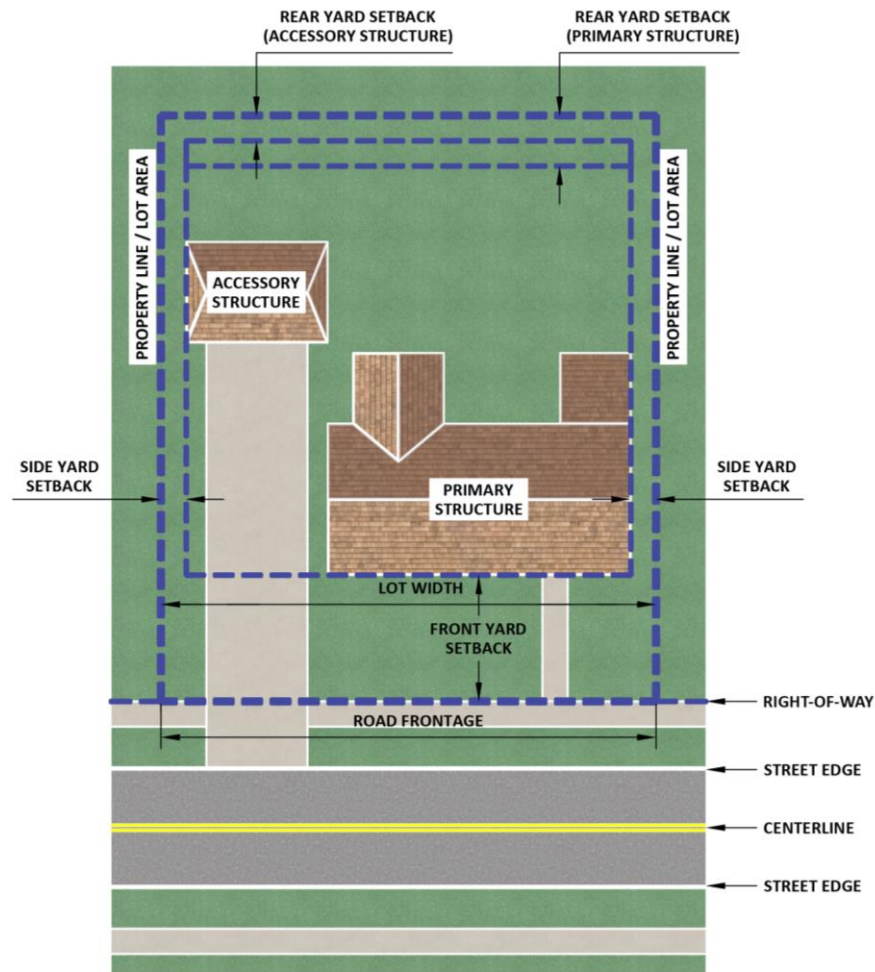
- c. **Zoning Map Production.** The Administrator may authorize printed copies of the Official Zoning Map to be produced, and shall maintain digital or printed copies of superseded versions of the Official Zoning Map for historical reference.

4. Land Uses.

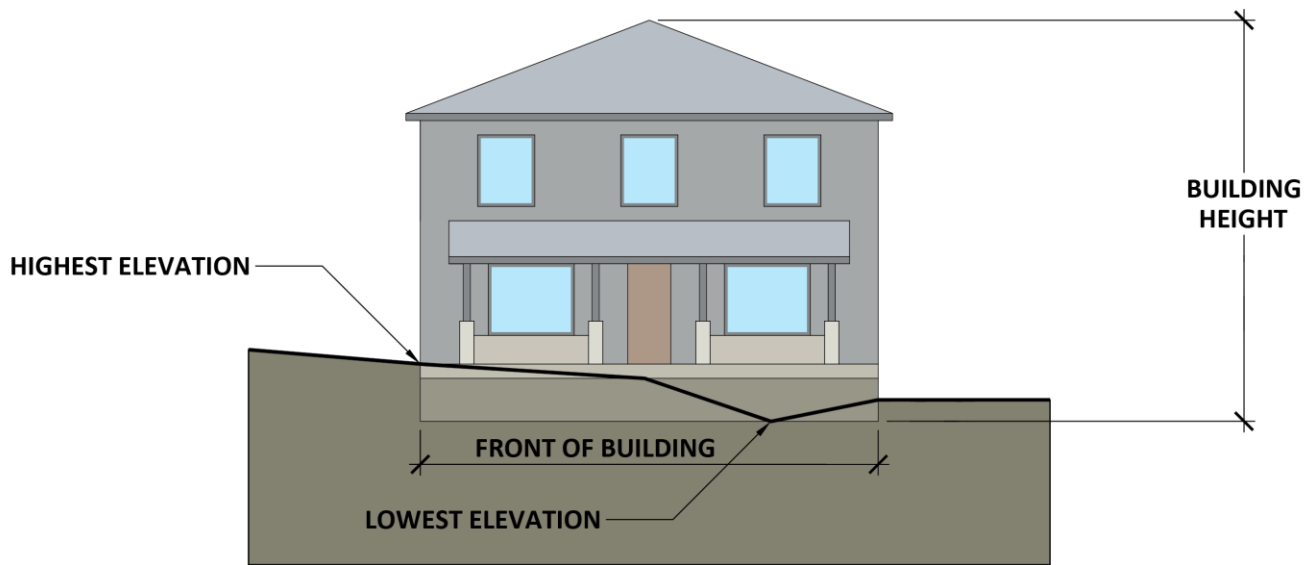
- a. **Land Uses Listed.** The respective section for each zoning district and overlay district identifies the common land uses that are “permitted” or allowed by “special exception”. Any land use not listed for a particular zoning district (or not deemed sufficiently similar to a listed use as described in the process in **Section A.4.b. Land Uses Not Listed**) shall be prohibited, subject to BZA approval.
- b. **Land Uses Not Listed.** For land uses not listed, the Administrator shall attempt to determine if the desired land use is similar to a listed land use.
 - (a) Comparison to Listed Uses.
 - (1) Unlisted Use is Similar to a Listed Use. If the desired land use is determined to be similar to a listed land use, the respective process and development standards for the similar use shall be followed, and is subject to BZA approval.
 - (2) Unlisted Use is Not Similar to a Listed Use. If the Administrator determines that the desired land use is not similar to a listed land use, then the desired land use shall be prohibited.
 - (3) Uncertainty. In the case of uncertainty or disagreement of classifying a land use, the Administrator may refer the request for land use clarification or classification to the BZA for consideration and final decision.
 - (b) Criteria for Classifying Unlisted Land Uses. To determine whether an unlisted land use is similar to a listed use, the Administrator or the BZA shall examine the proposed use by the following criteria:
 - (1) Intensity. Is the unlisted use similar in intensity and nature to a listed use? Land use intensities are related to the amount and type of activity a parcel hosts.
 - (i) Residential, public, and office uses – intensity levels are tied to the number of people using a space.
 - (ii) Commercial uses – intensity levels are tied to the gross commercial floor area associated with the primary structure, including hours of operation and anticipated customer volume.
 - (iii) Industrial uses – intensity levels are related to the amount of noise, noxious exhaust, and public safety hazards generated on the site. In addition, the types of vehicles used, type of storage (indoor or outdoor), and hours of operation should be considered.
 - (2) Character. Does the unlisted use have similar physical characteristics, structures, scale, operational hours, or other features similar to a listed use?
 - (3) Accessory Potential. If the unlisted use is similar to a listed accessory use, is it incidental to, necessary, and compatible with the permitted primary use?
 - (4) Intent. Is the unlisted use compatible with the purpose of the subject zoning district and consistent with the Comprehensive Plan?
 - (5) Traffic Generation. Does the unlisted use generate a number of vehicular trips similar to a listed use?

5. Development Standards. The following development standards are generally interpreted as follows:

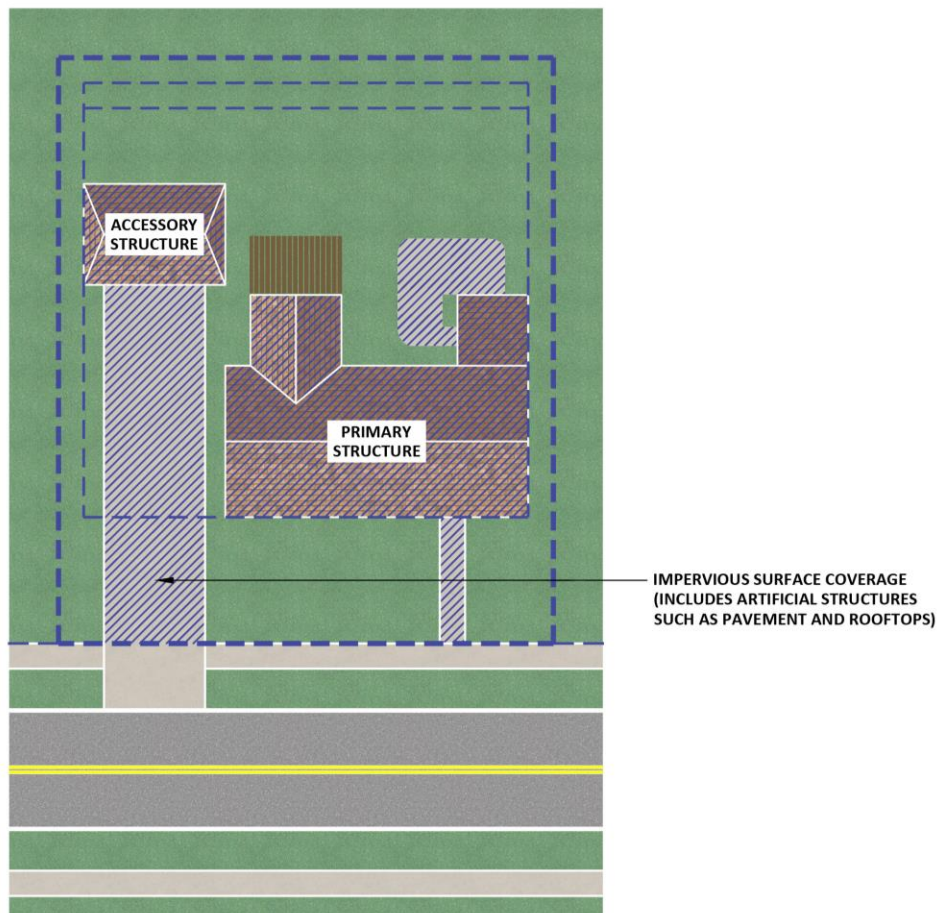
- a. **Lot Width.** Lot width is measured at the front building line.
- b. **Road Frontage.** Road frontage is measured at the right-of-way line and shall be contiguous and consecutive. In the event right-of-way does not exist, a minimum of sixty (60) feet of right-of-way shall be dedicated prior to the issuance of an ILP (building permit) or an LAP (Land Alteration Permit) as appropriate.
- c. **Minimum Front Yard Setback.** The minimum front yard setback is measured from the right-of-way and is as shown in the Development Standards tables in this chapter. In the event right-of-way does not exist, the front yard setback is measured from the edge of pavement. Note that a corner lot will have two (2) front yard setbacks and two (2) side yard setbacks; it will not have a rear yard setback.
- d. **Minimum Side Yard Setback.** The minimum side yard setback is measured from the property line and is as shown in the Development Standards tables in this chapter. Note that a corner lot will have two (2) front yard setbacks and two (2) side yard setbacks; it will not have a rear yard setback.
- e. **Minimum Rear Yard Setback.** Minimum rear yard setback is measured from the property line and is as shown in the Development Standards tables of this chapter. Note that a corner lot will have two (2) front yard setbacks and two (2) side yard setbacks; it will not have a rear yard setback.



f. **Structure Height.** As defined in *Chapter 10: Definitions*.



g. **Impervious Surface Coverage.** Impervious surfaces, including building footprints, driveways, or other surfaces as defined in *Chapter 10: Definitions*, should not exceed the maximum area of the property as defined in *Chapter 2: Zoning Districts*.



AGRICULTURE DISTRICT - AG

A. Purpose.

The purpose of the Agriculture District (“AG”) district is to preserve land for agricultural use and operations and discourage the premature conversion of agricultural land to urban and residential uses. A wide variety of agricultural and compatible uses are permitted such as crop production, animal keeping, and commercial agricultural-related uses. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan approval.

B. Uses.

Land Uses – Agriculture District (AG)		
Permitted Uses		Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *dwelling, accessory • *home occupation • *solar energy system, accessory • *wind energy system, accessory • hobby farm • raising chickens • roadside produce stand <p>AGRICULTURAL USES</p> <ul style="list-style-type: none"> • *solar energy system, commercial • agricultural co-op • forestry • general agriculture uses • greenhouse, production • orchard • plant nursery • raising of livestock • riding stables • row crop production • vineyard • wildlife/nature preserve <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • archery range, outdoor • commercial grain storage facility • farm equipment repair • gun range, outdoor • landscaping business • seed dealer • veterinary clinic 	<p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • *mineral extraction (without blasting) • gas/oil well <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, attached • animal humane shelter • cemetery • church or place of worship • fire station • government offices • mausoleum • park • park, dog • playground • post office • utility transmission/distribution facility <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • child care home • dwelling, single-family 	<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *agritourism • *short-term rental • farm worker housing • farmers market <p>AGRICULTURAL USES</p> <ul style="list-style-type: none"> • *confined feeding operation • *wind energy system, commercial <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *campground/RV park • *special event facility (wedding barn) • golf course • kennel, commercial • sports facility • winery/brewery/distillery <p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • *mineral extraction (with blasting) • livestock dealer • livestock transportation facility <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, detached • airport/heliport • wastewater treatment facility, public

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards.**

C. Development Standards.

Development Standards – Agriculture District (AG)			
Development Standard		Land Use	
		Single-Family Residential	Non-Residential
Structure Standards			
Maximum height of structure	Primary structure	40 feet	*50 feet
	Accessory structure	30 feet	*50 feet
Minimum living area		650 sqft/unit	NA
Minimum width/depth of primary structure		24 feet	NA
Lot Standards			
Minimum lot width and road frontage		150 feet	150 feet
Minimum lot depth		150 feet	150 feet
Minimum lot area	With sewer	2 acres	2 acres
	Without sewer	2 acres	2 acres
	**Uses that don't require sanitary facilities	NA	20,000 sqft
Minimum front yard setback		25 feet	50 feet
Minimum side yard setback	Primary structure	5 feet	20 feet
	Accessory structure	5 feet	10 feet
Minimum rear yard setback	Primary structure	10 feet	20 feet
	Accessory structure	10 feet	10 feet
Maximum impervious surface coverage		35%	75%
Utility Standards			
Municipal water and sewer required (unless within 300' of sanitary sewer)		no	no

*Uses in the Land Use Table classified as Agricultural or wireless communication facility are exempt from this standard.

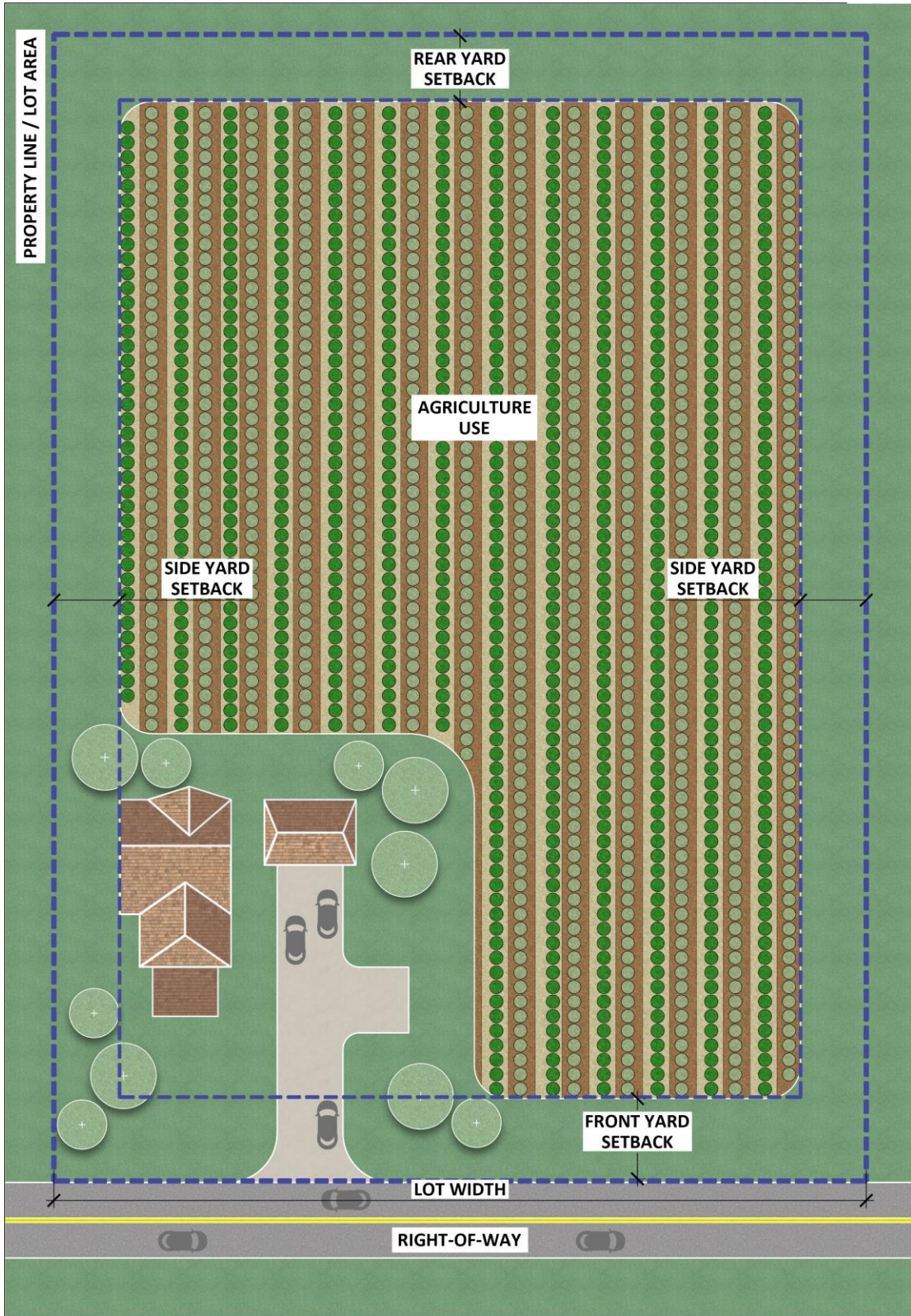
**As determined by the Dubois County Health Department or available sanitary service provider as appropriate.

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- | | |
|---|--|
| <ul style="list-style-type: none"> • Accessory Structure Standards • Bufferyard Standards • Driveway Standards • Dumpster and Trash Receptacle Standards • Lot Standards • Outdoor Lighting Standards | <ul style="list-style-type: none"> • Parking and Loading Standards • Sign Standards • Setback Standards • Storage Standards • Structure Standards |
|---|--|



LOW-DENSITY RESIDENTIAL DISTRICT – R-1

A. Purpose.

The purpose of the Low Density Residential (“R-1”) district is to provide for low-density residential development and supporting compatible uses in the outlying areas of the city. New development should be designed as cohesive neighborhoods that provide community open space for the residents, but also encourages interconnections with trails and pathways between neighborhoods and nearby neighborhood commercial areas. Density is planned for one (1) to three (3) units per acre and should be in close proximity to public water and sanitary sewer infrastructure. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Low Density Residential District (R-1)	
Permitted Uses	Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *home occupation • *short-term rental • *solar energy system, accessory • hobby farm • raising chickens • roadside produce stand <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • community center • fire station • park • park, dog • playground <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • child care home • dwelling, single-family • group home 	<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *dwelling, accessory <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *adult day care • bed and breakfast • child care center <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • dwelling, two-family

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards.**

C. Development Standards.

Development Standards – Low Density Residential District (R-1)

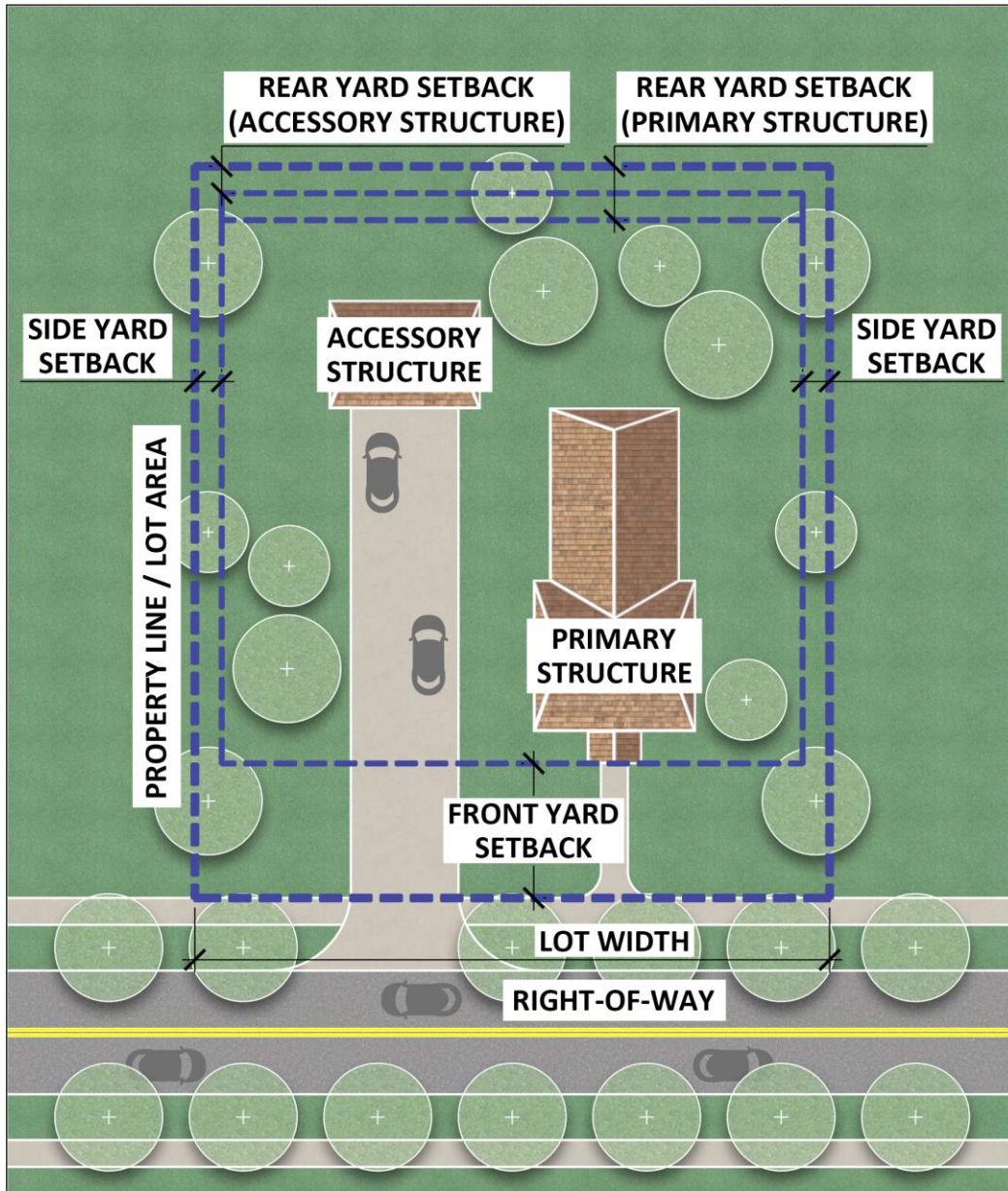
Development Standard	Land Use		
	Single-family and Two-family Residential	Non-residential	
Structure Standards			
Maximum height of structure	Primary structure	25 feet	40 feet
	Accessory structure	no taller than the primary structure	no taller than the primary structure
Minimum living area	1,100 sqft	NA	
Minimum width/depth of primary structure	24 feet	NA	
Lot Standards			
Minimum lot width and road frontage	80 feet	80 feet	
Minimum lot area	With sewer	12,000 sqft	20,000 sqft
	Without sewer	1 acre or more depending on what HD requires for septic	1 acre or more depending on what HD requires for septic
Minimum front yard setback	25 feet	25 feet	
Minimum side yard setback	Primary structure	5 feet	25 feet
	Accessory structure	5 feet	10 feet
Minimum rear yard setback	Primary structure	10 feet	25 feet
	Accessory structure	5 feet	10 feet
Maximum impervious surface coverage	30%	30%	
Utility Standards			
Municipal water and sewer required (unless within 300' of sanitary sewer)	no	no	

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



MODERATE–DENSITY RESIDENTIAL DISTRICT – R–2

A. Purpose.

The purpose of the Moderate–Density Residential (“R–2”) district is to allow a wider range of housing options in more dense and diverse neighborhoods than the R–1 district. Development should not only incorporate adequate open space and active recreation opportunities, but it should occur in proximity to neighborhood commercial and light commercial areas. Pedestrian and multi-modal connectivity should be part of the design as well. Density is planned for four to six (4-6) units per acre and higher density developments must be served by public water and sanitary sewer infrastructure. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Moderate–Density Residential District (R–2)	
Permitted Uses	Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *dwelling, accessory • *home occupation • *short-term rental • *solar energy system, accessory <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • community center • fire station • park • park, dog • playground <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • child care home • dwelling, single-family • dwelling, two-family • group home 	<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *adult day care • bed and breakfast • child care center <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • dwelling, multi-family

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards.**

C. Development Standards.

Development Standards – Moderate-Density Residential District (R-2)

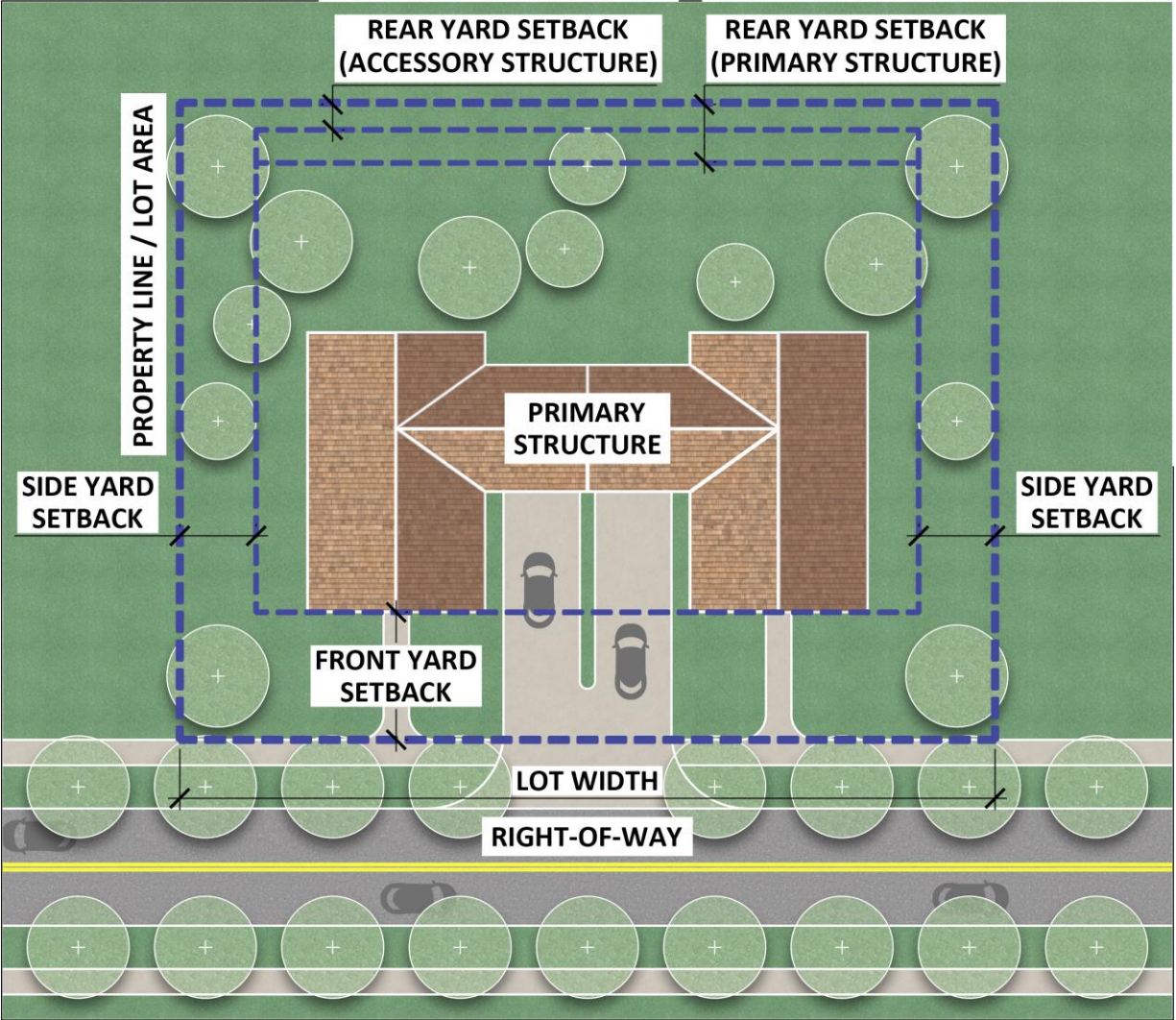
Development Standard		Land Use		
		Single-family and Two-family Residential	Multi-family Residential	Non-residential
Structure Standards				
Maximum height of structure	Primary structure	25 feet	30 feet	40 feet
	Accessory structure	no taller than primary structure	21 feet	21 feet
Minimum living area		650 sqft/unit	650 sqft/unit one-bedroom or less; 750 sqft/unit two-bedrooms; 850 sqft/unit three or more bedrooms	NA
Minimum width/depth of primary structure		24 feet	NA	NA
Lot Standards				
Minimum lot width and road frontage		80 feet	100 feet	100 feet
Minimum lot area		10,000 sqft	5,000 sqft/unit	20,000 sqft
Minimum front yard setback		25 feet	25 feet	25 feet
Minimum side yard setback	Primary structure	5 feet	15 feet	25 feet
	Accessory structure	5 feet	10 feet	10 feet
Minimum rear yard setback	Primary structure	10 feet	15 feet	25 feet
	Accessory structure	5 feet	10 feet	10 feet
Maximum impervious surface coverage		40%	50%	60%
Utility Standards				
Municipal water and sewer required		yes	yes	yes

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



HIGH-DENSITY RESIDENTIAL DISTRICT – R-3

A. Purpose.

The purpose of the High-Density Residential (“R-3”) district is to provide the widest variety of housing opportunities with common outdoor areas and compact private outdoor spaces that is compatible in height, scale, and character to neighboring development. This district is appropriate near employment centers, transportation corridors, and close to commercial and business districts that serve the community. Density is planned for up to twelve (12) units per acre and higher density developments must be served by public water and sanitary sewer infrastructure. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – High-Density Residential District (R-3)	
Permitted Uses	Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *dwelling, accessory • *home occupation • *short-term rental • *solar energy system, accessory <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • community center • fire station • park • park, dog • playground <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • *manufactured home park • child care home • dwelling, multi-family • dwelling, single-family • dwelling, two-family • group home 	<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *adult day care • bed and breakfast • child care center

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards**.

C. Development Standards

Development Standards – High Density Residential District (R-3)

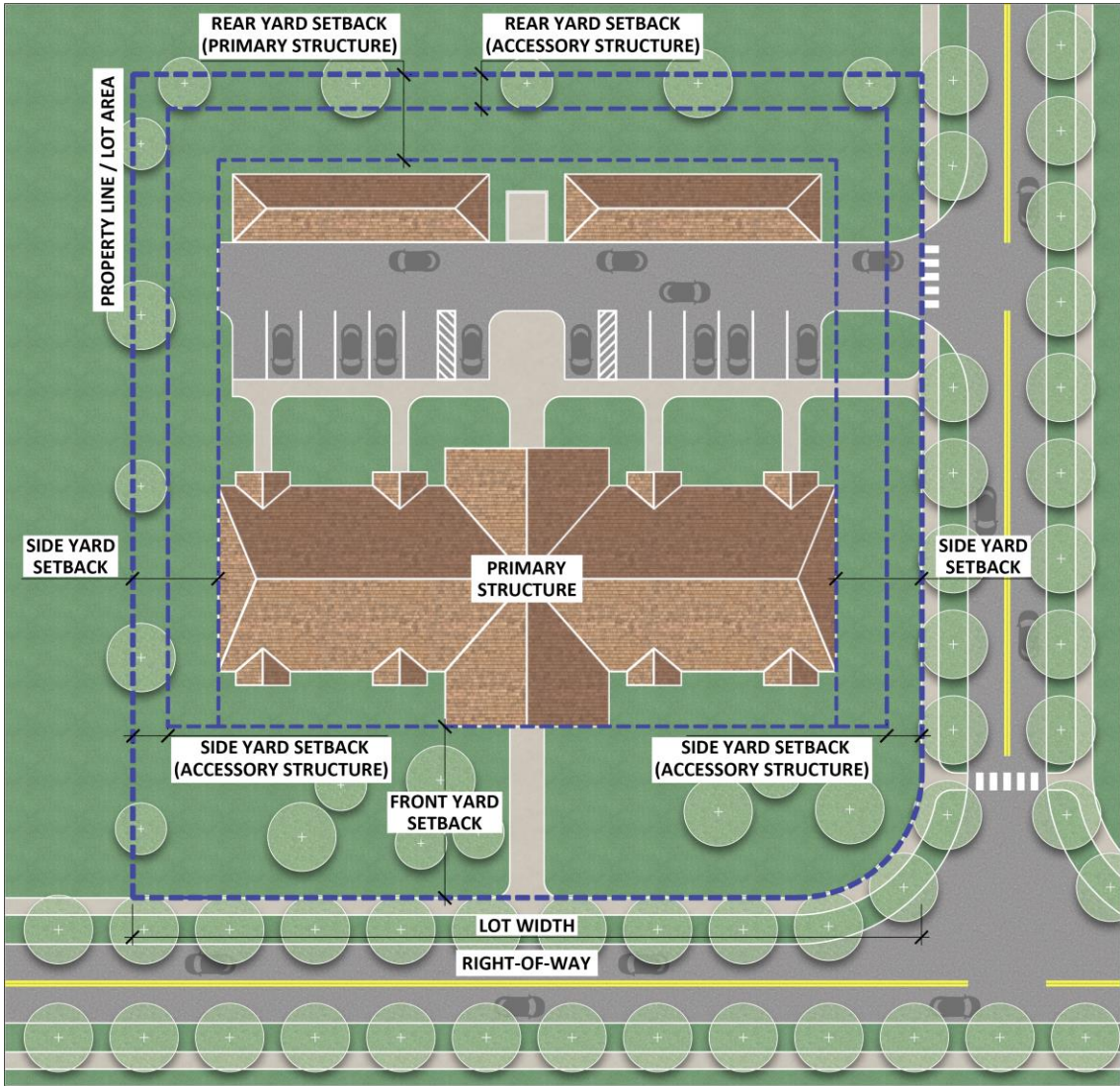
Development Standard		Land Use		
		Single-family and Two-family Residential	Multi-family Residential	Non-residential
Structure Standards				
Maximum height of structure	Primary structure	25 feet	45 feet, no more than 3 stories	45 feet
	Accessory structure	no taller than primary structure	21 feet	21 feet
Minimum living area		650sqft/unit	500sqft/unit efficiency; 650 sqft/unit one-bedroom; 750 sqft/unit two-bedrooms; 850 sqft/unit three or more bedrooms	NA
Minimum width/depth of primary structure		24 feet	NA	NA
Lot Standards				
Minimum lot width and road frontage		80 feet	100 feet	100 feet
Minimum lot area	With sewer	2,500 sqft/unit	2,500 sqft/unit	20,000 sqft
		NA	NA	NA
Minimum front yard setback		25 feet	50 feet	50 feet
Minimum side yard setback	Primary structure	5 feet	25 feet	25 feet
	Accessory structure	5 feet	10 feet	10 feet
Minimum rear yard setback	Primary structure	10 feet	25 feet	25 feet
	Accessory structure	5 feet	10 feet	10 feet
Maximum impervious surface coverage		60%	60%	75%
Utility Standards				
Municipal water and sewer required		yes	yes	yes

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards**.

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



PUBLIC AND INSTITUTIONAL DISTRICT – P

A. Purpose.

The purpose of the Public and Institutional (“P”) district is to provide areas suitable for community, public, and non-profit uses that serve the city as a whole. Uses anticipated in this district may include religious institutions, hospitals, government buildings, schools, parks, public recreational areas, and similar uses. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Public and Institutional District (P)		
Permitted Uses		Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • farmers market • food truck <p>AGRICULTURAL USES</p> <ul style="list-style-type: none"> • wildlife/nature preserve <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *adult day care • *campground/RV park • child care center • golf course • recreation facility <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, attached • *wireless communication facility, detached • airport/heliport • amphitheater • animal humane shelter • assisted living facility • cemetery • church or place of worship • community center • comprehensive care facility • dental office/clinic • fire station • government offices 	<p>INSTITUTIONAL USES CONTINUED</p> <ul style="list-style-type: none"> • health care office/clinic • homeless shelter • hospital • library • mausoleum • mental health center • museum • nursing home • outpatient medical facility • park • park, dog • playground • post office • rehabilitation center • school, college/university • school, primary/secondary • urgent care medical facility • utility transmission/distribution facility • wastewater treatment facility, public 	<p>AGRICULTURAL USES</p> <ul style="list-style-type: none"> • *solar energy system, commercial <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *special event facility (wedding barn) <p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • power generation facility • sanitary landfill <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • jail • penal/correctional facility

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards**.

C. Development Standards.

Development Standards – Public and Institutional District (P)

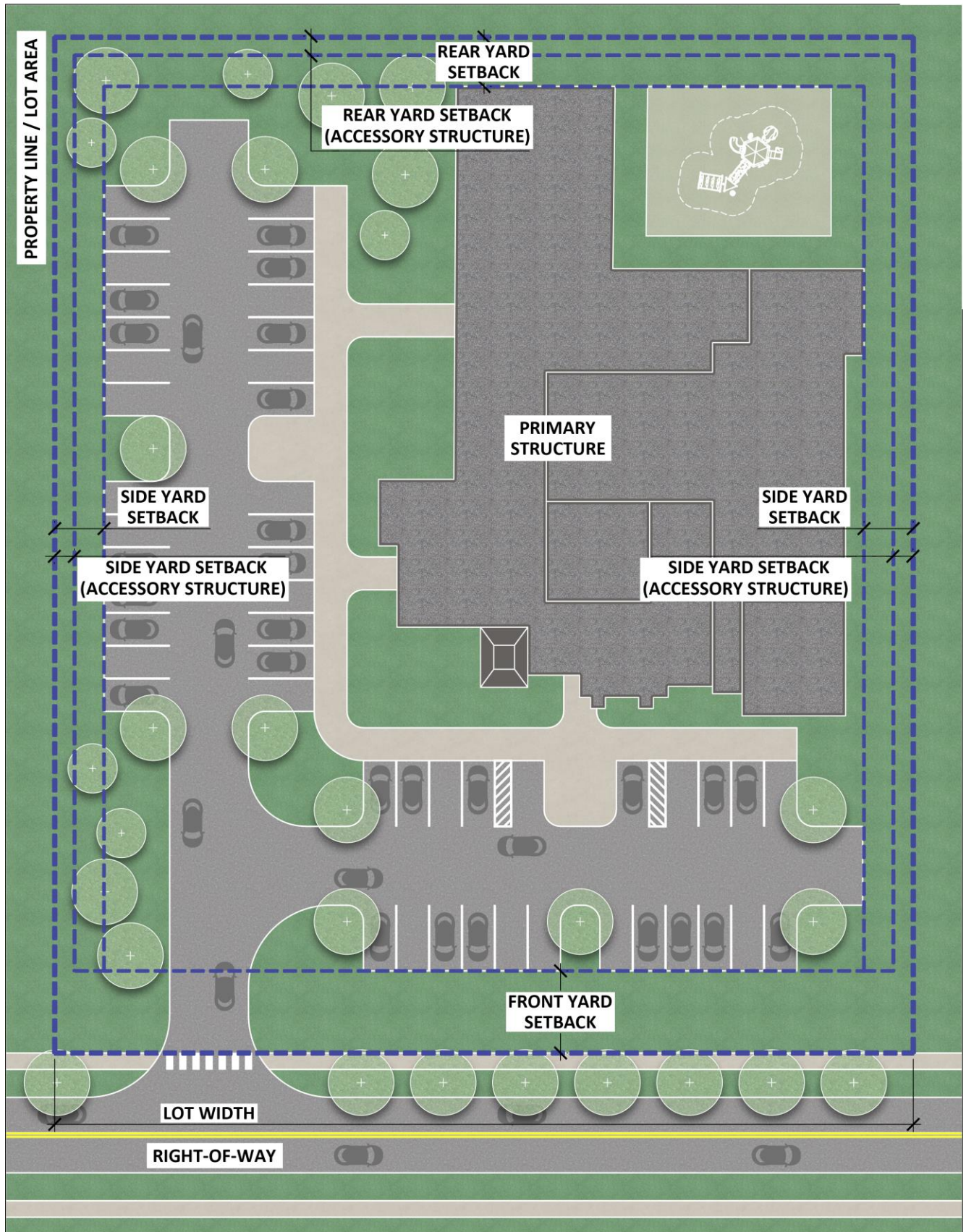
Development Standard	Land Use	
	Non-residential	
Structure Standards		
Maximum height of structure	Primary structure	60 feet (allow steeples to be taller in Chapter 3)
	Accessory structure	35 feet
Lot Standards		
Minimum lot width and road frontage		40 feet
Minimum lot area	With sewer	5,000 sqft
	Without sewer	1 acre or larger for septic if required
Minimum front yard setback		25 feet
Minimum side yard setback	Primary structure	15 feet
	Accessory structure	5 feet
Minimum rear yard setback	Primary structure	15 feet
	Accessory structure	5 feet
Maximum impervious surface coverage		70%
Utility Standards		
Municipal water and sewer required		no

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- | | |
|---|--|
| <ul style="list-style-type: none"> • Accessory Structure Standards • Bufferyard Standards • Driveway Standards • Dumpster and Trash Receptacle Standards • Lot Standards • Outdoor Lighting Standards | <ul style="list-style-type: none"> • Parking and Loading Standards • Sign Standards • Setback Standards • Storage Standards • Structure Standards |
|---|--|



DOWNTOWN MIXED-USE DISTRICT – DMU

A. Purpose.

The purpose of the Downtown Mixed Use (“DMU”) district is to establish the central business area of the city with a variety of uses and intensities. Development in this area reflects the historic significance of Huntingburg and strives to create a vibrant, pedestrian-friendly atmosphere. This area should preserve the existing setbacks, character, and building continuation that currently exists. High-density development of mixed uses with storefront retail, professional office, and residential dwellings on upper floors should be encouraged. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Downtown Mixed-Use District (DMU)		
Permitted Uses		Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *home occupation • *short-term rental • farmers market • food truck <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • bank • bar/tavern • bed and breakfast • beer garden • bicycle sales/repair • brewery/brewpub • business incubator • child care center • coffee house • gun sales/repair • health/fitness facility • hotel/motel • laundromat • liquor store • micro brewery • movie theater • professional/business offices • personal services • pet shop • print shop/retail • restaurant • retail, general • retail, service oriented • studio • tobacco specialty store 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, attached • church or place of worship • community center • dental office/clinic • fire station • government offices • health care office/clinic • library • museum • nursing home • park • park, dog • playground • post office • urgent care medical facility <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • child care home • dwelling, multi-family (above commercial) • group home 	<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • caterer • funeral home • sports facility <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • assisted living facility • comprehensive care facility • homeless shelter • school, college/university • school, primary/secondary

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards**.

C. Development Standards.

Development Standards – Downtown Mixed-Use District (DMU)

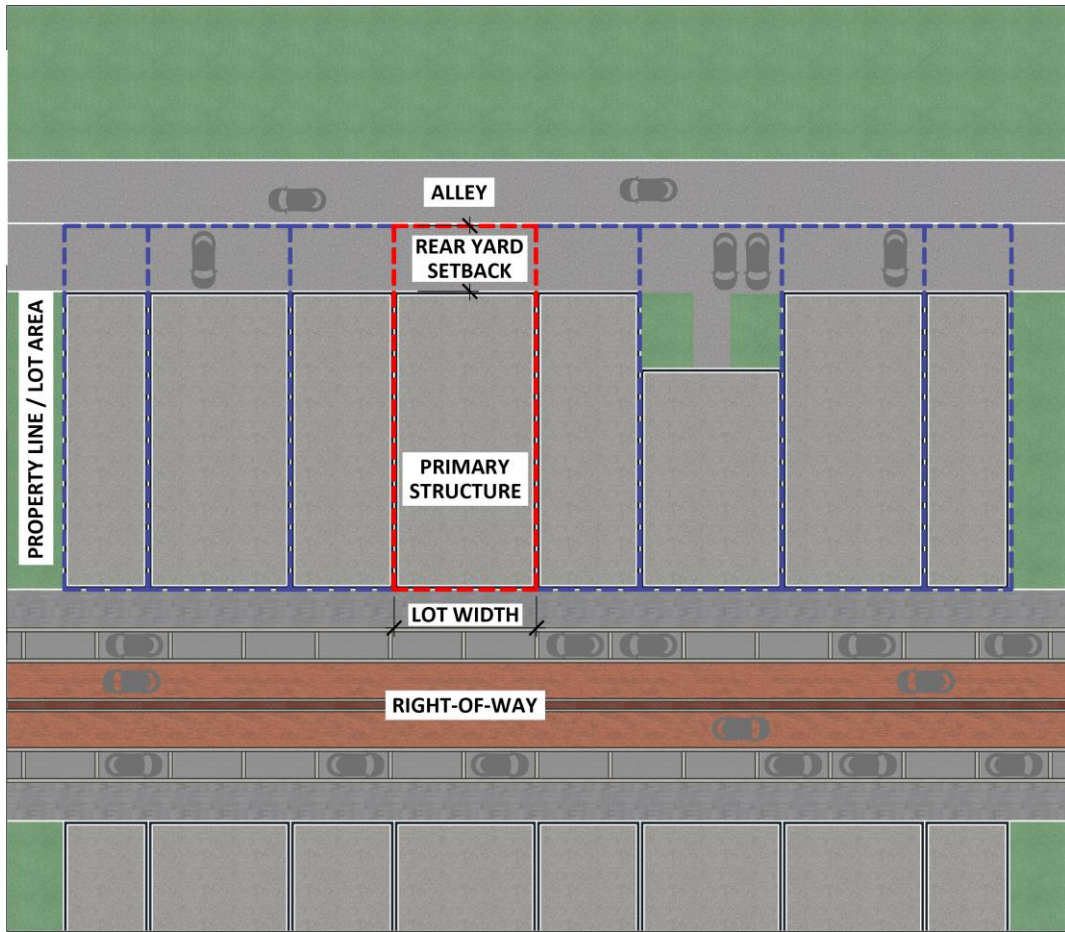
Development Standard		Land Use		
		Single-family and Two-family Residential	Multi-family Residential	Non-residential
Structure Standards				
Maximum height of structure	Primary structure	45 feet	45 feet	45 feet
	Accessory structure	15 feet	15 feet	15 feet
Minimum height of structure		NA	35 feet	35 feet
Minimum living area		450 sqft/unit	450 sqft/unit	NA
Minimum width/depth of primary structure		24 feet	24 feet	NA
Maximum ground floor area		NA	NA	10,000 sqft
Lot Standards				
Minimum lot width and road frontage		NA	NA	NA
Minimum lot depth		NA	NA	NA
Front yard setback	Minimum	15 feet	15 feet	0 feet
	Maximum	NA	NA	20 feet
Minimum side yard setback	Primary structure	0 feet	0 feet	0 feet
	Accessory structure	5 feet	5 feet	5 feet
Minimum rear yard setback	Primary structure	10 feet	10 feet	10 feet
	Accessory structure	5 feet	10 feet	10 feet
Maximum impervious surface coverage		90%	90%	100%
Utility Standards				
Municipal water and sewer required		yes	yes	yes

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



MIXED-USE DISTRICT – MU

A. Purpose.

The purpose of the Mixed-Use (“MU”) district is to allow for areas that encourage a combination of residential and non-residential uses such as retail, office, and recreational activities. The mixture of uses can be confined to a single building or multiple buildings on one lot. Context-sensitive design should include architectural treatments and landscaping that not only establish the character of the development, but also serves as an appropriate transition between surrounding, less intense uses. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses –Mixed Use District (MU)		
Permitted Uses		Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *home occupation • *short-term rental • farmers market • food truck <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • bank • banquet hall • bar/tavern • bed and breakfast • beer garden • bicycle sales/repair • brewery/brewpub • business incubator • child care center • coffee house • grocery store • health/fitness facility • laundromat • liquor store • micro brewery • movie theater • professional/business offices • personal services • pet shop • print shop/retail • restaurant • retail, general • retail, service oriented • studio • tobacco specialty store • veterinary clinic 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, attached • assisted living facility • church or place of worship • community center • comprehensive care facility • dental office/clinic • fire station • government offices • health care office/clinic • library • museum • nursing home • park • park, dog • playground • post office • school, college/university • school, primary/secondary • urgent care medical facility <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • child care home • dwelling, multi-family • dwelling, multi-family (above commercial) 	<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • caterer • sports facility • winery/brewery/distillery <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • dwelling, single-family • dwelling, two-family • group home

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards.**

C. Development Standards.

Development Standards –Mixed Use District (MU)

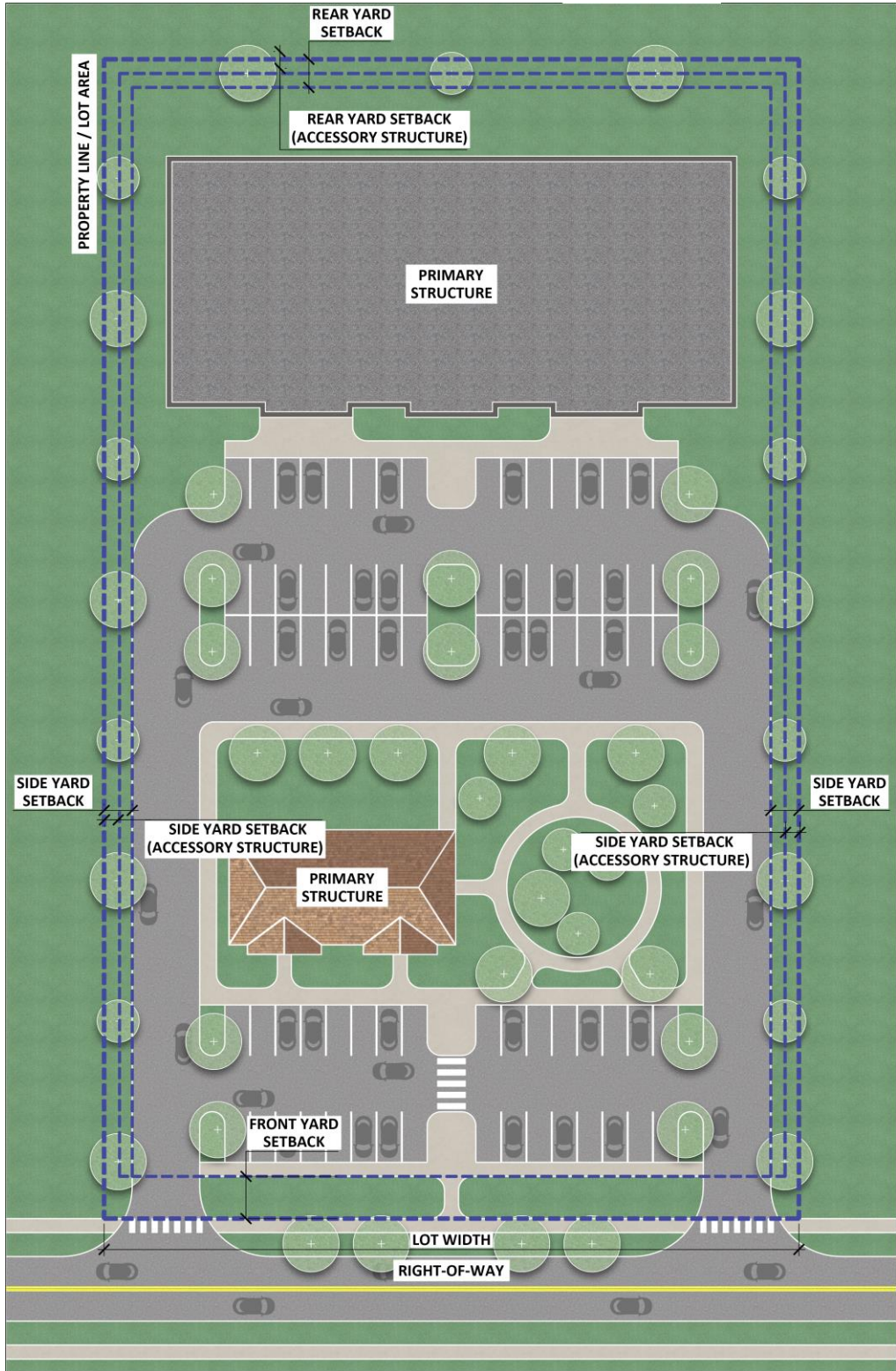
Development Standard		Land Use		
		Single-family and Two-family Residential	Multi-family Residential	Non-residential
Structure Standards				
Maximum height of structure	Primary structure	45 feet	60 feet	60 feet
	Accessory structure	15 feet	15 feet	30 feet
Minimum height of structure		NA	NA	NA
Minimum living area		650 sqft/unit	650 sqft/unit	NA
Minimum width/depth of primary structure		24 feet	24 feet	NA
Maximum ground floor area		NA	NA	25,000 sqft
Lot Standards				
Minimum lot width and road frontage		50 feet	50 feet	50 feet
Minimum lot depth		NA	NA	NA
Minimum lot area		2,500 sqft	1,000 sqft/unit	2,500 sqft
Front yard setback	Minimum	15 feet	15 feet	15 feet
	Maximum	NA	NA	NA
Minimum side yard setback	Primary structure	10 feet	10 feet	10 feet
	Accessory structure	5 feet	5 feet	5 feet
Minimum rear yard setback	Primary structure	10 feet	10 feet	10 feet
	Accessory structure	5 feet	10 feet	10 feet
Maximum impervious surface coverage		65%	75%	75%
Utility Standards				
Municipal water and sewer required		yes	yes	yes

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



NEIGHBORHOOD COMMERCIAL DISTRICT – B-1

A. Purpose.

The purpose of the Neighborhood Commercial (“B-1”) district is to serve as light commerce nodes and pockets in proximity to residential areas and neighborhoods. This district is intended to support uses that include small-scale retail, professional office, and service uses with limited square footage and business hours. Pedestrian-oriented design, scale, and massing should be incorporated while also promoting a variety of transportation modes. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Neighborhood Commercial District (B-1)		
Permitted Uses		Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • farmers market • food truck <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • bank • beer garden • bicycle sales/repair • brewery/brewpub • business incubator • child care center • coffee house • grocery store • health/fitness facility • laundromat • liquor store • micro brewery • professional/business offices • personal services • print shop/retail • restaurant • retail, general • retail, service oriented • studio • veterinary clinic 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, attached • community center • dental office/clinic • fire station • government offices • health care office/clinic • library • nursing home • park • playground • post office • school, college/university • school, primary/secondary • urgent care medical facility <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • dwelling, multi-family (above commercial) 	<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *home occupation • *short-term rental <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • caterer • winery/brewery/distillery <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • assisted living facility • comprehensive care facility <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • dwelling, single-family • dwelling, two-family • group home

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards.**

C. Development Standards.

Development Standards – Neighborhood Commercial District (B-1)

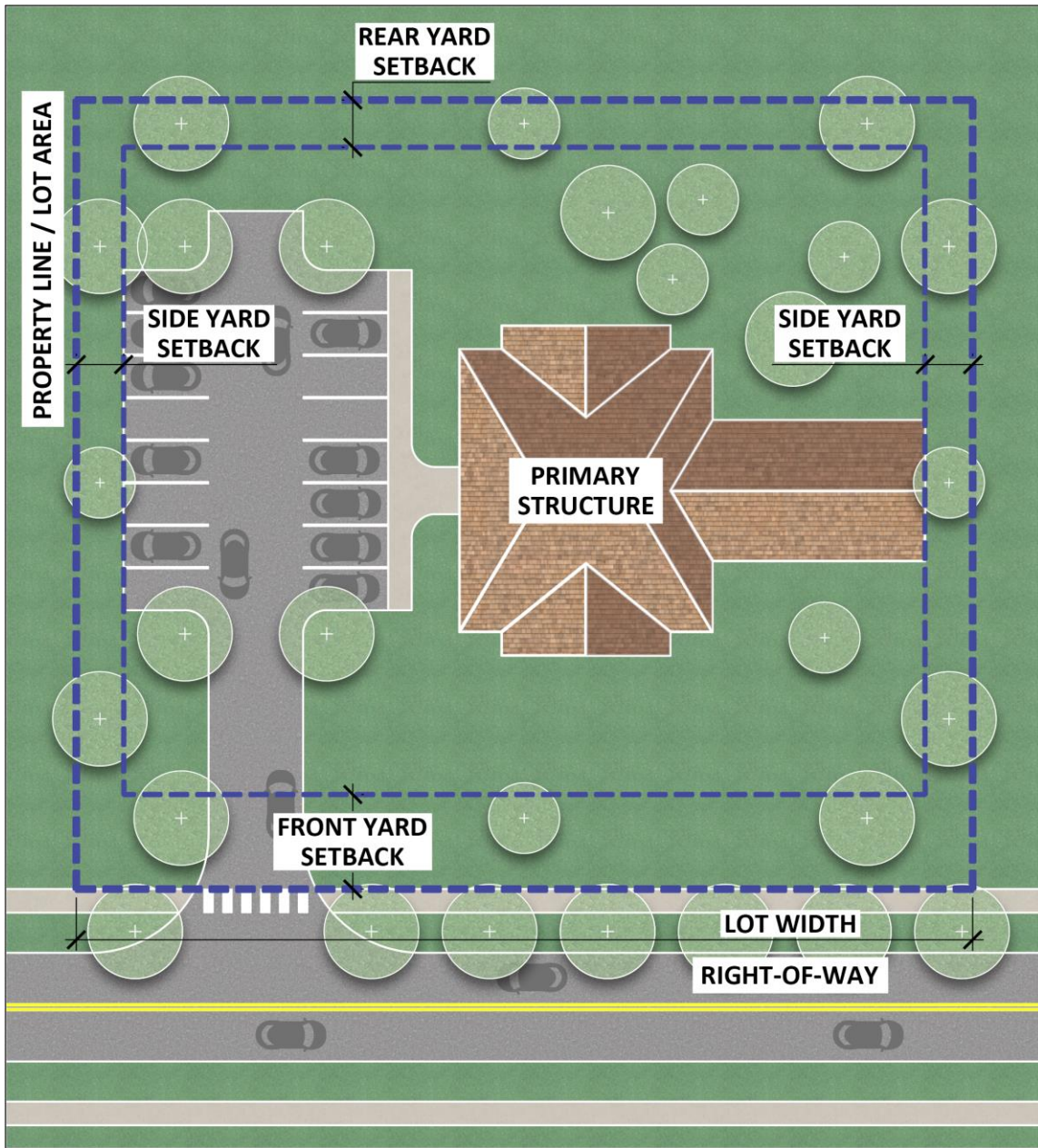
Development Standard		Land Use		
		Single-family and Two-family Residential	Multi-family Residential	Non-residential
Structure Standards				
Maximum height of structure	Primary structure	25 feet	NA	25 feet
	Accessory structure	15 feet	NA	15 feet
Minimum living area		650 sqft/unit	450 sqft/unit	NA
Minimum width/depth of primary structure		24 feet	NA	NA
Maximum ground floor area		NA	NA	20,000 sqft
Lot Standards				
Minimum lot width and road frontage		30 feet	NA	30 feet
Minimum lot depth		NA	NA	NA
Minimum lot area		2,500 sqft	NA	2,500 sqft
Maximum lot area		NA	NA	43,560 sqft
Front yard setback	Minimum	20 feet	NA	20 feet
	Maximum	25 feet	NA	30 feet
Minimum side yard setback	Primary structure	5 feet	NA	10 feet
	Accessory structure	5 feet	NA	10 feet
Minimum rear yard setback	Primary structure	10 feet	NA	10 feet
	Accessory structure	5 feet	NA	10 feet
Maximum impervious surface coverage		60%	NA	60%
Utility Standards				
Municipal water and sewer required		yes	Yes	yes

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



LIGHT COMMERCIAL DISTRICT – B-2

A. Purpose.

The purpose of the Light Commercial (“B-2”) district is to provide for a variety of small to medium-scale general commercial uses including retail, service, entertainment, and eating establishments. Pedestrian accessible design is encouraged while also promoting a variety of other transportation modes. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Light Commercial District (B-2)		
Permitted Uses		Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • farmers market • food truck <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • bank • banquet hall • bar/tavern • beer garden • bicycle sales/repair • bookstore • business incubator • caterer • child care center • coffee house • grocery store • health/fitness facility • laundromat • liquor store • micro brewery • professional/business offices • personal services • print shop/retail • restaurant • retail, general • retail, service oriented • studio • veterinary clinic 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, attached • community center • dental office/clinic • fire station • government offices • health care office/clinic • library • museum • nursing home • park • playground • post office • school, college/university • school, primary/secondary • urgent care medical facility 	<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *home occupation • *short-term rental <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • brewery/brewpub • funeral home • sports facility • transportation terminal • winery/brewery/distillery <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • assisted living facility • comprehensive care facility <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • child care home • dwelling, single-family • dwelling, two-family • group home

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards**.

C. Development Standards.

Development Standards – Light Commercial District (B-2)

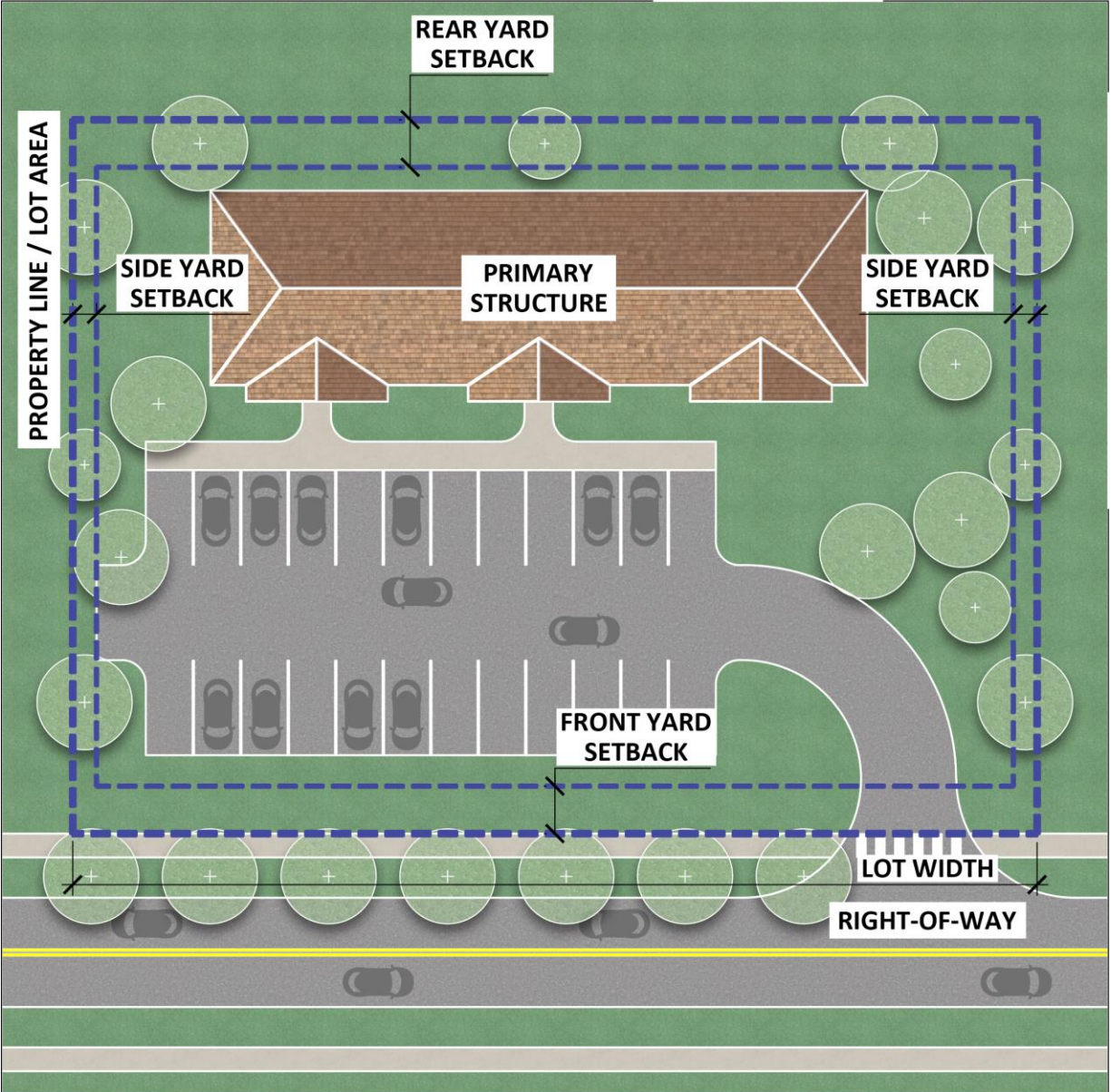
Development Standard		Land Use	
		Single-family and Two-family Residential	Non-residential
Structure Standards			
Maximum height of structure	Primary structure	45 feet	45 feet
	Accessory structure	15 feet	20 feet
Minimum living area		650 sqft/unit	NA
Minimum width/depth of primary structure		24 feet	NA
Maximum ground floor area		NA	45,000 sqft
Lot Standards			
Minimum lot width and road frontage		30 feet	30 feet
Minimum lot depth		NA	NA
Minimum lot area		2,500 sqft/unit	2,500 sqft
Maximum lot area		NA	43,560 sqft
Minimum front yard setback		10 feet	10 feet
Minimum side yard setback	Primary structure	5 feet	5 feet
	Accessory structure	5 feet	5 feet
Minimum rear yard setback	Primary structure	10 feet	10 feet
	Accessory structure	5 feet	10 feet
Maximum impervious surface coverage		70%	70%
Utility Standards			
Municipal water and sewer required		yes	yes

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- | | |
|---|--|
| <ul style="list-style-type: none"> • Accessory Structure Standards • Bufferyard Standards • Driveway Standards • Dumpster and Trash Receptacle Standards • Lot Standards • Outdoor Lighting Standards | <ul style="list-style-type: none"> • Parking and Loading Standards • Sign Standards • Setback Standards • Storage Standards • Structure Standards |
|---|--|



HEAVY COMMERCIAL DISTRICT – B-3

A. Purpose.

The purpose of the Heavy Commercial (“B-3”) district is to allow for the widest variety of high-intensity commercial development along the major thoroughfares in the city. This area is designed for retailers that require a large amount of square footage and generate numerous trips per day as well as office development. Development in this district is typically auto-dependent and should involve access management strategies. In addition, aesthetics should be considered with managed signage and the incorporation of landscaping within and around parking areas. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Heavy Commercial District (B-3)			
Permitted Uses			Special Exception Uses
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> farmers market food truck <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> auto detailing auto/truck repair bank banquet hall bar/tavern bicycle sales/repair boat sales building supplies trades sales business incubator carwash caterer coffee house conference center flea market greenhouse, retail grocery store gun sales/repair health/fitness facility heavy equipment sales/service hotel/motel kennel, commercial laundromat 	<p>COMMERCIAL USES continued...</p> <ul style="list-style-type: none"> laundry and dry cleaning liquor store micro brewery mini storage/warehouses movie theater professional/business offices parcel/post distribution facility pawn shop personal services pet shop print shop/retail restaurant restaurant with drive-thru retail, general retail, service oriented studio tattoo shop theater tobacco specialty store transportation terminal vehicle sales/service veterinary clinic winery/brewery/distillery 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> *wireless communication facility, attached *wireless communication facility, detached assisted living facility community center dental office/clinic fire station government offices health care office/clinic hospital library museum nursing home outpatient medical facility park playground post office school, college/university school, primary/secondary urgent care medical facility 	<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> boat storage brewery/brewpub casino funeral home landscaping business manufactured home sales sports facility truck stop truck terminal truck wash <p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> laboratory, commercial lumberyard nursery, wholesale <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> comprehensive care facility homeless shelter

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards**.

C. Development Standards.

Development Standards – Heavy Commercial District (B-3)

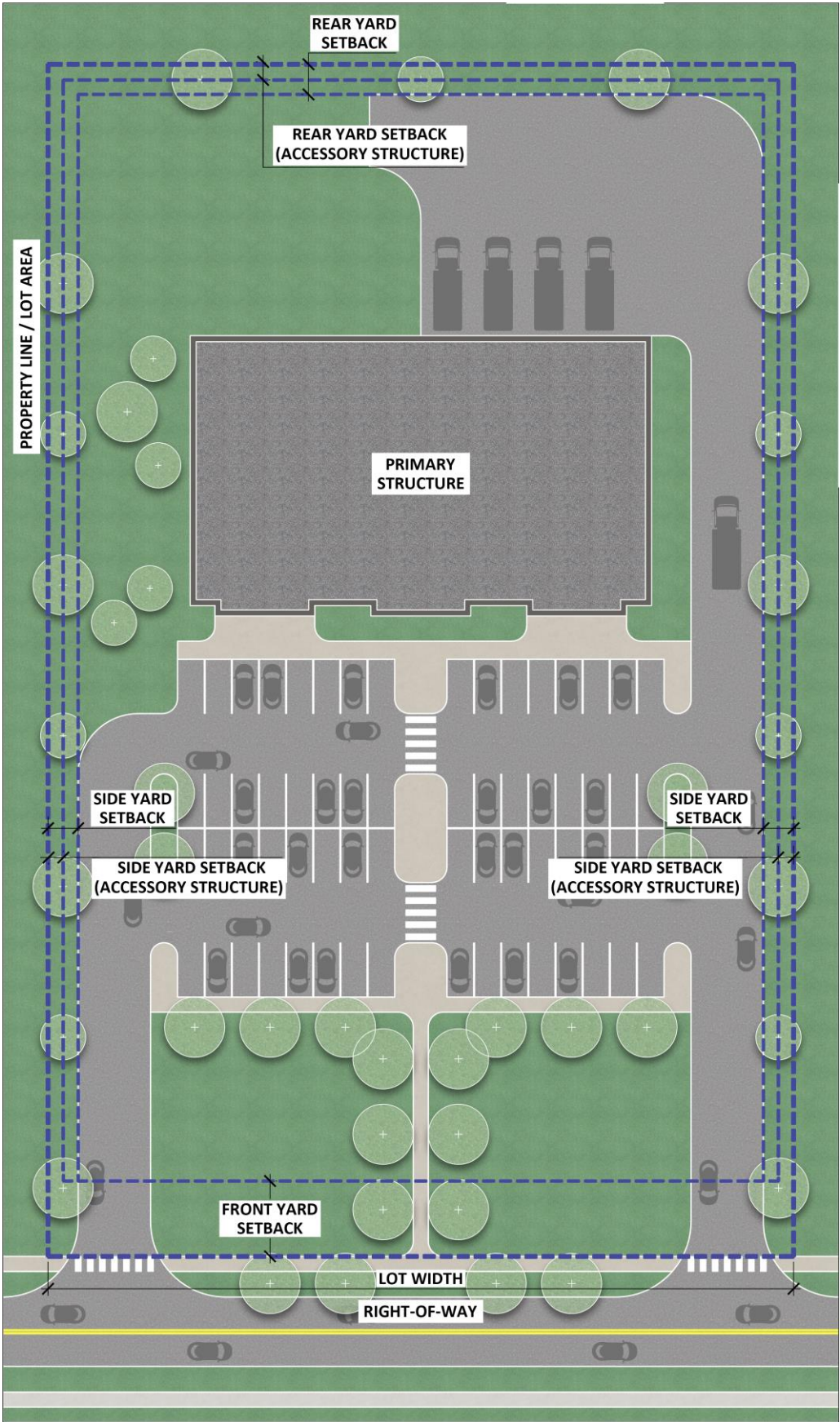
Development Standard	Land Use	
	Non-residential	
Structure Standards		
Maximum height of structure	Primary structure	60 feet
	Accessory structure	30 feet
Lot Standards		
Minimum lot width and road frontage		70 feet
Minimum lot depth		NA
Minimum lot area		10,000 sqft
Minimum front yard setback		25 feet
Minimum side yard setback	Primary structure	10 feet
	Accessory structure	5 feet
Minimum rear yard setback	Primary structure	10 feet
	Accessory structure	5 feet
Maximum impervious surface coverage		85%
Utility Standards		
Municipal water and sewer required		yes

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



LIGHT INDUSTRIAL DISTRICT – I-1

A. Purpose.

The Light Industrial District (“I-1”) is intended for low-intensity and medium-intensity industrial activities that are fully enclosed and are compatible with surrounding districts. Businesses that require outdoor storage or outdoor operations are not consistent with the purpose of this district. Due to heavy truck traffic, development should have direct access to collector streets and arterial streets. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Light Industrial District (I-1)		
Permitted Uses		Special Exception Uses
<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • auto detailing • auto/truck repair • boat storage • building supplies trades sales • farm equipment repair • gun range, indoor • heavy equipment sales/service • laundry and dry cleaning • manufactured home sales • mini storage/warehouses • recreation facility • sports facility • truck stop • truck terminal • truck wash • vehicle sales/service <p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • *mineral extraction (without blasting) • bakery, industrial • canning/bottling operation • distribution facility • engineering and research lab • fabricating facility • food processing/packaging facility • furniture manufacturing/refinishing • warehousing and storage 	<p>INDUSTRIAL USES CONTINUED</p> <ul style="list-style-type: none"> • gas/oil well • laboratory, commercial • industrial, light • manufacturing, general • motor manufacturing/service • nursery, wholesale • printing • trucking/transportation company <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, attached • *wireless communication facility, detached • animal humane shelter • fire station • government offices • hospital • park • post office • urgent care medical facility • utility transmission/distribution facility 	<p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • contractor storage yard • livestock auction facility • lumberyard <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • airport/heliport • penal/correctional facility • wastewater treatment facility, public

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards.**

C. Development Standards.

Development Standards – Light Industrial District (I-1)

Development Standard	Land Use	
	Non-residential	
Structure Standards		
Maximum height of structure	Primary structure	75 feet*
	Accessory structure	45 feet
Minimum width of primary structure	NA	
Lot Standards		
Minimum lot width and road frontage	75 feet	
Minimum lot depth	75 feet	
Minimum lot area	With sewer	5,000 sqft
	Without sewer	2 acres
Minimum front yard setback	25 feet	
Minimum side yard setback	Primary structure	25 feet
	Accessory structure	10 feet
Minimum rear yard setback	Primary structure	25 feet
	Accessory structure	10 feet
Maximum impervious surface coverage	80%	
Utility Standards		
Municipal water and sewer required	yes	

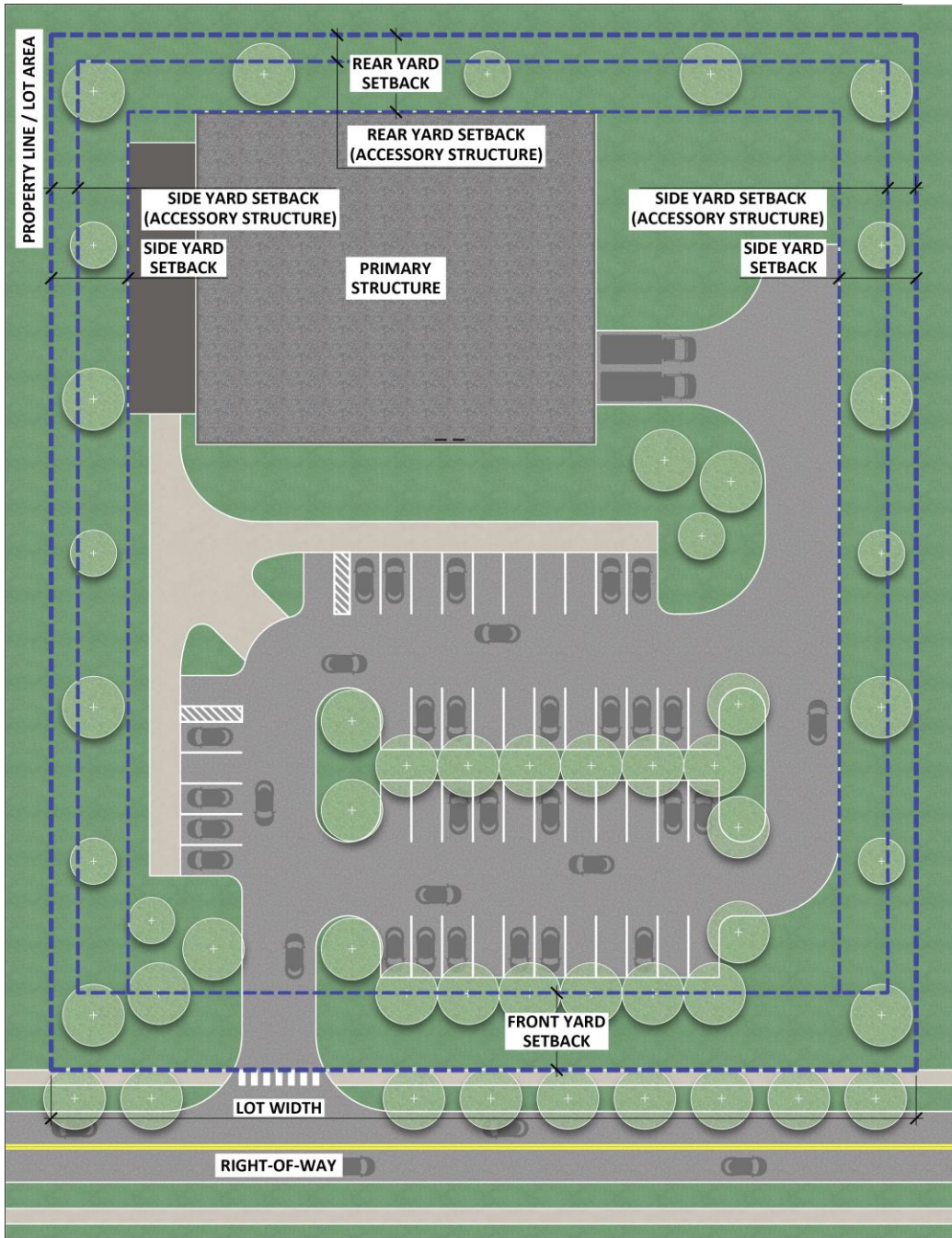
*Uses in the Land Use Table classified as wireless communication facility are exempt from this standard.

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



HEAVY INDUSTRIAL DISTRICT – I-2

A. Purpose.

The Heavy Industrial District (“I-2”) is intended to provide for employment centers for more intense industrial uses that typically generate heavy demands on the area transportation systems. These uses require outdoor storage and may cause odors, dust, noise, and vibrations as well as generate significant amounts of truck and freight traffic. Development should have direct access to arterial streets and may require railway access as well. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

Land Uses – Heavy Industrial District (I-2)		
Permitted Uses		Special Exception Uses
<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • auto detailing • auto/truck repair • farm equipment repair • heavy equipment sales/service • landscape materials contractor • truck stop • truck terminal • truck wash • vehicle sales/service <p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • *mineral extraction (without blasting) • assembly operations • auto storage yard • bakery, industrial • canning/bottling operation • contractor storage yard • dairy processing • distribution facility • engineering and research lab • fabricating facility • food processing/packaging facility • furniture manufacturing/refinishing • gas/oil well • generator manufacturing/service • glass making 	<p>INDUSTRIAL USES CONTINUED</p> <ul style="list-style-type: none"> • ice making • industrial, heavy • industrial, light • laboratory, commercial • landscape material, bulk • lumberyard • machine/welding/tool and die facility • manufacturing, general • motor manufacturing/service • printing • refining facility • remanufacturing, general • trucking/transportation company • vehicle impound lot • warehousing and storage <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility, attached • *wireless communication facility, detached • fire station • government offices • park • post office • utility transmission/distribution facility 	<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *adult business <p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • *mineral extraction (with blasting) • asphalt plant • cement/clay mixing/processing • composting facility, commercial • hazardous materials manufacturing/storage/processing • junk yard • livestock auction facility • petroleum refining/processing • power generation facility • recycling sorting facility • salvage yard • sanitary landfill • scrap metal processing • slaughterhouse • solid waste facility <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • airport/heliport • penal/correctional facility • wastewater treatment facility, public

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards.**

C. Development Standards.

Development Standards – Heavy Industrial District (I-2)

Development Standard	Land Use	
	Non-residential	
Structure Standards		
Maximum height of structure	Primary structure	75 feet*
	Accessory structure	45 feet
Minimum width of primary structure	NA	
Lot Standards		
Minimum lot width and road frontage	75 feet	
Minimum lot depth	75 feet	
Minimum lot area	With sewer	5,000 sqft
	Without sewer	2 acres
Minimum front yard setback	50 feet	
Minimum side yard setback	Primary structure	25 feet
	Accessory structure	25 feet
Minimum rear yard setback	Primary structure	25 feet
	Accessory structure	25 feet
Maximum impervious surface coverage	80%	
Utility Standards		
Municipal water and sewer required	yes	

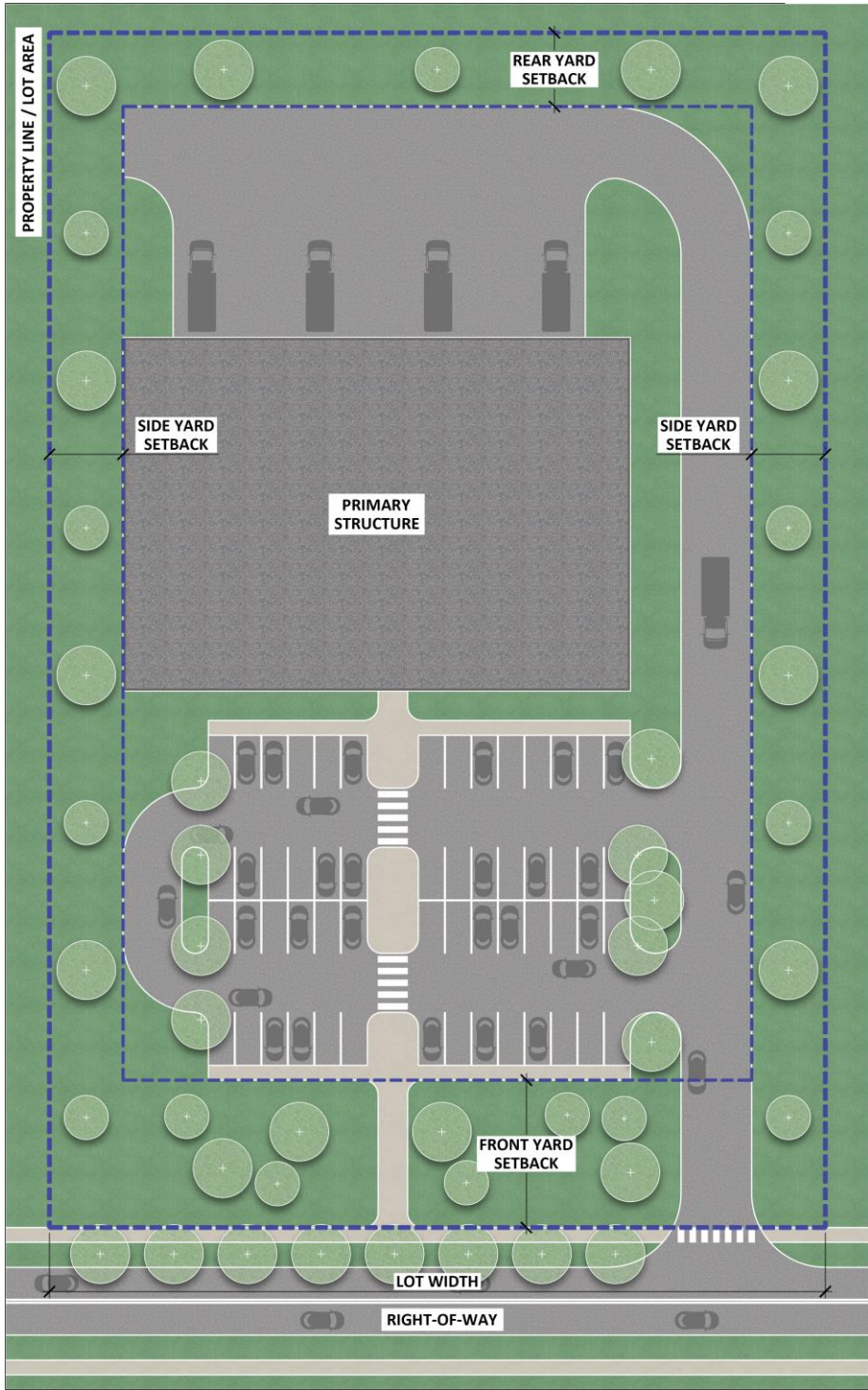
*Uses in the Land Use Table classified as Agricultural or wireless communication facility are exempt from this standard.

Additional Site Development Standards

The following site development standards may also apply to development in this district.

See **Chapter 3: Site Development Standards.**

- Accessory Structure Standards
- Bufferyard Standards
- Driveway Standards
- Dumpster and Trash Receptacle Standards
- Lot Standards
- Outdoor Lighting Standards
- Parking and Loading Standards
- Sign Standards
- Setback Standards
- Storage Standards
- Structure Standards



AIRCRAFT OVERLAY DISTRICT – A–O

A. Purpose.

The purpose of the Aircraft Overlay District (“A–O”) is to provide safe operating conditions for aircraft in the vicinity of the Huntingburg Regional Airport (KHNB) by limiting vegetation, the height of structures, and other construction as well as protect sensitive uses against noise generated by aircraft. The boundaries of this district are as shown on the official zoning map and as established by the Dubois County Airport Authority. The land uses and standards of the underlying zoning districts apply unless otherwise stipulated in this section. All subdivisions require Subdivision approval. All new primary structures for commercial, industrial, and multi-family projects require Development Plan Approval.

B. Uses.

1. The Airport Overlay District shall apply to all of the land lying within or underneath the approach zones, transitional zones, horizontal zones and conical zones for the Huntingburg Regional Airport (KHNB) set forth in this section. The uses permitted in the Airport Overlay District shall be regulated by the underlying zoning district. Where a use is allowed in the underlying zoning district, it may be allowed in the overlay district, except as provided for below.
 - a. Uses that the controlling airport entity or the FAA determines will increase the possibility of aircraft bird strikes such as ponds, waste disposal operations, wastewater treatment plants, certain agricultural uses and other uses that are considered wildlife attractants shall be prohibited near the airport and within the airway approaches as determined by the *FAA AC 150/5200-33C Hazardous Wildlife Attractants on or Near Airports*.
 - b. Any use that creates electrical interference with navigational signals or radio communication between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport or operating within the borders of the Aircraft Overlay District, impairs visibility in the vicinity of the airport or otherwise in any way creates a hazard or endangers the landing, takeoff or maneuvering of aircraft intending to use the airport shall be prohibited.
 - c. Structures that constitute tall structures within the meaning of *IC 8-21-10-3* may not be erected, altered or increased in height, except where the height of the structure is below the height limits of the respective development standard tables for the underlying zoning district in **Chapter 2: Zoning Districts** and a permit is obtained from the Indiana Department of Transportation under *IC 8-21-10-3*.
 - d. A person may not erect a building used for a noise sensitive purpose (*IC 8-21-10-3*), including a residence, school, church, child care facility, medical facility, retirement home, or nursing home, within an area defined by the 65DNL contour of the airport, as defined by Federal Aviation Administration Advisory Circular 150/5020-1, Appendix 1 unless:
 - i. A permit for construction in a noise sensitive area has been approved by the Indiana Department of Transportation;
 - ii. The holder of a permit for construction in a noise sensitive area has file a copy of the permit for construction in a noise sensitive area with the county recorder of Dubois County with notice provided to the airport at the time of the filing of the application for a permit; and

- iii. A certified copy of the recorded permit for construction in a noise sensitive area, with the recording data from the county recorder on the copy of the permit, has been received by the Indiana Department of Transportation.
- iv. The holder of a permit for construction in a noise sensitive area acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in the permit experiences or may experience significant levels of aircraft operations, and that the permittee is erecting a building designed for noise sensitive use upon the real estate, with the full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations.

C. Additional Standards.

1. Overlay District Requirements.

- a. In order to carry out the provisions of this Section there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Huntingburg Regional Airport (KHNB). Such zones are shown on Huntingburg Zoning Map, which is attached to this Section and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:
 - i. Horizontal Surface. A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specific radii from the center of each end of the primary surface of each runway of the airport. The radius of each arc is:
 - (a) Five thousand (5,000) feet for all runways designated as utility or visual;
 - (b) Ten thousand (10,000) feet for all other runways. The radius of the arc specified for the end of each runway will have the same arithmetical value. The value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent ten thousand (10,000-foot) arcs, the five thousand (5,000)-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.
 - ii. Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand (4,000) feet.
 - iii. Primary Surface. A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; for runways without a specifically prepared hard surface, or a planned hard surface, the primary surface ends at each end of that runway.
 - (a) The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The airport elevation is five hundred twenty-nine (529) feet above mean sea level.
 - (b) The width of a primary surface is:
 - (1) Two hundred fifty (250) feet for utility runways having only visual approaches.
 - (2) Five hundred (500) feet for utility runways having nonprecision instrument approaches.

- (3) For other than utility runways the width is:
 - (4) Five hundred (500) feet for visual runways having only visual approaches.
 - (5) Five hundred (500) feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile.
 - (6) One thousand (1,000) feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.
- iv. Approach Surface. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface. An approach surface is applied to each end of the runway based upon the type of approach available or planned for that runway end.
- (a) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - (1) One thousand two hundred fifty (1,250) feet to the end of a utility runway with only visual approaches;
 - (2) One thousand and five hundred (1,500) feet for that end of a runway other than a utility runway only with visual approaches;
 - (3) Two thousand (2,000) feet for that end of a utility runway with a nonprecision instrument approach;
 - (4) Three thousand five hundred (3,500) feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile.
 - (5) Four thousand (4,000) feet for that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths a statute mile; and
 - (6) Sixteen thousand (16,000) feet for precision instrument runways.
 - (b) The approach surface extends for a horizontal distance of:
 - (1) Five thousand (5,000) feet at a slope of twenty to one (20:1) for all utility and visual runways;
 - (2) Ten thousand (10,000) feet at a slope of thirty-four to one (34:1) for all nonprecision instrument runways other than utility; and
 - (3) Ten thousand (10,000) feet at a slope fifty to one (50:1) with an additional forty thousand (40,000) feet at a slope for forty to one (40:1) for all precision runways.
- v. Transitional Surface. These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven to one (7:1) from sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at right angle to the runway centerline.

2. Permits. All applications under this ordinance for land located within the Aircraft Overlay District shall be subject to the requirements of this section and all structures and trees shall comply with the limitations of this section

- a. All applicants to the city for development plan review, subdivision plat review and ILP within the Aircraft Overlay District must submit a Notice of Proposed Construction or Alteration, FAA Form 7460-1 to the FAA.
- b. Permits must be obtained by the Indiana Department of Transportation as required by *IC 8-21-10-3*.
- c. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree to become a greater hazard to air navigation than it was on effective date of the ordinance.
- d. A permit for a tree or structure of less than fifty (50) feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of four thousand and two-hundred feet (4,200) feet from each end of the runway except when such tree or structure because of terrain, land contour, or topographical features would extend above the height limit prescribed for the respective zone.

3. Height Limits. Height of structures in areas surrounding the boundaries of airports having an established instrument approach that has been approved by the FAA shall be in accordance with requirements set forth in the instrument approach. All structures and vegetation within the Airport Overlay District shall not exceed the height limits set by the FAA and contain in the approach plan. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.

- a. An existing object, including a mobile object, is, and future object would be, an obstruction to air navigation if it is greater than any of the following heights or surfaces:
 - i. A height of five hundred (500) feet above ground level at the site of the object.
 - ii. A height that is two hundred (200) feet above ground level or the established airport elevation, whichever is higher, within three nautical miles of the established reference point of an airport, excluding heliports, with its longest runway more than three thousand two hundred (3,200) feet in actual length, and that height increases in the proportion of one hundred (100) feet for each additional nautical mile of distance from the airport up to a maximum of five hundred (500) feet.
 - iii. A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.
 - iv. A height within an en route obstacle clearance area, including turn and termination areas, of a Federal airway approved off-airway route, that would increase the minimum obstacle clearance altitude.
 - v. The surface of a takeoff and landing area of an airport or any imaginary surface established under this section. However, no part of the take-off or landing area itself will be considered an obstruction.
- b. Except for traverse ways on or near an airport with an operative ground traffic control service, furnished by an air traffic control tower or by the airport management and coordinated with the air traffic control service, the standards of this section apply to traverse ways used or to be used for the passage of mobile objects only after the heights of these traverse ways are increased by:

- i. Seventeen (17) feet for an Interstate Highway that is part of the National System of Military and Interstate Highway where overcrossings are designed for a minimum of seventeen (17) feet vertical distance.
- ii. Fifteen (15) feet for any other public roadway.
- iii. Ten (10) feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.
- iv. Twenty-three (23) feet for a railroad, and,
- v. For a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally transverse it.

4. Variances. Any request for a variance to the height limits shall require a determination of “no hazard” by the FAA, which demonstrates that no lighting or marking is required. The Dubois County Airport Authority shall approve the variance to the height limits prior to being considered by the BZA. To be effective, any variance granted under this section requires approval by the Airport Board pursuant to *IC 8-22-3-14(b)*. Any variance granted shall be so conditioned as to require the owner of the structure or tree to install, operate, and maintain markers or lights to indicate to pilot the presence of an airport hazard, if required by the Dubois County Airport Authority.

FLOODPLAIN OVERLAY DISTRICT – F-O

A. Purpose.

The purpose of the Floodplain Overlay District (“F-O”) district is to regulate development within the floodplain areas and to comply with the regulations of the Federal Emergency Management Agency (FEMA).

The Floodplain Overlay District shall consist of the following areas:

- Areas subject to periodic flooding and as last updated in the Websoil Survey, operated by the USDA Natural Resources Conservation Service, as being “subject to flooding;” and
- Areas classified as floodway or special flood hazard areas in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated October 16, 2014, as amended and issued by FEMA including all digital data developed as part of the Flood Insurance Study.

Development in this district must comply with the Flood Hazard Area Ordinance adopted by the City of Huntingburg in conjunction with the National Flood Insurance Program (NFIP). Development of any kind within the regulatory floodway of a waterbody will require the approval of the Indiana Department of Natural Resources (IDNR), under the authority of *IC 14-28-1*.

B. Uses.

Land Uses – Floodplain Overlay District (F-O)	
Permitted Uses	Special Exception Uses
<p>The following uses are permitted provided that no material storage or enclosed buildings are located in the floodway.</p> <p>AGRICULTURAL USES</p> <ul style="list-style-type: none"> • row crop production • forestry • orchards • raising of livestock • vineyard <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • archery range, outdoor • gun range, outdoor <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communications facility, attached • park • picnic area • playground 	<p>All other uses permitted by right or by special exception in the underlying zoning districts.</p>

* Indicates specific development standards apply. See **Chapter 4: Use Development Standards**.

C. Additional Standards.

- 1. BZA approval required.** Unless listed as permitted in the table above, uses permitted by right and by special exception in the underlying zoning districts or the alteration of legal nonconforming existing uses shall require approval from the BZA as a “special exception” in this overlay district.
- 2.** Development in this district must comply with the Flood Hazard Area Ordinance adopted by the City of Huntingburg in conjunction with the National Flood Insurance Program (NFIP). Development of any kind within the regulatory floodway of a waterbody will require the approval of the Indiana Department of Natural Resources (IDNR), under the authority of *IC 14-28-1*.

WATERSHED PROTECTION OVERLAY DISTRICT – W-O

A. Purpose.

The purpose of the Watershed Protection Overlay District (“W-O) is to protect the Huntingburg City Lake from pollution or other conditions which may adversely affect the quality of the water or have a negative impact on the lake’s use as a source for drinking water for the community.

B. Uses.

1. The uses of the underlying zoning districts apply unless otherwise stipulated in this section.

C. Additional Standards.

1. The uses, standards, and procedures of the underlying zoning districts apply except as stipulated in this section.

2. **Limitations on uses.** All uses of land in the watershed overlay district are subject to the following requirements:

- a. The specific use shall comply with all applicable federal, state and local laws that regulate the use and protection of Huntingburg City Lake.

- b. **Livestock and manure storage.**

- i. The raising or keeping of livestock and the land application of wastewater or manure shall not be permitted within three hundred (300) feet from the waters of the Huntingburg City Lake when the same is at full-pool level.
- ii. No manure storage facilities accommodating more than fifty (50) animals in any one (1) building or on any one (1) lot shall be permitted within one thousand (1,000) feet from the waters of the Huntingburg City Lake when the same is at full-pool level.

- c. **Limitations on structures.** All structures in the watershed overlay district are subject to the following requirements:

- i. No private improvements may be constructed in or extend into the Huntingburg City Lake (such as boat docks or piers), nor shall the elevation of the Huntingburg City Lake's shoreline be changed to permit the recreational use of the waters of said lake (such as boat slips or swimming areas).
- ii. No part of a private sewage disposal (septic) system shall be located closer than three hundred (300) feet from the waters of the Huntingburg City Lake when the same is at full pool level. Connection to existing sanitary sewer is required if property line of affected property is within three hundred (300) feet of an available sanitary sewer.

- d. **Nonconformities.** Legal nonconformities may be continued and maintained subject to the provisions provided in ***Chapter 9: Nonconforming Lots, Structures, and Uses.***
- e. **Preserving public health regulations.** The Administrator shall ensure that no activity, situation, structure, or land use shall be allowed within the district which poses a threat to water quality and the public health, safety, and welfare. Such conditions may arise from inadequate on-site sewage systems; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash, or other refuse; or any other situation found to pose a threat to water quality.
- f. **Enforcement.** The Administrator shall monitor land use activities within the district to identify situations that may pose a threat to water quality and report their findings to the proper agency to handle the threat. Where the Administrator finds a threat to water quality and the public health, safety, and welfare, they shall institute any appropriate action or proceeding to restrain, correct, or abate the condition and/or violation.

3 Site Development Standards

Your Home 
YOUR HUNTINGBURG

CHAPTER 3: SITE DEVELOPMENT STANDARDS

A. General Provisions.

1. All structures, land uses, land use changes, structural alterations, structural relocations, demolitions, structural additions, and structural enlargements that are constructed, created, established, or occur after the effective date of this UDO are subject to all of the development standards of this Chapter as listed.

B. Accessory Structure Standards.

Accessory structures shall be permitted in all zoning districts provided the following requirements have been met.

1. Accessory structures shall be associated with and related to the primary use of the property.
2. Accessory structures shall secure an ILP and shall not be erected prior to the primary structure, except for structures used for agricultural purposes.
3. Accessory structures shall be clearly subordinate in height, area, bulk extent, and purpose to the primary structure.

4. Improvement Location Permits (ILP) Requirements.

- a. **ILP Not Required.** The following accessory structures are permitted in all districts and may be installed in any required yard without an ILP:
 - i. Structures exclusively for agricultural purposes, landscape vegetation, swing sets, children's tree houses, bird baths, bird houses, curbs, lamp posts, mail boxes, name plates, utility installations for local services, retaining walls, walks, drainage installations, housing for domestic pets provided it is not for profit and does not constitute a "kennel" as defined in **Chapter 10: Definitions**.
 - ii. Where permitted as accessory uses, wireless communications facilities may be installed without an ILP provided they are co-located upon an existing or pre-approved wireless communication facility, or they are no taller than fifteen (15) feet and visually integrated or camouflaged against a structure other than another antenna.
- b. **ILP Required.** The following accessory structures are permitted in all zoning districts and require an ILP certifying that all applicable requirements of the ordinance have been met.
 - i. Accessory buildings and structures such as decks, garages, carports, enclosed patios, bath houses, gazebos, cabanas, greenhouses, storage sheds, stables, swimming pools (above and in-ground), fences, home occupation structures, and signs.
 - ii. Any other type of structure not otherwise listed that is over fifty (50) square feet in area.

5. Swimming Pools.

- a. In-ground swimming pools.
 - i. In-ground swimming pools shall have a five (5) foot high fence placed around the pool area and/or a mechanical pool cover over the pool in compliance with the current building code.

6. Fences.

- a. Design and Construction.
 - i. No fence shall be constructed or designed so that it creates a traffic hazard.
 - ii. No fence shall be constructed or designed so that it is hazardous or dangerous to persons or animals.
 - iii. Razor wire, barbed wire, and electric fences are prohibited for non-agricultural purposes and uses.
- b. Height.
 - i. Fence height cannot exceed six (6) feet above grade for residential uses.

- ii. Fences less than three (3) feet in height do not require a permit, but must comply with all regulations specified herein.

c. Limitations on Placement.

- i. Fencing in a front yard may not exceed three (3) feet in height. Note that a corner lot will have two (2) front yards.
- ii. Fences must be located at least five (5) feet from a public right-of-way.
- iii. Fences may not be located within any type of easement.
- iv. Fences may not be located closer than two (2) feet from the subject owner's property line.

d. Additional Standards.

- i. It is possible that the restrictive covenants of a development may have more stringent regulations regarding fences. It is recommended that you review your covenants to determine if this is the case.
- ii. Replacement, Repairs, and Maintenance.
 - (a) ILP Not Required. An ILP is not be required for routine maintenance that involves the removal or replacement of less than twenty-five percent (25%) of an existing legal nonconforming fence as long as that fence is not relocated or enlarged and meets the required setbacks.
 - (b) ILP Required. Projects that involve the removal or replacement of twenty-five percent (25%) or more of an existing legal nonconforming fence at one time shall require an ILP and shall comply with all regulations of this section.
 - (c) Compliance. All fence projects shall be brought into full compliance with these standards if and when the cumulative area of the fence repairs and maintenance initiated in any five (5) year period after the effective date of this UDO is, in the aggregate, twenty-five percent (25%) or more of the entire size of the fence.

C. Bufferyard Standards.

1. Purpose. Both the amount of land and the type and amount of planting specified for each bufferyard requirement are designed to minimize nuisances between adjacent land uses. The planting units required of bufferyards have been calculated to ensure that they do, in fact, function as “buffers”. Bufferyards shall be required to separate land uses from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly building or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.

2. Determination of Required Bufferyard.

- a. Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per one hundred (100) linear feet of bufferyard. Each developer or owner is required to install a bufferyard on their parcel as it develops, even if the developer on an adjacent parcel has also installed a bufferyard.
- b. To determine which bufferyard is required between the subject parcel and each adjacent parcel, refer to Table 1: Bufferyard Requirements as follows:
 - i. Identify the subject zoning district of the proposed land use by referring to the vertical column of the table.
 - ii. Identify the zoning district of each adjacent parcel by referring to the horizontal column of the table.
 - iii. Determine the bufferyard(s) required along the boundary between the subject parcel and each adjacent parcel per the table.

3. Location of the Bufferyard.

- a. Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line.
- b. The Administrator has discretion to modify the width of the bufferyard and the placement of plantings to accommodate rights-of-way, drainage easements, and utility easements. While the width of the bufferyard may include all or a portion of rights-of-way, drainage easements, and utility easements, plantings may be shifted or clustered so that they are not placed in these areas.

4. Planting Requirements.

- a. Deciduous trees are to be a minimum of two (2) inches in diameter or eight (8) feet tall at the time of planting.
- b. Evergreen trees shall be a minimum of five (5) feet tall at the time of planting.

5. Substitutions and Modifications.

- a. Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.
- b. The following plant material substitutions shall satisfy the requirements of this section.
 - i. In all bufferyards, evergreen canopy trees and evergreen understory trees may be substituted for deciduous canopy trees without limitation.

- ii. In all bufferyards, evergreen shrubs or conifer shrubs may be substituted for deciduous shrubs without limitation.
- c. A landscape plan shall be submitted with each applicable application.
- d. If the development on the adjacent use is existing, planned, or deed-restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access.

6. Wall, Fence, or Berm Requirements.

- a. Whenever a wall, fence, or berm is required within a bufferyard, these are shown as “Structure Required” in Table 2: Planting Requirements. The respective specifications are shown in Table 3: Fence, Wall, and Berm Requirements.
 - i. When the subject property and the adjacent property are undeveloped, the subject property shall install the required wall, fence, or berm. Subsequent development of the adjacent property shall only install the required plantings.
 - ii. If the adjacent property was developed prior to the enactment of this UDO, the subject property shall install the required wall, fence, or berm.
 - iii. Whenever a wall is required in addition to a berm, the wall shall be located between the berm and the higher intensity use, in order to provide maximum sound absorption.
- b. Berms with masonry walls required of bufferyard options H, are intended to buffer more significant nuisances from adjacent land uses and, additionally, to break up and absorb noise, which is achieved by the varied heights of plant materials between the wall and the noise source.
- c. When berms with walls are required, the masonry wall shall be closer than the berm to the higher intensity use.

7. Maintenance. All plant material that dies must be replaced within six (6) months so as to maintain the approved bufferyard and landscape plan.

8. Other.

- a. If the development borders a jurisdictional boundary outside that of this ordinance, the bufferyard used shall be based on the zoning district most comparable to that of this UDO at the discretion and approval of the Administrator.
- b. All bufferyard areas shall be live vegetation and seeded with lawn or prairie grasses unless such ground cover is already established.
- c. Bufferyards may contain natural water amenities or areas established for drainage, provided that planting requirements are still satisfied.
- d. Bufferyards may overlap with drainage and utility easements, but required plantings must not be placed within the drainage and utility easements themselves.

9. Use of Bufferyards. A bufferyard may be used for passive recreation. It may contain pedestrian, bike, or equestrian trails, provided that no plant material is eliminated, the total width of the bufferyard is not reduced, and all other regulations of the ordinance are met. In no event, however, shall permanent structures be permitted in bufferyards including ice-skating rinks, stables, swimming pools, and ball/tennis courts.

10. Ownership of Bufferyards. Bufferyards may remain in the ownership of the original developer of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, a park or forest preserve, or an open space or conservation group, provided that any such conveyance adequately guarantees the protection of the bufferyards for the purposes of this ordinance.

11. Bufferyard Between Like Uses. When a bufferyard is required in a zoning district where the proposed use is similar to existing, surrounding uses in terms of land use, size, density, and lot size, the bufferyard may be reduced or omitted at the discretion of the Administrator. The Administrator’s approval or denial to reduce or omit a bufferyard shall be made in writing, justifying the decision.

Table 1: Bufferyard Requirements

Subject District	Adjacent District										
	AG	P	R-1	R-2	R-3	DMU	B-1	B-2	B-3	I-1	I-2
AG	-	A	-	-	-	-	-	-	-	-	-
P	A	-	B	B	B	-	B	B	B	B	B
R-1	A	B	B	B	C	C	C	D	F	G	H
R-2	A	C	B	B	C	C	C	D	F	G	H
R-3	A	C	C	C	B	C	C	D	F	G	H
DMU	-	-	-	-	-	-	-	-	-	-	-
B-1/MU	A	C	B	B	B	B	B	C	C	C	D
B-2	-	D	D	D	D	D	C	B	C	D	D
B-3	-	F	F	F	F	F	C	C	B	E	E
I-1	-	G	G	G	G	F	C	D	C	B	B
I-2	-	H	H	H	H	H	H	H	G	G	B

Table 2: Planting Requirements

Bufferyard	Minimum Width	Plant Units Required per every 100 Linear Feet				Structure Required	
		Canopy Trees	Understory Trees	Shrubs	Evergreen Trees	Fence or Wall	Berm
A	40 feet	0	0	0	0	-	-
B	5 feet	1	1	0	0	-	-
C	10 feet	1	2	3	1	-	-
D	15 feet	2	4	6	3	-	-
E	10 feet	3	5	9	3	wall	-
F	20 feet	4	8	12	5	fence	-
G	25 feet	5	8	18	8	-	berm
H	50 feet	6	9	18	12	-	berm

Table 3: Fence, Wall, and Berm Requirements

Structure	Height	Material/Design
Fence	8 feet (Non-Residential Use) 6 feet (Residential Use)	Solid opaque fence constructed of either wood or vinyl
Wall	6 feet	Solid opaque masonry wall
Berm	5 feet at peak and slope must be contained inside the bufferyard	earth

D. Driveway Standards.

1. **Permits.** New driveways and curb cuts require an ILP before being installed. Existing curb cuts that have not obtained an ILP in the past will need to do so before the property may be developed.
2. **Materials.**
 - a. **Residential.** Only driveways serving single-family residential uses in the unincorporated areas of the jurisdiction may be gravel. All other residential driveways and all residential driveways within the incorporated areas of the jurisdiction must be fully graded and surfaced with an all-weather paving material such as asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust.
 - b. **Commercial and Industrial.** Driveways serving commercial uses and industrial uses must be graded and surfaced with an all-weather paving material such as asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust.
3. **Separation from Intersections.** Driveways shall be adequately separated from roadway intersections in order to minimize conflict with intersection traffic. No driveway shall enter the adjoining street at a point closer than the distances shown below to the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended. Roadway classification shall be in accordance with the Comprehensive Plan.
 - a. Local Road: Fifty (50) feet
 - b. Major Collector or Minor Collector: Seventy-five (75) feet
 - c. Principal Arterial or Minor Arterial: One hundred (100) feet

E. Lighting Standards.

- 1. Context.** In any district where provided, outdoor lighting shall be of a design and size that is harmonious with the design of the building, the type of land use, and the type of adjacent land uses.
- 2. Shielding.** If external spot or flood lighting is used, the light source should be shielded and restrained in such a manner so as not to illuminate or intrude on surrounding properties.
- 3. Prohibited Lighting.** Excessive brightness, flashing lights, and brilliant colors are not permitted.

F. Lot and Setback Standards.

1. Lots. Every primary structure hereafter erected, except agricultural structures not used for human habitation, shall be located on an individual lot which fronts on a street or private drive. No building or structure shall hereafter be erected or located on a lot unless such lot conforms with the lot area regulations of the district in which it is located or in accordance with **Chapter 9: Non-conforming Lots, Structures, and Uses**.

2. Setbacks.

- a. In the case of a through lot or a corner lot, any property line abutting a street shall be considered a front property line and the setback from that line shall conform to the front yard setback regulations of that district. Corner lots shall have two (2) front yard setbacks and two (2) side yard setbacks.
- b. One-half of an alley abutting the rear or side of a lot may be included in the rear yard setback or side yard setback, respectively, but such alley space shall not be included for loading and unloading berths.
- c. Architectural features (cornice, chimney, eave, sill, canopy, or similar feature) or open platforms, porches, or landings may extend into a required side setback or rear setback no more than two (2) feet, and may project into a required front yard no more than three (3) feet.

G. Parking and Loading Standards.

1. Intent.

- a. To reduce traffic problems and hazards by eliminating unnecessary on-street parking and loading, every use of land except those within the downtown mixed-use district must include on-premises parking and loading sufficient for the needs normally generated by the use, as provided by this section.
- b. Off-street parking spaces shall be used only for the parking of vehicles of occupants, patrons, visitors, or employees and shall not be used for any kind of loading, sales, servicing, or continuous storage of vehicles for more than forty-eight (48) hours.
- c. Automotive vehicles or trailers of any type without plates in an inoperable condition, so as to be deemed dead storage, shall be prohibited in residential districts other than in completely enclosed buildings and shall not be parked or stored in any district unless specifically authorized under the terms of this ordinance.
- d. Space allotted to loading berths and loading areas shall not be used to satisfy parking space requirements.

2. General Design.

- a. Non-residential parking or loading areas along the street-front should be minimized. When possible, parking or loading areas should be placed to the rear of the structure. All parking or loading areas shall be designed with appropriate means of movement and shall be so arranged that movement can proceed safely without posing a danger to pedestrians or other vehicles. No parking area shall be so designed as to require backing into a public street, public or private pedestrian access way, or from a public alley.
- b. All parking spaces and loading areas shall maintain a setback of ten (10) feet from property lines and rights-of-way, or the width of the required bufferyard, whichever is greater.
- c. All parking or loading spaces shall be designed, arranged, and regulated as to open directly upon an aisle or driveway without obstruction.
- d. All parking areas shall be striped and channelized as appropriate. Parking spaces shall be marked and access lines clearly defined, including directional arrows to guide internal movement and directional signs as necessary.
- e. All parking or loading areas shall be maintained in good condition and free of weeds, dirt, trash, and debris.
- f. Parking areas shall be graded and surfaced with an all-weather paving material such as asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust. However, at the discretion of the Administrator, a gravel surface may be used for a period not exceeding one (1) year after the date of issuing the Certificate of Occupancy where ground conditions are not immediately suitable for permanent surfacing as specified in this section.
- g. Parking spaces shall be provided with bumper guards or wheel stops along the perimeter of the parking area so that no part of a parked vehicle will extend beyond the boundary of the parking area.
- h. Any use which fronts upon and utilizes access to a primary or secondary arterial shall provide and utilize a common frontage or access lane for the purpose of access, parking, and loading.

- i. All parking areas shall conform to state and federal requirements regarding handicap accessibility.

3. Design Flexibility.

- a. Due to particularities of any given development, the inflexible application of required parking spaces may result in parking and loading spaces in excess of need. Upon the written request of the applicant, the Administrator may authorize a reduction of required parking spaces not to exceed twenty percent (20%). Approval of a reduction in required parking spaces by the Administrator shall be in writing and shall include justification for allowing such reduction.
- b. Upon written request by the applicant, up to fifty percent (50%) of the dedicated parking area may remain unpaved and in greenspace until such time as the need for maximum parking is determined. This decision and determination shall be at the discretion of the Administrator. Such decision shall be ratified by or appealed to the PC. The resulting unpaved parking areas and greenspace shall not be counted toward required landscaping, bufferyards, or the impervious surface requirements of the zoning district.

4. Required Parking Spaces.

- a. In determination of required parking spaces, any fraction of less than one-half (0.50) shall be disregarded, while a fraction one-half (0.50) or greater shall be counted as one (1) parking space.
- b. For uses not specified in this section or in the instance requirements for an adequate number of spaces is unclear, the number of spaces shall be determined by the Administrator on the basis of similar requirements, the number of persons served or employed, and the capability of adequately serving the visiting public. Disagreement with this determination may be appealed to the BZA in accordance with **Chapter 8, Section D.1: Appeals Procedures**.
- c. Unless noted in this section, the number of required automobile parking spaces shall be considered the minimum allowable number of spaces for any particular use.

Table 4: Minimum Parking Requirements

Land Use Category	Minimum Parking Standard Methodology
Accessory Uses	As determined by the Administrator.
Agricultural Uses	One (1) space per two-hundred (200) sqft of gross floor area of structures designated for public access.
Commercial Uses	Methodology shall be as determined by the Administrator per the standards below based on the nature of the use: <ul style="list-style-type: none"> • One (1) space per three (3) seats. • One (1) space per two (2) employees on the largest shift. • One (1) space per two-hundred (200) sqft of gross floor area.
Industrial Uses	One (1) space per two (2) employees on the largest shift.
Institutional Uses	Methodology shall be as determined by the Administrator per the standards below based on the nature of the use: <ul style="list-style-type: none"> • One (1) space per three (3) seats. • One (1) space per four (4) beds. • One (1) space per two hundred (200) sqft of gross floor area. • Three (3) per recreational facility.
Residential Uses	Methodology shall be as determined by the Administrator per the standards below based on the nature of the use: <ul style="list-style-type: none"> • Two (2) spaces per dwelling unit. • One (1) per two (2) employees. • One (1) per four (4) residents.

5. Joint Use. Non-residential uses, within the same and/or separate structures, may provide joint parking provided the total number of spaces is not less than the sum of requirements for the various uses. To the extent that developments with joint parking operate at different times, such parking spaces may be credited to both uses.

6. Satellite Parking. Parking shall be required on site, except as provided in this section. However, the BZA may grant satellite parking to any non-residential use by Special Exception. At least part of such parking must be within three hundred (300) feet of the proposed use. A site plan must accompany any such application for Special Exception and must include the following:

- a. Adjacent streets, alleys and lots.
- b. All uses to be served including the location, use and number of parking spaces provided.
- c. A layout drawn to scale indicating aisles, driveways, entrances, exits, turn-off lanes, parking spaces, setbacks, drainage facilities, landscaping, lighting, pavement, and identification signs including location, size and design.
- d. All satellite parking shall be developed, maintained and used in accordance with the approved site plan and all other requirements.
- e. Any change or other modification of uses served or number or parking spaces shall require amendment and re-approval by the BZA.

7. Dimensions of Parking Spaces, Access Aisles, and Driveways.

- a. Each parking space shall contain a rectangular area nine (9) feet wide and eighteen (18) feet long, exclusive of pedestrian passageways, access drives, aisles, ramps, or landscaped areas.

Handicapped parking spaces shall conform to state and federal requirements regarding handicap accessibility.

- b. Parking areas set aside for parallel parking shall contain a rectangular area nine (9) feet wide and twenty-two (22) feet long.
- c. Each loading space shall be of a size not less than that required for parking space but scaled larger to delivery vehicles expected to be used.
- d. Parking aisle widths shall conform to the following table:

Table 5: Parking Aisle Width

Traffic Flow	Parking Angle				
	0°	30°	45°	60°	90°
One-way Traffic	10 feet	11 feet	13 feet	18 feet	24 feet
Two-way Traffic	18 feet	20 feet	21 feet	23 feet	24 feet

- e. Driveways shall be a minimum ten (10) feet wide for one-way traffic and eighteen (18) feet wide for two-way traffic, except that a ten (10) foot wide driveway is permissible for two-way traffic when the driveway is no longer than fifty (50) feet and provides access to a maximum of five (5) parking spaces.

8. Loading Areas. Loading areas shall conform to the following requirements:

- a. **Surface.** All parking or loading areas for five (5) or more automobiles shall be developed in accordance with the following standards:
 - i. Loading areas shall be graded and surfaced with an all-weather paving material such as asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust. However, at the discretion of the Administrator, a gravel surface may be used for a period not exceeding one (1) year after the date of issuing the Certificate of Occupancy where ground conditions are not immediately suitable for permanent surfacing as specified in this section.
 - ii. All areas shall be striped and channelized as appropriate.

9. Landscaping for Parking or Loading Areas. Parking lots should be effectively landscaped with trees and shrubs to reduce the visual impact of glare, headlights, and parking lot lights from the public right-of-way and from adjoining properties. In addition, parking lots should be adequately shaded to reduce the amount of reflected heat.

- a. **Interior Landscaping.** Interior landscaping shall be comprised of one (1) canopy tree and three (3) shrubs for every fifteen (15) parking spaces.

10. Lighting. Lighting provided to illuminate off-street parking areas and loading berths shall be so arranged, shielded and directed upon the subject area in such a manner as to not reflect or cause glare into adjacent properties or interfere with street traffic.

- 11. Loading and Unloading.** All uses shall provide loading berths, except those that do not receive or transport goods in quantity by truck delivery. Each loading and unloading berth must include a twelve (12) foot by forty-five (45) foot loading space with a fourteen (14) foot height clearance. Loading and unloading berths must be a minimum distance of one hundred (100) feet from the nearest residential use. Lighting shall be in accordance with Item 10 on previous page.
- 12. Inspections.** At the time the structure receives its final inspection, the completion of the landscaping in accordance with these requirements shall also be a part of the final inspection. However, if seasonal circumstances do not permit the planting of the required landscaping, the final inspection of the landscaping shall be performed at a reasonable, later date as determined by the Administrator.
- 13. Non-Conforming Parking, Enlargement, or Alteration of Existing Structure.**
- a. No use lawfully established prior to the effective date of this section shall be required to provide and maintain the parking and loading requirements of this section, provided that parking and loading spaces required by any previous ordinance pursuant to state statutes shall be continued and maintained.
 - b. For any non-conforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, re-established, or repaired, parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation, provided, however, it is not necessary to restore or maintain parking or loading facilities in excess of those required by this ordinance for equivalent new uses.
 - c. When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity, or other unit of measurement, parking and loading facilities shall be provided for such increase in intensity of use, unless within the downtown mixed-use district.
 - d. When the existing use of a building, structure or premises shall be changed or converted to a new use permitted by this ordinance, parking and loading facilities shall be provided as required for the new use, unless within the downtown mixed-use district.
 - e. Parking and loading facilities in existence on the effective date of this section shall not be reduced below or if already less than, shall not be further reduced below, the requirements for a new use under this section.

H. Pond Construction Standards.

1. Applicability. These standards apply to the construction of ponds on private property. These standards do not apply to retention ponds that are included as part of the drainage system for a platted subdivision in accordance with this UDO.

2. Permits.

- a. **Permit Required.** In any zoning district, a permit is required to construct a new pond or alter/expand an existing pond.
- b. **Expiration of a Permit.** A permit shall be valid for one (1) year after the date of issuance. If no substantial work has occurred in connection with the permit after one (1) year, the permit shall be null and void and the applicant shall be required to apply for a new permit.
- c. **Revocation of a Permit.** The Administrator has the authority to revoke a permit if:
 - i. There is a violation of the regulations of this Section;
 - ii. The applicant makes any misrepresentation in connection with the application or issuance of the permit; or
 - iii. The permit was issued as the result of an error or oversight by the Administrator (or it is determined for any reason that the permit should not have been issued) and no substantial work has occurred in connection with the permit.

3. Construction and Maintenance. All ponds and all activity in connection with the construction, expansion, and maintenance of any pond, shall comply with the following minimum standards and requirements:

a. Setbacks.

- i. No portion of the water constituting the pond shall encroach upon any area within fifty (50) feet from the right-of-way of any public road.
- ii. No portion of the water constituting the pond shall encroach upon any area within twenty (20) feet from any boundary line of the owner's property; provided, however, that this setback requirement shall not prevent a pond from being constructed on two (2) or more tracts of property if:
 - (a) The permit Application is signed by the owner(s) of all of the tracts of property on which the pond will be constructed; or
 - (b) the location of the pond, as shown on a subdivision plat, is approved by the PC as part of the approval of a subdivision under this UDO.
- iii. No fill shall be placed within the right-of-way of any public road. Furthermore, within ten (10) feet of the right-of-way of any public road, no fill shall be placed above an elevation six (6) inches below the elevation at the edge of the road surface.

b. Proximity to Regulated Drain. No excavation shall occur and no fill shall be placed within seventy-five (75) feet of any regulated drain unless authorized by the Administrator and in accordance with the Indiana drainage statutes.

c. Pond Outlets. If the pond has an outlet, the following requirements apply:

- i. If the outlet opens into the owner's property, the outlet opening must be located at least fifteen (15) feet from the property line and at least twenty (20) feet away from the right-of-way of any public road.
 - ii. If the outlet opens into or connects to a county drain, the owner must obtain the prior approval of the County Surveyor or County Engineer.
 - iii. If the outlet opens into or connects to an outlet on another tract or parcel, the owner must prove to the satisfaction of the Administrator that the owner has all easement rights necessary to access such outlet.
- d. Runoff.** The pond shall be constructed so as not to increase the rate of water that exits on the parcel under normal conditions. Fill areas shall not obstruct the flow of surface water onto the owner's property from adjacent properties. The owner shall be responsible for the repair, replacement or relocation of any tiles, open ditches or other drainage facilities to the extent necessary to maintain the amount of drainage through the parcel or tract that existed prior to the construction of the pond.
- e. Erosion Control.** All ponds shall be constructed and maintained so as to prevent any soil erosion or other condition that obstructs or damages or threatens to obstruct or damage any public drain or drainage related improvements. The owner shall remove soil and resurface and re-seed degraded open ditch banks.
- f. Impact on Neighboring Property.** A pond cannot dam water or cause water to back up onto an adjacent property.

4. Additional Standards.

- a. Airport Overlay District (A-O).** Land uses of concern in proximity to airports include wetlands, ponds, and other similar uses because they offer habitat for avian wildlife. These uses should be limited in order to prevent the unwanted interaction between aircraft and wildlife. For this reason, the construction of new ponds in the AO District shall be prohibited.
- b. Variances.**
- i. A variance may only be granted with respect to the setback requirements of **Section 3.a.ii**. No other standards set forth in this section may be the subject of a variance.
 - ii. The Administrator must provide a favorable recommendation before the BZA may consider the requested variance.
 - iii. In addition to the findings identified in **Chapter 8, Section D.5: Variance from Development Standards Procedures**, the BZA must find that the proposed pond cannot comply with the setback requirements due to unique feature(s) existing on the property and either natural or man-made features exist or could be provided which would allow the pond to achieve the purposes of the setback requirements.

I. Sign Standards.

1. **General.** The intent of these sign standards is to avoid the proliferation of signage; encourage signs to be compatible with the scale of buildings and the surrounding area; to maintain and enhance the aesthetic environment of the community, eliminate potential hazards to motorists and pedestrians resulting from sign clutter; and to promote the health, safety, and welfare of the citizens.
 - a. **Permit Required.** Except as otherwise provided herein, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign, or change the permanent copy on an existing sign structure, or cause the same to be done, without first obtaining an ILP.
 - b. **Inspection.** A Sign for which a permit is required may be inspected periodically by the Administrator for compliance with this UDO and other codes of the jurisdiction.
 - c. **Removal of Signs.** The Administrator may order the removal of any sign erected or maintained in violation of this UDO. A thirty (30) day written notice describing the violation and ordering either the removal of the sign or requiring the sign to be brought into compliance shall be given to the owner and/or business operator. No notice shall be given for Temporary Signs or Portable Signs. The Administrator may remove a sign immediately and without notice if the condition of the sign presents an immediate threat to the safety of the public. Any cost associated with signs removed pursuant to the provisions of this UDO, shall be reimbursed by the owner of said sign. Should said sign not be redeemed within forty-five (45) days of its removal, it may be disposed of in any manner deemed appropriate by the Administrator.
 - d. **Maintenance.** All signs and components thereof shall be kept in good repair and in safe, neat, clean, and attractive condition. If failure to maintain a sign is determined by the Administrator, a written notice will be given to the owner, business operator, or lessee of the property. Thirty (30) days' notice shall be given to the owner, business operator, or lessee of the property to comply with the regulations. After thirty (30) days, if the owner/business operator fails to comply, penalties shall be imposed according to **Chapter 8, Section F: Complaints, Violations, and Remedies**.
 - e. **Abandoned Signs.** Unless the property is actively being marketed, all nonconforming signs, their mountings, and related components shall be removed by the owner or lessee of the premises upon which the signs are located when a business has no longer been conducted on the premises for a period of six (6) months. If the owner or lessee fails to remove the sign, the Administrator shall give the owner thirty (30) days written notice to remove it. Upon failure to comply with this notice, the Administrator may remove the sign. Any cost associated with sign removal pursuant to the provisions of this UDO shall be reimbursed by the owner of said sign. Should said sign not be redeemed within forty-five (45) days of its removal, it may be disposed of in any manner deemed appropriate by the Administrator.
 - f. **Electronic Variable Message Signs (EVMS).** All signs must meet the standards as specified in the State Electrical Code, as adopted and amended by the State of Indiana. In addition, all signs containing an EVMS as a component in part or in whole shall comply with the following standards:
 - i. The message on the sign cannot flash.
 - ii. The message on the sign must hold for a minimum of fifteen (15) seconds.
 - iii. The sign must have equipped an automatic dimmer control/photocell sensor, to produce a distinct, stepped luminance change from a higher luminance level to a lower luminance level

in order to comply with the luminance levels in subsection g. Sign Illumination, and to adjust sign brightness based on ambient lighting levels (i.e. cloudy days). The automatic dimmer control/photocell sensor must be activated at all times that the sign is in operation.

- iv. The sign shall operate at a luminance level not to exceed seven hundred (700) nits thirty (30) minutes before sunset to thirty (30) minutes after sunrise and not to exceed ten thousand (10,000) nits at all other times.
- v. No EVMS shall be located within two hundred fifty (250) feet of a residential zoning district.
- vi. No sign containing an EVMS as a component shall be located within fifty (50) feet of any signalized intersection of two (2) or more streets, measured from the nearest signal device.
- vii. All illuminated elements shall be kept in satisfactory working condition and immediately repaired or replaced if damaged or burned out.
- viii. All electrical wiring for permanent EVMS shall be in conduit. All electricity for signs shall have a disconnecting switch located in a readily accessible place to the Administrator in the event the sign must be shut off because it presents an immediate threat to the safety of the public or is in violation of other local ordinances.
- ix. The direct or reflected light from a primary light source shall not create a traffic hazard to operators of motor vehicles on public and/or private roadways or obstruct views of vehicle operators.
- x. The light from any sign shall be so directed such that the light intensity or brightness will not be objectionable to the surrounding properties. No light shall shine directly onto adjacent property.

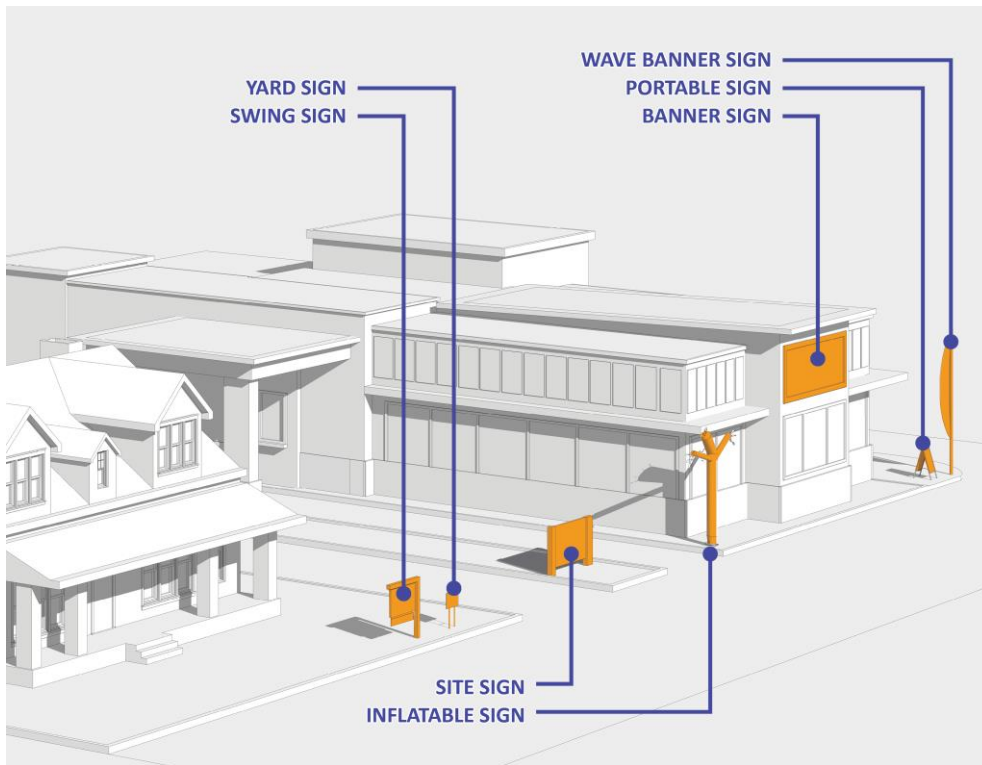
g. Sign Illumination. All sign illumination must meet the standards as specified in the State Electrical Code, as adopted and amended by the State of Indiana. In addition, all illuminated signs shall comply with the following standards:

- i. No sign shall have blinking, flashing, or fluttering lights, nor shall any device be utilized which has a changing light intensity, brightness of color, or give such illusion.
- ii. All illuminating elements shall be kept in satisfactory working condition and immediately repaired or replaced if damaged or burned out.
- iii. All electrical wiring for permanent signs shall be in conduit. All electricity for signs shall have a disconnecting switch located in a readily accessible place to the Administrator in the event the sign must be shut off because it presents an immediate threat to the safety of the public or is in violation of any local ordinances.
- iv. The direct or reflected light from a primary light source shall not create a traffic hazard to operators of motor vehicles on public and/or private roadways.
- v. The light from any illuminated sign shall be so shaded, shielded, or directed such that the light intensity or brightness will not be objectionable to the surrounding properties. No light shall shine directly onto adjacent property.

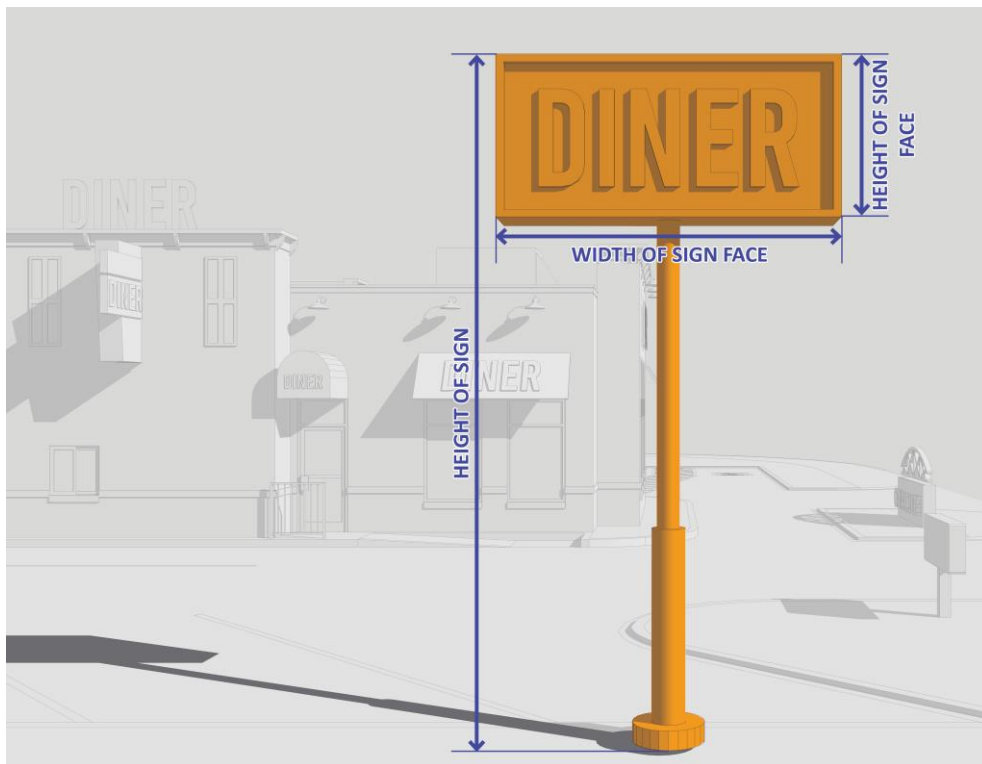
- h. Exempt Signs.** The following are exempt from all provisions of this *Section H: Sign Standards*.
- i. The posting of a street address to provide adequate property identification. However, at the discretion of the Administrator, when a street address is used as a commercial message or is unnecessarily large, it shall comply with the sign standards for the applicable zoning district.
 - ii. Flags of any country, state, unit of local government, institution of higher learning, or similar institutional flags.
 - iii. Names of buildings, date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction. No commercial messages or logos are permitted on such signs.
 - iv. Public signs of a non-commercial nature and in the public interest erected by or on the order of public officer(s) in the performance of public duty (such as signs to promote safety, no trespassing, or traffic signs, memorial plaques, signs of historical interest, and signs directing people to public and quasi-public facilities.)
 - v. Utility signs used to mark cables and lines for public and private utilities except if determined to be a hazard by the Administrator.
 - vi. Directional signs without a commercial message or logo.
 - vii. In accordance with *IC 36-1-3-11* as amended, the quantity and size of temporary signs are exempt from regulation only during the period of sixty (60) days prior to an election and six (6) days after an election, provided a sign face is no greater than thirty-two (32) square feet in area. The regulations for the placement of all temporary signs are still applicable.
- i. Prohibited Signs.** The following types of signs are expressly prohibited in all Zoning Districts.
- i. Signs that utilize any motion picture, laser, or visual projection of images or copy in conjunction with any business or advertisement.
 - ii. Signs that emit audible sound, odor or visible matter.
 - iii. Signs that purport to be or are in imitation of, or resemble an official traffic sign or signal or which bear the words “Stop”, “Slow”, “Caution”, “Danger”, “Warning”, or similar words.
 - iv. Signs that may be construed as a light of an emergency or road equipment vehicle.
 - v. Signs in the right-of-way or that hide from view any traffic or roadway sign, signal, or device.
 - vi. Signs that interfere with the vision clearance triangle as defined in this UDO.
 - vii. Signs that extend above the roof line or parapet of a building or are mounted on or a part of the roof.
 - viii. Signs that have blinking, flashing, or fluttering lights or which has a changing light intensity, brightness or color, or give such illusion.
 - ix. Signs that obstruct any door, fire escape, stairway, or any opening intended to provide entrance or exit for any building or structure.

- x. Signs placed on vehicles parked on public or private property primarily for the purpose of displaying the sign. Prohibited signs do not include those displayed on vehicles parked for the purpose of lawfully making deliveries or random sales or service. Prohibited signs do not include vehicles which are customarily used for transporting persons or properties, and vehicles parked at a driver's place of residence during non-business hours or for incidental purposes.
- xi. Inflatable Animated or Moving Signs.
- xii. Signs displaying obscene matter, as defined in *IC 35-49-2*, shall be prohibited.
- xiii. Human signs unless not within the right-of-way and during business hours.
- xiv. Any sign that is not expressly permitted in this UDO.

2. Temporary Signs by Zoning District.



Example of Temporary Signage



Example of Signage Height Measurement

- a. **Temporary Signs in Agricultural and Residential Districts: AG, R-1, R-2, and R-3.** The following types of Temporary Signs shall be permitted, provided the respective development standards are met. An ILP is not required.

Temporary Signs in AG, R-1, R-2, and R-3

Temporary Yard Signs and Swing Signs

Size	Sign structures shall not exceed four (4) feet in height and sixteen (16) square feet in area per sign face.
Quantity	Two (2) sign structures.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Signs shall be a minimum of ten (10) feet from any property line.
Additional Standards	EVMS or EVMS components are not permitted.

- b. **Temporary Signs in Public, Commercial, Mixed-Use and Industrial Districts: P, B-1, B-2, B-3, MU, I-1, and I-2.** The following types of Temporary Signs shall be permitted, provided the respective development standards are met. At no time shall there be more than three (3) temporary signs on site at any time, regardless of type. An ILP is not required.

Temporary Signs in P, B-1, B-2, B-3, MU, I-1, and I-2

Temporary Wave Banner Signs

Size	Signs shall not exceed ten (10) feet in height and ten (10) square feet in area per sign face.
Duration	Unless the terms of the permit stipulate otherwise, signs shall not be used for more than thirty consecutive (30) days, and no more than twice in a calendar year.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Signs shall be a minimum of ten (10) feet from any property line.
Additional Standards	<ul style="list-style-type: none"> - Signs are permitted to be displayed during grand openings or special promotions. - Such devices shall not contain any flashing lights at any time.

Temporary Site Signs

Size	Signs shall not exceed four (4) feet in height and thirty-two (32) square feet in area per sign face.
Duration	<ul style="list-style-type: none"> - No more than thirty consecutive (30) days, and no more than twice in a calendar year. - Signs may be displayed while a legally permitted special event is occurring and, in which case, the sign must be removed ten (10) days after the event has transpired.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Signs shall be a minimum of ten (10) feet from any property line.

Temporary Banner Signs and Portable Signs

Size	Signs shall not exceed six (6) feet in height and thirty-two (32) square feet in area per sign face.
Quantity	For multi-tenant buildings, the number of signs permitted shall be determined by the Administrator.
Duration	No more than thirty (30) consecutive days, and no more than twice in a calendar year.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Signs shall be a minimum of ten (10) feet from any property line.
Additional Standards	<ul style="list-style-type: none"> - Signs may be displayed during grand openings or special promotions. - Such signs shall not contain any flashing lights at any time. - Signs shall be subject to the standards of Section A.1.F Electronic Variable Message Signs.

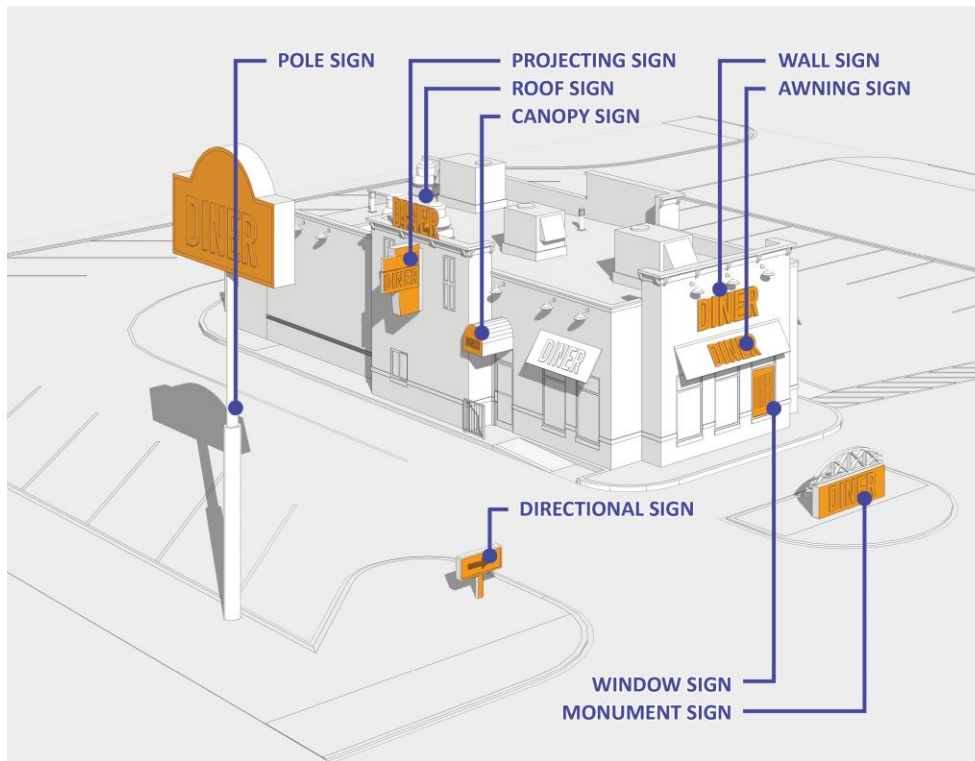
- c. **Temporary Signs in Downtown Mixed-Use District: DMU.** The following Temporary Signs shall be permitted, provided the respective development standards are met. At no time shall there be more than two (2) temporary signs on site at any time, regardless of type. An ILP for a Temporary Sign is required unless otherwise specified. Cumulative max quantity is one (1), not counting political signs. For additional guidelines, reference the *Fourth Street Flex Policy*.

Temporary Signs in DMU

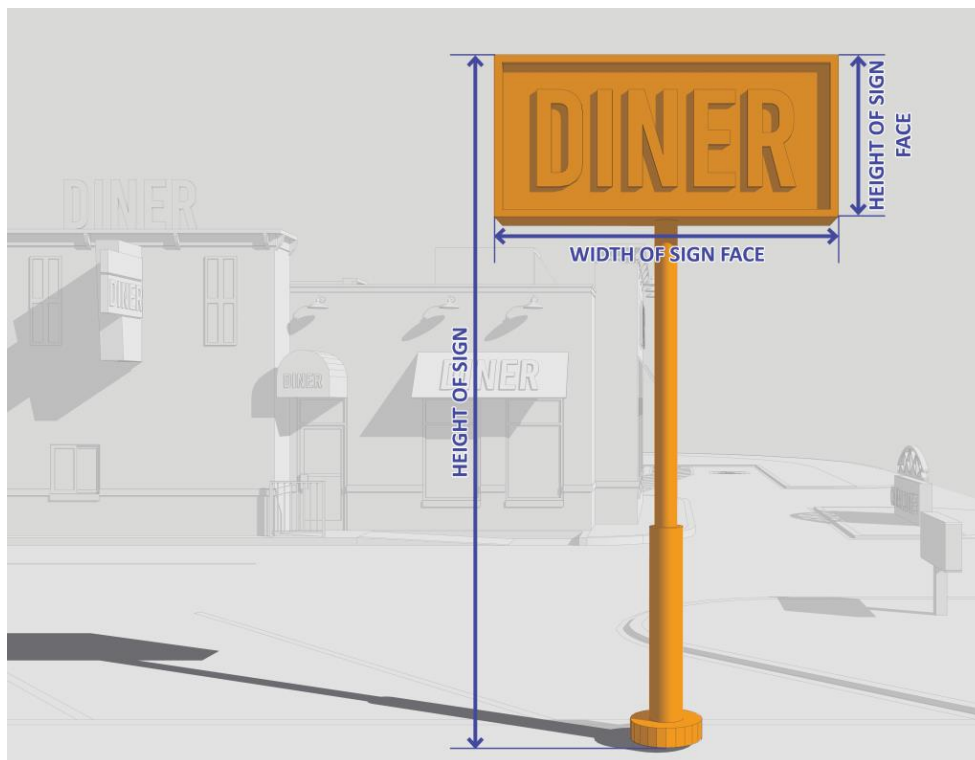
Temporary Banner Signs and Portable Signs

Size	Signs shall not exceed three (3) feet in height and six (6) square feet in area per sign face.
Quantity	<ul style="list-style-type: none"> - One (1) sign is permitted per street frontage. - For multi-tenant buildings, the number of signs permitted shall be determined by the Administrator.
Duration	May only be displayed during business hours.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Signs shall not be located on municipal benches, planters or light poles.
Additional Standards	<ul style="list-style-type: none"> - Such signs shall not contain any flashing lights at any time. - EVMS or EVMS components are not permitted. - Administrator may allow signs to be placed within the right-of-way. - Placement must be within six (6) feet of the building. - There must be at least four (4) feet of clearance area around a portable sign to ensure sidewalk accessibility.

3. Permanent Signs.



Example of Permanent Signage



Example of Signage Height Measurement

- a. **Permanent Signs in Residential Districts: R-1, R-2, and R-3.** The following Permanent Signs shall be permitted, provided the respective development standards are met. An ILP is required unless otherwise specified.

Permanent Signs in R-1, R-2, and R-3

Permanent Monument Signs

Size	Sign shall not exceed four (4) feet in height and thirty-two (32) square feet in area per sign face.
Quantity	Two (2) signs per vehicular entrance to a subdivision or residential complex.
Placement	<ul style="list-style-type: none"> - Signs are only permitted only at the vehicular entrance to a subdivision or residential complex. - Signs shall be placed at least fifteen (15) feet from the right-of-way. - Signs shall not be located within the vision clearance triangle.
Additional Standards	<ul style="list-style-type: none"> - Sign shall have a monument base that is at least two (2) feet in height. - EVMS or EVMS components are not permitted.

Permanent Wall Signs

Size	Sign shall not exceed two (2) square feet in area.
Quantity	One (1) wall sign is permitted per dwelling unit.
Placement	Sign must be placed on the primary structure.
Additional Standards	<ul style="list-style-type: none"> - No ILP is required. - No illumination is permitted. - EVMS or EVMS components are not permitted.

b. **Permanent Signs in the Downtown Mixed-Use District: DMU.** The following Permanent Signs shall be permitted, provided the respective development standards are met. An ILP is required unless otherwise specified. For additional guidelines, reference the Fourth Street Flex Policy.

i. General.

(a) Cumulative Area. The total square footage in message area of all combined sign facings shall not exceed the lesser of the following per lot:

(1) One and one-quarter times (1 ¼ X) the length of building that faces the road. *[For example: If a building is one hundred (100) feet wide, then one hundred twenty-five (125) square feet of signage would be allowed for the lot.];* or

(2) One hundred twenty-five (125) square feet.

Permanent Signs in DMU

Permanent Awning Signs and Canopy Signs

Size	Sign shall not exceed fifty (50) square feet.
Quantity	There is no limit on the number of signs permitted.
Placement	<ul style="list-style-type: none"> - Awning/canopy must be attached to the primary structure. No poles may be utilized. - Permission must be granted by the street regulating authority for the sign to extend into the right-of-way.
Additional Standards	EVMS or EVMS components are not permitted.

Permanent Projecting Signs

Size	Sign shall not exceed ten (10) square feet in area per sign face.
Quantity	One (1) sign per building entrance.
Placement	Signs must be placed on the primary structure.
Additional Standards	<ul style="list-style-type: none"> - The lowest point of the sign shall be at least eight (8) feet above grade level. - In no case shall the sign extend more than four (4) feet beyond its supporting structure. - Permission must be granted by the respective street regulating authority for the sign to extend into the right-of-way. - EVMS or EVMS components are not permitted.

Permanent Wall Signs

Size	Sign shall not exceed fifty (50) square feet in area per sign face.
Quantity	There is no limit on the number of signs permitted.
Placement	Signs must be placed on the primary structure.
Additional Standards	EVMS or EVMS components are not permitted.

Permanent Window Signs

Size	<ul style="list-style-type: none">- Illuminated window signs containing a message that can be seen from the right-of-way (at the determination of the Administrator) shall be counted toward the total sign area, not exceed 1.5 square feet, and shall require an ILP.- Window Signs and window artwork in the Downtown Mixed-Use District shall be an administrative approval as part of the <i>Fourth Street Flex Policy</i>. An ILP is not required.
Quantity	There is no limit on the number of signs permitted.
Placement	Signs must be placed on the primary structure.
Additional Standards	EVMS or EVMS components are not permitted.

c. **Permanent Signs in Agricultural, Public, Commercial, and Mixed-Use Districts: AG, P, B-1, B-2, B-3, and MU.** The following Permanent Signs shall be permitted, provided the respective development standards are met. An ILP is required unless otherwise specified.

i. General.

(a) Cumulative Area. The total square footage in message area of all combined sign facings shall not exceed the lesser of the following per lot:

- (1) One and one-half times (1 ½ X) the length of building that faces the road. *[For example: If a building is one hundred (100) feet wide, then one hundred fifty (150) square feet of signage would be allowed for the lot.];* or
- (2) Two hundred (200) square feet.

(b) Limitation on Freestanding Signs.

- (1) There shall be a limit of one free-standing sign structure per lot, regardless if it's a single-tenant building, a multi-tenant building, or a corner lot. The free-standing sign may be either a monument sign or a pole sign.

Permanent Signs in AG, P, B-1, B-2, B-3, and MU

Permanent Awning Signs and Canopy Signs

Size	Sign shall not exceed fifty (50) square feet.
Quantity	There is no limit on the number of signs permitted.
Placement	Awning/canopy must be attached to the primary structure.
Additional Standards	EVMS or EVMS components are not permitted.

Permanent Monument Signs

Size	Sign shall not exceed eight (8) feet in height and forty-eight (48) square feet in area per sign face.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Sign shall be placed a minimum of ten (10) feet from the right-of-way.
Additional Standards	<ul style="list-style-type: none"> - Sign shall have a monument base that is at least two (2) feet in height. - A sign containing an EVMS or an EVMS component shall not exceed thirty-two (32) square feet in area per sign face.

Permanent Pole Signs

Size	Sign shall not exceed twenty (20) feet in height and thirty-two (32) square feet in area per sign face.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Closest edge of the sign shall be a minimum of ten (10) feet from the right-of-way.
Additional Standards	<ul style="list-style-type: none"> - The distance from the ground to the bottom of the sign shall be at least eight (8) feet. - A sign containing an EVMS or an EVMS component shall not exceed twenty (20) square feet.

Permanent Projecting Signs

Size	Sign shall not exceed twelve (12) square feet in area per sign face.
Quantity	There is no limit on the number of signs permitted.
Placement	Signs must be placed on the primary structure.
Additional Standards	<ul style="list-style-type: none">- The lowest point of the sign shall be at least eight (8) feet above grade level.- In no case shall the sign extend more than four (4) feet beyond its supporting structure.- Permission must be granted by the respective street regulating authority for the sign to extend into the right-of-way.- EVMS or EVMS components are not permitted.

Permanent Wall Signs

Size	Sign shall not exceed fifty (50) square feet in area.
Quantity	There is no limit on the number of signs permitted.
Placement	Signs must be placed on the primary structure.
Additional Standards	EVMS or EVMS components are not permitted.

Permanent Window Signs

Size	<ul style="list-style-type: none">- Illuminated window signs containing a message that can be seen from the right-of-way (at the determination of the Administrator) shall be counted toward the total sign area and require an ILP.- Non-illuminated window signs not exceeding twenty-five percent (25%) of the window area are permitted. An ILP is not required.
Quantity	There is no limit on the number of signs permitted.
Placement	Signs must be placed on the primary structure.
Additional Standards	EVMS or EVMS components are not permitted.

d. **Permanent Signs in Industrial Districts: I-1 and I-2.** The following Permanent Signs shall be permitted, provided the respective development standards are met. An ILP is required unless otherwise specified.

i. General.

(a) Cumulative Area. The total square footage in message area of all combined sign facings shall not exceed the lesser of the following per lot:

- (1) Two times (2 X) the length of building that faces the road. *[For example: If a building is one hundred (100) feet wide then two hundred (200) square feet of signage would be allowed for the lot.];* or
- (2) Four hundred (400) square feet.

(b) Limitation on Freestanding Signs.

- (1) There shall be a limit of one free-standing sign structure per lot, regardless if it's a single-tenant building, a multi-tenant building, or a corner lot. The free-standing sign may be either a monument sign or a pole sign.

Permanent Signs in I-1 and I-2

Permanent Awning Signs and Canopy Signs

Size	Sign shall not exceed fifty (50) square feet in area.
Quantity	There is no limit on the number of signs permitted.
Placement	Awning/canopy must be attached to the primary structure.
Additional Standards	EVMS or EVMS components are not permitted.

Permanent Monument Signs

Size	Sign shall not exceed ten (10) feet in height and forty-eight (48) square feet in message area per side.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Sign shall be placed a minimum of ten (10) feet from the right-of-way.
Additional Standards	<ul style="list-style-type: none"> - Sign shall have a monument base that is at least two (2) feet in height. - A sign containing an EVMS or an EVMS component shall not exceed thirty-two (32) square feet in area per sign face.

Permanent Pole Signs

Size	Sign shall not exceed twenty (20) feet in height and forty-eight (48) square feet in area per sign face.
Placement	<ul style="list-style-type: none"> - Signs shall not be located within the vision clearance triangle. - Sign shall be placed a minimum of ten (10) feet from the right-of-way.
Additional Standards	<ul style="list-style-type: none"> - The distance from the ground to the bottom of sign height must be eighteen (18) inches or less. - A sign containing an EVMS or an EVMS component shall not exceed twenty-four (24) square feet.

Permanent Projecting Signs

Size	Sign shall not exceed twelve (12) square feet in area per sign face.
Quantity	There is no limit on the number of signs permitted.
Placement	Signs must be placed on the primary structure.
Additional Standards	<ul style="list-style-type: none"> - The lowest point of the sign shall be at least eight (8) feet above grade level. - In no case shall the sign extend more than four (4) feet beyond its supporting structure. - Permission must be granted by the street regulating authority for the sign to extend into the right-of-way. - EVMS or EVMS components are not permitted.

Permanent Wall Signs

Size	Sign shall not exceed two hundred (200) square feet in area.
Quantity	There is no limit on the number of signs permitted.
Placement	Signs must be placed on the primary structure.
Additional Standards	EVMS or EVMS components are not permitted.

Permanent Window Signs

Size	<ul style="list-style-type: none"> - Illuminated window signs containing a message that can be seen from the road shall be counted toward the total sign area and require an ILP. - Non-illuminated window signs not exceeding fifty percent (50%) of the window area are permitted. An ILP is not required.
Quantity	There is no limit on the number of signs permitted.
Placement	Signs must be placed on the primary structure
Additional Standards	EVMS or EVMS components are not permitted.

J. Storage Standards.

1. Outdoor Storage.

- a. **Bulk Storage.** In any district, structures, buildings, or above ground tanks used for bulk storage of flammable or explosive liquids, gases, or other materials shall not be located closer than fifty (50) feet to the property line. Additional information regarding evidence of safety measures may be required in order to determine the public safety therein.

2. Temporary Storage Containers.

- a. **Residential Zoned Properties (R-1, R-2, and R-3).** Temporary storage containers are intended to provide for the temporary storage of household goods on property zoned residential and used primarily for residential purposes.
 - i. Permit Required. A permit is not required for a residential temporary storage container.
 - ii. Quantity. There shall be no more than one (1) temporary storage container per lot.
 - iii. Size. A residential temporary storage container shall not exceed one hundred twenty-eight (128) square feet in area and shall not exceed the dimensions of eight (8) feet in width, sixteen (16) feet in length, and eight (8) feet in height.
 - iv. Term.
 - (a) General Storage. Temporary storage containers for general storage may be on site for no more than sixty (60) days in any calendar year, regardless of size.
 - (b) Storage Associated with a Permit.
 - (1) Demolition Permit. Temporary storage containers associated with a demolition permit shall be removed within one (1) week of the demolition permit expiration date.
 - (2) Building Permit. Temporary storage containers associated with a building permit shall be removed within one (1) week of the date the Certificate of Occupancy/Completion is issued.
 - v. Location.
 - (a) Temporary storage containers shall be located on the driveway or may be located to the rear or side of the primary structure and conform to the setbacks for accessory structures per the standards set forth for the applicable zoning district in **Chapter 2: Zoning Districts** of this UDO.
 - vi. Types of Containers Permitted. In residential districts, the types of temporary storage containers permitted include: dumpster containers (e.g. construction dumpster) and residential portable storage containers (e.g. PODS, moving containers, etc.).
- b. **Commercial and Industrial Zoned Properties (DMU, MU, B-1, B-2, B-3, I-1, and I-2).** Temporary storage containers are intended to provide for the temporary storage of business specific goods on property zoned commercial or industrial and used primarily used for commercial or industrial purposes.
 - i. Permit Required. Temporary storage containers that are two hundred (200) square feet or larger require an ILP prior to the placement of the structure on site. Temporary storage containers less than two hundred (200) square feet do not require an ILP, but are still subject to the standards of this section.
 - ii. Quantity. There shall be no more than two (2) temporary storage containers per lot.

- iii. Size. A commercial/industrial temporary storage container shall not exceed five hundred thirty (530) square feet in area and shall not exceed the dimensions of ten (10) feet in width, fifty-three (53) feet in length, and ten (10) feet in height (exclusive of wheels and supports).
- iv. Term.
 - (a) General Storage. Temporary storage containers for general storage may be on site for no more than one hundred twenty (120) days in any calendar year, regardless of size.
 - (b) Storage Associated with a Permit.
 - (1) Demolition Permit. Temporary storage containers associated with a demolition permit shall be removed within one (1) week of the demolition permit expiration date.
 - (2) Building Permit. Temporary storage containers associated with a building permit shall be removed within one (1) week of the date the Certificate of Occupancy/Completion is issued.
- v. Location.
 - (a) Temporary storage containers shall be located to the rear or side of the primary structure conform to the setbacks for accessory structures per the standards set forth for the applicable zoning district in **Chapter 2: Zoning Districts** of this UDO.
- vi. Types of Containers Permitted. In commercial and industrial districts, the types of temporary storage containers permitted include: cargo shipping containers, semi-truck trailers, dumpster containers (e.g. construction dumpster), and portable storage containers (e.g. PODS, moving containers, etc.). No wide load trailers or high load trailers are permitted.

c. Permanent Storage Containers.

- i. Industrial Zoned Properties (I-1 and I-2). Permanent storage containers are intended to provide for the permanent storage of business specific goods on property zoned industrial and used primarily used for industrial purposes.
 - (a) Permit Required. Permanent storage containers that are two hundred (200) square feet or larger require an ILP prior to the placement of the structure on site. Permanent storage containers less than two hundred (200) square feet do not require an ILP, but are still subject to the standards of this section.
 - (b) Quantity. There shall be no more than two (2) permanent storage containers per lot.
 - (c) Size. An industrial permanent storage container shall not exceed five hundred thirty (530) square feet in area and shall not exceed the dimensions of ten (10) feet in width, fifty-three (53) feet in length, and ten (10) feet in height (exclusive of wheels and supports).
 - (d) Location.
 - (1) Permanent storage containers shall be located to the rear or side of the primary structure and conform to the setbacks for accessory structures per the standards set forth for the applicable zoning district in **Chapter 2: Zoning Districts** of this UDO.
 - (e) Types of Containers Permitted. In industrial districts, the types of permanent storage containers permitted include: cargo shipping containers, semi-truck trailers, dumpster containers (e.g. construction dumpster), and portable storage containers (e.g. PODS, moving containers, etc.). No wide load trailers or high load trailers are permitted.

K. Structure Standards.

1. Primary Structures.

a. Orientation.


- i. All new construction of any building or structure, or renovation of or addition to an existing building or structure, shall be rear loading if said building or structure is located on a lot or lots adjacent to a major thoroughfare and the building or structure is not separated from the major thoroughfare by another buildable lot. The front elevation of said building or structure shall face the major thoroughfare.
- ii. Except as provided in Item i above, all new construction of a building or structure, or renovation or addition to an existing building or structure, shall require the front doorway of the building or structure to be oriented to the front elevation of the building or structure which shall face the nearest improved road.

2. Residential Structures.

a. **Residential Structure Conversions.** Structures originally designed for occupancy by two (2) families or less converted to occupancy by more than two (2) families shall secure an ILP. Such structures shall show no evidence of change to indicate the extra dwelling units. All fire escapes or stairways leading to a second or higher floor shall be completely enclosed within the converted building.

b. Manufactured Homes.

- i. Permanent Placement. Manufactured Homes shall be permitted provided the following requirements and limitations are met:
 - (a) The manufactured home is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section.
 - (b) The development standards for the respective zoning district, including minimum square footage and width, shall be met as established in **Chapter 2: Zoning Districts**.
 - (c) The structure shall be attached and anchored to a permanent foundation in conformance with the appropriate building code and with manufacturer's installation specifications.
 - (d) The entire area between the floor joists of the structure and the underfloor grade shall be completely enclosed with a permanent perimeter enclosure constructed in accordance with the terms of the appropriate building code; the manufacturer's installation specifications; and requirements set forth by the Indiana Administrative Building Council;
 - (e) The structure shall possess all necessary building, water, and sewage disposal permits prior to placement of the structure upon the lot;
 - (f) The wheels, axles, and hitches shall be removed;
 - (g) The structure shall be covered with an exterior material customarily used on site-built structures;
 - (h) The roof of the structure shall be shingled and pitched, rather than flat; and
 - (i) A manufactured home shall be no more than five (5) years in age when placed on site.
- ii. Permanent Residential Occupancy. Manufactured homes may be permanently occupied when located in any district where a single-family dwelling is permitted by right or approved by special exception and meets the development standards of the subject zoning district.

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- 3. Commercial and Industrial Structures.** Manufactured homes, trailers, or vans may be utilized as temporary contractor's offices, watchman's shelters, or tool and equipment storage on the project site and only during the period of construction. The ILP would be valid for six (6) months and may be renewed for up to an additional six (6) months if necessary if construction has not concluded.
- 4. Structure Height.** All buildings hereafter shall comply with the height regulations of the district in which it is located, with the exception of the following:
- a. An agricultural structure may be erected or changed to any height necessary for its operation given it meets the height restrictions of the aircraft overlay district.
 - b. Spires and church steeples may be erected or changed to any height that is not otherwise prohibited given it meets the height restrictions of the aircraft overlay district.
 - c. Wireless communication facilities may be erected or changed up to 325 feet in the AG, I-1, and I-2 district.
- 5. Structures Relocated.** No buildings or structures shall be moved from one lot or premises to another unless such buildings conform to the regulations of the district to which such building shall be moved and an ILP has been secured.

L. Trash Receptacle Standards.

1. Non-pedestrian, outdoor trash receptacles and trash dumpsters serving commercial or industrial uses shall not be visible from the street front or any adjacent residential use during any time of the year. These receptacles shall be completely screened from view by the use of either solid fencing or evergreen vegetation.

4 Use Development Standards

Your Home 
YOUR HUNTINGBURG

CHAPTER 4: USE DEVELOPMENT STANDARDS

A. General Provisions.

1. The uses listed in this chapter shall meet the respective requirements of this chapter as well as all other chapters of this UDO.
2. In a district in which the specified use is allowed by right, the Administrator shall ascertain that the development standards of this chapter will be met.
3. In a district in which the specified use is allowed by special exception, the Administrator and the BZA shall ascertain that the development standards of this chapter will be met prior to approval of the special exception.

B. Accessory Dwelling Standards.

1. Purpose. The purpose of allowing accessory dwellings is to maximize public infrastructure investment; increase mobility alternatives; provide housing options for family members, students, aging residents, in-home health care providers, the disabled, and others; to promote affordable workforce housing; and to allow homeowners to benefit from added income and an increased sense of security.

2. Structure Standards.

- a. Area.** Minimum area shall be two hundred twenty (220) square feet. Maximum area shall be fifty percent (50%) of the primary dwelling unit or eight hundred (800) square feet, whichever is least.
- b. Height.** Maximum height of a detached accessory dwelling shall be twenty-five (25) feet or the height of the primary dwelling unit, whichever is least.
- c. Accessory Structures.** An accessory dwelling shall not be permitted to have its own accessory structures.
- d. Address.** Properties with an approved accessory dwelling shall maintain a single physical address with separate “unit” number associated with each of the units in accordance with the rules of the applicable Post Master. The Administrator will ensure that the address change is sent to the proper entities for review and approval before being published.
- e. Architecture and Building Materials.** Architectural style, form, materials, and colors shall match or be compatible with the style and form of the primary dwelling unit and/or the neighborhood.
- f. Quantity.** No more than one (1) accessory dwelling shall be permitted per primary dwelling unit.
- g. Types of Structures.**
 - i. Permitted. Accessory dwelling units shall only be allowed in lawfully-built dwelling units that meet building code requirements.
 - ii. Prohibited. Accessory dwelling units shall not be allowed in:
 - 1. A recreational vehicle, travel trailer, or similar structure;
 - 2. A mobile home;
 - 3. A motor vehicle;
 - 4. Any structure not intended for permanent human occupancy.

3. Lot Standards.

- a.** The accessory dwelling unit must be on the same lot as the primary residential structure.
- b.** If an adjacent vacant lot is under the same ownership as the lot containing the primary residential structure, the lots shall be legally consolidated before an accessory dwelling may be placed on said lot.

4. Use and Operational Standards.

- a. **Location.** The accessory dwelling unit shall only be allowed on lots where an existing, lawfully constructed single-family dwelling unit exists. The accessory dwelling may be attached or detached from the primary single-family dwelling unit.
 - i. The accessory dwelling shall be permitted only if the primary dwelling unit is an existing, owner-occupied, single-family dwelling.
 - ii. The accessory dwelling shall not be under separate ownership from the primary structure.

5. Development Standards.

- a. **Access.** The accessory dwelling shall utilize the existing driveway that serves the primary dwelling.
- b. **Location.** A detached accessory dwelling must be located behind the front façade of the primary residential structure, in either the side yard or the rear yard.
- c. **Parking and Loading.** Additional on-site parking is not required for an accessory dwelling unit. However, if parking is required for the existing dwelling unit, that parking must either be retained or replaced on site.
- d. **Utilities.** The Health Department shall approve connections or modifications to any existing septic system that may be needed to accommodate the accessory dwelling.
- e. **Zoning District Standards.** All other development standards of the subject zoning district shall apply.

6. Procedures.

- a. **Permits.** An ILP is required to construct and/or establish an accessory dwelling in order to ensure that the structure meets all of the applicable building codes and is safe and habitable.

C. Adult Business Standards.

1. Purpose. The intent of these adult business standards is to provide ample reasonable opportunities for these businesses to locate in the jurisdiction. Adult businesses require special supervision from the public safety agencies of the jurisdiction in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of the community. The minimal regulations of this UDO are a legitimate and reasonable means of accountability to ensure that operators comply with reasonable regulations and ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

2. Structure Standards.

a. Building Construction Standards:

- i. Any wall or partition which is situated so as to create a room, enclosure or both in which any amusement device is located shall be constructed of not less than one (1) hour fire-resistive material.
- ii. The width of the aisles in any room where an amusement device is located shall be at least forty-two (42) inches.
- iii. There shall be no fewer than two (2) doorways at least thirty-six (36) inches wide that provide ingress or egress from any room in which an amusement device is located. All doorways shall be unlocked during business hours.
- iv. An internally illuminated exit sign with letters at least five (5) inches in height shall be provided over every doorway which provides egress from any room in which an amusement device is located.
- v. Each amusement device shall be situated so that the person using the device has a constantly unobstructed view of the doorways which provide ingress or egress from the establishment.
- vi. All applicable state building codes shall be met.
- vii. A light level of no less than ten (10) foot candles at floor level shall be maintained in every portion of the establishment to which the public is admitted.
- viii. The numbers of persons in any room or partitioned portion of a room where amusement devices are located shall not exceed one person per thirty (30) square feet. The maximum occupancy load permitted in any amusement devices are located shall be conspicuously posted by the operator, and shall remain posted, at the entrance of said room.
- ix. The number of amusement devices shall not exceed the maximum occupancy load permitted in any room or partitioned portion of a room in which an amusement device is located. The maximum number of amusement devices permitted in any room or partitioned portion of a room shall be conspicuously posted by the operator, and shall remain posted, at the entrance of said room.

3. Lot Standards.

a. None.

4. Use and Operational Standards.

a. Use/District Separation. The minimum separation between adult businesses and surrounding structures/uses are measured from the front entrance of the adult business and the foundation of the nearest primary structure or property line as specified below:

- i. Structures used for another adult business, school, public park, church, or a primary residential structure: minimum separation is two thousand (2,000) feet.
- ii. Property zoned as a residential district (R-1, R-2, R-3, MU, DMU): minimum separation is two thousand (2,000) feet.
- iii. Property lines of uses designated for hotels, motels, and transportation depots: minimum separation is one thousand three-hundred (1,300) feet.

b. Visibility and Display of Adult Materials.

- i. All activity conducted on the premises and products/materials sold shall be conducted within the structure and not observable from any location outside the structure.
- ii. Adult bookstores and adult motion picture theaters shall not display or exhibit any material depicting human genitals or specified sexual activities in a manner which exposes said material to the view of persons outside the building in which said bookstore or motion picture theaters are located.
- iii. All activity conducted within the structure, including but not limited to peep shows, dancing, individual booths and movie viewing, shall at all times conducted within visual line-of-sight of the property manager, who is not more than one designated person.

c. Operator Responsibilities:

- i. An operator engaging in adult entertainment activities may not permit a person less than eighteen (18) years of age to enter their establishment.
- ii. An operator engaging in adult entertainment activities shall, at all times, cause the entrance of their establishment to be so attended as to ensure compliance with the requirements contained in Section (i) above.
- iii. Only one person shall be in a viewing booth at one time, and each viewing booth shall be separated completely from each other booth by a non-moveable partition wall.
- iv. Live nudity and sexual conduct shall not be permitted at any time by any person on the premises.

5. Development Standards.

a. Zoning District Standards. All other development standards of the subject zoning district shall apply.

6. Procedures.

a. Licensing. See the Huntingburg Municipal Code for the applicable licensing procedures for adult businesses.

D. Adult Day Care Facility Standards.

1. **Purpose.** The purpose of regulating adult day care facilities is to ensure that they adequately protect those who are cared for as well as ensuring compatibility with surrounding uses.
2. **Structure Standards.**
 - a. **Area.** A minimum of one hundred fifty (150) square feet per patient shall be provided.
 - b. **ADA Requirements.** The structure must meet all commercial ADA requirements.
3. **Lot Standards.**
 - a. **None.**
4. **Use and Operational Standards.**
 - a. **Hours of Operation.** The facility shall not operate beyond Monday through Friday from 7:00am to 6:00pm.
 - b. **Staffing.** There shall be a minimum of one (1) staff member per four (4) patients at all times.
5. **Development Standards.**
 - a. **Bufferyards and Fencing.** A six (6) foot tall privacy fence shall be installed in the backyard in order to provide a secure outdoor area for patients to enjoy.
 - b. **Parking and Loading.** A minimum of one (1) space per staff member plus two (2) additional spaces shall be provided.
 - c. **Federal and State Regulations.** The facility shall meet or exceed all federal and state standards as they become enacted.
 - d. **Zoning District Standards.** All other development standards of the subject zoning district shall apply.
6. **Procedures.**
 - a. **Permits.** An ILP is required to construct and/or establish an adult day care facility in order to ensure that the structure meets all of the applicable building codes and is safe and habitable.

E. Agritourism Standards.

1. Purpose. The purpose of regulating agritourism is to allow opportunities for limited non-residential activities that make use of the existing rural character and activities in the unincorporated areas. For purposes of these standards, a special event facility is not considered an agritourism activity (see *Chapter 4, Section M: Special Event Facility Standards*).

2. Structure Standards.

a. Area and Capacity.

- i. The maximum floor area for all buildings related to the agritourism use shall be ten thousand (10,000) square feet. Clusters of smaller, architecturally appropriate structures are encouraged to maintain rural character of the agritourism use.
- ii. The Fire Marshall or Building Official shall establish a maximum occupant capacity for meetings, training, educational or similar events which shall be appropriate to the site and facilities in terms of safe capacity in buildings, parking area and sanitation limitations of the site.

b. Architecture and Building Materials. All new buildings should incorporate a rural theme in terms of style and design. This means new agritourism uses involving new structures shall complement and enhance the rural environment. For example, gable or gambrel roofs, roof ornamentation such as cupolas, dormers, porches, and decorative shutters are encouraged.

3. Lot Standards.

a. Area. Parcels must be a minimum of ten (10) acres. The Administrator and/or the BZA may consider a smaller parcel size depending on the agritourism uses planned. The consideration of a smaller parcel size will be based on the intensity and scale of the proposed agritourism use, compatibility with surrounding property owners, and compatibility with the existing character of the area.

4. Use and Operational Standards.

a. Hours of Operation. Hours of operation must be provided in writing by the applicant. The Administrator and/or BZA may alter the requested hours of operation for the agritourism uses consistent with the character of the land uses in the vicinity and may further approve an enforcement mechanism to ensure adherence to the established hours of operation.

b. Types of Uses Permitted.

- i. New uses and their buildings shall be located, designed and operated so as not to interfere with normal agricultural practices on and off site. Non-agricultural uses should be limited to lands with poor agricultural soils or lands otherwise not suitable for agricultural purposes.
- ii. Use and product percentages. Agricultural products produced on site, agriculturally related products and uses, and non-agriculturally related products and uses are permitted based on the following percentages:
 1. At least fifty percent (50%) of the products (measured as an average over the farm's marketing season) and uses marketed and offered must be grown or produced on and by or have a direct relationship with the affiliated farm. For purposes of this requirement, affiliated means a farm under the same ownership or control (e.g. leased)

as the farm market whether or not the farm market is located on the property where production occurs.

2. A maximum of thirty percent (30%) of the products and uses marketed and offered may be other agriculturally related products and uses.
3. A maximum of twenty percent (20%) of the products and uses marketed and offered may be non-agriculturally related products and uses.
4. For purposes of determining the percentage of products and uses being marketed and offered, the primary measure will be the square footage of space used for each individual product or use. If measurement of retail space during the marketing season is not feasible to determine percentage of product, then the percent of the gross sales dollars will be used.

c. Types of Uses Prohibited.

- i. Motorized off-road vehicle racing or other similar motor vehicle activities.
- ii. Other uses that the Administrator and/or BZA determines would disturb the general peace and enjoyment of the rural and/or residential character of the surrounding area due to excessive traffic, noise, smoke, odors, visual clutter, or other nuisance.

5. Development Standards.

- a. **Access.** Access to the facility shall be approved by the Administrator and the applicable roadway agency.
- b. **Bufferyards and Fencing.** Opaque screening, consisting of an earth berm, evergreen screen, or an obscuring wall or fence shall be provided near the primary public activity areas on those sides abutting or adjacent to a residential use where the primary residential structure is within five hundred (500) feet of the activity area. The use of natural landscape materials is encouraged. At a written request of the applicant, the Administrator and/or the BZA may grant relief of the screening requirement in specific cases where cause can be shown that the distance between the agritourism and residential use would not require screening.
- c. **Lighting.** Any exterior lighting installed related to an agritourism use or activity shall be appropriately shielded and directed downwards to minimize light pollution.
- d. **Parking and Loading.** On site vehicle parking shall be provided as follows:
 - i. A minimum of one (1) space for every one thousand (1,000) square feet of the main public activity area, plus one (1) space for every two (2) employees shall be provided. The main public activity areas shall be defined as the primary buildings and outdoor spaces where the public congregates for the agritourism use. This shall not include areas dedicated to agricultural production.
 - ii. Circulation aisles shall be at least twenty-four (24) feet wide for two-way traffic or twenty (20) feet wide for one-way traffic.
 - iii. Parking lots shall be clearly demarcated through some physical means like timbers, fences, stakes, etc.
 - iv. The on-site parking shall be arranged so no vehicle movements occur in the public right-of-way and to avoid the accumulation of parked cars on the public roads.
 - v. Parking areas, circulation aisles, and driveway surfaces may be pervious or hard surface.

- vi. Handicap accessible spaces must be provided in accordance with the requirements of Americans with Disabilities Act of 1990, utilizing the most current design standards.
- vii. The Administrator and/or the BZA may reduce or defer the number required parking spaces if the applicant provides a parking study that demonstrates that a reduced number of parking spaces will meet the parking needs of the agritourism uses. If parking is deferred, the location of those deferred spaces must be shown as such on the required site plan.
- e. **Storage.** The maximum area for the storage/display of agricultural products for sale shall be one (1) acre. This requirement does not apply to u-pick operations.
- f. **Trash Receptacles.** Trash receptacles shall be provided. If dumpsters are provided, they shall be placed on a hard surface and shall be completely obscured from view by an opaque fence or wall.
- g. **Sanitation.** Public restroom facilities, temporary or permanent, shall be provided on site and with approval of the Health Department.
- h. **Zoning District Standards.** All other development standards of the subject zoning district shall apply.

6. Procedures.

- a. **Application.**
 - i. An agritourism facility requires Development Plan approval.
 - ii. Narrative. As part of the application for development plan, a written narrative shall be submitted describing the use in detail, including both agriculturally related and non-agriculturally related products and uses; proposed hours of operation; measures that are to be taken to assure that the operation of the use will take place only in a safe and convenient manner; special events; and other information describing the use and which will assist the Administrator and/or the BZA in determining whether the application meets the requirements.

F. Campground/RV Park Standards (Public and Private).

1. Purpose.

- a. The purpose of these regulations is to provide minimum requirements for the protection of the health and safety of the occupants of campgrounds, recreational vehicle parks, their associated recreation areas, and the general public.
- b. In addition, to these standards, a facility accommodating ten (10) or more tents, recreational vehicles, or campsites are subject to the regulations established by state standards per *410 IAC 6-7.1*.

2. Structure Standards.

- a. **Area.** Minimum area shall be two hundred twenty (220) square feet. Maximum area shall be fifty percent (50%) of the primary dwelling unit or eight hundred (800) square feet, whichever is least.

3. Lot Standards.

a. Area and Density.

- i. The minimum area for a campground or RV park shall be ten (10) acres.
- ii. Each campsite shall be at least nine hundred (900) square feet in area and clearly marked and identified.
- iii. Maximum density shall be twenty-five (25) campsites per acre.

b. Setbacks and Separation.

- i. Setbacks from Roadways. In addition to the setbacks established by the subject zoning district, campsites shall be set back from local roadways at least twenty-five (25) feet and at least fifty (50) feet from all other roadways.
- ii. Separation between Campers. Campsites shall be situated to allow at least twenty-five (25) feet between camping units.

4. Use and Operational Standards.

a. Occupancy.

- i. To prevent a campground from being occupied year-round by full-time residents, the campground shall not be occupied nor shall recreational vehicles be stored between the dates of December 1 through March 1 of each year.
- ii. No permanent or semi-permanent structures, such as cabins, lean-tos, or other habitable buildings shall be erected on a campsite.

- b. **Community Facility.** At least one (1) indoor community facility shall be provided for the campground. Said facility shall provide recreational space for the park as well as serve as a storm shelter for occupants during severe weather. The area of the community facility shall be no less than one percent (1%) of the campground's gross acreage.

5. Development Standards.

a. Access and Circulation.

- i. Entrance Road. The entrance to the campground shall be at least twenty-four (24) feet in width.
- ii. Internal Circulation. Internal road widths shall be at least ten (10) feet in width for one-lane roads and at least twenty (20) feet in width for two-lane roads.

b. Drainage.

- i. All areas shall be well drained and designed to provide sufficient space for camping activities, vehicles, sanitary facilities, and appurtenant equipment.
- ii. The campground shall not be located in an area subject to periodic flooding or located in such a manner as to permit contamination of a private or public water supply. Furthermore, campgrounds shall not be located adjacent to swamps, marshes, railroads, stockyards, industrial sites or other such locations which would constitute a health or safety hazard.

c. Storage. The storage of unoccupied recreational vehicles shall be prohibited.

d. Utilities.

- i. Sanitation System. Sanitation facilities are required and shall be designed, constructed, and maintained in compliance with the standards approved by the Health Department or the sewer provider as appropriate.
- ii. Water Supply. A water supply system shall be designed, constructed, and maintained in compliance with the standards approved by the Health Department or the water provider as appropriate.

e. Zoning District Standards. All other development standards of the subject zoning district shall apply.

6. Procedures.

a. Application.

- i. A campground or recreational vehicle park requires Development Plan approval.
- ii. In accordance with *410 IAC 6-7.1*, prior to making application for Development Plan, a facility accommodating ten (10) or more tents, recreational vehicles, or campsites requires review and approval by the Indiana State Department of Health.

b. Permits. ILPs are required for the construction of primary structures, accessory structures, and all utility hook-ups.

G. Confined Feeding Operation Standards.

1. **Purpose.** The purpose of these confinement operation standards is to ensure that both the operation and the existing land uses surrounding the operation are protected from the negative impacts that each may cause the other.
2. **Structure Standards.**
 - a. **None.**
3. **Lot Standards.**
 - a. **Area.** Minimum lot area for a confined feeding operation, CFO, or CAFO shall be forty (40) acres.
 - b. **Road Frontage.** Minimum road frontage for a confined feeding operation, CFO, or CAFO shall be forty (40) feet.
 - c. **Setbacks and Use Separations.**
 - i. **General Setbacks.** A confined feeding operation, CFO, or CAFO shall have a general setback of one hundred (100) feet from the property line. This setback requirement includes any structure or improvement utilized in carrying on of the operation, including any lagoon, open manure storage area, deep pit manure storage structure, silage storage area, silage storage building or structure, and deep pit manure storage area.
 - ii. **Separation from Municipal Boundaries.** No confinement operation is allowed to be sited within one-half (1/2) mile of an existing incorporated area within the jurisdiction.
 - iii. **Separation from Residential Uses.** If adjacent to a residential zoning district, primary and accessory structures associated with the operation shall be set back at least one hundred (100) feet from the adjacent property line.
 - iv. **Separation from Schools.** A confined feeding operation, CFO, or CAFO with a lagoon, open manure storage, deep pit manure storage and/or any silage storage that is not within an enclosed structure shall have a minimum setback requirement for such lagoon, open manure storage, deep pit manure storage and/or any silage storage that is not within an enclosed structure of two thousand six hundred forty (2,640) feet from any school. For purposes of this standard, a school shall mean the structure(s) which is the improvement situated upon school property and is the primary structure utilized for classroom academic pursuits.
 - v. **Separation from a Public Gathering Place.** A confined feeding operation, CFO, or CAFO with deep pit manure storage and/or any silage storage that is not within an enclosed structure shall have a setback requirement that such deep pit manure storage, together with any improvement or structure, not fully enclosed, in any way utilized in conjunction with, or to house, said manure pit or silage structure(s) shall be a minimum setback of one thousand three hundred twenty (1,320) feet from the property line upon which such pit or silage is situated and the property line of the property upon which a public gathering place or a protected use is situated.
 - vi. **Satellite Manure Storage Structures.**
 1. No satellite manure storage structure which is under one million (1,000,000) gallon capacity, or five thousand (5,000) cubic yards, is permitted to be sited within one thousand (1,000) feet of an existing residence.

2. No satellite manure storage structure with a capacity in excess of one million (1,000,000) gallons or five thousand (5,000) cubic yards is permitted to be sited within one thousand five hundred (1,500) feet of an existing residence.

4. Use and Operational Standards.

- a. **Manure Application.** Manure applied on the soil in accordance with the conditions of the Operator's Permit shall be incorporated into the soil within twenty-four (24) hours of application.

5. Development Standards.

a. Access.

- i. **Corner Lots.** Where a confined feeding operation, CFO, or CAFO is situated on property with frontage on more than one road, the operation shall be designed so that the primary access is from the roadway with the higher classification as defined in the Thoroughfare Plan.
- ii. **Truck Access.** A confined feeding operation, CFO, or CAFO shall be designed to allow trucks to leave the premises without backing onto any public way of any description whatsoever. Any proposed turn-around which contemplates T-turns or has a turn-around with a diameter of less than one hundred twenty (120) feet shall be shown by the applicant to be adequate to comply with the requirements of this UDO. Driveway, truck turn-arounds, and truck parking must have a dust-free, all-weather surface. The applicant shall take all reasonable steps to prevent mud, manure, gravel, and other foreign substances from trucks and other equipment being deposited on any public right-of-way. The burden shall be on the applicant to demonstrate that the proposed turn-around and egress complies with the requirements herein.

b. Driveways.

- i. Any new driveway serving a confined feeding operation, CFO, or CAFO shall be at least two hundred fifty (250) feet from any existing residential driveway. However, if the existing residential driveway serves a residence upon which a confinement operation is situated, then the new driveway may be no closer than fifty (50) feet from the existing driveway.

- c. **Zoning District Standards.** All other development standards of the subject zoning district shall apply.

6. Procedures.

a. Application.

- i. Development Plan approval is required for a confined feeding operation, CFO, or CAFO and their associated primary and accessory structures.
- ii. **Administrator Approval.** The applicant must obtain Administrator approval of the storm water management plan prior to the issuance of a Land Alteration Permit.
- iii. **Deed Restriction Required.** A deed restriction shall be recorded in perpetuity that prevents the established parcel from being reduced or further subdivided. A copy of the recorded restriction shall be submitted prior to the issuance of a Land Alteration Permit.

- b. **Permits.** An ILP is required for the construction of all primary and accessory structures.

H. Home Occupation Standards.

1. Purpose. The purpose of regulating commercial activities in residential dwellings is to ensure that they are incidental, compatible uses which do not add significant traffic, noise, or other nuisances to the neighborhoods in which they are located.

2. Structure Standards.

- a. **Area.** Maximum area of the home occupation shall be twenty-five percent (25%) of the total floor area of the dwelling unit or five hundred (500) square feet, whichever is less.
- b. **Accessory Structures.** No accessory structures or outside storage may be used in connection with the home occupation.
- c. **Structure Improvements.** No internal or external alterations inconsistent with the residential use of the dwelling are allowed.

3. Lot Standards.

- a. **None.**

4. Use and Operational Standards.

a. Location.

- i. The primary use of the structures and land shall be a residential dwelling.
- ii. All business must be conducted entirely within the primary dwelling unit and not in any detached accessory structure.

b. Nuisances.

- i. A home occupation must not produce any offensive noise, vibration, smoke, dust, odors, heat, gas, glare, electrical or audible interference, or otherwise create a risk to health, safety, or property of adjacent neighbors.
- ii. There shall be no outside storage of materials or goods.

c. Types of Uses.

- i. **Permitted Businesses.** The home occupation shall be limited to an administrative office, design studio, telemarketing office, or similar use which does not generate routine visitation.
- ii. **Prohibited Businesses.** Prohibited home occupation include, but are not limited to: beauty/barber shop, caterer, food vendor, equipment and vehicle repair, appliance and small mechanical repair, kennel, veterinary clinic, funeral home, commercial cabinetry shop, welding, trucking, adult oriented business, warehousing, vehicle sales, and other similar uses.
- iii. **Exempt Businesses.** The following business are not considered a home occupation:
 - 1. A business which has no external indication of commercial activity including no non-resident employees, no client visits, no business-related deliveries, and no vehicle signage;
 - 2. A family, child, and/or adult care/home located in a residence; and
 - 3. A business conducted in a dwelling within a non-residential zoning district, where the resident chooses instead to meet all commercial development standards.

d. Additional Standards.

- i. The home occupation shall be carried on by a resident of the primary dwelling. Outside employees may not come to the residence for work purposes, including pick-up of materials, vehicles, assignments, or similar purposes.
- ii. Clients or business-related visitors shall be by appointment only.
- iii. Hours of operation for deliveries, clients, and operation of mechanical or electrical equipment is limited to 6:00am to 10:00pm unless otherwise approved by the BZA.

5. Development Standards

a. Context. The home occupation must be clearly incidental to the residential use of the dwelling unit and must not change the essential character of the dwelling.

b. Parking and Loading.

- i. In addition to parking required for residents, there shall be no more than two (2) vehicles parked on or in the vicinity of the property as a result of the business at any single time.
- ii. A maximum of one (1) vehicle for business related purposes is permitted to be parked on-street or on site.
- iii. Business related vehicles may not include a bus, truck, van, trailer, or other similar vehicle over six thousand (6,000) pounds (as listed on the vehicle registration form). Furthermore, business related vehicles may not exceed a one-ton carrying capacity.
- iv. No more than one (1) business related trailer, not exceeding twelve (12) feet in length may be used or stored on site.
- v. Tow trucks are prohibited and are not permitted as home occupation vehicles.

c. Visibility.

- i. No display of products shall be visible from the street.
- ii. There shall be no evidence on the exterior of the premises or visible from the exterior of the premises that the property is used in any way other than for a residential dwelling.
- iii. The residential character of the structure shall not be altered to accommodate the home occupation.
- iv. There shall be no outside storage of machinery, equipment, or materials associated with the home occupation.

d. Zoning District Standards. All other development standards of the subject zoning district shall apply, including signage.

6. Procedures.

- a. **Evaluation Criteria.** When considering the approval of a home occupation, the Administrator or the BZA may also consider:
- i. The location of the proposed home occupation in relation to traffic impacts and safety concerns to the adjacent property owners or neighborhood.
 - ii. The impacts the proposed home occupation may have on the residential character of the area or neighborhood.
 - iii. The cumulative impacts of the proposed home occupation in relation to other approved home occupation in the immediate vicinity.
 - iv. If the home occupation is operating in a manner different than what was approved or complaints are filed about the operations, the Administrator or BZA reserves the right to impose conditions and/or reconsider the approval of the home occupation.

I. Manufactured Home Park Standards.

1. Purpose. The purpose of these standards is to ensure a high-quality living environment within a manufactured home park and to assist in providing opportunities for low and moderately priced single-family housing.

2. Structure Standards.

- a. Area.** Minimum area of a residential structure within a manufactured home park shall be six hundred (600) square feet.
- b. Maintenance.** Wrecked, damaged, or dilapidated homes shall not be kept or stored within the manufactured home park at any time. The Administrator shall determine if a home is damaged or dilapidated to a point which makes the home unfit for human occupancy. Whenever such a determination is made, the home shall be vacated and removed from the premises.
- c. Community Facility.** At least one (1) indoor community facility shall be provided for the park. Said facility shall provide recreational space for the park as well as serve as a storm shelter for the residents during severe weather. The area of the community facility shall be no less than two percent (2%) of the park's gross acreage.

3. Lot Standards.

- a. Area.**
 - i. Home Site. The minimum area of an individual home site shall be three thousand six hundred (3,600) square feet or three (3) times the size of the home, whichever is greater.
 - ii. Overall Development. The minimum area of the overall development shall be ten (10) acres.
- b. Setbacks.**
 - i. Home Site. The minimum setbacks for an individual home site shall be eight (8) feet from front, side, and rear.
 - ii. Overall Development. The overall development shall have a perimeter setback of twenty-five feet.

4. Use and Operational Standards.

- a. Minimum Capacity.** The minimum capacity for a manufactured home park shall be fifty (50) units.

5. Development Standards.

- a. Bufferyards and Fencing.**
 - i. Fences or free-standing walls shall be installed where necessary around laundry areas, refuse collection points, sanitary facilities, sewage disposal facilities and playgrounds for screening and protection of the residents.
 - ii. Screening, fencing and walls shall be set back from sidewalks and streets so as not to interfere with convenient and safe use of these facilities. Vision clearance at street intersections shall be maintained.
- b. Driveways.** Driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, to delivery and collection points for refuse and other material, and elsewhere as needed.

c. Parking and Loading.

- i. Two (2) paved, side-by-side parking spaces shall be provided on site for each manufactured home stand.
- ii. One (1) guest parking space shall be provided for every three (3) manufactured home sites. The spaces shall be provided in paved, off-street areas within five hundred (500) feet of the sites they serve.

d. Storage. Campers, recreational vehicles, boats, motor homes, equipment trailers, and other such vehicles shall only be parked or stored within an area specifically designated for such use. This area shall be enclosed by a six (6) foot tall, sight-obscuring wooden fence or decorative masonry wall with a gate. Said vehicles shall not be stored on the manufactured home sites.

e. Utilities. The manufactured home park shall be provided with a complete sanitary sewer system, which shall connect with an existing approved sanitary sewer outlet or shall be provided with a separate treatment plant to be provided by the developer in accordance with and approved by the Indiana State Board of Health (see *IC 16-41-27-8*, *IC 16-41-27-11*, and regulation *HSE 14*, Indiana State Board of Health).

f. Sidewalks.

- i. Paved pedestrian sidewalks shall be provided in a continuous arrangement throughout the park. Where possible, walks leading to frequently used public facilities should be through interior areas removed from the vicinity of streets. Public pedestrian sidewalks shall be at least four (4) feet in width and paved with a suitable material for use in all weather conditions.
- ii. Individual sidewalks shall be provided from a public sidewalk, street, or parking area to the individual home sites. These walks shall be at least three (3) feet in width and should be paved with a suitable material for use in all weather conditions.

g. Streets.

- i. Streets shall be provided on the development site where necessary to furnish principal traffic ways for convenient access to the home sites and other important facilities on the property. Streets shall be privately owned and maintained.
- ii. The street system shall provide convenient circulation by means of properly located collector streets. Closed-end or dead-end streets shall be provided with adequate paved vehicular turning or backing space. A turning circle shall have a paved surface of at least eighty (80) feet in diameter. Dead end streets shall not exceed five hundred (500) feet in length measured from the center point of the turning circle to the intersection of the centerline of a dead end and a through street.
- iii. Pavements shall be of adequate width to accommodate the expected parking and traffic load in accordance with the type of street with twelve (12) feet minimum moving lane widths and eight (8) feet minimum lane widths for parallel parking.
- iv. Single-lane streets are prohibited.
- v. Streets shall be adapted to the topography and shall have suitable alignment and gradient for safety of traffic, satisfactory surface and ground water drainage, and proper functioning of sanitary and storm sewers.
- vi. Street intersections shall generally be at right angles. Offsets at intersections and intersections of more than two (2) streets at one (1) point shall be avoided.

- vii. The street improvements shall extend continuously from the existing improved street system to provide suitable access to the manufactured home sites and other important facilities on the property, to provide adequate connections to existing or future streets at the boundaries of the property, and to provide convenient circulation of vehicles.
- viii. Curbs and gutters along all streets are required.
- ix. Street base and pavement shall be constructed in accordance with the standards established in **Chapter 6: Subdivision Design Regulations**.

h. Zoning District Standards. All other development standards of the subject zoning district shall apply.

6. Procedures.

- a. Application.** Development Plan approval is required for the establishment of a manufactured home park.
- b. Permits.** An ILP shall be required for the placement of individual manufactured homes and their accessory structures.

J. Mining, Mineral Extraction, & Quarrying Standards.

1. **Purpose.** The purpose and intent of these standards is to ensure that:

- a. The recognition and protection of valuable mineral resources for current and future generations in a manner that does not create land use conflicts.
- b. The protection of valuable mineral deposits from intrusion by incompatible land uses that will impede or preclude mineral extraction or processing.
- c. Adverse effects on neighboring activities and the environment are prevented or minimized and that mined lands are reclaimed to a usable condition that is readily adaptable for alternative land uses.
- d. Immediate and residual hazards to the public health and safety are eliminated.

2. Structure Standards.

- a. None.

3. Lot Standards.

- a. **Setbacks.** Setbacks shall be measured from the subject area to the foundation of an existing primary residential structure or the property line of a residential zoning district (R-1, R-2, R-3, MU, DMU).
 - i. Plant Area. The plant area shall be set back a minimum of two thousand (2,000) feet.
 - ii. Loading Berths. Loading berths shall be set back a minimum of three hundred (300) feet.

4. Use and Operational Standards.

- a. **Prohibited Operations.** Mining, mineral extraction, and quarrying are prohibited within “urban areas” as defined in *Chapter 10: Definitions*.
- b. **Blasting.**
 - i. Proximity to City Limits. No blasting or use of explosive charges shall be permitted for the purpose of mineral extraction within jurisdiction of the PC except as follows:
 1. Within One Mile of City Limits. No blasting or use of explosives shall be permitted within one (1) mile of “urban areas” as defined in *Chapter 10: Definitions*.
 2. More than One Mile of City Limits. Blasting or use of explosives within more than one (1) mile of the “urban areas” as defined in *Chapter 10: Definitions* shall be performed and permitted only under the following terms and provisions:
 - a. Ground blasts, defined as an explosive charge ignited with backfill material covering the explosive charge in the drill hole, shall be the only accepted type of blasting allowed within such jurisdiction.
 - b. In all blasting, the denominator (d/70) used in the Federal Scale – Distance Formulae for blasting shall be no lower than 70, where “d” equals distance.
 - c. Blasting shall always be done toward the open face or free face of the excavation pit.

- i. The linear quantity of inert material placed over each explosive charge shall be in a quantity not less than two-thirds (2/3) of the linear distance between that individual charge and the free face or open face.
 - ii. There shall be no blasting or explosions conducted or permitted in connection with the mineral extraction, except between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. There shall be no blasting or explosions permitted on Saturdays, Sundays, New Year's Day, Memorial Day, Labor Day, Thanksgiving Day, or Christmas Day.
 - iii. The person, party, or entity actually performing the blasting and the contractor, assignor, or any other successor in interest to the mineral extraction interest shall be responsible for, and shall provide and maintain, a self-triggering seismograph near the mineral excavation area to record all blasts or explosive charges used in the mineral extraction operation.
- c. Hours of Operation.** Extraction and material processing activities permitted in the plant area shall be limited to the hours of 6:00 a.m. to 10:00 p.m., except in the following situations:
 - i. Where required by public authorities;
 - ii. Where work requires a continuous flow of materials;
 - iii. Where necessary due to public emergencies; or
 - iv. Where any necessary and reasonable repairs to equipment are required.
- d. Insurance.** Before commencing operation, every operator of a mineral extraction operation shall be insured for damages which may result from or be caused by said operation to the city, the surrounding property, or any property or person within the jurisdiction of the PC.
- e. Nuisances.** All excess water shall be drained from trucks or other vehicles hauling material from the mineral extraction location prior to the vehicle's entrance onto a public right-of-way.

5. Development Standards.

- a. Access.**
 - i. Direct Access to Site. Access roads to any plant area shall be limited to no more than two (2) points, and shall be constructed on a level with the pavement of any public roadway for a distance of not less than two hundred (200) feet. The first two hundred (200) feet of access road shall be improved with a dustproof, all-weather surface. Adequate sight distance shall be maintained for traffic safety in compliance with the standards and requirements of the applicable highway authorities.
 - ii. Internal Circulation. Roads utilized internally to the site which lie within three hundred (300) feet of the foundation of any primary residential structure shall be improved with a dustproof, all-weather surface.
- b. Bufferyards and Fencing.** A chain link fence no less than six (6) feet in height shall surround the perimeter of the plant area.
- c. Context.** Every point along the property lines of any mineral extraction site within three hundred (300) feet of a dwelling, school, playground, hospital, or health care institution, shall be treated in the following manner:
 - i. Where permanent accumulation of water resulting from mining activity reaches one (1) foot or more in depth and occupies a surface area of one hundred (100) square feet or more, all

access to the accumulation shall be barred by wire mesh fence at least four (4) feet in height, or an equally effective barrier.

- ii. Access to steep slopes as a result of mining activity shall be barred by a wire mesh fence at least four (4) feet in height, or an equally effective barrier. Steep slopes shall be considered to be where the vertical-to-horizontal slope is steeper than one foot to two feet (1:2) or the any other slope is more than eight (8) feet in height.
- d. **Drainage.** Upon completion of operations, the land shall be left in a safe condition so that sufficient drainage will be provided to prevent water pockets or undue erosion. All grading and drainage shall allow the natural stormwater drainage to leave the entire property at the original, natural drainage points and the area drainage to any one point is not increased.
- e. **Lighting.** Lighting shall be shielded so that it does not impose on adjacent properties. In addition, lighting shall be installed in compliance with applicable operational standards.
- f. **Parking and Loading.** Off-street parking shall be provided for all equipment and employee vehicles.
- g. **Rehabilitation.** The rehabilitation of the plant area shall be completed in conformance with the approved plan submitted with the initial application.
- h. **Zoning District Standards.** All other development standards of the subject zoning district shall apply.
- i. **Other Applicable Standards.** All operations shall comply with the applicable state and federal regulations.

6. Procedures.

- a. **Application.** In addition to the submittal requirements for a special exception before the BZA, the following information shall also be provided:
 - i. Existing Conditions. A map of the existing conditions, showing land to be included in the activity area as well as land within one thousand (1,000) feet in all directions including:
 - 1. Existing contours of not less than five (5) feet;
 - 2. Water bodies, drainage courses, and depth of water table below existing terrain;
 - 3. Estimate of depth and extent of deposit;
 - 4. The present use and zoning of adjoining lands;
 - 5. All publicly owned property;
 - 6. Public rights-of-way and road classifications;
 - 7. Easements;
 - 8. Railroad lines;
 - ii. Operation Area. A plan of operational area showing the area proposed for excavation during the next five (5) years, including:
 - 1. Area proposed for settling ponds and wash water outlets;
 - 2. Area proposed for processing facilities and storage;
 - 3. Area proposed for production facilities, if any, for resource-related industry; and

- 4. Area proposed for plant entrance, office, dispatcher headquarters, off-street parking and equipment storage.
- iii. Rehabilitation and Reuse Plan. A preliminary and conceptual plan of rehabilitation and reuse of the area following extraction. The final plan shall be submitted two (2) years prior to the completion of extraction, including:
 - 1. A proposed plan for landscape rehabilitation, including grading, drainage, planting and similar appropriate installations; and
 - 2. The proposed water area, if any, resulting from excavation.
- iv. Geological Conditions. A survey of geological conditions in the area to be mined or excavated that includes a professional evaluation of the probable effect of mining, excavating, and blasting with explosives on nearby properties.
- v. Proof that valid permits have been obtained from the Indiana Department of Natural Resources.
- vi. Any other information which may assist in evaluating the impact of future mining or excavation of the property upon the health and safety of neighboring properties or the community at large.
- vii. Waivers of Rights. A waiver of rights from any land landowner or entity who may be impacted by these standards may, upon written notice to the PC, waive their rights to protection under this section or any portion hereof.
- b. Performance Surety.** When excavation begins in an area, performance surety may be required by the county commissioners to cover incidents such as, but not including, roadway damage, blast damage, and property reclamation.
- c. Permits.** An ILP shall be required for all primary and accessory structures associated with the development.

K. Short-Term Rental Standards.

1. Purpose. The purpose of these short-term rental standards is to comply with the provisions of *IC 36-1-24* series as well as:

- a. Set an appropriate balance between the interests of the City's residents, business owners, visitors to the community, and property owners wishing to engage in short-term rental of dwellings;
- b. Ensure issues related to fire safety and life safety codes are met; and
- c. Allow homeowners to benefit from added income.

2. Structure Standards.

a. Types of Structures.

- i. Permitted. Short-term rental units shall only be allowed in lawfully-built dwelling units that meet building code requirements. This includes:
 1. All or a portion of the owner's primary residence;
 2. An accessory dwelling in accordance with **Chapter 4, Section B: Accessory Dwelling Standards**.
- ii. Prohibited. Short-term rental units shall not be allowed in:
 1. A recreational vehicle, travel trailer, or similar structure (outside of a campground);
 2. A motor vehicle;
 3. Any structure not intended for permanent human occupancy.

b. Accessory Structures. No accessory structures or outside storage may be used in connection with the home occupation.

c. Structure Improvements. No internal or external alterations inconsistent with the residential use of the dwelling are allowed.

3. Lot Standards.

a. None.

4. Use and Operational Standards.

a. Occupancy. Maximum overnight occupancy shall be two (2) persons per sleeping area, not to exceed ten (10) people, regardless of the number of sleeping areas.

b. Other Standards.

- i. A sign shall be prominently posted on site that displays:
 1. That the structure is a registered short-term rental;
 2. The address of the property;
 3. The approved maximum occupancy;
 4. That quiet hours are from 10:00pm to 7:00am every day;
 5. A 24-hour telephone number where the owner can be reached.

5. Development Standards.

- a. **Parking and Loading.** One (1) off-street parking space is required for every two (2) sleeping areas. The Administrator may allow street parking where applicable with a written letter to the file.
- b. **Zoning District Standards.** All other development standards of the subject zoning district shall apply.

6. Procedures.

- a. **Establishment.** An ILP is required to construct a short-term rental in order to ensure that the structure meets all of the applicable building codes and is safe and habitable.
- b. **Annual Registration Permit.** Each short-term rental is required to be registered separately and annually in accordance with *IC 36-1-24-11* and appropriate Huntingburg Municipal Code.
- c. **Enforcement.**
 - i. Short-term rental owners who do not comply with the regulations may be subject to enforcement consequences ranging from inspections, citations, and/or revocation of registration.

L. Solar Energy System Standards (Accessory and Commercial).

1. Purpose. The purpose of these standards is to provide an opportunity for a solar harvesting operation for personal or commercial use while ensuring that specific conditions are met to protect the health, safety, and welfare of the general public.

2. Accessory Solar Energy System.

a. Structure Standards.

i. None.

b. Lot Standards.

i. Setbacks. Accessory solar energy systems shall conform to the setbacks for accessory structures per the zoning district.

c. Use and Operational Standards.

i. Location.

1. Roof-mounted solar energy systems shall be placed only on the roof of a conforming structure.

2. Ground-mounted solar energy systems shall be placed behind the front facade of the primary structure.

ii. Nuisances. Any accessory solar energy system, structure, or portion thereof declared to be unsafe by the Administrator or the Building Inspector, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with best practices.

d. Development Standards.

i. Zoning District Standards. All other development standards of the subject zoning district shall apply.

e. Procedures.

i. Permits. An ILP is required prior to the construction, erection, placement, modification, or alteration of an accessory solar energy system.

3. Commercial Solar Energy System.

a. Structure Standards.

i. Height. The height of any ground-mounted solar equipment is limited to twenty (20) feet, as measured from the natural grade below each panel to the top of each panel at its maximum tilt in the vertical direction.

b. Lot Standards.

i. Setbacks. Setbacks for commercial solar energy systems are based on the zoning district of adjacent properties.

1. Minimum Setback from Adjacent Properties with Same Zoning Classification. Any commercial solar energy system equipment (excluding perimeter fencing, poles, and wire necessary to connect the facility to the electric utility) must comply with the zoning district setbacks established for a primary structure.

2. Minimum Setback from Adjacent Properties of Different Zoning Classification. Any ground-mounted commercial solar energy system equipment (excluding perimeter fencing, poles, and wire necessary to connect the facility to the electric utility) must be setback at least one-hundred (100) feet from each property line.

c. Use and Operational Standards.

- i. Decommissioning. A decommissioning plan shall be provided indicating the method and payment of the anticipated cost of removing the commercial solar energy system at the end of their serviceable life or upon their becoming a discontinued or abandoned use to ensure that the commercial solar energy systems are properly decommissioned.
 1. Content. The decommissioning plan shall include, at a minimum, the following:
 - a. Assurance. Written assurance that the commercial solar energy system will be properly decommissioned upon the expiration of its serviceable life or in the event of their discontinuance or abandonment.
 - b. Cost Estimates. For all commercial solar energy systems, an estimate of the costs of decommissioning and removing the commercial solar energy system upon the expiration of their useful life, or in the event of their discontinuance or abandonment. The cost estimates shall be made by a professional engineer, contractor, or other person with expertise or experience in decommissioning and removal of commercial solar energy system.
 2. Financial Assurance. The cost of removal and site restoration is the full responsibility of the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the commercial solar energy system and to restore the site, the following steps shall be followed:
 - a. For each commercial solar energy system, the applicant, owner, and/or operator shall determine an amount of money equal to the estimated removal and restoration cost.
 - b. The Administrator shall independently verify the adequacy of this amount.
 - c. This money shall be deposited in an escrow account specified by the jurisdiction, which may be an interest-bearing account. Alternatively, a bond may be posted for the amount.
 3. Discontinuance and Abandonment.
 - a. Abandonment. Verification under penalties for perjury, that all easements and/or leases for the commercial solar energy system contain terms that provide financial assurances to the property owners to ensure that the commercial solar energy system are properly decommissioned within one (1) year of the expiration of their serviceable life or in the event of their discontinuance or abandonment.
 - b. Discontinuance. Any commercial solar energy system shall be considered abandoned and a discontinued use after six (6) months without energy production, unless a plan is developed by the owner or applicant and approved by the Administrator outlining the steps and a schedule for returning the commercial solar energy system to service.
 - c. Removal. An applicant's obligations shall include removal of all physical material pertaining to the project improvements to no less than a depth of four (4) feet below ground level. Said work shall be completed within one (1) year of the

discontinuation or abandonment of the commercial solar energy system. The restoration of the project area shall result in as near as practicable the condition of the site immediately before construction of such improvements.

- d. **Written Notices.** Prior to implementing procedures to resolve any alleged failure to comply with the decommissioning plan, the appropriate jurisdictional body shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period, not to exceed sixty (60) days, to resolve the alleged default(s).
 - e. **Costs Incurred by the Jurisdiction.** If the jurisdiction removes a commercial solar energy system and/or appurtenant facilities, it may sell the salvage to defray the costs of removal. Each permittee, by virtue of the issuance of its construction permit or inspection certificate grants a license to the jurisdiction to enter the property and to remove all commercial solar energy systems and/or appurtenant facilities pursuant to the terms of its approved decommissioning plan.
- ii. **Nuisances.** Any commercial solar energy system, structure, or portion thereof declared to be unsafe by the Administrator or Building Inspector, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved decommissioning plan.

d. Development Standards.

- i. **Access.** The operator of a commercial solar energy system must provide a knox box with keys to the site and equipment lockers on site at the main entrance or an alternative emergency access solution to the site approved by the Administrator.
- ii. **Bufferyards and Fencing.**
 - 1. **Visual Buffers.** A commercial solar energy system shall have, to the extent reasonably practicable, a visual buffer of natural vegetation, plantings, earth berms, and/or fencing that provides a reasonable visual and lighting screen to reduce the view of the system from residential dwelling units on adjacent lots (including those lots located across a public right-of-way). The existing natural tree growth and natural land forms along the solar energy system perimeter may create a sufficient buffer and shall be preserved when reasonably practicable. Any visual buffer must be established and maintained in accordance with the most recent visual buffer plan approved by the Administrator
 - 2. **Fencing.** All sites must have a completely fenced perimeter with fencing that is at least six (6) feet in height.
- iii. **Easements.** If an easement is required for the location of a commercial solar energy system on the property, the easement shall be staked by a licensed and registered Indiana land surveyor so as to provide proof the facility has been constructed within the easement.
- iv. **Lighting.** Exterior lighting for a commercial solar energy system site shall be limited to that required for safety and operational purposes.
- v. **Utilities.** All electrical wires and utility connections for a commercial solar energy system shall be installed underground, except for transformers, inverters, substations, and controls.

- vi. Zoning District Standards. All other development standards of the subject zoning district shall apply.

e. Procedures.

- i. Application. Development Plan approval is required for the establishment of a commercial solar energy system.
- ii. Permits. An ILP is required prior to the construction, erection, placement, modification, or alteration of an accessory solar energy system. Footing inspections shall be required for all facilities having footings. All facilities containing electrical wiring shall be subject to the provisions of the applicable electrical code as amended.

M. Special Event Facility Standards (Wedding Barn).

1. **Purpose.** The purpose of these special event facility standards is to ensure that the use and establishment of the facility remains accessory to the residential use of the property and does not have a negative impact on the surrounding agricultural areas.
2. **Structure Standards.** The structure shall meet applicable building codes.
 - a. **Area.** Minimum lot size shall be ten (10) acres.
 - b. **Setbacks.** All setbacks shall be in accordance with the respective zoning district. This includes any temporary structures such as tents, canopies, stages, and dance floors.
3. **Lot Standards.**
 - a. **None.**
4. **Use and Operational Standards.**
 - a. **Accessory Use.** The facility is and shall be operated as an accessory use to the owner's primary residence. No facility shall be permitted where no primary residential use exists on the parcel.
 - b. **Attendance.** Attendance for a single event at the facility shall not exceed five hundred (500) persons or last longer than two (2) days, not including set-up and take-down.
 - c. **Hours of Operation.** The special event duration shall not exceed twelve (12) hours per day, with an operation period limited to the hours of 8:00am to 11:00pm.
5. **Development Standards.**
 - a. **Dust Control.** Dust shall be minimized by reducing vehicle speeds on driveways and parking areas. During dry conditions, the application of water or other approved dust controlling measure is required.
 - b. **Lighting.** All outdoor lighting associated with the special event shall be turned off by 11:00pm and conform to **Chapter 3, Section E: Lighting Standards**.
 - c. **Signage.** In addition to the permitted signage in **Chapter 3, Section I: Sign Standards**, temporary directional signs are allowed during event activities provided they are placed outside of the rights-of-way.
 - d. **Utilities.** The facility shall provide a potable domestic water supply and an on-site sewage disposal or sewer service connection necessary to accommodate the special events to the satisfaction of the applicable Health Department.
 - e. **Zoning District Standards.** All other development standards of the subject zoning district shall apply.

6. Procedures.

- a. **Development Plan Required.** All special event facilities require development plan approval shall include a plan for traffic, parking, and circulation plan. In addition, the APC or Administrator shall make specific findings and may establish conditions relative to the consideration of:
 - i. The physical design and operating characteristics of the facility.
 - ii. The intensity of the proposed use and density of the surrounding area.
 - iii. The distance to surrounding sensitive elements, including residents and livestock.
 - iv. The type of sound potentially generated by the facility and what allowances for amplified sound may take place.
 - v. The allowed number of events per year and the frequency of events.

N. Wind Energy System Standards (Accessory and Commercial).

1. **Purpose.** The purpose of these standards is to ensure the proper installation of wind energy system components and to minimize the impacts on area residents and the environment.

2. On-Site Wind Energy System (Accessory).

a. **Applicability.** This section applies to on-site use wind energy systems and anemometer towers of one hundred (100) feet or less. These systems are designed to primarily serve the needs of a home, farm, or business located on the same site as the on-site use wind energy system.

b. Structure Standards.

i. Construction Codes. The facility shall comply with all applicable state construction and electrical codes as well as local building permit requirements.

c. Lot Standards.

i. Setbacks.

1. For stand-alone wind energy systems, the distance between an on-site use wind energy system and the owner's property lines shall be equal to or greater than the height of the wind energy system tower including the top of the blade in its vertical position.

2. For wind energy systems mounted on a conforming principal structure or conforming accessory structure, the distance between an on-site use wind energy system and the owner's property lines shall be equal to or greater than the height of the wind energy system tower including the top of the blade in its vertical position as measured from where the system is attached to the structure.

3. The distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower.

4. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten (10) feet to the owner's property lines.

d. Use and Operational Standards.

i. Electromagnetic Interference. No on site wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No on-site wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

ii. Safety. An on-site use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six (6) feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be twenty (20) feet for a wind energy system employing a horizontal axis rotor.

- iii. Sound Pressure Level. On site use wind energy systems shall not exceed 55 dB(A) at any property line. This sound pressure level may be exceeded during short term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

e. Development Standards.

- i. Zoning District Standards. All other development standards of the subject zoning district shall apply.

f. Procedures.

- i. Permits. An ILP is required for the construction or establishment of an on-site wind energy system.

3. Utility Grid Wind Energy Systems (Commercial).

- a. Applicability.** All commercial wind energy systems, utility grid wind energy systems, on site use wind energy systems of greater than 30 kW, and anemometer towers over one hundred (100) feet high shall meet the following standards.

b. Structure Standards.

- i. Construction Codes. The facility shall comply with all applicable state construction and electrical codes as well as local building permit requirements.

c. Lot Standards.

- i. Setbacks.
 - 1. Anemometer tower setbacks shall be the distance equal to the height of the tower from property lines.
 - 2. Utility grid and on-site use wind energy system setbacks shall be at least equal to the height of the tower including the top of the blade in its vertical position from property lines or from the lease unit boundary, whichever is less.
 - 3. An operations and maintenance office building, a sub-station, or ancillary equipment shall comply with the property setback requirements of the respective zoning district. Overhead transmission lines and power poles shall comply with the setback and placement requirements applicable to public utilities.

d. Use and Operational Standards.

- i. Complaint Resolution Plan. A complaint resolution plan is required that identifies the process to resolve complaints from nearby residents concerning the construction or operation of the project.
- ii. Decommissioning Plan. A decommissioning plan is required that indicates:
 - 1. the anticipated life of the project;
 - 2. the estimated decommissioning costs net of salvage value in current dollars;
 - 3. the method of ensuring that funds will be available for decommissioning and restoration;
 - 4. the anticipated manner in which the project will be decommissioned and the site restored.

- iii. Electromagnetic Interference. No utility grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No utility grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.
- iv. Safety. The facility shall be designed to prevent unauthorized access to the electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system. A sign shall be posted near the tower or operations and maintenance office building that will contain emergency contact information. Signage placed at the access drive entrance shall warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be thirty (30) feet for a wind energy system employing a horizontal axis rotor.
- v. Sound Pressure Level. The sound pressure level shall not exceed 55 dB(A) measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three (3) minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

e. Development Standards.

- i. Utilities. Power lines shall be placed underground, when feasible.
- ii. Visual Impact. Utility grid wind energy system projects shall use tubular towers and all utility grid wind energy systems in a project shall be finished in a single, non-reflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- iii. Zoning District Standards. All other development standards of the subject zoning district shall apply.

f. Procedures.

- i. Application. In addition to the submittal requirements for a Special Exception, the following shall be provided as part of the application:
 - 1. Airspace Compliance: The facility shall comply with Federal Aviation Administration (FAA) requirements, and applicable airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility Grid wind energy systems shall comply with applicable utility and Federal Energy Regulatory Commission interconnection standards.
 - 2. Environmental Analysis. The site plan and other documentation shall show mitigation measures to minimize potential impacts on the natural environment including, but not

limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in an environmental analysis.

3. Shadow Flicker Impacts. A site plan and other documents and drawings shall be submitted to show the mitigation measures to minimize potential impacts from shadow flicker.
4. Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been reviewed and the submitted site plan is prepared to show compliance with these issues.
5. Proof of the applicant's public liability insurance for the project.
6. A copy of that portion of all the applicant's lease(s) with the land owner(s) granting authority to install the anemometer tower and/or utility grid wind energy system; legal description of the property(ies), lease unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the lease unit boundary.
7. The phases, or parts of construction, with a construction schedule.
8. The project area boundaries.
9. The location, height, and dimensions of all existing and proposed structures and fencing.
10. The location, grades, and dimensions of all temporary and permanent on site and access drives from the nearest street.
11. All new infrastructure above ground related to the project.
12. A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
13. The decommissioning plan.
14. The complaint resolution plan.
15. In addition to the above, utility grid wind energy systems only shall also submit the following:
 - a. A copy of a noise modeling and analysis report and the site plan shall show locations of equipment identified as a source of noise which is placed, based on the analysis, so that the wind energy system will not exceed the maximum permitted sound pressure levels. The noise modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the utility grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the Administrator within sixty (60) days of the commercial operation of the project.
 - b. A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four viewable angles.
 - c. A copy of an Environment Analysis by a third-party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or

mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

- d. A copy of a shadow flicker analysis at occupied structures to identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the occupants of the structures and show measures that shall be taken to eliminate or mitigate the problems.
- e. A second site plan that shows the restoration plan for the site after completion of the project which includes the following supporting documentation.

ii. Additional Requirements.

- 1. Performance Security. As part of the approval for a Special Exception, the BZA may require security for the applicant's performance in the form of a letter of credit, deposit, or bond to ensure that the applicant repairs any damage to public infrastructure or property caused by construction of the wind energy system.

O. Wireless Communication Facility Standards.

1. **Purpose.** The purpose of these regulations is to ensure that the siting of new wireless communication facilities are appropriately placed and in compliance with current state statute procedures.

2. Structure Standards.

a. None.

3. Lot Standards.

a. None.

4. Use and Operational Standards.

a. **Location.** Wireless facilities shall not be located within the boundaries of any legally platted and recorded residential subdivision.

b. **Decommissioning Plan.** A decommissioning plan shall be submitted that requires the removal of the facility when it is no longer in use.

c. **Co-location.** New wireless facilities shall allow for the future co-location of additional facilities.

5. Development Standards.

a. **Bufferyards and Fencing.** The facility shall be screened with a six (6) foot tall barrier of evergreen vegetation, fencing, or wall. Security fencing shall be installed where required.

b. **Zoning District Standards.** All other development standards of the subject zoning district shall apply.

6. Procedures.

a. **Permits.** Wireless facilities shall not be constructed, erected, placed, modified, or altered until an ILP has been obtained.

b. **Application.** In accordance with IC 8-1-32.3, the following procedures shall apply to the application and approval for construction of a new wireless support structure, substantial modification of a wireless support structure, or collocation of wireless facilities on an existing structure.

i. Application. To be considered complete, the following information must be submitted with an application for a new wireless support structure, a substantially modified wireless support structure, or collocation of a wireless facility:

1. Application Information.

a. A statement that the applicant is a person that either provides wireless communications service or owns or otherwise makes available infrastructure required for each service; and

b. The name, business address, and point of contact for the applicant.

2. Location.

a. The location of the proposed or affected wireless support structure or wireless facility; and

- b. Evidence supporting the choice of the location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:
 - i. Would not result in the same wireless service functionality, coverage, and capacity;
 - ii. Is technically infeasible; or
 - iii. Is an economic burden to the applicant.
 - 3. Construction Plan. A construction plan that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.
 - 4. Findings of Fact. For an application that requires a Special Exception, evidence showing that the application complies with the applicable criteria shall be submitted. The criteria for a Special Exception under *IC 36-7-4-918.2* shall comply with **Chapter 8, Section D.4: Special Exception Procedures**.
 - c. **Review of Application.** Upon receipt of an application for a new or significantly modified wireless support structure, the Administrator shall promptly review it for completeness. Within ten (10) business days of receiving the application, the Administrator shall notify the applicant of whether the application is complete and whether a public hearing will be required.
 - i. Failure to Notify. If the Administrator fails to notify the applicant within ten (10) business days whether the application is complete shall be considered a non-final zoning decision in accordance with *IC 36-7-4-1602(c)*, with the applicant consequently entitled to expedited judicial review of the non-final zoning decision.
 - d. **Public Hearing.**
 - i. Public Hearing Required. When a public hearing is required for a Special Exception, the BZA shall conduct the hearing and take final action within a reasonable period of time.
 - ii. Public Hearing Not Required. When a public hearing is not required, the Administrator shall take final action on the request within a reasonable period of time after the application is filed.
 - e. **Deadline for Final Action.** For purposes of subsection c: Review of Application above, “reasonable period of time” shall be determined as follows:
 - i. Collocation Only. If the request involves an application for collocation only, a reasonable period of time is not more than forty-five (45) days from the date that the applicant is notified by the Administrator that the application is complete. An application for collocation only is not subject to a public hearing before the BZA, but the Administrator may review the application for compliance with applicable building code requirements before issuing an ILP.
 - ii. New Wireless Support Structure. If the request involves an application for an ILP to construct a new wireless support structure, a reasonable period of time is not more than ninety (90) days from the date that the applicant is notified that the application is complete. The BZA shall conduct a public hearing on the request and shall make a decision on the request at the meeting at which it is first presented. Decisions made by the BZA after a public hearing conducted in accordance with this section are considered zoning decisions for purposes of *IC 36-7-4* and are subject to judicial review under the *IC 36-7-4-1600* series.

- iii. Substantial Modification of a Wireless Support Structure. If the request involves an application for an ILP for substantial modification of a wireless support structure, a reasonable period of time is not more than ninety (90) days from the date that the applicant is notified that the application is complete. The BZA shall conduct a public hearing on the request and shall make a decision on the request at the meeting at which it is first presented. Decisions made by the BZA after a public hearing conducted in accordance with this section are considered zoning decisions for purposes of IC 36-7-4 and are subject to judicial review under the IC 36-7-4-1600 series.
 - iv. Additional Time for Applicant Amendment. If an applicant has requested additional time to amend its application or requested or agreed to a continuance during the review or hearing process, then the period of time prescribed by parts i, ii, or iii above shall be extended for a corresponding amount of time.
 - v. Failure to Take Action. Failure by the Administrator or the BZA to take final action on a request within a reasonable period of time shall be considered a non-final zoning decision in accordance with *IC 36-7-4-1602(c)*, with the applicant consequently entitled to expedited judicial review of the non-final zoning decision.
- f. Additional Rules.** In accordance with IC 8-1-32.3 and notwithstanding IC 36-7-4 or any rules adopted by the BZA, the following provisions apply to all application submitted under this section:
- i. Limitation on Fees.
 - 1. The Administrator may not require an applicant to pay a fee associated with the submission, review, processing, or approval of an application unless the payment of the same or a similar fee for applications for permits for similar types of commercial or industrial structures within the applicable jurisdiction.
 - 2. If a fee associated with the submission, review, processing, or hearing of an application, including a fee imposed by a third party that provides review, technical, or consulting assistance to the Administrator, the fee must be based on actual, direct, and reasonable costs incurred for the review, processing, and hearing of the application.
 - 3. A fee described in this section may not include:
 - a. Travel expenses incurred by a third party in its review of an application; or
 - b. Direct payment or reimbursement of third party fees charged on a contingency basis.
 - ii. Non-discrimination. The Administrator or the BZA may not discriminate among communications service providers or public utilities with respect to the following:
 - 1. Approving applications, issuing permits, or otherwise establishing terms and conditions for construction of wireless or wireline communications facilities.
 - 2. Authorizing or approving tax incentives for wireless or wireline communications facilities.
 - 3. Providing access to rights-of-way, infrastructure, utility poles, river and bridge crossings, and other physical assets owned or controlled by the applicable jurisdiction.
 - iii. Fall Zone Limitation. The Administrator or the BZA may not impose a fall zone requirement for a wireless support structure that is larger than the area within which the structure is designed to collapse, as set forth in the applicant's engineering certification for the structure. However, a fall zone requirement that is larger than the area described above

may be imposed if the Administrator or the BZA provide evidence that the applicant's engineering certification is flawed. This evidence must include a study performed by a professional engineer.

- iv. All Other Land Use and Development Standards Apply. These additional rules do not affect the ability of the applicable jurisdiction to exercise other zoning, land use, planning, or other development standards with respect to the siting of new wireless support structures; or exempt the applicant from complying with applicable laws and ordinances concerning land use.
- v. Federal Standards Apply. In reviewing applications and conducting hearings, the Administrator and the BZA shall 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.
- vi. Information Not Required. Neither the Administrator nor the BZA may require an applicant to submit information about or evaluate an applicant's business decisions with respect to the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.
- vii. Confidential Materials. All meetings of the BZA are subject to the Open Door Law in accordance with IC 5-14-1.5. However, neither the Administrator nor the BZA may release to the public any records that are 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 any other applicable laws.
- viii. Consolidation of Multiple Applications. The Administrator shall allow an applicant to submit a single consolidated application to collocate multiple wireless service facilities, or for multiple small cell facilities that are located within the applicable County and that comprise a single small cell network. Whenever a consolidated application is approved, the Administrator shall issue the applicant a single ILP for the multiple facilities, or for the small cell network, in lieu of issuing multiple permits for each respective facility.
- ix. Conditions for Use of Utility Poles or Towers. Neither the Administrator nor the BZA may require or impose conditions on an applicant regarding the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.

5 Subdivision Types

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CHAPTER 5: SUBDIVISION TYPES

A. Subdivision Types.

- 1. Purpose and Intent.** The purpose of this Chapter is to:
 - a. Define, regulate, and control the different ways that land can be subdivided for development within the jurisdiction;
 - b. Secure equitable handling of all subdivision plans by providing uniform procedures and standards;
 - c. Promote public health, safety, general welfare, and secure the most efficient use of land;
 - d. Implement the jurisdiction's *Comprehensive Plan* and UDO; and
 - e. Promote the orderly growth and development to further the orderly division, layout, and use of land by:
 - i. Minimizing congestion of the local roads, major roadways, highways;
 - ii. Facilitating adequate provisions for water, sewerage, and other public utilities; and
 - iii. Providing for proper ingress and egress of all types.

2. Commercial and Industrial Subdivisions.

- a. **Intent.** A commercial or industrial subdivision, as defined in **Chapter 10: Definitions**, is intended to provide development for primarily commercial or industrial uses and other uses as permitted within the subject zoning district. The layout shall allow for adequate vehicular, pedestrian, and alternative transportation access as well foster connection to adjacent parcels and transportation networks. Driveway cuts on to arterial streets shall be limited and frontage streets shall be utilized. In order to allow for end-user flexibility, the secondary platting process may be done by blocks or lots, as explained further in **Chapter 7, Section B: Procedures for Subdivisions**.
- b. **Development Standards.**

Development Standards for Commercial and Industrial Subdivisions	
Districts permitted	DMU, MU, B-1, B-2, B-3, I-1, I-2
Minimum development size	N/A
Minimum open space for overall development	15%
Internal access	Internal streets may be private, but shall be constructed to the applicable street function standards per the <u>City of Huntingburg Design Standards and Construction Manual</u> .
Sidewalks	Required along existing perimeter streets that are immediately adjacent to the subject property. Required on both sides of any new street within the subdivision.
Development standards for individual lots	The development standards for the subject zoning district shall apply to each lot within the subdivision. See Chapter 2: Zoning Districts .
Design standards for subdivision	All applicable design standards for the subdivision shall comply with Chapter 6: Subdivision Design Regulations .

3. Minor Residential Subdivision.

- a. **Intent.** A minor residential subdivision, as defined in *Chapter 10: Definitions*, is intended to be an expedited process for subdividing five (5) or fewer lots exclusively for single-family residential use that does not involve the opening or creation of new public rights-of-way. The design shall still allow for adequate vehicular and pedestrian access as well as foster connection to adjacent parcels where necessary. A shared driveway may be required by the PC to provide safe access to streets and to allow for alternative lot layouts.
- b. **Development Standards.**

Development Standards for Minor Residential Subdivisions	
Permitted districts	AG, R-1
Minimum open space for overall development	N/A
Internal access	A shared driveway may be utilized for internal access and shall be constructed to the applicable street function standards per the <u><i>City of Huntingburg Design Standards and Construction Manual</i></u> . The shared driveway must be contained within a common area and maintained jointly by all property owners utilizing access with a recorded road maintenance agreement and not an access easement that identifies the party(ies) responsible for maintenance.
Development standards for individual lots	The development standards for the subject zoning district shall apply to each lot within the subdivision. See <i>Chapter 2: Zoning Districts</i> .
Design standards for subdivision	All applicable design standards for the subdivision shall comply with <i>Chapter 6: Subdivision Design Regulations</i> .

4. Major Residential Subdivision.

- a. **Intent.** A suburban residential subdivision, as defined in **Chapter 10: Definitions**, is intended to provide development exclusively for single-family, two-family, and multi-family residential uses as permitted within the subject zoning district. The layout shall allow for adequate vehicular, pedestrian, and alternative transportation access as well as connection to adjacent parcels and transportation networks. Driveway cuts onto arterial streets are prohibited.
- b. **Development Standards.**

Development Standards for Suburban Residential Subdivisions		
Districts permitted		R-1, R-2, R-3, MU
Minimum development size		N/A
Minimum open space for overall development based on the average lot size per dwelling unit of entire subdivision	Under 5,000 sqft	30%
	5,000sqft-6,999 sqft	25%
	7,000-8,499	20%
	8,500-10,999	15%
More than 11,000		10%
Internal access		Internal streets must be public and shall be constructed to the applicable street function standards per the <u>City of Huntingburg Design Standards and Construction Manual</u> .
Sidewalks		Required along perimeter streets that are immediately adjacent to the subject property. Required on both sides of any new street. An alternate internal pathway network may be substituted for sidewalks on one side of a new street at the discretion of the PC.
Development standards for individual lots		The development standards for the subject zoning district shall apply to each lot within the subdivision. See Chapter 2: Zoning Districts .
Design standards for subdivision		All applicable design standards for the subdivision shall comply with Chapter 6: Subdivision Design Regulations .

5. Exempt Subdivisions.

- a. **Intent.** The intent of this section is to establish criteria that allows lot splits to occur that are not otherwise required to go through the other subdivision processes outlined in this UDO. Furthermore, this exempt subdivision provision shall not be used as a means to bypass the subdivision process outlined in this UDO.
- b. **Subdivider's Responsibility.** It is the responsibility of the person subdividing land to consult with the Administrator to verify their subdivision exemption eligibility before recording lot splits. Lots created under this provision are not guaranteed to be buildable or guaranteed to qualify for the issuance of an ILP.
- c. **Applicability.** The following divisions of land are exempt from the provisions of this UDO.
 - i. A division of land that is government or court ordered.
 - ii. A division of land for the transfer of a tract(s) to correct errors in an existing legal description, or the sale/exchange of tracts between adjoining landowners, provided that no additional principal use building sites are created by the division.
 - iii. A division of land by the Federal, State, or local government for the acquisition of right-of-way easement, or utility.
 - iv. A division of land into cemetery plots for the purpose of burial of corpses.
 - v. A division of land for agricultural uses not involving any new streets or easements of access, provided that the sale or exchange does not create additional residential building sites or is intended for residential development in the future.
 - vi. A division of land that combines/reconstitutes property lines such that no new building lots are created.
 - vii. An adjustment/shift of lot lines as shown on a recorded plat provided there is no reduction in the area, frontage, width, depth, or building setback lines of each building site that would place it below the minimum requirements of this UDO.
 - viii. The sale, exchange or transfer of land between adjoining property owners which does not result in the change of the present land usage or create an additional building site.
 - ix. The division of land by a unit of government for the purpose of lease financing public improvements to be leased by the unit.

6 Subdivision Design Regulations

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CHAPTER 6: SUBDIVISION DESIGN REGULATIONS

A. General Provisions.

- 1. Purpose.** These subdivision design standards are intended to provide predictability to developers and property owners while ensuring the residents of the jurisdiction benefit from quality residential neighborhood designs and commercial/industrial development that promote the public health, safety, and general welfare and supports the goals of the *Comprehensive Plan*.
- 2. Conformance to Applicable Rules and Regulations.** In addition to the requirements established in this section, all plats shall comply with the following laws, rules, and regulations:
 - a. All applicable statutory provisions;
 - b. The UDO, Zoning Map, building and fire codes, and all other applicable laws of the appropriate jurisdictions;
 - c. The special requirements of this UDO and any rules of the Health Department and/or appropriate state or local agencies;
 - d. The rules of INDOT if the subdivision or any lot contained therein abuts a state highway or connecting street;
 - e. The standards and regulations adopted by the City Engineer, and all boards, commissions, agencies, and officials of the jurisdiction;
 - f. Plat approval may be withheld if a subdivision is not in conformity with the laws, regulations, guidelines, and policies as well as the purposes of this UDO.
- 3. Public Facilities.**
 - a. **Adequate Facilities.** No primary plat shall be approved unless the PC determines that public facilities will be adequate to support and service the area of the proposed subdivision. At the request of the PC or Staff, the subdivider shall submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of any public facilities by the subdivision. Public facilities and services to be examined for adequacy will include roads, septic/sewerage, well/water service, schools, police, and fire facilities.
 - b. **Extension Policies.** All public improvements and required easements shall be extended to the boundary lines of the parcel on which new development is proposed. Streets, water lines, wastewater systems, electric lines, and telecommunications lines shall be constructed to promote the logical extension of public infrastructure to adjacent parcels. The PC may request that the subdivider extend off-site improvements or to oversize required public facilities to serve anticipated future development where applicable.
- 4. Plats Straddling Jurisdictional Boundaries.** Whenever access to the subdivision is required across land in another local government, the PC may request assurance by affidavit from the subdivider that access is legally established. The PC may also request assurance from the appropriate department that the access road is adequately improved, or that a guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

B. Lots and Blocks.

1. Lot and Block Arrangement.

- a. The layout of the lots/blocks shall be compatible with the topography and other physical conditions of the land in order to ensure that compliance with the UDO, Building Code, and other local, state, and federal regulations can be achieved.
- b. Every lot/block shall have sufficient and adequate access to a street constructed, or to be constructed, in accordance with this UDO.
- c. The PC may require that lots/blocks be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots.

2. Lot and Block Dimensions.

- a. Lot and block dimensions shall comply with the minimum standards of the UDO.
- b. In order to accommodate lots on cul-de-sacs and curves, the minimum lot width and road frontage may be reduced by up to twenty percent (20%) at the discretion of the Administrator. The reduction must be requested in writing by the subdivider with the specific lots identified.
- c. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots/blocks shall be large enough to allow for erection of buildings, observing the minimum front yard setbacks from both streets.
- d. The depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide off-street parking and loading facilities required for the type of use and development contemplated, as established in the UDO.
- e. Land reserved for any proposed street, drainage structure (retention or detention), lake, river, stream, or wetlands shall not be counted in satisfying the minimum lot area requirements of the UDO.

3. Lot and Block Orientation.

- a. The lot line common to the street right-of-way shall be the front line. All lots/blocks shall face the front line and a similar line across the street. Wherever feasible, lots/blocks shall be arranged so that the rear lot line does not abut the side lot line of an adjacent lot.
- b. Double frontage and reversed frontage lots/blocks shall be avoided except where necessary to provide separation of development from traffic arterials or to overcome specific disadvantages of topography and orientation.

C. Covenants.

- 1. Purpose.** Covenants are generally a combination of restrictions on the use of property and affirmative obligations imposed by the developer on the owner of a property within a subdivision that are above and beyond the development standards for the jurisdiction. The purpose of these covenants is to give a development a more standard appearance as well as control over the activities that take place within its boundaries so that when enforced by the developer (and subject property owners), the property values are uniformly protected.
- 2. Self-Imposed Restrictions.** If an owner of property places restrictions on any land contained in a subdivision that are more restrictive than those required by this UDO, such restrictions shall be indicated on the subdivision plat. The PC may also require that all restrictive covenants be recorded with the Recorder in a form approved by the jurisdiction's Attorney.
- 3. Enforcement.** Only regulations specifically found in the UDO are enforceable by the PC. Restrictive covenants cannot be enforced by the PC and must be enforced by the Homeowners Association (or the subject property owners) and through the civil courts.
- 4. Required Covenant Language.** The following language must be contained within the recorded covenants as well as on the recorded plat.
 - a. Drainage.** See *Section E.2: Required Covenant Language Regarding Drainage* for language that must be in the covenants regarding drainage.
 - b. Visibility.** See *Section H.16: Required Covenant Language Regarding Visibility* for language that must be in the covenants regarding visibility.

D. Open Space and Areas for Public Dedication.

1. Plan for Open Space and Proposed Public Dedication.

- a. A plan for open space and areas proposed to be dedicated to the public shall be submitted along with the application for primary plat approval. Such plan shall depict the subdivision in full compliance with this UDO and all other applicable health, flood control, and regulations of the jurisdiction. All open space shall be set aside as common area and labeled as such. If a subdivision is to be developed in sections, the open space plan shall show each section and each section shall be in compliance with the requirements of this section.
- b. The Administrator, TAC, and PC shall review the plan in conjunction with the application for primary plat approval. The plan shall become part of the primary plat. Approval of an open space plan shall be a condition precedent to the approval of a secondary plat. In the ultimate review of the open space plan, the PC shall be guided by the following criteria:
 - i. The protection of unique topographical features on the site, including, but not limited to, slopes, streams, and natural water features;
 - ii. The protection and preservation of wooded areas and individual trees of significant size. For the purpose of review and consideration by the PC, "significant size" should be interpreted as:
 - (a) Healthy trees that are a minimum of ten inches (10") in diameter measured across the trunk at least four feet (4') above the base of the tree, or
 - (b) Healthy trees of certain species (such as fruit-bearing and blossoming trees) that, at maturity, do not normally achieve a trunk size that is ten inches (10") in diameter or larger but are desirable to preserve wetlands or other environmentally sensitive areas.
 - iii. The accessibility of the open space areas;
 - iv. The adaptability of the open space to the future development of greenways within the jurisdiction;
 - v. The relationship of the open space to neighboring properties;
 - vi. The minimization of disturbance to important natural site features through the design of lots and streets; and
 - vii. The diversity and originality of the design for the open space.

2. Open Space.

- a. **Accessibility.** All open space reserved under this UDO shall be accessible to the residents or property owners within the subdivision and their guests by the way of sidewalks, footpaths, trails, or combined bikeways and walkways.
- b. **Recreation.** Land reserved for active recreational purposes shall be of a character and location suitable for use as a playground, play field, or for other active recreational purposes, and shall be relatively level and dry.
- c. **Dedication of Open Space.** Open space designed for dedication to the jurisdiction shall be considered on a case-by-case basis and approved by the PC.

3. Natural Features.

- a. When possible, open space required under this UDO should be preserved in its natural state.
- b. Existing features that would add value to the development or to the jurisdiction as a whole (such as trees, watercourses and falls, historic sites, and similar irreplaceable assets) shall be encouraged to be preserved in the design of the subdivision.
- c. The primary plat shall show the general area of natural features to be preserved including the number and location of existing trees being retained as well as the location of all proposed trees that are required by this UDO to meet the bufferyard standards.

4. Retention/Detention Ponds within Open Space.

- a. Ponds shall be installed in accordance with *Chapter 3, Section H: Pond Construction Standards*.
- b. If a tract being subdivided contains a pond or portion thereof, such water body must be set aside as common area and shall not be included as part of a lot or in satisfying the individual lot area requirements of the UDO.

5. Ownership and Maintenance of Open Space.

- a. Responsibility, maintenance, and ownership of ponds and common area, shall be distributed equally among all property owners within the development either jointly through a property owners association or individually in the event a property owners association is dissolved or does not exist.
- b. The PC may require proof of an "Ownership and Maintenance Agreement" for the common areas within a subdivision.
- c. The jurisdiction shall not assume responsibility for the maintenance and safety of the common areas. The City shall have the right to require appropriate maintenance, repairs or improvements to the common areas if the responsible party fails to adequately maintain them. All costs incurred by the City, including but not limited to attorney and engineering fees, shall be paid by the responsible party.

6. Areas Set Aside for Public Dedication.

- a. Proposed subdivisions may allocate areas for public parks, schools, or other public recreational purpose when necessary to conform to the requirements of any applicable adopted plan. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned. The reserved area shall be shown and marked on the secondary plat, "Reserved for Park, School, or Recreational Purposes." The PC may refer such proposed reservations to appropriate officials or departments for recommendations. The PC may approve the number of acres to be reserved and the jurisdiction shall approve any dedication before acceptance. Said areas shall be made by one (1) of the following methods:
 - i. Dedication to public use; or
 - ii. Reservation for acquisition for the benefit of or the other agency thereof.
- b. The acquisition of land reserved for a public agency on the secondary plat shall be initiated by the public agency within five (5) years of approval. Failure on the part of the public agency to initiate acquisition within the prescribed time shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with this UDO.

E. Drainage, Stormwater, and Erosion Control.

1. Easements.

- a. All drainage easements shall be indicated on the primary plat and the secondary plat.
- b. Easements (public and private) shall be a minimum of ten (10) feet in width and shall be located, whenever possible, at the rear lot lines. One-half (1/2) the width of an easement shall be taken from each lot.
- c. When topographical or other conditions make it impractical to include utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided alongside lot lines with satisfactory access to the road or rear lot lines. One-half (1/2) the width of an easement shall be taken from each lot.
- d. The subdivider shall be responsible for proper coordination of utility easements from block to block and from his particular subdivision to that of other adjoining properties.

2. Required Covenant Language Regarding Drainage.

In order to ensure the maintenance of a properly designed and installed drainage system, the following paragraphs shall be required as a provision of the restrictive covenants for all secondary plats and shall be included in all deeds written relative to said plats. The proposed owner shall submit a signed copy of this covenant to be filed with the PC and the City Engineer at the time an application for an ILP is submitted.

- a. "Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled or otherwise changed without the written approval of the Administrator. Property owners must maintain these swales as sodded grassways or other non-eroding surfaces. Water from roofs, parking areas, or other impervious surfaces must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriately sized culverts are installed in accordance with this UDO."
- b. "A property owner altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten (10) days' notice by certified mail to repair said damage, after which time, if no action is taken, the jurisdiction will cause said repairs to be accomplished, and the costs for such repairs will be billed to the affected property owners for immediate payment."
- c. "No sanitary structures, drainage structures, or water line appurtenances shall be located within driveway limits or sidewalks. No sump pump drains or other drains shall outlet onto the street."

F. Access and Connectivity.

1. Access.

- a. **General.** No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing public street, including:
 - i. An existing state, county, or municipal roadway; or
 - ii. A street shown upon a plat approved and recorded in the Recorder's Office. Such street or highway must be suitably installed and improved as required by the rules, regulations, specifications, or orders, or be secured by performance surety required under this UDO or another comparable ordinance.
- b. **Access to a Principal Arterial.** Where a subdivision borders on or contains an existing or proposed principal arterial, the PC may require that access to such street be limited by one (1) of the following means:
 - i. Utilization of frontage roads.
 - ii. Individual lots that gain access from a local street, but back up to a principal arterial shall provide a five (5) foot no-access-easement along the principal arterial to prohibit access to said arterial. In addition, a five (5) foot bufferyard along the rear property line of such lots shall be installed to further discourage access.
 - iii. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the primary arterial.
 - iv. A marginal access or service road shall be constructed and separated from the principal arterial by a planting area or grass strip and having access at suitable points.
 - v. Another proposed solution for consideration by the PC that may be deemed necessary for the adequate protection of properties within the subdivision from through-traffic.

2. Connectivity.

- a. The coordination of streets, sidewalks, trails, and pathways from one subdivision to another is essential in order to provide a continuation of not only vehicular and pedestrian access, but also for transportation and distribution lines for most utilities, such as water, sewer, gas, electricity and telephone systems. Therefore, the PC may require a developer to construct access streets and pathways to adjoining vacant undeveloped properties. The PC shall determine the need and location of these access streets at the primary plat hearing.

3. Level of Service.

- a. No development shall be approved if such development, at full occupancy will have an adverse effect on public safety.
- b. The subdivider may propose and construct approved traffic mitigation measures to provide adequate roadway capacity for the proposed development.
- c. A traffic impact analysis may be required by the Administrator and TAC at the time of Concept Plan review.

G. Sidewalks, Paths, and Trails.

1. General.

- a. Sidewalks, paths, and trails shall be included within the dedicated, non-pavement right-of-way of all roads as required by the *City of Huntingburg Design Standards and Construction Manual*.
- b. A concrete curb and gutter are required for all roads when sidewalks are required by this UDO or when required at the discretion of the PC and in accordance with the *City of Huntingburg Design Standards and Construction Manual*.

2. Basic Design.

a. Sidewalks.

- i. Sidewalks shall be concrete and improved to the *City of Huntingburg Design Standards and Construction Manual*. A median strip of grassed or landscaped areas at least five feet (5') wide shall separate all sidewalks from adjacent curbs.
- ii. The surface of any sidewalk shall, when completed, have a sufficient slope to drain away from the lot and to the center of the street. The subgrade of a sidewalk shall be constructed to a depth below the finished surface and shall be thoroughly compacted to a firm, smooth surface.
- iii. Concrete used in connection with a sidewalk shall conform to the industry standard. All concrete used shall be natural color unless otherwise approved by the PC.

b. Paths and Trails.

- i. All asphalt paths and trails must be at least ten (10) feet wide and meet the applicable standards for thickness and base requirements.
- ii. All paths and trails shall be constructed in accordance with the adopted standards or the AASHTO standards.

3. Connectivity.

- a. **Easements.** In order to facilitate pedestrian access and connectivity, the PC may require perpetual unobstructed easements, at least twenty feet (20') in width, from the proposed development to adjacent property (whether developed or not), neighborhoods, schools, parks, playgrounds, churches, government buildings, facilities, other community amenities, or any other points of social, environmental, economic, or historical interest. Every such easement shall be indicated on the secondary plat.
- b. Where future development includes land that has been identified by the appropriate adopted plan as a location for trails, the PC may require the developer to construct the trails within their development, whether or not such trails connect to existing trails outside of the development at the time of construction.
- c. Asphalt paths or trails may be allowed by the PC along Primary Arterials, Secondary Arterials, and Collectors when it is to be a part of a trail system adopted by the jurisdiction.

H. Roads, Streets, and Alleys.

1. General.

- a. The requirements set forth herein are designed to provide for roads that:
 - i. Are suitable in location, width, and improvement so that they may accommodate prospective traffic;
 - ii. Afford satisfactory access to police, fire fighting, snow removal, sanitation, road-maintenance equipment; and
 - iii. Compose a convenient traffic system and avoid undue hardships to adjoining properties.
- b. **Overall Design.**
 - i. Proposed roads shall:
 - (a) Provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation;
 - (b) Shall be properly related to the *Comprehensive Plan*, the *City of Huntingburg Design Standards and Construction Manual*; and
 - (c) Shall be appropriate for the particular traffic characteristics of each proposed development.
 - ii. Roadway Development Standards.
 - (a) The arrangement, character, extent, width, grade, and location of all streets shall conform to the *City of Huntingburg Design Standards and Construction Manual*.
 - (b) The requirements set forth in the *City of Huntingburg Design Standards and Construction Manual* deal with minimum requirements. Individual projects, particularly commercial and industrial subdivisions, may warrant additional requirements dictated by sound engineering design. Where such additional requirements are deemed necessary, they shall be made conditions of approval for the primary plat and recorded thereon.
 - iii. Access Easement. As a means of access, lots are required to have frontage on a public road, a private road, or an approved shared driveway (if part of a minor residential subdivision). An easement to a public/private road as the only means of accessing a lot shall be prohibited.
- c. **Additional Improvements Required.**
 - i. The subdivider may be required to provide traffic signalization, deceleration lanes, acceleration lanes, passing blisters, or other improvements to the street system based on the following criteria:
 - (a) Number of lots;
 - (b) Proposed use;
 - (c) Street classification;
 - (d) Traffic generation;
 - (e) Existing or proposed conditions; and
 - (f) Sound engineering design.
 - ii. If the traffic study determines that improvements to the street system are necessary, it shall make such improvements as condition of approval of the primary plat.

2. Roadway Classification.

- a. All streets shall be planned to conform to the Comprehensive Plan.
- b. All roads shall be functionally classified by the Administrator and applicable roadway agency. In classifying roads, the jurisdiction shall consider projected traffic demands after ten (10) years of development.

3. Street Layout.

- a. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established by the Comprehensive Plan. All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
- b. All streets shall be arranged so as to obtain as many building sites as possible at, or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the City of Huntingburg Design Standards and Construction Manual.
- c. Minor or local streets shall be laid out to conform as much as possible to the topography and shall be curved wherever possible to avoid conformity of lot appearance and to discourage use by through traffic. Such streets shall also be laid out to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
- d. The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged where such use will result in a more desirable layout.
- e. In commercial and industrial subdivisions, the streets and other access ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

4. Street Connectivity.

- a. A proposed street shall provide for the continuation of existing, planned, or platted streets on adjacent property.
- b. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless, in the opinion of the PC, such extension is not feasible due to topography or other physical conditions, or not necessary or desirable for the coordination of the subdivision with the future development of adjacent tracks.
- c. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when the continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where the continuation is in accordance with the Comprehensive Plan.
 - i. Dead-end Roads (Temporary). If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way shall be extended to the property line. A temporary cul-de-sac, T- or L-shaped turn-around shall be provided on all temporary dead-end streets, with the notation on the secondary plat that land outside the normal street right-of-way

shall revert to the adjoining land owners when the street is continued. The developer shall provide barriers and signage for any such temporary dead-end street. The PC may limit the length of temporary dead-end streets in accordance with the City of Huntingburg Design Standards and Construction Manual.

- ii. Dead-end Roads (Permanent). Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the PC for access to adjoining property, its terminus shall not be nearer to such boundary than fifty (50) feet. However, the PC may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turn-around shall be provided at the end of a permanent dead-end street in accordance with the City of Huntingburg Design Standards and Construction Manual. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the City of Huntingburg Design Standards and Construction Manual.

5. Private Roadways.

- a. **Residential Development.** Private roadways, except for shared driveways in a minor subdivision, for residential development are prohibited and a waiver from this requirement is strongly discouraged.
- b. **Commercial and Industrial Development.** Roadways within commercial and industrial development shall be private unless otherwise approved by the PC.
- c. **Construction.** Private roadways must be constructed in accordance with the City of Huntingburg Design Standards and Construction Manual. A waiver from this requirement is strongly discouraged.
- d. **Maintenance.** Maintenance of private roadways is the responsibility of the developer or property owners as outlined in the recorded covenants, on the plat, and in the written commitments.

6. Access Roads.

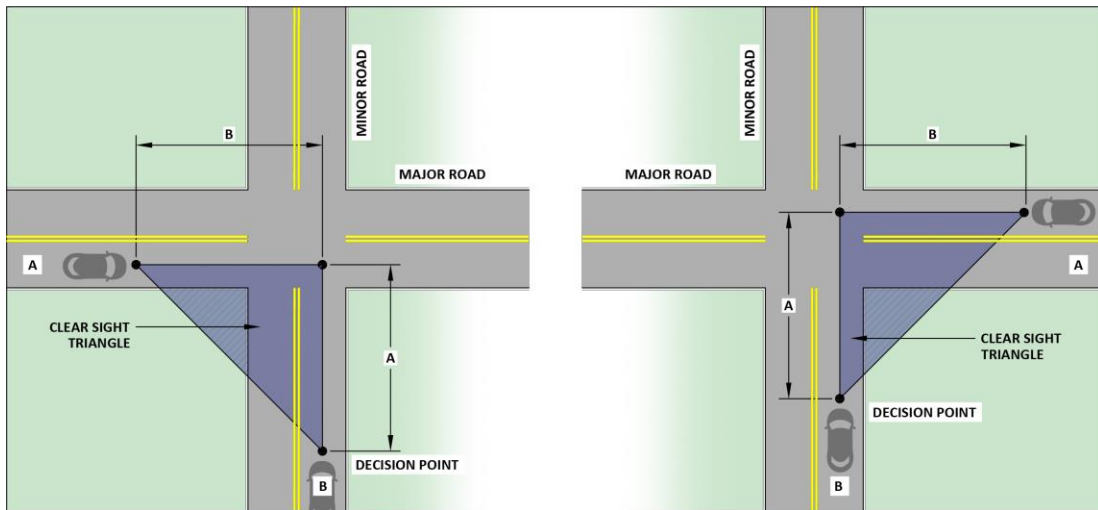
- a. Access roads from a proposed development on to an existing or proposed public right-of-way may be restricted or denied where such a road presents a potential hazard to the public safety. Where such potential hazard to the public safety is determined to be present, the PC may require the subdivider to make improvements to an existing or proposed public right-of-way as a condition of allowing access. Prior to making its decision, the PC may require that the subdivider submit a traffic impact study.
- b. The number of access roads required for a proposed subdivision shall be based upon the number of lots, sound engineering design, and continuity of the public street system. If the PC determines that an additional access road is necessary, it will advise the subdivider at the time of primary plat approval or secondary plat approval.

7. Improvements to Adjacent Streets.

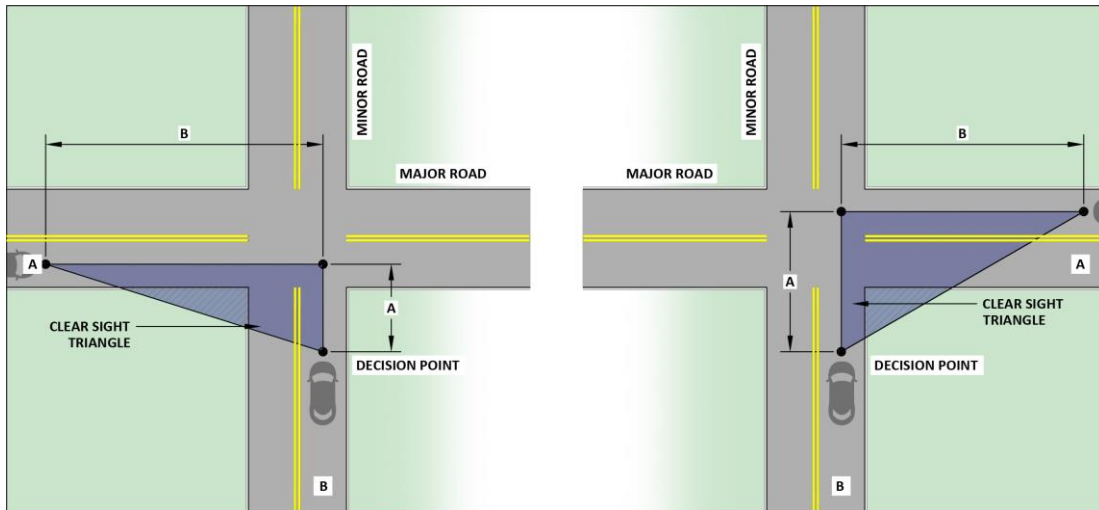
- a. Where a subdivision borders an existing narrow road or when the Comprehensive Plan or other policy document of the jurisdiction indicate plans for the realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider shall be required to improve and dedicate at its expense those areas so designated for widening or realignment.
- b. Frontage roads and streets shall be improved and dedicated by the subdivider at their own expense to the full width as required by this UDO when the subdivider's development activities contribute to the need for the road expansion. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the UDO whether the land is to be dedicated in fee simple or an easement is granted to the jurisdiction.

8. Intersections.

- a. Streets shall be laid out so as to intersect as nearly as possible at right angles. Proposed new intersections along one (1) side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. All intersections shall adhere to the City of Huntingburg Design Standards and Construction Manual.
- b. Minimum curb radius at the intersection shall be controlled by the City of Huntingburg Design Standards and Construction Manual.
- c. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, a leveling area shall be provided at the intersection approach having no greater than a two percent (2%) rate slope at a distance of sixty feet (60'), measured from the nearest right-of-way line of the intersecting street.
- d. No intersection shall create a traffic hazard by limiting visibility. The visibility and sight distances at intersections shall be controlled by the City of Huntingburg Design Standards and Construction Manual.
- e. The cross-slopes on all streets shall adhere to the City of Huntingburg Design Standards and Construction Manual.
- f. In order to ensure the safe movement of both vehicular and pedestrian traffic, see **Section H.16: Required Covenant Language Regarding Visibility**.



Approach Site Triangles



Departure Site Triangle

9. Limited Access Roads and Railroads.

- a. **Treatment.** Railroad rights-of-way and limited access highways that may affect the subdivision of adjoining lands shall be treated as follows:
 - i. In residential districts, a buffer strip at least twenty-five feet (25') in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures on this land is prohibited."
 - ii. In commercial or industrial subdivisions, the nearest street extending parallel or approximately parallel to the railroad right-of-way shall, wherever practicable, be at a sufficient distance from the railroad right-of-way to ensure suitable depth for commercial or industrial sites.
 - iii. When streets parallel to the railroad right-of-way intersect a street, which crosses the railroad right-of-way at grade, they shall, to the extent practicable, be at a distance of at least one hundred fifty feet (150') from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
- b. **Parallel Street Required.** Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the PC may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirements of the approach grade of any future grade separation structure.

10. Roadside Drainage Swales.

- a. **New Streets.** No new subdivision streets shall have roadside drainage swales.
- b. **Existing Streets.** Roadside drainage swales shall be placed along existing roads, as follows:
 - i. Culverts are to be placed or extended under the roadway where necessary. The size of the culvert is to be according to the calculated amount of storm water flow, but not less than twelve inches (12") in diameter. All culverts shall extend from right-of-way to right-of-way unless otherwise approved by the jurisdiction. All culvert pipe that is banded together shall receive a minimum of a twelve-inch (12") band with eight inch (8") long bolts. All culverts shall have applicable end sections unless waived by the PC.
 - ii. Roadside drainage swales shall be constructed with a minimum side slope of three feet horizontal to one foot (3':1') vertical. Swales having a bottom slope greater than two percent (2%) but less than five percent (5%) shall be sodded at the flow line with the sod extending a minimum of two feet (2') up the side slopes of the swale. Swales that have a bottom slope of five percent (5%) or more shall have the flow line paved with concrete with the concrete extending up the side slopes a minimum of two feet (2'). Swales less than 0.8% running slope shall be prohibited.

11. Rights-of-Way.

- a. **Width.**
 - i. Right-of-way Width. The street right-of-way width shall be in accordance with the City of Huntingburg Design Standards and Construction Manual.
 - ii. Paved Width. The paved width of all streets shall be in accordance with the City of Huntingburg Design Standards and Construction Manual. Where a proposed street is an extension of an existing paved street which exceeds the minimum dimension set forth herein, the PC may require the developer to match the width of the existing paved street.
- b. **Dedication.** In a subdivision that adjoins or includes an existing street that does not conform to the minimum right-of-way dimension as established by the City of Huntingburg Design Standards and Construction Manual, the subdivider shall dedicate additional right-of-way width as required to meet this UDO.
- c. **Excess Right-of-way.** Right-of-way widths in excess of the standards designated in this UDO shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three-to-one (3:1).

12. Street Grade.

- a. All proposed streets shall be adjusted to the contour of the land so as to provide usable lots and a street of reasonable gradient. The grade of all streets shall not exceed the requirements of the City of Huntingburg Design Standards and Construction Manual, except where an unusual topographic condition justifies, in the opinion of the PC, a waiver of the requirements of this UDO.
- b. Roads shall be graded, improved, and conform to the City of Huntingburg Design Standards and Construction Manual and specifications and shall be approved as to design and specifications by the Administrator or appropriate roadway agency, in accordance with the construction plans required to be submitted prior to secondary plat approval.

13. Street Names.

- a. Proposed street names shall be submitted with and indicated on the primary plat and the PC shall approve the street names at the time of primary plat approval.
- b. During review of the primary plat, the Administrator shall consult the local postmaster to review the proposed street names. Street names shall be sufficiently different in sound and spelling from other road names in the jurisdiction so as not to cause confusion.
- c. A road which is (or is planned as) a continuation of an existing road shall bear the same name.
- d. A road may be required to have a different name at the point in which it significantly changes direction at the discretion of the Administrator.

14. Street Lighting.

- a. The required installation of streetlights shall be at the developer's expense in accordance with the design and specifications approved by the jurisdiction, and relative to public safety concerns, in conformance with recommendations of the Administrator or the Energy Department.
- b. Ownership and maintenance of streetlight fixtures will be at the discretion of the City Council or Board of Works. A written agreement establishing ownership and maintenance responsibilities shall be executed by the developer and the City to be kept on file.
- c. All installed street lights must have electricity run to it, unless serviced by solar.

15. Regulatory Street Signs.

- a. Each installed sign shall comply with the *urban* standards established in the Manual on Uniform Traffic Control Devices (MUTCD).
- b. The subdivider shall be responsible for the installation of all road signs required by the Street Department.
- c. The subdivider shall install all road signs before issuance of any certificates of occupancy for any primary structure within the subdivision.
- d. Street name signs are to be placed at all intersections within or abutting the subdivision as approved by the Street Department.
- e. Sign maintenance is the responsibility of the developer, or the property owners within the development, as outlined in the recorded covenants, on the plat, and in the written commitments.
- f. The PC may approve street name signs, poles, or hardware outside of the regulatory sign standards if decorative signs, poles, and hardware are requested. The jurisdiction does not own or maintain decorative signs, poles, or hardware.

16. Required Covenant Language Regarding Visibility.

- a. In order to ensure the safe movement of both vehicular and pedestrian traffic, the following paragraphs shall be required as a provision of the restrictive covenants for all secondary plats and shall be included in all deeds written relative to said plats. The proposed owner shall sign a copy of this covenant and it shall be filed with the Recorder's Office.
 - i. "No fence, wall, hedge, tree or shrub planting which obstructs sight lines with elevations between two and one-half feet (2.5') and eight feet (8') above the street surface elevation shall be placed or permitted on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points forty feet (40') from the intersection of said street right-of-way lines for neighborhood and local streets, and seventy-five feet (75') for arterial streets, or in the case of a rounded property corner, from the street right-of-way lines extended."
 - ii. "The same site line limitations shall apply to any lot within ten feet (10') of the intersection of a street right-of-way line with the edge of a driveway pavement or alley line. No driveway shall be located within seventy feet (70') of the intersection of two (2) street right-of-way lines."

I. Utilities.

1. General.

- a. All new utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Where existing utility facilities are located above ground in the area to be subdivided, except when existing on public roads and rights-of-way, they shall be removed and placed underground unless approved by the PC.
- b. All utility facilities existing and proposed throughout the subdivision shall be shown on the primary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. The PC may waive the requirement for service connections to each lot in cases of adjoining lots, retained in single ownership, where the lots are to be developed for single use.

2. Sanitary Systems.

- a. **Public Sanitary Sewer Facilities.** See the applicable construction standards for the respective sanitary sewer facility provider. Private sewerage facilities may be allowed only when sanitary sewer is not available within 300 feet of the property line of the affected property per *IC 19-2-5-30*.

3. Water Facilities.

a. General.

- i. All habitable buildings and buildable lots shall be connected to a water system capable of providing water for health and emergency purposes, including adequate fire protection.

- b. **Public Water Facilities.** See the applicable construction standards for the respective water facility provider.

- i. When a public water supply is available within three hundred (300) feet of any boundary of a proposed subdivision, the subdivider shall construct and install a system of water mains (including fire hydrants) to be connected to the public water supply. Each lot shall be provided with a connection to the water delivery system. The water delivery system shall be designed and constructed in conformance with the standards and specifications of state or local authorities, and in compliance with the rules and regulations of IDEM.

c. Private Water Supply.

- i. Where a public water supply is not available within three hundred (300) feet of any boundary of the proposed subdivision and/or the PC determines that the connection thereto would create a hardship for the subdivider, the subdivider may provide each lot with a community or individual water supply, provided the installation conforms to the minimum design standards and specifications of the jurisdiction. Said installation shall also conform to the minimum standards or requirements of any other federal or state agency which has jurisdiction over the facility installation.
- ii. Existing Private Wells. All existing homes currently being served by a private potable well water supply that are to be connected to a new public water supply system shall adhere to the following:
 - (a) The existing well and pumping unit shall be abandoned and the well properly plugged in accordance with the rules and regulations of IDEM and IDNR.
 - (b) If the homeowner chooses to keep their well in service, a physical disconnection (between the existing well supply plumbing and the new public water supply plumbing) must be

completed by the homeowner and inspected by the County Health Department. All disconnections of plumbing shall be completed by a plumbing contractor, licensed in the State of Indiana, and shall be made in accordance with the requirements of the ABPA.

d. Fire Protection.

- i. The local fire authority having jurisdiction over the proposed subdivision shall approve fire hydrants, including their setting, number, and size of outlets.
- ii. The location of all existing and proposed fire hydrants shall be shown on the Primary Plat and the Construction Drawings. The cost of installing the system shall be borne by the subdivider. The developer may be required to provide surety for installing such improvements.

J. Other.

1. Subdivision Name.

- a. The PC shall have final authority to approve the name of the subdivision, which shall be determined at primary plat approval.
- b. The proposed name of a subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision within the jurisdiction and surrounding areas.

2. Monuments and Markers.

- a. All U.S., State, county, municipal, or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.
- b. The plat and legal description of subdivisions shall be referenced to two (2) known Section corners. The Section corners shall be referenced to the Indiana Coordinate System of 1983.
- c. Monuments and markers shall be placed so that the center of the bar, or marked point, shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade.
- d. A permanent monument in each section of a subdivision shall be installed by the subdivider to establish elevation control throughout the subdivision.

3. Mailbox Locations.

- a. Mailbox configuration is up to the respective post office and may be required as a gang box.

7 Subdivision Administration and Procedures

Your Home 
YOUR HUNTINGBURG

CHAPTER 7: SUBDIVISION ADMINISTRATION AND PROCEDURES

A. General Provisions.

1. Applicability.

- a. A subdivider shall follow the applicable procedures contained in this chapter for the type of subdivision for which approval is sought.
- b. The specific subdivision classification as defined herein shall be made by the Administrator when the application is reviewed at the time of filing.

2. Jurisdiction.

- a. The platting of land, when required by the UDO, shall be done in compliance with the provisions of this UDO.
- b. No land required by the UDO to be platted may be subdivided through the use of any legal description other than with reference to a plat approved by the PC and/or the Administrator in accordance with this UDO unless specifically listed as Exempt in **Chapter 5: Subdivision Types**.

3. Policy.

- a. The subdivision of land and the subsequent development of the subdivided plat are subject to the control of the jurisdiction and shall be carried out in accordance with the UDO in order to achieve orderly, planned, efficient, and economic development.
- b. No building permit shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of this UDO.

4. Purpose. These subdivision standards are adopted for the following purposes:

- a. To protect and provide for the public health, safety, comfort, morals and general welfare of the jurisdiction.
- b. To protect the character and the social and economic stability of all parts of the jurisdiction by assuring: the timing and sequencing of development; the promotion of adequate public facilities; and proper urban form and open space separation of urban areas.
- c. To protect and conserve property values throughout the jurisdiction and the value of buildings and improvements upon the land.
- d. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, and other public requirements and facilities.
- e. To provide a beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the jurisdiction.
- f. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions/re-plats in order to further the orderly layout and use of land and to ensure proper legal descriptions and documenting of subdivided land.
- g. To ensure that public facilities and services are available to support development and will have a sufficient capacity to serve the proposed subdivision.

- h. To assure the adequacy of drainage facilities; and to encourage the responsible use and management of natural resources throughout the jurisdiction in order to preserve the integrity, stability, and beauty of the community and the value of the land.
- i. To assist in the preservation of the natural beauty and topography of the jurisdiction and to ensure appropriate development with regard to these natural features.
- j. To provide for open spaces through the most efficient design and layout of the land, while preserving the density of development as established in the UDO.

5. Compliance.

- a. No owner or agent may sell or lease any lot within a subdivision before such plat has been approved and recorded in the manner prescribed in this UDO.
- b. No public road shall be laid out or constructed until it is approved as part of a subdivision, except public roads built and maintained by the City of Huntingburg, Dubois County, and/or the State of Indiana.

6. Interpretation. In the interpretation and application, the provisions of this UDO shall be held to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the residents of the jurisdiction.

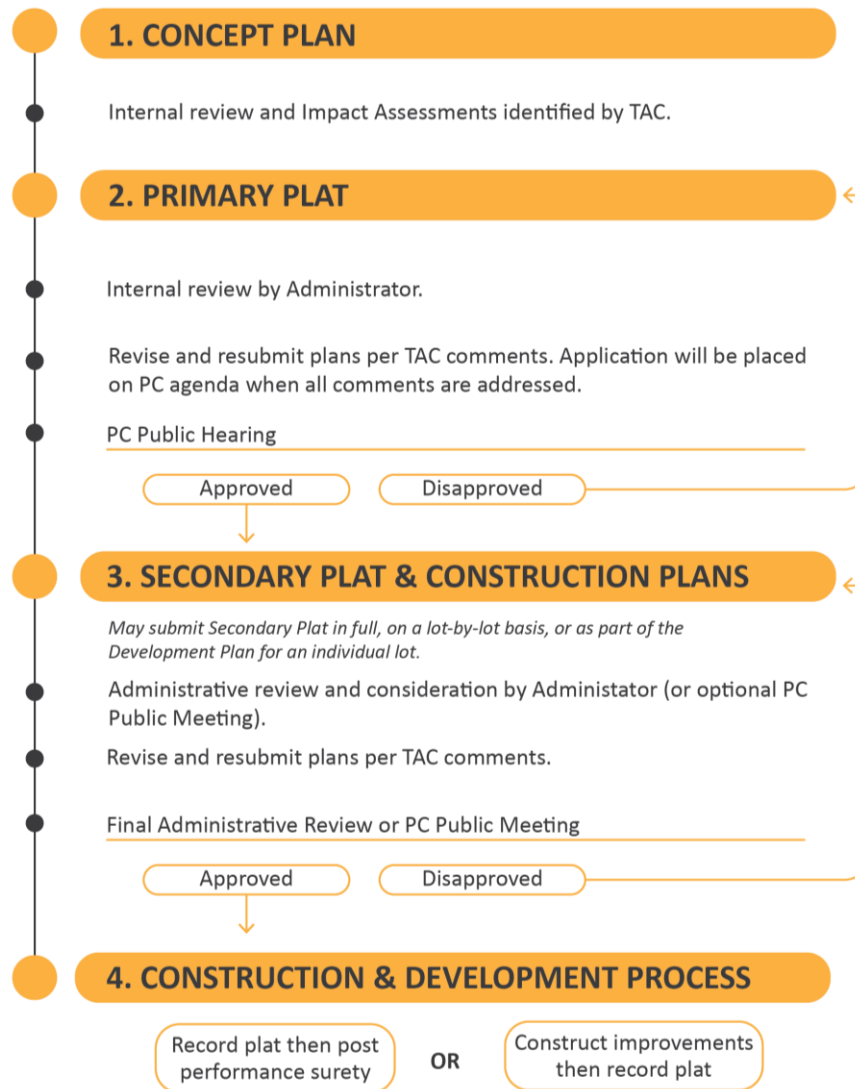
7. Conflict. It is not the intent of this UDO to interfere with, abrogate, or amend any existing easements, covenants, or other agreements between parties; nor is it the intent of this UDO to repeal, abrogate, annul, or in any way interfere with any existing provisions of laws or ordinances, or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of buildings or premises provided. However, where this UDO imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this UDO shall control; but where private covenants, permits, agreements, rules, regulations or existing provisions of law impose a greater restriction than is imposed by this UDO, the greater restriction shall control. Enforcement of any such private restrictions shall be between the subject parties and the City of Huntingburg shall not enforce them.

8. UDO Conformity. All land subdivided or platted under the terms of this UDO shall comply with the minimum standards prescribed in the UDO. The PC or the Administrator shall not have the authority to approve any subdivision as a buildable lot if it does not comply with this UDO, unless a variance(s) and/or waiver(s) has been granted by the BZA or PC.

9. Condominiums Exempt. Pursuant to *IC 36-7-4-702*, condominiums which are regulated by *IC 32-1-6*, or as amended, are exempt from the subdivision process.

B. Procedures for Subdivisions.

1. Commercial, Industrial, and Major Residential Subdivisions.



a. General Provisions.

- Applications for commercial, industrial, and major residential subdivisions shall be in accordance with the application packets adopted by the PC as part of the *PC Rules and Procedures*, including the adopted meeting and submittal deadline calendar.
- Commercial, industrial, and major residential subdivisions shall be subject to all the requirements of this UDO and the subject zoning district for the project.
- Commercial, industrial, and major residential subdivisions shall be subject to any additional standards that may have been required by the PC as part of other approvals for the property.

b. Concept Plan

The Concept Plan step is a required part of the subdivision process. This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the

requirements for the general layout of streets, reservations, of land, street improvements, drainage improvements, water and sanitary facility requirements. In addition, the applicant receives feedback from the checkpoint agencies about their proposal before investing in the primary plat process.

c. Primary Plat.

- i. Application.
 - (a) The subdivider shall submit an application for primary plat in accordance with the application requirements adopted by the PC as part of the PC Rules and Procedures and prepared in accordance with the format described in **Chapter 7, Section C.1: Primary Plat**.
- ii. Public File.
 - (a) Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a deadline date for receiving internal review comments from the appropriate checkpoint agencies. In accordance with *IC 36-7-4-705*, within thirty (30) days of receiving a complete application, the Administrator shall announce the tentative date for a hearing before the PC.
- iii. Internal Review.
 - (a) The Administrator shall forward the plans to the appropriate checkpoint agencies for technical review.
 - (b) After comments are received, the Administrator shall compile a written report for the PC and the public file with the information from the checkpoint agencies.
 - (c) The subdivider shall address all of the comments from the checkpoint agencies and submit revised plans (if applicable) per the adopted schedule.
- iv. Public Notice.
 - (a) Notice of public hearing shall be in accordance with the PC Rules and Procedures. In the event the hearing has been properly noticed, but the plans are not finished *per subsection iii.c: Internal Review* above, then the Administrator may have the PC automatically continue the petition to their next regular meeting (or a properly noticed special meeting) without requiring additional notice by the subdivider.
- v. Public Hearing.
 - (a) The PC shall consider the primary plat at a public hearing. The subdivider or their representative shall be in attendance to present the plan and address any questions or concerns of the PC.
 - (b) Decision by the PC.
 - (1) Approval. If the PC determines that the primary plat complies with the standards set forth in this UDO, it shall grant primary approval to the plat. Within ten (10) days of the hearing, the Administrator shall notify the subdivider of approval in writing or electronic transmission and itemize any changes or revisions deemed necessary by the PC as a term of its approval.
 - (i) Approval of a primary plat by the PC signifies the general acceptability of the layout submitted and that:
 - a. Assurances have been made by the water utility provider for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

- b. Assurances have been made by the sewage utility provider for a sewage system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;
 - c. The subdivider has taken all reasonable efforts to mitigate the impact of the proposed subdivision on public health, safety, and welfare.
- (ii) In accordance with *IC 36-7-4-702*, the PC may introduce changes or revisions to the proposed plans as a condition of primary approval when necessary to facilitate the best interest and general welfare of the community, including, but not limited to:
 - a. The manner in which public ways shall be laid out, graded, and improved; and
 - b. A provision for other services as specified in this UDO.
- (iii) Expiration: Approval of a primary plat shall be effective for four (4) years from the date of the PC decision.
 - a. Failure to receive secondary approval for all or part of the plat before this four (4) year period ends shall invalidate the primary plat approval.
 - b. Once primary approval has expired, a new application for primary plat shall be submitted in conformance with all applicable ordinances in effect at the time the new application is submitted.
 - c. Extension: Upon written request of the subdivider, and no less than forty-five (45) days prior to the expiration date of the primary approval, the PC may extend approval of a primary plat up to a maximum of two (2) additional years without further notice, public hearing, or fees.
- (2) Disapproval. If the PC disapproves a primary plat, it shall make written findings of fact and the Administrator shall notify the subdivider in writing or electronic transmission within ten (10) days of the hearing, stating the specific reasons for disapproval. The petitioner may then resubmit a revised primary plat that addresses the reason for disapproval.

d. Secondary Plat.

(a) Application.

- (1) Application. The subdivider shall submit an application for Secondary Plat in accordance with the application requirements adopted by the PC as part of the *PC Rules and Procedures* and prepared in accordance with the format described in **Chapter 7, Section C.2: Secondary Plat**.
- (2) Flexible Approach Exclusively for Commercial and Industrial Plats. The Secondary Plat for a commercial or industrial subdivision may be done in one of three (3) ways:
 - (i) Full Plat. The subdivider may submit the Secondary Plat for the entire subdivision, then seek to amend only the lot lines on the Secondary Plat as may be necessary as individual site users are defined. Any changes other than lot lines will constitute an amendment to the primary plat.
 - (ii) Individual Lot. The subdivider may submit the Secondary Plat for an individual lot which will include all necessary infrastructure serving such lot.
 - (iii) Individual Lot with Development Plan. The subdivider may submit the Secondary Plat for an individual lot simultaneously with the application for Development Plan.

- (iv) Phase/Section. The subdivider may submit the Secondary Plat for a phase or section of lots as laid out on the primary plat which will include all necessary infrastructure serving such lots.
- (b) Public File.
 - (1) Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a deadline date for receiving internal review comments from the checkpoint agencies.
- (c) Internal Review.
 - (1) The Administrator shall forward the plans to the appropriate checkpoint agencies for technical review. After comments are received, the Administrator shall compile a written report for the public file with the information from the checkpoint agencies.
 - (2) Decision by the Administrator. Secondary plat approval may be granted to a plat only after expiration of the thirty (30) day appeal period of the Primary Plat as provided in *IC 36-7-4-710*.
 - (i) Approval. If the Administrator determines that the Secondary Plat complies with the standards set forth in this UDO and is in conformance with the primary plat, the Administrator shall grant secondary approval to the plat. The Administrator shall affix their signature to the plat original and all other relevant documents which may also require such signatures. The Administrator shall report the approved secondary plat to the PC for informational purposes.
 - (ii) Disapproval. If the Administrator disapproves the Secondary Plat, it shall make written findings of fact and the Administrator shall notify the subdivider in writing or electronic transmission within ten (10) days of the deadline for receiving internal review comments from the checkpoint agencies, stating the specific reasons for disapproval. The subdivider may then resubmit a revised final plat that addresses the reason for disapproval or appeal the decision to the PC.
 - (iii) Optional PC Public Meeting. At any time after the secondary plat application is submitted, the applicant may request that the secondary plat be considered by the PC. The Administrator shall place the petition on the PC agenda in accordance with the application schedule contained in the application packet.
- (d) Recording of Plat.
 - (1) The plat shall be recorded in accordance with the procedures set forth in ***Chapter 7, Section D.2: Recording of Secondary Plats.***
- (e) Installation of Improvements.
 - (1) The installation of improvements shall occur in accordance with the procedures set forth in ***Chapter 7, Section D.5: Installation of Public Improvements.***

2. Residential Subdivision - Minor.



a. General Provisions.

- i. The minor residential subdivision process is an expedited process for residential subdivisions which results in the creation of five (5) or less lots, does not involve the opening or creation of new public rights-of-way and complies in all other respects with this UDO. Any subdivisions which result in the opening or creation of new public rights-of-way must follow the Major Residential Subdivision process.
- ii. Applications for minor residential subdivisions shall be in accordance with the PC Rules and Procedures, including the adopted meeting and submittal deadline calendar.
- iii. Intent. A minor subdivision, as defined in **Chapter 10: Definitions**, is intended to allow the subdivision of a buildable tract of land with a reduction of approval time and filing procedure. It is not the intent of the minor subdivision procedure to circumvent uniform development plans for a parcel of land.
- iv. Further subdivision of an approved minor plat must proceed through the major residential subdivision procedure outlined in **Chapter 5, Section A.1: Major Residential Subdivisions**. If the Administrator believes that the circumstances warrant the full review and consideration of a major subdivision, then the applicable process may be required.
- v. A minor residential subdivision shall be subject to all the requirements of the UDO and the subject zoning district for the project.
- vi. A minor residential subdivision shall be subject to all the requirements of this UDO, as well as such additional standards required by the PC.

b. Concept Plan.

The Concept Plan step is a required part of the subdivision process. This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the requirements for the reservations of land and sanitary facility requirements. In addition, the applicant receives feedback from the checkpoint agencies about their proposal before investing time and energy into the primary plat and secondary plat process.

c. Primary Plat and Secondary Plat.

- i. For a minor residential subdivision, the Primary Plat and Secondary Plat shall be combined into one process.
- ii. Application.
 - (a) The subdivider shall submit an application for both Primary Plat and Secondary Plat in accordance with the application requirements adopted by the PC as part of the PC Rules and Procedures and prepared in accordance with the formats described in **Chapter 7, Section C.1: Primary Plat** and **Chapter 7, Section C.2: Secondary Plat**.
- iii. Public File.
 - (a) Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a deadline date for receiving internal review comments from the appropriate checkpoint agencies. In accordance with *IC 36-7-4-705*, within thirty (30) days of receiving a complete application, the Administrator shall announce the tentative date for a hearing before the PC.
- iv. Internal Review.
 - (a) If determined to be necessary, the Administrator shall forward the plat to the appropriate checkpoint agencies for technical review.
 - (b) After comments are received, the Administrator shall compile a written report for the PC and the public file with the information from the checkpoint agency members.
 - (c) The subdivider shall incorporate all of the comments from the checkpoint agencies and submit revised plans (if applicable) per the adopted schedule.
- v. Public Notice.
 - (a) Notice of public hearing shall be in accordance with the PC Rules and Procedures. In the event the hearing has been properly noticed, but the applicant is not able to provide revised plans per subsection *iii.c: Internal Review* above, then the Administrator may have the PC automatically continue the petition to their next regular meeting (or a properly noticed special meeting) without requiring additional notice by the subdivider.
- vi. Public Hearing.
 - (a) The PC shall simultaneously consider the Primary Plat and Secondary Plat at a public hearing. The subdivider or their representative shall be in attendance to present the plan and address any questions or concerns of the PC.
 - (b) Decision by the PC.
 - (1) Approval. If the PC determines that the plats comply with the standards set forth in this UDO, it shall grant approval. Within ten (10) days of the hearing, the Administrator shall notify the subdivider of approval in writing or electronic transmission and itemize any changes or revisions deemed necessary by the PC as a term of its approval.

- (i) In accordance with *IC 36-7-4-702*, the PC may introduce changes or revisions to the proposed plans as a condition of primary approval when necessary to facilitate the best interest and general welfare of the community, including, but not limited to:
 - a. The manner in which any shared driveways shall be laid out, graded, and improved;
 - b. A provision for water supply, sanitary sewer facilities, and other utility services; and
 - c. A provision for other services as specified in this UDO.
 - (ii) Disapproval. If the PC disapproves the plats, it shall make written findings of fact and the Administrator shall notify the subdivider in writing or electronic transmission within ten (10) days of the hearing, stating the specific reasons for disapproval. The subdivider may then resubmit a revised plat that addresses the reason for disapproval or appeal the decision to the PC.
- vii. Recording of Plat.
- (a) The plat shall be recorded in accordance with the procedures set forth in ***Chapter 7, Section D.2: Recording of Secondary Plats.***

C. Document and Drawing Specifications.

1. Primary Plat.

- a. **General.** The Primary Plat shall be prepared by a Registered Land Surveyor licensed to practice in the State of Indiana. All sheets shall be formatted as 17"x22" and drawn to a convenient scale. The sheet shall be signed by the professional preparing it and shall be tied to state plane coordinates for horizontal controls.
- b. The applicant is responsible for all title searches, recorded easements, and any other items that may affect development. The applicant shall include a copy of such documents to the PC and also disclose to all buyers.
- c. The following checklist of items should be provided for a primary plat on one sheet:
 - i. Project Information:
 - (a) A location map with north arrow at a scale of one-inch equals four hundred feet (1":400') or less showing the boundaries of the proposed project and covering the general area within which it is to be located.
 - (b) Boundaries of the tract with accurate dimensions and bearings, as determined by an accurate survey conforming with 865 IAC 1-12, in the field which has been balanced and closed, as well as physically located by monumentation.
 - (c) Location and description of all monuments with references by distance to bearings to both $\frac{1}{4}$ section corners, section corners, grant corners, or recorded subdivisions.
 - (d) Boundary lines of adjacent tracts of land, showing owners of record and names of adjoining developments.
 - (e) Existing zoning of the subject property and all adjacent properties.
 - (f) Name of the project/subdivision.
 - (g) Name and address of the owner, developer, and land surveyor and/or engineer.
 - (h) If non-residential, a statement of the proposed uses, stating the type of buildings, and the type of business, commercial, or industrial uses so as to reveal the effect of the project on traffic, fire, and population.
 - (i) Total acreage within the project and the number of lots.
 - ii. Site Conditions:
 - (a) Existing contours based in NAVD 1988 datum with vertical intervals of two (2) feet if the general slope of the site is less than two percent (2%) and vertical intervals of five (5) feet if the general slope is greater than two percent (2%). A benchmark, which is easily accessible and re-locatable, shall be shown. The benchmark shall be determined by use of NAVD 88 datum (vertical), which are based on sea level datum.
 - (b) Existing buildings/structures and their placement on the lots.
 - (c) Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records.

- (d) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the Comprehensive Plan, railroad and utility rights-of-way or easements, parks, wooded areas, trails, cemeteries, watercourses, drainage ditches, designated wetlands, floodplain per FEMA/DNR maps, and bridges. Other structures shall be located by dimensions on the plans, in relation to surrounding physical features. Other data may be added which is considered pertinent by the PC or the Administrator for the subject land. Existing site conditions shall include all land within one hundred (100) feet of the proposed project.
 - (e) The water elevation at the date of the survey of lakes, stream flow, or designated wetlands within the project or affecting it.
 - (f) The regulatory flood (100-year flood) elevation based on NAVD 1988.
- iii. Proposed Development:
- (a) Basic layout of the proposed project/subdivision showing lot/block lines, lot/block numbers, and streets that show length, width, depth, and area of all lots.
 - (b) Building and thoroughfare (if applicable) setback lines, showing dimensions.
 - (c) All lots or blocks/outlots intended for sale or lease shall be designated with boundary lines shall be identified with letters and be in alphabetical order. Lots shall be numbered consecutively within each block.
 - (d) Private areas, common areas, or other excluded parcels shall be designated as such and clearly labeled on the plans.
 - (e) A note stating that, “No buildings, structures, fences, shrubs, or trees shall be placed in the public right-of-way without prior written review and approval by the appropriate agency.”
 - (f) Internal and perimeter sidewalk system/pedestrian circulation plan, if any.
 - (g) Such other information as may be deemed necessary for proper review of the Primary Plat by the Administrator, the Engineer/Surveyor, or PC.
 - (h) Flood Protection Grade (FPG) – the elevation of the regulatory flood plus two feet at the property’s most upstream location in the Special Flood Hazard Area.
- iv. Title Block:
- (a) The proposed name by which the project shall be legally and commonly known.
 - (b) Date of survey, scale, and north point.
 - (c) Revision dates.
- v. Endorsements and Explanations:
- (a) Form for endorsements by PC President.
 - (b) Form for endorsement by Owner.
 - (c) Description of drainage easements, site easements, reservations, etc.

2. Secondary Plat.

- a. **General.** The plat sheet(s) shall be prepared by a Registered Land Surveyor licensed to practice in the State of Indiana. All sheets shall be formatted as required by the County Recorder. The sheet shall be sealed and signed by the professional preparing it and shall be tied to state plane coordinates for horizontal controls.

- b. The plat may be deemed to substantially conform to the preliminary plat if the geometrics of the final plat are substantially the same layout. The addition, removal, or alteration of road patterns, lot sizes, and total number of lots shall result in a resubmission of the plat for approval by the PC rather than the Administrator unless such changes were a condition of the preliminary plat approval. The addition or removal of easements to accommodate utilities or drainage shall not constitute a substantial change in conformity.
- c. Monuments shall be set on all lot corners in accordance with 865 IAC.
- d. The following checklist of items should be provided for a secondary plat on one sheet:
 - i. Proposed Development:
 - (a) Name of the project.
 - (b) All lots or outlots intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes.
 - (c) Private areas, common areas, or other excluded parcels shall be designated as such and clearly labeled on the plat and plans.
 - (d) Building setback lines, showing dimensions.
 - (e) Easements.
 - ii. Other:
 - (a) The following notes shall be included on the secondary plat before recording:
 - (1) By the registered land surveyor to the effect that the plat represents a survey made by him/her on _____ and recorded in _____ that all monuments shown thereon exist or will be set, and that their locations are as shown or will be as shown.
 - (2) By the Subdivider(s)/applicant(s) and/or any other owner(s) of record, a notarized statement that said Subdivider(s) and/or other landowner(s) is/are the owner(s) of the lands and the platting of the subdivision is the Subdivider's and/or other owner's voluntary act and deed. The Subdivider(s) and/or owner(s) shall declare in this certificate by description or reference to the plat the purpose of all rights-of-way, easements, and other reservations shown on the plat.
 - (3) By the PC, fixed with the seal of the PC, signed by the Administrator, and, if a major subdivision, the City Engineer. The note shall disclose that proper public notice for the primary plat was given, and that a majority of the members of the PC concur in its approval.
 - (b) Notation of any self-imposed restrictions.
 - (c) Endorsement by every person having a security interest in the property that they are subordinating their liens to all covenants, servitudes, and easements imposed on the property.
- e. **Record Drawings.** Record drawings shall be submitted in the current format required by the jurisdiction.

- f. **Covenants and Restrictions.** Covenants and restrictions shall be submitted to the Administrator for review prior to being recorded to ensure that there are no evident conflicts.
 - i. Covenants are not enforced by the City of Huntingburg or their Staff.
 - ii. If there are conflicts between the covenants and the UDO, the more restrictive regulations shall apply.

3. Construction Drawings.

- a. The following checklist of items that should be provided:
 - i. Project Information:
 - (a) A location map with north arrow at a scale of one-inch equals four hundred feet (1":400') or less showing the boundaries of the proposed project and covering the general area within which it is to be located.
 - (b) Name of the project/subdivision.
 - (c) Name and address of the owner, developer, and land surveyor and/or engineer.
 - (d) If non-residential, a statement of the proposed uses, stating the type of buildings, and the type of business, commercial, or industrial uses so as to reveal the effect of the project on traffic, fire, and population.
 - ii. Site Conditions: All items required for the Primary Plat in **Chapter 7, Section C.1.c.ii: Site Conditions.**
 - iii. Proposed Development: All items required for the Primary Plat in **Chapter 7, Section C.1.c.iii: Proposed Development.**
 - iv. Title Block: All items required for the Primary Plat in **Chapter 7, Section C.1.c.iv: Title Block.**
 - v. If the subdivision disturbs more than one (1) acre, detailed erosion control and sediment control plans, pursuant to *327 IAC 15-5 (Rule 5)*, as amended, as administered by IDEM shall be submitted to the Administrator and the Soil and Water Conservation District if applicable.
 - vi. Drainage plans shall be submitted to the Administrator, as applicable. Prior to approving a secondary plat, the Administrator must approve the drainage plans.

D. Construction and Development Process.

Once a secondary plat and the associated construction plans have been approved by the Administrator, PC, and other agencies as appropriate, the construction and development process may commence in one of two ways as follows.

1. Option 1 (preferred): Post Performance Surety then Record the Plat.

- a. **Provide Proof of Utility Service.** The applicant shall provide written proof of utility provisions (electric, water, and sewer facilities, where available) to the Administrator.
- b. **Submit Cost Estimate for the Completion of Infrastructure.** The applicant shall submit a reliable estimate for the cost of completing all of the required infrastructure including, but not limited to the roads, drainage structures, and all other work or improvements to the subdivision required by this UDO and the Agreement. The City Engineer shall review and approve the cost estimate.
- c. **Performance and Escrow Agreement.** The applicant shall submit an executed Performance and Escrow Agreement to the Administrator in a form created by and approved by the City Attorney.
- d. **Post Performance Surety.** The applicant shall post a performance surety equal to one hundred twenty percent (120%) of the amount provided in the cost estimate for the completion of infrastructure as approved by the City Engineer. The surety must be payable to the City of Huntingburg and may be in one of the following three (3) forms:
 - i. A cash escrow account;
 - ii. An irrevocable letter of credit from a recognized financial institution; or
 - iii. An evergreen surety bond issued by a recognized insurer.
- e. **Install Infrastructure.** Infrastructure shall be installed per the approved construction plans except for the final coat of asphalt on the roadways.
 - i. Inspection of Infrastructure.
 - (a) Infrastructure to be Dedicated to the City. Once the construction of infrastructure is complete, the improvements shall be reviewed and inspected by the City Engineer to ensure that they have been completed in a satisfactory manner. This includes, but is not limited to roads, curbs, gutters, drainage facilities, and any other utilities as required by this UDO or any other applicable ordinance.
 - (b) Other Infrastructure. The City Engineer does not inspect infrastructure not owned or managed by the City (such as water, sewer, fire hydrants, and electric). All of these other infrastructure improvements and/or utilities required by this UDO shall be installed and any inspections of these should be directly coordinated with the respective local providers.
 - ii. Performance Surety for Final Coat of Asphalt. The applicant shall submit a reliable estimate for the cost of completing the final coat of asphalt on the roadways to the satisfaction of the City Engineer. Once approved by the City Engineer, the applicant shall pay a cash fund performance surety to the City of Huntingburg in an amount equal to one hundred and twenty percent (120%) of the approved estimate amount.
- f. **Release of Performance Surety.** When all infrastructure has been installed and passed inspection and the funds for completing the final coat of asphalt on the roadways has been deposited, the applicant may take the necessary steps for the release of the performance surety and posting of maintenance surety.

- (a) As-built Drawings. The developer shall provide the as-built drawings for the respective infrastructure in the format required by the Administrator.
- (b) Release of Performance Surety. The applicant shall provide written request for release of any performance surety. After review and with the assistance of the City Engineer, the Administrator shall formally recommend in writing that the Board of Public Works release all or a portion of the performance surety as requested. Note that the performance surety for roadways cannot be released in full before depositing the cash funds for final coat of asphalt.
- g. Execute and Record Plat.** The plat shall be executed and recorded in accordance *with Chapter 7, Section D.2: Recording of Secondary Plats.*
- h. Complete Final Coat of Asphalt.** When at least seventy-five percent (75%) of the development has occurred to the satisfaction of, and at the discretion of the City Engineer, the final coat of asphalt for the roadways shall be installed by the applicant.
- i. Post Maintenance Surety.** The applicant shall post maintenance surety for the roadways in accordance with *Chapter 7, Section D.3: Performance and Maintenance Surety.* When the final coat of asphalt has been installed on the roadways to the satisfaction of the City Engineer, the applicant can request eighty percent (80%) of the cash funds from the performance surety for the final coat of asphalt be released by the City and returned to the applicant. The remaining funds will be applied to the Maintenance Surety. The City Engineer will not release any funds without being requested by the applicant.

2. Option 2: Construct Improvements then Record the Plat.

- a. Install Infrastructure.** Infrastructure shall be installed per the approved construction plans except for the final coat of asphalt on the roadways.
 - i. Inspection of Infrastructure.
 - (c) Infrastructure to be Dedicated to the City. Once the construction of infrastructure is complete, the improvements shall be reviewed and inspected by the City Engineer to ensure that they have been completed in a satisfactory manner. This includes, but is not limited to roads, curbs, gutters, drainage facilities, and any other utilities as required by this UDO or any other applicable ordinance.
 - (d) Other Infrastructure. The City Engineer does not inspect infrastructure not owned or managed by the City (such as water, sewer, fire hydrants, and electric). All of these other infrastructure improvements and/or utilities required by this UDO shall be installed and any inspections of these should be directly coordinated with the respective local providers.
 - ii. Performance Surety for Final Coat of Asphalt. The applicant shall submit a reliable estimate for the cost of completing the final coat of asphalt on the roadways to the satisfaction of the City Engineer. Once approved by the City Engineer, the applicant shall pay a cash fund performance surety to the City of Huntingburg in an amount equal to one hundred and twenty percent (120%) of the approved estimate amount.
 - iii. As-built Drawings. The developer shall provide the as-built drawings for the respective infrastructure in the format required by the Administrator.
- b. Execute and Record Plat.** The plat shall be executed and recorded in accordance with *Chapter 7, Section D.2: Recording of Secondary Plats.*

- c. **Complete Final Coat of Asphalt.** When at least seventy-five percent (75%) of the development has occurred at the discretion of and to the satisfaction of the Administrator and City Engineer, the final coat of asphalt for the roadways shall be installed by the applicant.
- d. **Post Maintenance Surety.** The applicant shall post maintenance surety for the roadways in accordance with **Chapter 7, Section D.3: Performance and Maintenance Surety**. When the final coat of asphalt has been installed on the roadways to the satisfaction of the City Engineer, the applicant can request eighty percent (80%) of the cash funds from the performance surety for the final coat of asphalt be released by the City and returned to the applicant. The remaining funds will be applied to the Maintenance Surety. The City Engineer will not release any funds without being requested by the applicant.

3. Recording of Secondary Plats.

- a. **Execute Plat.** The plat shall be signed by the President of the PC, the Administrator, and the City Engineer or designee before being recorded.
- b. **Recording Plat.**
 - i. It shall be the responsibility of the subdivider to record the signed Secondary Plat with the Recorder's Office.
 - ii. Once recorded, the subdivider shall provide the Administrator with the recorded and stamped Secondary Plat in the format(s) required by the Administrator.
 - iii. A plat or replat of subdivision must be recorded within two (2) years of being executed or within two (2) years of completion of infrastructure. Upon written request, the PC may extend the time limitation for two (2) years. If the Subdivider fails to record within this time period, plat shall be null and void.
- c. **Recordation Prohibition.** Pursuant to *IC 36-7-4-710*, a plat of a subdivision for the purposes of development may not be filed with the County Auditor, and the County Recorder may not record it, unless it has been granted secondary approval and signed and certified by the Administrator. The filing and recording of the plat is without legal effect unless approved by the Administrator.

3. Performance and Maintenance Surety.

- a. **Performance Surety.**
 - i. Prerequisites. Before performance surety may be posted, the following conditions shall be met:
 - (a) The plat shall be recorded in accordance with **Chapter 7, Section D.2: Recording of Secondary Plats**.
 - ii. Posting Performance Surety. As part of the Subdivision Improvement Agreement the subdivider shall be required to provide sureties for the promises contained in the Subdivision Improvement Agreement. Either type of surety shall be in an amount equal to one hundred twenty percent (120%) of the estimated cost of completion of the required public improvements, including lot improvements. The legislative body shall approve the issuer of the surety. Estimated cost shall be based on the current unit prices as established by the jurisdiction.
 - (a) Letter of Credit. If the subdivider posts a letter of credit it shall:
 - (1) Be irrevocable;
 - (2) Be for a term sufficient to cover the completion, maintenance and warranty periods required by this UDO; and

- (3) Require only that the Jurisdiction present the credit with a signed draft and an affidavit signed by the Jurisdiction Attorney attesting to the municipality's right to draw funds under the credit.
 - (b) Bond. If the subdivider posts a bond as surety, the bond terms shall provide that:
 - (1) The subdivider shall have no right to a return of any of the funds except as provided in this UDO; and
 - (2) That the bond agent shall have a legal duty to deliver the funds to the Jurisdiction whenever the Jurisdiction Attorney presents an affidavit to the agent attesting to the Jurisdiction's right to receive the funds.
- iii. Use of Funds.
 - (a) Upon acceptance of the last completed required public improvement, the Jurisdiction shall execute a release of its right to receive all but twenty-five percent (25%) of the funds represented by the surety if the subdivider is not in breach of the Subdivision Improvement Agreement. The residual funds shall be surety for the subdivider's covenant to maintain the required public improvements and its warranty that the improvements are free from defect.
 - (b) Limitation on Use of Surety Funds. Any funds received from sureties for improvements and installations or maintenance of such improvements or installations required by this UDO shall be used only for the purpose of making improvements, installations, or repair for which said surety was provided in accordance with the standards, specifications and requirements of this UDO.
- iv. Responsibility of the Subdivider.
 - (a) Temporary Improvement. The subdivider shall build, and pay for all costs of, temporary improvements required by the PC and shall maintain those temporary improvements for the period specified by the PC. Prior to the construction of such temporary facility or improvement, the subdivider shall file with the Jurisdiction a separate surety in an appropriate amount for the temporary facility. The surety shall ensure that the temporary facilities will be properly constructed, maintained, and removed.
 - (b) Costs of Improvements. The subdivider shall make all required improvements, at his own expense and without reimbursement by the Jurisdiction or any special improvement district formed or caused to be formed by the developer to construct and finance the construction of required public improvements, excluding lot improvements on individual lots. If the subdivider does form or cause to be formed a special district for the purposes identified in this Section, the Jurisdiction shall not release the subdivider from its obligations under any Subdivision Improvement Agreement nor shall the Jurisdiction release any surety, in whole or in part, until the special district has sold bonds or otherwise certifies to the municipality that it has an absolute right to raise revenues sufficient to construct, maintain, and warrant the quality of the required public improvements.
- v. Failure to Complete Improvements.
 - (a) Where a Subdivision Improvement Agreement has been executed and surety has been posted and the required public improvements have not been installed within the terms of the agreement, the Jurisdiction may then:
 - (1) Declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default;

- (2) Obtain funds under the surety and complete improvements itself or through a third party;
 - (3) Assign its right to receive funds under the surety to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; and
 - (4) Exercise any other rights available under the law.
- vi. Release of Performance Surety.
- (a) The first step in release performance surety is for the developer to provide the Administrator with the as-built drawings for the respective infrastructure.
 - (b) Certificate of Satisfactory Completion.
 - (1) The legislative body will not accept dedication of required improvements, nor release or reduce the amount of any surety posted by the subdivider until the Surveyor/Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and:
 - (i) The subdivider's engineer or surveyor has certified to the Surveyor/Engineer, through submission of a detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the PC or Surveyor/Engineer, that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision. The submittal shall be in electronic format as required by the Jurisdiction; and
 - (ii) A title insurance policy has been furnished to and approved by the Jurisdiction Attorney indicating that the improvements have been completed, are ready for dedication to the Jurisdiction, and are free and clear of any and all liens and encumbrances.
 - (2) Upon such approval and recommendation by the PC, the Surveyor/Engineer, Jurisdiction Attorney, Staff, and the legislative body shall thereafter accept the improvements for dedication in accordance with the established procedure.
- b. Maintenance Surety.** Upon completion of all subdivision improvements the subdivider shall provide a separate three (3) year maintenance surety for each element of the work completed.
- i. Prerequisites. Before maintenance surety may be posted, the following conditions shall be in place.
 - (a) Improvements shall be completed in accordance with **Chapter 7, Section D.5: Installation of Public Improvements.**
 - (b) Performance surety shall be released in accordance with **Chapter 7, Section D.3.a: Performance Surety.**
 - ii. Form and Amount. The subdivider shall be required to provide a letter of credit or bond as maintenance surety. Either type of surety shall be in an amount equal to twenty percent (20%) of the estimated cost of said improvements and installations as indicated in the establishment of the performance surety. With the assistance of the City Attorney, the Administrator shall approve the issuer of the letter of credit or the bond agent.
 - (a) Letter of Credit. If the subdivider posts a letter of credit it shall:
 - (1) Be irrevocable;

- (2) Be for a term sufficient to cover the completion, maintenance and warranty periods required by this UDO; and
 - (3) Require only that the Jurisdiction present the credit with a sight draft and an affidavit signed by the Jurisdiction Attorney attesting to the municipality's right to draw funds under the credit.
- (b) Bond. If the subdivider posts a bond as surety, the bond terms shall provide that:
- (1) The subdivider shall have no right to a return of any of the funds except as provided in this UDO; and
 - (2) That the bond agent shall have a legal duty to deliver the funds to the Jurisdiction whenever the Jurisdiction Attorney presents an affidavit to the agent attesting to the Jurisdiction's right to receive the funds.
- iii. Responsibility of the Subdivider. The subdivider shall warrant the workmanship and all materials used in the construction, installation, and completion of said improvements. Installations shall have been constructed and completed in accordance with the standards, specifications, and requirements of this UDO.
- iv. Inspections. Near the end of the three (3) year maintenance period and before the maintenance surety is scheduled to expire, the Administrator shall schedule an inspection of the subdivision at the request of the developer. If the applicable officials find upon inspection that any of the required improvements are in need of repair, they shall notify the Administrator, who shall prepare a report documenting the deficiencies. The subdivider shall be required to complete the repairs and upon the satisfactory completion of such repairs, may request that the Jurisdiction assume maintenance of all subdivision improvements and release the maintenance surety. Until acceptance of the improvements by the Jurisdiction, it shall be the responsibility of the subdivider to maintain the subdivision to the standards of the Jurisdiction.

4. Improvement Location Permits.

- a. **Prerequisites.** Before any ILP (also known as building permit) may be issued within the development, the following conditions shall be met:
 - i. When applicable, all public improvements shall be installed, dedicated, and accepted by the Jurisdiction in accordance with **Chapter 7, Section D.5: Installation of Public Improvements**.
 - ii. Maintenance surety has been posted in accordance with **Chapter 7, Section D.3: Performance and Maintenance Surety**.
- b. **ILP for Temporary Uses.** An ILP may be granted by the Administrator for the use of a permitted temporary structure within the real estate affected by a subdivision (such as a construction trailer or a home sales office).

5. Installation of Public Improvements.

- a. **Prerequisites.**
 - i. The plat shall be recorded in accordance with **Chapter 7, Section D.2: Recording of Secondary Plats**.
 - ii. Performance surety, if required, has been posted in accordance with **Chapter 7, Section D.3.a: Performance Surety**.
- b. **Completion.** Improvements shall be completed to the satisfaction of the Surveyor/Engineer. If the improvements are not completed within the time period specified in approval of the Secondary Plat,

failure to complete such improvements shall be a violation of this UDO and subject to the provisions of **Section E.5: Enforcement** and all other remedies available at law.

c. Inspection of Improvements. The Administrator may provide for inspection of required improvements during construction to ensure their satisfactory completion.

- i. Affidavit of Installation. Prior to inspection, the Jurisdiction shall receive an affidavit from the project engineer attesting to the installation of the improvements conforming to the requirements of this UDO and the approved plans. Failure to request inspection or to procure inspection of work performed may be cause for revocation of prior approvals.
- ii. Inspection Fees. The subdivider shall pay all applicable inspection fees, which shall be based on the estimated cost of inspection. These fees shall be due and payable upon demand of the Jurisdiction.
- iii. If the Surveyor/Engineer finds, upon inspection, that any one (1) or more of the required improvements have not been constructed in accordance with the Jurisdiction's standards, the subdivider shall be responsible for properly completing the improvements.

d. Dedication of Improvements.

- i. All public improvements shall be dedicated to the Jurisdiction, free and clear of all liens and encumbrances on the dedicated property and public improvements. In addition, the subdivider shall guarantee all said improvements to be free from defects for a period of three (3) years following acceptance by the Jurisdiction of the last completed improvement.
- ii. Acceptance of Dedication Offers. Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by ordinance of the Legislative body. The approval of a Secondary Plat by the PC shall not be deemed to constitute or imply the acceptance by the Jurisdiction of any street, easement, or park shown on the plat. The PC may require a Secondary Plat to be endorsed with appropriate notes to this effect.

e. Maintenance of Improvements. The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required by the PC, until acceptance of the improvements by the Legislative body. If there are any certificates of occupancy on a street not dedicated to the Jurisdiction, the Jurisdiction may on twelve (12) hours' notice plow the street or effect emergency repairs and charge those costs to the developer. Following the acceptance of the dedication of any public improvement by the Jurisdiction, the Jurisdiction may, in its sole discretion require the subdivider to maintain the improvement for a period of one (1) year from the date of acceptance.

E. Other Subdivision Procedures.

1. Appeals of PC Decision.

- a. Decisions of the PC under this UDO shall be subject to judicial review as provided in *IC 36-7-4-715, 36-7-4-1016, and 36-7-4-1600 et seq.* Pursuant to those statutes, a person with standing may seek judicial review of certain PC decisions by filing a petition for judicial review in the applicable County courts within thirty (30) days after the date of the decision at issue, if the person has exhausted any and all available administrative remedies with the PC. Nothing in this section expands the rights to review provided by Indiana law.

2. Plat Amendments and Replats.

- a. **Primary Plat Amendment.** At any time after Primary Plat approval, the subdivider may request that an amendment be made to the Primary Plat. The PC shall hold a public hearing on the proposed amendment in accordance with the same requirements for the respective Primary Plat approval process. The public hearing on a proposed amendment shall be limited to the merits of the proposed amendment. The PC shall approve or disapprove any proposed amendment in the manner set forth in **Chapter 7, Section B.1.c: Primary Plat** for Commercial, Industrial or Major Subdivisions. The subdivider may withdraw the proposed amendment at any time prior to the PC's decision.
- b. **Secondary Plat Amendment.** At any time after Secondary Plat approval, the subdivider may request that an amendment be made to the Secondary Plat. The Administrator shall solicit comments from the appropriate checkpoint agencies on the proposed amendment in accordance with the same requirements for the respective Secondary Plat approval process. The Administrator shall approve or disapprove any proposed amendment in the manner set forth in **Chapter 7, Section B.1.c: Primary Plat** for Commercial, Industrial or Major Subdivisions as applicable. The subdivider may withdraw the proposed amendment at any time prior to the Administrator's decision.
- c. **Replat.**
 - ii. Prerequisites. The Secondary Plat shall have been recorded and all property owners within the area for replat shall provide written consent to the application for replat.
 - iii. Whenever an owner of land desires to replat an already approved and recorded Secondary Plat, the owner shall obtain approval for the replat by the same procedures prescribed for the subdivision of land set forth in **Chapter 7, Section B.1.c: Primary Plat** for Commercial, Industrial or Major Residential Subdivisions as applicable. For the purposes of this UDO, a replat shall include:
 - (a) Any change in any street layout or any other public improvement;
 - (b) Any change in any lot line, unless identified as an exception as outlined in this UDO; and
 - (c) Any change in the amount of land reserved for public use or the common use of lot owners.

3. Vacations.

- a. **Authority.** Pursuant to *IC 36-7-4-711*, the PC has exclusive authority over the vacation of plats or parts of plats. Vacations may be pursued under either *IC 36-7-4-711* or *IC 36-7-3-10*.
- b. **Vacation When All Owners Agree.** As provided in *IC 36-7-3-10*, if all of the owners of land in the plat agree on a proposed vacation of all or part of the plat, before recording a written instrument to vacate all or part of the plat, the owner(s) must submit the instrument to the PC (or plat committee if applicable) for approval.

- i. The PC (or plat committee) may consider and rule on the proposed instrument without notice or a public hearing.
 - ii. The PC (or plat committee) shall attach its written decision to the instrument before it is submitted for recording.
 - iii. As provided in *IC 36-7-3-10*, an instrument recorded under this section terminates the effect of the plat or part of the plat declared to be vacated. It also terminates all public rights in the public ways and public places described in the plat or part of the plat. However, a public way that has been improved, or that is part of an improved plat, may be vacated only under *IC 37-7-3-12*. As provided in *IC 36-7-3-16*, platted easements may be vacated in this same manner as public ways and places.
 - iv. If the PC (or plat committee) denies a vacation request under this section, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for two (2) years from the date of the PC's denial, as provided in *IC 36-7-3-15*.
- c. **Vacations When All Owners Are Not in Agreement.** As provided in *IC 36-7-4-711*, if not all of the owners of land in a plat agree on a proposed vacation, one or more of the owners may file with the PC a petition to vacate all of the plat or that part of the plat that pertains to land owned by the petitioner(s).
- i. Public Hearing. At the PC hearing, all other owners of land in the plat shall be allowed to comment on the petition.
 - (a) Approval. The PC may approve the petition only if it finds that the conditions below are met. The PC may impose reasonable conditions as part of any approval. The PC shall furnish a copy of its approval to the County Recorder for recording.
 - (1) Conditions in the platted area have changed so as to defeat the original purpose of the plat;
 - (2) It is in the public interest to vacate all or part of the plat; and
 - (3) The value of that part of the land in the plat not owned by the petitioner(s) will not be diminished by the vacation.
 - (b) Denial. If the PC finds that the applicant does not meet the requirements above, it shall deny the petition. If the PC denies a vacation request under this section, it shall not consider another vacation request which requests substantially similar relief concerning the same property for at least one (1) year after the denial, as authorized by *IC 36-7-4-715*.

4. Waivers.

a. General.

- i. A waiver can be granted for a provision in ***Chapter 5: Subdivision Types and/or Chapter 6: Subdivision Design Regulations*** when the subdivider can show that practical difficulties and unnecessary hardship would result if strictly adhered to and where, in the opinion of the PC (or Plat Committee, if applicable), because of topographical or other conditions particular to the site, a departure may be made without compromising the intent of such provisions, the PC may authorize a waiver, pursuant to *IC 36-7-4-702(c)*.
- ii. Pursuant to *IC 36-7-4-702(c)*, the standards for subdivisions in ***Chapter 5: Subdivision Types and/or Chapter 6: Subdivision Design Regulations*** may be waived at the discretion of the PC (or Plat Committee, if applicable). However, to be approved, the plat must still meet all applicable standards prescribed in the UDO. Variations from the standards in ***Chapter 2: Zoning Districts***,

Chapter 3: Site Development Standards, and/or Chapter 4: Use Development Standards require by variance by the BZA (See *Chapter 8: Zoning Administration and Procedures*).

- b. Application.** A petition for a waiver or waiver of conditions shall be submitted in writing by the subdivider at the time when the Primary Plat or Secondary Plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.
- c. Basis for Consideration.** The PC (or Plat Committee, if applicable) shall not approve waivers unless it finds, based upon the evidence presented to it in each specific case, that:
 - i. Practical difficulties and unnecessary hardship may result from the strict application of this UDO, and
 - ii. The purposes and intent of this UDO may be better served by an alternative proposal.
 - iii. The granting of the waiver or waiver of conditions will not be detrimental to the public safety, health, or welfare or injurious to other property;
 - iv. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
 - v. The relief sought will not contravene the other provisions of the UDO or the intent of the *Comprehensive Plan*; and
 - vi. Where the waiver impacts on the design, construction, or maintenance obligations of public facilities, that the appropriate public agency has reviewed and approved the proposed development in writing or electronic transmission to the PC.
- d. Written Findings.** The PC shall make written finding of fact on all waiver requests.
- e. Conditions of Waiver Approval.** The PC may, in approving waivers, require such conditions as will, in its judgment, secure substantially the purposes of said waiver. Such conditions shall be expressly set forth in the order granting the waiver and be in accordance with the *PC Rules and Procedures* for governing commitments. Violation of any such condition shall be a violation of this UDO and subject to the provisions of *Chapter 7, Section E.5: Enforcement*.
- f. Waivers Concerning Public Improvements.**
 - i. The PC may defer or waive, at the time of secondary approval and subject to any appropriate conditions, the provision for any or all, public improvements that in its judgment are:
 - (a) Not required in the interests of the public health, safety, and general welfare,
 - (b) Inappropriate because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or
 - (c) Inappropriate for other reasons presented to and agreed on by the PC.
 - ii. Any determination to defer or waive the provision of any public improvement must be made in accordance with this section and the reasons for the deferral or waiver shall be expressly made part of the record.
 - iii. Where improvement or installations are deferred as herein provided, the subdivider shall post a separate surety in an amount determined by the jurisdiction guaranteeing completion of the deferred improvements upon demand of the jurisdiction.

5. Enforcement.

- a. **Authority.** The PC or its authorized designee is hereby designated to enforce the terms and provisions of this UDO. For the purposes of this UDO, the term PC as used herein and throughout this UDO shall be inclusive of its authorized designee.
- b. **Persons Liable.** The owner, tenant, or occupant of any building or land, or part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this UDO may be held responsible for the violation and be subject to the remedies and penalties provided herein and at law.
- c. **Violations.**
 - i. No owner or agent of the owner of any parcel of the land located in a proposed subdivision shall transfer, sell, or convey any part of the parcel before a Secondary Plat of the subdivision has been approved by the PC in accordance with the provisions of these regulations and filed with the Recorder's Office.
 - ii. No LAP, ILP, or Final Inspection shall be issued for any building, structure, or improvement unless the location of the building, structure, or improvement conforms to this UDO.
- d. **Penalties.**
 - i. Fines and Costs. Any person, corporation, firm or other entity who shall violate any of the Subdivision Control Regulations of Chapters 5, 6, or 7 of this Unified Development Ordinance (UDO), or fail to comply therewith, or with any of the requirements thereof, shall, for each such violation, be guilty of an ordinance violation and shall be subject to the fines and costs as set out in Chapter 8., Sec. F. 3.
- e. **Nuisance.**
 - i. In addition, after the effective date of this UDO, any land within the jurisdiction subdivided in violation of the terms of this UDO is hereby declared to be a common nuisance, which may be restrained, enjoined or abated in any appropriate action or proceeding at law.
 - ii. Other Remedies. The seeking of a civil penalty under this Chapter does not preclude the PC from seeking alternative and additional relief from a court of competent jurisdiction in the same action or from seeking any other relief provided by law in a separate action for the enforcement of this UDO.

8

Zoning Administration and Procedures

Your Home 
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CHAPTER 8: ZONING ADMINISTRATION AND PROCEDURES

A. UDO Administration.

1. Administrator. The Administrator shall be appointed by the PC. The Administrator shall have the following duties:

- a. Administer and enforce the provisions of this UDO in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this UDO;
- b. Issue ILPs and Certificates of Occupancy; and
- c. Maintain a permanent file of all permits and applications as public records.

2. Administrative Decisions.

- a. Whenever, in the course of administration and enforcement of this UDO, it is necessary to make an administrative decision which is not clearly governed by standards contained herein, such decision shall be made so that the result will not be contrary to the spirit and purpose of this UDO or injurious to the area affected.

B. Plan Commission (PC).

- 1. Establishment.** The Plan Commission (PC) shall be established in accordance with *IC 36-7-4-200 series*. The PC shall have membership in accordance with *IC 36-7-4-207(b)*, *IC 36-7-4-214(a)* and the qualifications in accordance with *IC 36-7-4-216*.
- 2. Jurisdiction.** The PC shall have jurisdiction over all land covered by the jurisdiction of this UDO.
- 3. Organization.** The PC shall be organized in accordance with *IC 36-7-4-300 series*.
 - a. Quorum.** In accordance with *IC 36-7-4-301*, a quorum of the PC consists of a majority of the entire membership of the PC.
 - b. Official Action.** In accordance with *IC 36-7-4-302*, action of the PC is not official unless it occurs at a regular or special meeting, by a majority of the entire membership of the PC.
 - c. Leadership.** In accordance with *IC 36-7-4-303*, the PC shall elect a president and vice president from its membership at its first regular meeting each year.
 - d. Secretary.** In accordance with *IC 36-7-4-304*, the PC may appoint and fix the duties of a secretary, who is not required to be a member of the PC.
 - e. Meetings and Minutes.**
 - i. Regular Meetings. In accordance with *IC 36-7-4-306*, the PC shall fix the time for holding regular meetings each month or as necessary, keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken. All minutes and records shall be filed in the office of the Administrator and shall be a public record.
 - ii. Special Meetings. In accordance with *IC 36-7-4-307*, a special meeting of the PC may be called by the president or by two (2) members of the PC upon written request to the secretary.
 - f. Employees.** In accordance with *IC 36-7-4-311*, the PC may appoint, prescribe the duties, and fix the compensation of employees necessary for the discharge of the duties of the commission. The PC may contract for special or temporary services and any professional counsel.
- 4. Duties.** The PC shall have the following duties as authorized in *IC 36-7-4-400 series*, including the following:
 - a. Rules and Procedures.** The PC shall adopt rules for its administration.
 - b. Comprehensive Plan.** The PC shall make recommendations to the legislative body concerning the adoption of and amendments to the *Comprehensive Plan* in accordance with *IC 36-7-4-500 series*.
 - c. Development Plans.** The PC shall make decisions regarding development plans in accordance with *Chapter 8, Section D.2: Development Plan Procedures* and *IC 36-7-4-1400 series*.
 - d. Streets and Addresses.** The president of the legislative body shall name or rename streets and assign addresses, however this responsibility may be delegated to the PC by ordinance.

- e. **Subdivisions.** The PC shall make decisions regarding plats, replats, and amendments to plats in accordance with **Chapter 7: Subdivision Administration and Procedures**, the PC Rules and Procedures, and *IC 36-7-4-700 series*, including:
 - i. Primary Plat as described in *IC 36-7-4-702*;
 - ii. Secondary Plat as described in *IC 36-7-4-709*;
 - iii. Plat Vacation as described in *IC 36-7-4-711*; and
 - iv. Vacation of Covenants as described in *IC 36-7-4-714*.
- f. **Zone Map Changes.** The PC shall make recommendations to the appropriate legislative body concerning changes to the zone map in accordance with **Chapter 8, Section D.3: Zone Map Change Procedures** and *IC 36-7-4-600 series*.

5. Powers. The PC shall have the powers as authorized in *IC 36-7-4-400 series*, including the following:

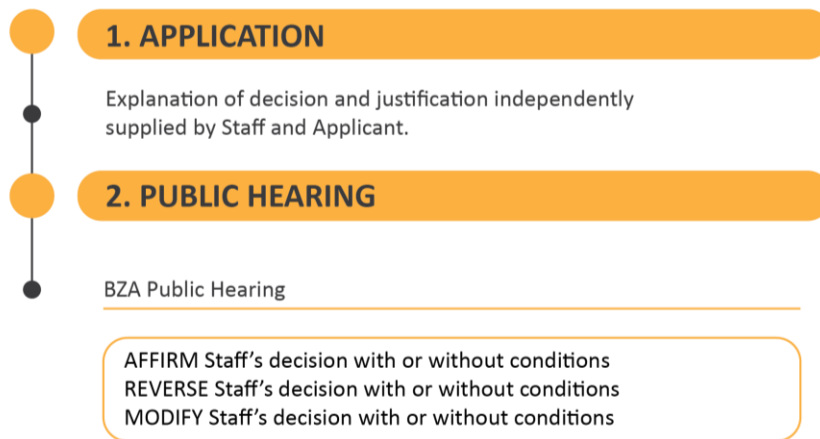
- a. **Executive Committee.** Per *IC 36-7-4-408*, the PC may establish an executive committee of three to nine (3-9) persons appointed by the PC from its membership. The establishment of the executive committee, the naming of its members, and the adoption of rules governing its operation requires a two-thirds (2/3) majority vote of the entire membership of the PC. A majority of the executive committee may act on behalf of the commission, but a dissenting voter may appeal the decision to the full PC.
- b. **Fees.** Per *IC 36-7-4-411*, the PC may establish a fee schedule to defray the administrative costs associated with PC and BZA petitions, issuing permits, and other permitted actions.

C. Board of Zoning Appeals (BZA).

1. **Establishment.** The Advisory BZA shall be established in accordance with *IC 36-7-4-900 series*. The BZA shall have membership in accordance with *IC 36-7-4-902(a)* and *IC 36-7-4-903(a)(2)*.
2. **Jurisdiction.** The BZA shall have jurisdiction over all land covered by the jurisdiction of this UDO.
3. **Organization.**
 - a. **Quorum.** In accordance with *IC 36-7-4-910*, a quorum of the BZA consists of a majority of the entire membership of the BZA.
 - b. **Official Action.** In accordance with *IC 36-7-4-911*, action of the BZA is not official unless it is authorized by a majority of the entire membership of the BZA.
 - c. **Leadership.** In accordance with *IC 36-7-4-912*, the BZA shall elect a chairman and vice chairman from its membership at its first regular meeting each year.
 - d. **Secretary.** In accordance with *IC 36-7-4-913*, the BZA may appoint and fix the duties of a secretary.
 - e. **Meetings and Minutes.** In accordance with *IC 36-7-4-915*, the BZA shall keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken by making findings of fact. All minutes and records shall be filed in the office of the Administrator and shall be a public record.
 - i. **Regular Meetings.** The BZA shall fix the time for holding regular meetings each month or as necessary, keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken. All minutes and records shall be filed in the Office of the Administrator and shall be a public record.
 - ii. **Special Meetings.** A special meeting of the BZA may be called by the chairman or by two (2) members of the BZA upon written request to the secretary.
4. **Duties.** The BZA shall have the following duties as authorized in *IC 36-7-4-900 series*:
 - a. **Rules and Procedures.** The BZA shall adopt rules for its administration in accordance with *IC 36-7-4-916*.
 - b. **Appeals.** The BZA shall make decisions regarding appeals in accordance with **Chapter 8, Section D.1: Appeals Procedures** and *IC 36-7-4-918.1*.
 - c. **Special Exception.** The BZA shall make decision regarding special exceptions in accordance with **Chapter 8, Section D.4: Special Exception Procedures** and *IC 36-7-4-918.2*.
 - d. **Variance from Development Standards.** The BZA shall make decisions regarding variances in accordance with **Chapter 8, Section D.5: Variance from Development Standards Procedures** and *IC 36-7-4-918.5*.
 - e. **Variance of Use.** The BZA shall make decisions regarding variances of use in accordance with **Chapter 8, Section D.6: Variance of Use Procedures** and *IC 36-7-4-918.4*.

D. Procedures for PC and BZA Duties.

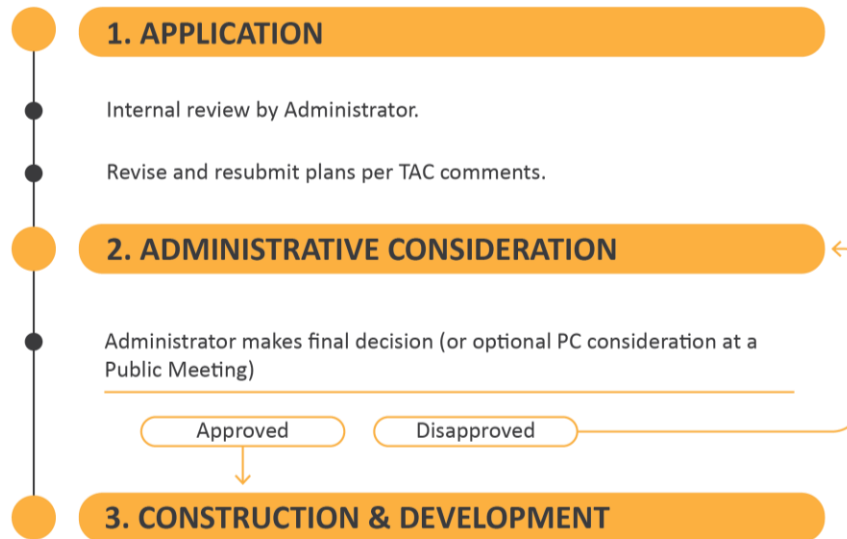
1. Appeals Procedures.



In accordance with *IC 36-7-4-918.1* and the *BZA Rules and Procedures*, the BZA shall hear and determine appeals from and review the decisions below. In addition, all appeals shall be made pursuant to *IC 36-7-4-1000 through 1020* and all amendments thereto.

- a. Applicability.** The BZA shall hear appeals to any of the following:
- i. Any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the UDO;
 - ii. Any order, requirement, decision, or determination made by an administrative board or other body except the PC in relation to the enforcement of the UDO; or
 - iii. Any order, requirement, decision, or determination made by an administrative board or other body except the PC in relation to the enforcement of an ordinance adopted under this UDO requiring an ILP or Certificate of Occupancy.
- b. Application.** The applicant shall submit an application for appeal in accordance with the application packet adopted by the BZA as part of the *BZA Rules and Procedures* and be prepared in accordance with the format described therein. The application shall be submitted within thirty (30) days of the decision/interpretation that is the subject of the appeal.
- i. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a date for public hearing.
 - ii. Public Notice. Notice of public hearing shall be in accordance with the adopted *BZA Rules and Procedures*.
- c. Public Hearing.** The BZA shall consider the appeal at a public hearing. The applicant shall be in attendance to present their appeal and address any questions or concerns of the BZA.
- i. Final Decision. The BZA may affirm, reverse, or modify the decision, interpretation, order, or action that is the subject of the appeal. The BZA may also add conditions to their decision.
 - (a) Appeal. The decision of the BZA may be appealed to the Circuit or Superior Court of the applicable County.

2. Development Plan Procedures.



In accordance with *IC 36-7-4-1400 series* and the *PC Rules and Procedures*, the PC shall hear and make decisions regarding development plans.

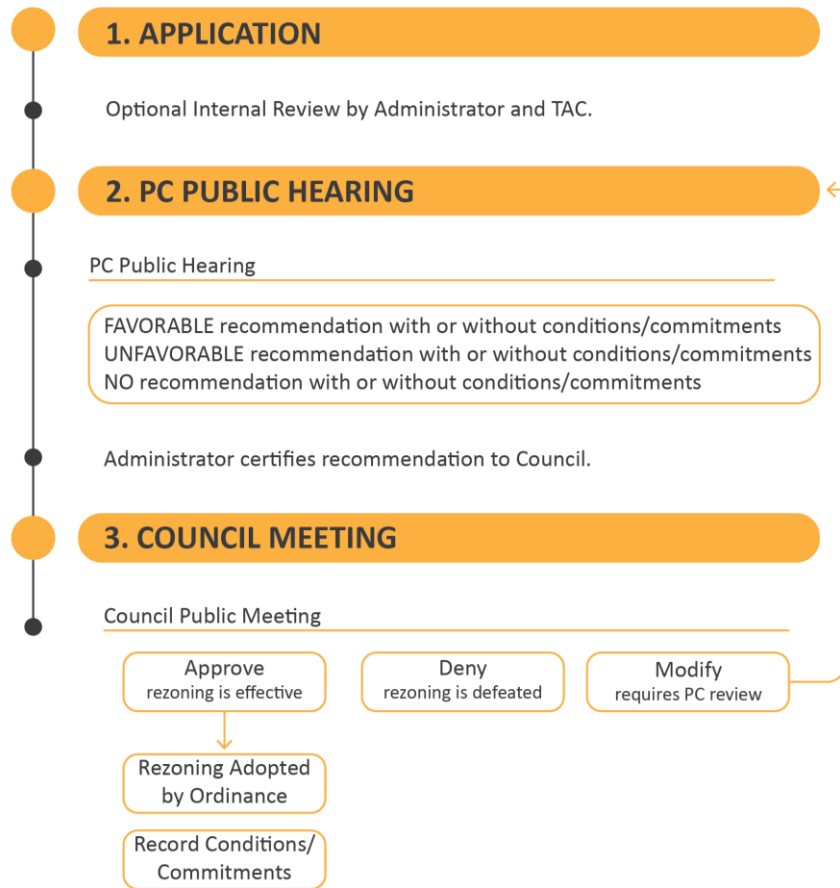
a. Applicability. The development or modification of property for uses other than single-family or two-family residential require development plan approval.

b. Application.

- i. Pre-application Meeting. Prior to filing an application for development plan, the applicant must schedule a pre-application meeting with the Administrator to not only become familiar with these and other regulations as they affect the area, but also to discuss the procedures for approval and the requirements for general development.
- ii. Application. The applicant shall submit an application for development plan in accordance with the application packet adopted by the PC as part of the *PC Rules and Procedures* and be prepared in accordance with the format described therein.
- iii. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a date for internal review.
- iv. Internal Review. The Administrator shall forward the plans to the appropriate checkpoint agencies for technical review. The Administrator shall compile a written report for the public file with the information from the TAC (Technical Advisory Committee) members. After the internal review, the applicant shall make the necessary modifications to the plans to satisfy the TAC member review comments and resubmit the plans for review.
 - (a) Comments Satisfied. If the revised plans have adequately addressed the TAC comments, the Administrator shall approve the Development Plan.
 - (b) Comments Not Satisfied. If the revised plans have not adequately addressed the TAC comments, the Administrator may require additional internal review and/or the resubmittal of revised plans before considering them for review.

- (c) **Comments Contested.** If the revised plans have not adequately addressed the TAC comments because the applicant disagrees with the TAC comment(s), the applicant may submit a request for public meeting of the PC in writing along with an explanation of disagreement. Upon receipt of this written request, the Administrator shall set a date for a public meeting by the PC.
- v. **Public Notice.** Public notice is not required for development plans.
- c. **Expiration.** Approval of a development plan shall be valid for two (2) years from the date of the Administrator's approval. If all applicable permits and construction has not commenced within two (2) years of the approval date, the approval shall be void.
- d. **Amendment.** An amendment to a development plan may be approved administratively by the Administrator after internal review by the affected TAC members. The Administrator reserves the right to send the requested amendment to a public meeting of the PC for final approval.

3. Zone Map Change Procedures.



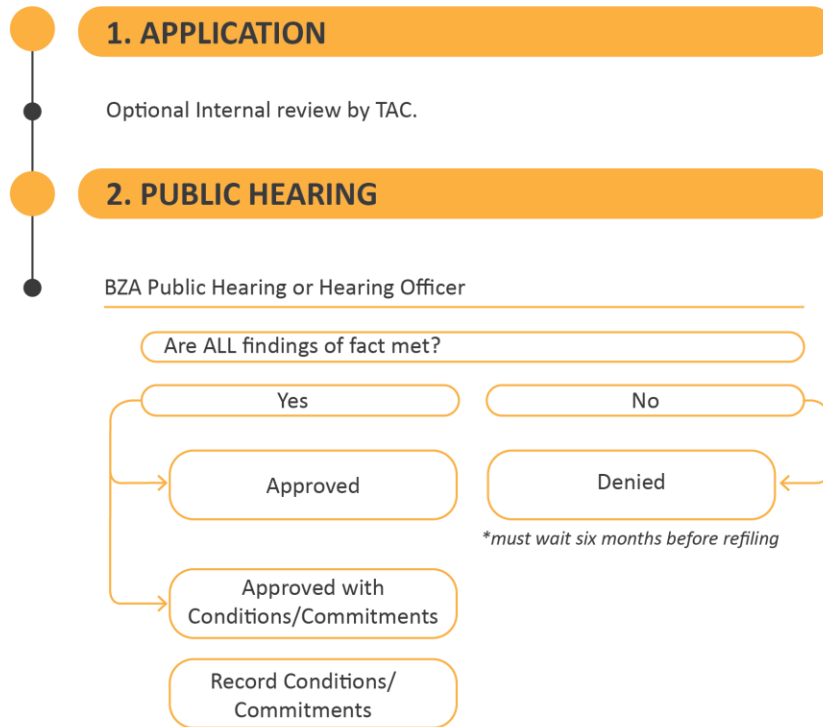
In accordance with *IC 36-7-4-600 series* and the *PC Rules and Procedures*, the PC shall hear and make recommendations regarding zone map changes.

a. Application.

- i. Initiation. Zone map changes may be initiated by the PC, by the legislative body, or by owners of fifty percent (50%) or more of the area involved in the petition.
- ii. Pre-application Meeting. Prior to filing an application for a zone map change, the applicant must schedule a pre-application meeting with the Administrator to not only become familiar with these and other regulations as they affect the area, but also to discuss the procedures for approval and the requirements for the general layout.
- iii. Application. The applicant shall submit an application for zone map change in accordance with the application packet adopted by the PC as part of the *PC Rules and Procedures* and be prepared in accordance with the format described therein.
- iv. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a date for public hearing.
- v. Public Notice. Notice of public hearing shall be in accordance with the *PC Rules and Procedures*.
- vi. Public Hearing. The PC shall consider the zone map change at a public hearing. The applicant shall be in attendance to present their petition and address any questions or concerns of the PC.
 - (a) Recommendation by the PC.

- (1) Consideration. When considering a zone map change, the PC shall pay reasonable regard to:
 - (i) The *Comprehensive Plan*;
 - (ii) Current conditions and the character of current structures and uses in each district;
 - (iii) The most desirable use for which the land in each district is adapted;
 - (iv) The conservation of property values throughout the jurisdiction; and
 - (v) Responsible development and growth.
 - (2) Recommendation. After consideration, the PC shall make a favorable, unfavorable, or no recommendation to the legislative body. Any of the said recommendations may include conditions and/or written commitments in accordance with *IC 36-7-4-1015* and **Chapter 8, Section E.1: Commitments**.
 - (3) Certification of Recommendation. Within ten (10) business days after the PC determination, the PC shall certify their recommendation to the legislative body.
- vii. Final Action.
- (a) Upon receipt of said certification, the legislative body shall vote on the proposed zone map change within ninety (90) calendar days. Final action by the legislative body shall be in accordance with *IC 36-7-4-600 series*.
 - (b) If the proposal is adopted by the legislative body, the PC shall update the zone map accordingly.
- viii. Expiration. Approval of a zone map change shall run with the land, unless a condition specifies otherwise.
- ix. Amendment. Amendment of a zone map change shall be done in accordance with the *IC 36-7-4-600 series*. An amendment of an applicable condition or commitment shall be done in accordance with *IC 36-7-4-1015* and **Chapter 8, Section E.1: Commitments**.

4. Special Exception Procedures.

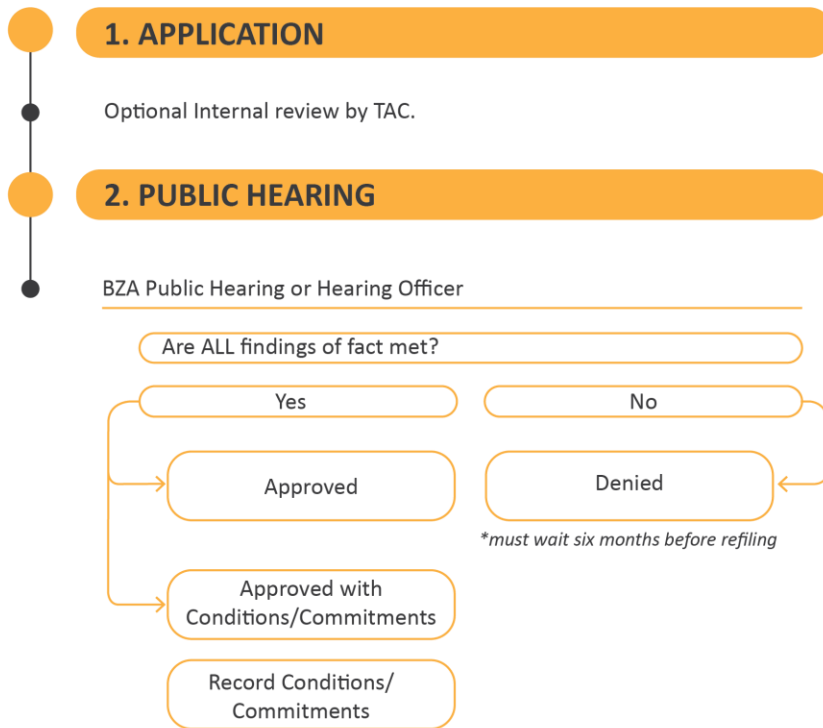


In accordance with *IC 36-7-4-918.2* and the *BZA Rules and Procedures*, the BZA shall hear and make decisions regarding special exceptions. The BZA may require that impact studies be performed at the expense of the applicant prior to deciding upon said special exception.

- a. **Applicability.** Uses permitted by special exception as listed in *Chapter 2: Zoning Districts* may be permitted by the BZA in the districts indicated in accordance with the procedures set forth in this section.
- b. **Non-conforming Uses.** Any expansion of a legal non-conforming use, including the enlargement of the structures or land area devoted to such use, shall be subject to the procedures described in this section.
- c. **Application.**
 - i. **Pre-application Meeting.** Prior to filing an application for special exception, the applicant must schedule a pre-application meeting with the Administrator to not only become familiar with these and other regulations as they affect the area, but also to discuss the procedures for approval and the requirements for general development.
 - ii. **Application.** The applicant shall submit an application for special exception in accordance with the application packet adopted by the BZA as part of the *BZA Rules and Procedures* and be prepared in accordance with the format described therein.
 - iii. **Public File.** Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a date for public hearing.
 - iv. **Public Notice.** Notice of public hearing shall be in accordance with the *BZA Rules and Procedures*.
- d. **Public Hearing.** The BZA shall consider the special exception at a public hearing. The applicant shall be in attendance to present their plan and address any questions or concerns of the BZA.

- i. Standards for Evaluation. When considering a special exception, the BZA shall find that the following standards have all been satisfied:
 - (a) The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare;
 - (b) The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
 - (c) The establishment of the special exception will not impede or substantially alter the normal and orderly development and improvement of surrounding property for uses permitted in the district;
 - (d) Adequate utilities, access road, drainage, and other necessary facilities have been or are being provided;
 - (e) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public roadways; and
 - (f) The special exception will be located in a district where such use is permitted and all other requirements set forth in this UDO that are applicable to such use will be met.
- ii. Final Decision.
 - (a) Approval. If the BZA finds all of the standards have been satisfied, it shall approve or approve with conditions and/or commitments the request. Approval may be in the form of a general statement.
 - (b) Denial. If the BZA does not find that all of the standards have been satisfied, it shall deny the special exception and findings shall specify the reason for denial.
- e. **Expiration.** Approval of a special exception shall run with the land, unless a condition specifies otherwise. However, if construction of structures or occupancy of existing structures relevant to the approved special exception has not commenced within two (2) years of approval by the BZA, the approval shall be void.
- f. **Amendment.** A special exception may only be amended by the BZA by submitting a revised application through the special exception application process.

5. Variance from Development Standards Procedures.

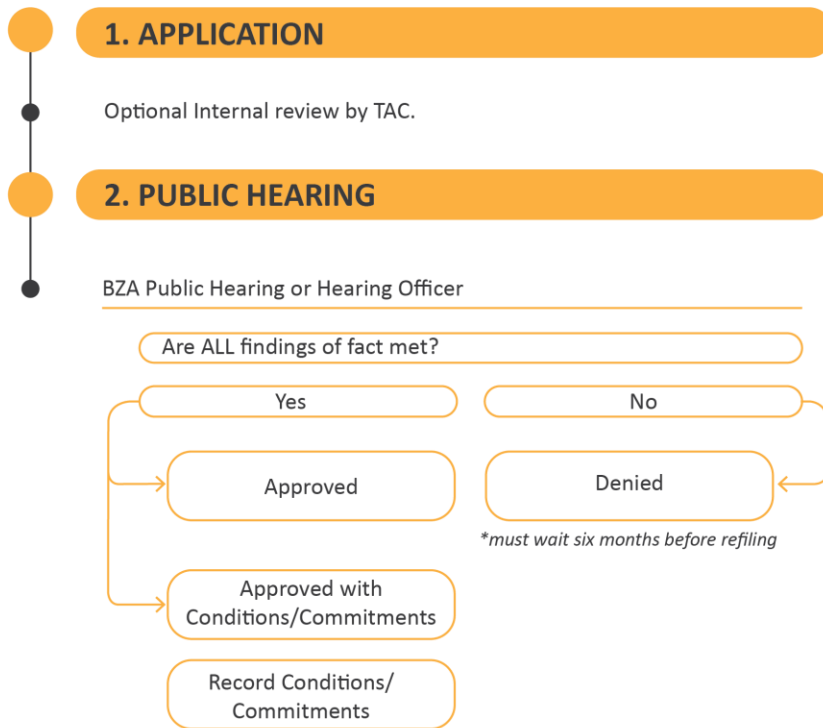


In accordance with *IC 36-7-4-918.5* and the *BZA Rules and Procedures*, the BZA shall hear and make decisions regarding variances from development standards.

- a. **Applicability.** The BZA may vary the development standards in accordance with the procedures set forth in this section.
- b. **Application.**
 - i. **Pre-application Meeting.** Prior to filing an application for a variance, the applicant must schedule a pre-application meeting with the Administrator to not only become familiar with these and other regulations as they affect the area, but also to discuss the procedures for approval and the requirements for general development.
 - ii. **Application.** The applicant shall submit an application for variance in accordance with the application packet adopted by the BZA as part of the *BZA Rules and Procedures* and be prepared in accordance with the format described therein.
 - iii. **Public File.** Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a date for public hearing.
 - iv. **Public Notice.** Notice of public hearing shall be in accordance with the *BZA Rules and Procedures*.
- c. **Public Hearing.** The BZA shall consider the variance at a public hearing. The applicant shall be in attendance to present their plan and address any questions or concerns of the BZA.
 - i. **Standards for Evaluation.** When considering a variance, the BZA shall find that the following standards have all been satisfied:
 - (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - (c) The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.
- ii. Final Decision.
 - (a) Approval. If the BZA finds all of the standards have been satisfied, it shall approve or approve with conditions and/or commitments the request. Approval may be in the form of a general statement.
 - (b) Denial. If the BZA does not find that all of the standards have been satisfied, it shall deny the variance and findings shall specify the reason for denial.
- d. Expiration.** Approval of a variance from development standards shall run with the land, unless a condition specifies otherwise. However, if construction of structures or occupancy of existing structures relevant to the approved variance has not commenced within two (2) years of approval by the BZA, the approval shall be void.
- e. Amendment.** A variance may only be amended by the BZA by submitting a revised application through the variance application process.

6. Variance of Use Procedures.



In accordance with *IC 36-7-4-918.4* and the *BZA Rules and Procedures*, the BZA shall hear and make decisions regarding variances of use.

- a. **Applicability.** The BZA may grant a variance of use in accordance with the procedures set forth in this section.
- b. **Application.**
 - i. Pre-application Meeting. Prior to filing an application for a variance of use, the applicant must schedule a pre-application meeting with the Administrator to not only become familiar with these and other regulations as they affect the area, but also to discuss the procedures for approval and the requirements for general development.
 - ii. Application. The applicant shall submit an application for a variance of use in accordance with the application packet adopted by the BZA as part of the *BZA Rules and Procedures* and be prepared in accordance with the format described therein.
 - iii. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a date for public hearing.
 - iv. Public Notice. Notice of public hearing shall be in accordance with the *BZA Rules and Procedures*.
- c. **Public Hearing.** The BZA shall consider the variance of use at a public hearing. The applicant shall be in attendance to present their plan and address any questions or concerns of the BZA.
 - i. Standards for Evaluation. When considering a variance of use, the BZA shall find that the following standards have all been satisfied:
 - (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - (c) The need for the variance of use arises from some condition peculiar to the property involved;
 - (d) The strict application of the terms of the ordinance will result in practical difficulties in the use of the property; and
 - (e) The approval does not interfere substantially with the Comprehensive Plan.
- ii. Final Decision.
- (a) Approval. If the BZA finds all of the standards have been satisfied, it shall approve or approve with conditions and/or commitments the request. Approval may be in the form of a general statement.
 - (b) Denial. If the BZA does not find that all of the standards have been satisfied, it shall deny the variance of use and findings shall specify the reason for denial.
- d. Expiration.** Approval of a variance of use shall run with the land, unless a condition specifies otherwise. However, if construction of structures or occupancy of existing structures relevant to the approved variance has not commenced within two (2) years of approval by the BZA, the approval shall be void.
- e. Amendment.** A variance may only be amended by the BZA by submitting a revised application through the variance application process.

E. Additional Procedures.

1. Commitments.

- a. **Form.** A commitment must be substantiated by the form set forth in the PC Rules and Procedures, and must identify any specially affected persons or class of specially affected persons who may enforce the commitment. A commitment must authorize its recording by the Administrator in the County Recorder's Office.
- b. **Recording.** A commitment shall be recorded in the County Recorder's Office and takes effect upon the adoption of the proposal to which it relates. Following the recording of a commitment, the applicant shall return a copy of the original recorded commitment to the Administrator for PC's file.
- c. **Persons Bound.** Unless it is modified or terminated by the PC in accordance with this section, a recorded commitment is binding on the owner of the parcel, a subsequent owner of the parcel, and any other person who acquires interest in the parcel. An unrecorded commitment is binding on the owner of the parcel who makes the commitment. An unrecorded commitment is binding on a subsequent owner of the parcel or a person acquiring an interest in the parcel only if the subsequent owner or the person acquiring the interest has actual notice of the commitment.
- d. **Modification or Termination by PC.** Except for a commitment modified or automatically terminated in accordance with this section, a commitment may be modified or terminated only by a decision of the PC made at a public hearing after notice of the hearing has been given under the PC Rules and Procedures.

2. Improvement Location Permit (ILP) Procedures.

The Administrator, or their designee, shall be responsible for the issuance of ILPs in accordance with *IC 36-7-4-800 series*.

- a. **Applicability.** An ILP, also known as a building permit, shall be required for the erection, alteration, or modification of all structures within the jurisdiction including, but not necessarily limited to primary structures, accessory structures, ponds (see **Chapter 3, Section B: Accessory Structure Standards**), and signs.
- b. **Application.** The applicant shall submit an application for an ILP in accordance with the application packet adopted by the PC as part of the *PC Rules and Procedures* and be prepared in accordance with the format described therein. The filing fee for an ILP shall be paid in accordance with the adopted fee schedule. A public record of each ILP shall be retained in the Office of the Administrator in accordance with the retention rules established by the State Board of Accounts.
- c. **Final Inspections and Certificates of Occupancy.** No structure shall be occupied or used, in whole or in part, for any purpose until a final inspection and/or a certificate of occupancy has been issued.
 - i. Final Inspection Only. A final inspection shall be required prior to occupancy for:
 - (a) Structures that are subject to a state construction design release (Class 1 structures); and
 - (b) Accessory structures for commercial uses, industrial uses, single-family residential uses, two-family uses, and multi-family uses.
 - ii. Certificate of Occupancy. A final inspection and certificate of occupancy shall be required prior to occupancy for:
 - (a) New primary residential structures, including single-family and two family; and
 - (b) The remodeling and structural alteration (as defined) of primary residential structures, including single-family and two-family.
- d. **Expiration.** An ILP shall be valid for a period of two (2) years from the date of issuance. However, significant construction must begin within one (1) year from the date of issuance or the ILP shall become void.
 - i. Extension. The Administrator may grant a one (1) year extension only one (1) time at the written request of the applicant stating the need for such extension. Once an ILP expires, a new application (including fees) shall be submitted for approval.
- e. **Amendment.** An amendment to an approved ILP may be submitted at any time for review and consideration by the Administrator. Additional fees may be assessed if applicable.

3. Land Alteration Permit (LAP) Procedures.

The Administrator shall be responsible for the issuance of LAPs.

- a. **Applicability.** A LAP, also known as a grading permit, shall be required for earthwork and site work to be done prior to securing an ILP.
 - i. A LAP is traditionally required after the approval of a development plan or the approval of construction drawings for a secondary plat.
 - ii. A LAP may be issued by the Administrator prior to the approval of a development plan or secondary plat. However, site work done by the developer under this LAP is at their own risk and shall not be perceived as or indicative of any type of approval for plans yet to be submitted or under consideration.

- b. **Application.** The applicant shall submit an application for a LAP in accordance with the application packet adopted by the PC as part of the PC Rules and Procedures and be prepared in accordance with the format described therein.
- c. **Expiration.** A LAP shall be valid for a specified period of time based on the nature of the work being done.
- d. **Amendment.** An amendment to an approved LAP may be submitted at any time for internal review and consideration by the Administrator and the applicable TAC members. Additional fees may be assessed if applicable.

F. Complaints, Violations, and Remedies.

1. Complaints. Whenever a violation of this UDO occurs, or is alleged to have occurred, any person may file a written complaint on the form approved by the PC as part of the adopted *PC Rules and Procedures*. The complaint shall state fully the causes and basis thereof and shall be filed with the Administrator. The Administrator, or their designee, shall investigate the complaint, take immediate action, and may refer the matter to the PC, BZA, or their attorney for review. The Administrator, or their designee, shall have authority to enter upon property at any time to investigate a written complaint.

2. Violations.

a. ILP Violations.

- i. Any person, firm, corporation or other entity who shall initiate construction prior to obtaining an ILP, Certificate of Occupancy, or any other permit or authorization required herein, shall pay the fine as set forth in the adopted fee schedule.
- ii. The owner or tenant of any building, structure or premises and any other person who participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties prescribed by this section.

b. Zoning Ordinance Violations. The property owner shall be held liable for and person, occupant, tenant, or corporation who violates any of the provisions of these ordinances or fails to fully comply therewith or with any of the requirements thereof (including violations of conditions established in connection with grants of Variance or Special Exceptions) or who shall build, reconstruct or structurally alter any building in violation of the approved development plan or building plans shall be subject to civil penalties.

c. Subdivision Control Ordinance Violations.

- i. It shall be the duty of the Administrator to periodically research the applicable County records and perform the other necessary investigations to detect any violations of the subdivision regulations.
- ii. No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the PC in accordance with the provisions of these regulations and filed with the applicable County Recorder.
- iii. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by these regulations until the proposed subdivision has been approved by the PC in accordance with these regulations and filed with the applicable County Recorder.
- iv. No ILP shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations.
- v. The Administrator shall enforce these regulations and bring to the attention of the PC attorney any violations or lack of compliance herewith. The PC attorney shall take steps necessary under the Indiana Code to civilly enjoin any violation of these regulations.

3. Penalties.

a. Fines and Costs. Any person, corporation, firm or other entity who shall violate any of the provisions this Unified Development Ordinance (UDO), or fail to comply therewith, or with any of the requirements thereof, or who shall build, reconstruct or structurally alter any structure or site in

violation of any of the provisions of this UDO, shall, for each and every violation, be guilty of an ordinance violation, and upon conviction by a court of competent jurisdiction shall be fined not less than one hundred dollars (\$100.00), and not more than three hundred dollars (\$300.00) for each such violation. Each day that such violation or non-compliance shall be permitted to exist after issuance of an ordinance violation citation shall constitute a separate violation for which a separate fine shall be assessed. If the jurisdiction is required to institute legal action to enforce compliance with this UDO or to collect a fine thereunder, the violator shall also be responsible for the jurisdiction's reasonable attorney fees and costs related to enforcement or collection.

4. Remedies. The PC, the BZA, the Administrator, or any designated enforcement official, or any person or persons, firm, corporation, or another entity, jointly or severally, may institute a suit for injunction in the Circuit or Superior Courts of the applicable County to restrain an individual or government unit from violating the provisions of this ordinance. The PC or BZA may also institute the suit for mandatory injunction directing an individual or corporation or a governmental unit to remove a structure erected in violation of the provisions of this ordinance or the requirements thereof, or to enforce any other provision of this ordinance, and said violation being declared to be a common nuisance and as such may be abated in such a manner as nuisances are now or may hereinafter be abated under existing law.

5. Stay of Work Pending appeal, Restraining Order, and Enforcement of Stay.

- a. When an appeal from the decision of the Administrator has been filed with the BZA, all proceedings and work on the premises affected shall be stayed unless the Administrator certifies to the BZA, that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by restraining order.
- b. After notice to the Administrator or BZA and to the owner of the premises affected and after due cause is shown, the Circuit or Superior Court of the county in which the premises affected are located may grant the restraining order.
- c. After the owner of, or a person in charge of the work on, the premises affected has received notice that an appeal has been filed or board charged with the enforcement of an ordinance may order the work stayed and call on the police power of the municipality to give effect to that order.
- d. **Attorney's Fees.** Notwithstanding anything contained in this UDO to the contrary or appearing to be to contrary, and in addition and supplementary to other provisions of this UDO, if the BZA or the jurisdiction is required to utilize the services of the respective Attorney or any other attorney in investigating a possible violation of this UDO or enforcing the provisions of this UDO before any board or a court (including appeals), and such investigation results in a determination that a violation has occurred or if the BZA or jurisdiction is successful in its enforcement of the UDO by way of suit, appeal, or other appropriate proceeding, the respondent, defendant, or party investigated for a violation shall pay the jurisdiction's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this UDO, unless such attorney fees or costs are specifically waived by the legislative body.

G. Fees.

1. **Applicability.** Applications and petitions filed pursuant to the provisions of this UDO shall be accompanied by the applicable fee(s) specified in the adopted fee schedule. Fees shall be collected by the Administrator and shall be made payable to the PC.
2. **Collection of Fees.**
 - a. **ILP.** Fees will be calculated during the review process and shall be collected when the ILP is issued. Fees associated with re-inspections and additional inspections shall be collected prior to a final inspection or issuance of a certificate of occupancy as applicable. ILP fees are non-refundable.
 - b. **LAP.** If applicable, fees will be calculated during the review process and shall be collected when the LAP is issued. LAP fees are non-refundable.
 - c. **PC and BZA Applications.** Fees shall be collected at the time the application is filed. Application fees are non-refundable unless the petition is withdrawn within three (3) business days of making application.

9

Non-conforming Lots, Structures, and Uses

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CHAPTER 9: NON-CONFORMING LOTS, STRUCTURES, AND USES

A. General Provisions.

1. Within the districts established by this UDO or by amendments that may later be adopted, there exist individually or in combination: legally non-conforming lots; legally non-conforming structures; legally non-conforming uses of land; and legally non-conforming zoning districts, which were lawful before this UDO was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this UDO or future amendments.
2. It is the intent of this UDO to permit these legal non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this UDO that non-conformities shall not be enlarged upon, expanded, extended, or intensified, nor be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district.
3. Illegal uses existing at the time this UDO is enacted shall not be validated by virtue of its enactment.
4. The burden of establishing the legality of a non-conformity that is lawfully existing under the provisions of this UDO is upon the property owner of the non-conformity and not upon the jurisdiction.
5. Non-conforming uses are declared by this UDO to be incompatible with permitted uses in the districts in which such uses are located. A non-conforming use of a structure, a nonconforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this UDO by attachment on a building or premises of additional signs intended to be seen from off of the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.
6. To avoid undue hardship, nothing in this UDO shall be deemed to require a change in the plans, construction, or designated use of any building or development on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this UDO and upon which actual building construction has been carried on diligently.
7. Where demolition or removal of an existing building has been substantially begun prior to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently. Actual construction is hereby defined at a minimum as having a valid ILP upon the initial passage of this UDO.

B. Non-conforming Lots of Record.

1. **General Provisions.** Where, at the time of adoption of this UDO, lawful lots of record exist which would not be permitted to be created by the regulations imposed by this UDO, the lot may be developed so long as it remains otherwise lawful, provided that:
 - a. The lot must be in separate record and not of continuous frontage with existing lots. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.
 - b. All other provisions of this UDO are met or a variance from the BZA is obtained.

C. Non-conforming Structures.

- 1. General Provisions.** Where a lawful structure exists at the effective date of adoption or amendment of this UDO that could not now be built under the terms of this UDO by reason of restrictions on area, lot, height, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a.** A non-conforming structure may not be enlarged, altered, or added on to in a way that increases its non-conformity unless a variance is obtained from the BZA. However, any structure or portion thereof may be altered to decrease its non-conformity.
 - b.** Should a non-conforming structure or non-conforming portion of structure be destroyed by any means to the extent of more than fifty percent (50%) of its area immediately prior to the damage, it shall not be reconstructed except in conformity with the provisions of this UDO.
 - c.** Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
 - d.** A non-conforming use may be extended throughout any parts of a building, which manifestly arranged or designed for such use at the time of adoption or amendment of this UDO, but no such use shall be extended to occupy any land outside such building.
 - e.** If any such non-conforming structure is abandoned for any reason for more than six (6) months, such structure shall be required to conform to the regulations specified by this UDO for the district in which such structure is located unless appropriate developmental standards variances are obtained from the BZA.

D. Non-conforming Uses of Land.

- 1. General Provisions.** Where, at the time of adoption of this UDO, lawful uses of land exist which would not be permitted by the regulations imposed by this UDO. These uses are considered legally non-conforming. These uses may be continued so long as they remain otherwise lawful, provided that:
 - a. A legally non-conforming use may be continued, but shall not be extended, expanded, or changed to another non-conforming use unless a use variance is obtained from the BZA.
 - b. A legally non-conforming use shall not be enlarged, increased, or intensified, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this UDO except as permitted by the BZA.
 - c. A legally non-conforming use shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this UDO.
 - d. If any such legally non-conforming use of land is discontinued or abandoned for any reason for more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this UDO for the district in which such land is located. There shall be no return to the previous non-conforming use after it is discontinued or abandoned for more than six (6) months unless a use variance is granted by the BZA.
 - e. No additional structures not conforming to the requirements of this UDO shall be erected in connection with such non-conforming use of land.
- 2. Agricultural Uses.** Consistent with *IC 36-7-4-616*, an agricultural use of land that constitutes an agricultural legally non-conforming use may be changed to another agricultural use of land without losing agricultural nonconforming use status. In addition, an agricultural non-conforming use shall not be restricted or required to obtain a variance or special exception so long as an agricultural legally non-conforming use has been maintained for three (3) years in a five (5) year period.

E. Non-conforming Uses and Structures in Combination.

- 1. General Provisions.** Where a lawful use occupied by a lawful structure existed prior to the effective date of this UDO, as amended from time-to-time, where one or the other, or both, do not comply with the requirements imposed by this UDO, non-conforming combination of use and structure may be continued so long as they both remain otherwise lawful. Such a combination shall also be subject to the following provisions:
 - a.** Where non-conforming status applies to a structure and land use in combination, neither shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except to change the use from a legally non-conforming use to a conforming use, in which case, such modifications shall be subject to the provisions of this UDO.
 - b.** Where non-conforming status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the use, in which case, both the structure and the use shall be brought into conformance with the provisions of this UDO.

F. Non-conforming Zoning Districts.

- 1. General Provisions.** At the time of adoption of this UDO, some zoning districts may no longer be listed in the text of the UDO. Unless otherwise noted, property zoned under these districts will continue to be zoned as such until such time as the property is rezoned to a conforming zoning district.

10 Definitions

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CHAPTER 10: DEFINITIONS

A. General Provisions. For the purpose of this UDO, certain terms or words used herein shall be interpreted or defined as follows. Words used in the present tense include the future tense. The term “shall” is always mandatory, and the word “may” is permissive. Any words not defined shall be defined using the most recent version of the Merriam-Webster Dictionary.

ABANDONED. Abandonment or cessation of the use of the property for a period of six (6) consecutive months, by the owner or lessee without the initiation of any substantial action for the transferring of ownership or resuming the use of the property.

ACCESS. A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

ADDITION. A structure added to the original structure at some time after the completion of the original, or, an extension or increase in floor area or height of a building or structure

ADMINISTRATOR. The legislative body or a person designated by the legislative body to provide staff support to the PC and BZA and to enforce the UDO under the supervision of the PC.

ADULT BUSINESS. See SEXUALLY-ORIENTED BUSINESS.

ADULT DAY CARE. A non-medical day service providing a safe, embracing, and accepting environment for patients and family members living with a life altering illness.

ADULT ENTERTAINMENT. Any form of entertainment, material, or activity as defined under *IC 35-49-1* and which is provided in a place accessible to the public, whether in a play, motion picture, video tape/disk, dance, or other exhibition or presentation and whether in pictures, animated, or live. The term does not include the “legal rental or sale of videos or other media that conforms to this definition and that is to be viewed privately at a location other than the point of purchase,” and does not include a “tavern.”

AGRICULTURE. The production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants, animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil conservation or forestry management program.

AGRITOURISM. An accessory activity at an agricultural, horticultural, or agribusiness operation where the general public is allowed or invited to participate in, view, or enjoy the activities for recreational, entertainment, or educational purposes, including farming, ranching, dining, sale of agricultural products, historic and cultural agricultural activities, or natural resource-based activities. Note that a special event facility is not considered an agritourism activity.

AIRPORT. Huntingburg Regional Airport (KHNB).

ALLEY. A right-of-way other than a street or crosswalk designed to provide a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATION. Any change or rearrangement in the supporting members of an existing structure, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a structure, whether horizontally or vertically, or the moving of a structure from one location to another.

ALTERATION, INCIDENTAL. Modifications to an existing structure that are of a cosmetic nature, replacement of utilities, or rearrangement of non-load-bearing partitions.

ALTERATION, STRUCTURAL. Any change in either the supporting members of a structure, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

AMBIENT. The sound pressure level exceeded ninety percent (90%) of the time or L90.

AMUSEMENT DEVICE. Any coin- or token-operated machine or device, whether mechanical, electrical, or electronic, that is ready for play by the insertion of a coin or token and operated by the public for use as a game, entertainment, or amusement.

ANEMOMETER TOWER. A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a utility grid wind energy system.

ANTENNA. A device or equipment used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures.

APPEAL. In accordance with *IC 36-7-4-918.1*, the appeal of an order, requirement, decision, or determination made by the Administrator in the enforcement of this UDO that, upon application, the BZA may reverse or affirm, wholly or partially.

APPLICANT. A person submitting an application to the PC, BZA, or the Administrator for action or permits that would affect the subject real estate.

APPROACH SURFACE. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this UDO. The perimeter of the approach surface coincides with perimeter of the approach zone.

ARCADE. A primarily outdoor area or open structure, open to the public that contains coin-operated games, rides, shows, and similar entertainment facilities and devices.

AUDITOR. The Auditor for the Dubois County.

AUTOMOBILE. A self-propelled, free-moving vehicle, with four (4) wheels, usually used to transport not more than six (6) passengers and licensed by the appropriate state agency as a passenger vehicle.

AUTOMOTIVE REPAIR. Business that provides service or repair to vehicles. All service must occur within an enclosed structure or not be visible from any public right-of-way.

BAR. See TAVERN.

BED AND BREAKFAST. With regard to *IC 16-41-31-1*, an operator occupied residence that meets the following conditions, and does not include hotels, motels, boarding houses, or food service establishments:

- Provides sleeping accommodations to the public for a fee;
- Has not more than fourteen (14) guest rooms;
- Provides breakfast to the guests as part of the fee;
- Provides sleep accommodations for not more than thirty (30) consecutive days to a particular guest.

BERM. A mound of earth or the act of pushing earth into a mound.

BLOCK. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

BREWERY/WINERY. A licensed building or property whose primary purpose is to produce and sell alcoholic beverages for distribution and may include accessory commercial facilities such as a tasting room, restaurant, and event facilities.

BUFFERYARD. A unit of yard together with the planting thereon required to separate land uses from each other and mitigate the impact that a use may have on an adjacent use.

BUILDING INSPECTOR. The Administrator or their designee who is empowered to review, approve, and inspect ILPs and LAPs concerning the enforcement of the applicable building codes and the regulations established by this UDO.

BUILDING LINE. The line that establishes the minimum permitted distance on a parcel between the front line of a structure and the right-of-way line.

BUSINESS. The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

BZA. The Board of Zoning Appeals for the jurisdiction. An officially constituted body whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of the zoning provisions of this UDO.

CAMPGROUND. A parcel upon which two (2) or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes, whether granted gratuitously or by a rental fee.

CAMPSITE. A piece of land, the location, shape and size of which have been established in an approved recreational vehicle park and campground plan, to be rented for occupancy by a tent or recreational vehicle.

CAMPING UNIT. Any tent, trailer, cabin, lean-to, RV, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

CARGO SHIPPING CONTAINER. A container intended for multi-modal transportation via sea-going vessel, train, and truck trailer. These containers are self-contained without axles or wheels.

CEMETERY. A parcel used for the burial of the dead (human or animal) and dedicated for cemetery purposes, including columbarium, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

CHECKPOINT AGENCY. A committee that, because of their specialized knowledge and experience in their field of expertise, may review the technical aspects of a project and assist the Administrator, PC, and BZA by providing technical and expert advice with regard to proposed development within the jurisdiction. Checkpoint agencies may include the Administrator, City Engineer, County Health Department, Fire Department, Water Utility, Sewer Utility, public school district(s), and others.

CHILD CARE CENTER. With regard to *IC 12-17.2*, a non-residential structure where at least one (1) child receives child care from a provider:

- 1) While unattended by a parent, legal guardian, or custodian;
- 2) For regular compensation; and
- 3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive calendar days per year, excluding intervening Saturdays, Sundays, and holidays.

A child care center shall not be considered a home occupation.

CHILD CARE HOME. With regard to *IC 12-17.2*, a residential structure in which at least six (6) children (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 four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive calendar days per year, excluding intervening Saturdays, Sundays, and holidays.

This definition includes Class I Child Care Homes that serve any combination of full-time and part-time children under the age of seven (7) but not to exceed twelve (12) children at any one time; and Class II Child Care Homes that serve more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children under the age of seven (7) at any one time. A child care home shall not be considered a home occupation.

CHURCH. A structure, together with its accessory structures and uses, where persons regularly assemble for religious purposes and related social events and which structures, together with accessory structures and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

CLINIC. A structure where patients are admitted for examination and treatment on an outpatient basis by physicians, dentists, other medical personnel, psychologists, or social workers and where such examination and treatment require a stay of less than twenty-four (24) hours.

CLUB. A structure or portion thereof or premises owned or operated by a person or group for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests excluding adult or sexually oriented activities. This does not include any use or activity rendering a service usually and ordinarily carried out as a business including restaurants or food service.

COLLOCATION. The placement or installation of wireless facilities on existing structures that include a wireless facility or wireless support structure, including water towers, and other structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

COMMERCIAL MESSAGE. Any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

COMMITMENT. A covenant concerning the use or development of a parcel of real property which is made in writing by the owner of that parcel, either voluntarily or in accordance with an order or request of the PC, BZA, or the appropriate legislative body.

COMMON AREA. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents of the development and their guests and that may include such complementary structures and improvements as are necessary and appropriate.

COMPREHENSIVE PLAN. The *Comprehensive Plan* for the jurisdiction as approved by the legislative body under *IC 36-7-4-500* series and as amended from time to time.

CONDOMINIUM. A structure, or group of structures, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis and subject to *IC 32-1-6*.

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO). As defined under *IC 11-2-38.3*, a large CFO that requires a National Pollutant Discharge Elimination System (NPDES) for discharges or potential discharges of water contamination exceeds the animal threshold numbers below:

- 1) Seven hundred (700) mature dairy cows
- 2) One thousand (1,000) veal calves;
- 3) One thousand (1,000) cattle other than mature dairy cows
- 4) Two thousand five hundred (2,500) swine each weighing 55 pounds or more;
- 5) Ten thousand (10,000) swine each weighing less than 55 pounds;
- 6) Five hundred (500) horses;
- 7) Ten thousand (10,000) sheep or lambs;
- 8) Fifty-five thousand (55,000) turkeys;
- 9) Thirty thousand (30,000) laying hens or broilers with a liquid manure handling system;
- 10) One hundred twenty-five thousand (125,000) broilers with a solid manure handling system;
- 11) Eighty-two thousand (82,000) laying hens with a solid manure handling system;
- 12) Thirty thousand (30,000) ducks with a solid manure handling system;
- 13) Five thousand (5,000) ducks with a liquid manure handling system.

CONFINED FEEDING. As defined under *IC 13-11-2-39*, the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:

- 1) Animals are confined, fed, and maintained for at least forty-five (45) days during any twelve (12) month period; and
- 2) ground cover or vegetation is not sustained over at least fifty percent (50%) of the animal confinement area.

The term does not include the following:

- 1) A livestock market:
 - a) where animals are assembled from at least two (2) sources to be publicly auctioned or privately sold on a commission basis; and
 - b) that is under state or federal supervision.
- 2) A livestock sale barn or auction market where animals are kept for not more than ten (10) days.

CONFINED FEEDING OPERATION (CFO). As defined under *IC 13-11-2-40*,

- 1) any confined feeding of:
 - a) at least three hundred (300) cattle;
 - b) at least six hundred (600) swine or sheep;
 - c) at least thirty thousand (30,000) fowl; or
 - d) at least five hundred (500) horses.
- 2) any animal feeding operation electing to be subject to *IC 13-18-10*; or
- 3) any animal feeding operation that is causing a violation of:
 - a) water pollution control laws;
 - b) any rules of the water pollution control board, or
 - c) *IC 13-18-10*.

COUNTY. Dubois County, Indiana.

COVENANT. A restriction on the use of a parcel, usually set forth in the deed. Covenants are binding on subsequent owners and may run for specific periods of time.

DAY, BUSINESS. As defined in *IC 1-1-9-1*, a day other than a Saturday, Sunday, or a legal holiday.

DAY, CALENDAR. Any day of the week, including weekends.

DEED. A legal document conveying ownership of real property.

DENSITY. The number of dwelling units per unit of land.

DEVELOPER. Any person engaged in developing a lot, group of lots, structures, or group of structures thereon for use or occupancy.

DEVELOPMENT PLAN. Approval granted by the Administrator (or the PC) in accordance with *IC 36-7-4-1400* series for a specific plan for the development of a parcel that:

- 1) Includes a site plan;
- 2) Satisfies the development requirements specified in the UDO regulating the development; and
- 3) Contains the plan documentation and supporting information required by the UDO regulating development.

DRAINAGE PLAN. The proposed drainage system designed to manage the amount and rate of the stormwater runoff from a site as well as the quality of the runoff discharged from the site.

DRIVEWAY. A private access drive to a street or highway for a single residential parcel.

DRIVEWAY, SHARED. A private driveway serving two (2) to five (5) residential parcels and includes a written and recorded road maintenance agreement.

DUMPSTER. An exterior waste container designed to be mechanically lifted by and emptied into or carted away by a collection vehicle.

DUPLEX. See DWELLING, TWO-FAMILY.

DWELLING. A structure, or part of a structure, that is used exclusively for human habitation, but not including a hotel, motel, lodging house, boarding house, or bed and breakfast as defined in this UDO.

DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family and its household employees, including provisions for living, eating, sleeping and cooking. The term shall include manufactured homes but shall not include RVs.

DWELLING, ACCESSORY. An attached or detached dwelling unit that is smaller than the existing single-family structure and provides complete independent living facilities for one (1) or more persons. An accessory dwelling unit provides permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the primary single-family dwelling unit.

DWELLING, MULTI-FAMILY. A dwelling designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A dwelling containing one (1) dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

DWELLING, TWO-FAMILY. A dwelling on a single parcel containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extended from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

EASEMENT. A grant of one (1) or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

EASEMENT, UTILITY. The right-of-way acquired by a utility or governmental agency to locate utilities, including all types of pipelines, telephone and electric cables, and towers.

ESTABLISHMENT OF A BUSINESS. Any of the following:

- 1) The opening or commencement of any use as a new business;
- 2) The conversion of an existing business to any other business;
- 3) The addition of any business other than the existing business; or
- 4) The relocation of any business.

EXOTIC ANIMAL. A rare or unusual animal or game, of a non-domesticated species, and not commonly thought of as a pet. Examples of exotic animals include, but are not limited to, large cats, coyotes, wolves, bears, primates, elephants, and poisonous reptiles.

FALL ZONE. The minimum distance from the base of any tower to any property line, road, dwelling, business, institution, or public recreational area.

FARM. A parcel used for agricultural activities.

FARM, HOBBY. A small-scale farm, including crops and/or the keeping of farm animals or livestock that is primarily for pleasure and is not a business venture or a primary source of income for the owner.

FARMERS MARKET. The seasonal selling or offering for sale at retail of vegetables or produce, animal products (not including live animals), flowers, orchard products, and similar non-animal agricultural products, occurring in a predesignated area, where the vendors are individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

FENCE. An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FENCE, SOLID. A fence constructed of a substantial material, such as wood or vinyl that prevents viewing from one side to the other. For purposes of this UDO, a chain link fence with slat inserts or a shadowbox fence is not considered a solid fence.

FLOOR AREA, GROSS. The sum of the gross horizontal areas of all enclosed floors of a structure, including cellars, Basements, mezzanines, penthouses, corridors, and lobbies from the exterior walls, or from the centerline of a common wall separating two (2) buildings, but excluding any space with a floor-to-ceiling height of less than six and a half (6.5) feet.

FOUNDATION. The supporting member of a wall or structure below or at ground level and includes footings.

FRONTAGE. That side of a parcel that abuts and has direct access to a dedicated street.

FRONTAGE STREET. A street that is parallel to and adjacent to a thoroughfare and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the thoroughfare so that it is not impeded by direct driveway access from a large number of abutting properties.

FUNERAL HOME. A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

GARAGE SALE. The sale or offering for sale to the general public of items of personal property by the owner or tenant of an improved residential lot or in a residential district, whether within or outside any building, occurring for no more than three (3) consecutive days and a maximum of four (4) times in a calendar year.

GARAGE, PARKING. Any garage, other than private garage, for the parking of vehicles.

GARAGE, PRIVATE. An accessory structure that is incidental to a primary structure and that is used for the parking and storage of vehicles owned and operated by the residents or occupants thereof and that is not a separate commercial enterprise available to the general public.

GRADE. Defined as:

- 1) The average elevation of the land around a building;
- 2) The percent of rise or descent of a sloping surface.

GRADE, FINISHED. The final elevation of the average ground level adjoining a building at all exterior walls after development.

GROUND FLOOR AREA. The sum in square feet, at grade, computed from the outside dimensions of the ground floor of the structure. It does not include garage area, crawl space, attic area, porches, patios, elevator shafts, display windows, etc.

GROUP HOME. A non-profit or for-profit group home regulated under *IC 31-27* for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

GUARANTEE. Cash, letters of credit, bonds, or similar financial instruments deposited with the municipality to ensure that required improvements will be constructed or installed.

HARDSHIP. A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this UDO, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this UDO; any result of land division requiring variance from the development standards of this UDO in order to render that site buildable.

HAZARD TO AIR NAVIGATION. An obstruction determined to have a substantial adverse effect on the safe and effective utilization of the navigable airspace.

HAZARDOUS WASTE. A waste or combination of wastes that, because of its quantity; concentration; or physical, chemical, and/or infectious characteristics; may 1) cause or significantly contribute to an increase in mortality or increase in serious irreversible, or incapacitating reversible illness: or 2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HISTORIC STRUCTURE. Any structure that is:

- 1) Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or determined by the United States Secretary of the Interior as eligible for individual listing on the National Register; or
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district; or
- 3) Listed on or determined eligible for the National Register of Historic Places as contributing to the significance of a historic district; or
- 4) Individually listed on the Indiana Register of Historic Sites and Structures; or
- 5) Located in an area designated as a local historic district.

HOBBY FARM. See FARM, HOBBY.

HOME OCCUPATION. Any activity carried out for gain by a resident and conducted in the resident's dwelling unit.

HOMEOWNERS ASSOCIATION. A community association, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common area or facilities.

HOSPITAL. An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

HOTEL. A facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

HOUSEHOLD PET. An animal residing within a dwelling unit, not raised for the production of products or for sale, and limited to dogs, cats, rabbits, hamsters, gerbils, and guinea pigs.

HYBRID HOME. Also known as an “on-frame modular home,” a hybrid home has a permanent steel frame underneath. Unlike a manufactured home, a hybrid home is similar to a modular home and is built to state and local building codes instead of the Federal HUD Code.

ILP. An improvement location permit which is written permission issued by the Administrator for the construction, repair, alteration, or addition to a structure that complies with the applicable building codes and the regulations established by this UDO. This may also be known as a building permit.

IMPERVIOUS SURFACE. A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

INDUSTRIAL, HEAVY. Industrial uses that meet the performance standards, bulk controls, and other requirements of this UDO and where said uses are performed either within enclosed structures or outside of enclosed structures.

INDUSTRIAL, LIGHT. Industrial uses that meet the performance standards, bulk controls, and other requirements of this UDO and where said uses are performed entirely within enclosed structures and for which all loading and unloading facilities are enclosed.

INFRASTRUCTURE. Facilities and services needed to sustain all land use activities.

INOPERATIVE VEHICLE. Any vehicle at present inoperable, but capable of being repaired to place it in operating condition without exceeding its present estimated value and repair cost.

INSTITUTIONAL USE. A nonprofit, religious, or public use, such as a religious structure, library, public or private school, hospital, or government-owned or government-operated structure, or parcel used for public purpose.

IRREVOCABLE. Not able to be changed, reversed, or recovered.

JUNK. Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of, or for other use or disposition. Examples of junk include: unregistered and inoperative vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, machinery, brush, wood, and lumber.

JUNKYARD. Any lot, land, parcel, structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

JURISDICTION. The City of Huntingburg, Indiana and the area of extended jurisdiction.

KENNEL, PRIVATE. The keeping, breeding, raising, showing, or training of four (4) or more dogs over six (6) months of age for personal enjoyment of the owner or occupant of the property.

KENNEL, PUBLIC. An establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, and/or sold for a fee or compensation.

LAND ALTERATION PERMIT (LAP). Written permission issued by the Administrator to begin site work in preparation for an approved development plan or an approved subdivision, prior to the issuance of a building permit. This may also be known as a Site Improvement Permit.

LANDFILL. A disposal site in which refuse and earth, or other suitable cover material, are deposited and compacted in alternating layers of specified depth in accordance with an approved plan and regulated by the applicable sections of 40 CFR.

LANDFILL, SANITARY. A solid waste land disposal facility designed to accommodate general types of solid waste as elsewhere defined in this ordinance, excluding waste regulated by 329 IAC 3, and operated by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with cover material at the end of each working day. This definition does not include a clean fill site, or a construction/demolition site, which are defined elsewhere in the ordinance.

LEASE UNIT BOUNDARY. The boundary around property leased for purposes of a wind energy system, including adjacent parcels to the parcel on which the wind energy system tower or equipment is located. For purposes of setback, the lease unit boundary shall not cross road right-of-ways.

LEGISLATIVE BODY. The City Council for Huntingburg, Indiana.

LETTER OF CREDIT. A letter issued by a bank permitting the person or agency named in it to draw a certain amount of money from another specified bank, usually accepted in the same manner a cash or bonds to ensure the installation or construction of required improvements.

LIGHTING PLAN. A plan showing the location, height above grade, type of illumination, type of fixture, the source lumens, and the luminous area for each source of light proposed.

LOADING AREA. An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

LOT. A designated parcel of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

LOT AREA. The total area within the lot lines of a parcel, excluding any rights-of-way.

LOT COVERAGE. That part of the parcel that is covered by impervious surfaces.

LOT DEPTH. The average horizontal distance between the front lot line and rear lot line.

LOT LINE. A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT. Any property line separating the lot from a street, or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line. A lot bounded by only three (3) lot lines will not have a rear lot line.

LOT LINE, SIDE. Any lot boundary-line other than a front lot line or rear lot line.

LOT OF RECORD. A lot that exists as shown or described on a plat or deed in the records of the County Recorder.

LOT WIDTH. The horizontal distance between side lot lines of a lot, measured at the required front setback line.

LOT, CORNER. A lot or parcel of land at the junction of or abutting two (2) or more intersecting streets. Corner lots have two (2) front yard setbacks and two (2) SIDE yard setbacks.

LOT, THROUGH. A parcel that fronts on two (2) parallel streets or that fronts on two (2) streets that do not intersect at the boundaries of the parcel.

MANUFACTURED HOME. Formerly known as a mobile home, a manufactured home is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. A manufactured home was constructed after June 15, 1976, and is defined in *IC 16-41-27-3.5*, as a structure, transportable in one (1) or more sections, which, in traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and compiles with the standards established under the cited Federal chapter; and except that such term shall not include any self-propelled RV.

MANUFACTURED HOME PARK. As defined in *IC 16-41-27-5*, a manufactured home community on one (1) or more parcels of land that:

- 1) Contain individual lots that are leased or otherwise contracted;
- 2) Are owned, operated, or under the control of one (1) or more persons; and 3) on which a total of at least five (5) manufactured homes are located for the purpose of being occupied as principle residences.

The term includes the following:

- 1) All real and personal property used in the operation of the manufactured home community;
- 2) A single parcel of land;
- 3) Contiguous but separately owned parcels of land that are jointly operated;
- 4) Parcels of land jointly operated and connected by a private street;
- 5) One (1) or more parcels of land, if at least two (2) of the manufactured homes or manufactured homes located on the land are accessible from a private street or interconnected private streets, served by a common water distribution system, or served by a common sewer system or SEPTIC system.

MANUFACTURED HOUSING, CONSTRUCTION AND SAFETY STANDARDS CODES. Title VI of the 1974 Housing and Community Development Act (42 USC 5401 et sequential), as amended (previously known as the Federal manufactured home Construction and Safety act), rules and regulations adopted there under (including information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of said code by the Indiana Department of Fire and Safety, all of which became effective for manufactured home construction on June 15, 1976.

MANUFACTURING, HEAVY. An establishment engaged in basic processing and manufacturing of materials or products predominately from extracted or raw materials into new products, including assembling, converting, altering, finishing of component parts, or the manufacture of such products, and the storage and/or blending of large volumes of materials of a heavy nature, including but not limited to metal, concrete, plastic, petrochemicals, and heavy machinery. These uses can include highly flammable, toxic, or explosive materials needed in the process. Heavy manufacturing uses processes that that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare or health and safety. Uses can include concrete batch plants; automobile, truck, or tire assembly; ammonia or chlorine manufacturing; metal casting or foundries; grain milling or processing; metal or metal ore production; refining, smelting, or alloying; boat, pool, and spa manufacturing; glass manufacturing; paper manufacturing; wood or lumber processing.

MANUFACTURING, LIGHT. An establishment engaged in the transformation of finished products or parts into new products, including assembling, converting, altering, and finishing of component parts; or the manufacturer of products and the blending of materials of a light nature, including paper, wood, or food products and light machinery. Light manufacturing is limited to manufacturing items from predominantly previously prepared or finished products or parts, including, electronic goods, food and bakery products; nonalcoholic beverages; paper imprinting and publishing; household appliances assembly; and clothing apparel. All activities must take place within an enclosed building and does not include any use that produces noise, fumes, smoke, odors, glare, or health and safety concerns outside of the building or lot where such processes occur. Light manufacturing does not include industrial processing.

MARKER or MONUMENT. A pipe, rod, nail, or any other object which is intended to be a permanent survey point for record purposes.

METES AND BOUNDS. A method of describing the boundaries of land by distances (metes) and directions (bounds) from a known point of reference.

MINERAL EXTRACTION. Any and all quarrying or mining of any and all natural resources, including, but not limited to, coal, rock, stone, limestone, oil, clay and any other mineral where extraction requires the removal or movement of earth.

MOBILE HOME. Now known as a manufactured home, a mobile home was constructed prior to June 15, 1976 and even with modifications, does not meet the HUD standards and cannot be accepted as compliant with the HUD Code. A mobile home is defined in *IC 16-41-27-4* as a dwelling, including the equipment sold that is a dwelling, that is:

- 1) Factory assembled;
- 2) Transportable;
- 3) Intended for year-round occupancy;
- 4) Designed for transportation on its own chassis; and
- 5) Was manufactured before the effective date of the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).

MODULAR HOME. A unit which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process, designed for occupancy by one family unit. Every module shall bear the Indiana Modular seal certifying that it was built in compliance with the Rules of the Indiana Fire Prevention and Building Safety Commission. A modular home is placed on a permanent foundation and is built to the Indiana One- and Two-Family Dwelling Code.

MURAL. A picture, scene, diagram, or graphic applied on the exterior of a building, wall, or structure generally for the purposes of decoration or artistic expression, including but not limited to painting, fresco, or mosaic which may display as artwork or depicts a scene or event of natural, social, cultural, or historic significance. Murals printed on a textile or vinyl and installed on a frame or wrapping the exterior of a building are also considered murals. A mural that does not function as a sign is not regulated by this ordinance.

NONCONFORMING LOT. A parcel, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the UDO, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCONFORMING STRUCTURE. A structure, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the UDO but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the UDO.

NONCONFORMING USE. A use or activity that was lawful prior to the adoption, revision, or amendment of the UDO but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the district.

NUISANCE. A condition or situation that results in an interference with the enjoyment and use of property.

OPEN SPACE. Common area that provides light and air and is designed for environmental, scenic, or recreational purposes. Cropland, forested areas, or pastureland qualifies as open space. Open space may include turf areas, decorative plantings, walkways, active and passive recreation areas, playgrounds, and wooded areas. Open space shall not include areas devoted to public or private streets or rights-of-way.

OUTDOOR STORAGE. The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

OVERLAY DISTRICT. A zoning district that encompasses one (1) or more underlying zones and that imposes additional requirements above that required by the underlying zone.

PARCEL. See LOT.

PARCEL, PARENT. The parcel of land for which approval is sought to subdivide it into at least two (2) parcels, or other divisions of land for sale, development or lease.

PARKING AREA. Any public or private area, under or outside of a structure, designed and used for parking and maneuvering motor vehicles including garages, private driveways, and legally designated areas of public streets.

PARKING LOT. An off-street, ground-level open area that provides temporary storage for motor vehicles.

PARKING SPACE. A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle.

PC. The Advisory Plan Commission for the jurisdiction.

PERMANENT. For purposes of sign standards and regulation, a building, foundation, or support that is designed, planned, and constructed for long-term use and intended to remain at one location.

PLACE OF WORSHIP. Defined as:

- 1) A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs;
- 2) A special-purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

PLANT NURSERY. Land, structures, or a combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail or wholesale sale on the premises including products used for gardening and landscaping.

PLAT. A map or chart indicating the subdivision or re-plat of land intended to be filed for record.

PLAT, PRIMARY. A drawing indicating the subdivision or re-subdivision of land, prepared in accordance with the requirements of this UDO and submitted by the subdivider as part of the subdivision plan.

PLAT, SECONDARY. A map indicating the subdivision of land, intended to be recorded and prepared in accordance with the requirements of this UDO.

POND. A body of standing water having a depth greater than two (2) feet and an area of 225 square feet. For the purposes of this UDO, a pond and lake are considered to be the same.

PORTABLE STORAGE CONTAINER. A self-storage container which is delivered to and retrieved from a home or business for off-site or on-site storage. Portable On Demand Storage (PODS) are a familiar trade name for such containers. These containers are not on a chassis and do not have axles or wheels.

PRODUCE STAND. A temporary activity where a single vendor/property owner sells agricultural products (not including live animals) that are produced on the same property in an area that does not exceed two hundred (200) square feet.

PROFESSIONAL/BUSINESS OFFICES. Uses whose primary purpose is professional and/or business offices, and limited customers are accessing the business, including accounting/tax, advertising, architectural/engineering, attorney/legal, communication/marketing agency, computer system repair, insurance agency, investment firm, professional consulting, , real estate agency, trade association office, travel agency, and similar uses not defined elsewhere in this UDO. This use does not include Sexually-Oriented Businesses, Service-Oriented Retail, General Retail, or Healthcare/Medical Offices.

PUBLIC AREA. Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools and other structures; and other places where the public is directly or indirectly invited to visit or permitted to congregate.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with public given an opportunity to talk and participate.

PUBLIC IMPROVEMENT. Any improvement, facility, or service, together with its associated site or right-of-way, necessary to provide transportation, drainage, utilities, or similar essential services and facilities and that is usually owned and operated by a governmental agency.

PUBLIC MEETING. A meeting announced and advertised in advance and open to the public, where the public is not required to be given an opportunity to talk and participate.

PUBLIC SAFETY SERVICES. Those services including, but not limited to Police, Fire, EMS, and Public Works departments.

QUALITY OF LIFE. The attributes or amenities that combine to make an area a desirable place to live.

RECREATION AREA. An area designated, designed, and equipped for the conduct of sports and leisure-time activities.

RECREATIONAL VEHICLE (RV). A vehicular-type portable structure without a permanent foundation that can be towed, hauled, or driven and is designed as a temporary living accommodation for recreational and camping purposes. A recreational vehicle shall not be used as a primary residence or for permanent occupancy.

RECYCLING. A process by which materials that would otherwise become solid waste are collected, separated or processed, and converted into materials or products for reuse or sale.

REDEVELOPMENT. The removal and replacement, rehabilitation, or adaptive reuse of an existing structure or structures, or of land from which previous improvements have been removed.

REGULARLY. The consistent and repeated doing of the act so described.

RE-PLAT. Defined as:

- 1) The further division of lots or the relocation of lot lines of any lot or lots within a subdivision previously approved and recorded according to law;
- 2) The alteration of any streets or rights-of-way or the establishment of any new streets or rights-of way within any subdivision made and approved or recorded according to law, but not including conveyances made so as to combine existing lots by deed or other instrument.

RESTAURANT. Establishment that provides food service with the majority of sales being food (versus alcohol) and is open to all ages, and can include drive-thru and/or dine-in services.

RETAIL, GENERAL. Uses whose primary purpose is the sale of goods and merchandise, including antique stores, art galleries, art supply stores (including framing services), auction houses, book/magazine/stationary/newspaper stores/stands, billiard/arcade room, bowling alley, bakery (retail), cameras and photography supply stores, car wash, candy store, clothing/apparel/shoes stores, collectible stores (cards, coins, comics, stamps, etc.), consignment/thrift store, convenience stores/gas stations, department stores, drug stores/pharmacies, electronic/appliance store, fabrics and sewing supply stores, floor covering stores, farm stand/farmers market, furniture store, florists, gift store, greenhouse/nursery, grocery/meat/fish market, hardware stores, hobby shop, jewelry stores, luggage and leather goods stores, music/musical instrument stores, self-storage (indoor), office supply store, oil change/tire change facility, optic stores (no medical exams), orthopedic supply stores, paint store, pet store, travel center, sporting goods and recreation equipment stores, bicycle and kayak rentals/stores, religious good stores, specialty shops, storage units, toys stores, variety stores, video/game store, and similar uses not defined elsewhere in this UDO. This use does not

include Sexually-Oriented Businesses, Professional/Business Offices, Service-Oriented Retail, or Healthcare/Medical Offices, Auto Sales (New & Used); Auto Repair; Boat/Motorcycle/Recreational Vehicle Sales & Service; Farm Equipment Sales & Service.

RETAIL, SERVICE-ORIENTED. Uses whose primary purpose is to provide a retail service rather than goods and merchandise (non-sexually oriented business), and the majority of people accessing the business are customers rather than employees, including beauty/barber shop, catering (off-site), shoe repair, tailoring/dressmaking, dry cleaning/laundry receiving station (storefront only), employment services, print shop/copy shop, bank/credit union/ATM, dance/gymnastics/martial arts studio, fitness center/gym, art studio, laundromat, nail/tanning salon, photography studio, educational support services, restaurant (see RESTAURANT) and similar uses not defined elsewhere in this UDO. This use does not include Sexually-Oriented Businesses, Professional/Business Offices, General Retail, or Healthcare/Medical Offices, Childcare center, childcare home, children's home, daycare facility, adult day care facility, hotels/motels, short-term rentals, or bed and breakfasts.

REZONE. See ZONE MAP CHANGE.

RIGHT-OF-WAY. Defined as:

- 1) A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, or other similar uses;
- 2) Generally, the right of one to pass over the property of another.

RIGHT-TO-FARM. As established in *IC 32-30-6*, public policy designed to protect farmers against private nuisance suits and unnecessary constraints on essential agricultural management practices, if these practices are consistent with federal and state law and are not a threat to the public health and safety.

ROAD, PUBLIC. Any vehicular way that is:

- 1) An existing state, county, or municipal roadway;
- 2) Shown upon a plat approved pursuant to law;
- 3) Approved by other official action;
- 4) Shown on a plat duly filed and recorded in the Records Office; or
- 5) Shown on the official map or adopted master plan.

It includes the land between the street lines, whether improved or unimproved.

ROAD, PRIVATE. A private roadway that serves more than six (6) residential parcels pursuant to access easements and written and recorded maintenance agreements.

ROADSIDE PRODUCE STAND. A temporary structure designed or used for the seasonal display or sale of agriculture-related products.

ROTOR. An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

RULES AND PROCEDURES. The principles and regulations governing the conduct, action, procedures, arrangements, etc. of the PC and BZA.

RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

RV PARK. See CAMPGROUND.

SCHOOL. Any building or part thereof that is designed, constructed, or used for education or instruction in any branch of knowledge.

SEPTIC SYSTEM. An underground system with a septic tank used for the decomposition of domestic wastes.

SETBACK. The distance between the foundation of the structure and any lot line.

SETBACK LINE. The line that is the required minimum distance from any lot line and that establishes the area within which a primary structure or accessory structure may be erected or placed.

SEWAGE TREATMENT PLANT, CENTRALIZED. Any sewage treatment facility that requires an NPDES permit from the Indiana Department of Environmental Management (IDEM) to discharge treated effluent.

SEWER. Any pipe or conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants or receiving water bodies.

SEWER AND WATER SYSTEM, PUBLIC. Any system other than an individual septic tank, tile field, or individual well, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment, and disposal of wastes and the furnishing of potable water.

SEWER, SANITARY. A system of pipes that carry domestic or commercial sanitary sewage and into which storm, surface, and ground waters are not intentionally admitted.

SEXUALLY ORIENTED BUSINESS. An adult entertainment or service business that is part of the sex industry and is a site of erotic performance, erotic paraphernalia sales, and/or other sexually-oriented places. Sexually oriented businesses may include an adult bookstore, adult cabaret, adult mini motion picture theater, adult motion picture theater, adult service establishment, semi-nude model studio, sexual device shop, or a sexual encounter center as defined in this ordinance. The term "sexually oriented business" shall also include adult drive-in theater, adult live entertainment arcade, and adult motion picture arcade.

SHADOW FLICKER. Alternating changes in light intensity caused by the moving blades of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

SHORT-TERM RENTAL. In accordance with *IC 36-1-24-6*, the rental of a single-family home, an accessory dwelling, a duplex, a multi-family dwelling, or a condominium for terms of less than thirty (30) days at a time through a short-term rental platform.

SHORT-TERM RENTAL PLATFORM. In accordance with *IC 36-1-24-7*, an entity that provides an online platform through which unaffiliated parties offer to rent a short-term rental to an occupant and collects fees for the rental from the occupant.

SIDEWALK. A paved, surfaced, or leveled area, paralleling and usually separated from the traveled way, used as a pedestrian walkway.

SIGHT TRIANGLE. A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

SIGN. Any name, number, symbol, identification, description, display, graphic, or illustration which is affixed to, painted on, or is represented directly or indirectly upon a structure or parcel, visible from any public right-of-way which directs attention to an object, product, place, activity, person, institution, organization, or business. For purposes of this ordinance, signs are further categorized into two (2) types: Permanent Signs and Temporary Signs.

- **Permanent Sign.** A sign permanently attached to a permanent foundation or a permanent support. For purposes of this UDO, types of permanent signs include:
 - **Awning Sign:** A sign that is attached to an awning or other fabric that serves as a structural protective cover over a window.
 - **Canopy Sign:** A sign that is attached to a canopy or other fabric that serves as a structural protective cover over a door or outdoor service area.
 - **Directional Sign:** A sign denoting locations for/prohibiting ingress or egress that do not contain advertising.
 - **Monument Sign:** A sign in which the bottom edge of the sign is permanently affixed to the ground by masonry, stone, block, brick, EIFS, concrete, or other similar hard, aggregate materials.
 - **Pole Sign:** A sign anchored directly to the ground or supported by one (1) or more posts, columns, or other vertical structures or supports, and not attached to or dependent for support from any building.
 - **Billboard Sign:** A type of large pole sign, typically greater than four hundred (400) square feet.
 - **Projecting Sign:** A sign that is suspended from the underside of a horizontal plane/structure surface and is supported by such plane/surface.
 - **Roof Sign:** A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top edge or roof line of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
 - **Wall Sign:** Any sign attached to or erected against the wall façade, or exterior of a structure with the exposed display surface of the sign in a plane parallel (or relatively parallel) to the plane of the structure.
 - **Mural Sign:** A type of wall sign in the form of a mural painted on the side of a building, wall, or structure that displays a brand logo, graphic, or type with the intent to sell a product, good or service.
 - **Window:** Any sign directly attached to the window of a structure or erected on the inside or outside of the window, which at the determination of the Administrator, is legible from any part of a public right-of-way or adjacent property. For purposes of this window sign definition, a “window” is defined as an opening in the wall or roof of a structure that is fitted with glass or other transparent material in a frame to admit light or air and to allow people inside to see out.
- **Temporary Sign.** A sign not fixed to a permanent foundation or support. For purposes of this UDO, types of temporary signs include:

- **Banner Sign:** A sign made of flexible materials and supported by any combination of staples, tape, wires, ropes, strings, poles, posts or rods or other materials that are not built as a permanent foundation for the sign.
- **Inflatable Sign:** Any display capable of being expanded by air or other gas, with or without movement.
- **Portable Sign:** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; benches; menu or sandwich board signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business.
 - **Bench Sign:** A type of portable sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair.
- **Site Sign:** A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse.
- **Swing Sign:** A sign supported by the extended arm of a single post.
- **Yard Sign:** Small signs, typically under waist height that are usually supported by metal wire or small stakes driven directly into the ground.
- **Wave Banner Sign:** Any fabric or other flexible material attached to or designed to be flown from a pole or similar device designed and fashioned in such a manner as to move when subjected to wind pressure.
- **Other Sign.** Other signs that require definitions:
 - **Animated:** Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an “electronic sign,” an animated sign produces the illusion of movement by means of electronic, electrical, or electro-mechanical input and/or illumination capable of simulating movement through using the characteristics of one (1) or both of the following classifications:
 - Flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds;
 - Patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.
 - **Community Wayfinding Sign:** A permanent or temporary sign erected by a political jurisdiction that displays necessary identification information for the convenience, direction, and safety of residents and visitors. This includes: Community events, festivals, and announcements; structures that provide identification, functional, and/or directional information; and Publicly-erected structures found along highways and interstates that typically display information for lodging, gasoline stations, and restaurants.
 - **Electronic Variable Message Sign (EVMS):** A sign, or component of a sign, such as an electrically or electronically controlled message center, where the characters, letters, or

illustrations can be changed or rearranged either in the field, or from a remote location, without physically altering the face or the surface of the sign.

- **Vehicle Sign:** A sign that is permanently affixed to the body of, an integral part of, or a fixture of a motor vehicle that is parked or left standing so that it is visible from a public street for a period of more than seventy-two (72) continuous hours for the intent of being used as advertisement. For the purpose of this definition, "permanently affixed" shall mean any of the following:
 - Painted directly on the body of a vehicle;
 - Applied as a decal on the body of a vehicle; and/or
 - Placed in a location on the body of the vehicle that was specifically designed by a vehicle manufacturer.

SIGN AREA. The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure.

SIGN FACE. The surface intended for the display of information on the sign.

SIGN HEIGHT ABOVE GROUND. The vertical measurement from the ground to the top of the sign. The height of all signs shall be measured from the established grade line at the pole or base of the sign structure to the highest point of the sign or its frame/support.

SIGN STRUCTURE. The supporting unit of a sign face, including but not limited to frames, braces cabinets, and poles.

SIGN, ABANDONED. A sign that is:

- 1) Associated with an abandoned use;
- 2) Remains after the termination of the business; and/or
- 3) On its immediate premises but not adequately maintained or repaired.

SIGN, ILLUMINATED. Any sign lighted by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.

SIGN, LEGAL NON-CONFORMING. A pre-existing, legally permitted sign, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

SITE PLAN. A plan for one or more parceled on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures; signs and lighting; berms; bufferyards, and screening devices; surrounding development; and any other information that reasonably may be required in order for an informed decision to be made by the approving authority.

SOLAR ENERGY SYSTEM. Any device or combination of devices or elements which rely upon sunlight as an energy source and is for the purpose of the collection, storage, and distribution of solar energy.

SOLAR ENERGY SYSTEM, ACCESSORY. A solar energy system which occupies three thousand (3,000) square feet of area or less, whose primary purpose is to offset part or all of the beneficiary's utility needs, and is an accessory use to the principle structure or use.

SOLAR ENERGY SYSTEM, COMMERCIAL. A solar energy system which occupies more than three thousand (3,000) square feet of area, whether a primary use or an accessory use. Also, a solar energy system facility and all associated components, whose primary purpose is to collect, store, convert, and distribute solar energy to utility companies.

SOUND PRESSURE. An average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

SPECIAL EVENT FACILITY. A facility where special events are permitted to occur generally with a use agreement between a private group or individual and the facility owner. For purposes of this definition, a special event may include a celebration, ceremony, wedding, reception, corporate function, or similar activity for the benefit of someone other than the property owner that takes place on a periodic basis, involving the gathering of individuals assembled for the common purpose of attending a special event.

SPECIAL EXCEPTION. Permission granted by the BZA in accordance with *IC 36-7-4-918.2* to allow a use, designated as being permitted by special exception in the zoning district, when it is shown that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the UDO.

STATE. The State of Indiana.

STORY. That portion of a structure between the surface of a floor and the ceiling immediately above; or if there is a floor above, the portion of a structure between the surface of any floor and the surface of the next floor above. A basement shall not be counted as a story.

STREET. See ROAD.

STREET CLASSIFICATIONS. Street classifications are determined by the Thoroughfare Plan.

STRUCTURE. A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Furthermore, any enclosed structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind.

STRUCTURE HEIGHT. The vertical distance measured from the lowest ground level adjacent to the front elevation of the building to the highest point of the roof or peak. Structure height does not include antennas, chimneys, or steeples.

STRUCTURE, ACCESSORY. A structure detached from a primary structure (not attached to the foundation of the primary structure) located on the same parcel and customarily incidental and subordinate to the primary structure or use.

STRUCTURE, AGRICULTURAL. A structure on agricultural land designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown or raised on the premises, but not including dwellings used for human occupancy.

STRUCTURE, ATTACHED. A structure which has any part of its exterior or bearing wall in common with another building or which is connected to another building by a roof.

STRUCTURE, DETACHED. A structure having no structural connection with another structure.

STRUCTURE, PORTABLE. Any structure not permanently attached to the ground or other permanent structure that is designed to be moved or transported by means of wheels or other mechanisms that are attached to the structure or the structure is mounted/placed upon.

STRUCTURE, PRIMARY. A structure in which the primary use of the lot or premises on which it is located is conducted, including a structure that is attached to such a structure in a substantial way, such as by a roof. With respect to residential uses, the primary structure shall be the main dwelling.

STRUCTURE, TEMPORARY. A structure that is erected without any foundation or footings and is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. A temporary use usually does not involve the construction or alteration of any permanent structure, although the authorization of the temporary use does not necessarily preclude such construction.

SUBDIVIDER. Any person having an interest in land that is the subject of an application for subdivision. Also, a person submitting an application for subdivision.

SUBDIVISION. The division of a lot or parcel of land into two (2) or more lots, parcels, or other divisions of land for sale, development, or lease. Subdivisions are further classified as commercial or industrial subdivision, minor residential subdivision, major residential subdivision, and conservation residential subdivision.

SUBDIVISION, COMMERCIAL or INDUSTRIAL. Approval granted by the PC in accordance with *IC 36-7-4-700* series for the subdivision of a parcel for commercial or industrial development.

SUBDIVISION, EXEMPT. Divisions of existing parcels of land that are exempt from this UDO as determined by the Administrator and outlined in **Chapter 5: Subdivision Types**.

SUBDIVISION, MAJOR RESIDENTIAL. Approval granted by the PC in accordance with *IC 36-7-4-700* series for the division of a parcel of land into six (6) or more residential lots or parcels for sale, development or lease; or requiring any new street or extension of the public facilities or the creation of any public improvements. The residual parent lot or parcel of land counts as one (1) of the subdivided lots or parcels.

SUBDIVISION, MINOR RESIDENTIAL. Approval granted by the PC in accordance with *IC 36-7-4-700* series for the division of a parcel of land into five (5) or less lots exclusively for single-family residential as outlined in **Chapter 5: Subdivision Types**.

SWIMMING POOL. A self-contained body of water at twenty-four (24) inches in depth used for recreational purposes. Such body of water may exist in a metal tank, plastic lined, or masonry structure located either above-ground or below-ground level. Swimming pools may be either public or private in use. A private pool is considered an accessory structure.

TAVERN. An establishment in which alcoholic beverages are served, primarily by the drink, where food or packaged liquors may also be served or sold.

TEMPORARY STORAGE STRUCTURE. A portable storage unit which does not have permanent foundation or footing and which includes cargo containers, portable storage containers, truck trailers, and bulk solid waste containers. Such structures shall not be considered a building.

THOROUGHFARE PLAN. The portion of the *Comprehensive Plan* which identifies the existing and proposed locations of interstate highways, primary arterials, secondary arterials, feeders, local streets, streets, and rights-of-way within the jurisdictional area, as amended from time to time under *IC 36-7-4-506*.

TRACT. See LOT.

TRUCK TERMINAL. Similar to distribution center and warehouses, truck terminals usually serve many manufacturing firms and are owned and operated by trucking companies. They usually include the area and building where trucks where trucks load and unload cargo and freight and transferred to other vehicles or modes of transportation. Freight may be stored on the site for longer periods of time, and truck terminals typically generate more truck traffic than warehouses or distribution centers.

UNIFIED DEVELOPMENT ORDINANCE (UDO). A unified development ordinance combines the jurisdiction's zoning and subdivision control ordinances into a single, legal document that is enabled by *IC 36-7-4-610* and adopted by the legislative body and which may be amended from time to time.

URBAN AREAS. Urban areas shall include: (1) All lands or lots within the limits of the incorporated boundaries of the City of Huntingburg, which shall be the actual corporate limits of the City of Huntingburg as they exist on the date of enactment of this UDO, or as they may subsequently be altered in whatever manner; (2) Any lands or lots used for residential purposes where there are eight or more residences in any ¼-mile square area; and (3) Such other lands and lots as have been, or are, planned for residential areas contiguous to the corporate boundaries of the City of Huntingburg, Indiana.

USE. The specific purpose or activity for which land and/or a structure is designated, arranged, intended, or for which it is or may be occupied or maintained.

USE, ACCESSORY. A use that:

- 1) Is clearly incidental and customarily found in connection with a primary structure or use;
- 2) Is subordinate to and serves the primary use;
- 3) Is subordinate in area, extent, or purpose to the primary use served;
- 4) Contributes to the comfort, convenience, or necessity of occupants, business, or industry of the primary use served; and
- 5) Is located on the same parcel as the primary use served.

USE, PRIMARY. The predominant use of any lot or parcel or as determined by the primary structure.

USE, TEMPORARY. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UTILITY. Defined as:

- 1) Any agency that, under public franchise or ownership, or under certificate of convenience and necessity, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service;
- 2) A closely regulated enterprise with a franchise for providing a needed service.

UTILITY, PUBLIC. As regulated by *IC 8-1-2*, every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the:

- 1) The conveyance of telegraph and telephone messages;
- 2) The production, transmission, delivery, or furnishing of heat, light, water, or power; or
- 3) Collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. The term does not include a municipality that may acquire, own, or operate any of the foregoing facilities.

VARIANCE. Permission granted by the BZA in accordance with *IC 36-7-4-918.5* to depart from specific development standards for a zoning district within this UDO.

VARIANCE OF USE. Permission granted by the BZA in accordance with *IC 36-7-4-918.4* to allow a specific use that is not otherwise permitted in a zoning district.

VEHICLE SALES/SERVICE. Uses associated with new and pre-owned passenger and commercial vehicles, trucks, trailers, motorcycles, boats, and recreational vehicles. This includes sale and leasing, incidental displays and/or storage, and service departments where service work is carried on entirely within the building.

VEHICLE, INOPERABLE. As defined by *IC 9-13-2-1*, or any vehicle that is partially disassembled, inoperable, or unlicensed, on any property in location visible from public property or adjoining private property for more than twenty (20) calendar days or on public property without being moved for three (3) calendar days. This shall not include tractors, combines, pickers, disks, plows, or other similar farm machinery that is owned by a farm operator, that is parked in areas zoned AG, and is used for parts replacement for machinery currently being used in the farming operation.

WAIVER. Permission to depart from specific development standards of the subdivision regulations and as specifically identified in the UDO.

WAREHOUSING / DISTRIBUTION. An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including trans-shipment by boat, rail, air, or motor vehicle. Uses typically breakdown large orders from a single source into smaller orders and consolidation of several orders into a single large order for distribution to several recipients. Retail sales (on-site), assembly, or product processing are not considered distribution or warehousing. This does not include truck terminal.

WIND ENERGY SYSTEM. A land use for generating power by use of wind; utilizing wind turbine generators, including the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the electric utility grid. See also onsite wind energy system and utility grid wind energy system.

WIND ENERGY SYSTEM, ON SITE. A land use for generating electric power from wind that is accessory to a legal principal use and intended to primarily serve the needs of the electric power consumer at that site.

WIND ENERGY SYSTEM, UTILITY GRID. A land use for generating electric power by use of wind at one or multiple tower locations in a community, including accessory uses such as but not limited to a SCADA tower and an electric substation. A utility grid wind energy system is designed and built to provide electric power to the electric utility grid rather than the electric power consumer on site.

WIRELESS COMMUNICATION FACILITY. Any towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions.

YARD. A space on the same parcel as the primary structure that is open, unoccupied, and unobstructed by structures, except as otherwise provided in this ordinance.

YARD, FRONT. A space extending across the full width of the parcel between any structure and the front lot line measured perpendicular to the structure at the closest point to the front lot line.

YARD, REAR. A space extending across the full width of the parcel between the primary structure and the rear lot line and measured perpendicular to the structure to the closest point of the rear lot line.

YARD, SIDE. A space extending from the front yard to the rear yard between the primary structure and the side lot line and measured perpendicular from the side lot line to the closest point of the primary structure.

ZONE MAP CHANGE. Approval granted through the PC and the legislative body in accordance with *IC 36-7-4-608* to change the zoning classification of a particular parcel.

ZONING DISTRICT. A specified zoning district within the jurisdictional area or extended jurisdiction for which uniform regulations governing the use, height, size, and intensity of use of structures and land, and open spaces around structures, are herein established.

ZONING MAP. The map or maps that are a part of the UDO and delineate the boundaries of zoning districts and any amendments thereto of the jurisdictional area of the PC.



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