

CITY OF
BATESVILLE

DEVELOPMENT CODE

batesvilleindiana.us

ADOPTED AUGUST 8, 2022

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CHAPTER 1 - GENERAL PROVISIONS

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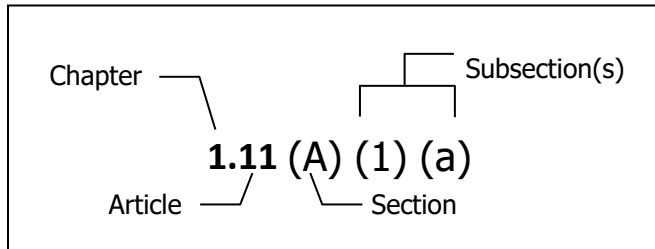
DEFINITIONS

1.1 TITLE

This Ordinance is known as the "City of Batesville Development Code," and may be cited and referred to as the "Development Code," "Dwelling Code," "Building Code," "Zoning Ordinance," "Subdivision Control Ordinance," or "Unified Development Ordinance" (referred to here as this "Ordinance").

1.2 ORDINANCE FORMAT/QUICK LINKS

Format. The structure of the text of this Ordinance is as follows:



How to Use Hyper-Linked Cross-References.

- Certain aspects of the electronic format of this document allow the user to quickly navigate the document by clicking on hyperlinks and quick access chapter tabs.
- Chapter titles in the footers will direct the user to that chapter’s table of contents.
- Article headings in the table of contents will direct the user to that article within the chapter.
- Zoning District names within this document which are colored and emphasized in italics will direct the user to the zoning district’s standards in ***CHAPTER 2: ZONING DISTRICTS.***
- In-line text cross-references to other articles within this document which are colored and emphasized will direct the user to the cross-referenced article.
- Cross-references to documents and websites outside of this document are provided for convenience only. The City does not guarantee the accuracy of these links.

1.3 AUTHORITY AND PURPOSE

- A. **Authority.** This Ordinance is adopted according to the authority of ***IC 36-7-4 et seq.*** If sections of Indiana Code or Indiana Administrative Code referenced in this Ordinance are amended or replaced, this Ordinance is amended to refer to the updated section of code.
- B. **Scope.** This Ordinance applies to all real property located within the corporate boundaries of the City of Batesville, Indiana, and to real property in Franklin and Ripley Counties. The Franklin County and Ripley County Board of Commissioners have relinquished zoning jurisdiction to the City. The use of land and structures must comply with all provisions of this Ordinance, including obtaining all required permits and certificates.

An improvement location permit issued prior to the effective date of this Ordinance may be completed and occupied according to the approved plans, provided construction begins within one year of the effective date and is diligently

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pursued to completion. After completion the structure is subject to the provisions of **1.16 Nonconforming Structures** if it does not meet the requirements of this ordinance.

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

1.4 INTERPRETATION AND APPLICATION

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

1.5 EXCLUSION

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

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1.6 SAVING PROVISION

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

Reduce any pending action under any prior zoning ordinance (an action is considered pending if a complete application and required fee has been received by the City before the effective date of this Ordinance);

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

1.7 INCORPORATION OF OTHER DOCUMENTS

- A. Improvement Location Permits, development plans, and subdivisions must conform to the principles and standards established by this Ordinance.
- B. The following documents are incorporated, as amended, by cross-reference into this Ordinance:
 - The City of Batesville Comprehensive Plan
 - The City of Batesville Thoroughfare Plan
 - The City of Batesville Public Facilities Plan
 - The City of Batesville Development and Construction Standards and Specifications

1.8 REPEAL OF PRIOR ORDINANCE

After the effective date of this Ordinance, all provisions of the prior Zoning Ordinance or Subdivision Control Ordinance of Batesville, Indiana are repealed.

1.9 EFFECTIVE DATE

- A. This Ordinance comprises a replacement ordinance for the jurisdiction of the City of Batesville, as described in **IC 36-7-4-602(a)**. Accordingly, the prior Batesville Zoning Ordinance, Batesville Subdivision Control Ordinance, Batesville Dwelling Code, and Batesville Building Code are repealed on the effective date of this Ordinance.
- B. The effective date of this Ordinance is the latest of the following dates:
 - The final day on which notice of the adoption of the penalty provisions of this Ordinance is published under **IC 36-7-4-610(a)**.
 - The day on which this Ordinance is filed with the Clerk-Treasurer’s office under **IC 36-7-4-610(f)**.
 - April 1, 2022.
- C. This subsection applies to any application for a permit pending before the Department on the effective date of this Ordinance. The Applicant may request the Administrator treat the application as an application filed according to this Ordinance instead of the prior Batesville Zoning Ordinance or Batesville Subdivision Control Ordinance. If the Administrator grants the request, the application is then approved or denied by the Department, the BZA, the Plan Commission, or the Council according to the provisions of this Ordinance.

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1.10 PUBLIC UTILITY INSTALLATIONS

Structures and land used for public utility installations are subject to the provisions of this Ordinance to the extent permitted under Indiana law. All structures for a public utility installation, including substations, must be effectively landscaped and must require approval of a development plan ([8.6 Development Plan Review](#)) and improvement location permit ([8.8 Improvement Location Permit](#)).

1.11 ZONING MAP

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

1.12 NONCONFORMING REGULATIONS

Upon the adoption of this Ordinance, the Zoning Map, and potentially upon other government action (e.g. acquisition of right-of-way), some buildings, structures, lots and uses may no longer conform to the regulations of their Zoning

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District. This chapter provides the rules, policies, and regulations that apply to these buildings, structures, lots and uses.

- A. This article does not prevent restoring to a safe condition all or part of a structure declared unsafe by an official charged with protecting the public safety. This restoration cannot be used to enlarge the nonconforming structure nor be used as grounds for adding other structures or uses prohibited by this Ordinance.
- B. Any nonconforming use or structure previously granted, a variance remains subject to the conditions imposed when the variance was granted.
- C. Any nonconforming use or structure granted a special exception permit remains subject to conditions imposed when the special exception permit was granted.

1.13 NONCONFORMITY CREATED BY PUBLIC ACQUISITION

Any property, lot or structure rendered nonconforming solely by the action of a governmental agency modifying any street, is exempt from these nonconformance provisions.

1.14 LEGAL NONCONFORMING AND ILLEGAL NONCONFORMING

- A. **Legal Nonconforming.** Legal nonconformance can occur by an amendment to this Ordinance and not due to a change to the property, resulting in the property no longer conforming to the standards of the applicable Zoning District. When this situation occurs, the property is deemed legal nonconforming and is subject to the terms of this Ordinance.
- B. **Illegal Nonconforming.** A building, structure, sign, or lot constructed or used without an approved building permit, improvement location permit or approval from the BZA or Plan Commission is considered illegal nonconforming when it does not conform to this Ordinance. An illegal nonconforming property is subject to enforcement and penalties as set forth in **CHAPTER 8: PROCESS AND ADMINISTRATION**, and all other applicable state or municipal law. The illegal nonconforming property must be altered to conform with all applicable standards and regulations of this Ordinance.
- C. A structure being used by a legal nonconforming use may be expanded up to 10% of the gross floor area that existed on the passage date of this Ordinance. Expansions must conform to all applicable standards of this Ordinance.

1.15 NONCONFORMING LOTS OF RECORD

- A. **Single Nonconforming Lots of Record.** In any district, a permitted use and its customary accessory uses may be erected on any single lot of record after the effective date of this Ordinance, despite limitation imposed by this Ordinance. This lot must be in separate ownership and not contain continuous frontage with other lots of the same ownership. This provision applies even though the lots fail to meet the requirements for area and/or width generally applicable in the district. The lot size and width must meet the minimum standards of the Health Department. The width of the lot, measured at the building line, must be at least 75% of the width required by the zoning district. The lots are required to meet all other lot development standards for their district.
- B. **Lots in Combination.** If 2 or more lots with continuous frontage and single ownership are of record on the effective date of this Ordinance, and if all or part of the unimproved lots do not meet the requirements established for lot width and area, the land involved is considered to be an undivided parcel to meet the minimum requirements

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of this Ordinance. No portion of the parcel can be used or sold, nor can the parcel be divided to create a lot, in a manner which diminishes compliance with lot width and area Ordinance requirements.

1.16 NONCONFORMING USES AND STRUCTURES

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

- A. A nonconforming use may be extended throughout a building provided the size of the structure is not increased.
- B. A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided the size of the structure is not increased.
- C. Whenever a nonconforming use has been changed to a conforming use, it cannot be changed back to a nonconforming use.
- D. Buildings cannot be erected upon any premises devoted to a nonconforming use, except when conforming to the provisions of this Ordinance.
- E. If a nonconforming use is discontinued for 12 months, the use cannot be reestablished or resumed. Subsequent use or occupancy of the land or structure must comply with the regulations of the zoning district where the land or structure is located. When a period of discontinuance is caused by government action, strikes, material shortages or acts of God, and without any contributing fault of the owner or occupant, the period will not be considered in calculating the length of the discontinuance.
- F. Except for single family dwellings, any legal nonconforming structure damaged or destroyed by more than 50% of the replacement cost cannot be restored unless the replacement structure conforms to the regulations of the zoning district where it is located. This regulation does not authorize the creation of a new nonconformity or increase the degree of any nonconformity existing prior to such damage or destruction. Restoration or repair of the building or other structure must be started within 6 months from the date of damage or destruction, and diligently prosecuted to completion.
- G. Nothing in this code prevents the strengthening or restoring to a safe condition of any part of any building declared unsafe by proper authority.
- H. Normal maintenance and repair, including replacement, installation, or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure devoted fully or partially to a legal nonconforming use.

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2.1 ESTABLISHMENT OF DISTRICTS

To classify, regulate and restrict the location of specified uses, and to regulate and limit the height and bulk of buildings for those uses, the City of Batesville, Indiana, is divided into the following districts.

A. Residential Districts

1. R1 Low Density Single Family Residential District
2. R2 Moderate Density Residential District
3. R3 Medium Density Mixed Residential District
4. R4 High Density Mixed Residential District

B. Business Districts

1. B1 Local Business District
2. B2 Planned Business District
3. B3 General Business District
4. B4 Office Business District

C. Industrial Districts

1. I1 Light Industrial District
2. I2 General Industrial District

D. Other Districts

1. DT Downtown District
2. UD Unit Development Plan District

E. Overlay Districts

1. Floodplain Overlay District
2. Highway 229 Overlay
3. Walnut Street Corridor Overlay



2.2 RESIDENTIAL DISTRICTS

A. Purpose

1. **R1 Low Density Single Family Residential District** is intended for new residential development at densities of up to 3 units per acre along with related uses. Land within this district must be served by public sanitary sewer and water facilities.
2. **R2 Moderate Density Residential District** is intended to provide for residential developments at densities of up to 5 units per acre with single-family homes and duplexes where deemed appropriate. Duplexes should have the appearance of single-family dwellings. Land within this district must be served by public sanitary sewer and water facilities.
3. **R3 Medium Density Mixed Residential District** is intended to provide a mix of housing options at densities of up to 10 units per acre along with related uses. Land within this district must be served by public sanitary sewer and water facilities.
4. **R4 High Density Mixed Residential District** is intended to provide the greatest mix of residential options of up to 22 units per acre along with related uses. Land within this district must be served by public sanitary sewer and water facilities.

	R1	R2	R3	R4
B. Lot Requirements				
Maximum Density (units/acre)	3.0	5.0	10.0	22.0
Minimum Lot Size (sf/dwelling unit)				
Single-Family Detached Dwelling	10,000	7,200	6,000	3,500
Two-Family Dwelling	-	4,300	3,000	1,800
Single-Family Attached Dwelling	-	1,500	2,000	1,800
Multifamily Dwelling	-	2,000	1,800	1,500
Minimum Lot Width				
Single-Family Detached Dwelling	80'	60'	50'	35'
Two-Family Dwelling	-	-	25'	18'
Single-Family Attached Dwelling	-	-	18'	18'
Multifamily Lot	-	-	75'	50'
Minimum Living Area per Dwelling Unit (sf)				
Single-Family Detached Dwelling	1,800	1,600	1,400	1,200
Two-Family Dwelling	-	-	1,100	900
Single-Family Attached Dwelling	-	-	1,400	
Multifamily Lot	-	-	(1)	(1)

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	R1	R2	R3	R4
Minimum Lot/Street Frontage				
Single-Family Detached Dwelling	80'	60'	50'	35'
Two-Family Dwelling	-	-	25'	18'
Single-Family Attached Dwelling	-	-	18'	18'
Multifamily Lot	-	-	75'	50'

C. Building Placement Requirements

Minimum Front Setback	25'	20'	20'	15'
Minimum Street Side Setback	15'	10'	5'	5'
Minimum Side Yard Setback ⁽²⁾	10'	6'	5'	5'
Minimum Rear Setback	20'	15'	10'	5'
Garage Along Street Setback	25'	20'	20'	20''

D. Building Requirements

Maximum Building Height	35'	35'	45'	55'
Maximum Lot Coverage	20%	40%	60%	80%

Notes:

⁽¹⁾ The multifamily dwelling minimum living area requirement is based upon the type of dwelling unit as follows:

Efficiency unit – 550 SF; One bedroom unit – 650 SF; Two bedroom unit – 800 SF; Three bedroom unit – 1,000 SF; for each additional bedroom over three – an additional 100 SF

⁽²⁾ The side yard setback between attached units within the same building is 0'.

E. Parking Requirements

See **6.3 Parking**

F. Architectural Requirements

See **Article 7.4 Residential Architectural Standards**



2.3 BUSINESS DISTRICTS

A. Purpose

- B1 Local Business District** meets the day-to-day convenience shopping and service needs of people living in nearby residential areas. Uses allowed in this district will generally be less intense than those allowed in the B-2 or B-3 districts.
- B2 Planned Business District** encourages well-planned business uses, particularly with respect to unified design, safe ingress and egress, adequate and properly located parking and service facilities, and convenient and safe pedestrian accessibility.
- B3 General Business District** provides sites for heavier business and commercial uses as well as enclosed industrial uses.
- B4 Office Business District** provides sites for offices, clinics, and other business uses, within existing buildings or new buildings, provided that direct retail sales and services and storage facilities are not permitted.

	B1	B2	B3	B4
B. Lot Requirements				
Minimum Lot Size (sf)	No minimum	No minimum	No minimum	No minimum
Minimum Lot Width	No minimum	No minimum	No minimum	No minimum
Maximum Lot Coverage ¹	50%	60%	70%	60%
C. Building Placement Requirements				
Minimum Front Setback	20'	20'	20'	20'
Minimum Street Side Setback	10'	15'	15'	15'
Minimum Side Yard Setback	6'	10'	10'	20'
Minimum Rear Setback	20'	15'	15'	15'
D. Building Requirements				
Maximum Principal Building Height	35'	45'	75'	45'

Notes:

¹ Includes accessory buildings and structures.

E. Parking Requirements

See **6.3 Parking**

F. Architectural Requirements

See **7.5 Business and Mixed Use Architectural Standards**



2.4 INDUSTRIAL DISTRICTS

A. Purpose

- I1 Light Industrial District** is established to accommodate light industrial uses in which all operations, including storage of materials would be confined within a building, and would include warehousing operations. Development in this district requires connection to public water and public sewers and development plan approval.
- I2 General Industrial District** is established for all types of industrial uses requiring both enclosed and unenclosed spaces for storage, manufacturing, and fabricating. Development in this district requires connection to public water and public sewers and development plan approval.

	I1	I2
B. Lot Requirements		
Minimum Lot Size (sf)	20,000	30,000
Minimum Lot Width	100'	120'
Minimum Lot Coverage	75%	50%

C. Building Placement Requirements		
Minimum Front Setback	20'	30'
Minimum Street Side Setback	15'	20'
Minimum Side Yard Setback	10'	20'
Minimum Rear Setback	10'	20'

D. Building Requirements		
Maximum Principal Building Height	75'	75'

Notes:

E. Parking Requirements

See [6.3 Parking](#)

F. Architectural Requirements

See [7.6 Industrial Architectural Standards](#)

G. Performance Standards

Uses within the Industrial Districts must comply with [5.7 Performance Standards](#)



2.5 OTHER DISTRICTS

A. Purpose

1. **DT Downtown District** is designed to accommodate a mix of residential, commercial, retail, office, and entertainment uses at urban intensities for Batesville’s downtown. Uses should complement each other and contribute to a vibrant, walkable city center.
2. **UD Unit Development Plan District** provides more development flexibility than is possible through the customary zoning regulations. By recognizing the rapid changes in design and technology in the building industry and housing market demands, this district meets those changes consistent with the best interests of the city ([8.7 Planned Unit Developments](#)).

	DT Residential Uses	DT Non-Residential Uses and Mixed Uses
B. Lot Requirements		
Maximum Density (units/acre)	100	N/A
Minimum Lot Size (acres)	N/A	N/A
Minimum Lot Width	N/A	N/A
Minimum Lot Frontage/Street Frontage ¹	25’	N/A
C. Building Placement Requirements		
Minimum Front Setback	5’	0’
Minimum Street Side Setback	5’	0’
Minimum Side Yard Setback	5’	0’
Minimum Rear Setback	10’	0’
D. Building Requirements		
Maximum Building Height Principal Building Accessory Building	4 Stories	5 Stories
Maximum Lot Coverage	2 Stories	2 Stories
Minimum Ground Floor Area (sf)	80%	100%
1 Story Dwelling	500 s.f.	N/A
Dwelling with more than 1 story	1,200 s.f	N/A

Notes:



E. Parking Requirements

See **6.3 Parking**

In the DT District, required parking is reduced to 80% of the required parking listed on the **Permitted Use Table**.

Shared parking is encouraged. Parking areas must be located behind the buildings.

F. Architectural Requirements

Single Family Detached and Two-Family residential uses must meet the requirements of **7.4(A) Architectural Standards for Small-Scale Residential Dwellings**.

Single Family Attached and Apartment residential uses must meet the requirements of **7.4(C) Architectural Standards for Multi-Family Dwellings**.

Non-residential and Mixed Uses must meet the requirements of **7.5 Business and Mixed Use Architectural Standards**.

All new development must pay reasonable regard to **5.3 Compatibility Standards**.

For mixed-use buildings in the DT District, residential uses are not permitted on the first floor

75% of first floor windows along streets must be transparent with glazing to encourage pedestrian interaction along the street (e.g., window shopping). Dead walls with no windows or doors are prohibited.

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2.6 FLOODPLAIN OVERLAY DISTRICTS

The flood hazard areas of the City are subject to periodic inundation resulting in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, that adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage contribute to the flood loss. These regulations are intended to minimize the threat of such damages and to achieve the purposes of this Article.

A. Purpose

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

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

B. Methods of Reducing Flood Loss

To accomplish its purposes, these regulations include provisions for:

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



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

C. Definitions

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

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

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

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

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

Appeal means a request for a review of the Floodplain Administrator’s interpretation of any provision of this Article, a request for a variance, or a challenge of a Board decision.

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

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

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

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

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

Building – See "Structure."

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

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

Development means, for floodplain management purposes, any man-made change to improved or unimproved real estate including:

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

"Development" does not include activities such as the maintenance of existing structures and facilities, for example, painting, re-roofing, resurfacing roads, or gardening, plowing, and similar agricultural practices not involving filling, grading, excavation, or the construction of permanent structures.

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

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

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

Existing manufactured home park or subdivision means a manufactured home park or subdivision where the construction of facilities servicing the lots (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the City’s first floodplain ordinance.

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

FEMA means the Federal Emergency Management Agency.

Fill for floodplain management purposes, means any material deposited or placed that has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

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

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

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

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

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

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

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

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

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

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Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

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

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

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

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

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

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

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

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

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

Historic structure means any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
3. individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior, or
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

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

IDNR means the Indiana Department of Natural Resources.

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

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

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter, categorized as:

1. **Conditional Letter of Map Revision (CLOMR)** means FEMA’s comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
2. **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating a proposed structure that will be elevated by fill would not be inundated by the base flood.



3. **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map establishing that a property or a building is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
4. **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA stating the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
5. **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
6. **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA’s modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

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

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

1. The lowest floor of a building.
2. The basement floor.
3. The garage floor if the garage is connected to the building.
4. The first floor of a structure elevated on pilings or pillars.
5. The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must: (a) be certified by a registered professional engineer or architect or (b) meet or exceed the following criteria:
 - The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
 - At least two openings are designed and maintained for the entry and exit of floodwater. These openings provide a total net area of at least one square inch for every one square foot of enclosed area. The bottom of all such openings cannot be more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.
6. The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), if it meets the requirements of 44 CFR 60.3.

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

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

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

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

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

New manufactured home park or subdivision means a manufactured home park or subdivision where the construction of facilities for servicing the lots (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the City’s first floodplain ordinance.

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

Obstruction includes any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse that may alter, impede, retard or change the direction or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

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

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

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

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

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Recreational vehicle means a vehicle that is:

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

Regulatory flood means the flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in [2.6\(D\)\(2\)](#) of this Article. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

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

Special Flood Hazard Area (SFHA), synonymous with "areas of special flood hazard" and floodplain, means those lands within the jurisdiction of the City subject to a 1% or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies as Zones A, AE, A99. The SFHA includes areas that are flood prone and designated from other federal, state, or local sources of data including best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

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

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include: (a) land preparation, such as clearing, grading, and filling, (b) the installation of streets and/or walkways, (c) excavation for a basement, footings, piers, foundations, or the erection of temporary forms, or (d) the installation of accessory buildings, such as garages or sheds not occupied as dwelling units. For a substantial improvement, the actual start of

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construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground. The term includes manufactured homes, prefabricated buildings, above-ground gas or liquid storage tanks, and recreational vehicles installed on a site for more than 180 consecutive days.

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

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

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

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

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

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

D. General Provisions

1. Applicability: This Article applies to all SFHAs and known flood prone areas within the jurisdiction of the City.
2. Basis for Establishing Regulatory Flood Data: This section’s protection standard is the regulatory flood. The best available regulatory flood data is listed below.
 - a. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City, delineated as an "AE Zone" on the Franklin County, Indiana and Incorporated Areas FIRM dated January 16, 2014 and on the Ripley County, Indiana and Incorporated Areas FIRM dated November 2, 2012 is determined from the 1% annual chance flood profiles in the Flood Insurance Study of Franklin County, Indiana and Incorporated Areas and the corresponding FIRM dated January 16, 2014 and in the Flood Insurance Study of Ripley County, Indiana and Incorporated Areas and the corresponding FIRM dated November 2, 2012 as well as any subsequent updates, amendments, or revisions, prepared by FEMA with the most recent date. Should the floodway limits not be delineated on the FIRM for a studied SFHA designated as an "AE Zone", the limits of the floodway will be according to the best available flood layer as provided by IDNR.

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- b. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City, delineated as an "A Zone" on the Franklin County, Indiana and Incorporated Areas FIRM, dated January 16, 2014 and on the Ripley County, Indiana and Incorporated Areas FIRM dated November 2, 2012, as well as any subsequent updates, amendments, or revisions, prepared by FEMA with the most recent date, must be according to the best available flood layer provided by IDNR, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to IDNR for review and subsequently approved.
 - c. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas is according to the best data available as provided by IDNR, provided the upstream drainage area from the subject site is greater than one square mile.
 - d. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study is utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.
3. Establishment of Floodplain Development Permit. A Floodplain Development Permit is required in conformance with the provisions of this Article prior to the commencement of any development activities in areas of special flood hazard.
 4. Compliance. No structure can be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this Article and other applicable regulations. No land or stream within the SFHA can be altered without full compliance with the terms of this Article and other applicable regulations.
 5. Abrogation and Greater Restrictions. This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another conflict or overlap, the more stringent restrictions apply.
 6. Discrepancy between Mapped Floodplain and Actual Ground Elevations
 - a. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles governs.
 - b. If the elevation of the site in question is below the base flood elevation, that portion of the site is included in the SFHA and regulated accordingly.
 - c. If the elevation (natural grade) of the site in question is above the base flood elevation, that portion of the site is considered outside the SFHA and the floodplain regulations will not be applied. The property owner should apply for a Letter of Map Amendment.
 7. Interpretation. In the interpretation and application of this Article all provisions are considered as minimum requirements, construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.
 8. Warning and Disclaimer of Liability. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this Article does

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not create any liability on the part of the City, IDNR, or the State of Indiana, for any flood damage that results from reliance on this Article or any administrative decision lawfully made.

- 9. Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance is deemed a violation of this Article and subject to enforcement.
 - a. A separate offense occurs each day the violation continues to exist.
 - b. The Floodplain Administrator informs the owner that such a violation is considered a willful act to increase flood damages and therefore may cause suspension of a Standard Flood Insurance Policy.
 - c. The City is not prevented from taking other lawful action to prevent or remedy violations. All enforcement costs, including attorney’s fees, accrue to the persons responsible.

E. Administration

- 1. Designation of Administrator. The Mayor appoints the Administrator to administer and implement the provisions of this section and is referred to as the Floodplain Administrator.
- 2. Permit Procedures. Application for a Floodplain Development Permit is made to the Floodplain Administrator on forms furnished by the Department prior to any development activities and may include plans describing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, and drainage facilities.
 - a. At the application stage the following information is required:
 - A description of the proposed development.
 - Location of the proposed development sufficient to accurately locate property and structures in relation to existing roads and streams.
 - A legal description of the property.
 - For the reconstruction, rehabilitation, or improvement of an existing structure or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;
 - A site plan showing existing and proposed improvements and existing and proposed land grades.
 - A letter from a licensed professional surveyor or engineering noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met.
 - Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures with plumbing.
 - Elevation in NAVD 88 of the top of the lowest floor (including basement) of all proposed structures in Zones A and AE.
 - Elevation in NAVD 88 to which any non-residential structure will be floodproofed.
 - Plans showing the locations and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.



- Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.
 - Plans showing how any proposed structure will be anchored to resist flotation or collapse.
 - Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevations should be in NAVD 88. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required, and any watercourse changes submitted to IDNR for approval and then to FEMA as a Letter of Map Revision. (See **2.6(D)(3)(f)** for additional information.)
 - Any additional information, as requested by the Floodplain Administrator, that may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
- b. At the construction stage the following information is required: Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it is the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator reviews the elevation certificate. Any deficiencies detected during the review must be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make required corrections is cause to issue a stop-work order for the project.
- c. At the completion of construction, the following information is required:
- For any structure requiring certification of elevation, an elevation certificate that depicts the “as-built” lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate is prepared and certified by a registered land surveyor.
 - For an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
 - For a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate is prepared and certified by a registered professional engineer or architect.

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3. Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator is authorized to enforce the provisions of this Article. The Floodplain Administrator is authorized to render interpretations of this Article consistent with its intent and purpose. Duties and responsibilities of the Floodplain Administrator include:
 - a. Enforce the provisions of this Article.
 - b. Evaluate application for permits to develop in Special Flood Hazard Areas to assure that the permit requirements of this ordinance have been satisfied.
 - c. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
 - d. Issue permits to develop in Special Flood Hazard Areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
 - e. Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
 - f. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in Special Flood Hazard Areas identified by FEMA, must meet the development standards of these regulations.
 - g. For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator:
 - Verifies and documents the market value of the pre-damaged or pre-improved structure,
 - Compares the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community,
 - Determines and documents whether the proposed work constitutes substantial improvement or repair of substantial damage. The determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage, and
 - Notifies the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in 2.6(E) of this Article are required.
 - h. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.

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- i. Ensure that construction authorization has been granted by IDNR for all development projects subject to **2.6(E)(5)** and **2.6(E)(7)(a)** of this Article and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
 - j. Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if **2.6(D)(3)(i)** is applicable.
 - k. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.
 - l. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with **2.6(D)(2)**.
 - m. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with **2.6(D)(2)**.
 - n. Make on-site inspections of projects in accordance with **2.6(D)(4)**.
 - o. Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
 - p. Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with plumbing.
 - q. Provide information, testimony, or other evidence as needed during variance hearings.
 - r. Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with **2.6(D)(4)**.
 - s. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this Article.
 - t. Coordinate map maintenance activities and associated FEMA follow-up in accordance with **2.6(D)(5)**.
 - u. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
 - v. Request any additional information that may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
4. Administrative Procedures.
- a. Inspections of Work in Progress. As the work pursuant to a permit progresses, the Floodplain Administrator makes as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the Administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
 - b. Stop Work Orders

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- Upon notice from the Floodplain Administrator, work on any building, structure or premises done contrary to the provisions of this Article must immediately cease.
 - The notice is in writing and given to the owner of the property, or to his agent, or to the person doing the work, and states the conditions under which work may be resumed.
- c. Revocation of Permits
- The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this Article, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - The Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Article.
- d. Floodplain Management Records.
- Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance must be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
 - These records are available for public inspection at the Batesville City Hall at 132 S. Main Street Batesville, IN 47006.
- e. Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the Department at any reasonable hour for the purposes of inspection or other enforcement action.

5. Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City flood maps, studies, and other data identified in 2.6(D)(2) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

- a. Requirement to Submit New Technical Data
- i. For all development proposals that impact floodway delineations or base flood elevations, the community ensures that technical data reflecting such changes be submitted to FEMA within 6 months of the date such information becomes available. These development proposals include:



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

6. Variance Procedures.

- a. The BZA hears and decides appeals and requests for variances from requirements of this Article.
- b. The BZA hears and decides appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the administration of this article. Any person aggrieved by the decision of the BZA may appeal the decision to the Franklin County Circuit Court or the Ripley County Circuit Court, as jurisdiction dictates.
- c. In acting upon applications, the BZA considers all technical evaluations, relevant factors, standards specified in other sections of this Ordinance, and;
 - The danger of life and property due to flooding or erosion damage.
 - The danger that materials may be swept onto other lands to the injury of others.

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- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - The importance of the services provided by the proposed facility to the community.
 - The necessity of the facility to a waterfront location, where applicable.
 - The compatibility of the proposed use with existing and anticipated development.
 - The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
 - The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
 - The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- d. A written report addressing each of the above factors is submitted with the application for a variance.
- e. Variances from the provisions of this Article are only be granted when the BZA can make positive findings of fact based on evidence submitted at the hearing for the following:
- A showing of good and sufficient cause.
 - A determination that failure to grant the variance results in exceptional hardship.
 - A determination that granting the variance does not increase flood heights, increase threats to public safety, add extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- f. No variance for a residential use within a floodway subject to **2.6(E)(5)** and **2.6(E)(7)(a)** of this Article may be granted.
- g. Any variance granted in a floodway subject to **2.6(E)(5)** and **2.6(E)(7)(a)** of this Article requires a permit from IDNR.
- h. Variances to the Provisions for Flood Hazard Reduction of **2.6(E)(2)**, are granted only when a new structure is located on a lot 0.5 acres or less in size, contiguous to and surrounded by lots with existing structures constructed below the FPG.
- i. Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
- j. Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- k. Variances are only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

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

F. Provisions for Flood Hazard Reduction

1. Floodplain Status Standards

- a. Floodways (Riverine). Located within SFHAs, established in **2.6(D)(2)**, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, that carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (**IC 14-28-1**) a permit for construction in a floodway from IDNR is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (**IC 14-28-1** and **312 IAC 10**) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.
 - If the site is in a regulatory floodway as established in **2.6(D)(2)**, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to IDNR and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (**IC 14-28-1** or **312 IAC 10**).
 - No action can be taken by the Floodplain Administrator until approval has been granted by IDNR for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit must meet the provisions contained in this article.
 - The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by IDNR, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations, if any, take precedence.
 - In floodway areas identified on the FIRM, development cannot cause an increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of **2.6(D)(5)(a)**. A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
 - In floodway areas identified by the IDNR through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, cannot adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse

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effect is defined as an increase in the elevation of the regulatory flood of at least 0.15 of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

- For all projects involving channel modifications or fill (including levees) the City submits the data and request that the FEMA revise the regulatory flood data per mapping standard regulations found at 44 CFR §65.12.

b. Fringe (Riverine). If the site is in the fringe (either identified on the FIRM or identified by IDNR through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this Article have been met.

c. SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)

- Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to the IDNR for review and comment.

No action can be taken by the Floodplain Administrator until written approval from the IDNR (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from the IDNR.

Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from IDNR, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from IDNR and the provisions contained in this Article have been met.

- Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator requires the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this Article have been met.

d. SFHAs not Identified on a Map

- If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator verifies the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to IDNR for review and comment.



- No action can be taken by the Floodplain Administrator until written approval from IDNR (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from IDNR.
- Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from IDNR, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the IDNR and the provisions contained in this Article have been met.

2. General Standards

In all areas of special flood hazard, the following provisions are required:

- a. All new construction, reconstruction, or repairs made to a repetitive loss structure, and substantial improvements must be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b. New construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage below the FPG.
- c. New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
- d. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be located at or above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be located at or above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- e. New and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
- f. New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
- g. On-site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during flooding.
- h. Any alteration, repair, reconstruction, or improvements to a structure complying with the provisions of this Article must meet the requirements of "new construction" as contained in this Article.
- i. Base flood elevation data must be provided for subdivision or development proposals containing 50 or more lots or containing 5 or more acres.
- j. Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this Article applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

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- k. Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3’ horizontal to 1’ vertical.
- l. Non-conversion agreements are required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
- m. Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities are not permitted in areas of special flood hazard.
- n. Whenever any portion of the SFHA is authorized for use, the volume of space that will be occupied by the authorized fill or structure below the BFE must be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume must be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
 - i. The excavation takes place in the same floodplain on the same property on which the authorized fill or structure is located, provided sufficient space exists. If sufficient space does not exist on the same property, the excavation takes place in the same floodplain no further than 1,000 feet from the site of the authorized fill or structure, provided authorization/permission has been granted by the owners of any property where the excavation is proposed.
 - ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it must not be refilled.
 - iii. The excavation provides for true storage of floodwater but cannot be subject to ponding when not inundated by floodwater.
 - iv. The excavation must be sufficiently stabilized and compacted to remain firm and resist erosion.
 - v. A restrictive covenant stating the approved compensatory cut area (excavation) cannot be altered without approval from the Floodplain Administrator must be executed and recorded in the County Recorder’s Office that runs with the property.
 - vi. The fill or structure cannot obstruct a drainage way leading to the floodplain.
 - vii. The grading around the excavation must be such that the excavated area is accessible to the regulatory floodwater.
 - viii. The fill or structure must be of a material deemed stable enough to remain firm and in place during periods of flooding and must include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement. When a structure is placed on fill it must follow additional requirements of **2.6(E)(4)(d)** and **2.6(E)(5)(d)**.
 - ix. Plans depicting the areas to be excavated and filled must be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant provides to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

3. Specific Standards - Building Protection Requirement



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

- a. Construction or placement of a residential structure.
 - b. Construction or placement of a non-residential structure.
 - c. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition or improvement project that is continuous in scope or time is considered as one project for permitting purposes.
 - d. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
 - e. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 - f. Reconstruction or repairs made to a repetitive loss structure.
 - g. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the City's first floodplain ordinance.
4. Specific Standards - Residential Construction.
- a. New construction or substantial improvement of any residential structures must meet provisions described in [2.6\(E\)\(1\)](#) and applicable general standards described in [2.6\(E\)\(2\)](#).
 - b. In Zone A and Zone AE, new construction or substantial improvement of any residential structure must have the lowest floor, including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters must be provided in accordance with the standards of [2.6\(E\)\(4\)\(c\)](#). Should fill be used to elevate a structure, the standards of [2.6\(E\)\(4\)\(d\)](#) must be met.
 - c. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade must meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls.
 - The bottom of all openings must be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.

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- If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
 - Doors and windows do not qualify as openings.
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A residential structure may be constructed on a fill in accordance with the following
- i. Fill must be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance must be retained in the permit file.
 - ii. Fill must extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - iii. Fill must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3’ horizontal to 1’ vertical.
 - iv. Fill must not adversely affect the flow of surface drainage from or onto neighboring properties.
 - v. Fill must be composed of clean granular or earthen material.
- e. A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.
5. Specific Standards – Non-Residential Construction.
- a. New construction or substantial improvement of any non-residential structures (excludes accessory structures) must meet provisions described in **2.6(E)** and applicable general standards described in **2.6(E)(2)**.
 - b. In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) must either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters must be provided in accordance with the standards of **2.6(E)(5)(c)**. Should fill be used to elevate a structure, the standards of **2.6(E)(5)(d)** must be met.
 - c. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade must meet the following requirement:



- i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - The bottom of all openings must be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
 - Doors and windows do not qualify as openings.
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- ii. The floor of such enclosed area must be at or above grade on at least one side.
- iii. The interior portion of such enclosed area cannot be partitioned or finished into separate rooms.
- d. A nonresidential structure may be constructed on a permanent land fill in accordance with the following:
 - i. Must be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance must be retained in the permit file.
 - ii. Must extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - iii. Must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3’ horizontal to 1’ vertical.
 - iv. Cannot adversely affect the flow of surface drainage from or onto neighboring properties.
 - v. Must be composed of clean granular or earthen material.
- e. A nonresidential structure may be floodproofed in accordance with the following:
 - i. A Registered Professional Engineer or Architect certifies the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design considers flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. The certification is provided to the Floodplain Administrator.
 - ii. Floodproofing measures must be operable without human intervention and without an outside source of electricity.

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- f. A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

6. Specific Standards – Manufactured Homes and Recreational Vehicles.

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

7. Specific Standards – Accessory Structures

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

- a. Must have a floor area of 400 square feet or less.
- b. Use is limited to parking of vehicles and limited storage.
- c. Cannot be used for human habitation.
- d. Must be constructed of flood resistant materials.
- e. Must be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- f. Must be firmly anchored to prevent flotation.
- g. Service facilities such as electrical and heating equipment must be elevated or floodproofed to or above the FPG.
- h. Must be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in **2.6(E)(5)(c)**.
- i. Cannot have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

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



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

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

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

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

10. Standards for Subdivision and Other New Developments

- a. All subdivision proposals and all other proposed new development must be consistent with the need to minimize flood damage.
- b. All subdivision proposals and all other proposed new development must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals and all other proposed new development must have adequate drainage provided to reduce exposure to flood hazards.
- d. In all areas of special flood hazard where base flood elevation data area not available, the applicant provides a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision or development proposals containing 50 or more lots or 5 or more acres.
- e. All subdivision proposals must minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- f. All subdivision proposals must ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- g. Streets, blocks lots, parks and other public grounds must be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains must be included within parks or other public grounds.

11. Standards for Critical Facilities

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

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2.7 WALNUT STREET CORRIDOR

This overlay district is a natural extension of downtown Batesville, where character-rich homes provide space for both living and working. It is intended to provide for a mix of single-unit, two-unit, multi-unit residential dwellings, and indoor business services that retain the traditional neighborhood aesthetics found within the district. Existing structures primarily designed for residential use cannot be structurally altered on the exterior to indicate business use except in compliance with the zoning district. Alterations cannot adversely affect the character of the district or interfere with the reasonable enjoyment of adjoining properties.

Conversions to business or combination spaces (live/work) must include appropriate provisions for parking. See [6.3 Parking](#)

- A. **Purpose and Intent.** The purpose of this overlay district is to:
 1. Preserve and enhance the aesthetic qualities of Walnut Street from the Interstate to downtown Batesville by regulating building placement and orientation, building architecture, landscaping, lighting, and transitions between the corridor and adjacent uses; and
 2. Provide for the future development/redevelopment of the corridor as contemplated in the Comprehensive Plan.
- B. **Applicability.** This Overlay applies in the following instances:
 1. All property fronting or within 100 feet of the centerline of Walnut Street. If any parcel, building, structure, or improvement is only partially within the Overlay district, the provisions of this Overlay apply to the entire parcel, building, structure, or improvement, unless otherwise waived by the Administrator. The Administrator determines if the standards of this Overlay apply to the entire lot or if they are limited to only improvements proposed after the effective date of this Ordinance.
 2. Conflict. To the extent the provisions of this Overlay conflict with the provisions established elsewhere in the Zoning Ordinance, then the provisions of this Overlay supersede and apply. Unless superseded by this Overlay, the development and design standards of the underlying Zoning District apply.
- C. **Plan Commission approval required.** Plan Commission approval is required through the development plan process when alterations involve any of the following:
 1. Uses that will extend or expand the use to cover 2 or more lots.
 2. Alterations to the front façade of the primary structure on the lot.
 3. The partial or complete demolition of the lot’s primary building. The Plan Commission will approve the demolition if it finds one or more of the following:
 - a. The structure poses an immediate and substantial threat to public safety.
 - b. The historic or architectural significance of the structure does not contribute to the traditional character of the structure and the context of the district.
 - c. The demolition is necessary to allow new development that provides greater significance to the conservation of the district than retention of the existing structure.

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- d. The structure or property cannot be put to any reasonable economically beneficial use without approval of the demolition.
4. **Minimum design standards.** When reviewing site plans, the Plan Commission and/or Administrator evaluates the appropriateness of the proposed development or alterations based upon design unity with other nearby structures within the district. The cohesiveness of the design is based upon the similarity between the proposed and existing buildings regarding ***5.3 Compatibility Standards***.
- D. **Uses.** All uses permitted in the underlying zoning district are permitted except as otherwise excluded and prohibited below:
1. **Prohibited Uses.** The following uses are prohibited uses within the zones of the Walnut Street Overlay:
 - a. Adult businesses
 - b. Bulk storage of petroleum items not used for on-site manufacturing
 - c. Manufacture, use, or storage of explosives
 - d. Manufactured home park
 - e. Manufactured home sales
 - f. Off-premise signage
 - g. Penal or correctional institution
 - h. Salvage and wrecking
 - i. Sanitary landfill
 - j. Self-storage facility
 - k. Slaughterhouse or rendering plants
 - l. Truck stops
 2. **Special Exceptions.** In Residential Districts within the corridor, a residential use may change to a non-residential use upon special exception approval by the BZA.
- E. **Access Standards.**
1. **Access to Individual Sites.** The following standards apply; however, the Plan Commission, or the Legislative Body, may approve access points if deemed appropriate to improve traffic circulation in the area or due to the size of the development:
 - a. New curb cuts are prohibited unless approved by the State or Administrator prior to installation.
 - b. Approval of a zoning petition containing an illustrative concept plan showing vehicular drive cuts does not constitute approval of curb cuts by the Legislative Body.
 - c. Curb cuts on the same side of the street must be separated a minimum of 400 feet. Curb cuts are prohibited within 200 feet of any intersection of public streets. Opposing curb cuts must align squarely or be offset not less than 200 feet.

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2. Dedication of Right-of-Way. In developments adjoining or including existing streets that do not conform to the minimum right-of-way dimensions established in the Thoroughfare Plan or City Construction Standards, the Developer must dedicate additional width along either one or both sides of such streets sufficient to meet the requirements of the Thoroughfare Plan. If the Developer only controls the property on one side of the street, then sufficient right-of-way must be dedicated to bring the half right-of-way up to the dimensions required in the Thoroughfare Plan.

F. Site Design Standards

1. Building Placement Standards

a. Lot Dimensions	Width: 60 ft minimum Area: 7,200 sq ft minimum
b. Setbacks	Front lot line: 5 ft minimum
<i>Parcels platted under previous codes follow the setbacks platted unless the plat is revised</i>	Side lot line: 5 ft minimum Rear lot line: 10 ft
c. Principle Building Height	35 ft maximum
d. Lot Coverage	70% of lot area maximum
e. Parking Lot Location	Rear and side yard parking only. On corner lots, access to the parking lot should be from the side street. Except in cases where parking is shared between uses on separate parcels, parking area perimeter landscaping is required per 6.1(E) Parking Lot Landscaping .
f. Required Open Space	At least 15% open space, excluding impervious surfaces, must be provided. Drainage ponds, play areas, common areas, etc., may apply toward this provision.

2. Screening of Parking Areas

- a. Screening parking areas from the street. A planting area at least 3 feet wide planted with an evergreen or densely deciduous hedge is provided at the perimeter of the parking area, exclusive of walks and driveways. Shrubs are spaced to create a continuous, solid hedge. Alternatively, an opaque fence or wall at least 36 inches tall may be used in place of the hedge.
- b. Screening parking areas from adjoining residential uses. Where a business use adjoins a residential use, a 6-foot-high opaque fence, wall, or evergreen landscaping must be provided along the property line to separate the parking area from the residential use. A 3-foot-wide planting area placed between the parking area and the fence must be planted with shrubs and groundcover.
- c. Screening parking areas from adjoining business uses. Where a business use adjoins another business use, a 3-foot-wide planting area must be placed between the parking area and the property line, except where parking is shared between uses. The planting areas must be planted with low shrubs (maximum 3-foot-high) and groundcover. Shrubs should be placed to create a continuous, solid hedge.



3. Sign Standards

- a. On-Premise Signs. A sign plan for the proposed development must be submitted to the Plan Commission as part of the Design Review Process. Pole signs are prohibited within the Overlay. Signs for each proposed use must be uniform in character, architectural design, and color. Should an approved sign plan be replaced with a new design, the amended sign plan must go to the Plan Commission for review and approval. Individual signs conforming with both the sign ordinance and the approved sign plan for the development require no further approval other than a sign permit.
- b. Off-Premise (Outdoor Advertising) Signs. No new off-premise advertising signs are permitted within the Corridor Overlay.

4. Walls and Fencing.

- a. The following wall and fence materials are permitted within the Corridor Overlay: brick, stone (natural and manufactured), decorative metal (wrought iron or wrought iron in appearance) or finished wood (stained or painted). In areas requiring security the following are recommended: (a) decorative metal fencing with a spiked or curved top profile or (b) razor/concertina/barbed wire mounted inside a solid fence or wall. This type of fence is only permitted with the express written approval of the Administrator and may not be permitted in all cases based on the visibility of the fence.
- b. The following wall and fence materials are prohibited within the Corridor Overlay in areas visible from outside the parcel on which such walls or fences are installed: non-solid and/or unfinished wood, chain link (with or without slats), non-decorative corrugated metal, electrified fences and razor/concertina/barbed wire.
- c. If walls or fencing consist of the same building materials as used on the principal building, then they are permitted to extend into a side yard in a manner that is flush with the front building façade of the principal building.
- d. If walls or fencing do not consist of the same building materials as used on the principal building, then they must be setback a minimum of 8 feet from the front building façade of the principal building.

G. **Standards for a Dwelling Unit Accessory to Business Use.** Dwelling units may be established in conjunction with a business use when the following criteria are met:

- 1. The dwelling unit must be located in the same building as the business use.
- 2. At least on off-street parking space must be provided on the lot in addition to the spaces required by the business use.
- 3. Each dwelling unit must conform to the requirements of all applicable building codes in use by the State of Indiana, including the International Residential Code, Indiana Residential Code, Indiana Building Code, and others as applicable.

H. **Cross Reference.** The following are additional sections that are common references needed across districts. Other sections may also apply to individual properties or projects:

Article 4.7 Outdoor Display

Article 4.8 Outdoor Storage

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Article 6.1 Landscaping

Article 6.3 Parking

Article 6.4 Signage

Article 7.4 Residential Architectural Standards

Article 7.5 Business Architectural Standards

Article 7.6 Industrial Architectural Standards

Article 7.8 Easement Standards

2.8 HIGHWAY 229 FROM SIX PINE RANCH ROAD TO POCKET ROAD

- A. **Purpose and Intent.** The purpose of this overlay district is to:
 1. Preserve and enhance the aesthetic qualities of Highway 229 between Six Pine Ranch Road and Pocket Road by regulating building placement and orientation, building architecture, landscaping, lighting, and transitions between the corridor and adjacent uses;
 2. Provide for the future development/redevelopment of the corridor as contemplated in the Comprehensive Plan; and
 3. Encourage the business, retail, and residential uses desired for the corridor.

- B. **Applicability.** This Overlay applies in the following instances:
 1. All property fronting or within 100 feet of the centerline of Highway 229. If any parcel, building, structure, or improvement is only partially located within the Overlay district, then the provisions of this Overlay apply to all of the parcel, building, structure, or improvement, unless otherwise waived by the Administrator. The Administrator is authorized to determine if the standards of this Overlay apply to the entire lot or if they are limited to only improvements proposed after the effective date of this Ordinance.
 2. Conflict. To the extent the provisions of this Overlay conflict with the provisions established elsewhere in the Zoning Ordinance, then the provisions of this Corridor Overlay supersede and apply. Unless superseded by this Overlay, the development and design standards of the underlying Zoning District apply.

- C. **Uses.** All uses permitted in the underlying zoning district are permitted except as otherwise excluded and prohibited below.
 1. Bulk storage of petroleum items not used for on-site manufacturing
 2. Manufacture, use, or storage of explosives
 3. Off-premise signage
 4. Salvage and wrecking
 5. Sanitary landfill
 6. Self-storage facility

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7. Slaughterhouse or rendering plants

D. Access Standards

1. Access to Individual Sites. The following standards apply; however, the Plan Commission, or the Legislative Body, may approve access points if deemed appropriate to improve traffic circulation in the area or due to the size of the development:
 - a. New curb cuts are prohibited unless approved by the State or Administrator prior to installation.
 - b. Approval of a zoning petition containing an illustrative concept plan showing vehicular drive cuts does not constitute approval of curb cuts by the Legislative Body.
 - c. Curb cuts on the same side of the street must be separated a minimum of 400 feet. Curb cuts are prohibited within 200 feet of any intersection of public streets. Opposing curb cuts must align squarely or be offset not less than 200 feet.
2. Dedication of Right-of-Way. In developments adjoining or including existing streets that do not conform to the minimum right-of-way dimensions established in the Thoroughfare Plan or City Construction Standards, the Developer must dedicate additional width along either one or both sides of such streets sufficient to meet the requirements of the Thoroughfare Plan. If the Developer only controls the property on one side of the street, then sufficient right-of-way must be dedicated to bring the half right-of-way up to the dimensions required in the Thoroughfare Plan.

E. Site Design Standards

1. Sign Standards
 - a. On-Premise Signs. A sign plan for the proposed development must be submitted to the Plan Commission as part of the Design Review Process. Pole signs are prohibited within the Overlay. Signs for each proposed use must be uniform in character, architectural design, and color. Should an approved sign plan be replaced with a new design, the amended sign plan must go to the Plan Commission for review and approval. Individual signs conforming with both the sign ordinance and the approved sign plan for the development require no further approval other than a sign permit.
 - b. Off-Premise (Outdoor Advertising) Signs. No new off-premise advertising signs are permitted within the Corridor Overlay.
2. Walls and Fencing
 - a. The following wall and fence materials are permitted within the Corridor Overlay: brick, stone (natural and manufactured), decorative metal (wrought iron or wrought iron in appearance), or finished wood (stained or painted). In areas requiring security the following are recommended: (a) decorative metal fencing with a spiked or curved top profile or (b) razor/concertina/barbed wire mounted inside a solid fence or wall. This type of fence is only permitted with the express written approval of the Administrator and may not be permitted in all cases based on the visibility of the fence.
 - b. The following wall and fence materials are prohibited within the Corridor Overlay in areas visible from outside the parcel on which such walls or fences are installed: non-solid and/or unfinished wood, chain

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link (with or without slats), non-decorative corrugated metal, electrified fences and razor/concertina/barbed wire.

- c. If walls or fencing consist of the same building materials as used on the principal building, then they are permitted to extend into a side yard in a manner that is flush with the front building façade of the principal building.
- d. If walls or fencing do not consist of the same building materials as used on the principal building, then they must be setback a minimum of 8 feet from the front building façade of the principal building.

F. **Cross Reference.** The following are additional sections that are common references needed across districts. Other sections may also apply to individual properties or projects:

Article 4.7 Outdoor Display

Article 4.8 Outdoor Storage

Article 6.1 Landscaping

Article 6.3 Parking

Article 6.4 Signage

Article 7.4 Residential Architectural Standards

Article 7.5 Business Architectural Standards

Article 7.6 Industrial Architectural Standards

Article 7.8 Easement Standards

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3.1 PERMITTED USES

A. Applicability

Land can only be used, and structures can only be used, erected, or structurally altered, for allowable uses in the Zoning District where they are located.

B. Land Use Specified

Each land use is either a permitted, not permitted, or a special exception use in each Zoning District as set forth in **CHAPTER 3- PERMITTED USES** (the "Use Table") or elsewhere in this Ordinance.

C. Special Exception Uses

A special exception designation does not imply the use will be disallowed but it requires a greater degree of scrutiny because of the potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a special exception for its characteristics and impacts to determine suitability in a zoning district. The approval of the special exception is subject to a public hearing by the Board of Zoning Appeals according to **8.10 Special Exceptions**.

D. Unlisted or Questionable Land Uses

Any use not listed in the use table or otherwise permitted by this Ordinance is prohibited. The Administrator determines land use placement if it is not specifically listed. This determination may be appealed to the Board of Zoning Appeals consistent with **8.3 Appeals of Administrative Decisions**.

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3.2 PERMITTED USE TABLE

P = Permitted Use S = Special Exception	Use Limitation	R1	R2	R3	R4	B1	B2	B3	B4	I1	I2	DT	Parking Requirements
RESIDENTIAL PRIMARY USES													
Household Living													
Dwelling - Single-Family Detached: Standard		P	P	P	P							P	2 spaces/unit
Dwelling - Single-Family Detached: Compact		P	P	P	P							P	2 spaces/unit
Dwelling - Duplex				P	P							P	2 spaces/unit
Dwelling - Bungalow Court	(39)			S	P							P	
Dwelling - Townhouse	(39)			S	P							P	
Dwelling - Apartment Building: Small	(39)				P							P	
Dwelling - Apartment Building: Large	(39)				P							S	
Accessory Dwelling Unit		P	P	P	P							P	1 space/unit
Live/Work Dwelling	(1)				S	S		S				P	1.25 spaces/unit
Mobile Home	§4.6												2 spaces/unit
Residence for Older Adults				S	P								.75 spaces/unit
Upper Story Residential					P	S	P	S				P	1 space/unit
Group Living													
Assisted Living Facilities			S	P	P							P	.75 spaces/unit
Fraternity, Sorority, or Student Housing					S			P				P	1.25 spaces/unit
Group Residential Facility		P	P	P	P							P	0.25 spaces/unit
Nursing Home, Hospice			S	P	P	P	P	P				P	.75 spaces/unit
Rooming or Boarding House					P			P	S				5 spaces/1000 SF GFA
Basic Utilities													
Utility, Major Impact	(2)						P	P		P	P		0.5 spaces/1000 SF GFA
Utility, Minor Impact	(3)					S	P	P		S	P	S	0.5 spaces/1000 SF GFA
Community/Public Services													
Cemetery	(5)	S	S	S	S								1 space/25 plots
Childcare Facilities						P	P	P				P	1 space/1000 SF GFA
Community Center	(4)	P	P	P	P	P	P	P		P	P	P	0.5 spaces/1000 SF GFA
Correctional Institution	(34)										S		4 spaces/1000 SF GFA
Fairgrounds		S								S			2.5 spaces/1000 SF GFA
Hospital	(29)		S	S	S	S	P	P		P	P	S	1 space/2 beds
Libraries and Museums		P	P	P	P	P	P	P		P		P	1 space/1000 SF GFA
Municipal & Government Buildings		P	P	P	P	P	P	P		P	P	P	8 spaces/1000 SF GFA

P = Permitted Use S = Special Exception	Use Limitation	R1	R2	R3	R4	B1	B2	B3	B4	I1	I2	DT	Parking Requirements
Parks and Playgrounds	(6)	P	P	P	P	P	P	P		P	P	P	1 space/50 SF GFA
Education													
Schools - Public and Private		P	P	P	P	P	P	P		P	P	P	2 spaces/1000 SF GFA
Schools - Vocational							P					P	1 space/1000 SF GFA
Public & Religious Assembly													
All Types	(7)	S	P	P	P	P	P	P		P	P	P	0.5 spaces/1000 SF GFA
Adult Business													
All Types	§4.2										S		8 spaces/1000 SF GFA
Arts, Recreation & Entertainment													
Arts, Recreation, Entertainment, Indoor	(8)	S	S	S	S	S	P	S		S	S	P	2.5 spaces/1000 SF GFA
Arts, Recreation, Entertainment, Outdoor	(28) (29)						P	S		S	S	S	2.5 spaces/1000 SF GFA
Sports and/or Entertainment Arena or Stadium	(23) (28)				S		P	P		S	S	S	1 space/4 seats or 1 space/40 SF GFA
Parking of Vehicles													
Parking Garage	(11)						P	P				P	No requirement
Parking Lot							P	S				S	No requirement
Eating & Drinking Establishments													
Restaurants – class A						P	P	P				P	5 spaces/1000 SF GFA
Restaurants – class B						P	P	P		P	S	P	5 spaces/1000 SF GFA
Taverns						P	P	P				P	5 spaces/1000 SF GFA
Lodging Accommodations													
Bed and Breakfast Establishments	(38)	S	S	S	S							P	2 spaces + 1 space/room
Hotel or Motel							P	S				P	1 space/room
Office													
Dental/Medical Office or Clinic	(12)					S	P	P				P	2 spaces/1000 SF GFA
Office, All Others						S	P	P		P	P	P	2 spaces/1000 SF GFA
Retail Sales, Service & Repair													
Animal Sales and Services, Household Pets Only	(13)				S	S	P					S	2.5 spaces/1000 SF GFA
Animal Sales and Services, All Others	(14)						P	S		P	S		2.5 spaces/1000 SF GFA
Grocery or Market	(15)					S	P					P	2.5 spaces/1000 SF GFA
Pawn Shop	(16)						S				S		2.5 spaces/1000 SF GFA
Retail Sales, Service & Repair, Outdoor	(17)						S	P		S			2.5 spaces/1000 SF GFA

P = Permitted Use S = Special Exception	Use Limitation	R1	R2	R3	R4	B1	B2	B3	B4	I1	I2	DT	Parking Requirements
Retail Sales, Service & Repair, Special Handling							S	S					2.5 spaces/1000 SF GFA
Retail Sales, Service & Repair, All Others						P	P	P				P	2.5 spaces/1000 SF GFA
Automobile Services, Light	(18)					P	P	P		P	P		0.5 spaces/1000 SF GFA
Automobile Services, Heavy	(19)									P	P		0.5 spaces/1000 SF GFA
Auto/Motorcycle/Boat/Light Truck Sales or Rentals	(20)							P		P		S	0.5 spaces/1000 SF GFA
Heavy Vehicle/Equipment Sales, Rentals & Service	(24)									P	P		0.5 spaces/1000 SF GFA
Communications & Information													
Communication Services	§4.4					S	P	P		S	P		0.5 spaces/1000 SF GFA
Small Cell Facilities	§4.2					P	P	P	P	P	P	P	No requirement
Telecommunication Towers	§4.4						S	S		P	P		No requirement
Telecommunication Facilities – All Others	§4.4					S	P	P		P	P		No requirement
Industrial Services													
Contractors, Special Trade – General	(30) (31)						P				P		0.5 spaces/1000 SF GFA
Contractors, Special Trade – Heavy/Contractor Yard	(30) (31)										S		0.5 spaces/1000 SF GFA
Food Preparation and Sales, Commercial							S	P		P	P		0.5 spaces/1000 SF GFA
Laboratory, Research, and Development Services	(26)							P		P		S	0.5 spaces/1000 SF GFA
Manufacturing, Fabricating, & Assembly – General	(25)									S	P		0.5 spaces/1000 SF GFA
Manufacturing, Fabricating, & Assembly – Heavy	(25)										P		0.5 spaces/1000 SF GFA
Mineral Extraction	(9)										P		No requirement
Refining or Manufacturing of asphalt, cement, gypsum, lime, or wood preservatives	(25)										P		No requirement
Sand & Gravel Extraction or Sales	(25)										P		No requirement
Solar Energy Conversion System	§4.12							S		S	P		No requirement
Wind Energy Conversion System	§4.15							S		S	P		No requirement
Transportation Facilities													
Airport	(28) (29)										S		No requirement
Heliport	(32)									S	S		No requirement
Mass Transit Facility (Bus/Light-Rail)	(10)				P			P					0.5 spaces/1000 SF GFA

P = Permitted Use S = Special Exception	Use Limitation	R1	R2	R3	R4	B1	B2	B3	B4	I1	I2	DT	Parking Requirements
Rail Distribution Yards	(25)										S		No requirement
Transportation Services – Rail & Air	(25)									S	S		0.5 spaces/1000 SF GFA
Waste Related Services													
Automobile Parts Recycling Business	(32)										P		0.5 spaces/1000 SF GFA
Composting Facility	(25)									S	P		0.5 spaces/1000 SF GFA
Recycling Center										S	P		0.3 spaces/1000 SF GFA
Recycling Drop-Off Facilities		P	P	P	P		P				P	S	0.3 spaces/1000 SF GFA
Recycling Plant, Scrap Processor											P		0.3 spaces/1000 SF GFA
Salvage or Junk Yards	(33)										S		0.3 spaces/1000 SF GFA
Solid Waste Facility	(35)										S		0.3 spaces/1000 SF GFA
Automobile Towing Service Storage Yard	(36)									P	P		0.3 spaces/1000 SF GFA
Self-Storage Facilities	(21)					S		S		P		S	0.1 spaces/1000 SF GFA
Truck Freight Terminal/Distribution Center	(37)										S		0.3 spaces/1000 SF GFA
Vehicle Storage, Commercial	(22)										P		0.5 spaces/1000 SF GFA
Wholesale Trade or Storage, General	(25)										S		0.5 spaces/1000 SF GFA
Wholesale Trade or Storage, Light										S	P		0.5 spaces/1000 SF GFA
AGRICULTURE PRIMARY USES													
Anhydrous Ammonia Storage & Distribution	(28)									S	S		0.3 spaces/1000 SF GFA
Aquaculture	(27)										S		0.5 spaces/1000 SF GFA
Confined Feeding Operation											S		No requirement
Farm		S									P		No requirement
Plant Nursery											P		0.5 spaces/1000 SF GFA
Roadside Produce Stand											P		3 spaces/1000 SF GFA
Sale Barn for Livestock											S		0.3 spaces/1000 SF GFA
Slaughterhouse											S		0.3 spaces/1000 SF GFA

3.3 USE LIMITATION NOTES

- (1) **Live/Work Dwelling:** Where permitted, a Live/Work Dwelling's nonresidential activity may be any primary use permitted in the same zoning districts that the Live/Work Dwelling is established, subject to the limitations below. The following nonresidential activities, when not otherwise specifically listed as permitted in the applicable zoning districts, are permitted in a Live/Work Dwelling use: art gallery, artist studio, professional studio, office (excluding dental/medical office and clinic) and other similar activities determined by the Administrator.
- a. A Live/Work Dwelling use is not a "residential use" or "residential district" or "protected use," nor in any other way be accorded residential protection (e.g., separation) against the effects of surrounding industrial uses as may otherwise be required by this Ordinance.
 - b. Any repair, assembly, or fabrication of goods is limited to the use of hand tools or domestic mechanical equipment.
 - c. The nonresidential activity must not exceed 50% of the gross floor area of the use.
 - d. The nonresidential activity cannot have more than 2 employees or assistants on the premises at one time. The employees or assistants may be in addition to residents of the Live/Work Dwelling.
 - e. Signs are limited to not more than 2 non-animated, non-illuminated wall or window signs with a maximum total area of 20 square feet.
 - f. Outside storage of any flammable and combustible liquids and flammable gases is prohibited.
 - g. Nonresidential storage in the Live/Work Dwelling is limited to no more than 10% of the space dedicated to the nonresidential activity.
- (2) **Major Impact Utility:** Where permitted, a major impact utility is permitted with the following:
- a. Sanitary sewer treatment plants must be at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.
 - b. Solid waste facilities must be in a completely enclosed structure and at least 500 feet from any residential district.
 - c. The expansion of transmission line capacity does not require a zoning permit provided such expansion may be accomplished within an existing right-of-way or with existing structures or poles.
- (3) **Minor Impact Utility:** Where permitted, a minor impact utility is permitted with the following:
- a. Electric substations are prohibited in residential districts.
 - b. Exposed electric substation transformers must be enclosed by a fence or wall at least 6 feet high and adequate to obstruct view, noise, and passage of persons.
 - b. A minor impact utility use must be at least 50 feet from the nearest boundary of any lot containing a single- or two-unit dwelling use existing at the time of application for the utility use unless the utility has been sited and designed to assure its compatibility with adjacent dwelling units.
- (4) **Community Center:** Where permitted:
- a. A community center cannot have an outdoor public address system or any type of amplified music or sound device.

GENERAL
PROVISIONS

ZONING
DISTRICTS

PERMITTED
USES

SPECIFIC
USES

DESIGN AND
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

DWELLING
CODE

DEFINITIONS

- b. Overnight accommodations are prohibited.
 - c. Where a community center includes accessory outdoor recreation or entertainment services facilities within or abutting a residential district, all outdoor lighting must be extinguished when the outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, and by 11:00 p.m. Friday and Saturday.
- (5) Cemetery: Where permitted, a cemetery may include a crematorium. A crematorium must be at least 500 feet from a residential district. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.
- (6) Parks and Playgrounds: Where permitted, a publicly owned park or recreation facility must comply with the following:
- a. Outdoor lighting must be extinguished when outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday.
 - b. Any recreation facility not completely enclosed (e.g. basketball or racquet sport courts) must be at least 50 feet from the boundary of a residential district.
- (7) Public and Religious Assembly Uses: In residential districts where permitted, a public or religious assembly use must comply with the following:
- a. The following operations must be terminated by 11:00 p.m.: (i) daily operations of uses and activities accessory to a primary public or religious assembly use, including but not limited to, accessory recreation uses or activities; and (ii) daily operations of other primary uses located on the same zone lot as the public or religious assembly use, including but not limited to, childcare facilities or elementary or secondary schools, but not including a primary household living use located on the same zone lot.
 - b. Conference center, club, or lodge use is prohibited.
- (8) Arts, Recreation, and Entertainment, Indoor Uses: In all residential districts where permitted, seating capacity in a permitted Arts, Recreation, and Entertainment, Indoor use is limited to no more than 100 people. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.
- (9) Mineral Extraction is prohibited within urban areas as defined in I.C. 36-7-4-1103. A fence at least 6-feet tall is required where the use is accessible to the public. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen. The use must be located at least 200 feet from a residential use or district.
- (10) Mass Transit Facility: In all residential districts where permitted, the use is limited to a stop or station for the mass passenger transit system; and parking for the use of passengers or employees of the passenger transit provider.
- (11) Parking Garage: Where permitted, a parking garage is limited to enclosed structures or structures enclosed except for portions of the parking structure over 45 feet above grade. Any unenclosed parking deck must have screening walls at least 4 feet in height. All lighting on the unenclosed parking deck must use fully shielded fixtures, not exceeding 6,500 lumens per fixture, and installed to not project glare off the lot.
- (12) Dental/Medical Office or Clinic: Where permitted, up to 20 patients or clients may stay overnight at any one time in a Dental/Medical Office or Clinic use. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.



- (13) Animal Sales and Services, Household Pets: Where permitted, an Animal Sales and Services, Household Pets use must comply with the following:
- a. All sales and services must be for household pets only. Wild or dangerous animal services and sales are prohibited.
 - b. Overnight boarding is permitted within a completely enclosed building. For uses over 20,000 s.f. in GFA dedicated primarily to retail sales, no more than 15% of the GFA can be devoted to overnight boarding.
 - c. The use must be completely enclosed except outdoor animal runs or other areas in which dogs are allowed outside of an enclosed structure off leash (an "outdoor run"). An outdoor run must comply with the following conditions:
 - Outdoor runs are not permitted within 20 feet of a residential structure in a residential district.
 - The outdoor run may operate only between 6:30 a.m. and 9:00 p.m.
 - No more than 25 non-neutered or non-spayed dogs older than 6 months may be kept on the premises at any time.
 - d. Facilities must be constructed, maintained, and operated so animal sounds and smells cannot be discerned on adjacent lots when the outdoor run is not in use.
- (14) Animal Sales and Services, All Others: Where permitted, an Animal Sales and Services, All Others use must comply with the following:
- a. Wild or dangerous animal boarding and breeding services are prohibited.
 - b. No more than 25 non-neutered or non-spayed dogs older than 6 months may be kept on the premises at any time.
 - c. Overnight accommodations are allowed.
 - d. Where located abutting a residential district, a minimum 50-foot wide landscaped buffer must be provided. The buffer is intended to substantially mitigate potential adverse effects from the animal service use.
- (15) Grocery: Where permitted, a Grocery use must comply with the following:
- a. Accessory outdoor sales and displays, including outdoor sales of fruits or vegetables, must occupy no greater than 25% the gross floor area of the structure containing the Food Sales or Market primary use.
 - b. Outdoor storage is prohibited unless enclosed by a fence or wall adequate to conceal such storage from adjacent residential property or public right-of-way.
- (16) Pawn Shop: Where permitted, a pawn shop cannot be established, operated, or maintained within 1,000 feet of another pawn shop.
- (17) Retail Sales, Service, and Repair – Outdoor: In the B2 Planned Business District, only outdoor retail sales are permitted, and outdoor retail repair or service uses are prohibited.
- (18) Automobile Services-Light: Where permitted, automobile wash, laundry, detail, or polishing shops are permitted subject to compliance with the following standards:
- a. The structure housing the primary use must be setback at least 8 feet from a residential district



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

(19) Automobile Services, Heavy: Where permitted, an Automobile Services, Heavy use must comply with the following:

- a. The lot must be enclosed with a solid fence or wall except for:
 - No more than 40% of the street frontage containing the entrance to the use is required to have a fence;
 - The street frontage of an automobile retail display area; or
 - Any portion of a lot line containing a building wall.
- b. The fence or wall must be constructed high enough to conceal vehicles, equipment, or parts located on the lot; provided the wall or fence does not interfere with vision clearance at the intersections (**5.11 Vision Clearance Standards**).
- c. Permitted fence or wall materials consist of wood, brick, masonry, or other similar durable materials as approved by the Administrator. Salvaged doors, corrugated or sheet metal, and chain link are prohibited fence or wall materials.
- d. If the use abuts a residential district, the hours of operation are limited to 7:00 a.m. to 10:00 p.m.

(20) Auto/Motorcycle/Boat/Light Truck Sales or Rentals: Sales display areas are not considered parking lots for the purposes of this Ordinance (e.g., parking space size requirements, landscaping requirements, etc.) Where permitted, an Auto/Motorcycle/Boat/Light Truck Sales or Rentals use must comply with the following:

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



- h. In the Downtown district, this use must occur completely within an enclosed building unless otherwise granted permission by the BZA as part of the special exception approval.
- (21) Self-Storage Facilities: Where permitted, Self-Storage Facilities cannot have individual entrances to storage units from the exterior of the structure.
- (22) Vehicle Storage, Commercial: Where permitted, the use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.
- (23) Sports and/or Entertainment Arena or Stadium: Where permitted, a Sports and/or Entertainment Arena or Stadium use must be at least 500 feet from a residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.
- (24) Heavy Vehicle/Equipment Sales, Rentals, and Service: Where permitted, a Heavy Vehicle/Equipment Sales, Rentals, and Service use must be located at least 500 feet from the nearest boundary of any residential district existing at the time of application. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district. No dead storage, repair work, or dismantling is permitted on the premises.
- (25) Where permitted, the use must be located at least 500 feet from any residential district. This requirement may be reduced by the Administrator if the applicant can show a smaller separation will have no significant effect on the nearby residential district.
- (26) Laboratory, Research and Development Services: Where permitted, a Laboratory, Research and Development Services use may include sales facilities limited to non-retail sales and sales activities occupying no more than 20% of the gross floor area of the structure. Such use may include indoor storage space for parts and supplies.
- (27) Aquaculture: Where permitted, the outdoor storage of waste material from fish processing is prohibited.
- (28) A fence at least 6-feet tall is required where the use is accessible to the public.
- (29) Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6-feet high at maturity is required to create an effective, year-round screen.
- (30) Building materials and company vehicles must be screened or located so not visible from a perimeter street or adjacent residential use.
- (31) Parking areas and loading berths must be located at least 300 feet from a residential use or district.
- (32) No dead storage, repair work, or dismantling is permitted on the premises.
- (33) Minimum Front Setback: 50 feet, Minimum Side Setback: 40 feet
- Use must be located at least 200 feet from a residential use.
 - Use must be enclosed by a 8-foot high solid wall or fence.
- (34) Minimum Lot Area: 40 acres
- (35) A fence at least 6-feet tall is required on all property lines. The fence may be wire mesh or solid.
- (36) Minimum Lot Area: 2 acres
- The use must be located at least 100 feet from a residential use or district.



- A fence at least 6-feet tall is required where the use is accessible to the public.
- Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6-feet high at maturity is required to create an effective, year-round screen.

(37) Minimum Lot Area: 5 acres

- Where abutting a residential use, Minimum Front Setback: 50 feet, Minimum Side Setback: 40 feet, Minimum Rear Setback: 40 feet
- Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6-feet high at maturity is required to create an effective, year-round screen.

(38) Bed and Breakfast Establishments: A bed and breakfast must be operated according to applicable County Health Department standards and meet the following requirements:

- A bed and breakfast cannot contain more than five guest rooms plus a common area for use by all guests.
- A bed and breakfast establishment must be located only in a detached single-family dwelling, designed, and constructed for single family use, which containing at least 1,500 square feet of useable floor area. For each guest room more than two, an additional 100 square feet of floor area is required.
- The bed and breakfast must be the principal residence of the owner, who resides there when the bed and breakfast is in operation.
- Meals for guests must not be available to members of the public other than the owner’s family.
- There must be at least one parking space provided for each guest room in addition to the parking spaces required to serve the principal residence.
- Cooking facilities are prohibited in bed and breakfast guest rooms.
- Exterior refuse storage facilities must be screened from view on all sides by a six-foot solid decorative fence or wall, or by other screening approved by the Administrator.
- In addition to the site plan required by ***CHAPTER 8: PROCESS AND ADMINISTRATION***, a floor plan noting the use of each room must be submitted with the application.

(39) Residential Parking Requirements: Parking must be provided at the minimum rates per dwelling unit as shown below:

- Studio dwelling unit – 1.5 spaces
- One-bedroom dwelling unit – 2 spaces per unit
- Two-bedroom dwelling unit – 3 spaces per unit
- Three-bedroom dwelling unit – 4 spaced per unit
- For each additional bedroom over three bedrooms – 1 space



3.4 USE DESCRIPTIONS

RESIDENTIAL PRIMARY USES

Household Living

Dwelling, Single-Family Detached: Standard: A Single-Family Detached Dwelling: Standard is a detached structure on a medium- or large-size lot containing one dwelling unit. It is typically located within a primarily single-family neighborhood. This type is the most common type found in Batesville. Typically, this building type has a front-load garage, but side-load garages are possible on corner lots or wider lots and rear-load garages are possible on lots abutting an alley.

Dwelling, Single-Family Detached: Compact: A Single-Family Detached Dwelling: Compact is a detached structure on a small lot containing one dwelling unit. It is typically located within a primarily single-family neighborhood in a walkable urban setting. This building type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability. Typically, this building type has a rear-load garage, but front-load garages are possible if the garage is recessed well behind the front façade of the house. It is important that the front façade of this building type not be dominated by garage doors.

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

Dwelling - Bungalow Court: A Bungalow Court consists of a series of small, detached structures, providing multiple units arranged on a single lot to define a shared court that is typically perpendicular to the street. The shared court takes the place of a private backyard and becomes an important community-enhancing element of this type. This type is appropriately scaled to it within primarily single family or medium-density neighborhoods. It enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability. Parking is typically located along an alley at the rear of the lot.

Dwelling – Townhouse: A townhouse is a small- to medium sized typically attached structure that consists of 2–8 townhouses placed side-by-side. This type may also occasionally be detached with minimal separations between the buildings. This type is typically located within medium-density residential neighborhoods or in a location that transitions from a primarily single-family residential neighborhood into a neighborhood main street. This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.

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

Dwelling - Apartment Building: Large: An Apartment Building: Large is a medium-to-large-sized structure that consists of 7-30 side-by-side and/or stacked dwelling units, typically with one shared entry. Used in an infill development context, this type is appropriately scaled to fit within mixed density residential neighborhoods or sparingly within large lot predominantly single-family residential neighborhoods. On larger sites, multiple buildings per lot may be appropriate.



This type enables appropriately scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.

Accessory Dwelling Unit: A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

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

Mobile Home: A movable or portable unit, 8 feet or more wide and is 32 feet or more in length, and constructed to be towed on its own chassis (comprised of frame and wheels) from the place of construction to the location or subsequent locations, and designed to be used without a permanent foundation and connected to utilities for year round occupancy with or without a permanent foundation. The term includes:

- units containing parts that can be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity;
- units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing; and
- units designed to be used for residential, commercial, educational, or industrial purposes, excluding recreational vehicles.

Residence for Older Adults: A single unit dwelling or multi-unit dwelling housing unrelated mobile older adults (individuals 55 or more years of age) more than the number of unrelated persons permitted per dwelling unit, receiving fewer services than a special care home or assisted living facility. A residence for older adults is not considered a Residential Care use.

Upper Story Residential: In a vertically mixed-use building, residential uses occurring above the first floor of the building.

Group Living

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

Fraternity, Sorority, or Student Housing: A building containing living quarters for students, staff, or members of an accredited college, university, boarding school, theological school, hospital, religious order, or comparable organization; provided that the building is owned or managed by the organization and contains no more than one cooking and eating area.

Group Residential Facility: A facility licensed by the State of Indiana to provide a homelike setting to the developmentally disabled and/or the mentally ill. This provides the benefits of a group living situation as an alternative to hospitalization or institutionalization.



Nursing Home: Any institution, whether operated for profit or not, that seeks to provide for a period exceeding 24 hours, nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but, in contradistinction to a hospital, does not include any place providing care or treatment primarily for the acutely ill.

Hospice: A facility that provides inpatient care and attends to the emotional, spiritual, social, and financial needs of terminally ill patients and their families.

Rooming or Boarding House: A residential building containing one or more guest rooms used, rented, or hired out, with or without meals, for permanent occupancy. A Rooming and Boarding House makes no provision for cooking in any of the guest rooms occupied by paying guests.

- A. A Rooming and Boarding House use is not considered a Residential Care use.
- B. A Rooming and Boarding House use is not considered a Student Housing use.

CIVIC, PUBLIC, AND INSTITUTIONAL PRIMARY USES

Basic Utilities

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

Utility, Minor Impact: A utility use that due to its nature or small scale is unlikely to have an adverse impact on surrounding properties. Examples include telephone switching stations and completely enclosed utilities.

Community/Public Services

Cemetery: Any land or structure dedicated to and used for the interment, entombment, or inurnment of human remains.

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

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

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

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

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

Library: A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

Museum: An institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

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



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

Parks and Playgrounds: A publicly owned area for recreational use primarily by children.

Education

Schools, Public and Private: An institution for the teaching of children or adults including primary and secondary schools, colleges, and similar facilities; also, physical improvements and structures related to the activity of teaching, as well as associated accessory uses and structures, including maintenance areas, parking athletic fields, outdoor study areas, etc.

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

Public & Religious Assembly

Public and religious assembly uses are permanent places where persons regularly assemble for religious worship or secular activities, and which are maintained and controlled by a body organized to sustain the religious or public assembly. Public assembly uses include civic and social organizations such as private lodges, clubs, fraternities, and similar private membership organizations.

COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES

Adult Business

Adult Business are characterized by commercial establishments where the primary use is the sale, rental, display or other offering of live entertainment, dancing, or material characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Arts, Recreation & Entertainment

Art, Recreation, and Entertainment, Indoor: A public or private facility that provides indoor entertainment including, video arcades, virtual reality games, and mechanical rides.

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

Sports and/or Entertainment Arena or Stadium: A large structure with tiers of seats for spectators at sporting or other recreational events.

Parking of Vehicles

Parking Garages: An off-street structure of two or more stories used for the temporary parking or storage of more than 4 motor vehicles.

Parking Lots: An off-street, surfaced, ground level open area used for the temporary parking or storage of more than 4 motor vehicles.

Eating & Drinking Establishments



Restaurant: An establishment whose principal business is the sale of edible, prepared food stuffs and/or beverages for consumption on or off the premises. Restaurants are further defined by class as follows:

1. **Class A Restaurants:** restaurants whose design or principal method of operation includes any two of the following characteristics:
 - Customers are provided with an individual menu, are served their food or beverages by wait staff, in non-disposable containers, at the same table items are consumed.
 - Cafeteria-type operations where foods or beverages are generally consumed within the restaurant building.
 - Carryout service is not the predominant type of service available.
2. **Class B Restaurants:** Restaurants not falling within the classification of Class A and having characteristics of offering food service over a counter or through a drive-through facility, having a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a microwave oven.

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

Lodging Accommodations

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

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

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

Office

Dental/Medical Office or Clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, other health care professionals, or similar professions.

Office: A use or structure where business or professional activities are conducted and/or business or professional services are made available to the public, including tax preparation, accounting, architecture, legal services, medical clinics and laboratories, dental laboratories, psychological counseling, real estate and securities brokering, and professional consulting services, but not including drive-through service windows, the cutting and styling of hair, or recreational facilities or amusements.

Retail Sales, Service & Repair

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

- a. The retail sale, grooming, care, or boarding of domestic or household animals only, and which may include overnight accommodations. The retail sale of domestic animals (e.g., pet store) is permitted.
- b. The maintaining, raising, harboring and/or boarding of 4 or more dogs, or 6 or more cats, or 6 or more dogs and cats is considered a primary "animal services and sales - household pets only" use.



c. Provision of veterinary medicine, dentistry, or surgery services by licensed veterinary practitioners for household or domestic pets only.

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

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

Pawn Shop: An establishment primarily engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the sale of the property.

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

Retail Sales, Service & Repair, Special Handling: Retail businesses that primarily sell products that require special handling due to risks to public safety. Example businesses include massage parlors, tattoo shops, vapor smoke shops, gun sales, and hunting stores.

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

Vehicle/Equipment Sales Service & Repair

Automobile Services, Light: Establishments providing routine maintenance and minor repair servicing of automobiles, which may include washing, cleaning, waxing, greasing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair and servicing.

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

Auto/Motorcycle/Boat/Light Truck Sales or Rentals: Establishments primarily engaged in the sales, leasing, rental, and related servicing of new and used automobiles, light trucks, vans and sport utility vehicles limited to a capacity of not more than one-and-one-half tons, motorcycles, motor scooters, mopeds, all-terrain vehicles, snowmobiles, go-carts, automobile hitches or utility trailers, and similar items; excluding commercial wrecking, dismantling, or junk yard.

Heavy Vehicle/Equipment Sales, Rentals and Service: Establishments primarily engaged in the sales, leasing, or rental, and related servicing, of high capacity mechanical devices for moving earth or other materials, and mobile power units including: carryalls, graders, loading and unloading devices, cranes, drag lines, trench diggers, tractors, augers, bulldozers, concrete mixers and conveyors, harvester combines and other major agricultural equipment and similar devices, trucks in excess of one-and-one-half tons or equipment for use in agriculture, mining, industry, business,



transportation, building, or construction; or automobile hitches or trailers, house trailers, recreational vehicles, and boats, but excluding commercial wrecking, dismantling, or junk yard.

INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES

Communications & Information

Communication Services: Establishments engaged in the provision of television and film production, broadcasting, and other information relay services accomplished using electronic and telephone mechanisms. Facilities that broadcast exclusively over the internet and have no live, in-building audiences to broadcasts are excluded from this definition. Typical uses include: television studios; television and film production studios; broadcast and/or recording studios; telecommunication or telecommuting service centers; or cable services.

Small Cell Facility: A personal wireless service facility (defined by the Federal Telecommunications Act of 1996, as amended) or a wireless facility satisfying the following requirements: (a) each antenna, including exposed elements, has a volume of 6 cubic feet or less; and (b) the primary equipment enclosure located with the facility has a volume of 28 cubic feet or less. The volume of the primary equipment enclosure excludes: electric meters, concealment equipment, telecommunications demarcation boxes, ground based enclosures, backup power systems, grounding equipment, power transfer switches, and cutoff switches.

Telecommunications Towers: Any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

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

Industrial Services

Contractors, Special Trade – General: An establishment providing general contracting and/or building construction services for residential, farm, industrial, or commercial uses, and which typically does not involve outdoor storage of machinery or equipment. This definition includes: general building contractors; plumbing, heating, air-conditioning; painting and paper hanging; electrical work; masonry, stonework, and plastering; carpentry and floor works; roofing, siding, and sheet metal work; glass and glazing work; installing building equipment; and special trade contractors.

Contractors, Special Trade – Heavy/Contractor Yard: Establishments providing general contracting and/or construction services other than for buildings, such as for highways and streets, bridges, sewers, and flood control projects, and which may involve outdoor storage of machinery or equipment, or a contractor yard for vehicles, equipment, materials and/or supplies.

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



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

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

Manufacturing

Manufacturing, Fabricating, and Assembly – General: A manufacturing establishment primarily engaged in the fabrication or assembly of products from prestructured materials or components; or a manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products, and does not produce or utilize in large quantities as an integral part of the manufacturing process, toxic, hazardous, or explosive materials. Because of the nature of its operations and products, little or no noise, odor, vibration, glare, and/or air and water pollution is produced, and, therefore, there is minimal impact on surrounding properties.

Manufacturing, Fabricating, and Assembly – Heavy: A manufacturing establishment whose operations include storage of materials; processing, fabrication, or assembly of products; and loading and unloading of new materials and finished products. Toxic, hazardous, or explosive materials may be produced or used in large quantities as an integral part(s) of the manufacturing process. Noise, odor, dust, vibration, or visual impacts, as well as potential public health problems in the event of an accident, could impact adjacent properties.

Mining & Extraction

Mineral Extraction: Establishments primarily engaged in the process of removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth’s crust. This term also includes the preliminary treatment of such ore or building stone.

Refining or Manufacturing of Asphalt, Cement, Gypsum, Lime, or Wood Preservatives: Establishments primarily engaged in manufacturing asphalt and tar paving mixtures or various compositions of asphalt or tar with other materials; manufacturing plaster, plasterboard, and other products composed wholly or chiefly of gypsum; manufacturing quicklime, hydrated lime, and "dead-burned" dolomite from limestone, dolomite shells, or other



substances; or treating wood, sawed or planed in other establishments, with creosote or other preservatives to prevent decay and to protect against fire and insects

Sand and Gravel Extraction or Sales: Establishments primarily engaged in the extraction of sand and gravel from an open pit to be processed and sold for commercial purposes.

Solar Energy Conservation System: Any mechanism designed for the purpose of converting solar energy into mechanical or electrical power.

Wind Energy Conservation System: Any mechanism including blades, rotors and other moving surfaces designed for the purpose of converting wind into mechanical or electrical power.

Transportation Facilities

Airport: A facility operated by an airport authority or governmental entity that provides infrastructure and services for air travel, together with all activities commonly associated with the operation of a major air carrier facility. Such services, infrastructure, and activities may include but are not limited to: landing fields; facilities for the parking, storage, fueling, repair, and rental of aircraft; passenger and baggage terminals; air cargo operations and associated facilities; public transportation infrastructure, including terminals and stations; safety facilities such as fire and police stations; open space uses such as agriculture, parks, golf courses, and recreation; energy production; retail, concessions, and other uses designed primarily to serve airline passengers, other airport users, and space; and other accessory uses as determined by the Administrator.

Heliport: A facility for landing or take-off area for rotor craft that may include a passenger terminal and/or routine servicing of rotor craft.

Mass Transit Facility (Bus/Light Rail): A facility for bus, fixed rail, or other types of transportation service available to the public that move relatively large numbers of people at one time.

Rail Distribution Yards: A facility for the operation of a line-haul or short-line freight railroad.

Transportation Services: Passenger services provided by public, private, or non-profit entities using modes such as express buses, minibuses, or vans.

Waste Related Services

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

Composting Facility: A commercial or public solid waste processing facility where yard or garden waste is transformed into soil or fertilizer by biological decomposition.

Recycling Center: A facility where recoverable resources, such as newspapers, magazines, glass, metal cans, plastic materials, tires, grass and leaves, and similar items, except mixed, unsorted municipal waste or medical waste are collected, stored, flattened, crushed, bundled, or separated by grade or type, compacted, baled, or packaged for shipment to others for the manufacture of new products. This use does not include SIC group 5015 (motor vehicle parts, used), which is listed as a separate use.

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

Recycling Plant, Scrap Processor: A facility at which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal and aluminum cans; waste oil; iron and steel scrap; rubber; organic materials;



and/or other products are recycled and treated to return such products to a condition in which they may again be used for production or for retail or wholesale trade. This definition includes, but is not limited to, all uses in the following SIC group: 5093 Scrap and Waste Materials.

Salvage or Junk Yards: A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment, but excluding the purchase or storage of used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations.

Solid Waste Facility: An establishment in which municipal solid waste is collected, separated by material, compacted, baled, or packaged for shipment to others for the manufacture of new products or for disposal. No manufacturing, remanufacturing, fabrication, or processing of new products occurs in this facility. This use may include a waste transfer station.

Wholesale Storage, Warehouse & Distribution

Automobile Towing Service Storage Yard: The assembling or standing of damaged or impounded vehicles for indeterminate periods of time, excluding the wrecking, dismantling, or repairing of vehicles.

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

Truck Freight Terminal/Distribution Center: Any premises used by a motor freight company as a carrier of goods, that is the origin or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading goods, but excluding loading and unloading of freight accessory to an otherwise permitted use on the site.

Vehicle Storage, Commercial: Establishments primarily engaged in the assembling or standing of operable vehicles for periods of more than one day. Such use does not include the storage of damaged, dismantled or impounded vehicles. This land use need not be enclosed.

Wholesale Trade or Storage, General: Establishments primarily engaged in one or more of the following activities: Selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, or building trade contractors; to professional businesses; or to other wholesalers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots; the sale at wholesale and/or storage or warehousing of toxic and/or hazardous materials; providing support services primarily to other businesses (rather than to individuals), including: advertising; employment services; equipment rental and leasing; property management, security and maintenance, including custodial services; printing and reproduction services; publishing and bookbinding; air courier pickup and delivery "drop-off points"; personnel services; computer programming, data processing and other computer-related services; mailing, addressing, stenographic services; and special business services such as travel bureaus, news service, importer, interpreter, appraiser, film library, business to business brokers or agents that arrange for the purchase or sale of goods for others, and which services do not include the warehousing of goods, are classified as "office" uses. Operations with more than 25 percent of sales to retail customers are categorized as "retail sales" rather than as "wholesale trade" uses. This use excludes self-storage facilities.

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

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AGRICULTURE PRIMARY USES

Anhydrous Ammonia Storage and Distribution: A facility, or group of facilities, that receives, stores, and handles anhydrous ammonia.

Aquaculture: An agricultural use in which food fish, shellfish or other marine foods, aquatic plants, or aquatic animals are cultured or grown to sell them or the products they produce. Includes fish hatcheries, growing tanks or raceways; the processing, storage, packaging and distribution of shellfish and fish; and accessory uses such as feed storage and water treatment facilities.

Confined Feeding: A facility engaged in the confined feeding of animals as defined in [*IC 13-11-2-40*](#).

Farm: Land being used for agricultural purposes.

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

Roadside Produce Stand: A structure for the display and sale of agricultural products grown on the site, with no space for customers within the structure itself.

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

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



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CHAPTER 4 - SPECIFIC USES

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4.1 ACCESSORY USES

- A. Accessory Uses are permitted in each Zoning District when determined by the Administrator that (i) the use is incidental to the permitted primary use, and (ii) the use is consistent with the intent of the Zoning District where it is located. Accessory Uses are not permitted prior to the establishment and operation of the principle use.
- B. Accessory parking lots and structures must be located at least 10' from any property line. This restriction does not apply to integrated center internal lots.
- C. Vending machines are prohibited on the exterior of any building unless contained in a shelter, stall, or placed to not interfere with the use of adjoining property.
- D. Rummage or garage sales are allowed without permit in any district provided there are not more than 2 sales annually of not more than 3-days' duration each on the premises. Rummage or garage sales of more than 3 but not more than 10 days require a temporary improvement location permit.

4.2 ADULT BUSINESSES

All adult businesses must comply with these standards.

These regulations are intended to preserve the integrity and character of residential neighborhoods, to deter the spread of urban blight, and to protect minors from the objectionable operational characteristics of adult business uses by restricting their proximity to the following protected uses:

- A church, synagogue, mosque, or other place of worship.
 - A nursery school or any other school serving one or more of grades K through 12.
 - A childcare facility licensed by the Indiana Family and Social Services Administration.
 - A public or private park, playground, playing field, sports facility or fairground.
 - A public or private cemetery.
 - A public housing facility.
 - Gymnasiums, dance studios, theater companies, and other facilities used by children.
 - An agricultural zoning district.
 - A residential zoning district.
- A. An adult business must be separated at least 1,500 feet from another adult business. This distance is measured in a straight line from the closest exterior wall of each business disregarding intervening structures.
 - B. An adult business must be separated at least 1,000 feet from any existing protected use. This distance is measured in a straight line from the closest exterior wall of the adult business to the nearest lot line of the protected use.
 - C. Any material depicting, describing, or relating to specified sexual activities or specified anatomical areas must not be visible from any public right-of-way.

An adult business lawfully operating under these regulations will not be deemed to be in violation of the location restrictions solely because (i) a protected use subsequently locates within the minimum required distance of the adult business, (ii) a business that sells alcoholic beverage subsequently locates within the same building as the adult



business, or (iii) property within the minimum required distance of an adult business subsequently becomes residential property.

4.3 CHILDCARE FACILITIES

These standards apply to childcare facilities in all Zoning Districts and do not apply to Childcare Homes.

A childcare facility must not be located on a lot with a property line within:

- 1,000 feet of any known business that has a permit for hazardous materials or regulated substances, excluding underground fuel storage tanks;
- 1,000 feet of any known business handling compressed flammable gases more than 1,500 pounds;
- 1,000 feet of any known business handling flammable liquids more than 10,000 gallons.
- 500 feet of another childcare facility.

Separation distance is measured from the property line of the proposed childcare facility to the use, storage, or handling areas for the regulated substances. For businesses containing a childcare facility on site, the distance is measured from the exterior wall of the childcare facility to the areas containing the regulated substances.

The childcare facility operator has the burden of proof of demonstrating compliance with the separation requirement.

Drop-off and pick-up of children from vehicles is permitted only in driveways, approved parking areas, or the street directly in front of the facility.

All outdoor play and activity areas must be enclosed with a fence at least 4½ feet high.

All outdoor play and activity areas must be separated from vehicular circulation and parking areas, equipment enclosures, storage areas, and refuse and recycling storage areas.

4.4 COMMUNICATIONS FACILITIES

- A. All cell towers and wireless communications facilities within the City must comply with the provisions of this article. Approvals granted are not effective until the applicant and City have a written agreement setting the terms and conditions to occupy and use any public rights-of-way or facilities. Approvals do not confer any exclusive right, privilege, license, or franchise to public rights-of-way or facilities unless specifically established in the written agreement.
- B. The following facilities are exempt from the provisions of this article unless they are located within a recognized Historic District:
 - A single ground- or building-mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying a residential parcel where the radio or television antenna is located; with an antenna height not exceeding 25 feet;
 - A ground- or building-mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed 35 feet;
 - A ground-, building-, or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the amateur radio service, if the height (post and antenna) does not exceed 35 feet;

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- A ground- or building-mounted receive-only radio or television satellite dish antenna, which does not exceed 36 inches in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of the dish does not exceed the height of the ridgeline of the primary structure on the parcel;
 - All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of the adoption of this title;
 - Mobile services providing public information coverage of news events of a temporary nature;
 - Handheld devices such as cell phones, business band mobile radios, walkie talkies, cordless telephones, garage door openers and similar devices as determined by the Administrator or designated agent; and
 - City government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights not exceeding 35 feet.
- C. For purposes of **IC 8-1-32-3** and **Section 332(c)(7)(B) of the Federal Telecommunications Act of 1996** as in effect on July 1, 2015, the BZA will exercise the authority to conduct hearings, to make decisions, and to approve the issuance or denial of Improvement Location Permits (except for co-location) under this chapter. The Administrator will exercise the authority to review applications for completeness, within the meaning of **IC 36-7-4-1109**, and to issue Improvement Location Permit’s under this chapter.
- D. The Administrator reviews the completeness of applications to construct or modify wireless facilities. Within 10 business days of filing, the Administrator will notify the applicant if the application is complete and if a public hearing will be required. If no public hearing is required, the Administrator acts on the request. When a public hearing is required, the BZA conducts the hearing and acts on the request.
- E. To be considered complete, the application must contain the information listed below. Applications requesting co-location only are required to provide the information in 1, 2, 3, and 4:
1. A statement that the applicant either provides wireless communications service or owns/provides infrastructure required for such service.
 2. The name, business address, and point of contact of the applicant.
 3. The location of the proposed or affected wireless support structure or wireless facility.
 4. A construction plan conforming with all applicable Building Code requirements.
 5. Evidence showing the application complies with the criteria for a special exception or use variance.
 6. For applications requesting approval for the construction of a new wireless support structure: (i) a construction plan describing the proposed wireless support structure and all equipment and network components, (ii) evidence supporting the proposed location, and (iii) a sworn statement from the individual responsible for the proposed location demonstrating co-location of wireless facilities on an existing wireless support structure is not a viable option because co-location:
 - Would not result in the same wireless service functionality, coverage, and capacity;
 - Is technically infeasible; or
 - Is an economic burden to the applicant.

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7. For applications requesting modification of a wireless support structure, a construction plan describing the proposed modifications to the affected wireless support structure and all equipment and network components.
- F. Failure by the Administrator to timely notify an applicant of an application's completeness is a nonfinal zoning decision, and the applicant is entitled to expedited judicial review of the nonfinal zoning decision.
- G. Deadlines for Final Action**
1. For applications for co-location only, final action must occur within 45 days of the date the applicant is notified the application is complete. This type of application does not require a public hearing, but the Administrator reviews the application for compliance with applicable code requirements before issuing the Improvement Location Permit.
 2. For applications to construct a new wireless support structure or substantially modify a wireless support structure, final action must occur within 90 days of the date the applicant is notified the application is complete, or within 120 days if a use variance approval is necessary. The BZA conducts a public hearing on the request and decides on the request at the first meeting it is first presented.
 3. If an applicant requesting additional time to amend its application agrees to a continuance, the time periods prescribed above are extended for a corresponding amount of time. Failure by the Administrator or BZA to take final action within the required time period is a nonfinal zoning decision, and the applicant is entitled to expedited judicial review of the nonfinal zoning decision.
- H. The following provisions apply to all applications submitted under this chapter:
1. The Administrator and BZA must comply with all applicable provisions of Section 332(c)(7)(B) of ***the Federal Telecommunications Act of 1996*** as in effect on July 1, 2015, and Section 6409(a) of the ***Middle Class Tax Relief and Job Creation Act of 2012*** as in effect on July 1, 2015.
 2. Neither the Administrator nor BZA may require an applicant to submit information about or evaluate an applicant's business decisions regarding the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.
 3. Neither the Administrator nor BZA may release to the public any records required to be kept confidential under federal or state law, including the trade secrets of applicants, as provided in the ***Access to Public Records Act (IC 5-14-3)*** and other applicable laws.
 4. The Administrator must allow an applicant to submit a single consolidated application to collocate multiple wireless service facilities or for multiple small cell facilities comprising a single small cell network. When a consolidated application is approved, the Administrator issues a single Improvement Location Permit for the multiple facilities or for the small cell network, in lieu of issuing multiple permits for each facility.
 5. The BZA must not impose a fall zone requirement larger than the area where the wireless support structure is designed to collapse per the applicant's engineering certification for the structure, unless evidence submitted by a professional engineer demonstrates the applicant's engineering certification is flawed.
 6. The Administrator or BZA must not require or impose conditions regarding the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.
 7. Application fees must be the same or similar to fees for applications for similar types of commercial or industrial development. Fees imposed by a third-party providing review assistance to the Administrator or BZA must be based on actual, direct, and reasonable costs incurred for the review, processing, and hearing of the application, and may not include:

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- Travel expenses incurred by the third-party in its review of an application; or
- Direct payment or reimbursement of third-party fees charged on a contingency basis.

I. All Communication Facilities must meet the following requirements:

1. The height of the antenna support structure cannot exceed 200 feet.
2. The antenna support structure must be set back a minimum of 40 feet from the property line unless the adjoining parcel is zoned or used for a residential use. If the antenna support structure adjoins a parcel zoned or used for residential use, the minimum setback equals the height of the support structure.
3. Except as required by the Federal Aviation Administration or Federal Communications Commission, the antenna support structure cannot be artificially illuminated and cannot display strobe lights.
4. Signs or advertising is prohibited upon an antenna support structure and associated equipment structures.
5. The support structure and any antenna located on the support structure must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment.
6. All utility buildings and structures accessory to the antenna support structure must be architecturally designed to blend into the surrounding area.
7. A landscape plan for the communication facility must be submitted with the application and must be substantially similar to landscaping required for other uses in business or industrial districts.
8. All communication facilities must be designed to accommodate the user’s equipment and the equipment of at least 2 additional service providers.
9. A qualified and licensed engineer must approve the design of the antenna support structure and certify its construction complies with the requirements of this article.
10. All applications must include a notarized letter of intent committing the antenna support structure owner or lessee on behalf of themselves and their successors in interest that the antenna support structure must be shared with additional users if the additional user agrees to meet reasonable terms and conditions of shared use.
11. Transmissions from a communication facility cannot interfere with any existing public safety communications.
12. Communication facilities or their related improvements cannot be sited to create a significant threat to the health or survival of rare, threatened, or endangered plant or animal species.
13. Communication facilities or their related improvements cannot be sited in a manner that would damage an archaeological site or have an adverse effect on the historic character of a historic or cultural resource.
14. A communication facility cannot be sited so that its presence threatens the health or safety of migratory birds.
15. Potential adverse impacts to nearby public use areas such as parks or trails must be minimized.

J. This condition of approval applies to all applications submitted under this Article: If a wireless communication facility structure is abandoned or remains unused for a period of 6 months, the owner must remove the structure and all associated facilities from the site. Such removal must be completed within 12 months of the cessation of site operations. If a structure is not removed within the required time period, the Administrator may remove the structure and associated facilities. The cost of the removal is the responsibility of the owner of the parcel.



4.5 HOME OCCUPATIONS

These standards apply to home occupations in all Zoning Districts.

A home occupation is permitted when incidental to the primary use of the premises as a residence. Home occupations must not adversely affect the residential character of the district or interfere with the reasonable enjoyment of adjoining properties. Home occupations must be of a personal service nature limited to domestic crafts and professional service. Home occupations must not include uses with significant visitors to the home, uses involving animals, nor uses associated with vehicle sales or repair.

- A. The operator of the home occupation must be a resident of the dwelling unit.
- B. A home occupation must be located within the primary structure. A home occupation cannot be conducted in an accessory building.
- C. A home occupation must not employ anyone other than a member of the immediate family residing in the residence.
- D. Exterior alterations changing the residential appearance to a business appearance is prohibited.
- E. No more than 25% of the floor area of the dwelling unit may be devoted to the home occupation.
- F. Outside storage of machinery, equipment, or materials is prohibited.
- G. An additional or separate entrance for the home occupation inconsistent with the residential character of the dwelling is prohibited.
- H. No more than one additional off-street parking spaces above the minimum parking requirement are permitted. Parking areas must not encroach into a required minimum setback. An additional driveway to serve the home occupation is prohibited.
- I. Display of goods or external evidence of the home occupation is prohibited, except for signs in accordance with **Section 6.4(1)(3)**.
- J. Only stock in trade or commodities prepared, produced, or created on the premises by the operator of the home occupation, may be kept or sold on the premises.
- K. Electrical or mechanical equipment must not interfere with local radio communications and television reception nor cause fluctuation in line voltage off the premises.

4.6 MANUFACTURED HOME PARKS

Manufactured home parks must be a minimum of 5 acres. Manufactured homes may be permanently occupied when located within a manufactured home park. Manufactured home parks require development plan approval and must be developed in accordance with the requirements of this Ordinance. Manufactured Home Parks are permitted as Planned Unit Developments. The following provisions must be incorporated into the PUD ordinance unless otherwise approved by the City Council.

- A. An Improvement Location Permit is required for the placement of any manufactured home.
- B. A manufactured home must not be located under overhead electric lines.
- C. Manufactured homes must be skirted before occupancy.

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- D. Accessory structures for storage on individual sites must meet setback requirements and require an Improvement Location Permit.
- E. Driveways must be located for convenient access to service entrances and collection points of buildings.
- F. Parking for residents and visitors must be provided on the manufactured home site or in common parking facilities. Parking areas must not interfere with pedestrian walkways.
- G. Sidewalks at least 5 feet wide must be provided along at least one side of the street to provide for continuous, safe pedestrian circulation. Sidewalks on both sides of the street are encouraged. Walkways are encouraged in common areas to connect frequently used public facilities and improve circulation throughout the site.
- H. Covenants applying to the entire site must be submitted with the development plan application. The covenants must be recorded prior to issuing an Improvement Location Permit for the site. The covenants must contain the following:
 - Each occupant of a manufactured home site must be provided a copy of the recorded covenants.
 - The placement or replacement of a manufactured home must comply with the requirements of this Ordinance.
 - Accessory structures must meet the required setbacks and require an Improvement Location Permit.
 - The manufactured home park owner is responsible for ensuring all sites and common areas are maintained in neat and orderly condition.
 - On-street parking of boats, trailers, semi-trucks, etc. is prohibited.

4.7 OUTDOOR DISPLAY

These standards to outdoor display apply as accessory uses in all zoning districts.

- A. Any proposed outdoor sales display must be delineated on an approved development plan and according to the following:
 1. The development plan must include the types of merchandise and products, location, landscaping, and other improvements of the outdoor sales display area.
 2. Pedestrian circulation areas must not be obstructed.
 3. Outdoor sales display areas must be delineated and compatible with the design of the building and the context of the site.
 4. Enhanced screening or landscaping ensuring the compatibility of the proposed use with adjoining areas may be required.
 5. Approval of an amendment to the development plan is required prior to altering an outdoor display area.
- B. The following uses are exempt from the outdoor sales display requirements:
 - Automobile dealerships, and other similar uses as determined by the Administrator or Plan Commission.
 - Outdoor sales displays that otherwise comply with the outdoor storage standards above.
 - Merchandise associated with a temporary use or event.

4.8 OUTDOOR STORAGE

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These standards to outdoor storage and outdoor display apply as accessory uses in all zoning districts.

- A. Storage or parking of recreational vehicles within residential uses are subject to the following:
- Outdoor parking of a recreational vehicle is prohibited.
 - Trailers and campers cannot be stored on a right-of-way at any time except for the immediate loading and unloading of the vehicle.
 - Recreational vehicles cannot be occupied or used for living or sleeping purposes. Connections to gas, electric, water or sanitary sewer service are prohibited.
- B. Outdoor storage for business uses is only permitted if delineated on an approved development plan and according to the following:
1. A lot's outdoor storage area must not exceed 50% of the gross floor area of the principal building.
 2. Outdoor storage areas must be in a side or rear yard immediately adjacent to the principal building and must not encroach onto any required building setback.
 3. Outdoor storage areas must be incorporated into the design of the principal building as follows:
 - Outdoor storage areas must be completely screened from view from any adjacent property or right-of-way.
 - Outdoor storage areas must be screened on all sides at least 7 feet high with a solid wall, fence, or landscaping, or a combination of these elements. A wall or fence must use materials consistent or complementary to the principal building. Chain link fencing is prohibited
 - Access into outdoor storage areas must occur from a side or rear yard. Access gates must be opaque and architecturally compatible with the materials used on the principal building.
 4. All materials, product, or merchandise stored in an outdoor storage area must be stacked no higher than 12 inches below the top of the wall.
- C. Outdoor storage may be permitted in industrial uses, subject to the following standards:
1. Outdoor storage is not permitted in the established front yard or in a yard adjoining a residential district.
 2. Outdoor storage areas must be screened as follows:
 - Continuous screening by a combination of walls, fencing, and landscaping at least 6 feet high.
 - Stored materials must not be stacked higher than 12 inches below the top of the wall or screen. Equipment and vehicles must be stored at their lowest state.
 3. Within outdoor storage areas, high-volume travel lanes, and an area 50 feet deep adjacent to the building must be paved with asphalt or concrete. The remainder of the outdoor storage may be finished with stone. Curbing is not required around outdoor storage areas.

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4.9 OUTDOOR EATING AREAS

Outdoor cafes and eating areas in any Zoning District are subject to these standards.

- A. All outdoor eating areas must conform to State and County Health Department regulations and code.
- B. Music and other audio devices must be maintained at a level not audible 40 feet from the source or 90 decibels or less when measured 6 feet from source.
- C. Outdoor eating areas must not impede pedestrian traffic or force pedestrians into vehicle travel lanes. A 5-foot pedestrian access area must be maintained on the perimeter of the outdoor café and eating area. The Board of Public Works and Safety may approve a narrower pedestrian access area. The pedestrian access area must remain clear of obstructions.
- D. Outdoor eating areas used for more than 7 days in a calendar year are deemed permanent. Permanent outdoor cafes and eating areas require development plan approval to ensure compliance with this Ordinance and compatibility with the surrounding area and Zoning District.

4.10 SMALL CELL FACILITIES

- A. Small Cell Facilities must be operated and maintained in a manner that does not interfere with public safety (police, traffic control, fire, and emergency services) equipment.
- B. If the Administrator determines a wireless provider’s activity in the right-of-way creates an imminent risk to public safety, the Administrator may provide written notice to the wireless provider demanding correction of the risk. If the wireless provider fails to address the risk within 24-hours of the notice, the City may act to address the risk and charge the wireless provider the documented cost of such actions.
- C. **Permitted Use.** A wireless provider has the right as a permitted use (subject to review and conditions) to collocate Small Cell Facilities and install, maintain, modify, operate, and replace poles in the right-of-way. Structures and facilities must be installed and maintained to not create a safety hazard, obstruct, or hinder the public’s safe use of the right-of-way, or obstruct the legal use of the right-of-way by utilities.
- D. **Permit Requirements**
 - 1. A permit is required prior to collocating a Small Cell Facility or installing a new, modified, or replacement pole or support structure associated with a Small Cell Facility. The City may require an applicant to obtain additional permits provided the additional permits do not apply exclusively to Small Cell Facilities. If a wireless provider fails to comply with the permit requirements, the City, in its sole discretion, may restore the right-of-way to its prior condition and charge the wireless provider the documented cost of restoration, plus a penalty not to exceed \$1,000.
 - 2. Within rights-of-way under the control of the Indiana Department of Transportation (“INDOT”), the wireless provider requests the City’s written consent to the wireless provider’s application for an INDOT permit. The City cannot unreasonably withhold their consent.
 - 3. Applications required by this article are filed with the Administrator on forms provided by the Administrator in the number and manner designated. The applicant may designate portions of the application containing proprietary or confidential information by clearly marking each such page as “proprietary” or “confidential.” The City endeavors to protect the designated materials from public disclosure to the fullest extent permitted by State law.

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4.11 SOLAR ENERGY CONVERSION SYSTEMS AS ACCESSORY USES

- A. Solar energy systems are a permitted accessory use in all zoning districts, subject to the requirements of this article. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Ground-mounted systems do not count toward the maximum number of accessory structures permitted.
- B. Solar energy systems must meet the following height requirements:
1. Building or roof-mounted solar energy systems cannot exceed the maximum height allowed in the zoning district where the solar energy system is located. For purposes of height measurement, solar energy systems other than building-integrated systems are permitted the same height exceptions as building-mounted mechanical equipment.
 2. Ground- or pole-mounted solar energy systems cannot exceed 15 feet in height when oriented at maximum tilt.
 3. Solar carports in non-residential districts cannot exceed 20 feet in height.
- C. A solar energy system must meet the accessory structure setback for the zoning district where it is located and the requirements below.
1. Roof- or Building-mounted Solar Energy Systems: The collector surface and mounting devices for roof-mounted solar energy systems cannot extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems is allowed to extend beyond the perimeter of the building on a side yard. Solar collectors mounted on the sides of buildings and serving as awnings are considered building-integrated systems and are regulated as awnings.
 2. Ground-mounted Solar Energy Systems: Ground-mounted solar energy systems cannot extend into a side or rear yard setback when oriented at minimum design tilt.
- D. Solar energy systems in residential districts must minimize visual impacts from the public right-of-way to the extent that doing so does not adversely affect the cost or efficacy of the system, consistent with ***IC 36-7-2-8***.
1. Building-integrated Photovoltaic Systems: Building-integrated photovoltaic solar energy systems are allowed even if the system is visible from the public right-of-way. If the building component where the system is integrated meets all required setback, land use, or performance standards for the district where the building is located.
 2. Aesthetic Restrictions: Roof-mounted or ground-mounted solar energy systems cannot be restricted for aesthetic reasons if:
 - a. The system is not visible from the closest edge of any public right-of-way other than an alley.
 - b. Roof-mounted systems on pitched roofs visible from a right-of-way have the same pitch as the roof and are no more than 10 inches above the roof.
 - c. Roof-mounted systems on flat roofs visible from a right-of-way are not more than 5 feet above the finished roof. Such systems are exempt from any rooftop equipment or mechanical system screening requirements.

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- 3. **Reflectors:** Solar energy systems using a reflector to enhance solar production must minimize the glare from the reflector onto adjacent or nearby properties.
- E. A ground-mounted system must meet the lot coverage requirements for the zoning district where it is located except:
 - 1. Ground-mounted systems are exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted.
 - 2. Solar carports in non-residential districts are exempt from lot coverage limitations.
- F. Solar energy systems requiring a building permit or Improvement Location Permit must provide a site plan with the permit application.
- G. Electric solar energy system components must have an Underwriters Laboratory (UL) or equivalent listing and solar hot water systems must have a Solar Rating and Certification Corporation (SRCC) or equivalent rating.
- H. Solar energy systems require approval of local building code officials, consistent with the State of Indiana Building Code. Solar thermal systems must comply with HVAC-related requirements of the Energy Code and applicable Indiana State Plumbing Code requirements. Photovoltaic systems must comply with the Indiana State Electric Code.
- I. For grid-tied solar energy systems, the interconnection application must be submitted to the utility prior to applying for required City permits. Off-grid systems are exempt from this interconnection application requirement.

4.12 SOLAR ENERGY CONVERSION SYSTEMS AS PRIMARY USES

The City permits the development of commercial- and large-scale solar energy systems where they present few land use conflicts with current and future development patterns, and they meet the requirements below.

A. Site Design

- 1. **Setbacks:** Large-scale solar arrays must meet the following setback requirements:
 - a. The setback from a non-participating landowner’s property line must meet the setback for principal buildings or structures for the district where the system is located.
 - b. Setbacks between parcels participating in the project may be waived upon agreement of the landowners.
 - c. Setbacks from roadways: 50 feet for arterial streets and 40 feet for all other streets.
 - d. Setbacks from residential dwellings: 150 feet from any existing residential dwelling unit of a non-participating landowner. Setbacks from participating landowner dwelling units must meet building setbacks or required yards for the district where the project is located.
 - e. The setback distance is measured from the edge of the solar energy system array, excluding security fencing, screening, or berming.
 - f. Setbacks may be reduced by up to 50%, but in no case be less than 30 feet, if the array has a landscape buffer that screens the array from view.
- 2. **Screening:** Large-scale solar energy systems must be screened from existing residential dwellings. A landscape plan showing the type and extent of proposed screening is required as part of the site plan application. The



screening must be consistent with the City's buffer landscaping standards used when for land uses requiring screening.

3. **Height:** Large-scale solar energy systems cannot exceed a height of 20 feet.
 4. **Ground cover and buffer areas:** Large-scale ground-mounted solar energy systems must comply with the following standards. The City may require additional site-specific conditions.
 - a. The ground under and around solar panels and within the buffer areas must be planted, established, and maintained in perennial vegetated ground cover.
 - b. To the maximum extent feasible for the site conditions, the ground cover should be a diverse seed mix of native species specific to the local area. The applicant should seek guidance from a Landscape Architect, the Soil and Water Conservation District office, or the Indiana Native Plant Society.
 - c. The owner/operator must maintain the ground cover removing invasive or noxious plant species identified by the Indiana Invasive Species Council without harming perennial vegetation.
 - d. Solar energy systems proposing to install, establish, and maintain pollinator-friendly vegetative cover must demonstrate the quality of their habitat by using guides such as Purdue University 2020 Indiana Solar Site Pollinator Habitat Planning Scorecard, or other third party solar-pollinator scorecards designed for Midwestern ecosystems, soils, and habitat.
 - e. Projects certified and maintained as pollinator-friendly compliant are exempt from landscaping requirements and post-construction stormwater management controls that may be otherwise required under the City's development regulations, unless required due to written commitments or conditions of approval by the Plan Commission or the BZA.
 5. **Foundations:** The application for building permits must include a certification by a qualified engineer that the design of the solar panel racking, and support is within accepted professional standards, given local soil and climate conditions.
 6. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings must be buried underground. Power and communication lines between the project and the point of interconnection with the transmission system may be overhead.
 7. Barbed wire or woven wire fencing are not permitted as perimeter fencing for the site. Wildlife-friendly fencing designs that include clearance at the bottom of the fence are preferred. Alternative fencing can be used if the site is incorporating agrivoltaics.
- B. Large-scale solar projects are subject to the City's stormwater management, erosion, and sediment control provisions and Nonpoint Pollution Discharge Elimination System (NPDES) permit requirements. Solar collectors are not considered impervious surfaces if the project complies with ground cover standards described in this article.
- C. Large-scale solar projects must comply with all applicable local, state and federal regulatory codes, including the State of Indiana Uniform Building Code, as amended, and the National Electric Code, as amended.
- D. **Site Plan Required.** Site Plan approval is required for large-scale solar projects. The site plan must show the locations of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands, and other protected natural resources, topography, electric equipment, and all other characteristics requested by the City. The site plan should show all zoning districts and overlay districts.

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- E. **Decommissioning.** A decommissioning plan is required to ensure that facilities are properly removed after their useful life.
 1. Decommissioning of the system occurs if the project does not produce power for 12 consecutive months. An owner may petition for an extension of this period upon showing of reasonable circumstances causing the delay in the start of decommissioning.
 2. The decommissioning plan identifies provisions for removing all structures and foundations to a depth of 48", restoring soil and vegetation, and assurances that financial resources will be available to fully decommission the site.
 3. The Plan Commission or Administrator may require the posting of a bond, letter of credit, or other financial surety to ensure proper decommissioning.

4.13 TEMPORARY USES, EVENTS AND STRUCTURES

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

- A. Unless otherwise provided, temporary uses, events and structures require a Temporary Uses, permit as set forth in **8.11 Temporary Use and Events Permits**. Board of Public Works and Safety approval is required for activities within the right-of-way.
- B. The following events are exempt from the provisions of this chapter:
 - Events hosted on an individual homeowner’s property (e.g. garage sales, estate sales, private parties).
 - City sponsored events as approved by the Council.
 - Events held on public park property; however, rules and policies established by the City and administered by the Parks and Recreation Department apply.
 - Non-incorporated children’s stands, such as a lemonade stand.
- C. **General Standards.**
 1. The Administrator, Fire Chief, or Police Chief may limit the location for traffic flow or public safety reasons.
 2. All temporary structures must meet the setbacks for the Zoning District where they are being installed.
 3. Goods and display materials must be stored inside a structure during non-event hours.
 4. The required parking for the primary use must not be negatively impacted by the temporary use or event. Additional parking may be required if the temporary use or event increases the need for parking.
 5. Temporary uses and events must not impede pedestrian traffic nor force pedestrians into vehicle traffic lanes.
 6. All equipment, materials, goods, poles, wires, and other items associated with the use or event must be removed within 2 days of the conclusion of the temporary use or event.
 7. All temporary events must conform to all State and County Health Department regulations and codes.
- D. The Administrator will issue a temporary improvement location permit, according to applicable provisions of this chapter, for a temporary construction trailer or office structure only when used in conjunction with construction

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work taking place on the site. A trailer or structure used for this purpose must be removed within 30 days of the completion of construction work or the issuance of a certificate of occupancy, whichever is earlier.

4.14 WIND ENERGY CONVERSION SYSTEMS AS ACCESSORY USES

- A. Wind energy conversion systems (WECS) are a permitted accessory use in all zoning districts, subject to the requirements of this article. Wind energy conversion systems do not count toward the maximum number of accessory structures permitted. Most of the energy produced by an accessory WECS should be consumed only on the property where it is located.
- B. As accessory uses WECS must be:
 1. Installed on a certified tubular free-standing tower, a lattice tower, or a monopole tower. Towers may be guyed or self-supporting.
 2. Filtered, shielded, or otherwise designed and constructed to not cause electro-magnetic interference.
 3. Grounded to protect against lightning strikes.
 4. Designed with automatic over speed control to render the system inoperable when winds are blowing at higher speeds than the machine's capability.
 5. Equipped with a redundant breaking system, including both aerodynamic over speed controls and mechanical breaks. Mechanical brakes must be operated in a fail-safe mode. Stall regulation is not a sufficient braking system for over speed protection.
- C. The WECS owner and operator must make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.
- D. A WECS must be setback from property lines at least 120% of the total height of the WECS.
- E. A WECS must comply with the maximum height limitation for the zoning district where it is located.
- F. WECS must be white, light gray, or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes must be matte or non-reflective and meet Federal Aviation Administration color requirements. No advertising or signage is allowed on a WECS.
- G. A WECS requires an Improvement Location Permit. The permit application includes a site plan and a description of the project addressing: the number and type of turbines, generating capacity, tower design and height, blade arc diameter, total height, means of connection with the electrical grid, potential equipment manufacturers, and all related accessory structures. The manufacturer's engineer or another qualified professional engineer must certify that the turbine, foundation, and tower design are within accepted professional standards given local soil and climate conditions.
- H. Electric WECS components must have an Underwriters Laboratory (UL) or equivalent listing.
- I. Wind energy conversion systems require approval of local building code officials, consistent with the State of Indiana Building Code.
- J. For grid-tied WECS, the interconnection application must be submitted to the utility prior to applying for required City permits. The WECS must be designed to meet the utility's requirements for interconnection and operation.

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Automatic and a manual controls that render the system inoperable in case of loss of utility power is required. Off-grid systems are exempt from these requirements.

4.15 WIND ENERGY CONVERSION AS A PRIMARY USE

The City permits the development of commercial Wind Energy Conversion Systems (WECS) where they present few land use conflicts with current and future development patterns.

- A. As a primary use WECS must meet the requirements below.
 - 1. WECS must conform to all industry standards. The applicant must submit certificates the wind turbine manufacturers have obtained from Underwriters Laboratories or an equivalent third party.
 - 2. WECS must be:
 - a. Installed on a certified tubular free-standing tower, a lattice tower, or a monopole tower. Towers may be guyed or self-supporting.
 - b. Filtered, shielded, or otherwise designed and constructed to not cause electro-magnetic interference.
 - c. Grounded to protect against lightning strikes.
 - d. Designed with automatic over speed control to render the system inoperable when winds are blowing at higher speeds than the machine’s capability.
 - e. Equipped with a redundant breaking system, including both aerodynamic over speed controls and mechanical breaks. Mechanical brakes must be operated in a fail-safe mode. Stall regulation is not a sufficient braking system for over speed protection.
 - f. Designed with and automatic and manual control that will render the system inoperable in case of loss of utility power to prevent the WECS from supplying power to a de-energized electrical distribution grid.
 - g. Designed to meet the requirements for interconnection and operation as mandated by the utility managing the electrical grid where the WECS is connecting. All structures, substations, feeder lines, facilities, and accessory equipment must comply with the National Electrical Code and operate per the electrical utility’s service regulations applicable to WECS.
 - 3. Outside of a primary structure, the sound pressure levels from a WECS component must not exceed 32 decibels on the “A” weighted scale. This level may only be exceeded during short-term events such as utility outages or severe windstorms.
 - 4. The WECS owner and operator must make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner’s property.
 - 5. All lighting, including lighting intensity and frequency of strobe, must adhere to but not exceed the requirements established by the Federal Aviation Administration (FAA) permits and regulations. Except for lighting required by the FAA, lighting must be shielded so that no glare extends beyond the WECS.
 - 6. At least 20 feet of clearance is required between the ground and the lowest point of the arc of any protruding blades utilized on a WECS. This minimum clearance may be increased to provide additional clearance where oversized vehicles may travel.

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7. The maximum tower height and maximum total height cannot exceed the maximum height permitted by the FAA.
 8. Wind turbines must be setback from property lines and rights-of-way at least 120% of the total height of the structure. A minimum separation of 2,640 feet is required between a wind turbine and any non-applicant primary building. No new structure may be constructed within 800 feet of a wind turbine unless this requirement is waived by the Plan Commission upon a determination that the structure will not affect the WECS performance. Accessory structures associated with the WECS must meet the setbacks for primary structures for the zoning district where they are located.
 9. WECS must be white, light gray, or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes must be matte or non-reflective and meet Federal Aviation Administration color requirements. No advertising or signage is allowed on a WECS.
 10. For all guyed towers, visible and reflective objects (such as plastic sleeves, reflectors, or tape) are required on the guy wire anchor points and along the outer- and innermost guy wires to a height at least 8 feet above the finish grade.
- B. WECS are subject to the City's stormwater management, erosion, and sediment control provisions and Nonpoint Pollution Discharge Elimination System (NPDES) permit requirements and all applicable local, state, and federal regulatory codes, including the State of Indiana Uniform Building Code, as amended, and the National Electric Code, as amended.
- C. **Site Plan Approval Required.** A WECS requires site plan approval by the Plan Commission. In addition to the site plan requirements of [8.6 Site Plan Review](#), the application must include a description of the project addressing: the number and type of turbines, generating capacity, tower design and height, blade arc diameter, total height, means of connection with the electrical grid, potential equipment manufacturers, and all related accessory structures. The site plan must show the location of all underground utility lines associated with the WECS project. The manufacturer's engineer or another qualified professional engineer must certify that the turbine, foundation, and tower design are within accepted professional standards given local soil and climate conditions. If there is an existing WECS within one mile of the proposed WECS, a description of the potential impacts on the existing WECS and wind resources on adjacent properties is required.
- D. Several WECS projects may be submitted as a single application and reviewed under joint proceedings, including notices, hearings, reviews, and approvals.
- E. **Modification.** Any physical modification to a WECS that alters the mechanical load, mechanical load path, or major electrical components requires new site plan approval prior to making any physical modifications. Like-kind replacements are considered maintenance and do not require site plan approval.
- F. **Decommissioning.** A decommissioning plan is required to ensure that facilities are properly removed after their useful life.
1. Decommissioning of the system occurs if the project does not produce power for 12 consecutive months. An owner may petition for an extension of this period upon showing of reasonable circumstances causing the delay in the start of decommissioning.

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2. The decommissioning plan identifies provisions for removing all structures and foundations to a depth of 48", restoring soil and vegetation, and assurances that financial resources will be available to fully decommission the site.
3. The Plan Commission or Administrator may require the posting of a bond, letter of credit, or other financial surety to ensure proper decommissioning.



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CHAPTER 5 - DESIGN AND MAINTENANCE

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5.1 ACCESSORY STRUCTURES

- A. Accessory buildings are permitted in all Zoning Districts.
- B. Accessory buildings must be constructed on the same lot as their principal building.
- C. Accessory buildings for residential uses must be setback at least 10 feet behind the front facade of the principal building.
- D. An accessory building 200 square feet or smaller must be a minimum of 3 feet from the side and rear lot lines and located outside of all easements. An accessory building over 200 square feet must meet the minimum side, street side, and rear yard building setback lines of the Zoning District, unless otherwise established by this chapter.
- E. Accessory buildings cannot be constructed until construction of the principal building on the lot has begun. Accessory buildings cannot be occupied or utilized unless the principal building is first legally occupied for a permitted use within the applicable Zoning District. The construction of an accessory building must be completed:
 - 1. Within one year of the issuance of a building permit, if such permit is obtained individually; or
 - 2. Within one year of the completion of construction of the principal building, if the accessory building’s building permit is obtained as part of the building permit for the principal building.
- F. Property owners should refer to any applicable Declaration of Covenants, Conditions, and Restrictions which may impose greater restrictions than are found in this Ordinance. This ordinance does not abrogate any private covenants that may apply to property. Likewise, approval of any addition or improvement pursuant to private covenants does not act as a waiver of any requirements contained in this ordinance.
- G. The standards of this Ordinance do not prevent the use of a temporary construction building to be utilized for the storage of tools, materials, and other equipment during the period of construction.
- H. **Carpports:** Carports must be consistent in design, appearance, and materials with the principal building.
- I. **Satellite Dish Antenna:** These regulations apply to satellite dish antenna and other satellite reception devices greater than 2 feet in diameter.
 - 1. General Purposes
 - a. These regulations are designed to promote the public health and safety by providing criteria for the placement of these antenna. This ensures that all installations limits endangerment of life and property on the site and surrounding properties due to collapse or destruction.
 - b. These regulations are also designed to decrease the potential for urban blight in residential neighborhoods generated by guy wires, poles, cables, and other appurtenances.
 - c. These regulations allow satellite dish antenna and other satellite reception devices exist in a manner that: (1) does not unreasonably delay or prevent the installation, maintenance or use of the antenna; (2) does not unreasonably increase the cost of installation, maintenance or use of the antenna; or (3) preclude reception of an acceptable quality signal.
 - 2. General Requirements
 - a. A satellite receiver antenna 2 feet in diameter or less may be installed in any location in accordance with the provisions of **IC 36-7-4-201.1**.

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- b. Satellite dish antenna greater than 2 feet in diameter may be erected in the R4 residential district after an improvement location permit is obtained, provided the following criteria are met.
- The satellite dish antenna is ground mounted.
 - The diameter does not exceed 10 feet.
 - The height does not exceed 12 feet.
 - It is located between the rear building line of the principal structure and the required rear yard setback line. In case of a corner lot, the antenna must not be located within the street side yard.
- c. Satellite dish antenna may be erected in any non-residential zoning district provided:
- The diameter must not exceed 12 feet.
 - The height of a ground-mounted antenna must not exceed 25 feet.
 - The height of a roof-mounted antenna cannot exceed 15 feet.
 - A roof-mounted antenna must not exceed the maximum height requirement of the zoning district. A roof mounted satellite dish antenna must be located at least 10 feet behind the front roofline of the structure.
 - A ground-mounted antenna must comply with the yard setback requirements of the district. Antenna must not be in a front yard or open space.
- d. Satellite dish antennas must be installed and maintained in compliance with all applicable building and electrical codes and are subject to the following standards:
- Satellite dish antennae must be solid in color.
 - Not more than one antenna greater than two feet in diameter is allowed on any lot unless shown on an approved site plan.
 - No advertising, logos, or corporate symbols are permitted on any satellite dish antenna greater than 2 feet in diameter.
- J. **Amateur Radio Standards:** Individual amateur transmitting and receiving antennae and associated support structures owned or operated by licensed amateur radio operators are permitted as accessory structures according to these provisions.
- a. Amateur Radio Club and repeater station antennae and support structures are permitted to the height necessary to maintain reliable communications.
 - b. Antenna structures of amateur radio operators licensed by the Federal Communication Commission may not exceed 75 feet above grade. The height is measured vertically and includes the height of the building where the antenna support structure is mounted.
 - c. Antennae may be located above the antenna support structure as necessary for effective radio communications.
 - d. Upon the Federal Communication Commission licensed operator's cessation of ownership or leasehold rights in the antenna support structure, or on loss of his or her federal amateur radio license (whichever occurs first), the operator must safely remove all antenna support structures within 30 days at no

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expense to the City. If the operator fails or refuses to remove the antenna support structure, the owner of the subject lot is responsible for the removal of all such structures. Failure to remove antenna support structures is a violation of this Ordinance and subject to enforcement (**CHAPTER 9: ADMINISTRATION AND ENFORCEMENT**).

- e. On residential lots, antenna support structures must be located between the rear building line of the principal structure and the required rear yard setback line. For a corner lot, the antenna cannot be located within the street side yard.
- f. Nothing in this section affects any existing antenna support structure utilized by any federally licensed amateur radio operator constructed and in place before the passage of this Ordinance.

K. Swimming Pools and Hot Tubs: In addition to conforming to the regulations for accessory uses and structures above, all swimming pools and hot tubs must meet the following requirements:

- g. Swimming pools cannot be installed without first being issued an Improvement Location Permit according to **8.8 Improvement Location Permits**.
- h. Swimming pools or hot tubs cannot be in any required front, side, or rear yard or in front of the front building line of a principal use.
- i. Swimming pools or hot tubs cannot be constructed unless adequate distance from overhead electrical wires is provided according to the current National Safety Code and National Electrical Code.
- j. All swimming pools and hot tubs must be included in the calculation of maximum lot coverage.
- k. All swimming pool construction, including associated decking, fencing, and means of access must conform with the regulations set forth in **675 IAC 20-4**.

5.2 BUILDING STANDARDS

- A. Every building erected must be located on a lot and in accordance with this Ordinance.
- B. A lot used for single-family residential purposes must have only one principal building devoted to residential use, except as otherwise permitted in this ordinance.
- C. A lot used for multifamily purposes may have more than one principal building devoted to residential use.
- D. A lot in a non-residential district may have more than one principal building devoted to non-residential uses.

E. Conversions

- 1. It is the purpose of this code to discourage the conversion of existing dwellings originally designed for occupancy by two families or less to occupancy by more than two families when the conversion is likely to lead to overcrowding, to lack of privacy, to lack of sufficient light and air, to unsafe or unsanitary living conditions or to inadequate provisions for off-street parking and open space.
- 2. These conversions must be consistent with the purposes of other applicable provision portions of the code, including housing and building codes and fire safety and utility programs.
- 3. In connection with the conversion there must be no evidence of change in the building to indicate the extra dwelling units, except as may be required by the codes and programs; all fire escapes or stairways leading to a second or higher floor must be completely enclosed within the converted building; and no dwelling can be so converted unless in connection therewith it be placed in a reasonable state of repair.

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5.3 COMPATIBILITY STANDARDS

- A. The purpose of these standards is to ensure the compatibility of proposed development with the surrounding neighborhood.
- B. Unless waived in writing by the Administrator, the compatibility criteria are required as part of the Development Plan Review process for applications located:
- Within the Downtown district,
 - Within a corridor overlay district, or
 - On an infill site. An infill site is one where the proposed development is sited on vacant or underutilized land within an existing community which is substantially enclosed by other buildings and developments.
- C. In addition to the criteria identified in ***8.6 Development Plan Review***, Development Plans are also reviewed for compatibility of the proposed development with the surrounding neighborhood on the following requirements:
- Massing of the building form,
 - Building scale,
 - Location and treatment of entryways,
 - Surface materials, finishes, and textures,
 - Size of the building footprint,
 - Eave heights,
 - Building silhouette,
 - Spacing between buildings,
 - Setbacks from public rights-of-way,
 - Proportions of windows, bays, doorways, etc.,
 - Shadow patterns from massing and features, and
 - Landscaping.

The Plan Commission or Administrator may request in writing other information as deemed necessary to support a thorough review of the project. The Administrator may waive or relax any required documentation not relevant or deemed unnecessary for a thorough review of the application. Scaled drawings of proposed buildings must be filed in connection with the submission of a development plan and must include:

- Elevations of each building façade,
- Specification or sample of the type and color of exterior materials to be used for all wall, window, roof, and other architectural features,
- A separate true color rendering or other realistic depiction of the proposed building, including any areas designated for signage, and
- Details of any exterior architectural lighting.

5.4 FENCE AND WALL STANDARDS

These standards apply to fences in all Zoning Districts.



- A. Fences cannot be erected or altered in a manner that obstructs the vision of a vehicle driver (**5.11 Vision Clearance**). Fences may be built directly along lot lines; however, fences must not encroach into rights-of-way, nor into easements prohibiting the installation of fences (e.g., drainage and utility easements).
- B. **Fence Limitations:**
 - 1. Fence height is measured from the top of the fence to the finish grade adjacent to the fence. Any fence placed upon mound, berm, or masonry wall is measured from the top of the fence to the finish grade at the base of the mound, berm, or wall.
 - 2. Fences located within a required side, street side, or rear yard of a residential lot cannot exceed 6 feet in height.
 - 3. Fences located within a required or established front yard of a residential lot cannot exceed 42 inches in height.
 - 4. Open wire mesh fences surrounding tennis courts and baseball diamond backstops may be erected to a height of 16 feet.
 - 5. Fences enclosing an institutional, commercial, or industrial property, may consist of an open mesh fence not to exceed 10 feet unless otherwise restricted by this Ordinance.
 - 6. Fences for agricultural uses are exempt from these height limitations.
- C. Opaque fences must be installed so the finished side of the fence is facing outward (e.g., toward the lot line). Fences on a lot line in which two or more property owners share in the expense of the fence are exempt from this provision.
- D. Fences for screening of permitted outdoor storage or display areas must also comply with **4.10 Outdoor Display** and **4.11 Outdoor Storage**.
- E. Property owners should refer to any applicable Declaration of Covenants, Conditions, and Restrictions, which may impose greater restrictions than listed in this chapter. This ordinance does not abrogate any private covenants that may apply to property.
- F. The following wall and fence materials are prohibited in all Zoning Districts in areas visible from outside the parcel on which such walls or fences are installed: non-solid and/or unfinished wood, chain link (with or without slats), non-decorative corrugated metal, electrified fences and razor/concertina/barbed wire.
- G. Fences must be maintained in good condition and operating order.
- H. In all Zoning Districts, temporary fences for safety and construction are permitted and are exempted from the standards of this chapter.

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5.5 HEIGHT STANDARDS

A structure must not exceed the height limits established and specified in the Zoning District in which the structure is located except as otherwise noted.

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

5.6 LOT STANDARDS

A. Number of Buildings on a Lot.

Except for unified developments, no more than one principal use and no more than one principal building may be located on a single lot of record or a single zoning lot.

B. Division of Lots

No lot can be divided unless the division conforms to the applicable subdivision regulations of this Ordinance.

C. Corner Lots

On a corner lot, the narrowest street frontage of the lot is the front lot line, and the other street frontage is the street side lot line, unless the Administrator determines otherwise based upon the context of the lot.

D. Street Access

1. Every lot must abut on a public street or private access drive with facilities for ingress and egress between the lot and street or drive. Lots having 100 feet or less of frontage are allowed only one access point. Each multi-family development with more than 12 units must have an additional access point for emergency access. Lots with more than 100 feet of frontage may have more than one access point as determined by the Administrator or Plan Commission. Any request for more than one access point onto any public street may require a traffic study if requested by the Administrator or the Plan Commission.
2. Access to lots should be provided from public streets whenever possible. Private streets are discouraged and will be permitted only when site conditions prevent reasonable access to the lot from a public street. Examples of such conditions include lots with limited or no road frontage or where providing access by a public street would result in a physical or financial hardship.
3. Private streets must meet the following requirements.
 - a. Private streets can provide access only to commercial and industrial lots or mixed-use developments.
 - b. Private streets must provide access only to abutting lots and are allowed only for drives that have no public interest for traffic circulation.
 - c. Private streets can provide access to a maximum of three lots unless otherwise approved by the Administrator or Plan Commission.
 - d. Private streets must be designed and constructed to the same standards as public roads in the City's Construction Standards.

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- 4. Private alleys may be used to provide access to lots. If the alleys are located within a subdivision with an owner’s association, the maintenance cost of the alleys must be borne by the association. Alleys must be constructed per the City’s Construction Standards.
- E. **Lot Area Exclusions.** Any portion of a lot located within the 100-year floodplain, wetlands, lakes, ponds, stormwater detention areas, or floodplain compensatory storage areas, cannot be counted towards the minimum lot area.
- F. **Yards and Open Spaces on Lots.** The provisions of yards and open spaces required for a building are continuing obligations of the owner. Legally required yards and open space allocated to a building cannot be used to satisfy yard or open space requirements for any other building.

5.7 PERFORMANCE STANDARDS

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

- A. **Obnoxious Characteristics.** No use can exhibit obnoxious characteristics to the extent that is constitutes a public nuisance.
- B. **Fire Protection.** Firefighting equipment and prevention measures acceptable to the Fire Department and any federal, state, county, and/or local authorities that may have jurisdiction must be readily available and apparent when an activity involving the handling or storage of flammable or explosive materials is conducted.
- C. **Electrical Disturbance.** No use can cause electrical disturbance adversely affecting radio, television, or other equipment in the vicinity.
- D. **Noise.** No use can produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness, or vibration. Noises must be muffled or otherwise controlled to not become detrimental.
- E. **Vibration.** No use can cause vibrations or concussions detectable beyond the lot lines without the aid of instruments.
- F. **Odor.** No use can emit across the lot lines malodorous gas or obnoxious odor in such a quantity as to be detectable at any point along a lot line.
- G. **Air Pollution.** No use can discharge across a lot line fly ash, dust, smoke, vapors, noxious, toxic, or corrosive matter, or other air pollutants in such a concentration as to be detrimental to health, animals, vegetation, or property, or conflict with public air quality standards.
- H. **Heat and Glare.** No use can produce heat or glare in a manner to be a nuisance or create a hazard perceptible from any point beyond a lot line.
- I. **Water and Solid Waste Pollution.** No use can produce erosion or pollutants in such quantity as to be detrimental to adjacent properties or conflict with public water quality standards.
- J. No approval of a use under this Ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under Indiana State statute. Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the authorities with rightful jurisdiction.
- K. No use can accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in conflict with applicable public health, safety, and welfare standards and regulations.

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- L. The performance standards above do not apply to: (1) site construction, maintenance, repair, or alterations of buildings or other improvements on or within the lot; (2) the operation of motor vehicles; and (3) safety or emergency warning signals or alarms.
- M. Any industrial use must conform to any applicable state and federal government regulations. All relevant federal and state permits or approvals are required prior to issuance of an Improvement Location Permit.

5.8 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS

The following are not considered obstructions when located in the required yards specified.

A. All Yards

1. Open porches, patios, terraces, and decks no more than 30 inches above the average grade. Porches, patios, terraces, and decks with a permanent roof can extend no more than 2 feet into the required yard.
2. Residential window awnings attached to the principal dwelling may project up to 3 feet into the required yard if there is at least 7 feet clearance above the adjoining finish grade.
3. Steps and stairs 4 feet or less above grade that are necessary to access the building.
4. Chimneys projecting 18 inches or less into the required yard.
5. Arbors, trellises, flag poles, fountains, sculptures, plant boxes, and other similar ornamental objects.
6. Overhanging eaves and gutters projecting 3 feet or less into the required yard.

B. Front Yards

1. Bay windows projecting 3 feet or less into the required yard.
2. Down spouts projecting not more than 6 feet into the required yard.

C. Side and Rear Yards

1. Air conditioning units and compressors.
2. One-story bay windows projecting 3 feet or less into the yard.

D. Rear Yards

1. Attached or detached off-street parking spaces in non-residential districts.
2. Balconies and breezeways.

5.9 PROPERTY MAINTENANCE STANDARDS

This article applies to all Zoning Districts.

A. All land and exterior areas under roof but not enclosed must be maintained free from:

1. Accumulation of garbage, debris, or blight, including: graffiti, tires, broken glass, or anything posing a hazard to public health;
2. Tarps, plastic sheeting, or similar materials used as screening, fencing, or wall covering;

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3. Abandoned vehicles or inoperable vehicle parts, visible from a right-of-way, except a single inoperable vehicle undergoing minor repair work, not to exceed 72 hours; or lawful commercial activities involving vehicles as allowed by this Ordinance;
4. Commercial appliances, machinery, freezers, refrigerators, or other household items;
5. Any object or landscaping that interferes with the use of any sidewalk, street, alley, highway, or visibility of a traffic light or sign in the City;
6. Landscaping visible from public property that is substantially dead, damaged, or characterized by uncontrolled growth;
7. Anything posing an imminent hazard to public health and safety;
8. Any unprotected well or excavation more than 2 feet deep;
9. Any wall or fence missing blocks, boards, or other material, or is otherwise deteriorated to constitute a hazard to people or property; and
10. Graffiti visible from a public area or right-of-way.

These standards exclude: items kept in covered bins or receptacles; a lawfully established junkyard; any neatly stored materials used in the development of property; and items stored or kept in enclosed trailers or vehicles.

These standards do not apply to the orderly storage of materials in side and rear yards provided:

- The storage does not exceed 10% of the area of the yard, and
- The storage does not exceed the height of any fence or wall enclosing the storage area.

- B. All premises must be kept free from rodent infestation and other noxious pests.
- C. All premises must prevent the accumulation of stagnant water.
- D. All fences and walls must be safe, structurally sound, and uniform in color, structure, and design. They must not constitute a hazard or be in disrepair. Repair of an existing fence or wall must be made with the same or similar materials.
- E. A motor vehicle cannot be parked on any lawn or greenspace located within the City's corporate limits unless the motor vehicle is actively being loaded, unloaded, or washed.
- F. Occupied buildings must have an adequate number of garbage receptacles maintained in clean condition and good repair. The owner or occupant must arrange for the removal of garbage from the premises.
- G. Vacant lots or land subject to enforcement action for dumping must be secured to prevent future dumping.
- H. Unenclosed or unsecured excavations, septic tanks, cesspools, and similar conditions must be fully restored to a safe, serviceable condition, or filled with clean fill. Excavations must be maintained in a secure manner to prevent a hazard to public health and safety.
- I. Buildings or structures determined to be unsafe or dangerous as defined in the Building Code or Fire Code must be abated in accordance with the provisions of that code.
- J. Vacant structures and premises must be maintained and monitored including:

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1. Maintenance of the exterior of the building and landscaping with regular removal of all exterior trash, debris, and graffiti; and
2. Prevention of reoccurring criminal activity on the premises. Unsecured buildings and structures must be secured in the following manner:
 - Doorways and windows must be boarded up using 5/8" or thicker exterior grade plywood, fastened by tamper-proof screws or one-way bolts;
 - All boarding must be painted to match the dominant exterior color of the elevation of the structure; and
 - For commercial buildings, opaque window coverings may be allowed by the Administrator in lieu of boarding provided all windows are maintained and if broken or cracked, are replaced within 48 hours. The Administrator may revoke the use of this alternative when the owner or responsible party fails to maintain the within the specified period.
3. If, after 5 business days from when notice provided, the owner fails to install barricades, the Administrator is authorized to barricade the building or structure. All costs associated with this work will be recovered from the property owner.

5.10 SETBACK STANDARDS

These standards apply in all Zoning Districts.

- A. The measurement of any building setback line or building separation is the shortest distance between the building façade and the lot line or right-of-way line, whichever is closest. Where there is no right-of-way line, the building setback line is measured from the building façade to the edge of pavement or the access easement line, whichever is closest. The front yard setback for mew lots is measured from the lot line abutting the open space to the building façade.
- B. The minimum building setback lines and minimum building separation requirements are as set forth in this Ordinance (see also ***CHAPTER 2: ZONING DISTRICTS***).
- C. If a minimum building separation requirement is not provided, the minimum building separation requirement is the district's minimum side yard building setback.
- D. Where 25% or more of the lots in a block frontage are occupied by buildings, then the average building setback line of buildings on that block determines the location of the building setback line for the block frontage in lieu of the building setback lines contained in this Ordinance.
- E. Building setback lines established in a recorded subdivision establish the setback of buildings in such subdivisions, except when such building setback lines may be less restrictive than provided in this Ordinance.
- F. Where 60% or more of the lots in a block frontage are occupied by buildings which provide side yards of less than the minimum required by this code, the average side yard of the buildings may determine the required side yard; provided, however, no side yard shall be reduced to less than 3 feet. Where an existing building is deficient in side yards, any addition to an existing building shall maintain the existing side yards.
- G. On through lots, the front yard is established by the existing principal buildings in the block.
- H. All improvements are subject to ***5.11 Vision Clearance Standards***, unless specifically exempted.

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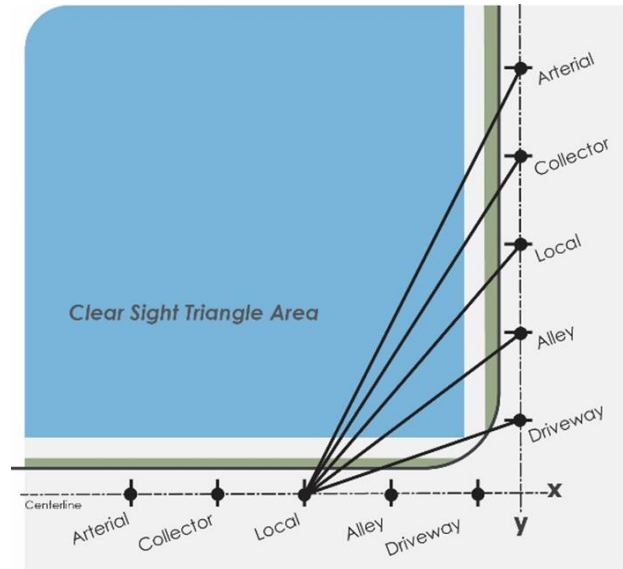
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5.11 VISION CLEARANCE STANDARDS

No building, structure, or improvement can be placed that interferes with a vision clearance area located between 2½ feet and 9 feet above the crown of a street, driveway, or alley. A vision clearance area is formed by the intersecting centerlines of each right-of-way and the line connecting the two end points of each extended centerline. The distance along the right-of-way centerlines is as follows:

Table 5-3 Vision Clearance

Street Classification	Distance Along ROW Centerline
Arterial	100'
Collector	80'
Local	50'
Alley	40'
Driveway	35'



Distance Along Centerline of Right-Of-Way According to Street Classification
Figure 5 - 1 Vision Clearance

5.12 YARD STANDARDS

- A. Buildings must not be erected, reconstructed, or structurally altered to encroach upon or reduce the yards, lot area, minimum living area, or lot coverage provisions established for the use and the Zoning District or Overlay District in which such building is located.
- B. One-half of an alley abutting the rear or side yard may be included in the required rear or side yard of a lot, respectively, if the alley has not been developed for carrying traffic; however, such alley area must not be included for loading berths.
- C. The yard width and depth of required yards are measured as the shortest horizontal distance from a lot line to the required building setback line. In the case of a standard applying to an established yard, the yard width and depth are measured as the shortest horizontal distance (e.g., ninety degrees) from a lot line to the nearest outside wall of a building or structure.

All required yards must be maintained as open space and landscaped with grass, trees, shrubs, or in combination with other suitable groundcover materials in compliance with **6.1 Landscape Standards**, except as otherwise improved in accordance with this Ordinance (e.g., parking areas).

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6.1 LANDSCAPE STANDARDS

A. PURPOSE AND INTENT

This article establishes regulations for the preservation of natural features and minimum standards for the provision, installation, and maintenance of landscape materials. These regulations are intended to promote the health, attractiveness, and safety of the community; foster aesthetically pleasing and environmentally sensitive development that protects and preserves the appearance and character of the community; and encourage the preservation of natural areas.

B. APPLICABILITY

This article applies to development in all Zoning Districts, except for detached single-family dwellings not located within a major subdivision. Plantings and landscaping features required by this chapter are subject to inspection to verify continued compliance with this chapter.

C. GENERAL LANDSCAPING STANDARDS

1. **Landscape Plan Required.** A landscape plan must be submitted as a part of all development and permit applications unless the Administrator determines compliance with the provisions of this chapter can be demonstrated without the use of a landscape plan. A landscape plan may be combined with other required application materials if compliance with this chapter can be demonstrated in the combined materials.
2. **Required Plant Materials.** Tree and shrub species used to meet the requirements of this Ordinance must be from the [Appendix A: Approved Plant List](#). Plants listed on the [Appendix B: Prohibited Plant List](#) cannot be used to fulfill any requirement of this Ordinance. All plant material must be hardy to central Indiana, suitable for the site, free of disease and insects, and conform to the American Standard for Nursery Stock (ANSI Z60.1-2004). The Administrator may authorize alternative species or cultivars that meet the intended purpose, are not invasive or hazardous, and are equally hardy.
3. **Minimum Living Materials.** Within required landscaping areas, a minimum of 60% of the surface area must be covered by living materials, not gravel, stone, or other non-living materials.
4. **Soil Condition and Planting Beds**
 - a. Landscaping required by this Ordinance must be planted in uncompacted soil at least 2 feet in depth.
 - b. Stone mulch is not permitted in required landscape areas or planting bed except as part of a stormwater best management practice in accordance with the Stormwater Specifications Manual.
 - c. Landscaped areas must be protected from vehicular encroachment by curbs or wheel stops. Curbs must be provided with openings to accommodate surface collection of stormwater runoff in vegetated swales and detention facilities.

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5. **Minimum Plant Sizes at Installation.** Unless otherwise specifically noted, the minimum plant size at the time of installation of landscaping required by this Ordinance is as follows:

Plant Material Type (ASNS types)	Minimum Size
Deciduous/ Overstory Single Trunk	2 in. caliper
Multi-Trunk	10 ft. in height
Evergreen/Coniferous Tree	6 ft. in height
Ornamental/ Understory Tree Single Trunk	1.5 in. caliper
Ornamental/ Understory Tree Multi-trunk	6 ft. in height
Large Shrub – Deciduous (Type 2 or 3)	24 in. in height
Large Shrub – Evergreens (Types 4, 5 or 6)	30 in. in height
Small Shrub – Deciduous (Type 1)	18 in. in height
Small Shrub – Evergreens (Type 1, 2 or 3)	24 in. in spread
Ground cover	3 in. in height

6. **Plant Material Spacing.** Except for buffer yard plantings, trees and shrubs must not be placed closer than 3 feet to any lot line. A minimum 5-foot clear area around fire hydrants, valve vaults, hose bibs, manholes, hydrants, and fire department connections must be provided. Plant materials may be grouped but must be located within the landscape area where it will be credited. The Administrator may authorize adjustments to these spacing requirements when necessary due to topography, drainage, utilities, or obstructions, provided the total amount of required landscaping is not reduced.
7. **Species Variation.** No one species of tree may make up more than 30% of the total number of trees. No one species of shrub may make up more than 30% of the total number of shrubs.
8. **Protection of Vision Clearance Areas.** Obstructions must not be erected, placed, planted, or allowed to grow in a manner impeding visibility within Vision Clearance Areas ([5.11 Vision Clearance Standards](#)).
9. **Existing Vegetation Credit and Bonus**
- If existing vegetation meets the intent of the screening requirements, preserved existing vegetation may be credited for landscape materials required by this Chapter. Credit will not be given for existing vegetation listed on the [Appendix B: Prohibited Plant List](#).
 - If any vegetation fulfilling a requirement of this Ordinance dies or is removed, replacement plant materials must be installed in accordance these standards. Existing vegetation used to meet a requirement of this chapter must be protected during construction by a fence erected around the area encompassing an area 1 foot beyond the drip line of the vegetation. Materials must not be placed within this protected area.
 - Preservation of trees and surrounding vegetation will be given credit toward fulfilling landscaping requirements in this Article as follows:
 - Existing trees and surrounding vegetation may be credited only one time towards any one buffer, screen or other landscape area requirement.
 - Existing trees and surrounding vegetation must be located within the required landscape area to which it will be credited.
 - Existing trees that conform to these standards and are proposed to be used for credit must generally have location, species, caliper and drip line indicated on the required landscape plan.

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- d. Existing trees will be credited as fulfilling a requirement based upon the tree size and provided that the minimum width of the surrounding landscape area is according to the criteria and the quantities as follows:

Existing Tree Size (inches)	Minimum Width of Surrounding Landscape Area (feet)	Number of Trees Credited
Over 36 DBH	15	10
25.5 to 36 DBH	15	8
13 to 25	10	6
10.5 to 12.5 DBH	8	4
8.5 to 10 DBH	8	4
6.5 to 8	5	2
4 to 6	5	2
2.5 to 3.5	5	1

- 10. **Replacement Trees.** In the event an existing tree that was given credit is removed or dies within 3 years of the Improvement Location Permit issuance date, replacement trees must be planted as follows:

Size of tree Removed or dead (inches)	Number of trees to be planted to replace an existing tree
Over 36 DBH	10
25.5 to 36 DBH	8
13 to 25 DBH	6
10.5 to 12.5 DBH	4
8.5 to 10 DBH	4
6.5 to 8	2
4 to 6	2
2.5 to 3.5	1

If the site cannot accommodate the number of replacement trees required, the Administrator may authorize an alternate location for the planting of the replacement trees within the City as close to the site as feasible.

11. **Native Vegetation and Natural Landscaping Areas.**

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

- 12. **Rain Gardens, Bioswales and Stormwater Management Features.** Areas included in rain gardens or vegetated site features created to meet stormwater management requirements of the Stormwater



Specifications Manual must be counted towards any required interior site or parking lot landscaping, and if vegetated to meet the requirements for any landscaped buffers must count towards those buffer requirements. Where rain gardens or vegetated site features serving a stormwater management purpose are installed, a sign must be installed indicating the area should not be mowed.

13. **Retention and Detention Facilities.** Landscaping must be provided around the perimeter of all retention and detention basins. Such landscaping must consist of trees, shrubs, and emergent plantings in a quantity, species, and arrangement that will maintain an ecologically functional environment. Per the Stormwater Specification Manual, tall plantings in the aquatic bench are desirable to keep waterfowl from the site. Retention and detention basins should be designed to resemble natural landforms, whenever possible. Such landscaping must be integrated with the littoral zone of emergent vegetation around the pond perimeter with the safety bench. Trees, shrubs, and upland plantings are to be located above the normal water line; emergent or wetland plantings are to be located below the normal water line. Vegetation must be established on all side slopes to prevent erosion. A stormwater management easement and operation and maintenance agreement is required for each facility, clearly marking inlet/outlet structures and easements for inflow/outflow piping. Trees or deep-rooted vegetation must not be planted in any easement with storm drainage pipe. Vegetation must not obstruct inlet/outlet structures and inflow/outflow piping area.
14. **Alternative Landscaping.** The Administrator may approve an alternate landscape plan that does not meet the specific requirements stated in this if the Administrator determines that the alternative plan:
 - a. Is consistent with the purposes of this chapter;
 - b. Does not include invasive vegetation;
 - c. Does not include a reduction of tree planting requirements;
 - d. Provides equal or superior buffering of adjacent properties from anticipated impacts of the proposed development; and
 - e. Provides equal or superior visual appearance of the property when viewed from the street;
15. **Installation and Delay of Installation Due to Season.**
 - a. Landscaping material used to meet the requirements of this Ordinance must be installed in accordance with the planting procedures established by the ANSI A300 Tree Care Operations: Standard Practices for Tree, Shrub and Other Woody Plant Maintenance.
 - b. Landscaping material must be installed no later than 60 days following the completion of construction or its initial use. The Administrator may authorize a delay in installation up to 120 days due to periods of adverse weather, availability of plant material, or conflicts between construction scheduling and proper planting conditions. As a condition of authorizing a delay in installation, a surety or other guarantee, may be required, in a form acceptable to the City, in the estimated amount of the installation. During any delay in installation, site management must comply with all applicable provisions for sediment and erosion control.
16. **Maintenance.**
 - a. All landscaping required by this Ordinance must always be maintained.
 - b. Dead, missing, or damaged landscaping, or landscaping that supports less than 50% healthy leaf growth or shows dead branches over a minimum of 50% of the normal branching pattern must be replaced with healthy, live plants by the end of the growing season to maintain compliance with this Ordinance.

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- c. The owner is responsible for the maintenance, repair, and replacement of all required landscaping, screening, and curbing.
- d. Tree topping is prohibited. Tree topping is the practice of removing whole tops of trees, large branches or trunks from the tops of trees, leaving stubs or lateral branches that are too small to assume the role of a terminal leader.
- e. Plant materials must be adequately watered to sustain long-term growth.

D. STREET FRONTAGE LANDSCAPING

1. The front yard must be landscaped with at least 1 shade tree per 40 feet of street frontage (*Figure 6-1*). If overhead electric distribution lines are present, ornamental trees with a maximum mature height of 15 feet must be planted and the number of trees planted must be at least 1 ornamental tree per 20 feet of street frontage. Trees fulfilling this requirement must be planted within 25 feet of the right-of-way (*Figure 6-2*).
2. For lots with a front yard less than 5 feet deep or where the sidewalk extends from the back of curb to the lot line, tree wells may be installed in the right-of-way to accommodate the required frontage trees (*Figure 6-3* and *Figure 6-4*). For tree wells adjacent to sidewalks measuring 5 feet wide or less, the tree well opening must be covered with a tree grate or surrounded by a fence or wall at least 18 inches in height. The opening in a tree grate for the trunk must be expandable or otherwise accommodate the mature diameter of the tree.
3. All planting in the public right-of-way may be counted toward fulfilling the requirements of this chapter.
4. On lots adjacent to a landscaped median in the right-of-way, 50% of the vegetation in the median that meets a street frontage and front yard landscaping requirement may be credited towards the landscaping requirements of this section.
5. Where the side yard or rear yard of a lot abuts or is within 50’ of an existing public right-of-way, perimeter landscaping must be provided within the common area or lot adjacent to the public right-of-way as follows:
 - a. Residential uses must provide a landscape area a minimum 15’ wide abutting the right-of-way planted with a minimum of 3 shade trees, 4 evergreen trees, two ornamental trees, and 25 shrubs per 100 lineal feet.
 - b. Non-residential uses must provide a landscape area a minimum 10’ wide abutting the right-of-way planted with a minimum of 3 shade trees or ornamental trees, 4 evergreen trees, and 25 shrubs per 100 lineal feet.

E. PARKING LOT LANDSCAPING

Primary use and accessory parking lots must provide at least the following amounts and types of landscaping unless alternative requirements are stated in the Ordinance (*Figure 6-5*).

1. **Street Frontage Landscaping.** Any parking lot with off-street parking spaces must provide landscaping along any street frontage. The landscape area must have a minimum depth of 10 feet along the entire frontage and be landscaped with at least 1 shade tree and 4 large shrubs per 30 feet of street frontage. If overhead electric distribution lines are present, ornamental trees with a maximum mature height of 15 feet must be planted and the number of trees planted must be at least 1 ornamental tree per 20 feet of street frontage. Trees fulfilling this requirement must be planted within 25 feet of the right-of-way. If an opaque fence or wall is installed, the shrub planting may be reduced to 3 small shrubs on the street side of the fence or wall per 25 feet of street frontage.
2. **Interior Landscaping.** Any parking lot with 15 or more off-street parking spaces must provide interior landscaping. Internal landscape areas must be dispersed throughout the lot to break up the perception of large, uninterrupted expanse of pavement. The minimum amount of required interior landscaping is as follows:

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- For development occurring on land in which 75% or more of the land area was previously developed for purposes other than residential or agricultural the interior landscape area must be at least 6% of all uncovered vehicle areas.
- For any undeveloped commercial out lot 2 acres in size or less existing prior to the date of adoption of this Ordinance the interior landscape area must be at least 6% of all uncovered vehicle areas on the out lot.
- For all other types of development, including new development, the interior landscape area must be at least 9% of all uncovered vehicle areas.

Required interior landscape areas must be at least 8 feet wide. This minimum width may be reduced to 6 feet if structural soils are being used.

Interior landscape areas must be planted with at least 1 shade tree per 180 square feet of interior landscaping area.

F. LANDSCAPE BUFFER AREAS

1. **Multi-Family Residential Abutting Single-family Residential.** Where a multi-family dwelling project abuts a lot in the R1, R2, or R3 district, a landscape buffer must be provided using either Option 1 or Option 2 below (*Figure 6-6*).
 - a. **Option 1.** A landscape buffer area at least 10 feet wide must be provided by the proposed development along the shared border. The buffer area must contain natural landscape materials such as grasses, ground cover, shrubs, and trees. Parking or impervious surfaces are prohibited within the buffer area. One tree and 3 large shrubs must be provided for every 25 feet of lot line. Plant spacing should be designed to minimize sound, light, and noise impacts.
 - b. **Option 2.** An opaque wall, fence or dense (at least 50% opacity) vegetative screen at least 6 feet tall must be provided. If a fence or wall is provided, the side facing away from the multi-family dwellings must be at least as finished in appearance as the side facing the multi-family dwellings. The fence or wall must be placed at least 3 feet inside the property line of the proposed development and 3 small shrubs per 25 feet of lot line must be provided between the fence or wall and the property line. If a vegetative screen is proposed, it must be at least 4 feet in height at the time of planting and maintained at 6 feet in height minimum.
2. **Commercial, Institutional, or Mixed-Use Abutting Residential.** Where a commercial district or mixed-use district abuts a residential district, a landscape buffer must be provided using either Option 1 or Option 2 below (*Figure 6-7*).
 - a. **Option 1.** A landscape buffer area at least 15 feet wide must be provided by the proposed development along the shared border. The buffer area must consist of natural landscape materials such as grasses, ground cover, shrubs, and trees. Parking or impervious surfaces are prohibited in the buffer area. One shade or evergreen tree and 3 large shrubs must be provided for every 25 linear feet of lot line. Plant spacing should be designed to minimize sound, light, and noise impacts on residential uses.
 - b. **Option 2.** An opaque wall, berm, fence or dense (at least 75% opacity) vegetative screen at least 6 feet tall must be provided with 1 shade tree provided for every 35 linear feet of lot line. If a fence or wall is provided, the side facing away from the commercial or institutional use must be at least as finished in appearance as the side facing the commercial or institutional use. The fence or wall must be placed at least 3 feet inside the property line of the proposed development and 3 small shrubs per 25 linear feet of lot line must be provided between the fence or wall and the property line. If a vegetative screen is proposed, it must be at least 6 ft. in height at the time of planting.

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3. **Industrial Abutting Residential.** Where an industrial district, building or project abuts a residential district or lots used for any use listed as a residential use on the *Permitted Use Table*, a landscape buffer must be provided using either Option 1 or Option 2 below (*Figure 6-8*).
 - a. **Option 1.** A landscape buffer area at least 15 feet wide must be provided by the proposed development along the shared border. The buffer area must consist of natural landscape materials such as grasses, ground cover, shrubs, and trees. Parking or impervious surfaces are prohibited in the buffer area. One evergreen tree and 4 large shrubs must be provided for every 25 linear feet of lot line. Plant spacing should be designed to minimize sound, light, and noise impacts on residential uses.
 - b. **Option 2.** An opaque wall, berm, fence or dense (100% opacity) vegetative screen at least 8 feet tall must be provided with 1 shade tree provided for every 35 linear feet of lot line. If a fence or wall is provided, the side facing away from the industrial use must be at least as finished in appearance as the side facing the industrial use. The fence or wall must be placed at least 3 feet inside the property line of the proposed development and 3 small shrubs per 25 linear feet of lot line must be provided between the fence or wall and the property line. If a vegetative screen is proposed, it must be at least 6 feet in height at the time of planting.

4. **Industrial Abutting Commercial or Institutional.** Where an industrial district, building or project abuts a commercial or industrial use, a landscape buffer must be provided by using either Option 1 or Option 2 below (*Figure 6-9*).
 - a. **Option 1.** A landscape buffer area at least 10 feet wide must be provided by the proposed development along the shared border. The buffer area must consist of natural landscape materials such as grasses, ground cover, shrubs, and trees. Parking or impervious surface areas are prohibited in the buffer area. One shade or evergreen tree and 4 large shrubs must be provided for every 30 linear feet of lot line. Plant spacing should be designed to minimize sound, light, and noise impacts.
 - b. **Option 2.** An opaque wall, berm, fence or dense (50% opacity) vegetative screen at least 6 feet tall must be provided with 1 shade tree provided for every 40 linear feet of lot line. If a fence or wall is provided, the side facing away from the industrial use must be at least as finished in appearance as the side facing the industrial use. The fence or wall must be placed at least 3 feet inside the property line of the proposed development and 3 small shrubs per 25 linear feet of lot line must be provided between the fence and wall and the property line. If a vegetative screen is proposed, it must be at least 6 feet in height at the time of planting.

G. SCREENING OF FACILITIES AND EQUIPMENT

1. Mechanical Equipment

- a. Roof-mounted mechanical equipment must be screened by a parapet wall or similar feature that is an integral part of the building’s architectural design. The parapet wall or similar feature must be enough to screen the mechanical equipment from all sides when viewed from ground level from any street bounding the block on which the property is located.
- b. In Commercial districts, Mixed-Use districts, and Residential districts developed with multi-family dwellings, ground-mounted mechanical equipment must be screened when viewed from ground level from adjoining properties and from all streets bounding the block on which the property is located, by landscaping or by a decorative wall or fence that incorporates at least one of the primary materials and colors of the nearest wall of the primary structure. The wall must be of a height equal to or greater than the height of the mechanical equipment being screened. If landscaping is used for screening, the screening material must

be designed to provide 75% opacity within one year after planting along the full required height and length of the screening buffer.

2. Loading and Service Areas

- a. General Requirement. These standards apply to all exterior areas containing without limitation garbage dumpsters, grease/oil tanks, recycling bins and cardboard compactors, on all properties containing multi-family dwelling, commercial, institutional, industrial or mixed-uses.
- b. In all districts, non-enclosed service areas and off-street loading areas must be screened when viewed from ground level from all streets bounding the block on which the property is located.
- c. Service areas must not be in any front yard.
- d. All waste containers and dumpsters must be equipped with a lid covering or be in a roofed enclosure.

The following are exempt from the requirements of this section:

- Containers located behind a building and not visible from a public right-of-way or adjoining single-family, multi-family, mixed-use, or public property.
 - The temporary purpose of disposing of waste generated during the time of an active building permit, or 180 days, whichever is shorter, for the demolition or construction of improvements on the property upon which the commercial container is located.
 - Waste or recycling containers being 96 gallons or less in size serving single-family attached dwellings, single-family detached dwellings, two-family dwellings, triplexes and fourplexes.
 - On a temporary basis, containers for a special event authorized by the City.
- e. Service areas that are not located adjacent to a wall of a principal or accessory structure must be screened from view as follows:
 - On 3 sides with a wall or fence constructed of masonry, brick, wood, stone, or similar material and at least as tall as the items in the service area being screened;
 - On the fourth side an opaque gate constructed of wood or metal and at least as tall as the items in the service area being screened.
 - f. Service areas located adjacent to a wall of a principal or accessory structure must be screened from view as follows:
 - On 2 sides with a wall that is (i) constructed of the same principal materials and colors used on the wall of the principal or accessory building that forms the third wall of the enclosure, and (ii) at least as tall as the items in the service area being screened; and (iii) in compliance with applicable fire and building codes;
 - On the fourth side, an opaque gate constructed of wood or metal and at least as tall as the items in the service area being screened.
 - g. Screening of Receptacles and Loading Areas: These standards apply to all garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas and other similar facilities in all Zoning Districts; however, these standards do not apply to single-family dwellings:
 - Garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas, loading areas and other similar facilities must be completely and permanently screened from view of rights-of-way and where possible, adjoining properties.

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- Enclosures cannot be in an established front yard or in any required side or rear yard.
- The enclosure must be solid on all sides and not less than 6 feet in height above grade or 2 feet above the receptacle, whichever is greater.
- Enclosures must be constructed of materials that match or complement the principal building.
- Enclosures must have opaque gates. The gates cannot be oriented towards residential properties or rights-of-way, where possible.
- Trash enclosures should provide convenient pedestrian access for daily waste disposal. Such access should be provided without swinging or moveable doors.
- Gates and doors on enclosures must be kept closed when not in use.

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H. LANDSCAPE IMAGES

Figure 6-1: Street Frontage Landscaping Placed in Front Yard

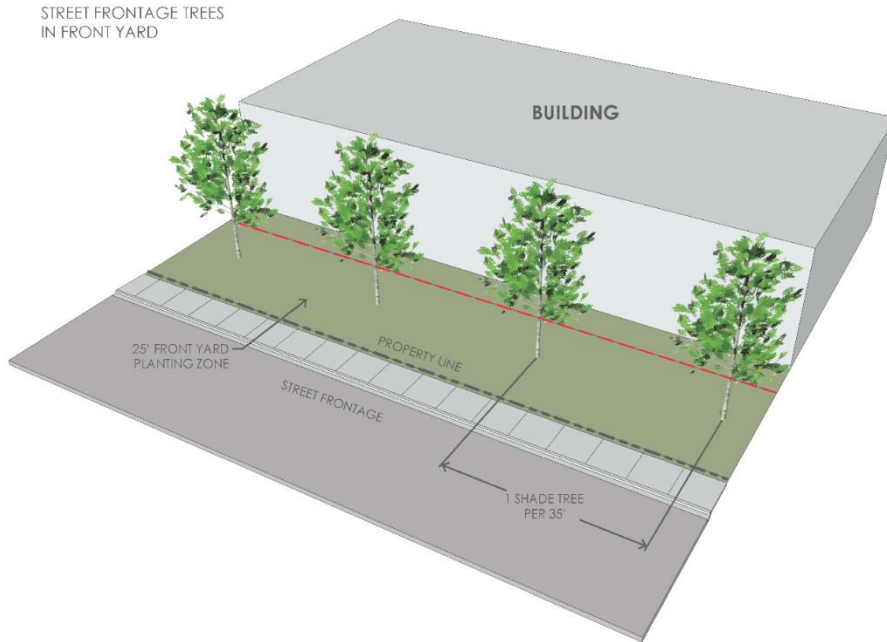
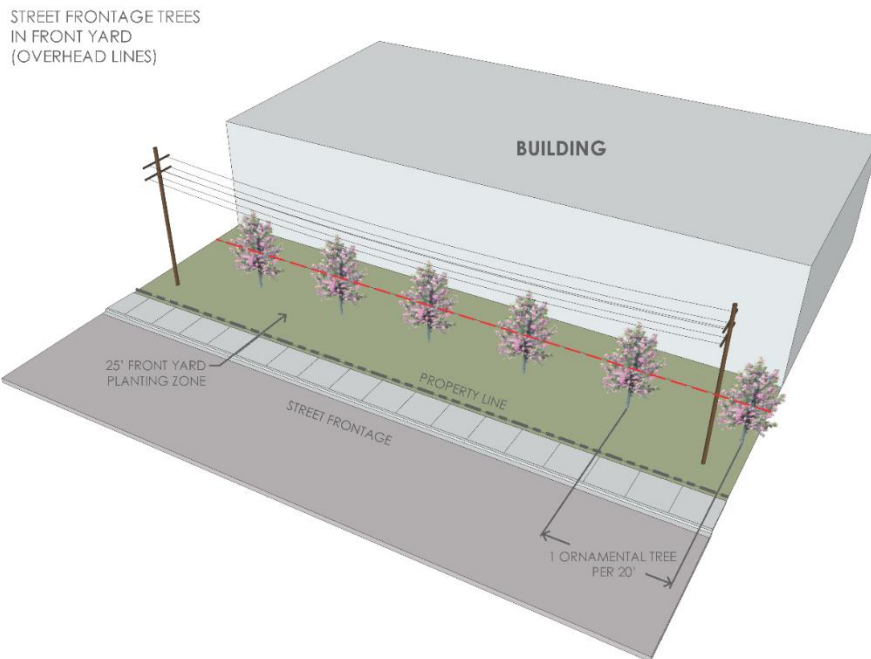


Figure 6-2: Street Frontage Landscaping Placed in Front Yard when Overhead Power Lines are Present



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Figure 6-3: Street Frontage Landscaping in Tree Well

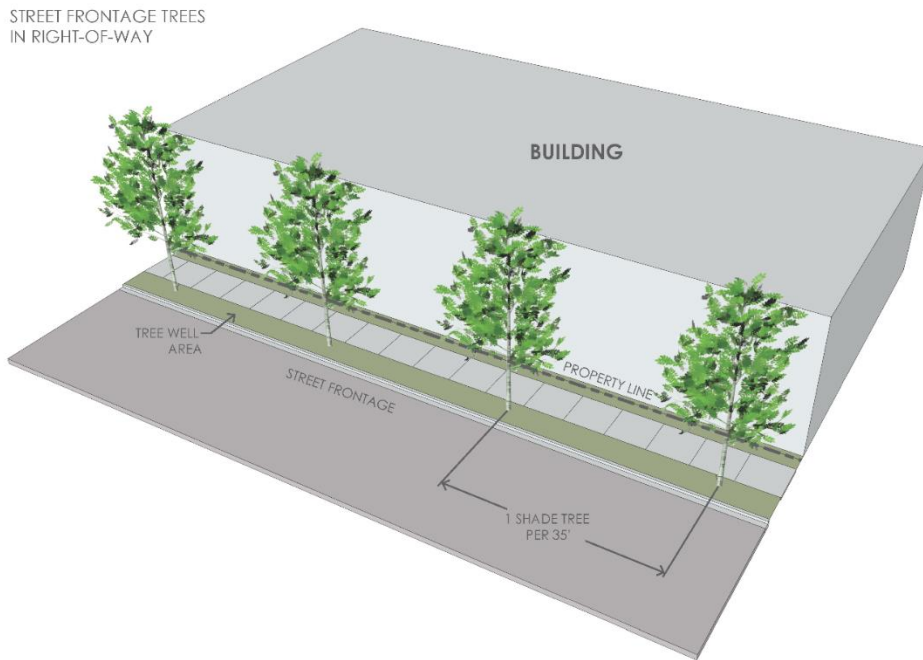
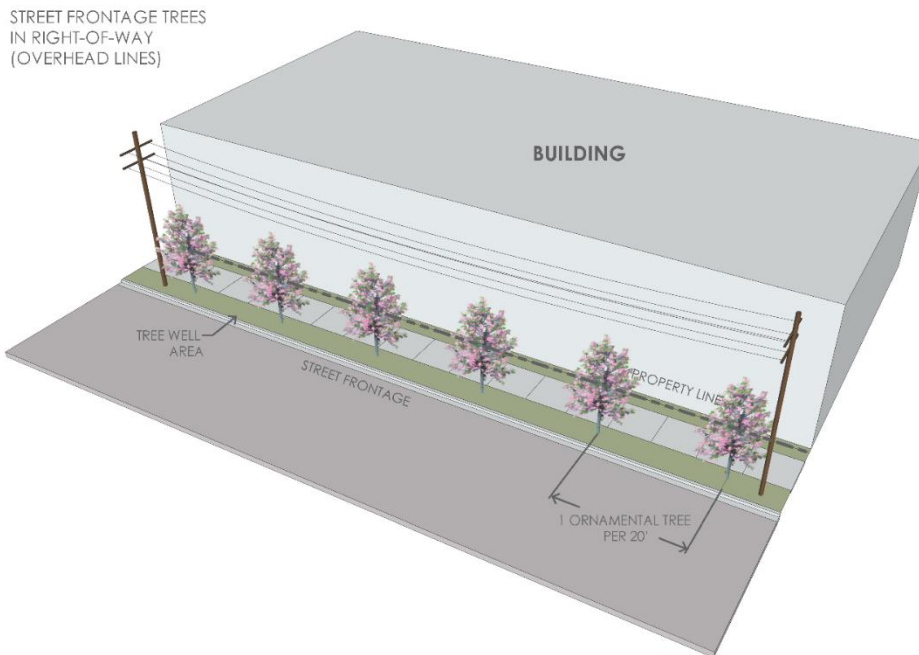


Figure 6-4: Street Frontage Landscaping in Tree Well when Overhead Power Lines are Present



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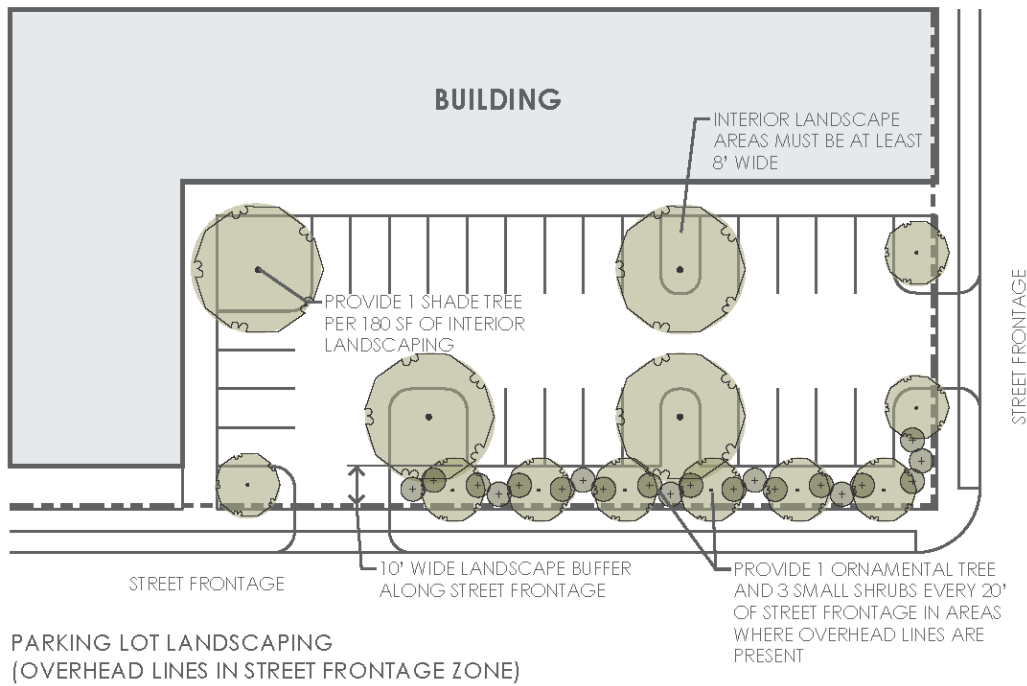
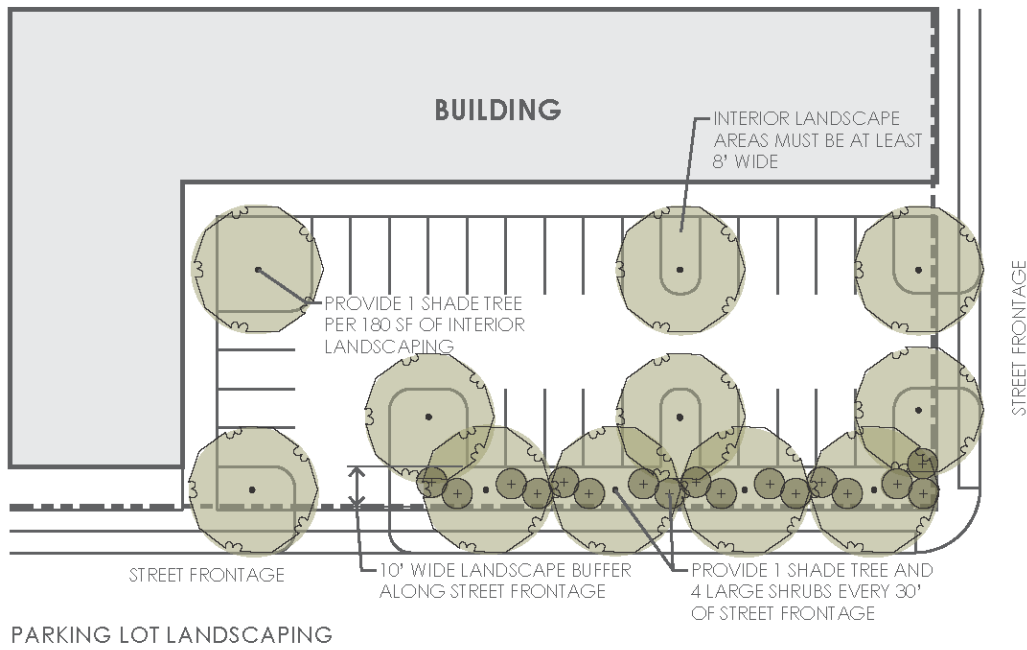
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Figure 6-5: Parking Lot Landscaping



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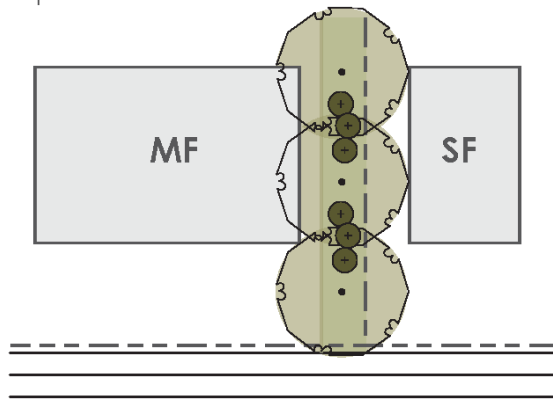
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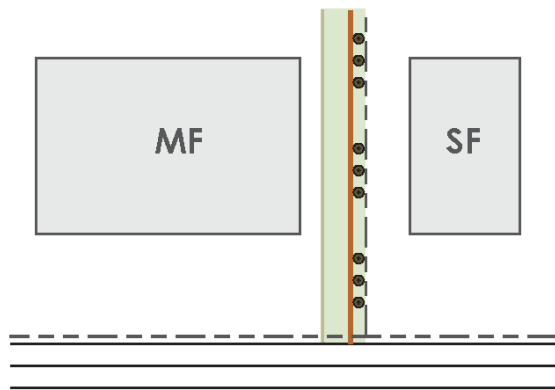
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Figure 6-6 Landscape Buffer – Multifamily Residential abutting Single-Family Residential

Option 1



Option 2 | Wall / Fence



Option 2 | Vegetative Screen

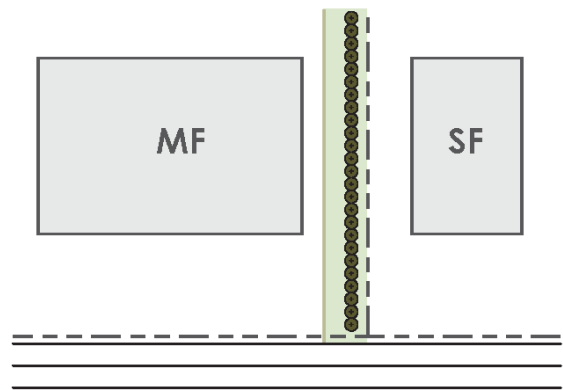
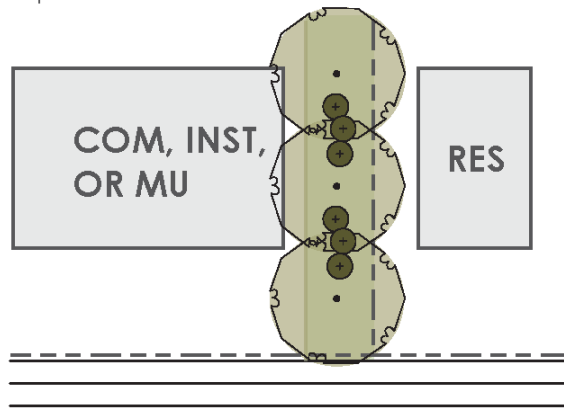
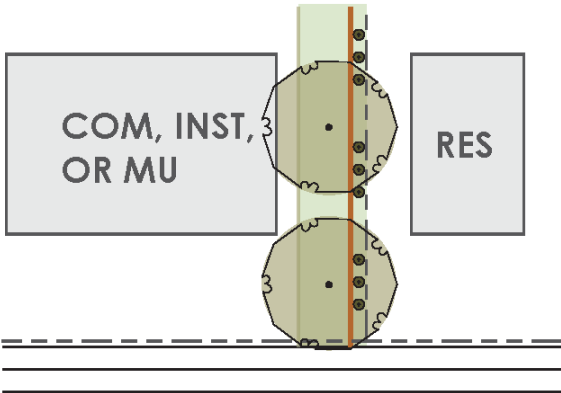


Figure 6-7: Landscape Buffer – Commercial, Institutional, or Mixed Use abutting Residential

Option 1



Option 2 | Wall / Fence



Option 2 | Vegetative Screen

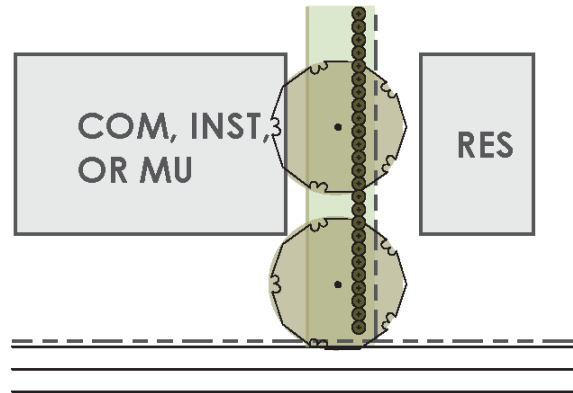
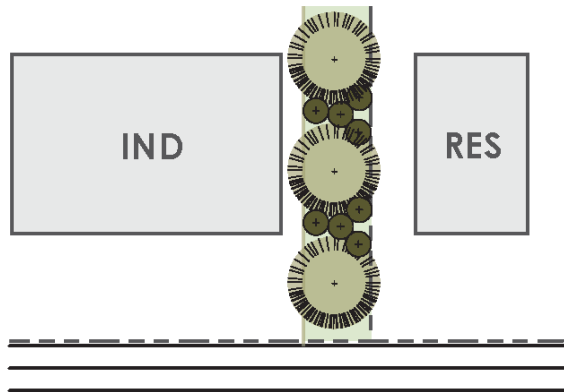
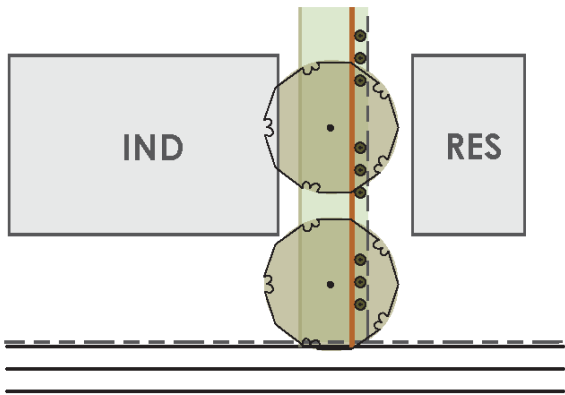


Figure 6-8: Landscape Buffer – Industrial abutting Residential

Option 1



Option 2 | Wall / Fence



Option 2 | Vegetative Screen

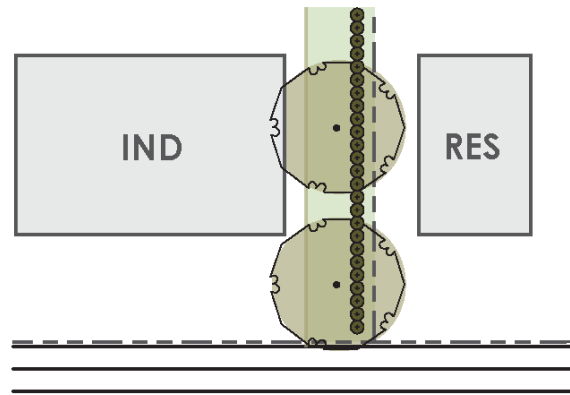
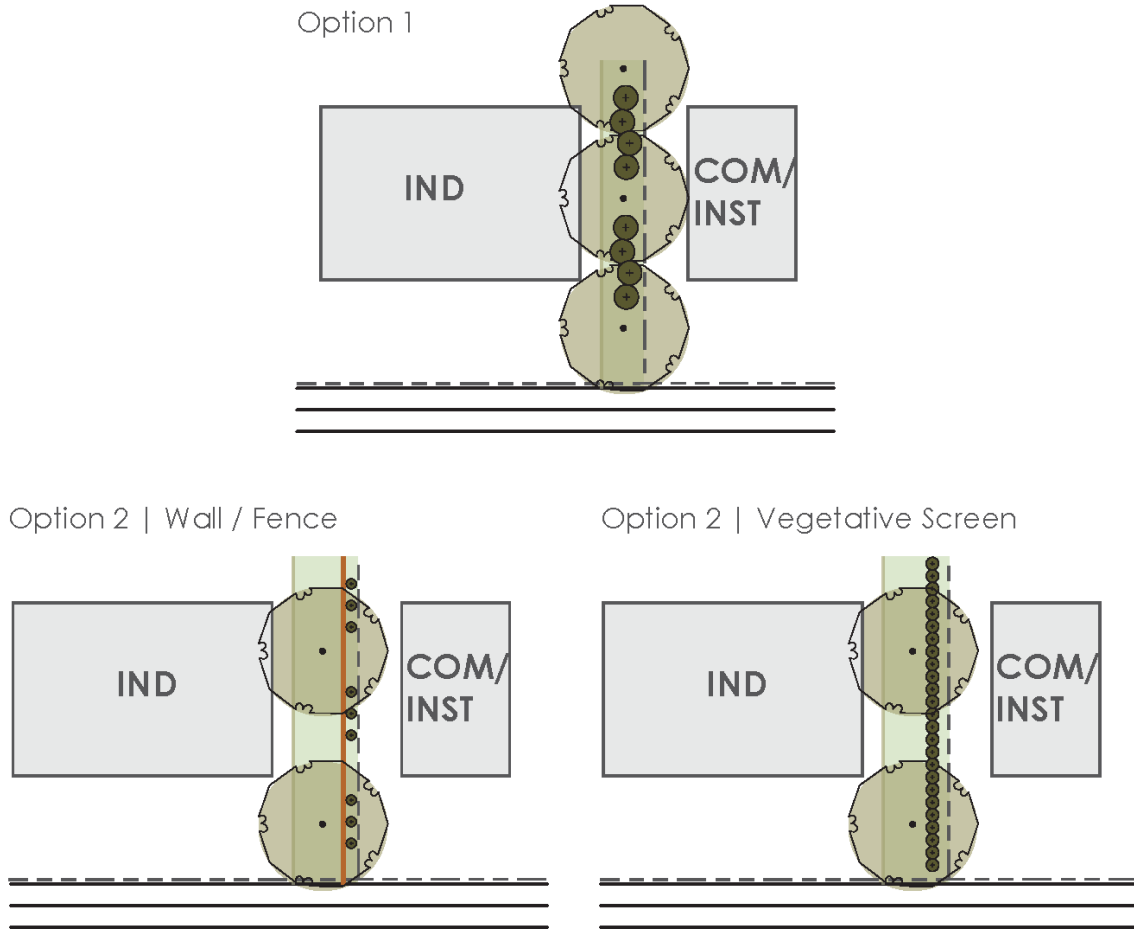


Figure 6-9: Landscape Buffer – Industrial abutting Commercial or Institutional



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6.2 LIGHTING

A. PURPOSE AND INTENT

The purpose of this chapter is to provide minimum standards for effective, economical, and attractive outdoor lighting. It is the intent of this chapter to:

- Discourage excessive lighting.
- Minimize glare and light trespass.
- Create a safe environment in hours of darkness.
- Regulate the type of light fixtures, lamps, and standards.

B. APPLICABILITY

These regulations apply to all newly installed or relocated outdoor lighting.

C. EXCEPTIONS

The following are exempt from the regulations of this chapter.

- All hazard warning lighting required by Federal and State regulatory agencies.
- All temporary emergency lighting required by local law enforcement, emergency service and utility departments.
- All traffic control and directional lighting.
- All underwater lighting used for the illumination of swimming pools and water features are exempt from the lamp type and shielding standards of this Article.
- All lighting for temporary festivals and carnivals (see ***4.10 Temporary Uses, Events, and Structures***).
- All low wattage residential accent and landscape lighting fixtures having a maximum output of 1600 lumens (equal to one 100-watt incandescent light) per fixture.

Outdoor light fixtures permitted prior to the adoption of these regulations are exempt from the shielding requirements of this chapter. When an outdoor light fixture becomes inoperable, the replacement light fixture must comply with the standards of this chapter.

D. PROHIBITIONS

The following actions are prohibited:

1. The use of any mercury vapor lamp or low-pressure sodium lamp.
2. The use of laser source light or other similar high-intensity light for outdoor advertising.
3. The operation of searchlights and floodlights for advertising purposes.
4. The use of any lighting source on towers is prohibited except as required by the Federal Aviation Administration.

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E. GENERAL LIGHTING STANDARDS

1. All light fixtures must be fully shielded and direct light downward. Internally-illuminated signs or electronic signage is exempt from this standard.
2. Lighting sources must be directed away from reflective surfaces to minimize glare upon adjacent lots and rights-of-way.
3. Lighting sources must be positioned in such a manner as to direct light away from adjacent lots and rights-of-way. Internally illuminated signs or electronic signage is exempt from this standard.
4. Light pole height must not exceed 25 feet. Light fixtures in parking facilities must be designed and located to confine emitted light to the parking facility.
5. Light fixtures must meet Indiana Building Code requirements.
6. The color temperature of any outdoor light source must not exceed 3500 Kelvin. Outdoor light sources used exclusively for colorful decorative illumination of certain building façade or landscape features are exempt from this requirement.

F. MULTI-FAMILY RESIDENTIAL, BUSINESS, AND INDUSTRIAL STANDARDS

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

G. SIGN LIGHTING

1. Light fixtures used to illuminate an outdoor advertising sign, other than a monument sign or an internally illuminated sign, must be mounted on top of or above the sign structure and must comply with the shielding requirements of this chapter.
2. Light fixtures used to illuminate ground mounted or monument signs may be illuminated with a ground mounted or bottom mounted light fixture, provided the light fixture is fully shielded and all light output is directed onto the sign surface.

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H. LIGHTING PLANS

A lighting plan for proposed outdoor lighting must include:

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

6.3 PARKING

A. PURPOSE AND INTENT

The intent of this article is to promote public health, safety, and welfare by requiring parking and loading facilities for uses to minimize conflict between vehicles and pedestrians.

B. APPLICABILITY

Parking spaces and loading berths conforming to the standards of this chapter must be provided for all land uses. Land uses located in the UB zoning district are exempt from the loading berth and off-street parking requirements of this chapter.

C. LOADING BERTHS

Off-street loading berths are subject to the requirements set by the Administrator according to the following guidelines. Exceptions may be granted by the Administrator. Additional berths may also be required to serve the needs of the proposed business or industry. Loading berths are not required for businesses demonstrating they do not ship or receive large quantities of goods by truck delivery. A loading berth must be at least 12 feet wide and 35 feet long and 14 feet high.

Business and professional offices, medical facilities, schools, hotels, clubs and similar businesses must provide 1 loading berth for each 100,000 square feet of space or fraction thereof.

Industrial manufacturing and warehousing uses must provide 1 loading berth for each 40,000 square feet or fraction thereof.

Other business uses must provide loading berths based upon the size of the building as follows:

- 5,000 sq. ft. to 10,000 sq. ft. --- 1 loading berth
- 10,001 sq. ft. to 25,000 sq. ft. --- 2 loading berths
- Over 25,000 sq. ft.--- 1 additional loading berth for each 25,000 sq. ft. or fraction thereof.

Space used for loading berths cannot be used to satisfy parking space requirements.

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Loading berths are prohibited on building facades facing public streets. They should be located on the rear of the building when possible.

D. SITE ACCESS AND CIRCULATION

Proposed site access locations must provide safe and efficient movement of vehicles and pedestrians with enough stacking, so vehicles do not obstruct the right-of-way.

Circulation patterns must minimize conflicts between vehicular and pedestrian traffic and create safe and efficient movement of both in and around the site.

Site access approval by an agency other than the City does not require the Plan Commission nor Administrator to approve the access point.

E. STACKING REQUIREMENTS FOR DRIVE-THROUGH FACILITIES

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

1. General Requirements:

Drive-through lanes and required stacking spaces must not interfere with parking space maneuvering aisles, parking drive aisles, loading spaces, internal site circulation, designated fire lanes or site access points.

Drive-through lanes and stacking spaces must be designed to prevent vehicles from stacking in the right-of-way (*Figure 6-10*).

No stacking space may occupy any portion of a right-of-way.

A stacking space does not constitute a parking space.

All drive-through and stacking lanes must be delineated with pavement markings or otherwise distinctly delineated, as approved by the Administrator.

2. A stacking space must be at least 8 feet wide and 20 feet long with direct forward access to a service window or station of a drive-through facility.
3. A lane at least 8 feet wide lane parallel to a drive-through lane must be provided around the drive-through facility to allow vehicles to exit the drive-through lane and circumvent the stacking lane. This lane may be part of the site's overall circulation plan. If an applicant demonstrates strict compliance with this requirement is impracticable or would result in a less desirable site design, the Administrator may waive this requirement.
4. Noted below are the minimum number of required stacking spaces, excluding the position at the service window or ordering station.
 - Fast food restaurant: 7 stacking spaces
 - Financial institutions, pharmacies, takeout and deli-style restaurant with drive-through: 3 stacking spaces per service window
 - All other facilities: 2 stacking spaces per service window

If an applicant demonstrates strict compliance with the minimum number of stacking spaces is impracticable or would result in a less desirable site design, the Administrator may approve a reduction of the stacking requirement. To make this determination, the Administrator may require the applicant to provide justification by a qualified traffic engineer

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that a reduction in the stacking requirements is appropriate for the proposed use given the use’s proposed intensity or the site’s context.

F. LANDSCAPING

Parking and loading areas must be screened in accordance with ***6.1(E) Parking Lot Landscaping***.

G. OFF-STREET VEHICLE PARKING

Buildings or structures to be erected or substantially altered requiring off-street parking spaces must provide such spaces in accordance with these regulations.

1. Required off-street parking facilities are solely for the parking of passenger vehicles of patrons, occupants, or employees during business hours.
2. Parking spaces must be located on the same lot as the use served. Parking spaces within 500 feet walking distance of the main entrance to the use served may count toward the required parking.
3. When calculating the number of required parking spaces, any fraction less than 0.5 may be disregarded and any fraction 0.5 or greater must be counted as 1 parking space.
4. Off-street parking facilities for separate uses may be provided collectively if the total number of parking spaces provided is not less than the sum of the separate requirements of each use and the location requirements of the spaces are observed. No parking space can serve as the required space for more than 1 use unless otherwise authorized.
5. Groups of users requiring parking spaces may create a shared parking facility if all the criteria below are met. Approval by the Plan Commission or Administrator is required.
 - a. Off-site, off-street parking facilities are within 500 feet of the property.
 - b. The shared parking spaces provide at least 70% of the cumulative minimum off-street parking spaces required for each use.
 - c. A written reciprocal parking agreement or similar document with a minimum duration of 20 years, signed by all property owners involved is required. It must include provisions for: easements (if applicable), maintenance, snow removal, ownership, and liability. The agreement must be recorded in the County Recorder’s office with a copy provided to the Department. When the reciprocal parking agreement expires or terminates, the uses for which the parking was provided are considered non-conforming. Continuation or expansion of the uses is prohibited unless the use is brought into compliance with the parking regulations of this chapter.
6. Off-street parking spaces must be at least 9 feet wide and 18 feet long with a vertical clearance of 7 feet. Parallel parking spaces must be at least 8 feet wide and 22 feet long. Parking spaces are exclusive of access drives, aisles, ramps, columns, and work area.
7. Each required parking space must open directly upon an aisle or drive providing safe and efficient access to the parking space. Parking spaces cannot open directly upon a lane or stacking space designated to serve a drive-through.
8. Tandem Parking Spaces: Off-Street parking spaces for multi-family uses may utilize tandem parking spaces. A tandem parking space is a parking space provided in front of a garage which is reserved for use by the person renting the garage.

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9. The minimum aisle width for angled parking must be as follows:

Angle of Parking Space	Minimum Aisle Width
45 degree	14 feet
60 degree	18 feet
90 degree	22 feet

(see **Figure 6-11**)

10. Surfacing and Curbs

- a. Public parking facilities and loading berths must be paved with a hard, dust-proof surface in accordance with the City’s construction standards.
- b. A stormwater system, designed in accordance with applicable City standards, must be installed for all parking facilities.
- c. Curbs and gutters built per the City’s construction standards are required around the perimeter of all parking facilities and landscape islands within the parking facilities.
- d. The Administrator may provide a waiver to these requirements if the best management practices of the stormwater system recommend against installing curbing or alternative surfacing (for example, to allow bioswales and porous paving).

11. Pavement markings and traffic control devices must conform to the requirements of the Indiana Manual of Uniform Traffic Control Devices, latest revision.

12. Lights must be installed to adequately illuminate the parking facility. Lights must be shielded to minimize glare onto adjacent property and meet the requirements of **6.2 Lighting Standards**.

H. HEAVY TRUCK PARKING STANDARDS

The following standards apply for the circulation and parking of heavy trucks, semi-trucks, buses, and similar vehicles with two or more rear axles:

- 1. The site design must allow heavy trucks to enter and leave the site without backing onto the right-of-way.
- 2. Heavy truck parking facilities must be at least 10 feet from the front lot line or street side lot line.
- 3. Heavy truck parking and circulation areas must be paved with a hard, dust-proof surface in accordance with the City’s Construction Standards.
- 4. A stormwater system, designed in accordance with applicable City standards, must be installed for all parking facilities.
- 5. Where a heavy truck parking facility is located within 50 feet of a front lot line or street side lot line a 6-foot-high decorative wall the full length of the lot line is required. The wall does not need to be provided at entrances and exits and where the principal building is constructed within 50 feet of the lot line.
- 6. Lights must provide adequate illumination over the parking facility during business hours and minimum-security illumination during nonbusiness hours. Lights must be shielded to minimize glare onto adjacent property and meet the requirements of **6.2 Lighting Standards**.

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I. PARKING RATIOS FOR VEHICLES

1. Off-street vehicular parking spaces must be provided within the minimum and maximum rates indicated on the Parking Requirements Table below. The maximum spaces allowed do not include accessible spaces required by the Americans with Disabilities Act. Parking requirements may be met by providing on-site parking spaces or providing off-site parking spaces in a shared parking facility or a combination of the two.
2. The Administrator determines the parking requirement for uses not listed on the Permitted Use Table. The applicant must provide information including, but not be limited to:
 - Types of use,
 - Number of employees by use,
 - Building design capacity,
 - Square feet of sales area and service area,
 - Parking spaces provided on-site,
 - Parking spaces provided elsewhere, and
 - Hours of operation.
3. Where the application identifies multiple uses on the premises, the minimum standards apply to each use. Shared parking provisions may allow a reduced number of parking spaces when the uses need parking at different times (***6.3(G)(5) Shared Parking***).
4. The minimum number of required off-street parking spaces is reduced by the number of on-street parking spaces abutting the property lines of the lot or parcel.
5. For the purposes of parking calculations, the gross area of any parking garage within a building is not included in the gross floor area of the building.
6. Parking is not required for accessory uses unless specifically stated on the Permitted Use Table or in an applicable use limitation.

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J. PARKING IMAGES

Figure 6-10: Stacking Requirements

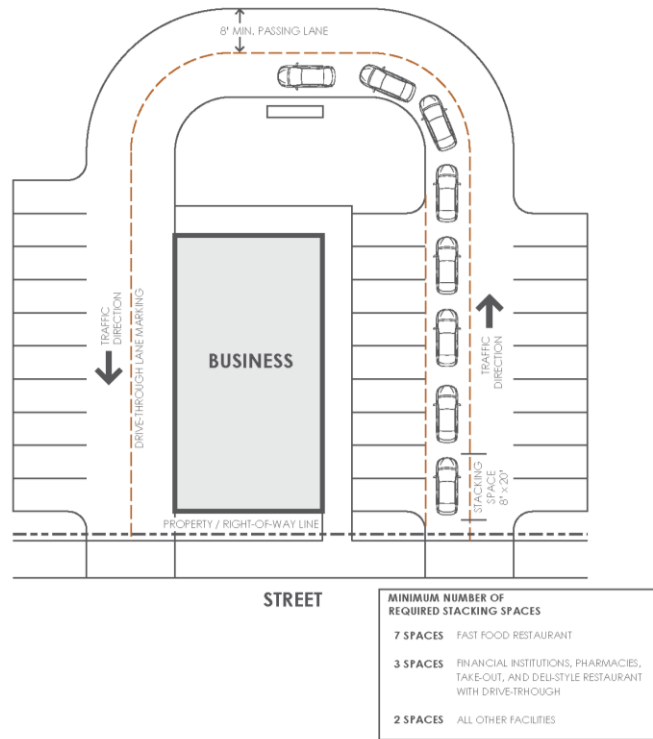
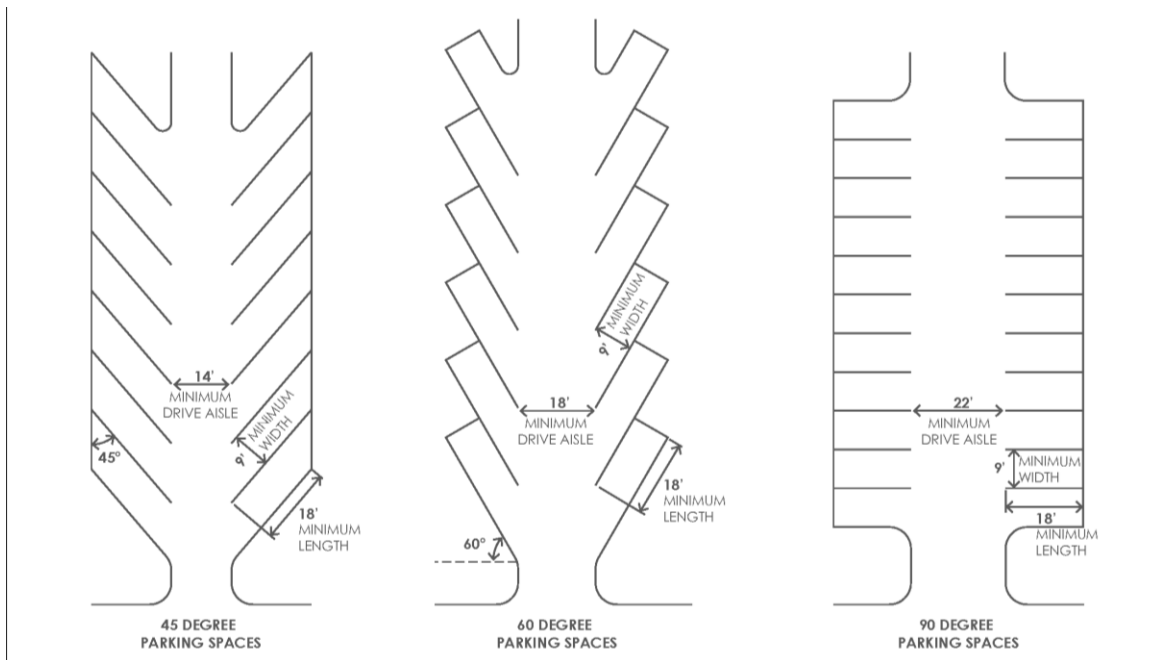


Figure 6-11: Dimensions for Parking



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6.4 SIGNAGE

A. PURPOSE AND INTENT

The purpose of this article is to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. The sign regulations in this article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs, especially the secondary effects that may adversely impact aesthetics and traffic and pedestrian safety.

B. EXEMPT SIGNS

The following signs are exempt from this article:

- Government signs, including signs erected by the City for government purposes.
- Signs located entirely inside the premises of a building or enclosed space, other than window signs.
- Signs on a vehicle, other than an unlawful vehicle sign.
- Signs protected by state statute.
- Traffic control device signs.

C. PROHIBITED SIGNS

The following signs are prohibited unless protected by state statute, or otherwise allowed in this article:

- Abandoned signs
- Signs that are animated, blink, flash, move, rotate, or have scrolling text
- Balloon or inflatable signs
- Billboards or off-premise advertising signs
- Pole signs
- Reflective signs
- Signs attached to or painted on trees or natural features
- Signs within the right-of-way
- Signs installed, attached to, or painted on fences
- Signs or sign support structures obstructing a means of egress, including any fire escape, window, door opening, stairway, exit, walkway, any utility access, or fire department connection
- Signs interfering with any opening required for ventilation
- Signs resembling traffic control device signs
- Signs with exposed raceways
- Snipe or bandit signs
- Unlawful vehicle signs

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D. SIGN PLANS AND SIGN PROGRAM

1. **Comprehensive Sign Programs.** A comprehensive sign program is required for all projects consisting of multi-tenant buildings, nonresidential complexes with multiple buildings, or large-scale mixed-use developments. A comprehensive sign program provides design compatibility for all signs and integrates sign design with the architecture of the buildings. The comprehensive sign program must set design standards including, but not limited to: sign types, placement, size, design, colors, materials, textures, and method of illumination, as well as provide for the safe navigation for vehicles and pedestrians. If a sign subject to the comprehensive sign program complies with all the requirements of this chapter, it may be approved administratively by the Administrator. In determining approval, the Administrator must not base any approval on the message content of a sign.
2. **Master Sign Plans.** The Plan Commission may approve a master sign plan as an alternative to the requirements set forth in ***6.4(I) Permanent Sign Types*** for the following uses and developments:
 - Multiple-tenant commercial, office, or employment uses.
 - A multiple-building complex for a single commercial or employment use in a project exceeding 40 net acres.
 - Stand-alone office/employment buildings exceeding 100,000 square feet.
 - Indoor or outdoor entertainment and recreation uses.
 - Auto malls.
 - Hospitals.
 - Hotels and commercial lodging having at least 150 guest rooms and a full-service restaurant or conference and meeting rooms.
 - Regional retail shopping malls.
 - a. **Conditions.** The Plan Commission may attach conditions as necessary to assure the signs covered by the master sign plan will not be materially detrimental to persons or property in the vicinity. In making its determination, the Plan Commission must not base any condition on the message content of a sign.
 - b. **Evaluation Criteria.** Master sign plans are evaluated on the following criteria:
 - i. **Placement.** Signs must be placed where they are visible and legible. Consideration is given to a sign's location relative to traffic movement and access points, site features, other structures, and orientation relative to viewing distances and angles. Wall signs may be approved on building walls other than the wall of the space occupied by the tenant in commercial centers where tenants have little or no visibility from the street.
 - ii. **Quantity.** The number of signs approved within any development must be sufficient for internal traffic and navigation for vehicles and pedestrians.
 - iii. **Size.** Signs must be no larger than necessary for visibility and legibility. A master sign plan must not contain a freestanding sign exceeding any maximum height standard permitted by this chapter by more than 50%. A master sign plan must not contain a wall sign exceeding any maximum sign area standard permitted by this chapter by more than 25%.
 - iv. **Design Features and Materials.** Sign design themes and materials must be compatible with the architecture, colors, and materials of the project.
 - v. **Development Standards.** The Plan Commission may not reduce any sign development standard to less than 50% of any minimum standard, nor increase any sign development standard by more than 100%

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of the maximum standard. The Plan Commission must not base any decision on the message content of a sign.

- vi. Amendments. The Administrator may administratively approve minor amendments to a master sign plan involving non-communicative activity, where such changes are determined to have little or no visual impact and are consistent with the intent of the original approval.

E. REVIEW OF SIGN APPLICATIONS FOR PERMANENT SIGNS

Applications for permanent signs are considered by the Plan Commission, except for those applications subject to administrative approval by the Administrator. Approval for a permanent sign may be by:

- A comprehensive sign program; or
- A master sign plan; or
- A separate sign permit application approved by the Administrator.

F. GENERAL PROVISIONS FOR SIGNS

The following general provisions for signs apply to this chapter and to all lawful conforming and nonconforming signs, unless otherwise indicated.

1. **Viewpoint Neutrality.** Unless stated to the contrary in this chapter, no sign or sign structure is subject to any limitation based upon the viewpoint of the message contained on the sign or displayed on the sign structure. It is the policy of the City to regulate signs to not favor commercial speech over noncommercial speech. The City does not regulate protected noncommercial speech by message content. Within this chapter, distinction between onsite signs and offsite signs applies only to commercial messages. It does not apply to noncommercial messages.
2. **Substitution of Noncommercial Speech for Commercial Speech.** A sign may contain a noncommercial message instead of a commercial message. The noncommercial copy may be substituted in for the commercial copy. The noncommercial copy may occupy all or part of the entire sign face. The sign face may be changed from a commercial message to a noncommercial message or from one noncommercial message to another noncommercial message, provided there is no change in the sign structure.
3. **Discretionary Approval.** When a sign permit or other approval is subject to discretion, consideration is given to the following:
 - a. The location and placement of the sign will not endanger motorists;
 - b. The sign will not interfere with the prominent view of a structure or façade of historical or architectural significance;
 - c. The sign will not obstruct views of users or adjacent buildings to side yards, front yards or open space;
 - d. The sign will not adversely impact the visual quality of a public open space, such as a public recreation facility, square, plaza, park, or courtyard.
 - e. The sign is compatible with existing neighborhood building heights;
 - f. The sign’s lighting will not cause hazardous or unsafe driving conditions;
4. **Consent of Legal Owner of Property.** Except as required by state law, no sign may be displayed without the consent of the legal owner of the property where the sign is mounted or displayed.
5. **Signs on Public Property.** Except as required by state law or otherwise permitted by this chapter, a sign installed or placed on public property is deemed illegal, forfeited to the public, and subject to confiscation. In addition to



other remedies in this Ordinance, the City has the right to recover the cost of removal and disposal of the sign from the owner or person placing such sign.

6. Placement of Signs

- a. An encroachment permit from the City is required prior to installing a permanent sign projecting into or over the public right-of-way.
- b. The lowest portion of any sign extending over an area intended for pedestrian use must be at least 8 feet above finished grade.
- c. The lowest portion of any sign extending over an area intended for vehicular use must be at least 14 feet above the finished grade.
- d. Any sign placed on a sidewalk or other public right of way must comply with this chapter and applicable provisions of the Americans with Disability Act.
- e. Signs are prohibited within sight visibility triangles, except for appropriately placed traffic control device signs.

7. Flagpoles

- a. In a residential district, a principal structure may install one flagpole. There is no limit to the number of flags that may be displayed on the flagpole. An improvement location permit is required for exceeding a height of 30 feet.
- b. A nonresidential use on premises over 1/2 acre in size may install up to 3 flagpoles. For each additional acre, up to 2 additional flagpoles may be installed. Up to 2 flags may be displayed per flagpole. Flagpoles must be depicted on final design review plans or approved administratively as part of a sign plan. A flagpole must not exceed 1.5 times the maximum building height for the district or 50 feet whichever is lower. An improvement location permit is required for flagpoles on nonresidential properties.

8. **Flag Brackets and Stanchions.** For each principal structure on a parcel, up to 2 flag brackets or stanchions may be attached or placed for the display of flags.

9. **Measurement of Sign Area.** The area of a sign is measured or calculated as follows (*Figure 6-12*):

- a. Background panel signs. Sign copy on a panel or area distinctively colored or constructed as a background is measured as the area contained within the sum of the geometric shapes enclosing both the sign copy and the background.
- b. Background surface signs. The area of a sign consisting of copy mounted as individual letters or graphics against a wall or building surface, that is not altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest geometric shapes enclosing each word, graphic or discrete visual element in the total sign.
- c. Illuminated background signs. The area of a sign with copy on an illuminated surface is measured as the entire illuminated surface containing sign copy.
- d. Double-faced signs. If a sign has 2 display faces, and the interior angle between the 2 faces is 30 degrees or less, the sign area is one sign face only. If the 2 faces are different sizes, the larger sign face is used. If the sign has 2 display faces and the interior angle between the 2 faces is greater than 30 degrees, then the sign area is the sum of the areas of the 2 sign faces.
- e. Multi-faced signs. If a sign has 3 or more faces, the sign area is equal to 50% of the aggregate area of all sign faces.

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10. **Measurement of Sign Height.** The height of a freestanding sign is measured as the vertical distance from the average finished grade below the sign to the top edge of the highest portion of the sign (*Figure 6-13*). Any mounding or excavating solely for the purposes of increasing the height of the sign is excluded from this measurement. The maximum height limit excludes architectural embellishments less than 36 inches at the base of the sign and less than 18 inches at the top of the sign. For the purposes of this section, average finished grade below the sign is the lower of (a) the lowest elevation where the base of the sign meets ground level; or (b) the top of the curb of the nearest public street adjoining the property; or (c) the grade of the land at the principal entrance to the lot.
11. Signs must provide at least 6 feet horizontal clearance and 12 feet overhead clearance from electrical conductors and from communications equipment or lines. Signs and their supporting structures must not interfere with surface and underground utilities or drainage systems.
12. The Administrator or Building Commissioner may order the repair of signs declared a nuisance, and, with or without notice, may remove a structurally unsafe sign if it presents an immediate peril to the public health or safety.
13. Replacement of a tenant sign panel containing the same design as the original on an approved sign structure with removable panels does not require a permit. Any tenant panel that is vacant or missing must be replaced within 30 days.
14. When a tenant vacates a building suite, the fascia of the wall sign band must be repaired to its surrounding texture and color within 45 days of sign removal.
15. Signs at bus shelters are permitted. Standards for these signs are determined in accordance with bus shelter design requirements established by the City Engineer.

G. TEMPORARY SIGNS

Unless otherwise provided below, temporary signs must meet the criteria below. A temporary sign may be displayed as a ground sign, wall sign, or a window sign.

1. **General Criteria for Temporary Signs.** A temporary sign is unlawful unless it meets the criteria established for the Zoning District where it is located as described in *Table 6-1*. The general criteria and limitations in this section do not apply to A-Frame and T-Frame signs, banner signs, flying banner signs, flags, and umbrella signs.
2. **A-Frame Signs and T-Frame Signs.** A-Frame signs and T-Frame signs are unlawful unless they meet the criteria and limitations set forth in *Table 6-2: Temporary Signs*.
 - a. A-Frame signs and T-Frame signs are permitted in all Zoning Districts but may be placed in single-family residential districts only in conjunction with non-residential uses.
 - b. A-Frame Signs and T-Frame Signs must be located adjacent to the parcel or business advertised, supported by a base sufficient to withstand wind gusts, and maintained in good condition.
 - c. A-Frame Signs and T-Frame Signs must be placed at grade level and not in medians, across the street from the business being advertised, or on multi-use pathways.
 - d. The purchase and placement of A-Frame signs and T-Frame signs is not a substantial capital investment in the advertised business. Modification of the regulations resulting in further restriction or prohibition makes the signs illegal nonconforming signs that must comply with the new regulations.
3. **Banner Signs.** Banner signs are permitted in all Zoning Districts but may be placed in single-family residential districts only in conjunction with non-residential uses. Banner signs must meet the criteria and limitations in *Table 6-2: Temporary Signs*.

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4. **Flying Banner Signs.** Flying banner signs must meet the criteria and limitations in [Table 6-2: Temporary Signs](#).
 - a. Flying banner signs are permitted in all Zoning Districts but may be placed in single-family residential districts only in conjunction with non-residential uses.
 - b. Flying banner signs must be located adjacent to the parcel or business advertised, supported by a base sufficient to withstand wind gusts, and maintained in a professional manner.
 - c. Flying banner signs must be placed at grade level and must not be placed in medians, across the street from the business being advertised on multi-use pathways.

5. **Sign Walkers.** Sign walkers are permitted in all Zoning Districts. Sign walkers must comply with state law and meet the following criteria and limitations:
 - a. Sign walkers must be located:
 - At grade level.
 - 30 feet from a street or driveway intersection measured from the back of the curb or edge of pavement if no curb exists.
 - 5 feet from the street measured from the back of curb or edge of pavement if no curb exists.
 - Sign walkers must yield right-of-way to pedestrians, bicycles and others on the sidewalks.
 - b. Sign walkers must not be located:
 - In medians, parking aisles or stalls, driving lanes or driveways, or on multi-use pathways.
 - Where less than 4 feet clear passage is provided on a sidewalk or pathway.
 - On fences, planters, other signs, vehicles, utility facilities, or any structure.
 - Within 20 feet from any other sign walker.
 - In a manner that results in sign walkers physically interacting with motorists, pedestrians, or bicyclists.
 - c. The sign must be displayed only when the business is open to conduct business and held, worn, or balanced at all times.
 - d. The following are prohibited:
 - Any form of illumination, including flashing, blinking, or rotating;
 - Animation on the sign;
 - Mirrors or other reflective materials; or
 - Attachments including balloons, ribbons, speakers.

6. **Umbrella Signs.** For each table in an outside seating area for a licensed business establishment, one umbrella sign per umbrella is allowed. An umbrella sign is 8 feet in height. An umbrella having an umbrella sign must be securely mounted. A sign permit is not required for an umbrella sign. Umbrella signs do not count toward the maximum sign area for any use.

7. **Temporary Residential Subdivision Signs.** Temporary residential subdivision signs are permitted in single-family residential districts for each builder in a recorded subdivision plat. Temporary residential subdivision signs must meet the criteria and limitations set forth in the [Table 6-3: Temporary Signs in Residential Subdivisions](#).

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H. PERMANENT SIGN LIGHTING AND CHANGING MESSAGE DISPLAYS

The following general criteria and limitations for lighting and changing message displays must apply to permanent signs.

1. **General Lighting Standards.** The illumination of signs must meet all regulations of the lighting standards in 6.2 Lighting.
 - a. Except for changing message displays and marquee signs, any flashing, blinking, reflective, animated, or rotating lights, or signs with intermittent or varying intensity of illumination are prohibited.
 - b. Exposed light sources are prohibited except for marquee signs. Light sources must be shielded to prevent light trespass onto adjacent properties.
 - c. Exposed neon tube type illumination can only be used in Commercial Districts, subject to administrative approval of a comprehensive sign program or master sign plan. Exposed neon tubing must be appropriately sized. Exposed neon tube type illumination is prohibited in all other Zoning Districts.
2. **Sign Illumination**
 - a. Permanent Sign on a Parcel in a Residential District. Except for an identification sign at the entrance of a residential subdivision, a permanent sign located on a parcel in a residential district cannot be separately or specially illuminated, unless otherwise specified in this chapter.
 - b. Permanent Sign on a Parcel in a Nonresidential District. A permanent sign on a parcel in a nonresidential district may be illuminated by internal illumination, internal indirect (halo) illumination, or lit by external indirect illumination, unless otherwise specified in this chapter.
 - c. Internal illumination. Outdoor internally illuminated signs must be constructed with an opaque background and translucent letters or other graphical elements, or with a colored background and lighter letters or graphics.
 - d. External Indirect Illumination. Externally lit signs must be illuminated only with steady, stationary, and shielded light sources directed solely onto the sign. Light bulbs or tubes (excluding neon) used for illuminating a sign must not be visible from the adjacent public rights-of-way and residential properties.
 - e. Illumination of Signs adjacent to Single Family Residential Uses. Signs located within 50 feet of a single-family district cannot be internally illuminated.
3. **Manual Changing Message Displays.** One-half the area of a freestanding monument or marquee sign may be a manual changing message display, subject to the criteria and limitations of this chapter.
4. **Electronic Changing Message Displays.** The entire sign face of a freestanding monument, tower sign, and freeway sign may be an electronic changing message display if located within a Zoning District where allowed and subject to the following operational limitations.

For non-residential uses in residential districts, 1/2 of the sign face of a freestanding monument sign may be an electronic changing message display, subject to the following operation limitations.

- a. Display. An electronic changing message display may be in full color.
- b. Minimum Display Time. An electronic changing message display must not change more than once every 8 seconds.
- c. Transition Method. An electronic changing message display must change by an instant change method.
- d. Illumination Levels. An electronic changing message display must incorporate automatic dimming technology that adjusts to ambient light conditions. Displays must have a brightness level no greater than 0.3-foot candles above ambient light conditions.

- e. Maintenance. An electronic changing message display that ceases to operate in its normal programmed manner must be repaired or disconnected within 48 hours of the initial malfunction.

I. PERMANENT SIGN TYPES

The following types of permanent signs are allowed in one or more Zoning Districts, as more specifically set forth below or as referenced in the Building Code, Residential Code, Fire Code, or Manual on Uniform Traffic Control Devices (*Figure 6-14*).

1. Street Address Signs

- a. Each single-family dwelling unit must be clearly identified by a street address for first responders to locate the dwelling unit. The street address sign is 3 square feet in sign area.
- b. Each multi-family dwelling unit must be clearly identified by a street address sign for first responders to locate the unit. The street address sign may be externally illuminated. The street address sign or unit and building identification signs is 6 square feet in sign area.
- c. Each location of a business or non-residential use must be clearly identified by a street address for first responders to locate. The street address sign may be externally or internally illuminated. The street address sign is 6 square feet in sign area.

2. Unit and Building Identification Signs

- a. Each multi-family dwelling unit must be clearly identified by a unit and building identification sign for first responders to locate unit, unless the unit or building has a street address sign that is specific to that unit. The unit and building identification sign may be externally illuminated and is 6 square feet in sign area.
- b. Each location of a business or non-residential use must be identified by a unit and building identification sign for first responders to locate the unit. The unit and building identification sign may be externally illuminated and is 6 square feet in sign area.

3. Wall Signs in Residential Uses

- a. Each single-family dwelling unit must be clearly identified by a street address sign for first responders to locate the unit.
- b. Each single-family dwelling unit may have one permanent wall or ground sign not exceeding 3 square feet in size and not exceeding 2 feet in height if placed as a ground sign. This sign is allowed in addition to the required street address sign for a single-family dwelling unit.
- c. Each multi-family dwelling unit must be clearly identified by a street address sign and unit and building identification sign as applicable for first responders to locate the unit.
- d. Each individual dwelling unit in a multi-family dwelling unit may have one permanent wall or ground sign not exceeding 3 square feet in size and not exceeding 2 feet in height if placed as a ground sign.

4. Wall Signs in Non-Residential Uses

- a. Design. Wall signs must fit proportionally with building massing and architectural features of the elevation.
- b. Length. The length of a wall sign must not exceed 80% of the horizontal length of the exterior building elevation of a tenant suite.
- c. Height. The height of a wall sign is 80% of the vertical dimension of the sign band or wall space on which the sign is placed.

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- d. Placement. Wall signs must maintain a minimum clearance between the top of the sign and the top of the parapet wall equal to half of the vertical dimension of the largest letter in the sign. Top floor signage located on multi-story buildings may span floor plates.
- e. Wall Signs on building elevations abutting property designated for residential use in the Comprehensive Plan must not be illuminated, exceed 16 square feet in sign area, nor be installed higher than 14 feet above grade.
- f. Wall Sign Area: Buildings One-Story in Height. Wall signs on a building one-story in height must conform to the following criteria:
 - i. Each tenant suite is permitted a wall sign with a minimum sign area of 32 square feet, and the wall sign is permitted on any exterior wall of the tenant or user suite.
 - ii. Each tenant suite is limited to a wall sign with a sign area no greater than the total sign allowance area defined below for: (i) the longest building elevation of the tenant or user suite facing the street, or (ii) the length of the building elevation of the tenant suite where its principal entrance is located.
 - iii. For buildings set back 75 feet or less from the right-of-way, the sign allowance area is 1 square foot of sign area for each lineal foot of the building elevation adjacent to the suite. For buildings set back more than 75 feet from the right-of-way, the sign allowance area is 1.5 square feet of sign area for each lineal foot of building elevation adjacent to the suite.
 - iv. Buildings with at least two building elevations facing streets and/or main private circulation drives are permitted double the sign allowance area. Signs may be located on more than two elevations if the maximum allowance is not exceeded. In no event can the double sign allowance area be used on a single elevation.
 - v. Approval is required through a comprehensive sign program and/or a master sign plan if the building is a multi-tenant building or otherwise meets the criteria for review and approval set forth in this chapter under such a program or plan.
- g. Wall Sign Area: Buildings Two Stories in Height. Wall signs on multiple floors of a building two stories in height must conform to the following criteria.
 - i. Individual tenant signs located on the first floor of a building 2 stories in height are subject to the same criteria as tenant signs for a building one-story in height, as set forth in section **6.4(I)(4)(f)** above.
 - ii. Individual tenant signs and building signs located on the second floor of a building 2 stories in height is 75 square feet in sign area. Individual tenant signs and any building signs may be placed on any approved sign band or wall space on the second floor. The maximum wall sign area, including all tenant signs and building signs, must not exceed 50% of the lineal building elevation on the second floor.
 - iii. Buildings with at least 2 building elevations facing streets and/or main private circulation drives are permitted double the sign allowance area. Signs may be located on more than 2 elevations if the maximum allowance is not exceeded. The double sign allowance area cannot be used on a single elevation.
 - iv. Approval is required through either a comprehensive sign program or a master sign plan.
- h. Wall Sign Area: Buildings Three or More Stories in Height. Wall signs located on buildings 3 or more stories in height are limited to the first floor and top floor and must conform to the following criteria.
 - i. Individual tenant signs located on the first floor are subject to the same criteria as tenant signs for a building one story in height, as set forth in **6.4(I)(4)(f)** above.

- ii. The sign area for a wall sign on the top floor is not counted against the sign allowance area of a wall sign on the first floor. Wall signs located on the top floor are limited to either: (a) 1 building sign and 1 tenant sign, or (b) 2 tenant signs. A wall sign located on the top floor must adhere to the criteria contained in ***Table 6-4 Top Floor Sign Area and Height Standards for On-Premise Wall Signs***. The maximum sign area for a wall sign on the top floor cannot be increased through a comprehensive sign program or master sign plan.
- iii. Buildings with 2 building elevations facing streets and/or main private circulation drives are permitted double the sign allowance area. Signs may be located on more than 2 elevations if the maximum allowance is not exceeded. The double sign allowance area be used on a single elevation.
- iv. Approval is required through either a comprehensive sign program or a master sign plan.

5. **Wall Signs for Non-Residential Uses in Residential Zoning Districts**

- a. Design. Wall signs must fit proportionally with building massing and architectural features of the elevation.
- b. Length. The length of a wall sign must not exceed 80% of the horizontal length of the exterior building elevation of a tenant suite.
- c. Height. The height of a wall sign must not exceed 80% of the vertical dimension of the sign band or wall space on which the sign is placed.
- d. Placement. Wall signs must maintain a minimum clearance between the top of the sign and the top of the parapet wall equal to half of the vertical dimension of the largest letter in the sign. Top floor signage located on multi-story buildings may span floor plates.
- e. Wall Signs on building elevations abutting property designated for residential use in the Comprehensive Plan must not be illuminated, exceed 16 square feet in area, nor be installed higher than 14 feet above grade.

6. **Wall Sign Area: Buildings One or More Stories in Height**. Wall signs must only be located on one floor of a single-story or multi-story building and must meet the following criteria.

- a. Each tenant suite is permitted a wall sign with a minimum sign area of 32 square feet on any exterior wall of the tenant suite on the first floor of the one-story building.
- b. Each tenant suite is limited to a total wall sign area no greater than the total sign allowance area, defined below for (i) the longest building elevation of the tenant suite facing the street, or (ii) the length of the building elevation of the tenant suite where the principal business entrance is located.
- c. For buildings set back 75 feet or less from the right-of-way, the sign allowance area is 1 square foot of sign area for each lineal foot of the building elevation adjacent to the suite. For buildings set back more than 75 feet from the right-of-way, the sign allowance area is 1.5 square feet of sign area for each lineal foot of building elevation adjacent to the suite.
- d. A tenant suite with 2 or more building elevations facing streets and/or main private circulation drives is permitted twice the sign allowance area. The double sign allowance cannot be used on a single elevation.
- e. If the top floor of a multi-story building is chosen for the allowable wall signs, the top floor wall signs are limited to either (i) 1 building sign and 1 tenant sign, or (ii) 2 tenant signs. A wall sign on the top floor must adhere to the criteria contained in ***Table 6-4: Top Floor Sign Area and Height Standards for On-Premise Wall Signs***. The maximum sign area for a wall sign on the top floor cannot be increased through a comprehensive sign program or master sign plan.
- f. Approval is required through a comprehensive sign program or master sign plan.

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7. **Painted Wall Signs.** In business districts, painted wall signs are permitted on any exterior building wall of the tenant suite. The sign area of a painted wall sign must be included in the sign allowance area. Painted wall signs may be indirectly illuminated with lighting fixtures that are decorative and architecturally compatible with the building.
8. **Wall Signs at Entrances to Non-Residential Tenant Offices or Suites.** Each non-residential tenant suite may have one permanent wall sign not to exceed 3 square feet in area. This allowed sign is in addition to any required street address sign and unit and building identification sign.
9. **Wall Signs at Entrances to Restaurants.** In addition to any other wall sign allowance, a restaurant is allowed one wall sign installed within 10 feet of its main entrance. The wall sign is 6 square feet in area and 6 feet in height. The wall sign may be internally or externally illuminated.
10. **Wall Signs at Service and Delivery Entrances.** In addition to any other wall sign allowance, a service or delivery entrance is allowed one permanent wall sign installed within 10 feet of its entrance. The wall sign is 6 square feet in area and 6 feet in height. The wall sign may be internally or externally illuminated.
11. **Window Signs.** Window signs are permitted in all Zoning Districts but may be placed in single-family residential districts only in conjunction with non-residential uses as a permanent wall sign. The window sign cannot cover more than 25% of the window area. Window signs may be internally illuminated. A sign permit is not required for a window sign.
12. **Door Signs.** Door signs are permitted provided that the door sign does not cover more than 25% of the door area. Door signs must not be illuminated. A sign permit is not required for a door sign.
13. **Wall-Mounted Cabinet Signs.** Permanent wall-mounted cabinet signs are allowed in non-residential districts and must be stylized in shape to reflect the shape of the image printed on the sign face or the molded sign face, with embossed sign copy or sign copy in relief. This provision does not apply to canopy signs for service islands regulated in **6.4(I)(25)**. This provision does apply to projecting signs and projecting roof signs.
14. **Projecting Signs.** In business districts, permanent projecting signs are allowed when affixed to the exterior building wall of the tenant suite. Projecting signs must be located at the customer entry area of the tenant suite if blinking, flashing, or illumination elements are incorporated. The allowable sign area must be included in the maximum sign area allowed in **6.4(F) General Provisions for Signs** and when combined with any other sign area, must not exceed the maximum sign area. Projecting signs may be internally or indirectly illuminated and incorporate flashing or blinking elements within the allowable sign area. Lighting fixtures must be decorative and architecturally compatible with the building. Projecting signs must be stylized in shape to reflect the shape of the image printed on the sign face. Fixtures used to affix the projecting sign to building walls must be decorative and architecturally compatible with the building.
15. **Projecting Roof Signs.** In business districts, permanent projecting roof signs are allowed subject to the same criteria set forth above for projecting signs. However, the height of a projecting roof signs must not exceed the height of a roofline or parapet by more than 25% of the overall height of the sign. The Planning Commission may approve heights greater than the 25% through a comprehensive sign program, master sign plan, or a design review application, when the proposed plan or application demonstrates that the projecting roof sign is incorporated into the building’s architecture. A projecting roof sign incorporated into the building’s architecture must not exceed the height of the building’s roofline or parapet by more than 30% of the overall sign height.
16. **Suspended Signs.** In business districts, one permanent suspended sign is allowed for each permitted tenant building elevation. The sign must be suspended from a roof overhang of a covered porch or walkway adjacent to the exterior building wall of the tenant. The sign area is 6 square feet. The size of the suspended signs is not be included in the maximum sign area set forth in **6.4(F) General Provisions for Signs**. Suspended signs may be indirectly illuminated. Lighting fixtures must be decorative and architecturally compatible with the building.

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17. **Drive-Through Lane Signs.** No more than 2 drive-through lane signs are allowed for each drive-through lane serving a business establishment. The signs may be either a wall mounted sign or a ground sign. The signs must be no larger than 50 square feet and 7 feet high. A drive-through ground sign must be constructed with a solid base.
18. **Freestanding Sign: Monument Signs.**
- For a nonresidential use in a residential district, one onsite monument sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. One additional monument sign is permitted for each additional 300 feet of street frontage. The maximum size of a monument sign is 32 square feet and 8 feet high. Monument signs must be set back at least 3 feet from the right-of-way.
 - In Business, Industrial, and Mixed-use Zoning Districts, one onsite monument sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. One additional monument sign is permitted for each additional 300 feet of street frontage. The height of a monument sign must be no greater than 12 feet to the top of design embellishments, and the sign face must be located between 2 feet and 10 feet above grade with design embellishments added to the top, sides, or bottom of the sign. The maximum area of a monument sign is 60 square feet. Monument signs must be set back a minimum of 3 feet from the right- of-way. Monument signs must maintain a minimum spacing of 100 feet from any other monument sign on the same street frontage.
 - In Business, Industrial, and Mixed-use Zoning Districts, one onsite monument sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. One additional monument sign is permitted for each additional 300 feet of street frontage. The height of a monument sign must be no greater than 12 feet to the top of design embellishments, and the sign face must be located between 2 feet and 10 feet above grade with design embellishments added to the top, sides, or bottom of the sign. The maximum area of a monument sign is 60 square feet. Monument signs must be set back a minimum of 3 feet from the right-of-way. Monument signs must maintain a minimum spacing of 100 feet from any other monument sign on the same street frontage.
19. **Freestanding Sign: Tower Signs.** In Business Zoning Districts for retail centers exceeding 40 acres, and in the Industrial and Mixed-use Zoning Districts for sites that abut a freeway and exceed 40 acres, one onsite tower sign is permitted for each 500 feet of street frontage, provided the total number of all freestanding signs, including monument signs, must not exceed one sign per 300 feet of street frontage. The maximum height of a tower sign is 15 feet. The maximum sign area of a tower sign is 80 square feet. The maximum sign area of a tower sign may be increased by an additional 20 square feet for the identification of tenants or occupants of suites 5,000 square feet or less. Tower signs must be set back a minimum of 3 feet from the right-of-way. Tower signs must maintain a minimum spacing of 300 feet from any other freestanding sign on the same street frontage.
20. **Freestanding Sign: Onsite Traffic Directional Signs.** In the Business, Industrial, and Mixed-use Zoning Districts, onsite traffic directional signs are permitted as necessary to assist in movement of vehicular traffic on a property for the safety of pedestrian and vehicle traffic. The maximum sign area of an onsite traffic directional sign is 3 square feet and the maximum height of onsite traffic directional sign is 3 feet. An onsite traffic directional sign must be set back at least 25 feet from the right-of-way and not be located within the required perimeter landscape area. Onsite traffic directional signs are not counted as part of a maximum or total sign area for any use.
21. **Freestanding Sign: Residential Subdivision Entry Signs.** A residential subdivision entry sign at the principal entries to residential subdivisions may have one entry sign on each side of the street. The maximum sign area of the residential subdivision entry sign is 25 square feet and the maximum height is 8 feet. The residential subdivision entry sign must be set back a minimum of 3 feet behind the right-of-way. A residential subdivision entry sign may be internally or indirectly illuminated. The residential subdivision entry sign must be incorporated into the design of an entry wall, which must be architecturally compatible with other subdivision improvements. Residential

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subdivision entry sign structures require approval by the Plan Commission as part of the subdivision development plan. Residential subdivision entry sign structures added following the initial development of the subdivision require administrative design review approval.

- 22. **Freestanding Sign: Multi-Family Complex Entry Signs.** A multi-family complex entry sign at the principal entries to a multi-family complex may have one entry sign on each side of the street. The maximum sign area of a multi-family complex entry sign is 32 square feet and the maximum height is 8 feet. The multi-family complex entry sign must be set back a minimum of 3 feet behind the right-of-way. A multi-family complex entry sign may be internally or indirectly illuminated. A multi-family complex entry sign structure must be architecturally compatible with the complex and must be approved administratively.
- 23. **Freestanding Sign: Directory Sign.** In the business, Industrial, and Mixed-use Zoning Districts, one directory sign is permitted for every 4 commercial tenants or uses. The maximum sign area of the directory sign is 40 square feet and the maximum height of the directory sign is 8 feet. A directory sign must be set back a minimum of 75 feet from any perimeter property line, except where such property line abuts other commercial development and there is a cross-access between the properties. A directory sign must only be installed onsite within landscape islands or pedestrian areas.
- 24. **Awning Signs.** In Business Districts, an awning sign may be located on the valance of an awning. Graphics must be permanently affixed to the awning and may be silkscreened, painted, cutout lettering heat color transfer, pressure sensitive vinyl films, sewn applique signs, etc. An awning sign may be indirectly illuminated or backlit. An awning sign must not obstruct sidewalks, accessible paths of travel, or the visibility of other signs. Lighting fixtures must be decorative and architecturally compatible with the building.
- 25. **Marquee Signs.** In business districts, a marquee sign may be located on a marquee that is approved by the Plan Commission as part of a design review application, a comprehensive sign program or master sign plan. A marquee sign must only be located at the primary entrance of the tenant suite to which it is appurtenant. The colors, materials, and design of a marquee sign must complement the design of the building it serves. A marquee sign may be internally or indirectly illuminated. Marquee signs must not be visible from adjacent residential properties. A marquee sign may include a manual changing message display. Sign copy must be changed manually. Electronic or mechanical sign copy change is prohibited. A marquee sign must not obstruct sidewalks, required accessible paths of travel, or the visibility of other signs. Lighting fixtures must be decorative and architecturally compatible with the building. A marquee sign may incorporate flashing or blinking elements within the permitted sign area.
- 26. **Canopy Signs for Service Islands.** Each service island can have up to 2 canopy signs per service island. The maximum sign area of a canopy sign is 12 square feet. No part of the sign must project from a canopy wall by more than 6 inches. A canopy sign must be vertically centered on the face of the canopy. The height cannot exceed 80% of the vertical dimension of the canopy wall. The sign area of a canopy sign does not count against the maximum sign area allowed for wall signs on the parcel.
- 27. **Historic Markers.** One historic marker per parcel is allowed. The maximum sign area of a historic marker is 6 square feet.

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J. PERMITTED PERMANENT SIGNS BY ZONING DISTRICT

The permanent sign types allowed by Zoning District and the applicable permitting plan, program, or other review process are set forth below in **Table 6-5: Permitted Permanent Signs by Zoning District**. Refer to each sign type for criteria and limitations as specified in **6.4(I) Permanent Sign Types**.

K. SIGN MAINTENANCE

Maintaining legal signs is allowed without a permit. Sign maintenance is the replacement or repair of a part of a sign required by ordinary wear, tear, or damage, with like material, color, and design. Maintenance of legal signs does not include changing the color, size, design, or style of signs. Any sign or component which is damaged and constitutes a danger to public safety must be promptly repaired or replaced. Surface materials and components must be kept free of chipping, peeling, fading, cracks, holes, buckles, warps, splinters, or rusting visible from an adjacent property or street. Illuminated signs must be maintained in good operating condition including prompt removal and replacement of all defective lamps, damaged electrical wiring, and malfunctioning control devices and related circuitry.

L. NONCONFORMING SIGNS

1. If a non-conforming sign becomes an abandoned sign, it must be removed after notice to the property owner, unless the property owner establishes sufficient facts to refute the presumption of abandonment.
2. If a property or development is expanded or modified to add new signage, all nonconforming signs must be removed or rebuilt to comply with the provisions of this chapter.
3. Sign faces may be replaced on non-conforming signs.
4. Changes to a property that add or alters existing signage is prohibited until all non-conforming signs are removed or rebuilt in conformance with this chapter. Existing signage not conforming to the restrictions on cabinet signs or raceways need not be brought into conformance if demonstrated to the Administrator that the signage permitted by this chapter is not structurally feasible.

M. SIGN VIOLATIONS

1. **Requirement of Permit.** Unless specifically exempted, it is unlawful for any person to construct, install, attach, place, paint, alter, relocate, or otherwise maintain any sign in the City without first obtaining a sign permit in accordance to the provisions of this chapter.
2. **Requirement of Compliance.** Signs must be installed, placed, or maintained in the City only in compliance with this chapter. Signs maintained contrary to the provisions of this chapter are declared to be nuisances and may be abated as provided by law. The responsibility for compliance with this chapter rests upon the sign owner, the permit holder, and parties holding the present right of possession and control of the property where a sign is located, mounted, or installed, and the legal owner of the lot or parcel, even if the sign was installed without the consent or knowledge of the owner and/or other parties holding the legal right to immediate possession and control. Signs not in compliance with this chapter are subject to enforcement proceedings as specified in **CHAPTER 7: PROCESS AND ADMINISTRATION**.

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N. SIGN REGULATION TABLES

Table 6-1: Temporary Signs: General Criteria and Limitations

Standard	Residential Districts	Non-Residential Districts
Maximum Number of Signs Per Parcel	4 ¹	4
Maximum Sign Area	6 sq. ft.	32 sq. ft.
Sign Height Maximum for a Freestanding Sign ²	4 ft.	6 ft.
Sign Height Maximum for a Wall Sign (inclusive of a Window Sign ³)	6 ft.	15 ft.
Minimum Setback/ Distance from Right of Way ⁴	10 ft.	10 ft.
Minimum Spacing from any Other Sign (temporary sign or permanent sign) ²	15 ft.	15 ft.
Permit Required	No	No
Incorporation of Florescent Color or Exhibition of Florescence Allowed	No	No
Permission of Owner Required	Yes	Yes
Allowed within a Sight Visibility Triangle	No	No
Allowed on Public Sidewalk / Right of Way ⁵	No	No
Duration Allowed After Conclusion of an Event if Sign Pertained to an Event	3 days	3 days ⁶
Lighting or Illumination Allowed	No	No
Movement Allowed	No	No

Notes:

1. In Residential Districts, each principal dwelling may place up to 4 offsite temporary signs on private property for the purpose of directing the public to a residential activity (e.g., real estate open house, garage/yard sale, estate sale). The signs must be displayed only during the hours the single-family residence is open for public inspection.
2. Not applicable to signs displayed on flagpoles.
3. Window Signs cannot cover more than 25% of the first-floor window area.
4. Minimum sign setbacks are measured from the edge of the property line. Setbacks do not apply to wall signs or signs affixed to a temporary construction fence.
5. Government signs displaying government speech are exempt from regulation under this chapter.
6. Temporary signs advertising the grand opening of a business or other enterprise may be placed no more than two weeks prior to the date of the grand opening and must be removed within two weeks of the grand opening.



Table 6-2: Temporary Signs

Standard	A-Frame and T-Frame Signs	Banner Signs	Flying Banner Signs
Maximum Number of Signs	4 per business ¹	1	4 per business ¹
Maximum Sign Area	N/A	40 SF per side for occupancies up to 5,000 SF; 80 SF per side for occupancies 5,000 SF to 15,000 SF; 120 SF per side for occupancies 15,000 SF to 50,000 SF; or 180 SF per side for occupancies greater than 50,000 SF	12 SF
Maximum Width	31 inches	N/A	N/A
Maximum Height	45 inches	8 feet if displayed as a freestanding sign	15 feet
Minimum Setback/ Distance from Roadway ³	5 feet	3 feet if displayed as a ground sign	4 feet from edge of curb or a distance equal to the height of the sign, whichever is greater
Maximum Width of Public Sidewalk the Sign May Obstruct	No more than 1/3 of the width of a public sidewalk and must provide at least 4 feet of sidewalk clearance	0 feet	No more than 1/3 of the width of a public sidewalk and must provide at least 4 feet of sidewalk clearance
Maximum Distance of Sign from Premises ²	10 feet	N/A	N/A
Minimum Distance from an Access Drive or Street Intersection	N/A	N/A	30 feet
Minimum Spacing from any Other Sign (temporary sign or permanent sign) ⁴	20 feet	15 feet	20 feet
Duration	Only during hours when business is open	No more than 120 days per year, aggregate	Only during hours when business is open
Allowed on Public Sidewalk / Right-of-Way	Yes	No	Yes
Permission of Owner Required	Yes	Yes	Yes
Allowed within a Sight Visibility Triangle	No	No	No
Lighting or Illumination Allowed	No	No	No
Permit Required	No	Yes	No
Movement Allowed	No	No	Yes
Incorporation of Florescent Color or Exhibition of Florescence Allowed	No	No	No

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Table 6-3: Temporary Residential Subdivision Signs

Standard	Principal Entries	Model Homes	Perimeter Subdivision Open Space	Offsite Temporary Signs on Private Property
Maximum Number of Signs	1 per entry	1 or more	1 per street frontage	1
Maximum Sign Area	32 SF ⁵	32 SF ⁵	32 SF ⁵	32 SF
Maximum Width	N/A	N/A	N/A	N/A
Maximum Height	8 feet	8 feet	8 feet	8 feet
Minimum Setback/ Distance from Roadway ³	10 feet (5 feet if less than 32 SF)	10 feet (5 feet if less than 32 SF)	10 feet (5 feet if less than 32 SF)	10 feet
Maximum Width of Public Sidewalk the Sign May Obstruct	0 feet	0 feet	0 feet	0 feet
Maximum Distance of Sign from Premises ²	N/A	N/A	N/A	N/A
Minimum Distance from an Access Drive or Street Intersection	N/A	N/A	N/A	N/A
Minimum Spacing from any Other Sign (temporary sign or permanent sign) ⁴	N/A	N/A	N/A	100 feet
Duration	3 years or until the model home is permanently closed, whichever is first	3 years or until the model home is permanently closed, whichever is first	3 years or until the model home is permanently closed, whichever is first	1 year
Allowed on Public Sidewalk / Right-of-Way	No	No	No	No
Permission of Owner Required	Yes	Yes	Yes	Yes
Allowed within a Sight Visibility Triangle	No	No	No	No
Lighting or Illumination Allowed	No	No	No	No
Permit Required	Yes	Yes	Yes	Yes
Movement Allowed	No	No	No	No
Incorporation of Florescent Color or Exhibition of Florescence Allowed	No	No	No	No

Notes:

1. The combined total number of A-Frame, T-Frame, and flying banner signs cannot exceed 4 per business.
2. Signs may be allowed at the perimeter of a multiple-tenant commercial/office complex or employment park, but only pursuant to an approved sign plan.
3. Setbacks do not apply to a banner sign displayed on a wall, a wall sign, or signs affixed to a temporary construction fence.
4. Not applicable to signs displayed on flagpoles.
5. The maximum aggregate sign area of all temporary residential subdivision signs is 128 SF.



Table 6-4: Top Floor Sign Area and Height Standards for On-Premise Wall Signs

Facing Street Type	Sign Height (Feet) from Finish Floor Level to Top of Sign*	Maximum Allowable Size of Sign Face (Sq. Ft.)	Maximum Letter Height (Inches)
Local/Collector	40+	Per Code; or 1% of the area of the elevation to which it is attached, whichever is greater	12
Arterial	40+	Per Code; or 1% of the area of the elevation to which it is attached, whichever is greater	15
Freeway	40+	Per Code; or 1% of the area of the elevation to which it is attached, whichever is greater	21

*Unless approved signage spans floor plates

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Table 6-5: Permitted Permanent Signs by Zoning District

Sign Type	Residential Districts	Nonresidential Uses in Residential Districts	Business Districts	Industrial Districts	Mixed-Use Districts
Awning Signs	No	No	Yes	No	Yes
Canopy Signs for Service Islands	No	No	Yes	Yes	Yes
Door Signs	Yes	Yes	Yes	Yes	Yes
Drive-Through Lane Signs	No	No	Yes	Yes	Yes
Freestanding Sign: Directory Signs	No	No	Yes	Yes	Yes
Freestanding Sign: Freeway Signs	No	No	Yes	Yes	Yes
Freestanding Sign: Monument Signs	No	Yes	Yes	Yes	Yes
Freestanding Sign: Multi-Family Complex Entry Signs	Yes	No	Yes	No	No
Freestanding Sign: Onsite Traffic Signs	No	No	Yes	Yes	Yes
Freestanding Sign: Residential Subdivision Entry Signs	Yes	No	No	No	No
Freestanding Sign: Tower Signs	No	No	Yes	Yes	Yes
Historic Markers	Yes	Yes	Yes	Yes	Yes
Painted Wall Signs	No	No	Yes	No	Yes
Projecting Roof Signs	No	No	Yes	No	No
Projecting Signs	No	No	Yes	No	Yes
Street Address Signs	Yes	Yes	Yes	Yes	Yes
Suspended Signs	No	No	Yes	No	Yes
Umbrella Signs	No	No	Yes	No	Yes
Unit and Building Identification Signs	Yes	Yes	Yes	Yes	Yes
Wall Signs at Entrances to Dwelling Units	Yes	Yes	Yes	Yes	Yes
Wall Signs at Entrances to Non-residential Tenant Offices and Suites	No	No	Yes	Yes	Yes
Wall Signs at Entrances to Restaurants	No	No	Yes	Yes	Yes
Wall Signs at Service and Delivery Entrances	No	No	Yes	Yes	Yes
Wall-Mounted Cabinet Signs	No	No	Yes	Yes	Yes
Window Signs	No	Yes	Yes	Yes	Yes

Yes = Allowed

No = Prohibited

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O. SIGN IMAGES

Figure 6-12: Sign Area



Copy with Illuminated Background



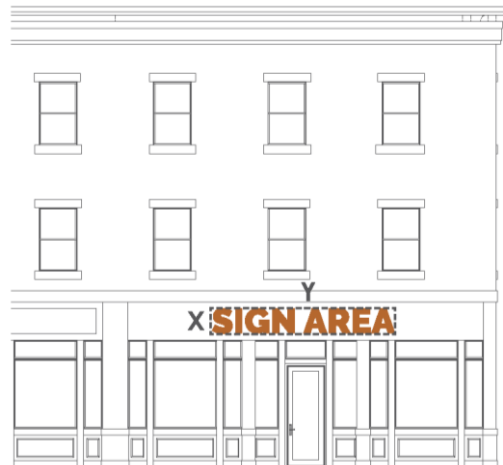
Copy within an Irregular Shape



Copy within a Logo



Copy with a Logo



Copy on a Surface

$X \times Y = \text{Sign Area}$

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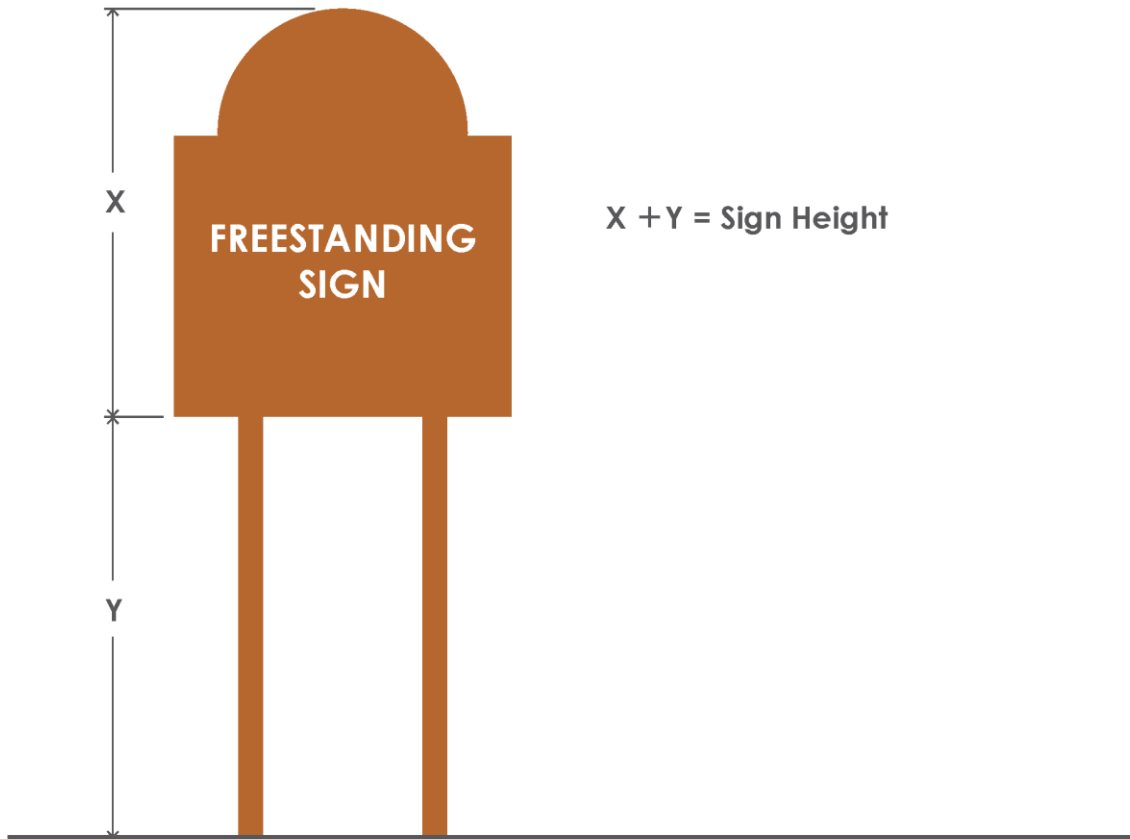
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Figure 6-13: Sign Height



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Figure 6-14: Sign Types

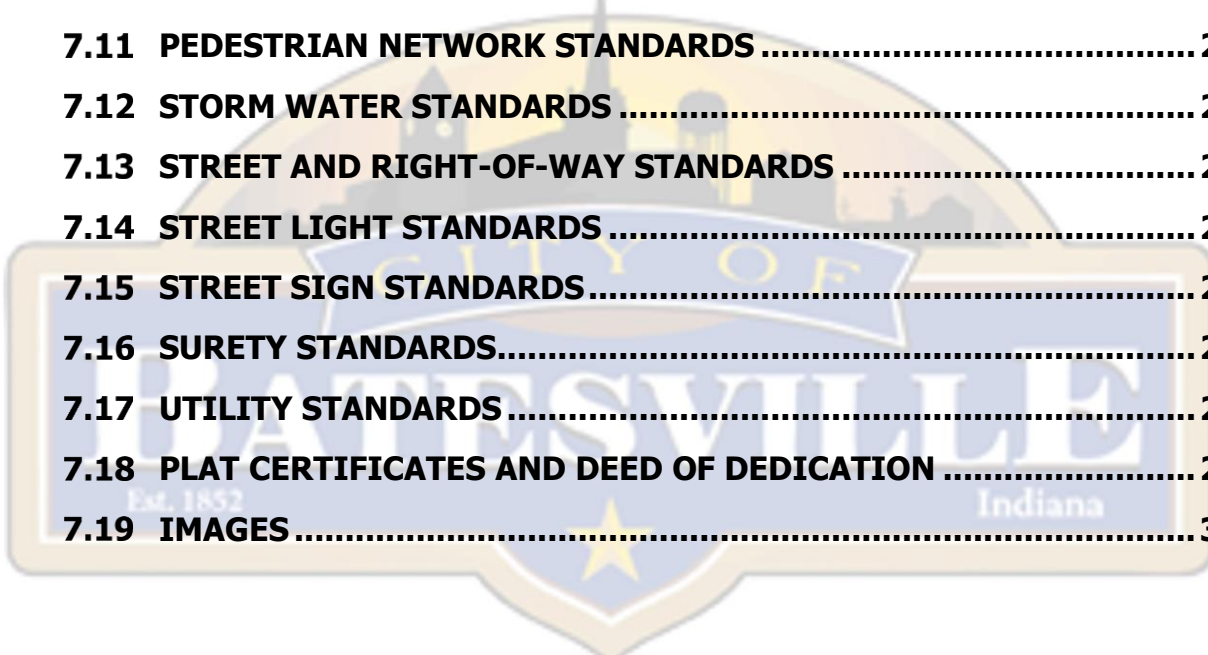


Legend

<u>ID</u>	<u>Description</u>	<u>ID</u>	<u>Description</u>
1	Street address signs	14	Drive-through lane signs
2	Unit & building identification signs	15	Monument signs
3	Wall signs at entrances to dwelling units	16	Tower signs
4	Painted wall signs	17	Freeway signs
5	Wall signs at entrances to non-residential tenant offices and suites	18	Onsite traffic signs
6	Wall signs at entrances to restaurants	19	Residential subdivision entry signs
7	Wall signs at service and delivery entrances	20	Multifamily complex entry signs
8	Window signs	21	Directory signs
9	Door signs	22	Awning signs
10	Wall-mounted cabinet signs	23	Umbrella signs
11	Projecting signs	24	Canopy signs for service islands
12	Projecting roof signs	25	Historic markers
13	Suspended signs		

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7.1 ESTABLISHMENT OF CONTROLS

Subdivision plats, replats, amendments or corrections to a recorded plat cannot be recorded until approved according to this Chapter. Approval must be in writing on the plat by the Administrator. Amendments or corrections to a recorded plat must be cited as an addendum to the approved plat. Subdivisions are permitted in all zoning districts.

7.2 SUBDIVISION PROCESS

This article establishes the process for subdividing land to ensure conformity to the standards of this Chapter. Subdivision applications will generally be considered favorably by the Plan Commission and Administrator. There are three types of subdivisions: administrative subdivisions, minor subdivisions, and major subdivisions.

An administrative subdivision adjusts property lines when no new lots are created or when parcels are merged into fewer buildable lots.

A minor subdivision results in four or fewer lots and does not involve the creation of new interior streets, adjustments to design standards, or the creation of common areas.

A major subdivision is any subdivision other than an administrative subdivision or a minor subdivision.

The procedures in this article are required for all administrative, minor, or major subdivisions.

A. Approval Process.

1. Administrative Subdivision. Approval of an administrative subdivision is a one-step process involving the approval of a secondary plat. The approval or disapproval of a administrative subdivision is delegated to the Administrator.
2. Minor Subdivision. Approval of a minor subdivision is a one-step process involving the approval of a secondary plat. The approval or disapproval of a minor subdivision is delegated to the Administrator. This type of subdivision may be used one time for the subdividing of a parent parcel. Additional subdivisions of a parent parcel require approval as a major subdivision.
3. Major Subdivision. Approval of a major subdivision is a two-step process including the approval of a primary plat and a secondary plat. The approval or disapproval of a primary plat is delegated to the Plan Commission. After a primary plat approval, a property is eligible for secondary plat approval. The approval or disapproval of a secondary plat is delegated to the Administrator.

B. Requirement for Development Plan Approval. Primary plat approval will not be granted unless an overall development plan is approved prior to or simultaneously with the primary plat. Secondary plat approval will not be granted unless a detailed development plan is approved prior to or simultaneously with the secondary plat.

C. Application Procedures.

1. A pre-filing conference with the Administrator is required prior to filing a primary or secondary plat application. The applicant is encouraged to incorporate the Administrator's comments into the design of the project prior to filing the application.
2. Applications may be filed by the owner of the real estate involved or by the owner's authorized agent. If by an authorized agent, a consent form signed by the owner and notarized must accompany the application.

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3. Applications must be filed according to the schedule of meeting and filing deadlines. The applicant is responsible for distributing a copy of the application and primary and/or secondary plat to members of the Technical Advisory Committee.
4. Using forms provided by the Administrator, the applicant submits a completed application and the supporting information noted in this article. The number of copies required is established by the Administrator.
5. Primary plat applications must detail any waivers requested pursuant to ***Article 7.3 Principles and Standards of Design***. Any waiver of standard will not be considered unless explicitly requested and presented to the Plan Commission, even if otherwise identified on the Primary Plat.

D. Primary Plat Approval Process.

1. **Phasing.** A primary plat may include all or only a part of a larger overall development. However, a primary plat must include the entire parent tract being subdivided unless otherwise deemed unnecessary by the Administrator or Plan Commission. This requirement seeks to avoid the creation of remainder parcels not complying with this Ordinance or not allowing orderly development.
2. **Docketing.** A primary plat application is reviewed for completeness. Applications determined to be in proper form are numbered and docketed for a public hearing by the Plan Commission.
3. **Investigation of Complete Applications.** The Technical Advisory Committee may review any primary plat prior to the Plan Commission's consideration. The Administrator may submit a written report to the Plan Commission stating facts concerning the characteristics of the area involved in the primary plat, surrounding land uses, public facilities available to service the area, or other pertinent facts. The report may also contain the Administrator's opinions concerning the primary plat proposal and a report from members of the Technical Advisory Committee. A copy of the report is made available to the applicant and the public.
4. **Public Hearing.** A public hearing by the Plan Commission is required for all primary plats. Notification of the public hearing must be completed per the Rules of Procedure of the Plan Commission.
5. **Plan Commission Action.** The Plan Commission will hold the public hearing and review the application and supporting information and act on the complete application according to this Ordinance, Indiana law, and the Rules of Procedure of the Plan Commission.
6. **Effect of Approval.** Approval of a primary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for approvals, such as a secondary plat, detailed development plan, improvement location permit, building permit, or certificate of occupancy.

E. Secondary Plat Approval.

1. **Phasing.** A secondary plat may include all or part of the approved primary plat. However, a secondary plat must include the entire parent tract being subdivided.
2. **Time Limitation.** Secondary plat applications may be submitted within the time provided for appeal under ***IC 36-7-4-708***. However, approval of a secondary plat will not be granted until 30 days after the approval of a primary plat.
3. **Docketing.** A secondary plat application is reviewed for completeness. Applications determined to be in proper form are numbered and docketed by the Administrator.

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4. Investigation of Complete Applications. The Technical Advisory Committee may review any secondary plat prior to approval. The Administrator must notify the applicant in writing of revisions or changes needed for approval.
 5. Approval. The Administrator must approve the secondary plat if it complies with this Ordinance and is substantially consistent with the approved overall development plan. If the secondary plat is not approved, the Administrator must identify the reasons in the Department records and provide the applicant with a copy.
 6. Effect of Approval. Approval of a secondary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for permits including an improvement location permit, building permit, and a certificate of occupancy.
 7. Signing of Plat. This subsection applies to each secondary plat. Unless otherwise approved by the Administrator or Plan Commission, a secondary plat will not be signed until: (i) streets, curbs, gutters, sanitary sewers, fire hydrants, storm sewers and like infrastructure are constructed per the City’s Construction Standards, and maintenance sureties for public improvements are secured according to this Ordinance; or (ii) performance sureties are secured assuring the installation of public improvements.
 8. Recording of Secondary Plat. No secondary plat or amendment of a subdivision will be recorded until the plat is approved and signed according to this Ordinance. Upon approval, the applicant must record the signed secondary plat in the Office of the County Recorder, as required by law, and provide the Department with a recorded copy to remain on file.
- F. **Secondary Plat Amendments (“replats”).** Amendments to a recorded secondary plat are processed and reviewed in the same manner as a secondary plat application.
- G. **Vacation of Plats.** The procedure to vacate a recorded secondary plat is set forth by ***IC 36-7-4-711***. The vacation of a secondary plat does not vacate platted rights-of-way or platted easements. Platted rights-of-way are vacated per ***IC 36-7-3-12***. Platted easements are vacated per ***IC 36-7-3-16***.
- H. **Primary Plat Documentation and Supporting Information.** A primary plat application must include:
1. A location map showing the subdivision name and location; any street related to the subdivision; the title, scale, north point and date; and adjacent property land uses and property owners’ names.
 2. A primary plat must be drawn to a scale of 1”=50’ or 1”=100’. If the resulting drawing would be over 36 inches in shortest dimension, then a scale determined by the Administrator may be used.
 3. The following information must be shown on the primary plat, unless otherwise provided on an accompanying overall development plan (***Article 8.6 Development Plan Review***):
 - a. Proposed name of the subdivision.
 - b. Names and addresses of the owners and consultants involved in the preparation of the plat.
 - c. Title, scale, north arrow and date.
 - d. Streets on and adjoining the premises of the proposed subdivision, showing the names, right-of-way widths, approximate gradients, types and widths of pavement, curbs, sidewalks, crosswalks, tree plantings and other pertinent data.
 - e. Easement locations, widths and purposes.

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- f. A statement concerning the location and approximate size or capacity of utilities to be installed.
 - g. Layout of lots showing dimensions, lot numbers and square footage.
 - h. Land proposed to be dedicated or reserved for schools, parks, or other public, semi-public or community purposes.
 - i. Contours at vertical intervals of 2 feet if the general slope of the site is less than 10% and at vertical intervals of 5 feet if the general slope is greater than 10%.
 - j. Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners.
 - k. Building setback lines.
 - l. Legends and notes.
 - m. Drawing indicating the proposed method of drainage for storm sewers and other surface water drainage.
 - n. Other features or conditions affecting the subdivision favorable or adversely.
 - o. A National Cooperative Soil Survey Map showing the soil limitations based upon the intended usage of the development land.
 - p. A statement from county departments or state highway departments concerning rights-of-way, road improvements, roadside improvements, roadside drainage, entrances, culvert pipes, and other specifications deemed necessary.
 - q. If regulated drain is involved, a statement from the County Drainage Board or County Surveyor's Office concerning easements, right-of-way, permits, etc.
 - r. If floodplain is involved, a statement from the Indiana Department of Natural Resources, concerning construction in floodway, including floodplain high water marks, etc.
4. Covenants and Restrictions. The Plan Commission or Administrator may request a copy of the covenants and restrictions if they are cross-referenced or incorporated on the plat or if they establish or grant rights related to the plat (e.g. easements). Covenants and restrictions may not lessen any requirement of this Ordinance or revise, alter, or change any aspect of an approved plat without approval of the Administrator or Plan Commission.

I. Secondary Plat Documentation and Supporting Information. A secondary plat application must include:

1. A secondary plat must be drawn to a scale of 1"=50'. A scale of or 1"=100' may be used to make the drawing no larger than 18 by 23 inches so the plat may be inserted in the plat books in the Office of the County Recorder without folding.
2. The following information must be shown on the secondary plat:
 - a. Proposed name of the subdivision.
 - b. Names and addresses of the owners and consultants involved in the preparation of the plat.
 - c. Title, scale, north arrow and date.
 - d. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot in 5,000 feet.

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- e. Accurate distances and direction to the nearest established street corners or official monuments. Reference corners must be accurately described on the plan.
 - f. Accurate locations and names of all existing and recorded streets intersecting the boundaries of the tract.
 - g. Accurate metes and bounds description of the boundary.
 - h. Source of title to the land to be subdivided as shown by the books of the Office of the County Recorder.
 - i. Complete curve notes for all curves included in the plan.
 - j. Street lines and street names with accurate dimensions in feet and hundredths of feet, with angles to street and lot lines.
 - k. Lot numbers and dimensions.
 - l. Accurate locations and limitations of easements.
 - m. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
 - n. Building setback lines and dimensions.
 - o. Location, type, material and size of all monuments and lot markers.
 - p. Plans and specifications for the improvements required in this Ordinance, if not otherwise detailed on the corresponding detailed development plan (***8.6 Development Plan Review***).
 - q. Plat certificates and deeds of dedication, as set forth in ***7.18 Plat Certificates and Deed of Dedication***.
3. In conjunction with the approval of a secondary plat, the applicant must provide financial surety, if applicable, for public improvements according to this Ordinance.
 4. The Plan Commission or Administrator may request a copy of the covenants and restrictions if they are cross-referenced or incorporated on the plat or if they establish or grant rights related to the plat (e.g., easements). Covenants and restrictions may not lessen any requirement of this Ordinance or revise, alter, or change any aspect of an approved plat without approval of the Administrator or Plan Commission.

7.3 PRINCIPLES AND STANDARDS OF DESIGN

- A. Improvement location permits, development plans and subdivisions must conform to the principles and standards established by this Ordinance.
- B. The City of Batesville Construction Standards and Specifications ("Construction Standards), as published and maintained by the Batesville Board of Public Works and Safety, are incorporated, as amended, by cross-reference into this Ordinance. All development plans and subdivisions must conform to the Construction Standards.
- C. The Plan Commission, in its discretion, may grant a waiver from standards required by ***Articles 7.7-7.17*** of this Ordinance. Waivers must be entered into the minutes of the Plan Commission together with the reasoning for the departure from the required standards. As a condition of granting a waiver, a commitment may be made according to ***Article 8.5 Commitments***. A waiver may only be granted upon finding:

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1. The proposed development will not be injurious to the public health, safety, morals or general welfare of the community.
2. The strict application of the Ordinance standard will result in a development that is less desirable when compared with the proposed development.
3. The proposed development is compatible with other development located in the area.
4. The proposed development is consistent with the intent and purpose of the Comprehensive Plan.

7.4 RESIDENTIAL ARCHITECTURAL STANDARDS

A. Architectural Standards for Small-Scale Residential Dwellings

1. General Provisions. The purpose of these design standards ensures quality construction for developments and create variation and interest in the built environment. These standards apply to all residential buildings containing one to four dwelling units located on a parcel or within a subdivision containing five or more dwelling units.
2. Architectural Diversity Standards Along Streetscapes. To improve the architectural diversity along a streetscape, homes of the same elevation and color scheme are not permitted next to or directly across the street from each other. Additionally, the home color scheme may not be repeated for two homes on either side of the subject home and the five homes directly across the street from the subject home. **Figure 7-2** illustrates this requirement. In determining if a building elevation meets this standard, the reviewer evaluates differentiation in the colors of the (a) siding, (b) siding accents, (c) trim, (d) front door, (e) shutters, and (f) brick or stone.

B. Architectural Standards for Non-Residential Uses in Residential Districts. All non-residential uses in a Residential District must comply with the following:

1. Loading spaces or loading docks must not face a street.
2. Loading spaces or loading docks facing a side or rear lot line of an adjoining residential district must be screened from view from the residential district using: (i) evergreen trees; or, (ii) a combination of evergreen trees and a solid wall or fence, creating a dense visual barrier to a minimum height of 6 feet.

To ensure compatibility of non-residential uses with surrounding residential uses in residential districts, all non-residential uses must use exterior building materials, roof line treatments and roofing materials compatible and consistent with the residential character and building materials of the surrounding residential area.

C. Architectural Standards for Multi-Family Dwellings. All new multifamily buildings containing five or more dwellings must comply with the following:

1. Design detailing must continue completely around the building consistent with the intended architectural style. Detailing elements include, but are not limited to, number and style of windows, window placement, trim detailing, roof design, and exterior materials.
2. Permitted exterior materials include Exterior Insulation and Finish System (E.I.F.S.), synthetic stucco, masonry materials, wood, fiber cement siding, and polymeric cladding. Aluminum and vinyl siding are prohibited.
3. At least 75% of each building façade, excluding windows and doors, must be masonry materials or fiber cement siding.

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4. Each building façade must utilize at least 2 different exterior building materials (excluding window, door, and roofing materials), colors, or patterns.
5. Windows: A building façade must incorporate a minimum of one window (a minimum of 15 square feet) per dwelling unit located along the building façade. Required windows may be located anywhere on the building façade, as architecturally appropriate. All windows must have shutters matching the size of the window or casing at least 3 ½ inches in width. Windows in a building façade of a masonry material must have a casing or sill of natural or masonry material. Windows in a building façade of a non-masonry material must be trimmed to match the architectural style of the building.
6. Roof Design:
 - a. The roof pitch of the main roof must be at least 6:12. Elements such as porches, bays, walkways, may have a lower roof pitch. Lower roof pitches may occur on rear elevations if concealed by side roof elements.
 - b. The roof overhangs must be at least 11 inches, as measured prior to the installation of masonry materials.
 - c. The roof form and pitch design of a building must include, where appropriate, varied pitches and ridge levels in accordance with the intended architectural style of the building and the building façade projections.
7. Streetscape Diversity
 Building elevations of similar floor plans must have variety in style, massing, use of materials, and detailing of elements. The same elevation may occur as buildings are grouped together if each building plan has a minimum of 2 different elevation styles.

 If more than 1 building is proposed, then the building(s) must be located so no more than 2 buildings are in a straight, unbroken line. An unbroken line includes an offset in the building setback at least 1/3 the height of the adjacent building.
- D. The Plan Commission or Administrator may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

7.5 BUSINESS AND DOWNTOWN ARCHITECTURAL STANDARDS

All new nonresidential buildings or additions located within a business district or the Downtown District must comply with the following:

- A. Buildings and structures within a single development should have complementary architectural themes.
- B. All roof or ground mounted mechanical equipment must be completely enclosed. Ground-mounted enclosures must be landscaped on all sides not facing the building being served in accordance with ***6.1(H) Screening of Facilities and Equipment***.
- C. Each building façade visible from a street or oriented to an adjoining residential district must be:
 - 100% masonry materials, excluding window, door, roofing, fascia, and soffit materials; or
 - Incorporate 2 or more building materials, excluding window, display window, door, and roofing materials, provided 60% of the building façade is masonry materials.



- For all other building façades, up to 25% of the façade, exclusive of windows (including faux windows and glazing), doors and loading berths, may be covered with metal, fiber cement siding, polymeric cladding, E.I.F.S., stucco, or vinyl exterior building materials.
 - The exterior building material selection for all building façades must be further enhanced with: (i) the use of multiple colors, multiple textures (e.g., rough, smooth, striated, etc.); or (ii) the addition of architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.).
 - Loading spaces, loading docks or oversized service doors are prohibited on an external façade; however, if all building façades are determined to be external façades, then loading spaces, loading docks or oversized service doors may be permitted on the least visible external façade if screened according to the **6.1(H) Screening of Facilities and Equipment**.
- D. All building façades visible from an adjacent lot or street must be constructed with the same building material quality and level of architectural detail on all building façades (e.g. 360-degree architecture).
- E. All building façades must have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated, cornice or molding. Building façades 90 feet or greater in length must have offsets at intervals no greater than 60 feet apart. Buildings less than 10,000 square feet in gross floor area must have offsets at no more than 40-foot intervals. Offsets can project or recess. They must extend the entire vertical plane of the building façade. The offset must be at least 4 feet in depth and at least 20% of the overall building façade length. Architectural elements (e.g. arcades, columns, piers, etc.) meeting the offset requirements may be used to fulfill this requirement.
- F. Gutters and downspouts must be visually integrated with the architectural style of the structure. The color of gutters and downspouts should complement or be consistent with the building materials.
- G. Pitched roof designs must have a main roof with a minimum 5:12 pitch, contain 3 or more roof slope planes, and be covered with high quality roofing materials such as natural clay tiles, slate, concrete tiles (with natural texture and color), high quality standing seam metal roofing, wood shakes or shingles (with adequate fire protection), three-dimensional asphalt or fiberglass shingles.
- H. Metal roofs must have a low-gloss finish to reduce glare.
- I. Flat roof designs must be edged by a parapet wall with an articulated, three-dimensional cornice or molding. Parapet walls must be fully integrated into the building's architectural design to create seamless transitions between the main building mass and roof-mounted architectural elements. Modulation or variation of the roofs and/or roof lines is required to eliminate the appearance of box-shaped buildings. Flat roofs are prohibited for one-story buildings unless otherwise approved by the Plan Commission or Administrator after consideration of the building architecture, context, and sensitivity to the character of the area.
- J. All visible vents, attic ventilators, turbines, flues, and other visible roof penetrations must be painted to match the color of the roof or flat black; and oriented to minimize their visibility from adjacent lots and streets.
- K. Building entrances must be clearly defined and articulated by multiple architectural elements such as lintels, pediments, pilasters, columns, awnings, porticos, and other design elements appropriate to the architectural style and details of the building. The location, orientation, proportion, and style of doors must complement the style of the building.
- L. Window designs must be compatible with the style, materials, color, details, and proportion of the building. The number of window panes, the number of window openings, window trim and other design elements to accent the windows must be consistent and complementary to the architectural style of the building.

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- M. Window trim and other design elements to accent the windows are required for all windows. Acceptable design elements include shutters, keystones, masonry arches, awnings, decorative stone frames, masonry rowlock frames, or other trim or design elements as approved by the Plan Commission or Administrator.
- N. Fixed or retractable awnings are permitted if they complement the building’s architectural style, material, colors, and details. Awnings must be made of a non-reflective material kept in good repair. Awnings used to comply with the architectural design requirements of this Ordinance cannot be removed unless the building façade otherwise complies with the architectural design requirements without the awnings.
- O. The support structures for gasoline service station canopies must be wrapped in material(s) complementing the principal building and the canopy roof materials must match the color and texture of the principal building. To reduce the visual impact of the canopy, the clearance between the underside of the canopy and ground cannot exceed 16 feet and the canopy fascia cannot be more than 30 feet wide.
- P. The Plan Commission or Administrator may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

7.6 INDUSTRIAL ARCHITECTURAL STANDARDS

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

- A. Buildings and structures within a single development should have complementary architectural themes.
- B. All roof or ground mounted mechanical equipment must be completely enclosed. Ground-mounted enclosures must be landscaped on all sides not facing the building served in accordance with ***6.1 Landscape Standards***.
- C. Each building façade visible from a street or oriented to an adjoining residential district, must have at least 60% masonry materials on the building façade (exclusive of window and doors).
- D. Building façades 90 feet or greater in length, must have offsets at intervals no greater than 60 feet apart. Offsets can project or recess. They must extend the entire vertical plane of the building façade. The offset must be at least 12 inches in depth and be at least 20% of the overall building façade length. Architectural elements (e.g. arcades, columns, pilasters, etc.) meeting the offset requirements may be used to fulfill this requirement.
- E. Loading spaces, loading docks or oversized service doors are prohibited on an external façade.
- F. If materials other than masonry materials are used on any building façade, then the building façade must be enhanced with: (i) the use of multiple colors and textures (e.g., rough, smooth, striated, etc.); or (ii) the addition of architectural elements (e.g. quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.)
- G. The Plan Commission or Administrator may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

7.7 BLOCK STANDARDS

The maximum length of a single-family residential subdivision block is 1,250 feet. This requirement does not apply to blocks containing lots abutting the boundary lines of the parent track of a subdivision.

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7.8 EASEMENT STANDARDS

This article applies to all development.

- A. **Drainage and Utility Easements.** All developments submitted for approval must allocate areas for drainage and utility easements. All easements and corresponding utility location plans must be complete and approved prior to the final approval of any plan. When located between lots, easements should be centered on the lot line so each lot is encumbered by half the easement width, unless otherwise approved by the Plan Commission or the appropriate utility provider. Before determining the location of easements, the plan must be discussed with the local public utility companies to assure proper placement and installation of such services. No improvements (e.g. accessory buildings, buildings, driveways, fences, retaining walls, structures) are permitted within a drainage and utility easement, unless otherwise approved by the Plan Commission, County Surveyor, Drainage Board, or the appropriate utility provider.
- B. **Surface Drainage.** If any stream or necessary surface drainage course is within the development area, an easement must be established along all sides of the drainage course according to the County Surveyor or Indiana law if a regulated drain, or 20 feet per side (measured from top of bank) if not a regulated drain. The easement must be allocated for the purpose of widening, deepening, sloping, improving or protecting said stream or surface drainage course. Maintenance of all drainage easements is the responsibility of the property owner unless otherwise noted on the plat.
- C. **Easement Instrument Specifications.** Where an easement is required by this Ordinance but the standards for the easement type are not specified, or an easement is required per a commitment or condition of approval, then the property owner ("grantor") must execute the easement instrument in favor of the appropriate party or entity ("grantee"). The instrument must:
1. Specify the docket numbers of the complete applications of the associated with the easement.
 2. Specify the activities the grantee is authorized to perform in the easement.
 3. Specify the activities the grantor is prohibited from performing in the easement.
 4. Be binding on all heirs, successors, and assigns to the property where the easement is located.
 5. Be enforceable by the grantee and the City.
 6. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
 7. Provide for modification in the manner stipulated in this Ordinance.
 8. Be cross-referenced to the most recently recorded deed to the property where the easement is to be established.
 9. Include a metes and bounds description of the easement.
 10. Be signed by an authorized representative of the property owner of record granting the easement and by an authorized representative of the grantee accepting the easement.
- D. **Easement Certificate.**
1. When a secondary plat is being recorded, the applicant may print an easement certificate on the secondary plat, the content of which has been approved by the Administrator or Plan Commission.
 2. If a Declaration of Covenants, Conditions, and Restrictions is included or cross-referenced on the secondary plat, an easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

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E. Cross-access Easements.

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

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

"There are shown on this instrument areas designated as 'Cross-Access Easement' or abbreviated as 'C-A.E.' Such easements are established in favor of the adjoining property owner ('grantee') and grant the public the right to enter the easement for purposes of accessing adjoining parking facilities. These easements prohibit any person from parking vehicles within the easement and prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the Batesville Development Code, or its successor ordinance."
 - b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
 - c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the cross-access easement certificate be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

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F. Private Street Easements.

1. Easement Instrument Specification. When required by this Ordinance, the property owner ("grantor") must execute a private street easement instrument in favor of the owner of the lot ("grantee") to which the private street provides access. The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the grantee the right to access the easement to access their lot.
 - c. Specify the grantee's financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
 - d. Prohibit any person from placing any obstruction within the easement.
 - e. Require the private street be built to the standards of the City.
 - f. Be binding on all heirs, successors, and assigns to the property where the easement is located.
 - g. Be enforceable by the grantee and the City.
 - h. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
 - i. Provide for modification or termination in the manner stipulated in this Ordinance.
 - j. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
 - k. Include a metes & bounds description of the easement.
 - l. Be signed by an authorized representative of each property owner granting the easement and by an authorized representative of each property owner accepting the easement.
 - m. Include the following language: "The property owner expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision, because the streets are private, that all maintenance, repairs and replacement now and forever must be undertaken at the expense of the lot owners according to the terms and conditions set forth in the owners association bylaws and articles. No governmental entity has any duty or responsibility to maintain, repair or replace any private street."
2. Private Street Easement Certificate.
 - a. When a secondary plat is being recorded, the applicant may print the following easement certificate on the plat: "There are shown on this instrument areas designated as 'Private Street Easement' or abbreviated as 'P.S.E.' Such easements are hereby established in favor of the adjoining property owners ('grantee') and grant the grantee the right to enter the easement for purposes of accessing their lot. These easements prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the Batesville Development Code, or its successor ordinance."
 - b. In addition, the secondary plat must include the following language: "The subdivider expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision that because the streets are private all maintenance, repairs and replacement now and forever must be

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undertaken at the expense of the lot owners according to the terms and conditions set forth in the owners association bylaws and articles. The subdivider, and their successors and assignees, hereby waive all rights to petition a governmental entity to be responsible for the maintenance and ownership of such private streets. No governmental entity has any duty or responsibility to maintain, repair or replace any private street.”

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

G. Shared Driveway Easements:

1. Easement Instrument Specifications: When required by this Ordinance, each property owner (“grantor”) must execute a shared driveway easement instrument in favor of the adjoining property owner (“grantee”). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the adjoining property owners the right to access the easement to maneuver vehicles
 - c. Specify the adjoining property owners’ financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
 - d. Prohibit any person from placing any obstruction within the easement.
 - e. Be binding on all heirs, successors, and assigns to the properties where the easement is located.
 - f. Be enforceable by the parties to the easement and the City.
 - g. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
 - h. Provide for modification or termination in the manner stipulated in this Ordinance.
 - i. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
 - j. Include a metes and bounds description of the easement.
 - k. Be signed by an authorized representative of each property owner of record granting the easement and by an authorized representative of each property owner accepting the easement.
2. Shared Driveway Easement Certificate:
 - a. When a secondary plat is being recorded, the applicant may print the following shared driveway easement certification the plan: “There are shown on this instrument areas designated as ‘Shared Driveway Easement’ or abbreviated as ‘S.D.E.’ Such easements are hereby established in favor of the adjoining property owners (‘grantee’) and grant the grantee the right to enter the easement for purposes of maneuvering vehicles. The easement prohibits the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement.

The easement may only be modified or vacated in the manner stipulated in the Batesville Development Code, or its successor ordinance.”

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

H. Subdivision Sign Easements.

1. Easement Instrument Specification. When required by this Ordinance, the property owner (“grantor”) must execute a subdivision sign easement instrument in favor of the subdivision’s homeowners’ association (“grantee”). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the grantee the right to alter, repair, maintain, or remove the improvements.
 - c. Prohibit any person from placing any obstruction in front of, altering, removing, or otherwise impairing the improvements within the easement.
 - d. Be binding on all heirs, successors, and assigns to the property where the easement is located.
 - e. Be enforceable by the grantee and the City.
 - f. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
 - g. Provide for modification or termination of the easement in the manner stipulated in this Ordinance.
 - h. Be cross-referenced to the most recently recorded deed to the property where the easement is to be established.
 - i. Include a metes and bounds description of the easement.
 - j. Be signed by an authorized representative of the property owner granting the easement and by an authorized representative of the grantee accepting the easement.
2. Conflict. Subdivision sign easements must be exclusive of drainage and utility easements. Improvements within such an easement must comply with **5.1 Vision Clearance Standards**.
3. Subdivision Sign Easement Certificate.
 - a. When a secondary plat is being recorded, the applicant may print the following subdivision sign easement certificate on the plat: “There are shown on this instrument areas designated as ‘Subdivision Sign Easement’ or abbreviated as [____]. Such easements are hereby established in favor of the [____] Homeowners’ Association (‘grantee’) and grant the grantee the right to enter the easement for purposes of altering, repairing, maintaining, or removing the improvements. These easements prohibit the property owner or any other person from placing any obstruction in front of, altering, removing, or otherwise impairing the improvements within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the City may enforce the provisions of the easement. [____] is also entitled to enforce the provisions

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of the easement. The easement may only be modified or vacated in the manner stipulated in the Batesville Development Code, or its successor ordinance.”

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

I. **Tree Preservation Easement.** When a secondary plat is being recorded and an easement is required or proposed for tree preservation, then an applicant must record an easement, or an applicant may print the following tree preservation easement certificate on the plat: “There are shown on this instrument an area(s) designated as ‘Tree Preservation Easements’ or abbreviated as ‘T.P.E.’. These easement(s) must be regulated and maintained according to the following:

1. Permitted Activities. The following activities are permitted: (a) Removal of invasive species (e.g., bush honeysuckle), where appropriate, including the use of professionals to apply herbicides or identify and remove such invasive species; (b) Removal of an overabundance of combustible material (e.g., dead, fallen trees, and leaves); (c) Removal of vines growing on and up a tree; (d) Removal of hazardous, exotic and invasive species and/or dead, hazardous and at risk trees; (e) Planting of native trees; (f) Removal of trees directed to be removed by municipal, county, state or federal agencies or departments or by a public utility; (g) Installation of minor improvements such as identification signs; provided such are designed and installed in a manner that does not removed or damage any trees to the greatest extent possible; and (h) Installation, mowing, and maintenance of access easements, paved or unpaved trails, or utility and drainage improvements; provided, however, that any such improvements and easements must be as narrow or small as reasonably possible with no blanket easements.
2. Prohibited Activities. The following activities are prohibited: (a) Mowing any portion of existing, naturally vegetated areas; (b) Dumping of leaves or other debris; (c) Seeding, including grass seed, prairie mix seed, sod or the planting of any type of vegetable garden; (d) The construction of permanent structural improvements including, but not limited to: pools, sheds, garages, fences, playground equipment, tree houses, fire pits, and other permanent or semi-permanent structures; and (e) Active recreational activities that adversely impact the natural characteristics of the preservation area, including the placement of playground equipment, paving for basketball or tennis courts or swimming pools.
3. Required Activities. The following are required: (a) All maintenance activity must be completed according to industry standards using the latest ANSI Z133.1 and A-300 approved practices and methods; (b) Signs identifying a “Tree Preservation Area” must be posted every 1,000 feet near the perimeter of all Tree Preservation Easements. Such signs must state “Natural Preservation Area. No mowing or spraying. Restricted Area.”; and (c) Any person or entity causing damage or destruction or that violates the provisions of this easement is responsible for replacing removed or damaged trees with trees (a minimum of 3 inches in caliper) of an equivalent caliper to the removed or damaged vegetation, and to return the damages areas of the easement to its original natural state.

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7.9 MONUMENT AND MARKER STANDARDS

A. General Standards.

1. Monument and markers must be installed per Indiana Administrative Code, ***865 IAC 1-12-18***, and the standards set forth in this article.
2. Permanent reference monuments must be placed so the center of the pipe or marked point coincides exactly with the intersection of lines to be marked and the top of the monument or marker is level with the finished grade.
3. Required monuments and markers must include a surveyor's cap as required by Indiana law, and at a minimum, must include a substantial plastic or metal cap permanently affixed showing the registered professional surveyor's surname and professional license number or firm/agency identification number.
4. Upon completion of the development, as-built drawings must be submitted showing where monuments and markers were placed. This must be accompanied by an affidavit by the surveyor, registered in the State of Indiana, attesting to the accuracy of installed monuments and markers and certifying that the monuments and markers are still accurately in place and were not removed, moved, or buried such that they do not accurately denote surveyed lines or cannot be easily located.
5. Monuments which are damaged or altered must be reset by the party responsible for damage/alteration. If a responsible party cannot be readily determined, then the active developer will bear the costs of having the monuments reset.

B. **Monument Standard.** Monuments must be 5/8" rebar at least 30 inches long, set vertically in place. They must be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross.

C. **Monument Locations.** Monuments must be set:

1. At the intersection of lines forming angles in the boundary of the subdivision,
2. At least 2 monuments must be set on each side of a straight section of a street and on lot corners near each end of the street,
3. At least 2 monuments must be set on any straight line over 400 feet in length and on lot corners near each end of the line, and
4. Any location a bearing changes.

D. **Marker Standard.** Markers must consist of iron pipes or steel bars at least 30 inches long, and not less than 5/8 inch in diameter.

E. **Marker Locations.** Markers must be set on boundaries not covered by required monument locations, including:

1. At the beginning and ending of all curves along street lot lines,
2. At all points where lot lines intersect curves, either front or rear,
3. At all angles in lot lines, and
4. At all other lot corners not established by a monument.

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7.10 OPEN SPACE AND AMENITY STANDARDS

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

B. **Minimum Open Space.**

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

Zoning District	Minimum Open Space Required
R-1	5%
R-2	8%
R-3	10%
R-4	12%

2. Exemption. Residential developments with a gross density of 0.33 dwelling units per acre or less are exempted from providing open space under this article.

3. Plantings. Open space must be supplemented with tree plantings according to the minimum lot landscaping requirements of **6.1 Landscape Standards**.

C. **Access.** A public way, crosswalk or easement not less than 15 feet in width must be provided for access to required open space.

D. **Connectivity.** Open space should be placed adjacent to or connected to existing or proposed open space located within the development and/or on adjoining properties. Open space should be located within reasonable walking distance to those uses it serves, except when the open space is used to preserve existing features.

E. **Open Space Ownership.** The ownership and maintenance of open space, common areas, and amenities must be documented and recorded to protect them from future development and to make sure they are properly maintained.

F. **Open Space and Development Amenity Improvements.**

1. Approval. Open space and amenity improvements (e.g., fencing, walls, mounds, pathways, playgrounds, amenities) must be installed according to a development plan reviewed and approved by the Administrator, according to **8.6 Development Plan Review**.

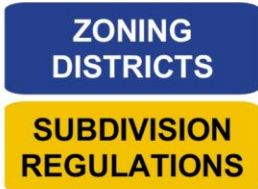
2. Timing of Installation. Open space and amenity improvements must be installed within 12 months of the issuance date of the first building permit in the secondary plat section containing the open space and amenity improvements.

G. **Qualifying Site Features.**

1. A maximum of 50% of required open space may come from: wetlands, third party regulated utility easements existing prior to the development of the property (e.g., gas or oil pipelines) and equivalent land, as determined by the Plan Commission or Administrator.

2. Detention and retention areas may only qualify as open space if they are located and designed for public use and benefit as an amenity to the development.

3. Required buffer yards, external street frontage landscaping areas, and tree preservation areas, as set forth in **6.1 Landscape Standards**, may qualify towards required open space if placed within common areas



or recorded protective easement such as a landscape easement, tree preservation easement, or conservation easement.

4. Street medians may qualify towards required open space if the following criteria are met:
 - a. Medians are platted as common areas maintained by the homeowners' association;
 - b. Medians are a minimum of 12 feet wide from back of curb to back of curb; and
 - c. Medians are landscaped to the street tree requirements set forth in ***6.1 Landscape Standards***.

7.11 PEDESTRIAN NETWORK STANDARDS

- A. **Applicability.** All developments must have a pedestrian network of sidewalks and/or asphalt pathways for pedestrian transportation and recreation.
- B. **General Standards.**
 1. All concrete sidewalks, asphalt pathways, and crosswalk improvements must be constructed per the City's Construction Standards (***7.3 Principles and Standards of Design***) and comply with requirements of the ***Americans with Disabilities Act (ADA)***, as amended.
 2. Curb ramps for handicapped accessibility must be provided at all intersections of streets, alleys, and drives (excluding individual residential driveways) and comply with ADA requirements. Curb ramps are not permitted in driveways.
- C. **Internal Pedestrian Network Standards.**
 1. Sidewalks must be at least 5 feet wide. When abutting a curb, sidewalks must be at least 6 feet wide.
 2. Sidewalks are required on both sides of internal streets in all developments.
 3. When a proposed development abuts an existing development or pathway, connection to the sidewalks or pathways is required.
 4. Connector sidewalks must be provided from the sidewalk or path adjacent to the street to the front entrance of all non-residential structures. Where the sidewalk intersects driving lanes or parking aisles within the parking facility, then crosswalks and ramps must be installed according to ADA requirements.
- D. **Perimeter Pedestrian Network Standards.** Developments must participate in the establishment or improvement of the pedestrian network along streets adjacent to their perimeter according to the following:
 1. Where a proposed development plan or subdivision abuts an existing right-of-way, multi-use pathways must be provided along the perimeter streets according to the Thoroughfare Plan.
 2. Required multi-use pathways should be located within the right-of-way. Pathways located outside the right-of-way must be located within an access easement approved by the Administrator or Plan Commission.

7.12 STORM WATER STANDARDS

Proposed developments must provide for the collection and management stormwater according to the City's Construction Standards (***7.3 Principles and Standards of Design***).

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7.13 STREET AND RIGHT-OF-WAY STANDARDS

- A. **Applicability.** Proposed developments must allocate adequate areas for new streets in conformity with 7.3 Principles and Standards of Design and the Thoroughfare Plan.
- B. **Thoroughfare Plan.** The Batesville Thoroughfare Plan, as amended, (the “Thoroughfare Plan”) is declared to be a part of this Ordinance. The Thoroughfare Plan is available for review in the office of the Clerk/Treasurer and in the office of the Building Department.
- C. **Compliance with Thoroughfare Plan.** In addition to meeting requirements of the Americans with Disabilities Act (ADA), developments abutting or adjoining streets designated on the Thoroughfare Plan must conform to the requirements of the Thoroughfare Plan regarding: The dedication of rights-of-way; building setback lines; and any other development or design standards in the Thoroughfare Plan or this Ordinance.
- D. **Dedication of Right-of-way.** Developments adjoining or including existing streets not conforming to the minimum right-of-way dimensions established in the Thoroughfare Plan, must dedicate enough additional right-of-way along the streets to meet the requirements of the Thoroughfare Plan. If the development only contains property on one side of the street, then sufficient right-of-way must be dedicated to bring the half right-of-way up to the dimensions required in the Thoroughfare Plan.
 - 1. Passing Blister. Where a passing blister is required and inadequate right-of-way exists to install the passing blister, then the developer must make a good faith effort to acquire property sufficient for the installation of the passing blister. If the property owners where the passing blister is to be installed refuses to sell the property, then the developer must provide the Administrator copies of all surveys, appraisals, and written offers made by the developer to the property owners, and correspondence from the property owners.
 - 2. Acceleration and Deceleration Lanes. Where an acceleration lane and/ or deceleration lane is required and the development does not contain street frontage needed to install the lane, then the developer must make a good faith effort to acquire property sufficient for the installation of the acceleration lane and/or deceleration lane. If the property owners where the acceleration lane and/or a deceleration lane is to be installed refuses to sell the property, then the developer must provide the department copies of all surveys, appraisals, written offers made by the developer to the property owners, and correspondence from the property owners.
 - 3. Eminent Domain. The installation of passing blisters, acceleration lanes, and deceleration lanes is vital to the health, safety, and welfare of the motoring public. The City may, but is not obligated to, begin eminent domain proceedings according to IC 32-24. Eminent Domain for the acquisition of public right-of-way sufficient for the installation of the passing blister, acceleration lane and/or deceleration lane upon receipt of documentation illustrating the developer’s failure to acquire the needed property. Upon completion of the eminent domain proceedings, the developer reimburses the City the price paid by the City for the right-of-way acquisition, including professional and legal expenses, any condemnation and relocation within the acquired right-of-way. The Developer then installs the passing blister, acceleration lane and/or deceleration lane according to the City’s Construction Standards (7.3 Principles and Standards of Design).
- E. **Private Streets**
 - 1. Private streets are permitted but must conform to the street and right-of-way standards of this Ordinance and be constructed according to the City’s Construction Standards.
 - 2. Private streets must be established within access easements complying with 7.8 Easement Standards.



3. When a private street easement appears on a secondary plat, a private streets certificate (***7.8 Easement Standards***) must be printed on the plat. Unplatted easements for private streets must have the same language included on a recorded easement instrument.
4. Financial sureties are required according to ***7.16 Surety Standards*** and the City's Construction Standards.
5. When the term right-of-way is used in this chapter, it also applies to private street easements in the context of this chapter only.

F. Design Principles

1. Street and alley layout must provide access to all lots and parcels of land within a development. Streets must be laid out on the parent tract:
 - a. In a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.
 - b. In an orderly and logical manner.
 - c. With concern for connectivity to adjacent parcels.
 - d. With concern for pedestrian and vehicular safety.
 - e. To provide reasonably direct access to the primary circulation system.
2. Streets must be adjusted to the contour of the land to produce useable Lots and streets of reasonable gradient. Consideration must be given to natural features, such as existing stands of trees, streams and creeks, historic locations, or similar conditions which, if preserved, will add attractiveness and value to the community.
3. Streets must align and connect with existing or planned streets and provide for connections with adjacent property. Where appropriate, proposed streets must extend to the boundary line of the premises to provide for normal circulation of traffic within the vicinity. Regard must be given to the Thoroughfare Plan and Comprehensive Plan. Cul-de-sacs are discouraged and are only permitted where street continuation is prevented due to topography or other physical condition, or unless the Plan Commission finds such extension is unnecessary for the coordination of development within the development or between the development and adjoining property.

G. Improvement Standards. Streets must conform to the following:

1. Street and Right-of-way Widths. Widths of streets and minimum rights-of-way widths must conform to the Thoroughfare Plan and ***7.3 Principles and Standards of Design***.
2. Construction. Street improvements, must be designed, constructed and installed according to ***7.3 Principles and Standards of Design***.
 - a. Streets and alleys must be completed as shown on approved plans, profiles and cross-sections.
 - b. Streets must be graded, surfaced and improved to the dimensions required by the cross-sections and the work must be performed in the manner prescribed in the Indiana Department of Transportation's "Standard Specifications".
 - c. Where parkways or special types of streets are involved, the Plan Commission may apply special standards to be followed in their design.
3. Cul-de-sac Design. Cul-de-sacs must conform to the following standards:

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- a. The maximum Length of a cul-de-sac is 600 feet, measured along the centerline from the center of the circle to the intersection of the nearest through street (see ***Figure 7-1***).
 - b. The cul-de-sac terminus must be designed according to ***7.3 Principles and Standards of Design***.
 - c. A clear area 20 feet wide and 10 feet deep adjacent to the paved street and located opposite the cul-de-sac entrance must be provided to accommodate snow removal. This clear area must be free of above ground improvements (e.g., driveways, mailboxes, fire hydrants, landscaping, and public utility installations), unless otherwise approved by the Board of Public Works and Safety.
 - d. A temporarily dead-ended street is permitted if a street is proposed to be extended but is not yet constructed. An adequate easement or right-of-way for a turn-around must be provided if the dead-end street extends 150 feet or more in length. If an easement, is used it must automatically vacate to the abutting property owners when the street is extended.
 - e. The Plan Commission or Administrator may require a pathway or sidewalk to connect a cul-de-sac to an adjacent cul-de-sac or street to provide reasonably direct connection between likely pedestrian destinations. Such connection must be constructed according to ***7.11 Pedestrian Network Standards*** and located within an easement or common area.
4. **Alleys**. Alleys must be constructed according to the City’s Construction Standards, unless otherwise approved by the Board of Public Works and Safety.
 5. **Intersections**. Street intersections must be designed and improved according to ***7.3 Principles and Standards of Design***. Lot line corners must be rounded by arcs with minimum radii in accordance ***7.3 Principles and Standards of Design***.
 6. **Access Points**. The following standards apply to access points for a development. The Plan Commission, Council, or Board of Public Works and Safety may approve access points if, due to the size of the development, or appropriate to improve traffic circulation:
 - a. Only one street, driveway or point of vehicle access is permitted from a development onto an arterial or collector.
 - b. The primary access for a multi-family development must be from an arterial, if available, and at least 2 access points must be provided for adequate accessibility for emergency vehicles and school busses.
 - c. Direct access from a residential driveway to any arterial or collector is discouraged unless it is the lot’s only means of access.
 7. **Traffic Control Devices**. Traffic control devices must comply with the current edition of the Indiana Manual on Uniform Traffic Control Devices.
 8. **Subsurface Drainage**. Subsurface drainage for streets must be designed according to ***7.3 Principles and Standards of Design***.
- H. **Delay of Surface Layer**. Installation of the surface layer of asphalt may be delayed with permission of the City up to one year until the binder layer of asphalt has had enough time to prove its durability under the stress of heavy construction traffic. A separate performance bond covering the cost of installing the surface layer of asphalt is required prior to approving the delayed installation.
- I. **Fire Hydrants**. Fire hydrants must be provided throughout the development as determined by the Batesville Water Department.



- J. **Acceptance of Improvements.** Before any financial surety (*[7.16 Surety Standards](#)*) covering a street installation is released, the Plan Commission, Council, or Administrator may request core borings for thickness determination.

The developer must engage the services of an independent testing laboratory to take cores at locations selected by the City. The results of the testing must be provided to the Board of Public Works and Safety for review and approval.

- K. **Rail Corridors.** The following regulations apply to all property abutting a current or former railroad property line, ("Rail Corridor"):
1. The railroad property lines used for plats must be those boundaries in place as of January 2001, according to County mapping records.
 2. The Administrator will work with owners of property adjacent to a rail corridor should any question of development arise. Any new development proposal adjacent to a rail corridor requiring an improvement location permit or development plan review must be brought to the attention of the Administrator, who will address this section with the applicant. The Administrator will then inform the Director of the Parks Department and Council of the proposed development.
 3. For any activity requiring an improvement location permit, the Administrator will work with owners of property adjacent to a rail corridor regarding setback, landscaping and any other development standards deemed appropriate for the future development of the rail corridor and for the property owner. For new development proposals adjacent to a rail corridor requiring an improvement location permit or development plan review, the Administrator will work with the applicant to determine how the rail corridor will be used regarding setback, landscaping and any other development standards deemed appropriate by the Administrator.
 4. The City will work with any rail corridor property owner that can show best title as determined by a court of law with the intent of protecting the rail corridor right-of-way for the use as presented in the Thoroughfare Plan in a way that is beneficial to all.
 5. Any agreement must be approved by the Council and incorporated into the City's plan approval process.

7.14 STREET LIGHT STANDARDS

- A. Street lights must be installed at all intersections, development entrances, and along internal Streets as required by the provisions of this Article. The Plan Commission may direct street lights at other locations if it determines they are necessary to provide vehicular or pedestrian safety.
- B. Street lights providing the illumination necessary for vehicular and pedestrian safety at all intersections within the development must be installed per the City's Construction Standards (*[7.3 Principles and Standards of Design](#)*) and the public utility providing the lighting. The Board of Public Works and Safety may reduce the number of intersections required to have street lighting. The provision of street lights at major intersections involving Collectors or Arterials within the development cannot be waived.
- C. Lighting between intersections must be accomplished by:
1. Installing street lights at the midpoint of the block or every 15 lots, whichever provides the shorter spacing between street lights,
 2. Installation of dusk-to-dawn lights on the street-side of each home with such lights maintained in good operating condition by the property owner in perpetuity, or

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- 3. A combination of the above options.
- D. If the City has established a street light standard along the street where the entrance is located, the development must install the same lighting standard. Luminares must be shielded to prevent glare on residential properties.
- E. Decorative street lights may differ from the City’s Construction Standards if approved by the Board of Public Works and Safety. Decorative street lights must be installed at the expense of the developer and maintained by the property owners’ association. An agreement between the City and the property owner’s association is required establishing that the property owner’s association is responsible for replacing the decorative street lights and poles when the original street lights installed are lost or damaged. This agreement must be recorded in the Office of the County Recorder. If the City or public utility providing the lighting must replace a street light, it is not obligated to use a decorative street light.

7.15 STREET SIGN STANDARDS

- A. Streets must have the minimum number of street signs necessary to create a safe environment for drivers and pedestrians and convey information to efficiently find a certain street or address.
- B. A street name sign is required at each intersection within and at the perimeter of the development
- C. Street signs must comply with the current edition of the *Indiana Manual on Uniform Traffic Control Devices*.
- D. Street name and regulatory signs must be installed prior to any street being opened to the public or the issuance of building permits within the development section.
- F. Decorative street signs may differ from the City’s Construction Standards if approved by the Board of Public Works and Safety. Decorative street signs must be installed at the expense of the developer and maintained by the property owners’ association. An agreement between the City and the property owner’s association is required to establish that the property owner’s association is responsible for replacing the decorative street signs and poles when the original signs installed are lost or damaged. This agreement must be recorded in the Office of the County Recorder. If the City must replace a street sign, it is not obligated to install a decorative sign.

7.16 SURETY STANDARDS

- A. A bond, irrevocable letter of credit, or other guarantee acceptable to the City (“financial surety”) required for public improvements must be executed prior to issuing an improvement location permit for single site developments or prior to subdivision plat recording. Improvements to be guaranteed include facilities that will become public and may include other improvements described in the City’s Construction. The surety must be according to this article and the City’s Construction Standards.
- B. **Construction/Performance Surety.**
 - 1. A performance surety to the City must include any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility to be dedicated to the City. On-site and off-site improvements shown on the approved plans must be covered by the performance surety.
 - 2. The performance surety must:
 - a. Be 110% of the estimated costs determined by the City to be sufficient to complete the improvements in compliance with this Ordinance and the City’s Construction Standards;
 - b. Provide surety satisfactory to the City;

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- c. Run to and be in favor of the City;
 - d. Specify the time for the completion of all improvements; and
 - e. Be on a form approved by the Council.
3. Performance sureties must be effective from the date of approval to begin construction of the project and must not terminate until released by the Board of Public Works and Safety. The performance surety must not be released until the Board of Public Works and Safety certifies the improvements have been installed according to the intent of the approved construction plans.
 4. A dedicated account is created in a form acceptable to the State Board of Accounts to hold and accumulate all funds paid pursuant to the provisions of this Article. Funds appropriated from the account must only be used for the completion of infrastructure improvements approved by the City and which had not been completed after having been initiated.
 5. The City may consider alternative forms of ensuring the proper completion of improvements to be dedicated to the City or for the benefit of the public.

C. **Maintenance Surety.**

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

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7.17 UTILITY STANDARDS

- A. This article applies to all development including, but not limited to major subdivisions, improvement location permits and development plans.
- B. Public sanitary sewer and water hook-ups are required for development in all Zoning Districts.
- C. Utilities must be installed underground in designated utility easements or rights-of-way.
- D. Development must provide for the collection of all sanitary sewage discharges by the installation of sanitary sewers. These sewers must be tied into a public sanitary sewer system and constructed within right-of-way and/or dedicated sewer and utility easements.
- E. Development must provide a complete water main supply system connected to a municipal or a community water supply system approved by the County Health Department.

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7.18 PLAT CERTIFICATES AND DEED OF DEDICATION

The following forms must be used:

A. Plan Commission Certificate:

Under authority provided by IC 36-7, enacted by the general assembly of the State of Indiana, as amended, and an ordinance adopted by the City Council of the City of Batesville, [Franklin or Ripley] County, Indiana, this plat was given approval by the Batesville Advisory Plan Commission, as follows:

Approved by the Administrator of the Building Department of the City of Batesville, [Franklin or Ripley] County, Indiana, pursuant to the Batesville Development Code, on the ____ day of _____, _____.

Batesville Plan Commission

By: _____

(Name), Administrator of the Building Department

B. Right-of-Way Dedication Certificate:

This plat and the acceptance of any public rights-of-way dedicated herein is hereby approved on the ____ day of _____, 20__, by the Plan Commission of the City of Batesville, Indiana.

(Name), President, Batesville Plan Commission

C. Registered Land Surveyor's Certificate:

I _____, hereby certify that I am a Registered Land Surveyor, licensed in compliance with the laws of the State of Indiana:

That this plat correctly represents a survey completed by me on _____, that all the monuments shown thereon actually exist or bond has been posted to cover the later installation of these monuments, and that all other requirements specified herein, done by me, have been met.

(Name)

(SEAL)

D. Engineer's Certificate:

I, _____, hereby certify that I am a Registered Professional Engineer or Land Surveyor, as the case may be, licensed in compliance with the laws of the State of Indiana, and that I have inspected during their construction and installation all improvements and installations required for this subdivision,

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designated specifically as _____, and that such required improvements and installations have been made and installed according to the specifications heretofore approved therefore.

(Name)

(SEAL)

- E. **Deed of Dedication:** Each Secondary Plat submitted for approval must carry a deed of dedication in substantially the following form:

We the undersigned owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance with the within plat.

This subdivision must be known and designated as _____, an addition to Batesville, Indiana. All rights-of-way shown and not heretofore dedicated are hereby dedicated to the public.

Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there must be erected or maintained no building or structure.

There are strips of ground shown on this plat and marked "easement", reserved for the use of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision must take their titles subject to the rights of the public utilities.

[Additional easement certificates, dedications and protective covenants, or private restrictions would be inserted here upon the applicant's initiative or the recommendations of the Plan Commission, Board of Public Works and Safety; important provisions are those specifying the use to be made of the property, rights and authority of grantees, and, in the case of residential use, the minimum living area.]

The foregoing covenants, or restrictions, are to run with the land and must be binding on all parties and all persons claiming under them until January 1, _____, (a 25 year period is suggested), at which time said covenants, or restrictions, must be automatically extended for successive periods of ten years unless changed by vote of a majority of the then owners of the building sites covered by these covenants, or restrictions, in whole or in part. Invalidation of any of the foregoing covenants, or restrictions, by judgment or court order must in no way affect any of the other covenants or restrictions, which must remain in full force and effect.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns.

Witnessed our hands and seals this _____ day of _____, _____.



State of Indiana)

Ripley County/Franklin County)

Before me the undersigned Notary Public, in and for the County and State, personally appeared _____, _____, and each separately and severally acknowledge the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed.

Witness my hand and notary seal this _____ day of _____, _____.

(SEAL)

- F. **Easement Certificate:** Each Secondary Plat submitted for approval must include easement certificates, where appropriate and according to ***7.7 Easement Standards***.

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Figure 7-1: Measurement of Cul-de-sac Length

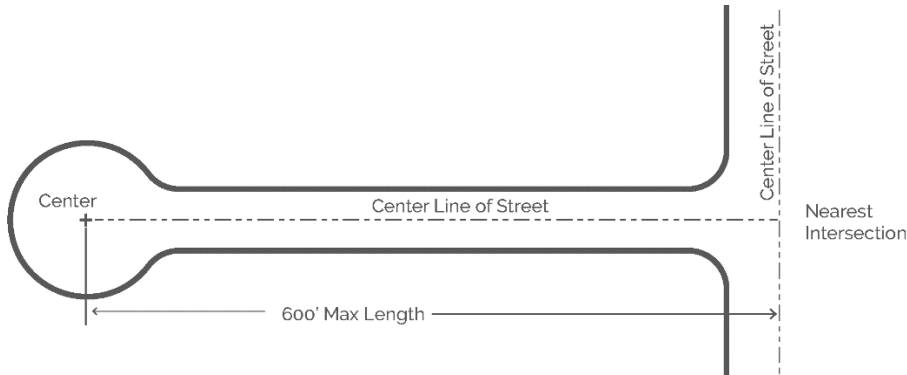
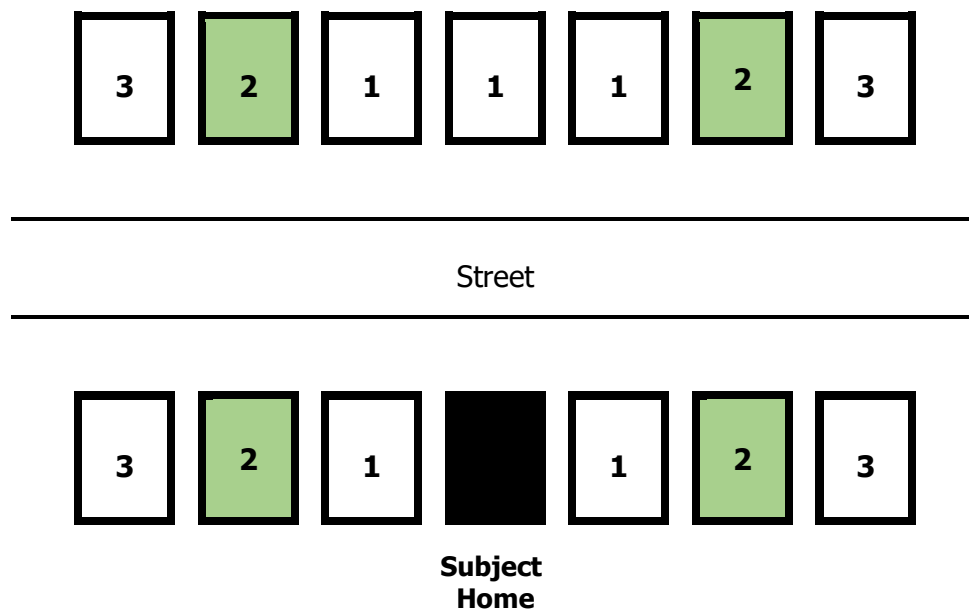


Figure 7-2: Anti-Monotony Standards



- Lots indicated with the number 1 must use a different elevation and color scheme than the subject property, however, they may use the same trim color as the subject property.
 - Lots indicated with the number 2 must use a different color scheme than the subject property, however, they may use the same trim color and brick or stone color as the subject property. These lots may use the same building elevation as the subject property.
 - Lots indicated with the number 3 may use the same elevation and color scheme as the subject property.
- In determining if a building elevation meets these standards, the reviewer evaluates differentiation in the colors of the (a) siding, (b) siding accents, (c) trim, (d) front door, (e) shutters, and (f) brick or stone.

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8.1 GENERAL STANDARDS

- A. **Purpose.** This chapter outlines the procedure for permits, approvals, appeals, and enforcement as set forth in this Ordinance.
- B. **Application.** Application and informational packets may be obtained through the Department and/or online through *the City's website*.
- C. **Fees.** The Administrator may not issue a permit until all applicable fees pertaining to that permit, and all other fees and fines owed by the applicant to the City, have been paid in full. This requirement applies not only to fees due for the specific permit, but also to fees and fines owed relative to any previously issued permit or violation of this Ordinance.
- D. **Public Meetings.** Applications requiring public meetings are filed according to the adopted schedule of meeting and filing dates, see *8.25 General Administration*, and subject to the rules of procedure of the applicable hearing body.

8.2 ADMINISTRATIVE DETERMINATION

- A. **Purpose.** The interpretation authority established by this Ordinance recognizes that the provisions of this Ordinance, though detailed, cannot address every specific situation to which they may have to be applied. Many situations can be addressed by an interpretation of the specific provisions of this Ordinance considering the general and specific purposes for which those provisions have been enacted. The interpretation authority established is an administrative, not legislative, authority. It is not intended to add to or change the essential content of this Ordinance. It is intended only to allow authoritative application of content to specific cases.
- B. **Authority.** The Administrator may render interpretations of the provisions of this Ordinance and of any rule or regulation issued according to it ("Administrative Interpretation" or "Administrative Determination") by written order, subject to the procedures, standards, and limitations of this Ordinance.
- C. **Parties Entitled to Seek Interpretations.** Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation. Interpretations based on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion will not be entertained.
- D. **Procedure for Review and Decision**
 1. Application: Applications for interpretations of this Ordinance are filed according to the requirements of this article.
 2. Action on Application: Within 10 working days following the receipt of a properly completed application, the Administrator provides the applicant a determination in writing, stating the specific precedent, reasons, and analysis upon which the determination is based. Failure of the Administrator to act within 10 working days is deemed a decision denying the application.
 3. Records: Records of all applications for determinations are kept on file in the office of the Administrator and may, at the Administrator's discretion, be required to be recorded in the Office of the County Recorder.
 4. Appeal: Appeals of interpretations rendered by the Administrator are made according to *8.3 Appeals of Administrative Decisions*.

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- E. **Standards for Interpretations.** The following standards govern the Administrator and the BZA on appeals from the Administrator when issuing determinations:
1. A use will not be permitted in a zoning district unless evidence is presented that demonstrates:
 - a. The use is consistent with the purpose and intent of the zoning district;
 - b. The use will comply with the general regulations established for the zoning district; and
 - c. The use is similar to other uses permitted in the zoning district and is more similar to those uses than to uses permitted in a more restrictive zoning district.
 2. If a proposed use is most similar to a use permitted only as a special exception in the zoning district where it is proposed to be located, the use requires the approval of the special exception according to ***8.10 Special Exceptions***.
 3. Effect of Favorable Interpretations. A determination permitting a proposed use does not authorize the establishment of a use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but only authorizes the preparation, filing, and processing of applications for any permits and approvals that may be required by this Ordinance and ordinances of the City including, but not limited to, a Building Permit, a Certificate of Occupancy, primary and secondary plats, or development plan approval.
 4. Limitations on Interpretations. A determination is limited to the circumstance for which it was issued. It does not authorize any allegedly similar circumstance for which a separate determination is needed, unless otherwise provided for in the determination.

8.3 APPEALS OF ADMINISTRATIVE DECISIONS

- A. **Right of Appeal.** The BZA may grant an appeal of any decision, interpretation, or determination made by the Administrator, or any other administrative official or board with responsibilities enforcing and interpreting this Ordinance. The procedures in this article apply to all appeals of administrative decisions, unless otherwise required by local or Indiana law.
- B. **Stay of Enforcement.** If an appeal is filed according to this article, the Enforcement Official takes no further action on the matter pending the Board's decision, except for unsafe circumstances which present an immediate danger to the public.
- C. **Application.** The applicant submits an administrative appeal application within 30 days of when the decision, interpretation, or determination was made, along with the required supporting information. Supporting information includes, but not be limited to:
1. Original Submittals: Copies of all materials which the decision being appealed was based.
 2. Written Decisions: Copies of any written decisions that are the subject of the appeal.
 3. Appeal Basis: A letter describing the reasons for the appeal noting specific sections of this Ordinance or other applicable standards upon which the appeal is based.
- D. **BZA Review.** At a meeting scheduled consistent with the adopted schedule of meeting and filing dates, the BZA reviews the administrative appeal application and supporting information.

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1. **Representation:** The applicant and/or any representative of the appellant must be present at the meeting to present the appeal.
 2. **Testimony:** At the meeting, the BZA will consider a report from the Administrator and/or enforcing party, testimony from the applicant, and/ or testimony from witnesses and interested parties.
 3. **Procedures:** The presentation of reports and testimony and all other aspects of the meeting must be consistent with the Rules and Procedures of the Board.
- E. **BZA Action.** The BZA may affirm, affirm with modifications, reverse, or continue the appeal.
1. **Affirm:** If the BZA finds the administrative decision was consistent with the provisions of this Ordinance, the BZA affirms the determination in writing.
 2. **Affirm with Modifications:** If the BZA determines the proper interpretation of the provision of this Ordinance subject to the appeal is consistent with neither the administrative decision nor the requested interpretation of the applicant, the BZA will affirm the determination with modifications in writing.
 3. **Reverse:** If the BZA finds the administrative decision was inconsistent with the provisions of this Ordinance, the BZA reverses the determination in writing.
 4. **Continuances:** The appeal may be continued based on a request by the Administrator or applicant, an indecisive vote, or a determination by the BZA that additional information is required before action is taken on the request. The continuing of all applications must be consistent with the Rules and Procedures of the Board.

8.4 CERTIFICATE OF COMPLIANCE

- A. **Applicability.** An application for a Certificate of Compliance (“CofC”) may be filed according to this article. A CofC: (i) may be required as set forth by this Ordinance; (ii) may serve as a written confirmation by the City that a property or use complies with this Ordinance, as requested by an applicant; (iii) may serve as a written verification of a property’s zoning, as requested by an applicant; and (iv) at the Administrator’s discretion may be provided for:
1. A change in use (e.g., change from residential to commercial, change to a Special Handling Retail Use).
 2. Exterior building or site improvements that would not otherwise require an Improvement Location Permit or development plan approval.
 3. Conditions of approval associated with an approval of the Board, Plan Commission or Council.
 4. Other similar circumstances as may be determined by the Administrator.
- B. **Application.** An applicant submits a completed application on forms provided by the Department, or a detailed written request to the Administrator with supporting information. Within 5 days, applications, requests, plans, and specifications filed by an applicant must be checked by the Administrator for compliance with this Ordinance. If the Administrator is satisfied that the property, plans, and information provided in the application conforms to the requirements of this Ordinance and other applicable laws and ordinances, the Administrator issues a Certificate of Compliance to the applicant.
- C. **Effect.** A CofC does not authorize the establishment of a use nor the development, construction, reconstruction, alteration, or moving of any building or a structure. A CofC certifies compliance of an existing property, use and/or improvements made according to an approved permit on the date issued. The filing and processing of

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applications for any permits and approvals may be required by this Ordinance and ordinances of the City including, but not limited to, a Building Permit, a Certificate of Occupancy, Primary and Secondary Plats, or development plan approval, for proposed improvements or uses.

- D. **Limitations.** A CofC is limited only to the circumstance for which it was issued and at the time it was issued. The CofC does not authorize any allegedly similar circumstance requiring a separate review or certificate or a change in circumstances, unless otherwise provided for in the CofC.
- E. **Records of Certificate of Compliance.** Every CofC issued according to this article is kept on file in the office of the Department. Copies are provided upon request to anyone having a proprietary or tenancy interest in the building or land affected.

8.5 COMMITMENTS

- A. **Applicability.** An applicant may be required or allowed to make a commitment to the Plan Commission or BZA as a condition to the use or development of real estate in connection with the: (i) approval of a change of zoning proposal; (ii) approval of a primary plat or overall development plan; (iii) approval of a vacation of all or part of the plat; or (iv) approval of an application for a special exception or variance.
- B. **Form.** Commitments must be in writing and in a recordable form approved by the City and signed by the owners of the real estate.
- C. **Expiration.** Commitments may contain terms providing for their expiration. A commitment may contain terms stating the commitment automatically terminates: (i) if the zoning district or property's classification is changed; (ii) if the commitment's use is changed; or (iii) otherwise according to the rules of procedure of the Plan Commission or BZA. If not otherwise provided, commitments remain in effect until otherwise modified or terminated according to this article.
- D. **Recording.** When required, the applicant records the commitments in the Office of the County Recorder, within 10 days of the final approval of the completed application. The applicant must return a copy of the recorded commitments to the Department within 10 days of recording or be in violation of this Ordinance.
- E. **Enforcement.** The Plan Commission, property owners of real estate adjoining the subject real estate, all property owners of real estate within the area included in the complete application who were not applicants for approval, and others specifically designated in the commitments are entitled to enforce the commitments according to [***IC 36-7-4-1015***](#), or as otherwise provided by applicable law.
- F. **Modification of Commitments.** A commitment may be modified or terminated only by a decision of the Plan Commission or BZA to which the commitment was made. The decision is made at a public hearing by the Plan Commission or BZA after notice has been provided according to the Rules of Procedure. If the proposed modification is to a commitment originally made with a change of zoning application, an introductory presentation to the Council occurs before the public hearing. The modification or termination of the commitments is not effective until: (i) written in a form approved by the City Attorney; (ii) approved by the Plan Commission or BZA; (iii) executed by the current property owner of the real estate; and (iv) recorded in the Office of the County Recorder.

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8.6 DEVELOPMENT PLAN REVIEW

- A. **Authority.** A development plan review process is established to ensure adherence to the standards of this Ordinance.
- B. **Purpose.** The purpose of the development plan review process assures the compatibility of new development to existing development with the surrounding community.
- C. **Applicability.** The development plan review process is required when: (i) more than one building is proposed on a site; (ii) the site is 5 acres or larger; (iii) expanding a building by more than 50,000 square feet; or, (iv) if required by a PUD ordinance.
1. Exception: Individual single-family dwellings do not require development plan approval according to this article. The Building permit review process (see also ***8.8 Improvement Location Permit***) serves as the development plan.
 2. Transition Rules:
 - a. **Previously Approved Development Plans:** A development plan or site plan approved by the Plan Commission prior to the adoption of this Ordinance constitutes an approved development plan.
 - b. **Existing Lots without approved development plans or Site Plans:** New improvements or changes to existing improvements on a lot lawfully developed but not receiving approval of a development plan or site plan by the Plan Commission, are subject to development plan approval, according to this article.
- D. **Approvals Required.** The Plan Commission is responsible for approving a development plan. The Plan Commission may delegate approval of a development plan to the Administrator. The approval of a development plan is delegated to the Plan Commission.
- E. **Development Plan Review Criteria.** Development plans are reviewed with approval granted upon finding the development plan complies with the following requirements:
1. Compliance with all applicable development and design standards of the zoning district where the real estate is located.
 2. Traffic is managed in a manner that promotes health, safety, convenience, and the harmonious development of the community.
 3. The applicable utilities have enough capacity to provide potable water, sanitary sewer facilities, electricity, telephone, natural gas, and cable service to meet the needs to the proposed development.
- F. **Approval Process.**
1. Application Procedures:
 - a. Pre-Filing Conference: A pre-filing conference with the Administrator is required prior to the filing of any development plan application.
 - b. Who May File: Applications may be filed by the property owners of the real estate involved or the property owner's authorized agent. If an authorized agent, a consent form signed by the property owner must accompany the application.

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- c. Filing Deadline: Applications must be filed according to the Schedule of Meeting and Filing Deadlines. The applicant is responsible for distributing a copy of the application and development plan to Technical Review Committee members, as applicable.
 - d. Forms of Filing: An applicant must submit a completed application to the Administrator on forms provided by the Department with documentation and supporting information described in this article. The number of copies required to be filed is established by the Administrator.
 - e. Docketing by Administrator: All development plans determined to be in proper form according to the guidelines established by the Administrator are numbered and docketed for an initial hearing by the Plan Commission, if applicable.
2. Investigation of Complete Applications: The Technical Review Committee may review any development plan prior to consideration by the Plan Commission or Administrator. The Administrator may submit a written report to the Plan Commission stating any facts concerning the development plan including surrounding land uses, the availability of public facilities, and opinions from members of the Technical Review Committee.
 3. Amendments Prior to Public Hearing: Amendments to a development plan to be considered at the public hearing must be received by the Administrator according to the Schedule of Meeting and Filing Deadlines. This allows the Administrator's written report to include comments and recommendations related to the amended plans. If the Administrator determines the amended plans require additional review by the Department and/or Technical Review Committee, the Administrator may continue the public hearing and require review.
 4. Public Hearing and Notice: A public hearing by the Plan Commission is required for any development plan. Notification for the scheduled public hearing must be completed consistent with the Rules of the Procedure of the Plan Commission and the Schedule of Meeting and Filing Deadlines. Any development plan delegated to the Administrator for approval does not require public notice or a public hearing.
 5. Amendments Proposed at Public Hearing: An applicant may make amendments to a development plan pending determination by the Plan Commission. If, in the sole discretion of the Plan Commission, the proposed amendment requires additional review time, the Plan Commission may continue its consideration according to the rules of procedure of the Plan Commission. If amendments are presented by the applicant and agreed to by the Plan Commission at the public hearing, revised plans indicating all amendments approved by the Plan Commission must be filed with the Administrator.
 6. Plan Commission Action: The Plan Commission will hold the public hearing and act on the complete application according to this Ordinance, Indiana law, and the rules of procedure of the Plan Commission.
 7. Amendments to Approved Development Plan: Changes to an approved development plan are subject to this section.
 8. Surety Requirement: The applicant must provide financial sureties for all public improvements shown on the development plan according to ***7.16 Surety Standards***.
 9. Appeals of Determinations by Administrator: Any determination of the Administrator made under the authority of this article may be appealed to the Plan Commission. The written appeal must request a hearing on the matter by the Plan Commission at the Plan Commission's next regularly scheduled meeting that allows published notice of the appeal according to ***IC 5-3-1***. Appeals of the Plan Commission's determination are made according to ***8.3 Appeals of Administrative Decisions***.

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G. Application Documentation and Supporting Information. All applications for development plan approval must include the required documentation and supporting information. Other information for a thorough review of the project may be requested by the Plan Commission or Administrator. The Administrator in writing may waive or relax any of the documentation required which is considered irrelevant or unnecessary for a thorough review of the development.

1. Development Plan Scope: A development plan must include details applicable to the overall development, shared or common areas, shared infrastructure, and other areas deemed appropriate by the Administrator or Plan Commission to ensure a coordinated development.
2. General Plan Requirements: A development plan must include the following, drawn to scale of than 1" = 100' or less:
 - a. Title, scale, north arrow, and date.
 - b. Proposed name of the development.
 - c. Area map insert showing the general location of the site referenced to streets and section lines, as well as the zoning district and use of adjacent properties.
 - d. Address and legal description of the property.
 - e. Boundary lines of the property including all dimensions.
 - f. Location, name, centerline and width of all streets, alleys, access easements and transportation plan system improvements (existing or proposed) located within or adjacent to the property.
 - g. Location, centerline, and width (at the lot line) measurements of any proposed or existing driveways within 200 feet of the property, and any connection to an alley.
 - h. Location and dimensions of primary vehicular ways in and around the proposed development.
 - i. All proposed street, alley, and driveway improvements, both on and offsite, including measurement of curb radius and/or taper.
 - j. Location and dimensions of existing and proposed sidewalks, pathways, trails, or other transportation plan improvements;
 - k. Layout, number, dimension, and area (in square feet and acres) of all lots and outlots with building setback lines.
 - l. Location and dimensions of all existing and proposed structures and paved areas.
 - m. Location of all floodway, floodway fringe, and steep slope areas within the boundaries of the property.
 - n. Names of legal ditches and streams on or adjacent to the site.
 - o. Location and feasibility statement of all existing and proposed utility facilities and easements, including: sanitary sewer, water, storm water management, electric, gas, telephone, and cable.
 - p. Identify buildings proposed for demolition.
 - q. Areas of the property reserved for development amenities, open space, and other similar uses.
 - r. Use of each Lot and/or building by labeling, including approximate density or size of proposed uses and buildings (e.g., number of parking spaces, dwelling units, gross floor area, living area).

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- s. Label building separation and/or building setback lines in relation to front, rear and side lot lines.
3. Primary or Secondary Plat: If a property is being subdivided, a primary plat must be submitted prior to or in conjunction with the development plan.
 4. Landscape Plan: A landscape plan according to ***6.1 Landscape Standards***, is required as part of any development plan.
 5. Open Space and Development Amenity Plan: A statement of the nature and extent of all existing and proposed open space and development amenities must be provided either on the submitted landscape plan or in writing, along with any necessary explanatory materials or graphics.
 6. Lighting Plan: A lighting plan according to ***6.2 Lighting***, is required.
 7. Sign Plan: A sign plan according to ***6.4(D) Sign Plans and Sign Programs***, is required; however, all signs are subject to approval and obtaining a sign permit (see also ***8.9 Sign Permits***) before installation.
 8. Building Elevations: Drawings of proposed buildings must be filed in connection with the submission of a development plan, drawn to scale, and include the following (see also ***CHAPTER 2 – ZONING DISTRICTS***):
 - a. Elevations for each building facade (360 degree).
 - b. Specification or sample of the type and color of exterior materials to be used for all wall, window, roof and other architectural features.
 - c. A separate true color rendering, or other realistic depiction, of the proposed building, including any areas designated for signage.
 - d. Details of any exterior architectural lighting.
 9. Integrated Developments: Documentary assurances may be required for integrated developments to ensure the development will be provided with, at a minimum: (i) regular trash pick-up; (ii) common vehicle access points, drives and parking facilities, and maintenance of such facilities.
 10. Traffic Impact Study: A Traffic Impact Study may be required to be conducted at the discretion of the Administrator, the Board of Public Works and Safety, or the Plan Commission. If required, the Traffic Impact Study must be prepared by a registered professional engineer and must evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. If the level of services drops to a grade of D or lower, the traffic study must recommend improvements to the roadway system to minimize the traffic impact of the proposed development.
 11. Statement of Development Build-Out: Phased developments must include a statement of the order and timing of development and the content of each phase.

8.7 PLANNED UNIT DEVELOPMENTS

- A. **Applicability.** This Article applies to new Planned Unit Development District (PUD) proposals and to amendments to existing Planned Unit Developments.
- B. **Purpose.** The PUD District provides for the development of mixed zoning classifications, densities, and uses under a common classification through a well-prepared, organized, and documented plan. This zoning district is intended to:

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

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

1. Ordinance and Concept Plan (collectively, "PUD Ordinance")
2. Development Plan (see also ***8.6 Development Plan Review***)
3. Approval of Primary Plat and Secondary Plat as required by the Subdivision Control Ordinance, if applicable.

D. PUD Ordinance Process.

1. Pre-Filing Conference: A pre-filing conference with the Administrator is required before submitting any PUD application. This conference allows the applicant to discuss the development in relation to adopted City policies. The conference allows the Administrator to review PUD procedures, development standards, and policies with the applicant. The applicant is encouraged to incorporate the Administrator’s comments into the proposal prior to filing the application. The pre-filing conference is intended only for discussion purposes; neither the applicant nor the City is bound by any decision made during the conference.
2. Who May File: Applications may be filed by the property owners of the real estate involved in the petition or their authorized agent. If an authorized agent, a consent form signed by the property owners must accompany the application.
3. Filing Deadline: Applications must be filed according to the meeting schedule established by the City. The applicant is responsible for distributing a copy of the application and related materials to members of the Technical Review Committee.
4. Forms of Filing: Applications are made on forms provided by the City with documentation and required supporting information. The Administrator establishes the number of copies of complete applications required to be filed.
5. Docketing by Administrator: Each filed application is reviewed for completeness. Applications determined to be in proper form are docketed by the Administrator.
6. Neighbor Meeting: Applicants requesting approval or amendment of a PUD Ordinance are encouraged to host a neighbor meeting and submit a written report to the Administrator summarizing the meeting prior to the Plan Commission public hearing. Applicants must invite to the neighbor meeting at least the interested parties required to receive mailed notice of the Plan Commission public hearing.
7. Review and Approval: After docketing, an application is reviewed and considered by the Plan Commission and Council according to ***8.14 Zoning Map Changes (Rezoning)***.
8. When considering a PUD Ordinance, the Administrator, Plan Commission, and Common Council consider the extent to which the proposed PUD:
 - a. Meets the requirements, standards and stated purpose of the PUD regulations;

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- b. Departs from the zoning and subdivision regulations applicable to the property and why such departures are in the public interest;
 - c. Meets the purposes the Comprehensive Plan and other policies and objectives of the City;
 - d. Provides public services, manages circulation and traffic, establishes common open space, and enhances the community as a whole;
 - e. Is compatible with adjacent properties and does not diminish their value;
 - f. Enhances the physical development, tax base, and economic well-being of the City;
 - g. Preserves ecological, natural, historical, architectural, and human-made resources to the extent possible; and
 - h. Will not damage the public health, safety, and general welfare.
9. **Effect of Approvals:** A PUD Ordinance becomes effective after it is approved by the Council and is recorded by the City in the Office of the County Recorder, and the Zoning Map is amended accordingly. The use and development of the property are then governed by the PUD Ordinance, subject to review and approval of subsequent permits and approvals as required by this article and Ordinance, and any other regulatory processes that may be required prior to beginning construction.
- D. **Development Plan Approval.** Development plan approval, as set forth in ***8.6 Development Plan Review***, is required for all PUDs. Development plans must conform to the approved PUD Ordinance and this Ordinance. An application for development plan approval must be filed within 36 months of PUD Ordinance approval. If needed, applicants may seek a time extension of up to 18 months from the City Council.
- E. **Permits.** No permit of any kind will be issued within a PUD except according to the approved development plan and after acceptance by the City of all required guarantees for improvements according to this Ordinance.
- F. **PUD Ordinance Requirements.** PUD Ordinances and supporting data must include the following documentation. The Administrator in writing may waive or relax any of the requirements listed which are irrelevant or unnecessary for a thorough review of the development.
1. **PUD Ordinance:** The PUD Ordinance must follow a standard format adopted by the City for PUD Ordinances.
 2. **Concept Plan:** A drawing of the PUD ("Concept Plan") must be included at a scale at least 1"=100', or at a scale the Administrator considers appropriate.
 - a. **General Concepts:** The concept plan must show in general terms the following: major circulation; location and dimensions of buildings, structures, and parking facilities; open space areas; recreation facilities; and other details indicating the character of the proposed development.
 - b. **Detailed Concepts:** The concept plan must include in detailed terms the following:
 - i. A site location map showing the project location and other development projects in the vicinity.
 - ii. The name of the development, with the words "Concept Plan".
 - iii. Boundary lines and acreage of each land use component.
 - iv. Existing easements, including location, width, and purpose.

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- v. Existing land use on abutting properties.
 - vi. Other conditions on the site and adjoining land: topography (at 10-foot contours minimum) including any embankments or retaining walls; use and location of buildings, railroads, power lines, towers, and other structures; name of any adjoining subdivision.
 - vii. Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, pathways and bridges and drainage structures.
 - viii. Proposed public improvements on or adjacent to the site.
 - ix. Existing utilities on the site.
 - x. The floodway and floodway fringe as shown on the Flood Insurance Rate Maps.
 - xi. Other conditions on the site, including water courses, wetlands, sinkholes, wooded areas, existing structures, and other significant features such as significant isolated trees.
 - xii. Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.
 - xiii. Map data such as north point, graphic scale, and date of preparation.
3. Written Statement of Character: A written statement of character providing an explanation of the character of the PUD and the reasons for requiring flexibility of regulations. The written statement must include:
- a. A specific explanation of how the proposed PUD meets the objectives of land use policies affecting the site.
 - b. Development phasing indicating the area, density, use, public facilities, and open space to be developed with each phase, and projected commencement and completion dates of each phase.
 - c. General details of the proposed uses:
 - i. Residential uses must indicate gross area, architectural concepts (narrative, sketch, or representative photo), and number of dwelling units for each residential component;
 - ii. Nonresidential uses must indicate gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.
4. Development Amenities and Open Space: The PUD Ordinance must include a statement of recreational amenities and open space designating active and/or passive recreational areas according to the following:
- a. Recreational amenities and open space must be proportional to the uses in the PUD and be located within reasonable walking distance to those uses. However, when preserving existing features, the recreational amenities do not need to be in proximity to the use.
 - b. Ownership of the amenities must be structured to ensure the obligation and duty to maintain and improve the amenities enforceable by the owners and tenants of the PUD.
5. Traffic Impact Study: A Traffic Impact Study may be required at the discretion of the Administrator, the Plan Commission, or Council. If required, it must be prepared by a registered professional engineer and must evaluate the impact of present and future traffic generated by the proposed development

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on the adjacent roadway system. Prior to beginning the study, the applicant meets with the Administrator to determine the appropriate scope for the study.

6. **Additional Materials:** The Administrator must inform the applicant in writing of any additional information, documents, or data necessary for a thorough review of the proposed PUD.

G. **PUD Ordinance Amendments.**

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

8.8 IMPROVEMENT LOCATION PERMIT

- A. **Applicability.** Applications for an Improvement Location Permit must be filed according to this article.
- B. **Application.** A completed application must be submitted to the Administrator on forms provided by the Department with supporting information. Applications, plans, and specifications filed for a permit must be checked by the Administrator. If the Administrator is satisfied the plans and work described in the application conform to the requirements of this Ordinance and other applicable laws, the Administrator issues an Improvement Location Permit to the applicant.
 1. **Site Plan.** Applicants must provide a site plan or development plan of the real estate. These site plans become a permanent public record and must be drawn to scale showing at least:
 - a. Legal or site description of the real estate involved.
 - b. Location and size of all buildings and structures.
 - c. Location of existing and proposed easements.
 - d. Width and length of all entrances and exits to and from the real estate.
 - e. All adjacent rights-of-way.
 - f. Building construction elevation points.
 - g. If required to upgrade the electrical system, a note identifying the increase of the service (e.g. from 100A to 200A service).
 - h. The Administrator in writing may waive or relax any of the documentation required which is irrelevant or unnecessary for a thorough review of the development.

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2. **Performance Standards.** If requested by the Administrator, an application for any use subject to **5.7 Performance Standards** must accompany a certificate signed by a registered professional engineer or architect, certifying the use intended will satisfy the performance standards of this Ordinance.
 3. **Approval.** The Administrator may take 15 days to study the application and consult with appropriate technical consultants. If the Administrator has not required additional information or stated any objections in writing after the 15-day period, the Administrator issues the Improvement Location Permit.
- C. **Special Exception Uses.** The Administrator may issue an Improvement Location Permit for a special exception only after it has been approved by the BZA according to this Ordinance (see also **8.10 Special Exceptions**).
 - D. **Penalties.** Penalties may be assessed according to this Ordinance if construction begins before obtaining a permit or payment of fees. The owner or tenant of all or part of any building, structure, premises, and any person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer provided penalties.
 - E. **Inspections.** After the issuance of any permit, the Administrator makes inspections of the work being done as necessary to ensure compliance with this Ordinance and the terms of the permit. Re-inspections of work found to be incomplete or not ready for inspection may be subject to assessment of re-inspection fees. The Fire Chief, or designated representatives, may assist the Administrator in the inspection of fire suppression, detection, and alarm systems and may provide inspection reports to the Administrator.
 - F. **Entry.** Upon presentation of proper credentials, the Administrator may enter at reasonable times any building, structure, or premises in the jurisdiction of the Plan Commission to perform any duty imposed by this Ordinance.
 - G. **Stop Work Order.** Whenever any work is being done in violation of this Ordinance, the Administrator may order the work stopped by written notice, served on any person engaged in the work. This person must stop the work until authorized by the Administrator to proceed.
 - H. **Sewage Disposal.** An application for an Improvement Location Permit for any use will not be approved until the Administrator ensures the proposed development meets the minimum standards required by the City for a sewage disposal system or County Health Department for a septic system.
 - I. **Workmanship.** All work on construction and alteration of buildings and other structures must be performed according to accepted standards and practices in the trade.
 - J. **Permit Time Limitations.**
 1. **Completion Time:** The work or use authorized by any building permit, Improvement Location Permit, or other permit must begin within 6 months of the date of permit issuance, otherwise the permit becomes null and void. All work authorized must be completed within 24 months from issuing of the permit. The Administrator may extend the work completion time if the applicant shows good cause.
 2. **Renewing Permits:** If construction begins according to an issued permit but is not completed in the established period, then it is necessary for the applicant to renew the permit at the end of the prescribed time frame. The fee collected for this renewal equals 50% of the fee originally paid for the permit and must be paid prior to issuing the renewed permit.
 - K. **Changes to Approved Permits.** Construction must be consistent with plans and specifications approved as part of an issued permit. Such plans and specifications must not be changed, modified, or altered without

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written authorization by the Administrator. Changes to approved plans will be reviewed, approved, or disapproved according to this Ordinance. The Administrator will determine if further action is required by the Plan Commission or BZA and if any additional permits or fees are due.

- L. **Appeals.** Appeals may be made according to ***Article 8.3 Appeals of Administrative Decisions.***
- M. **Enforcement and Penalties.** See ***8.17 Enforcement Options*** and ***8.1 & 8 Penalty Schedule.***

8.9 SIGN PERMITS

- A. **Cross-Reference.** See ***6.4 Signage*** for Sign standards.
- B. **Application.** Applications for a sign permit must be on forms published by the Department and include appropriate filing fees and documentation.
- C. **Supporting Documentation.** The following information must accompany applications. The Administrator may waive or relax any of the requirements listed which are irrelevant or unnecessary for a thorough review of the application.
 1. Name, address, and telephone number of applicant or business.
 2. Site address.
 3. A site plan with scale, north arrow, and date.
 4. A site plan indicating the location of (i) any building upon which a sign is to be mounted, with the location of the signs indicated; and (ii) any existing or proposed monument signs.
 5. A square footage calculation of any proposed signs and a site plan including the proposed sign location, as well as the location and square footage of all existing on-site signs.
 6. Elevation and a true color rendering or other realistic depiction of the proposed sign, including size, materials, color, and dimensions.
 7. Illumination details for proposed signs, including the timing of sign illumination and method of control of such illumination.
 8. Indication of sign types as defined by this Ordinance.
 9. Written consent of the property owner, if the applicant is not the property owner where the sign is to be erected.
 10. Temporary and special event sign displays must provide a schedule for sign displays indicating the dates and duration of the sign displays.
 11. Any other information necessary to support a thorough review of the project and as requested in writing by the Administrator.
- D. **Effect of Sign Permit Issuance.** Issuance of a sign permit does not constitute permission to maintain an unlawful sign nor nullify action to remove an unlawful sign.
- E. **Expiration.** A sign permit becomes void if work has not been completed within 180 days of the date the permit is issued.
- F. **Revocation of Permit.** The City may revoke a sign permit under any of the following circumstances:

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1. The City determines that information in the application was materially false or misleading;
2. The sign as installed does not conform to the sign permit application;
3. The sign violates this Ordinance or other applicable law, regulation, or ordinance; or
4. The Administrator determines that the sign is not being properly maintained or has been abandoned.

8.10 SPECIAL EXCEPTIONS

- A. **Permitted.** The BZA may approve a use listed as a special exception in ***CHAPTER 2: ZONING DISTRICTS***, and their accessory buildings and uses, according to the procedures in this article, and other regulations of the zoning district where the subject property is located.
- B. **Purpose.** A special exception is a use that requires more review because of its potential adverse impact upon the immediate neighborhood and the community. The BZA reviews a special exception, its characteristics, and impacts to determine its suitability for the zoning district.
- C. **Procedures.**
 1. Application: Applications must be on forms published by the City and include appropriate filing fees and documentation.
 2. Action by the Administrator: The Administrator reviews the application for completeness. Applications determined to be complete are docketed by the Administrator for a hearing by the BZA.
 3. Investigation of Application: The Technical Review Committee may review any application for special exception prior to the Board's consideration.
 4. Plan Commission Review: The Plan Commission reviews the proposed special exception for compliance with the Comprehensive Plan, evaluation of the traffic impacts of the special exception, and promotion of public health, safety, and general welfare.
 5. Public Notice: Notification for the public hearing regarding the application must be completed consistent with the Rules of Procedures of the Board.
 6. Public Hearing: At a public hearing, the Board reviews the facts and circumstances of each application and supporting information.
- D. **Review Criteria.** The BZA may approve a special exception only upon a determination in writing that the special exception meets the following:
 1. The establishment or operation of the special exception is not detrimental to or endanger the public health, safety, or welfare.
 2. The special exception is designed, constructed, and operated to: (i) not injure the use and enjoyment of other property in the immediate vicinity; (ii) not substantially diminish property values within the neighborhood; and (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity.
 3. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.



4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided. The special exception will not result in excessive additional requirements at public expense for these public facilities and services.
 5. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion. Vehicular approaches are designed to minimize interference with traffic on surrounding rights-of-way.
 6. The special exception will be harmonious with the objectives of the Comprehensive Plan.
 7. The special exception will be in a zoning district where such use is permitted. All other requirements of the zoning district and this Ordinance will be met.
- E. **No Presumption of Approval.** Each special exception is evaluated on an individual basis for compliance with the standards of this Ordinance to determine if approval of the special exception is appropriate at the location in the manner proposed.
- F. **Limitations of Approval.** The approval of a special exception by the BZA authorizes only that use at the location where the approval was granted.
- G. **Effect of Approval.** The approval of a special exception by the BZA does not authorize the development, construction, reconstruction, alteration or moving of any building or structure. The approval authorizes the preparation, filing and processing of applications for permits or approvals required, such as approval of development plan, Improvement Location Permit, building permit, and a Certificate of Occupancy.
- H. **Existing Use.** An existing use listed as a special exception within a zoning district where such special exception may be permitted, is a conforming use if the use meets the minimum lot area requirements of the respective zoning district. Any expansion of the special exception involving the enlargement of buildings, structures, and land area devoted to the use, is subject to the requirements and procedures described in this Ordinance.
- I. **Commitments.** The BZA may require the owner of the property to make written commitments concerning the use or development of the property. Such commitments must be recorded in the Office of the County Recorder, and a copy of the recorded commitments must be provided to the Department.

8.11 TEMPORARY USE AND EVENTS PERMITS

- A. **Application.** Applications for a Temporary use and/or event permit, according to [*4.13 Temporary Uses, Events, and Structures*](#), must be made in writing on forms provided by the Department at least 30 days prior to the scheduled event.
- B. **Supporting Documentation.** Applications must include (i) a written statement describing the requested use, operations plan, traffic control, and the proposed period and (ii) a sketch plan showing the locations of proposed activity areas in relation to property lines and existing buildings and structures, pedestrian and vehicular circulation on the site, and parking facilities.
1. If a permit for encroaching into any right-of-way is required, a copy of the encroachment request must be submitted with the temporary use/event permit application.
 2. If alcohol is sold or consumed, then proof of appropriate permits from the State of Indiana, Alcohol and Tobacco Commission is required. If cooking or eating is involved in a temporary event, outdoor café, or some other eating area, then proof of review and approval from the County Health Department must be required with the application.

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8.12 VARIANCES

- A. **Application.** The applicant must submit a variance application, affidavit, and consent of property owner (if the property owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information must include:
 - 1. Site Plan: A site plan must be signed and dated. The site plan must be drawn to scale and/or fully dimensioned to the satisfaction of the Administrator and clearly show the entire layout of the property with all features relevant to the variance request.
 - 2. Statement of Intent: A statement of intent to the BZA describing the details of the variance being requested and stating how the request is consistent with the decision criteria. The statement should include any written commitments being made by the applicant.
 - 3. Deed: A copy of the most current property deed.
- B. **Public Notice.** Notification for the scheduled public hearing regarding the variance request must be completed consistent with the Rules of Procedures of the Board.
- C. **Public Hearing.** At a public hearing the board reviews the variance request consistent with the Rules of Procedures of the Board. The BZA may approve, approve with conditions, deny, or continue the application according to IC 36-7-4-918.4 and IC 36-7-4-918.5.
- D. **Subsequent Applications.** The BZA will not consider an application that is substantially similar to a variance application denied within the prior 12 months.
- E. **Continuances.** The application may be continued by the BZA based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the BZA that additional information is required prior to action being taken on the request.
- F. **Decision Criteria.** In acting on all variance requests, the BZA uses decision criteria to approve or deny variances consistent with the requirements of Indiana Code:
 - 1. Variances of Use: A variance of land use may be approved upon determining:
 - a. The use 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 arises from some condition particular to the property involved.
 - d. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property seeking the variance.
 - e. The use does not interfere substantially with the Comprehensive Plan.
 - 2. Variances of Development Standards: A variance of development standard may be approved upon determining:
 - a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

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- 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 strict application of the terms of the Ordinance will result in practical difficulties in the use of the property.
- G. **Commitments.** The BZA may require the owner of the property to make written commitments concerning the use or development of the property. Such commitments must be recorded in the Office of the County Recorder, and a copy of the recorded commitments must be provided to the Department.
- H. **Effect of Approval.** Approval of a variance does not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but merely authorizes the preparation, filing and processing of applications for such permits or approvals including approval of a primary or secondary plat, development plan, Improvement Location Permit, Building Permit, and/or a Certificate of Occupancy.
- I. **Acknowledgement of Variance.** Approval of a variance must be recorded in an acknowledgement of variance instrument prepared by the Administrator. The acknowledgement must specify the granted variance and any commitments made or conditions imposed in granting of the variance.
- J. **Compliance and Violations.** A permit will not be issued unless it complies with an approved variance, conditions of approval, or commitments. Violations of an approved variance or commitments imposed on the use as conditions of approval constitute grounds for revoking the variance.

8.13 WAIVER OF DEVELOPMENT STANDARDS

In connection with a Development Plan, Preliminary Plat, or Secondary Plat, a request for a waiver of the dimensional and quantitative standards of up to 35% for the provisions in **CHAPTER 2: ZONING DISTRICTS**, **CHAPTER 5: DESIGN AND MAINTENANCE** and **CHAPTER 6: IMPROVEMENT STANDARDS** may be approved consistent with the following requirements:

- The proposal does not create conditions detrimental to the public health, safety, and welfare.
- The proposal is harmonious with the purpose and intent of the zoning district in which the project is located.
- The proposal enhances the overall Development Plan, Preliminary Plat, or Final Plat, the abutting streetscapes and neighborhoods, and the surrounding area.
- The proposal does not produce a site design that is impractical or detracts from the appearance of the proposed development and the surrounding area.
- The proposal provides improved site design characteristics such as increased pedestrian connections, enhanced landscaping, tree preservation, or public art.

For items where final approval has been delegated to staff, the Administrator has the authority to grant waivers. In all other circumstances, the Plan Commission may grant the waiver after a public hearing.

In granting the waiver, the Plan Commission or Administrator may impose conditions it deems necessary to secure the purposes of this article. The applicant retains the right to petition the Board of Zoning Appeals for a variance from development standards as provided in IC 36-7-4-918.5.

8.14 ZONING MAP CHANGES (REZONES)

- A. **Applicability.** This article applies to all applications to amend the Zoning Map.
- B. **Initiation.** Proposals to amend the Zoning Map may be initiated by the Plan Commission, the Council, or through an application signed by property owners of at least 50% of the land involved.

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1. City Initiation: The Administrator prepares the application for Zoning Map amendment if the Plan Commission or Council has initiated the application. The Administrator serves as the representative of the applicant for such proposals.
2. Property Owner Initiation: Property owners requesting a Zoning Map amendment must be the applicants and assume responsibility for preparing application materials.

C. Application Procedures.

1. Pre-Filing Conference: A pre-filing conference with the Administrator is required prior to filing an application. The applicant is encouraged to incorporate the Administrator’s comments into the application before filing.
2. Filing Deadline: Applications are filed according to the meeting schedule established by the Administrator. The applicant is responsible for distributing a copy of the application to members of the Technical Review Committee.
3. Forms of Filing: An applicant must submit a completed application to the Administrator on forms provided by the Department with documentation and supporting information. The number of copies of all complete applications and supporting documentation is established by the Administrator.
4. Application Requirements for Property Owner Initiated Applications:
 - a. Consent Form: If an application is filed by a property owner’s authorized agent, a consent form signed by the property owner must accompany the application.
 - b. Deed: A copy of the most current property deed.
 - c. List of Adjoining Property Owners: A list of adjoining property owners required to be served public notice according to the rules of procedure of the Plan Commission, as obtained from the County.
 - d. Supporting Document and Information:
 - i. A conceptual site plan showing all features relevant to the application.
 - ii. A vicinity map showing the use and zoning of all properties within 500 feet of the proposed Zoning Map amendment.
 - iii. A narrative stating the reasons for the change of zoning including a detailed description of any proposed development needing the change of zoning. The narrative should include any written commitments made by the applicant.

D. Public Notice. Notification for the scheduled public hearing must be completed consistent with the requirements of the Rules of Procedures of the Plan Commission.

E. Plan Commission Public Hearing. At a public hearing, the Plan Commission reviews the application and required supporting information consistent with the requirements of the rules of procedure of the Plan Commission. Following the public hearing, the Plan Commission may either forward the application to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation according to Indiana Code; or continue the request to a subsequent Plan Commission meeting.

F. Continuances. The application may be continued by the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to taking action on the request. The continuing of



applications and any potential additional legal notice must be consistent with the rules of procedure of the Plan Commission.

- G. **Certification.** The Plan Commission certifies its recommendation to the Council according to Indiana Code. The Administrator forwards the Plan Commission certification, the application and all supporting information, any Department reports regarding the application, and an ordinance to the Council for consideration.
- H. **Council Action.** The Council reviews the change of zoning application and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the Council fails to act within 90 days of the Plan Commission’s certification, and the applicant has not otherwise withdrawn the request or requested additional consideration by the Plan Commission, the ordinance becomes effective or be defeated with the provisions of IC 36-7-4-608. The Council may also seek modifications or additions to any written commitments permitted by this Ordinance.
- I. **Decision Criteria.** In reviewing the change of zoning application, the Plan Commission and Council consider the following criteria according to Indiana Code:
 - 1. The Comprehensive Plan;
 - 2. Current conditions and the character of current structures and uses in each district;
 - 3. The most desirable use for which the land in each district is adapted;
 - 4. The conservation of property values throughout the jurisdiction; and
 - 5. Responsible development and growth.

8.15 ENFORCEMENT AUTHORITY

The City of Batesville, including the Administrator, City Council, Plan Commission, Board of Zoning Appeals, Building Commissioner, Code Enforcement Officer, Fire Chief, and their delegates are designated to enforce the provisions, regulations, and intent of this Ordinance, according to *IC 36-7-4-100, et. seq.*, as amended.

8.16 VIOLATION

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

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

8.17 ENFORCEMENT OPTIONS

- A. **Options for Enforcement.** The City has the following options to enforce the provisions of this Ordinance:
1. Issue a citation to a person alleged to have committed a violation of this Ordinance according to IC 33-36 and **8.19 Citations for Zoning Violations**.
 2. Issue a stop work order under **8.20 Stop Work Orders**.
 3. Enter onto property and take action to bring that property into compliance with this Ordinance, according to **IC 36-1-6-2** and **8.21 Municipal Action to Enforce Compliance** or **8.22 Correcting Immediate Public Risk Violations**.
 4. Initiate enforcement through an administrative proceeding before the BZA, according to **IC 36-1-6-9** and **8.22 Correcting Immediate Public Risk Violations**
 5. To bring a civil action in the City Court of Batesville, according to **IC 34-28-5-1** and **8.23 Administrative Enforcement**.
- B. **Exercise of Options.** The City’s exercise of the options specified in this section, including the imposition of any penalties for an Ordinance violation, are not prerequisites for taking any other action against an alleged violator of this Ordinance, nor do they prohibit the City from taking any further action.
- C. **Warnings.** Before exercising any of the City’s options under this section, the Administrator may issue a warning to a person alleged to be in violation of this Ordinance and give the person at least 10 days but not more than 60 days to remedy the alleged violation.

8.18 PENALTY SCHEDULE

- A. **Maximum Penalties.** According to **IC 36-1-3-8** and **IC 36-7-4-1018**, the maximum civil penalty for the first violation of a provision of this Ordinance is a fine of \$2,500. The maximum civil penalty for the second or subsequent violation of a provision of this Ordinance (other than a provision that regulates parking) is a fine of \$7,500.
- B. **Penalty Schedule.** According to **IC 33-36-3-1(a)**, the Council designates the following schedule of penalties. Violations are subject to the fixed civil penalty described in this section.

Ordinance violation	Fine for first	Fine for
Temporary signage without permit	\$100	\$200
Permanent signage without permit	\$250	\$500
Parking on an unimproved surface	\$50	\$100
Temporary use without	\$500	\$1,000

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Illegal land use	\$1,000	\$2,000
Operation of home business without certificate of compliance	\$200	\$400
Alteration of land without ILP	\$200	\$400
Failure to comply with commitments	\$500	\$1,000
Failure to obtain certificate of compliance	\$500	\$1,000
Failure to comply with certificate of compliance	\$250	\$500
Failure to comply with development standards	\$100	\$200
Any other violation of this Ordinance	\$25	\$50

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

8.19 CITATIONS FOR ZONING VIOLATIONS

- A. **Notice to Alleged Violator.** An enforcement official may issue a notice citation for a violation of this Ordinance. The enforcement official must advise the alleged violator that the violation may be admitted and, if admitted, is subject to payment of the fixed civil penalty listed in ***8.18 (B)***.
- B. **Form of Citation.** Citations must be numbered and contain the following information:
1. The date and time of issuance;
 2. The specific Ordinance violation for which the citation is issued;
 3. The amount of the civil penalty fixed for that violation under ***8.18 (B)***;
 4. The date and location of the violation;
 5. The name and address of the person alleged to have committed the violation, if known or readily obtainable;
 6. The signature of the enforcement official issuing the citation or the enforcement official's name (and badge number, if any) in computer generated form; and
 7. The duty of the alleged violator to appear.
- C. **Service of Citation.** A citation is served by the enforcement official upon the alleged violator. If the alleged violator is present, the citation must be delivered personally to the alleged violator. If the alleged violator is not present and the violation involves specific premises, it must be served on the owner or other person in possession of the premises either in person or by first class mail.
- D. **Duty to Appear.** Any person receiving a citation must appear in person or by attorney to admit or deny the alleged violation within 10 days of the date the citation is issued. Payment of the civil penalty fixed under ***8.18 (B)*** within 10 days of the date the citation is issued fulfills the duty to appear in person or by attorney and is deemed an admission of the violation.

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- E. **Procedures on Admission of Violation.** If a violation is admitted, the civil penalty fixed under **8.18 (B)** for the violation must be paid to the City in a manner authorized by the Administrator. Whenever a person assessed a civil penalty fails to mail or deliver payment within 10 days of the date the citation is issued, the Administrator adds a late charge in the amount of \$25.
- F. **Procedure on Denial of Violation, Failure to Appear, or Failure to Pay.** If a person served a citation:
 1. appears and denies the alleged violation;
 2. fails to appear and admit or deny the alleged violation within 10 days of the issuance of the citation; or
 3. fails to pay the fixed civil penalty within 10 days after admitting the violation;
 the Administrator may begin appropriate administrative or judicial proceedings against the person.
- G. **Limitations.** The fixed civil penalties specified in **8.18 (B)** apply only to violations admitted as provided in this section and are considered offers in compromise. If administrative or judicial proceedings are initiated for an alleged violation, the maximum penalty specified for the violation in **8.18 (A)** is applicable to the violation.

8.20 STOP WORK ORDERS

- A. **Occurrence of Violation.** If the Administrator finds that a violation is occurring or has occurred on a construction site, the Administrator may place a stop work order on any land/property improvement process.
- B. **Procedure.** Stop work orders must be a written letter stating the nature of the violation and requiring the work and any other illegal activity to stop immediately until the matter is resolved. If someone other than the property owner occupies the property, a copy of the stop work order must be provided to the occupant. This letter must be posted in a conspicuous place and be delivered or mailed to the property owner.
- C. **Reasons.** Reasons for a stop work order may include:
 1. Not complying with any element of the development standards or any regulation of the Ordinance.
 2. Not obtaining a permit or approval prior to the construction or installation of any improvement requiring a permit or approval by this Ordinance.
 3. Not completing structures or other site improvements consistent with any approved improvement location permit, variance, special exception, development plan, or other approval.
 4. Not meeting the commitments imposed upon the approval of a special exception, variance, rezoning, development plan, subdivision plat, or other approval, whether recorded or not.
 5. Not meeting the conditions of a PUD Ordinance or other rezoning, or any written commitment imposed upon an approval, whether recorded or not.
 6. Illegal use or expansion of use of structures, or structures and land in combination.
- D. **Appeals.** Any stop work order may be appealed to the BZA. Upon the resolution of the violation(s) to the satisfaction of the Administrator or the BZA, the stop work order is lifted and construction activity may resume.

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8.21 MUNICIPAL ACTION TO ENFORCE COMPLIANCE

- A. **Entry into Property.** According to [IC 36-1-6-2\(a\)](#), if violation of a provision of this Ordinance exists on real property, the Administrator may have employees or contractors of the City enter the property and take appropriate action to bring the property into compliance with the Ordinance.
- B. **Notice Requirement.** Before the City takes action to bring a property into compliance, anyone holding a substantial interest in the property must be given at least 10 days but not more than 60 days to bring the property into compliance. Notice must be served on such persons in person or by first class mail. In addition, continuous enforcement orders (as defined in [IC 36-7-9-2](#)) may be enforced, and liens may be assessed, without the need for additional notice.
- C. **Expenses Constitute a Lien.** Whenever the Administrator takes action to bring compliance under this section, the resulting expenses incurred by the City constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the County Recorder. The lien is superior to all other liens except liens for taxes and does not exceed:
1. \$10,000 for real property that: (a) contains one or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings, or (b) is unimproved; or
 2. \$20,000 for all other real property.
- D. **Issuance of Bill to Owner.** According to [IC 36-1-6-2\(b\)](#), the Administrator may issue a bill to the owner of the real property for all expenses incurred by the City in bringing the property into compliance, including administrative costs and removal costs. According to [IC 36-1-6-2\(c\)](#), a bill issued under this section is delinquent if the owner of the property fails to pay the bill to the Clerk-Treasurer within 30 days after the bill is issued.
- E. **Collection of Fees and Penalties.** According to [IC 36-1-6-2\(d\)](#), the Clerk-Treasurer's office may prepare a list of delinquent fees and penalties enforceable under this section, including:
1. the names of the owners of each lot or parcel of real property on which fees or penalties are delinquent;
 2. a description of the premises, as shown on the records of the County Auditor; and
 3. the amount of the delinquent fees or penalties.
- F. **Preparation and Recording of Instrument.** The Clerk-Treasurer's office may then prepare an instrument for each lot or parcel of real property on which fees or penalties are delinquent. The instrument is recorded with the County Recorder, who charges a recording fee under the fee schedule established in [IC 36-7-2-10](#).
- G. **Placement of Lien on Tax Duplicate.** According to [IC 36-1-6-2\(f\)](#), the amount of a lien is placed on the tax duplicate by the County Auditor. The total amount, including any accrued interest, is collected in the same manner as delinquent taxes are collected and is disbursed to the general fund of the City.
- H. **Enforcement of Lien against Subsequent Owner.** According to [IC 36-1-6-2\(g\)](#), a fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the City must notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than 15 days after the date of the notice. If

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payment is not received within 180 days after the date of the notice, the amount may be considered a bad debt loss.

I. **Release of Lien.** According to IC 36-1-6-2(h), the City releases:

1. liens filed with the County Recorder after the recorded date of conveyance of the property; and
2. delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

J. **Removal of Lien from Tax Duplicate.** According to IC 36-1-6-2(i), the County Auditor removes the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner, upon receipt of a copy of the written demand under Subsection I.

8.22 CORRECTING IMMEDIATE PUBLIC RISK VIOLATIONS

A. **General Requirements.** According to IC 36-1-6-2(a), if a condition violating a provision of this Ordinance presents an immediate risk to public health, safety, or welfare or to property in the City, the Administrator may opt to have employees or contractors of the City enter the property and take immediate action to bring the property into compliance. The Administrator is not required to provide prior notice to the property owner or other person responsible for the violation.

B. **Immediate Public Risks.** Immediate public risk violations may include:

1. Obstructions. Signs, structures, landscaping, or other materials placed in an easement, sight visibility triangle, or rights-of-way in violation of this Ordinance;
2. Distractions. Any sign, structure, landscaping, or other material located on private property that serves to distract or inhibit operators of motor vehicles on adjacent public ways, pedestrians, or other members of the general public; and
3. Other Threats. Any other immediate threat to public welfare as determined by the Administrator or the BZA, based upon the advice and recommendation of the Administrator.

C. **Seizure of Materials.** Any sign, structure, landscaping or other material constituting an immediate public risk violation may be seized by the Administrator in a manner resulting in the least damage to the material or the property on which it is located.

D. **Notice of Violation.** The Administrator provides notice to the owner of the property, as listed in the records of the County Auditor, where the violation was located, or any discernible appropriate owner of materials placed within a public way in violation of this Ordinance, by placing a notice in a conspicuous place on the property and mailing a letter to that property owner. All notice letters are sent to the property owner via certified mail within 24 hours of the seizure. Any notice posted on the property must be posted at the time the material is seized. The letter and posted notice must include:

1. A description of the materials seized;

2. A citation of the sections of this Ordinance that were violated and the characteristics of the violation that posed an immediate threat to public welfare;
 3. The address and phone number of the Administrator and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized items; and
 4. Instructions describing how, where, and when the seized items may be claimed.
- E. **Storage and Retrieval of Seized Materials.** The Administrator stores any sign, structure, landscape materials or other items seized in a secure location for a period of no less than 30 days from the date notice was mailed to the property owner. The property owner may claim the seized property following its seizure upon the payment of the fine specified in **8.18** and the establishment of a Memorandum of Agreement between the property owner and Administrator regarding the future use of the item in a manner consistent with this Ordinance.
- F. **Liability.** Neither the Administrator, the City, nor any other official or entity involved in the seizure is liable for any damage to the seized materials or the property from which they were taken.

8.23 ADMINISTRATIVE ENFORCEMENT

- A. **Provisions that Restrict or Prohibit Actions Harmful to the Land, Air, or Water.** According to **IC 36-1-6-9**, the City may opt to enforce any provision of this Ordinance that restricts or prohibits actions harmful to the land, air, or water, through an administrative proceeding before the BZA. The BZA must find that the violation has been proved by a preponderance of the evidence. Upon finding a violation, the BZA may assess a civil penalty within the limits set forth in **8.18**.
- B. **Appeal to Court.** According to **IC 36-1-6-9(e)**, a person who is assessed a civil penalty under this section may appeal the BZA's order imposing the penalty to the Circuit or Superior Court. An appeal under this section must be filed not more than 60 days after the date on which the BZA enters the order.
- C. **Payment of Civil Penalty.** Unless a person who is assessed a civil penalty under this section files an appeal, the person must pay the penalty to the City in a manner authorized by the Clerk-Treasurer. Whenever a person liable for a civil penalty under this section fails to deliver payment to the City within 75 days after the date on which the administrative body enters the order imposing the penalty, the Clerk-Treasurer reports the circumstances to the Administrator for the initiation of appropriate judicial proceedings against the person.
- D. **Effect of Administrative Process.** An Ordinance violation processed under this section does not constitute a judgment for the purposes of **IC 33-37**. An ordinance violation costs fee may not be collected from the defendant under **IC 33-37-4**.

8.24 ENFORCEMENT THROUGH JUDICIAL PROCEEDINGS

- A. **Initiation.** According to **IC 36-7-4-1014**, the Administrator or the BZA may bring a civil action to enforce a provision of this Ordinance, or any conditions imposed by the Commission or BZA under the Advisory Planning Law. The action is brought in the name of the Administrator or the BZA as plaintiff. According to **IC 34-28-5-1**, the plaintiff need not prove this Ordinance is valid, unless its validity is controverted by affidavit. The plaintiff may invoke any legal, equitable, or special remedy in an action brought under this section. Actions must be filed in the City Court.
- B. **Procedure in General.** An action to enforce a provision of this Ordinance must be brought within 2 years after the alleged violation occurred. Proceedings initiated under this section are conducted according to the

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Indiana Rules of Trial Procedure. The plaintiff must prove the commission of a violation by a preponderance of the evidence. The complaint and summons described in **IC 9-30-3-6** (without the provisions relating to the operation of a vehicle) may be used in any Ordinance enforcement case.

- C. **Right to Trial.** A person charged with an Ordinance violation is entitled to a court trial as provided by law, unless the person waives the right to trial and enters an admission of the violation.
- D. **Judgment.** A judgment may be entered against the defendant upon a finding by the court that the defendant violated this Ordinance. A judgment up to the amount requested in the complaint may be entered for the violation. A defendant against whom a judgment for a violation is entered is liable for costs. Costs are part of the judgment and may not be suspended; however, whenever a judgment is entered against a person for the commission of 2 or more ordinance violations, the court may waive the person's liability for costs for all but one of the violations, as specified by the court.

8.25 GENERAL ADMINISTRATION

- A. **Administration:** The official assigned as the Zoning Administrator, to apply and enforce the provisions of this Ordinance is the Building Commissioner. The Administrator has the duties and responsibilities identified in **8.32**.
- B. **Fee Schedule:** Filing fees for applications and petitions are set forth in the fee schedule established by resolution of the Council. Copies of the fee schedule are available in the office of the Department.
- C. **Schedule of Meeting and Filing Dates:** The Administrator maintains an annual schedule of meeting and filing dates for the Technical Advisory Committee, Plan Commission, and BZA. Modifications of filing dates are considered if determined reasonable by the Administrator. The existence of this calendar does not prohibit special meetings or changes of meeting dates by the Technical Review Committee, Plan Commission, or BZA. The schedule of meeting and filing dates is available in the office of the Department.

8.26 BOARD OF ZONING APPEALS

The Batesville Board of Zoning Appeals (the "BZA") is hereby established with membership and appointment in accordance with Indiana law, as amended. The powers and duties of the BZA are defined by Indiana law and are described below.

- A. **General Duties:**
 1. The BZA adopts rules and regulations ("Rules of Procedure of the Board") necessary to accomplish the provisions of this Ordinance.
 2. All meetings of the BZA are open to the public. The BZA must keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records are filed in the office of the Department and are a public record.
- B. **Appeals of Administrative Decisions:**
 1. Any decision of the Administrator in enforcement or application of this Ordinance may be appealed to the BZA by any person claiming to be adversely affected by such decision.
 2. The BZA will hear appeals of any order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance (**8.3 Appeals of Administrative Decisions**).



3. The BZA may reverse, affirm, or modify the order, requirement, decision, or determination appealed. In this case the BZA has all the powers of the Administrator from whom the appeal is taken.
4. Every decision of the BZA is subject to review pursuant to ***I.C. 36-7-4-1016***.
- C. **Special Exceptions:** The BZA will approve or deny all special exceptions in accordance with this Ordinance, but only in the situations specified. The BZA may impose reasonable conditions as a part of its approval (***8.10 Special Exceptions***).
- D. **Use Variances:** The BZA will approve or deny variances of land use in accordance with this Ordinance (***8.12 Variances***).
- E. **Development Standards Variances:** The BZA approves or denies variances from the development standards of this Ordinance in accordance with this Ordinance (see also ***8.12 Variances***).
- F. **Floodplain:** The BZA is governed by the provisions of this Ordinance concerning variances applicable to the Floodplain Overlay District (FOD).
- G. **Enforcement.** The BZA may enforce the provisions of this Ordinance per ***8.23 Administrative Enforcement*** and ***8.24 Enforcement Through Judicial Proceedings***.

8.27 BUILDING COMMISSIONER

- A. The Building Commissioner is the official, designated by the Mayor, authorized to enforce the ***Indiana State Building Code*** within the City of Batesville.
- B. **Duties:** The Building Commissioner, in connection with the implementation of this Ordinance and in accordance with Indiana law, will:
 1. Enforce the provisions of the ***Building Code***, applicable city regulations, requirements of special permits, variances and site plan approvals issued by the Board of Zoning Appeals or the Plan Commission.
 2. Reviews plans for building construction or alteration to determine compliance with the ***Building Code***, the Americans with Disabilities Act (ADA), city by-laws, and other applicable regulations; participate in the plan review process with various boards/committees/commissions, interact with all development boards providing guidance and assistance and attending relevant meetings and/or hearings to assist with information and/or resolution of issues when required.
 3. Inspect new buildings and alterations to buildings under construction and upon completion to monitor compliance with code requirements and approved plans.
 4. Issue certificates of inspection, certificates of occupancy, notices of violations and stop orders.
 5. Take actions to enforce the provisions of this Ordinance per ***8.17 Enforcement Authority***.
 6. Utilize online permitting software to issues building permits, maintains all required, associated and/or directed reports, logs and inspection records, maintaining completeness of all files and reports; oversees collection of fees for inspections.
 7. Investigate all complaints pertaining to the construction and use or occupancy of all buildings and take appropriate enforcement action including issuance of all necessary notices, orders and/or filings when

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complaints are verified; prepare documents and all evidence to be used at District and Superior Courts; appears as witness at hearings, sessions, etc.

8. Act on any question relating to mode or manner of construction and the materials to be used, and the location, use, occupancy and maintenance of all buildings and structures.
9. Respond to inquiries from property owners, banks, attorneys, real estate firms, surveyors, architects, engineers, city officials and the general public; explain building code regulations and by-law provisions.
10. Supervise and coordinate all inspection services pertaining to construction or alteration of buildings in the City: supervise day-to day operations of the department, monitor workflow, assign staff to projects, evaluate staff efforts, assist staff in answering questions and respond to inquiries referred by staff, i.e. difficult, problematic and/or unusual issues.
11. Prepare, present, administer and monitor department budget.
12. Maintain up-to-date knowledge and education relative to building codes, local by-laws, enforcement regulations, etc.
13. Function as a member of the city-wide administrative management team to ensure effective and efficient municipal operations and service delivery.
14. Carry out special projects and analyses for the Mayor and other departments as required.

8.28 CITY COUNCIL

The powers and duties of the City Council of the City of Batesville, Ripley County and Franklin County, Indiana (the "Council"), regarding this Ordinance, are defined by Indiana law and described below.

- A. **Duties:** Duties should be interpreted as activities that are obligations including:
1. Plans and Ordinances: Adopt, reject, or amend the Comprehensive Plan, any other plans, and the Development Code as certified and submitted by the Plan Commission.
 2. Plan and Ordinance Amendments: Adopt, reject, or amend proposals to amend or partially repeal the text of the Comprehensive Plan, any other plans, and this Ordinance as certified and submitted by the Plan Commission.
 3. Zoning Map Amendments: Adopt, reject, or amend proposals to amend the Official Zoning Map certified by the Plan Commission (***8.14 Zoning Map Changes (Rezoning)***).
 4. Planned Unit Developments: Adopt, reject, or amend proposals for Planned Unit Developments as certified by the Plan Commission (***8.7 Planned Unit Developments***).
 5. Fee Schedule: Adopt, reject, or amend proposals to adopt or amend a Fee Schedule (***8.25 General Administration***).
 6. Other Duties: All additional duties as established by Indiana law.
- B. **Powers:** Powers should be interpreted as activities that are optional and may be initiated by the Council including:

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1. **Plan and Ordinance Amendments:** Initiate amendments to the text of the Comprehensive Plan, any other plans, and the Development Code pursuant to ***IC 36-7-4-511***, ***IC 36-7-4-602***, and ***IC 36-7-4-701***, respectively.
2. **Zoning Map Amendments:** Initiate amendments to the Zoning Map.
3. **Other Powers:** Take actions not delegated to other bodies that are desirable and necessary in implementing the provisions of this Ordinance, and all additional powers as permitted by Indiana law.

8.29 FLOODPLAIN ADMINISTRATOR

- A. **Floodplain Administrator:** The Administrator and/or designated staff of the Department, is designated as the Floodplain Administrator.
- B. **Authority:** The Floodplain Administrator is authorized and directed to enforce and implement the provisions of the Floodplain Regulations.
- C. **Duties:** The Floodplain Administrator will, in connection with the implementation of this Ordinance and in accordance with Indiana law:
 1. Review floodplain development permits to assure the permit requirements of this Ordinance have been satisfied.
 2. Inspect and inventory damaged structures in the Special Flood Hazard Area (SFHA) and complete substantial damage determinations.
 3. Ensure that required construction authorization has been granted by the Indiana Department of Natural Resources for development subject to the Flood Plain Regulations.
 4. Ensure that all necessary federal or state permits have been received prior to issuance of an Improvement Location Permit.
 5. Maintain improvement location permit records involving building additions and improvements to residences located in the Floodway.
 6. Maintain related permits and information for buildings constructed subject the Flood Plain Regulations.
 7. Utilize and enforce map revisions issued by the Federal Emergency Management Agency (FEMA) for the currently effective SFHA maps.
 8. Review certified plans and specifications for compliance.
 9. Verify required certifications of the actual elevation of the lowest floor for new or substantially improved buildings.
 10. Verify required certifications of the actual elevation of the floodproofing for any new or substantially improved buildings.
 11. Notify adjacent communities and the State's floodplain coordinator prior to any alteration or relocation of a watercourse and submit copies of the notifications to the Federal Emergency Management Agency.
 12. Assure that maintenance is provided within the altered or relocated portion of the altered watercourse, so the flood-carrying capacity is not diminished.

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8.30 PLAN COMMISSION

The powers and duties of the City of Batesville Plan Commission (the "Plan Commission") are defined by Indiana law and are generally described below. The Plan Commission may delegate its authority to the Administrator or a committee to perform ministerial acts except where final action by the Plan Commission is necessary.

- A. **Duties:** Duties should be interpreted as activities that are obligations and generally include:
 1. Adopt and maintain a Council-approved Comprehensive Plan and the Development Code as authorized under Indiana law.
 2. Adopt and maintain rules and procedures for holding meetings ("Rules of Procedure of the Plan Commission"), holding public hearings, and administering and enforcing the Comprehensive Plan and the Development Code.
 3. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission.
 4. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission.
 5. Certify and submit recommendations to the Council including new versions of and revisions to the Comprehensive Plan, the Development Code, and Zoning Map (***8.14 Zoning Map Changes (Rezones)***).
 6. Certify and submit recommendations to the Council for adopting a Planned Unit Development (***8.7 Planned Unit Developments***).
 7. Approve or deny plats or replats of Subdivisions (***CHAPTER 7 – SUBDIVISION REGULATIONS***).
 8. Approve or deny requests for waivers pursuant to the subdivision requirements of this Ordinance.
 9. Approve or deny site plans or development plans and amendments to site plans or development plans (***8.6 Development Plan Review***).
 10. Enforce regulations and procedures of the Comprehensive Plan and the Development Code to the extent of the local resolutions, ordinances, and Indiana law.
 11. Other duties as permitted by Indiana law.

- B. **Powers:** Powers should be interpreted as activities that are optional to be initiated and include:
 1. Distribute copies or summaries of the Comprehensive Plan or this Ordinance to the general public and development community.
 2. Other powers as permitted by Indiana law.

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8.31 TECHNICAL REVIEW COMMITTEE

The powers and duties of the City of Batesville Technical Review Committee ("TRC") are as generally described below:

- A. **Establishment and Membership:** The Technical Review Committee is created and consists of members, as invited by the Administrator, that may include utility agencies, County departments, City departments and other agencies or consultants.
- B. **Jurisdiction and Authority:** The Technical Review Committee has the following powers and duties in connection with the implementation of this Ordinance:
1. To review and evaluate applications for variances or waivers and make recommendations to the Board.
 2. To review and evaluate development plans and site plans and make recommendations to the Plan Commission.
 3. Review, evaluate, and make recommendations to the staff, Board, or Plan Commission regarding architectural and landscaping design matters for development and redevelopment projects, including:
 - a. The compatibility of proposed development with the surrounding neighborhood.
 - b. The architecture of proposed buildings and structures to ensure architectural features reflect a similar design style or period and that building elements are used to create a high-quality project with visual interest and architectural style.
 - c. The proposed landscape design to protect valuable existing trees and features, ensure proposed landscape materials support the project's overall design concept, and make sure proposed landscaping does not obstruct the vision of motorists or pedestrians in proximity to the site.
 - d. The proposed signage is compatible with the building design, scale, color, and materials.
 - e. The accessory features (such as trash receptacles, storage and loading areas, and mechanical equipment) are screened in a manner architecturally compatible with the principal buildings.
 4. To take such other actions as delegated by the Administrator, Council, Plan Commission, Board, or other bodies to implement the provisions of this Ordinance.

8.32 ZONING ADMINISTRATOR

- A. **Administrative Officer:** It is the duty of the Zoning Administrator (the "Administrator") to enforce and implement the provisions of this Ordinance, receive applications required by this Ordinance, issue permits, and furnish the prescribed certificates.
- B. **Duties:** The Administrator and/or the Administrator's designees, in connection with the implementation of this Ordinance and in accordance with Indiana law, will:
1. Maintain a Council-approved Comprehensive Plan and the Development Code, as authorized under Indiana law.
 2. Maintain rules of procedures for holding meetings, holding public hearings, and enforcing the Comprehensive Plan and the Development Code.

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3. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission and BZA.
4. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission and BZA. All such records must be open to public inspection during the Department’s normal hours of business.
5. Maintain a permitting process and seal used to certify official or approved documents. Keep careful and comprehensive records of applications, permits issued, certificates issued, inspections made, reports rendered, and of notices or orders issued. Retain on file copies of all documents in connection with building work if any part of the structure to which they relate remains existence.
6. Examine premises for which permits have been issued and make necessary inspections to see that the provisions of the law are within compliance.
7. Enforce laws relating to the construction, alteration, use, occupancy, location, and maintenance of structures and land, except as may be otherwise provided for in local or Indiana law.
8. Issue notices or orders necessary for enforcing compliance with the laws or preventing a violation of provisions of this Ordinance.
9. Determine the appropriate categories of land uses not specifically listed on the Permitted Uses Table.
10. Render interpretations of the provisions of this Ordinance.
11. Approve or deny sign permit applications.
12. Review applications for Improvement Location Permits for compliance with the standards of this Ordinance.
13. Issue Improvement Location Permits for Special Exceptions after approval by the BZA.
14. Other duties set forth here or that may be delegated by the Plan Commission, BZA, or Council.

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9.1 INSPECTION

The Health Officer and Building Commissioner are individually authorized and directed to inspect the condition of dwellings and premises located within the city, to protect the health and safety of the dwelling occupants and the public. Following required notice, the owner, occupant, or manager of every dwelling, must give the Health Officer and Building Commissioner access to the dwelling for the purpose of the inspection. Every occupant of a dwelling must give the dwelling owner, or his or her agent, access to any part of the dwelling or premises at reasonable times to make the repairs or alterations necessary comply with the provisions of this chapter.

9.2 ENFORCEMENT

- A. When the Health Officer or the Building Commissioner determines there are reasonable grounds of a violation of this chapter affecting the health of the occupants of a dwelling or the health of the public, the Health Officer or the Building Commissioner, will give notice of the alleged violation to the person responsible and to any known agent of the person. The notice must:
 - 1. Be in writing;
 - 2. Include a statement of why it is being issued;
 - 3. Allow a reasonable time for the performance of any required action;
 - 4. Be served on the owner, the owner’s agent, or the occupant. The notice may be served:
 - On the owner or owner’s agent personally;
 - Sent by registered mail to the owner or owner’s agent last known address;
 - A copy is posted in a conspicuous place in or about the dwelling affected by the notice;
 - The owner or owner’s agent is served with the notice by any other method authorized or required under the laws of the State of Indiana.
 - 5. The notice must contain an outline of remedial action which, if taken, will affect compliance with this chapter.
- B. **Hearing**
 - 1. Any person affected by a notice issued by the Health Officer may request and will be granted a hearing before the Board of Public Health. Any person affected by a notice issued by the Building Commissioner may request and will be granted a hearing before the Board of Public Works and Safety. The person must file a written petition requesting a hearing in the office of the Health Officer or Building Commissioner, within 10 days following service of the notice. On receipt of the petition, the Health Officer or Building Commissioner, will arrange a time and place for the hearing and provide this information to the petitioner.
 - 2. The hearing must be held as soon as possible after receiving the petition. At the hearing, the petitioner will be given an opportunity to be heard and to show cause why the notice does not require compliance.
- C. After the hearing, the respective Board will support, modify, or withdraw the notice, to comply with the provisions of this chapter. If the respective Board supports or modifies the notice, it is deemed to be an order. Any notice served according to division (A) of this article automatically becomes an order if a written petition for a hearing is not filed in the office of the Health Officer or Building Commissioner within 10 days after the notice is served. When the Board supports the notice to suspending a permit required by this chapter, the permit is considered revoked.

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Any permit which suspended by a notice is automatically revoked if a petition for hearing is not filed in the office of the Health Officer or Building Commissioner within 10 days after a notice is served.

- D. The proceedings at the hearing, including the findings and decision of the Board, will be summarized, written, and entered as public record in the offices of the Board. The record will include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Board may seek relief in any court of competent jurisdiction, as provided by the laws of the State of Indiana.
- E. Whenever the Health Officer finds an emergency requiring immediate action to protect the public health, the Officer may, without notice or hearing, issue an order indicating the existence of an emergency and require action be taken to meet the emergency. The emergency order is effective immediately. The person to whom an order is directed must comply immediately, but on petition to the Health Officer, will be afforded a hearing as soon as possible in the manner provided in division (B). After the hearing to determine if the provisions of this chapter have been complied with, the Board will continue, or modify, or revoke the order.

9.3 BASIC EQUIPMENT AND FACILITIES

A dwelling unit with the purpose living, sleeping, cooking, or eating must comply with the following requirements:

- A. Every dwelling unit must contain a kitchen sink in good working condition and properly connected to a water and sewer system approved by the Building Commissioner.
- B. Every dwelling unit must contain a room which provides privacy to a person within the room. This room must be equipped with a flush water closet and a lavatory in good working condition and properly connected to a water and sewer system approved by the Health Officer or Building Commissioner.
- C. In all buildings where all or part of the building drain or plumbing system lies below the crown level of the main sewer, the sewage or building wastes discharging from the lines must be lifted by approved mechanical means and discharged into the building sewer.
- D. There must be a fully equipped bath and toilet facility for each dwelling unit.
- E. Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of divisions (A), (B), (C), and (D) of this section must be properly connected with water line.
- F. Every dwelling unit must be supplied with adequate rubbish storage facilities.
- G. Every dwelling unit must have adequate garbage disposal facilities or garbage storage containers.
- H. Every dwelling unit must have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the state laws and ordinances of the City.
- I. Where public water supply and public sewer service are not available, the owner of a dwelling must furnish a supply of safe water and a private disposal system approved by the Health Officer or Building Commissioner.

9.4 LIGHT, VENTILATION, AND HEATING

A dwelling unit must comply with the following requirements:

- A. Every habitable room must have at least 1 window or skylight facing directly outdoors. The minimum total window area, measured between stops, for every habitable room is 7% of the floor area of the room.
- B. Every habitable room must have at least 1 window, skylight, or other device which can easily be opened to adequately ventilate the room. The total of openable window area in every habitable room must be equal to at

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least 45% of the minimum window area size or minimum skylight type window size, as required in division (A) of this section, unless some other device is approved by the Health Officer or Building Commissioner.

- C. Every bathroom and water closet compartment must comply with the light and ventilation requirements for habitable rooms contained in divisions (A) and (C) of this section, unless equipped with a ventilation system approved by the Health Officer or Building Commissioner.
- D. Every dwelling must have properly installed heating facilities maintained in safe and good working condition that are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments to a temperature of at least 68 F, at a distance of 3 feet above floor level, under ordinary minimum winter conditions.
- E. Every public hall and stairway must conform with the latest edition of Indiana Electrical Rules and Regulations.
- F. When the Health Officer required protection against mosquitoes, flies, and other insects, every door opening and every window or other device with openings to outdoor space, used for ventilation must have supplied screens and a self-closing device. The Health Officer will not require screens in rooms deemed high enough in the upper stories of buildings as to be free from insects, and in rooms located in areas of the city deemed by the Health Officer to have so few insects that screens are unnecessary.
- G. Every basement or cellar window used for ventilation, and every opening to a basement which could provide an entry for rodents, must be supplied with a screen or other device to prevent their entrance.

9.5 MAINTENANCE

A dwelling unit must comply with the following maintenance requirements:

- A. Every foundation, floor, wall, ceiling, and roof must be reasonably weathertight, watertight, and rodent proof; capable of affording privacy; and kept in good repair.
- B. Every window, exterior door, and basement hatchway must be reasonably weathertight, watertight, and rodent proof, and kept in good working condition.
- C. Every stairway (inside or outside) and porch must be safely constructed, capable of supporting any normal use load, and kept good repair.
- D. Every plumbing fixture and water waste pipe must be properly installed, maintained in good sanitary working condition, and free from defects, leaks, and obstructions.
- E. Every water closet compartment floor surface and bathroom floor surface must be constructed and maintained to be reasonably impervious to water to keep the floor in a clean and sanitary condition.
- F. Every supplied facility, piece of equipment, or utility required under this chapter must be constructed or installed to function safely and effectively and be maintained in satisfactory working condition.
- G. No owner, operator, or occupant can remove or shut off any service facility, equipment, or utility required under this chapter. Exceptions are for temporary interruption necessary while repairs or alterations are in process, during temporary emergencies, or when discontinuing service is approved by the Health Officer or Building Commissioner.
- H. No owner can occupy, or let to any other occupant, any vacant dwelling unit unless it is clean, sanitary, and fit for human occupancy.
- I. Every roof of a dwelling must be equipped with gutters and downspouts capable of carrying off normal rainfall and be connected to a storm sewer where available. The gutters and downspouts must be kept in good repair and free from obstruction.

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9.6 MINIMUM SPACE, USE, AND LOCATION REQUIREMENTS

A dwelling unit must comply with the following requirements:

- A. Every dwelling unit must contain at least 100 square feet of floor space for the first occupant and at least 50 additional square feet of floor space for every additional occupant. The floor space is calculated on the basis of total habitable room area.
- B. In every dwelling unit of 2 or more rooms, every room occupied for sleeping purposes must contain at least 60 square feet of floor space for 1 occupant and (1) at least 40 additional square feet of floor space for each additional occupant over 12 years of age and (2) at least 30 square feet for each occupant under 12 years of age.
- C. At least 1/2 of the floor area of every habitable room must have a ceiling height of at least 7 feet. If the ceiling height is less than 5 feet, the floor area is not used in computing the total floor area of the room when determining the maximum permitted occupancy.
- D. No basement or cellar space can be used as a dwelling unit unless:
 1. The floor and walls are impervious to underground and surface runoff water leakage and are insulated against dampness;
 2. The total of window area in each room is at least equal to the minimum window area sizes required in [Section 9.4\(A\)](#);
 3. The total of openable window area in each room is at least equal to the minimum as required under [Section 9.4\(B\)](#) except where another device provides adequate ventilation and is approved by the Health Officer or Building Commissioner; and
 4. Every window below the grade of the ground adjoining the window must have a lightwell or area way extending at least 30 inches out from the window for the entire depth and width of the window.

9.7 RESPONSIBILITIES OF OWNERS AND OCCUPANTS

- A. Every owner of a dwelling containing more than 4 dwelling units is responsible for maintaining the public area of the dwelling in a clean and sanitary condition.
- B. Every occupant of a dwelling must keep clean and sanitary the part of the dwelling which he or she occupies and controls.
- C. Every occupant of a dwelling must dispose of all his or her rubbish in a clean and sanitary manner by placing it in the rubbish container required by [Section 9.3\(F\)](#).
- D. **Waste Disposal**
 1. Every occupant of a dwelling must dispose of all his or her garbage and any organic waste which might provide food for rodents, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by [Section 9.3\(G\)](#).
 2. In a dwelling containing more than 4 dwelling units, it is the responsibility of the owner to provide containers for all dwelling units. In all other cases it is the responsibility of the occupant to furnish facilities or containers.

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- E. Every occupant of a dwelling is responsible for hanging all screens when required under the provisions of this chapter, or of any rule or regulation adopted, except where the owner has agreed to supply the service to hand screens.
- F. Every occupant of a dwelling containing a single dwelling unit is responsible for the extermination of any insects, rodents, or other pests on the premises. In a dwelling containing more than 1 dwelling unit, every occupant is responsible for the extermination is his or her dwelling unit is the only one infested. If infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonably insect proof condition, extermination is the responsibility of the owner.
- G. Every occupant of a dwelling unit must keep all plumbing fixtures in a clean and sanitary condition and is responsible for the exercise of reasonable care in the proper use and operation thereof.

9.8 ROOMING HOUSES

No person can operate a rooming house or can occupy or let to another for occupancy any rooming unit in any rooming house, unless in compliance with the provisions of every section of this chapter except the provisions of **Section 9.3** and **Section 9.7**.

- A. No person can operate a rooming house unless holding a valid rooming house license issued by the office of the Clerk-Treasurer. The license must be in the name of the operator and for the specific dwelling unit. The operator must apply to the office of the Building Commissioner for a permit for the license, which is issued by the office of the Clerk-Treasurer on compliance by the operator, to the satisfaction of the Building Commissioner, and with the applicable provisions of this chapter. This license must be displayed in a conspicuous place within the rooming house at all times. The license is not transferable. Every person holding a license must give written notice to the office of the Clerk-Treasurer and the Building Commissioner within 24 hours of selling, transferring, giving away, or otherwise disposing of ownership, interest, or control of any rooming house. The notice must include the name and address of the person succeeding to the ownership or control of the rooming house. Every rooming house license expires at the end of 1 year following its issue date, unless suspended or revoked.
- B. If an application for a permit to obtain a license to operate a rooming house is denied, a person may request a hearing, according to **Section 9.2**.
- C. If upon inspection of any rooming house, the Health Officer or Building Commissioner finds conditions or practices in violation of any provision of this chapter, the Health Officer or Building Commissioner will give notice in writing to the operator of the rooming house. Unless conditions or practices are corrected within a reasonable period determined by the Health Officer or Building Commissioner, the operator’s rooming house license will be suspended. At the end of that period the Health Officer or Building Commissioner, will reinspect the rooming house. If he or she finds conditions or practices have not been corrected, he or she will give notice in writing to the operator that the license has been suspended. On receipt of notice of suspension, the operator must immediately cease operation of the rooming house. No person can then occupy any rooming unit in the rooming house for sleeping or living purposes.
- D. Anyone whose license to operate a rooming house has been suspended, or who has received notice from the Health Officer or Building Commissioner that his or her license will be suspended unless existing conditions or practices at his or her rooming house are corrected, may request and will be granted a hearing on the matter before the Board of Public Health or the Board of Public Works and Safety under the procedure provided by **Section 9.2**. If no petition for the hearing is filed within 10 days after the day on which the license was suspended, the license is automatically revoked.

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- E. At least 1 flush water closet, lavatory basin, and bathtub/shower, that is properly connected to a water and sewer system approved by the plumbing inspector of the Building Commissioner's office and is in good working condition, must be supplied for each 10 persons residing within a rooming house. This includes members of the operator's family wherever they share the use of the facilities. In a rooming house where rooms are let only to males, flush urinals may be substituted for no more than 1/2 of the required number of water closets. All facilities must be reasonably accessible from a common hall or passageway to all people sharing the facilities. Every lavatory basin and bathtub/shower must always be supplied with hot water. No facilities can be in a basement without written approval of the Health Officer or Building Commissioner.
- F. The operator of every rooming house must change supplied bed linen and towels at least once each week, and before letting a room to any occupant. The operator is responsible for maintaining all supplied bedding in a clean and sanitary manner.
- G. Every room occupied for sleeping purposes must contain at least 60 square feet of floor space for 1 occupant and (1) at least 40 additional square feet of floor space for each additional occupant over 12 years of age and (2) at least 30 square feet for each occupant under 12 years of age in accordance with **Section 9.6(C)**.
- H. Every rooming unit must have safe, unobstructed means of egress leading to safe, open space at ground level as required by the laws of the State of Indiana and this City.
- I. The operator of every rooming house is responsible for the sanitary maintenance of all walls, floors, and ceilings, and for sanitary maintenance of every other part of the rooming house, and is further responsible for the sanitary maintenance of the entire premises where the structure leased or occupied by the operator.
- J. Every provision of this chapter which applies to rooming houses also apply to hotels, unless any provision is found in conflict with the laws of the State of Indiana or with the lawful regulations of any state board or agency.
- K. The Health Officer is empowered to suspend the operation of **Section 9.6 (A), (B)**, and **Section 9.8(G)** by written order the Officer deems an emergency exists. No order suspending operation of **Section 9.6(A)** and **Section 9.8(G)** will be longer than 10 days.

9.9 UNFIT DWELLINGS, CONDEMNATION

- A. Designating dwellings as unfit for human habitation, condemnation and placarding of unfit dwellings must be carried out in compliance with the following requirements.
 1. Any dwelling found to have any of the following defects will be condemned as unfit for human habitation. It will be designated and placarded by the Health Officer or Building Commissioner.
 2. Any dwelling so damaged, decayed, dilapidated, insanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or the public.
 3. Any dwelling which lacks illumination, ventilation, or sanitary facilities adequate to protect the health or safety of the occupants or the public.
 4. Any dwelling which, due to its general condition or location, is insanitary or otherwise dangerous to the health or safety of occupants or the public.
- B. Any dwelling condemned as unfit for human habitation, and so designated and placarded by the Health Officer or Building Commissioner, must be vacated within 60 days as ordered by the Health Officer or Building Commissioner.
- C. Any dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation must not again be used for human habitation until written approval is secured from, and the placard is removed by, the

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Health Officer or Building Commissioner. The Health Officer or Building Commissioner will remove the placard when the condemnation defects have been eliminated.

- D. No person will deface or remove the placard from any dwelling condemned and placarded as unfit for human habitation, except as provided in division (C) above.
- E. Any person affected by notice or order relating to the condemning and placarding of a dwelling as unfit for human habitation may request and will be granted a hearing on the matter before the Board of Public Health and Hospitals or the Board of Public Works and Safety under the procedures set forth in **Section 9.19**.

9.10 CONFLICTS

If one of this chapter's provisions conflicts with a pre-existing provision, health ordinance, or city code, the provision that promotes a higher standard for the health and safety of the people will supersede the other. Any pre-existing code found to conflict with this chapter and establish a lower standard for the health and safety of the people will be repealed.

9.11 FAIR HOUSING: POLICY STATEMENT

City policy should provide for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and **I.C. 22-9.5-1** et. seq.

9.12 FAIR HOUSING DEFINITIONS

For this subchapter the following definitions apply unless the context clearly indicates or requires a different meaning.

Aggrieved Person: Includes any person who (see **I.C. 22-9.5-2-2**):

- 1. Claims to have been injured by a discriminatory housing practice; or
- 2. Believes that such person will be injured by a discriminatory housing practice that is about to occur.

Commission: The Indiana Civil Rights Commission created pursuant to **I.C. 22-9-1-4** et. seq. (see **I.C. 22-9.5-2-3**).

Complainant: A person, including the Commission, who files a complaint under **I.C. 22-9.5-6** (see **I.C. 22-9.5-2-4**).

Discriminatory Housing Practice: An act that is unlawful under Sections 9.14, 9.15, 9.16, 9.17 or 9.18 of this chapter or **I.C. 22-9.5-5**.

Dwelling: Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by 1 or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as or designed or intended for occupancy as a residence by 1 or more families (see **I.C. 22-9.5-2-8**).

Familial Status: One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination based on familial status applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

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Family: A single individual, with the status of such family being further defined in the definition of **Familial Status** of this section. Also, pursuant to 24 CFR Part 5, the definition of **Family** is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members (see [I.C. 22-9.5-2-9](#)).

Handicap: With respect to a person:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
2. A record of having such an impairment;
3. Being regarded as having such an impairment;
4. An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; or
5. Any other impairment defined under [I.C. 22-9.5-2-10](#).

The term **Handicap** does not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code (see [I.C. 22-9.5-2-10\(b\)](#)); nor does the term **Handicap** include an individual solely because that individual is a transvestite (see [I.C. 22-9.5-2-10\(c\)](#)).

Person: One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries (see [I.C. 22-9.5-2-11](#)).

To Rent: To lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant (see [I.C. 22-9.5-2-13](#)).

9.13 FAIR HOUSING:UNLAWFUL PRACTICE

Subject to the provisions of division (B) of this section, Section 9.19 of this chapter, and [I.C. 22-9.5-3](#), the prohibitions against discrimination in the sale or rental of housing set forth in [I.C. 22-9.5-5-1](#) and in Section 9.14 apply to:

- A. All dwellings except as exempted by subsection (B) and [I.C. 22-9.5-3](#).
- B. Other than the provisions of division (C) of this section, nothing in [Section 9.14](#) apply to:
 1. A private individual owner who sells or rents a single-family house, provided the owner does not own more than three such houses at one time. Within a 24-month period, this exemption can only apply to the sale of one such single-family house by a private individual who is not the current resident. A private individual may not retain any interest or proceeds from the sale or rental of more than 3 single-family houses at any one time. An exemption from this section is only applicable if the house is sold or rented:
 - a. Without the use of sale or rental facilities, or any person in the business of selling or renting dwellings, or the agent of any such person; and
 - b. Without the publication or notice of advertisement or written notice in violation of Section 9.14(C) of this chapter; this provision additionally prohibits the use of professional assistance necessary to perfect or transfer this title, such as attorneys, escrow agents, and title companies; or
 2. Dwellings containing living quarters intended for no more than four families living independently of each other, if the owner actually maintains and occupies 1 unit.
- C. For the purposes of division (B), a person is in the business of selling or renting dwellings if:

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1. They have, within the preceding 12 months, participated as principal in 3 or more transactions involving the sale or rental of any dwelling or any interest therein;
2. They have, within the preceding 12 months, participated as agent, other than in the sale of their own personal residence, in providing sales or rental facilities or services in 2 or more transactions involving the sale or rental of any dwelling or any interest therein, or
3. They are the owner of any dwelling unit designed for occupancy by five or more families.

9.14 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

As made applicable by [Section 9.13](#) and except as exempted by [Section 9.13\(B\)](#) and [Section 9.19](#), it is unlawful:

- A. To refuse to sell or rent after making an offer, or to make a dwelling unavailable to any person because of race, color, religion, sex, handicap, familial status, or national origin.
- B. To discriminate the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities associated with sale or rental, because of race, color, religion, sex, handicap, familial status or national origin.
- C. To make or publish any material, regarding the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin.
- D. To indicate that a dwelling is not available for inspection, sale or rental on the basis of a person's race, color, religion, sex, handicap, familial status or national origin.
- E. To profit by inducing any person to sell or rent any dwelling through representations regarding the entry into the neighborhood of any person of a particular race, color, religion, sex, handicap, familial status or national origin.
- F. To discriminate in the sale or rental, or to make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:
 1. That buyer or renter;
 2. A person intending to reside in that dwelling after it is sold, rented, or made available; or
 3. Any person associated with that person.
- G. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of the services or facilities in connection with the dwelling, because of a handicap of:
 1. That person;
 2. A person or intending to reside in that dwelling after it is sold, rented, or made available; or
 3. Any person associated with that person.
- H. For purposes of this division, discrimination includes:
 1. A refusal to permit, at the expense of the handicapped person, reasonable modification of existing premises if such modification becomes necessary to afford the occupant full enjoyment of the premises. In the case of a rental, permission for modification may be qualified by the condition that the interior of the rental must be restored to the condition that existed before the modifications, reasonable wear and tear excepted.

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2. A refusal to make reasonable accommodations in rules, policies, practices, or services when necessary to afford such person equal opportunity to use and enjoy a dwelling; or
 3. Covered multi-family dwellings intended for first occupancy at least 30 months after September 13, 1998, must be designed and constructed in a manner that:
 - a. The public use portions of such dwellings are readily accessible to and usable by handicapped persons;
 - b. All the doors designed to allow passage into and throughout the premises within such dwellings are wide enough to allow passage by handicapped persons in wheelchairs; and
 - c. All premises within such dwellings contain the following features of adaptive design:
 - i. An accessible route into and through the dwelling;
 - ii. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - iii. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.
 4. Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of division (H)(3)(c)3.
- I. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

9.15 FAIR HOUSING: DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

- A. It is unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.
- B. As used in this section, the term residential real estate-related transaction means any of the following:
 1. The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - b. Secured by residential real estate.
 2. The selling, brokering, or appraising of residential real property.
- C. Nothing in this subchapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

9.16 FAIR HOUSING: DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE

It is unlawful to deny any person participation in any organization any service relating to the business of selling or renting dwellings, including membership or participation in any multiple-listing service or real estate brokers'

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organization, or to discriminate against them in the terms or conditions of access, on account of race, color, religion, sex, handicap, familial status or national origin.

9.17 FAIR HOUSING: INTERFERENCE, COERCION, OR INTIMIDATION

It is unlawful to coerce, intimidate, or interfere with any person in the participation or enjoyment of any right granted or protected by Sections 9.13, 9.14, 9.15, or 9.16 of this chapter.

9.18 FAIR HOUSING: PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES

Anyone, regardless of code or law, who exerts force or threat of force in an attempt to willfully injure or interfere with:

- A. Any person because of their race, color, religion, sex, handicap, familial status, or national origin and because they have sold, purchased, rented, financed, or occupied, or negotiated regarding any dwelling, or have been involved in as such, including application or participation in any service or organization relating to the business of selling or renting dwellings; or
- B. Through intimidation, preventing any person from:
 - 1. Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities or facilities described in division (A); or
 - 2. Affording another person opportunity or protection to participate; or
- C. Any citizen because they are, or attempting to, discourage any citizen from lawfully aiding other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities or facilities described in division (A), or participating lawfully in speech or peaceful assembly. Opposing any denial of participation will be fined according to local, state, and federal law; and if bodily injury results fines will not exceed more than \$10,000, or as allowed by law.

9.19 FAIR HOUSING: EXEMPTIONS

- A. Exemptions defined or set forth under ***I.C. 22-9.5-3*** et seq. are exempt from the provisions of this subchapter to include those activities or organizations set forth under divisions (B) and (C) of this section.
- B. Nothing in this subchapter prohibits a religious organization or any nonprofit institution operating in conjunction with a religious organization, from limiting the sale or rental of non-commercial dwellings to persons of the same religion, unless membership in such religion is restricted on account of race, color or national origin. Nothing in this subchapter prohibits a private club, which adjacent to its primary purpose provides non-commercial lodgings, from limiting the rental such lodging to its members.
- C. Nothing in this subchapter regarding familial status applies regarding housing for older persons. As used in this section, **Housing For Older Persons** means housing:
 - 1. Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program);
 - 2. Intended for, and solely occupied by, person 62 years of age or older; or
 - 3. Intended and operated for occupancy by at least 1 person 55 years of age or older per unit.

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9.20 FAIR HOUSING: ADMINISTRATIVE ENFORCEMENT OF REGULATIONS

- A. The authority and responsibility for administering this subchapter and referral of complaints to the Commissioner as set forth in division (B) is given to the Chief Elected Official of the City.
- B. Notwithstanding the provisions of *I.C. 22-9.5-4-8*, the City, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the subchapter, elects to refer all formal complaints of violation of the articles of this subchapter by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to *I.C. 22-9.5-6* and the Chief Elected Official of the City, will refer all said complaints to the Commission as provided for under division (A) of this section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under *I.C. 22-9.5-6*.
- C. All executive departments and agencies of the City will administer their programs and activities relating to housing and urban development in a manner that furthers the purposes of this subchapter, including cooperation with the Chief Elected Official and the Commission.
- D. The Chief Elected Official of the City or their designee will provide information on solutions available to complainant requesting such information.

9.21 PENALTY

Anyone who violates any provision of this chapter without a defined penalty will be fined not more than \$1,000. A separate offense is committed on each day that a violation occurs.

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10.1 SHORT TITLE

The ordinances, as amended, comprising Chapter 10 of the Batesville Development Code, are referred to as the Code of Land Use Definitions of Batesville, Indiana, 2021, or Land Use Definitions.

10.2 GENERAL PROVISIONS

- A. The definitions contained in this chapter are applied in the interpretation of all chapters of this title, except where the context clearly indicates otherwise.
- B. Words used in the present tense, singular number, and masculine gender, also mean the future, plural, and feminine.

10.3 SPECIFIC DEFINITIONS

For this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

Aa

Abandonment: The relinquishment of property or a cessation of the use of the property for a continuous period of 1 year by the owner without the intention of transferring rights of the property to another owner nor of resuming the use of the property.

Abutting: Having a common border, including separating from the common border by a right-of-way, easement, body of water, or other feature.

Accessory Building: A building or structure subordinated to another structure located on the same lot which does not change or alter the character of the premises such as garages, sheds, public utility installations, etc.

Accessory Use: A use that is incidental to, subordinate to, and commonly associated with the operation of the principal use of the premises. The accessory use must be operated and maintained under the same ownership and on the same premises as the principal use.

Administrator: The officer appointed and/or delegated the responsibility for the administration of this title’s regulations by the Common Council.

Adult Arcade: Any place to which the public is permitted or invited to wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image producing devised are maintained to show images to 5 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult Bookstore, Adult Novelty Store, or Adult Video Store:

1. A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction of specified sexual activities or specified anatomical areas; or
 - b. Instruments, devices, or paraphernalia designed for use in connection with specified sexual activities.

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2. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as **Adult Bookstore**, **Adult Novelty Store**, or **Adult Video Store**. Other business purposes will not serve to exempt commercial establishments from being categorized as an **Adult Bookstore**, **Adult Novelty Store**, or **Adult Video Store** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Cabaret: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity or semi-nudity;
2. Live performances which are characterized by the exposure or specified anatomical areas or by specified sexual activities; or
3. Films, motion pictures, videocassettes, slides or other photographic reproductions characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Entertainment Business: An adult bookstore, adult motion picture theater, adult cabaret, adult live entertainment arcade, or any other use where entertainment of a sexually explicit nature is provided, regardless of whether the entertainment is ongoing or periodic.

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

Advisory Plan Commission: The Batesville Advisory Plan Commission.

Agricultural Land Use: Use of land for the production of animal or plant life, including forestry, pasturing or yarding of livestock, and planting, growing, cultivating, and harvesting crops for human or livestock consumption.

Agriculture: The art or science of cultivating the ground, and raising and harvesting crops, often including feeding, breeding and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for a man's use and their disposal by marketing or otherwise. In this broad use, it includes farming, horticulture, forestry, dairying, sugar making, and the like.

Aisle: A maneuvering space in a parking area which is:

1. Immediately adjacent to a parking space;
2. Used for and/or is necessary for turning, backing or driving forward a motor vehicle into a parking space; but
3. Not used for the parking or storage of motor vehicles.

Alley: A permanent public service way or right-of-way, other than a street, designed to provide a secondary means of access for the special purpose accommodation of abutting property.

Annexation: The process by which a municipality may add territory to itself, as specified in [I.C. 36-4-3-1](#) to [36-4-3-21](#), as amended.



Antenna: Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when that system is either external to or attached to the exterior of a structure.

Applicant: The owner or legal representative of real estate making an application to the Plan Commission and/or Board of Zoning Appeals for action by the commission or board.

Awning: A covering mounted over doors and/or windows, usually made of canvas or other cloth material on an aluminum frame and extending from the building not more than 8 feet, attached to the building for protection from rain or for aesthetic purposes.

Bb

Basement: A portion of a building located partly underground but having less than 2/3 of its floor-to-ceiling height below the average grade of the adjoining ground.

Berm: A man-made, formed, earth mound of definite height and width used for landscaping and obscuring purposes, the intent of which is to provide a transition between uses of differing intensity.

Billboard or Advertising Sign: An off-site sign that directs attention to an object as described in the definition of sign. However, an advertising sign are not associated with the primary use, business activity, or service conducted on the premises.

Block: A unit or property surrounded by public highways, streets, railroad rights-of-way, waterways, or other barriers, or a combination thereof.

Board: The Advisory Board of Zoning Appeals of the City of Batesville.

Board of Works: The Board of Public Works and Safety of the City of Batesville.

Buffer Landscaping: Any trees, shrubs, walls, fences, berms, space, or related landscaping features required under this title on private lots, and privately maintained, for buffering lots from adjacent properties or public rights-of-way for the purpose of increasing privacy and aesthetics.

Building: A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels, or property. When separated by party walls, without any opening through walls, each portion of a building are considered a separate structure.

Building Area: The horizontal area of the buildings on a lot, measured from the outside exterior walls, excluding open areas or terraces, unenclosed porches or decks, and architectural features that project no more than 2 feet.

Building, Attached: A building that is structurally connected to another building by a foundation, wall(s), or roof line. Carports, garages, porch awnings, etc. are considered attached buildings and abide by all regulations pertaining to primary buildings.

Building Code: The city ordinance establishing and controlling the standards for constructing mechanical equipment, and all forms of permanent structures and related matters within the city. Also referred to as the Batesville Building Code.

Building Commissioner: The Building Commissioner of the City or his or her authorized representative.

Building, Detached: A building having no structural connection with another building.

Building Footprint: The profile of a building or structure as viewed from above the roof looking downward toward ground level.

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Building Height: The vertical distance measured from the lot ground level to the highest point of the roof for a flat roof, to the deck line of a mansard roof, and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

Building Line: The line within a lot that defines a minimum horizontal distance to be provided between an exterior building wall or building support and the adjacent property line. Except as specifically provided in this Ordinance, no portion of any building or structure may extend to occupy any portion of a lot outside its building lines.

Building Permit: A permit signed by the Building Commissioner stating that a proposed improvement complies with all applicable ordinances.

Building, Principal: A building in which is conducted the main or principal use of the lot on which the building is situated. Where a part of an accessory building is attached to the principal building in a substantial manner, as by a roof, the accessory building are considered a part of the principal building.

Business Use: A use that involves the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, or the maintenance or operation of offices, recreational, or amusement enterprises for profit.

Business District: Generally, refers to a B-1, B-2, B-3 or B-4 District.

BZA: The Advisory Board of Zoning Appeals of the City of Batesville, Indiana.

Cc

Capacity, Storm Drainage Facility: The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

Cellar: A portion of a building located partly or wholly underground and having 2/3 or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Channel: A natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between 2 bodies of water. It has a defined bed and banks which serve to confine the water.

Childcare: For purposes of I.C. 12-17.2 and I.C. 31-27-3, a service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

City: The City of Batesville, Indiana. Also, any employee or representative delegated a responsibility authorized through this code.

City Engineer: The resident City Engineer of the City of Batesville, Indiana, or a consulting engineer employed by the City of Batesville.

Co-Location, Communication Facility: A communication facility comprised of a single communication tower or building supporting 1 or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

Commercial Use: A use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over any period.

Commission: The City of Batesville Advisory Plan Commission.

Composting: A controlled process of degrading organic material by microorganisms.

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Comprehensive Plan: The City of Batesville Comprehensive Plan.

Conceptual Plan: A preliminary presentation and attendant documentation of a proposed subdivision or site plat showing the specific location and design of improvements to be installed for the subdivision or site in accordance with the requirements of this plan as a condition of the approval of the plat.

Contiguous: Adjoining or in actual contact with.

Council: The Common Council of the City of Batesville, Indiana.

County: Ripley County or Franklin County, Indiana, depending on the location of the premises.

Covenants: Private and legal restrictions of various kinds on the usage of property within a subdivision or development which are proposed by the Developer.

Cul-de-Sac: A short residential street having one end open to traffic and being permanently terminated by a vehicle turn-around.

Cut: An excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.

Dd

Dam: An earthen, concrete, or other material constructed to hold back or control the level of water.

Dedication: The setting apart of land or interests in land for use by the public by ordinance, resolution, or entry in the official minutes as by the recording of a plat.

Density: The number of dwelling units developed per acre of land.

Density, High: Residential development having a density more than 10 dwelling units per gross acre. Also refers to an R-4 Zoning District.

Density, Low: Residential development having a density equal to or less than 3 dwelling units per gross acre. Generally, refers to an RS or R-1 Zoning District.

Density, Medium: Residential development having a density of 3 to 10 dwelling units per gross acre. Generally, refers to an R-2 or R-3 Zoning District.

Design Standards Variance: A specific approval granted by a Board of Zoning Appeals to deviate from the development standards (such as height, bulk, area).

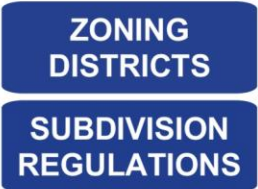
Detention Basin: A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

Developer: The owner or legal representative of land proposed to be subdivided or developed for any use.

Development: Any man-made change to improved or unimproved real estate including, but not limited to buildings and other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

Development Plan: Specific plans for the residential, commercial, or industrial developments or other development of property setting forth certain information and data required by the Plan Commission.

Development Regulation: Zoning, subdivision, site plan, floodplain regulation, or other governmental regulation of the use and development of land.



District: A section of the City of Batesville for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings are established.

Drainage: The removal of surface water or groundwater from land by drains, grading, or other means.

Drainage Area: The area from which water is carried off by a drainage system; a watershed or catchment area.

Drainage Facility: Any component of the drainage system.

Drainage System: The system through which water flows from the land, including all watercourses, water bodies, and wetlands.

Dwelling: Any building or any part thereof which is wholly, or partly used, or intended to be used, for living or sleeping by human occupants. Temporary housing as is not regarded as a dwelling. A dwelling does not include hotels or motels, lodging or boarding houses, or tourist homes.

Ee

Easement: A grant of the property owner of the use of a strip of land by the public or a person for specified purposes.

Environmental Constraints: Features, natural resources, or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

Escort (As It Relates to The Adult Entertainment Business): Any person who, for consideration, agrees or offers to act as a companion, guide, or date for another person and who agrees or offers to privately model lingerie; perform a striptease, appear in a state of nudity or partial nudity or display any specified anatomic areas.

Escort Agency (As It Relates to The Adult Entertainment Business): A person or business association, who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary purposes for a fee, tip, or other consideration.

Establishment (As It Relates to The Adult Entertainment Business): Includes any of the following:

1. The opening of commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether a sexually oriented business, to any sexually oriented business;
3. The additions of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

Excavation: Any act by which earth, sand, gravel, rock, or any other similar material is dug into, cut quarried, uncovered, removed, displaced, relocated or bulldozed, and include the conditions resulting therefrom.

Extermination: The control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing or making inaccessible materials which may serve as their food, by poisoning, spraying, fumigating, trapping, or by other recognized and legal pest trapping, or by other recognized and legal pest elimination methods approved by the Health Officer.

Ff

Family: An individual or 2 or more persons related by blood, marriage or adoption, including foster children and bona fide domestic servants employed on a full-time basis by the family in the dwelling unit, living together as a single



housekeeping unit in a dwelling unit and also including roomers, provided that the family plus the roomers do not exceed 5 people does not apply when the entire group living in the dwelling unit consists of persons related by blood, marriage or adoption, including foster children and domestic servants.

Fee Schedule: Schedule of fees established by Common Council and maintained in the Clerk-Treasurer's office that specifies all current permit fees, rates, and the like.

Fill: Any act by which earth, sand, gravel, rock, or any other material is placed, pushed, dumped, pulled, transported, or moved to a new location above the natural surface of the ground or on top of the stripped surface and include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade.

Final Approval: The official action of the Plan Commission taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans, and other requirements have been completed or fulfilled and the required improvements have been installed, or guarantees properly posted for their completion, or approval conditioned upon the posting of a guarantee (generally referred to as secondary approval).

Final Plat: The final map of all or a portion of a development which is presented for final approval (generally referred to as secondary plat.)

Flag: Any fabric or bunting containing colors, patterns, or symbols.

Floor Area, Gross: The total area, computed on a horizontal plane, within the outside dimensions of a building.

Floor Area, Ground: The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of porches, breezeways, terraces, garages and exterior stairways or other devices. A ground floor may have split levels provided there is not more than a 5-foot difference in elevations between the different levels of the floor. (See **Occupied Space** for manufactured dwellings.)

Floor Area, Net: The total area, computed on a horizontal plane, used for a particular business category; exclusive of entrances, hallways, stairs and other accessory areas used for ingress and egress.

Foundation: The supporting member of a wall or structure.

Freeway or Expressway: Any roadway that operates at a high service level, consists of limited access, is divided, carries region-wide traffic, and is generally classified as part of an interstate system.

Front Line: With respect to a building, the foundation line that is nearest the front lot line.

Frontage: All the property on 1 side of a street between 2 intersecting streets (crossing or terminating) measured along the line of the street or, if the street is a dead-end, then all the property abutting on 1 side between an intersecting street and the dead end of the street.

Frontage Street: A local street that runs parallel to an arterial street to serve abutting properties and control access.

Gg

Garbage: The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Governing Body: The Common Council of the City of Batesville, Indiana.

Grade: The inclination or slope of a channel, canal, conduit, and the like, or natural surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance.

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Ground Cover: A planting of low-growing plants or sod that in time forms a dense mat covering the area, preventing both soil from being blown or washed away and the growth of unwanted plants.

Hh

Habitable Room: A room or other enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets, and storage spaces.

Hardship: A difficulty regarding one's ability to improve land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. Self-imposed situations and claims based on a perceived reduction of or restriction on economic gain are not 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 inhibit the desired improvement; any improvement initiated in violation of the standards of this title; any result of land division requiring variance from the development standards of this Ordinance to render the site buildable.

Health Officer: The Health Officer of the city or his or her duly authorized representative.

Historic District: An area related by historical events or themes, by visual continuity or character, or by some other special feature that helps give it a unique historical identity, which may be designated as that by local, state, or federal government.

Historic Marker: A marker commemorating a historic person or event, or identifying a historic place, structure, or object.

Historic Preservation Commission: A commission of local jurisdiction created in accordance with the provisions of I.C. 18-7-22 for the purposes of reviewing the establishment of Historic Preservation Overlay Districts, adopting and amending development standards for Historic Preservation Overlay Districts, and identifying local landmarks.

Home Occupation: An accessory use conducted entirely within a dwelling, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character or appearance thereof.

Ii

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, such as concrete, cement, asphalt, brick, paving block, rooftops, and the like.

Improvement: Any man-made, immovable item which becomes part of, is placed upon, or is affixed to real estate; also infrastructure or other facilities which aid or support land development.

Improvement Location Permit: A permit which may be combined with a building permit signed by the Building Commissioner stating that a proposed improvement or use complies with the provisions of this title of this code.

Industrial District: Refers to an I-1 or I-2 District, or a UD District when industrial uses are proposed.

Industrial Park: A single or group of structures for industrial operations forming a comprehensive arrangement of buildings, grounds, and access ways planned in accordance with harmonious principles of architectural and landscape architectural design, and industrial management.

Infestation: The presence within or around a dwelling of any insects, rodents, or other pests.

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Inlet: An opening into a storm sewer system for the entrance of surface stormwater runoff, more completely described as a storm sewer inlet.

Integrated Center: A building containing a number of individual, unrelated and separately operated uses which share common site facilities and services such as driveway entrances and exits, parking areas, truck loading, maintenance, sewer and water utilities, or similar common facilities and services; or 1 or more buildings containing individual, unrelated and separately operated uses, occupying a site under 1 ownership of management for lease, and utilizing 1 or a combination of the aforementioned common services.

Interior Lot: A lot other than a corner lot or through lot.

Interstate: Same as **Expressway** or **Freeway**. Any roadway that operates at a high service level, consists of limited access, is divided, carries region-wide traffic, and is generally classified as part of an interstate system.

Island: With respect to street design, a raised area, usually curbed, placed to guide traffic and separate lanes, or uses for landscaping, signing, or lighting.

Jj

Junk: An automobile, truck, other motor vehicle, large appliances, furniture or like material which has been damaged to an extent that it cannot be operated under its own power or used and/or will require major repairs before being made usable. This could include a vehicle which does not comply with state or city vehicle laws or ordinances.

Jurisdiction of the Commission: The territory within the city, the boundaries of which are shown on the zone map, latest edition, as amended, which includes all the area over which this title is effective.

Kk

Ll

Land Disturbing Activity: Any man-made change of the land surface, including removing vegetative cover, excavating, filling, transporting, and grading. In the context of this rule, agricultural land disturbing activities, coal mining activities permitted by the Department of Natural Resources (DNR) under I.C. 14-35-1, and active landfills permitted by the Indiana Department of Environmental Management where the permit requires soil erosion control are excluded.

Land Use Intensity: The degree to which land is used; including, livability space, landscaped pedestrian open space or recreation space, or minimum square footage of non-vehicular outdoor space or recreational space required for each square foot of floor area; the minimum number of parking spaces required for each living unit and the minimum number of parking spaces without parking time limits required for each living unit; and the maximum square footage and total floor area permitted for each square foot of land area.

Landscaping: The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. **Landscaping** may include pedestrian walks, flowerbeds, berms, fountains and other similar natural and man-made objects designed and arranged to produce an aesthetically pleasing effect.

Lattice Tower: A self-supporting support structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.

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License (As It Relates to the Adult Entertainment Business): A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

Limited Access Highway: A highway to which abutting properties are denied access or where access is limited to certain locations.

Livestock: Any animal which has been domestic primarily for agricultural purposes, but not including house pets such as dogs, cats, canaries, or any other similar animal or fowl usually considered a house pet.

Loading and Unloading Berths: The off-street area required for the receipt or distribution by vehicles of material or merchandise.

Lot: A portion of a subdivision, or other parcel of land, intended as a unit for transfer of ownership or development.

Lot Area: The horizontally projected area of a lot computed exclusive of any portion of a street.

Lot, Corner: A lot at the junction of and having frontage on 2 or more intersecting streets.

Lot Coverage: The total ground area of a lot usually expressed as a percentage of the lot area that is covered, occupied, or enclosed by principal and accessory buildings and structures.

Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot, measured in the general direction of the side lot line.

Lot Frontage: The linear distance of a lot measured at the front lot line where the lot abuts a street, measure between side lot lines.

Lot, Interior: A lot other than a corner lot, or through lot.

Lot Line: The property line between 2 established parcels of land or 1 parcel and a public right-of-way or place.

Lot Line, Front: In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the lot from the street, except in cases where deed restrictions in effect specify another street right-of-way line as the front lot line.

Lot Line, Rear: A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side: Any lot boundary line not a front lot line or a rear lot line.

Lot, Mew: A lot fronting an open space or common area served by an alley or street at the rear of the lot. The front yard setback of a mew lot is measured from the narrowest lot line abutting the open space or common area.

Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Ripley County or Franklin County, Indiana, as the case may be, or a parcel of land, the deed to which has been recorded in the office of the respective County Recorder, on or prior to July 11, 1988.

Lot, Through: A lot fronting on 2 parallel or approximately parallel streets. Also double frontage lot.

Lot Width: The dimension of a lot, measured between side lot lines on the building line.

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Mm

Maintenance Guarantee: Any security which may be required and accepted by a governmental agency to ensure those necessary improvements will function as required for a specific period.

Median: The portion of a divided highway separating lanes of traffic proceeding in opposite directions.

Monopole: A wireless communication facility which consists of a monopolar structure, erected on the ground to support wireless communication antennas and connecting appurtenances.

Monument (Survey): A permanent physical structure which marks the location of a corner or other survey point.

Motor Vehicle: Any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

Nn

Natural Resources: The Indiana Department of Natural Resources (IDNR).

Nonconforming Building: A building, structure, or portion thereof, which was designed, erected, or structurally altered so that it does not conform to the regulations of the district in which it is located.

Nude Model Studio: Any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model show does not include a proprietary school licensed by the State of Indiana or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;
2. Where to participate in a class a student must enroll at least 3 days in advance of the class; and
3. Where not more than 1 nude or semi-nude model is on the premises at any one time.

Nudity or State of Nudity: The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Nuisance: The use of land or behavior that brings harm or substantial annoyance to adjacent property owners or the public in general.

Oo

Occupant: Any person over one year of age living, sleeping, cooking, or eating in or having actual possession of a dwelling unit or rooming unit.

Occupied Space: The total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to garages, patios, and porches.

Off-Site: Located outside the lot lines of the lot in question.

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Off-Site Improvements: Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval, upon which is located improvements required by or related to the property to be subdivided.

On-Tract: Located on the property that is the subject of a development application or on a contiguous portion of a street right-of-way.

Open Space: The total horizontal area of a lot excluding the building area but including parking areas and recreational areas; provided, however, in residential districts, the open space may include the usable roof area within the project which has been improved for outdoor use of occupants, plus 1/2 of that space, such as balconies, which may be open on its sides but not open above to the sky.

Open Space, Common: Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development. It may include complementary structures and improvements.

Open Space, Public: An open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency, or other public body for recreational or conservational uses.

Operator: Any person who has charge, care or control of a building or facility, or part thereof. As it relates to erosion control, the person required to submit the NOI letter, and required to comply with the terms of Rule 5.

Ordinary Minimum Winter Conditions: The temperature which is 15°F above the lowest recorded temperature for the previous 10-year period.

Outdoor Storage: The outdoor accumulation of goods, junk, vehicles, equipment, products, or materials for permanent or temporary holding.

Owner: Any person, who, alone, jointly, or severally with others:

1. Has legal title to any dwelling unit, with or without accompanying actual possession. However, whenever the dwelling or dwelling unit is subject to conditional sales contract, lease with option to purchase, or any other form of written contract under the terms of which any person is entitled to a conveyance of legal title on payment of a specified sum, the term **Owner** means the person who has a contractual right, rather than the person who is holding legal title; or
2. Has charge, care, or control of any dwelling or dwelling unit as executor, executrix, trustee, receiver, or guardian of the owner as defined in division (1) above. Any person thus representing the actual owner is bound to comply with the provisions of this Code of Ordinances to the same extent as if he or she were the owner. Any person acting as the agent of the owner is not be construed to be the **Owner** within the terms of this Code of Ordinances but is bound to notify the owner at his or her last known address, of any order or notice to be issued by the Health Officer of Building Commissioner relating to the property of the owner.

Pp

Parcel: A piece of land having a legal description formally set forth in a conveyance together with a description of its location, shape, and size, to make possible its easy identification.

Parking Area, Private: An area paved with a hard surface in accordance with city specifications, other than a street or alley, designed for use or used for the temporary parking of more than 4 motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers.

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Parking Area, Public: An open area, other than a street or alley, designed for use or used for the temporary parking of more than 4 motor vehicles when available for public use, whether free or for compensation or as an accommodation for clients or customers, and paved with a hard surface.

Parking Lane: A lane generally located on the sides of streets, designed to provide on-street parking for vehicular traffic.

Parking, Off-Street: A parking space provided in a parking lot, parking structure, or private driveway.

Parking, On-Street: A parking space that is located on a dedicated street right-of-way.

Parking Space: A space designed for use or used for the temporary parking of a motor vehicle.

Parking Space, Automobile: Space within a public or private parking area for the storage of one passenger automobile or commercial vehicle under a 1-1/2-ton capacity.

Particulate Matter: Finely divided liquid or solid material discharged and carried along in the air. This does not include water droplets, commonly called steam.

Performance Bond: An amount of money or other negotiable security paid by the subdivider or his or her surety to the city which guarantees that the subdivider will perform all actions required by the city regarding an approved plat, and provides that if the subdivider defaults and fails to comply with the provisions of an approved plat, the subdivider or his or her surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

Performance Standard: Criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, and glare or heat generated by or inherent in uses of land or buildings.

Permanent Foundation: Any structural system transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

Person: Any entity, including any individuals, corporation, or public body holding title to or having an interest in land, operating, leasing, renting, or having made other arrangements with the title holder by which the title holder authorizes use of his or her land.

Plan: In reference to documentation, the Comprehensive Plan of Batesville, Indiana, and any other supporting or accompanying ordinances, plans, resolutions, rules, or regulations and including their provisions, except where the context clearly indicates otherwise.

Plan Commission: The Batesville Advisory Plan Commission.

Plan Commission Staff: The staff of the Batesville Advisory Plan Commission, specifically, the Building Commissioner of Batesville, Indiana, the Assistant Building Commissioner, and any other persons employed by Batesville under the supervision of the Building Commissioner who have regular duties in the Plan Commission office.

Planned Unit Development. A large-scale unified development meeting the requirements for zoning approval under the provisions of Chapter 151 of this title. Generally, a **Planned Unit Development** consists of a parcel or parcels of land to be developed as a single entity which does not correspond in size of lots, bulk or type of buildings, density, lot coverage, and required open space to the regulations established in any district specified in this title. This may result in more attractive and affordable development than conventional developments would allow. Clustered housing (dwellings built in innovative lot arrangements around common open space) and zero lot line housing (dwellings built immediately adjacent to lot lines) are possible as part of **Planned Developments**. A **Planned Unit Development**



requires approval through a zoning map amendment and development plan approval process as specified in § 151.20 of this Code of Ordinances.

Plat: A map or chart indicating the subdivision or re-subdivision of land either filed or intended to be filed for record.

Plat, Primary: The primary plat, pursuant to I.C. 36-7-4-700 series, is the plat and plans upon which the approval of a proposed subdivision is based. The primary plat and plans are subject to public notice and public hearing according to law and according to Plan Commission rules. (Under former state statutes, the **Primary Plat** was referred to as a preliminary plat.)

Plat, Secondary: The secondary plat, pursuant to I.C. 36-7-4-700 series, is the final plat document in recordable form. A **Secondary Plat** substantially conforms with the preceding primary plat. The **Secondary Plat** and plans are not subject to public notices and public hearings. **Secondary Plat** approval is an administrative function to be carried out in the manner prescribed by the written rules of the Advisory Plan Commission rules, either in public meeting or by Zoning Administrator or designated agent. (Under former state statutes, the secondary plat was referred to as the final plat.)

Plumbing: All the following supplied facilities and equipment; gas pipes, gas burning equipment, water pipes, garbage disposal equipment, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other supplied fixtures together with all connections to water sewer or gas lines.

Porch: A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

Practical Difficulty: A difficulty regarding one's ability to improve land stemming from regulations of this title. A practical difficulty is not a hardship, rather it is a situation where the owner could comply with the regulations within this title but would like a variance from the development standards to improve his or her site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the development standards for a new garage location.

Premises: A lot, tract, or plat including buildings thereon, if any.

Primary Approval: An approval that may be granted by the Plan Commission and signed and certified by the President of the Plan Commission on a plat of a subdivision in which the procedures, standards of improvement, and conditions have been met by the applicant as required by this title. A **Primary Approval** is a final decision of the Plan Commission since it may be reviewed by the courts.

Principal Building: A building in which is conducted the main or principal use of the lot on which the building is situated. Where a part of an accessory building is attached to the **Principal Building** in a substantial manner, as by a roof, the accessory building is considered a part of the **Principal Building**.

Principal Use: The main use of land or buildings as distinguished from an accessory use. A **Principal Use** may be either a permitted use or a special exception.

Private Street: Vehicular streets and driveways, paved or unpaved, which are completely within private property, except where they intersect with other streets within public rights-of-way, and are maintained by the owner.

Public Improvements: Any storm drainage facility, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, utility, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

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Public Parking Area: An open area, other than a street or alley, designed for use or used for the temporary parking of more than 4 motor vehicles when available for public use, whether free or for compensation or as an accommodation for clients or customers, and paved with a hard surface.

Public Way: Includes highway, street, avenue, boulevard, road, lane, or alley.

Qq

Rr

Recreational Vehicle: A portable vehicular structure designed as a temporary dwelling for travel, vacation and recreational uses which is either a structure mounted on an automobile or truck and designed to be used for human habitation, including sleeping, or identified on the unit by the manufacturer as a travel trailer or recreational vehicle, and is not more than 12 feet in width, and not more than 400 square feet in total area.

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

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

Regularly (As It Relates to The Adult Entertainment Business): A recurring and substantial course of conduct, so that the films or performances shown constitute a substantial portion of the films or performances offered as part of the regular activity of the sexually oriented business.

Replat: A subdivision or plat, the site of which has heretofore been platted or subdivided with lots or parcels of land.

Residential District: Refers to an RS, R-1, R-2, R-3, R-4, or a UD District when Residential Uses are proposed.

Retaining Wall: A structure erected between lands of different elevation to protect structures and/or to prevent the washing down of erosion of earth from the upper slope level.

Right-Of-Way: A strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. **Rights-Of-Way** intended for any use involving maintenance by a public agency are dedicated to the public use by the maker of the plat on which the **Right-Of-Way** is established.

Rubbish: Combustible or noncombustible waste materials, except garbage, and the term includes the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, leaves, tin cans, metals, mineral matter, glass, crockery, or dust.

Rule 5: A name given to 327 I.A.C 15-5, a rule adopted in 1992 by the Indiana State Water Pollution Control Board and administered by the Indiana Department of Environmental Management and applies to all sites where construction activity disturbs 5 acres or more.

Runoff: The portion of the precipitation from sources such as rainfall, snowmelt, or irrigation water that flows over the ground surface.

Ss

Satellite Dish: An apparatus capable of receiving audio/visual broadcasts from a transmitter relay located in planetary orbit, generally 4 to 8 feet, (1.2 to 2.4 m) in diameter.

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Satellite Dish Antenna: Any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, bowl, or cornucopia shaped and is used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

Secondary Approval: An approval that may be granted by the Plan Commission and signed and certified by the President of the Plan Commission on a plat of a subdivision which the Plan Commission has already given its primary approval before it can be filed with the County Auditor and recorded by the County Recorder, and the improvements and installations have been completed as required by the Subdivision Control Chapter; or, if the improvements and installations have not been completed as required, the applicant has provided a bond or other proof of financial responsibility in accordance with the requirements of the Subdivision Control Chapter.

Sediment: Material of soil and rock origin, transported, carried, or deposited by water.

Sedimentation: The process by which mineral or organic matter is accumulated or deposited by moving wind, water, or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as **Sediment**.

Semi-Nude or Semi-Nude Condition: The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition includes the entire lower portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other apparel provided the areola is not exposed in whole or in part.

Setback: The minimum horizontal distance between the building line and a lot line or right-of-way.

Sexual Encounter Center: A business or commercial enterprise that, as 1 of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when 1 or more of the persons is in a state of nudity or semi-nude.

Sexually Oriented Business: An adult arcade, bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Sidewalk: That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

Sign:

1. A physical embodiment of a visual communication which is intended to be viewed from outdoor public areas. In addition, it includes all parts, portions, units, and materials composing the same, together with the illumination, frame, background, structure, and support anchorage thereof.
2. This definition does not apply to the official flag, emblem, or insignia of the governmental or religious group or agency.

Sign, A-Frame: A portable, stand-alone sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form a base upon which the sign stands.

Sign, Animated: Any sign, or part of a sign, that uses any movement or change of lighting or color to depict action or create a special effect or scene.

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Sign Area: The surface area of a sign face is the entire area measured within a single continuous perimeter enclosing all elements of the sign which form an integral part of the sign, and which are organized, related, and composed to form a single unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element is considered a single sign.

Sign, Awning or Canopy: Any sign that is part of, or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Sign, Banner: A Temporary Sign of fabric, plastic, paper, or other light pliable material not enclosed in a rigid frame.

Sign, Billboard or Advertising: Any sign which advertises or directs attention to a business, commodity, service, entertainment, or any other subject matter not located, carried, or provided on the lot or parcel where the sign is located or in the building or structure where it is affixed.

Sign, Building Identification: Permanent signs mounted on the building which identify the building and/or which identify the business or profession or industry, or combination thereof, conducted on the premises.

Sign, Cabinet: A three-dimensional enclosed structure which includes all messages and copy with a single or double Sign Faces.

Sign, Development gateway and entry: A sign placed at the street entrance to a single family subdivision, multiple family development, planned unit development, office park or similar consolidated development, identifying the name of the subdivision or development.

Sign, Device: Any facility which is located outside of a principal building in a nonresidential zoning district, which may or may not also include advertising copy or logos. Examples of out-of-store marketing devices include: fuel pumps, bank ATM units, newspaper racks, drink machines, ice boxes, and phone booths.

Sign, Directory: A sign or set of similarly designed individual signs placed or displayed in sequence, to list all or part of the businesses within a building or business center.

Sign, Electronic changeable message: A portion of a sign on which copy and images may be changed electronically, including a sign with a fixed or changing display/message composed of a series of lights that is changed through electronic means.

Sign, Flying Banner: A portable, stand-alone sign comprised of light fabric that moves with the wind and can turn 360° and is supported by a pole structure and a base.

Sign, Freestanding: Any sign attached to a self-supporting sign structure standing on the ground which is essentially unattached to any other structure. Signs mounted on architecturally integrated extensions of buildings are not considered free standing.

Sign, Freeway: A freestanding sign intended to advertise or identify uses to motorists on a freeway.

Sign, Ground: A freestanding sign supported by a base which rests directly on and is permanently attached to the ground.

Sign Height: Regarding to freestanding signs, the distance measured from the average surface grade surrounding the base of a sign or the average surface grade of the roadbed nearest the base of the sign, whichever is higher, to the top of the highest element of the sign.

Sign, Illuminated: Signs or individual letters in which an artificial light source is used in order to make the message readable. This definition includes internally and externally lighted signs, and reflectorized, glowing, or radiating signs.

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Sign, Marquee: A sign that is a part of or attached to a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Sign, Monument: A sign not attached to or painted on a building, but which is mounted on a wall or structure and permanently attached to the ground. Permanently attached means that the supporting structure of the sign is attached to the ground by a concrete foundation. Monument sign structure bears no visible freestanding poles.

Sign, Off-Premise: Signs identifying a business activity, property, or product at some location other than where the sign is displayed.

Sign, On-premise: A sign directing attention to a specific business, product, service, entertainment, or any other activity offered, sold, manufactured, produced, furnished, or conducted upon the property where the sign is displayed.

Sign, Portable: Any sign that is designed to be capable of being transported, either by trailer or on its own wheels.

Sign Program: A coordinated design plan of one or more signs for an individual business establishment.

Sign, Projecting: A double-faced sign attached to a building or wall and extending perpendicular to the face of the building or wall not more than 48 inches.

Sign, Roof: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure.

Sign Structure: The supports, uprights, bracing, and framework for the sign. In the case of a sign structure consisting of 2 or more sides where the angle formed between any of the sides (or the projection thereof) exceeds 15 degrees, each side is considered a separate sign structure.

Sign, Temporary: Any sign that is not permanently attached to the ground, a building or another structure and is designed to be displayed temporarily.

Sign, T-Frame: A portable, stand-alone sign comprised of one single double-sided panel joined at the bottom to a base that is spread apart upon which the sign stands.

Sign, Tower: A freestanding sign greater than 8 feet and not more than 15 feet in height.

Sign Walker: A person waving "sales theme signs" with arrows at entrances to major highways or at corners of high traffic intersections directing customers to a sale. Also called sign twirlers, sign holders, human billboards.

Sign, Wall: Any sign attached parallel to a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface. No wall sign can extend more than 6 inches from any wall, building, or structure.

Sign, Window: Any sign that is placed inside a window or upon the windowpanes or glass either inside or outside the building and is visible from the exterior of the structure.

Site: The entire area included in the legal description of the land on which land disturbing activity has been conducted.

Slope: The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. **Slopes** are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

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

Specified Anatomical Areas:

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1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
2. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola.

Specified Sexual Activities: Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual, or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
3. Excretory functions as part of or in connection with any of the activities set forth in divisions (1) through (2) above.

Storm Sewer: A closed conduit for conveying collected stormwater.

Story: That portion of a building, including between the surface of any floor and surface of the floor next above it. If there is not floor above it, the space between the floor and the ceiling next above it is the story.

Story, Half: A story under a sloping, gable, hip, or gambrel roof, the wall plates on at least 2 opposite exterior walls of which are not more than 3 feet above the floor level of the half-story.

Street: A right-of-way or thoroughfare, other than an alley, or place dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A **Street** may be designed a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name.

Street, Arterial: A street designed for large volumes of traffic movement. Certain **Arterial Streets** may be classified as limited access highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

Street, Private: Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with other streets within public rights-of-way and are maintained by the owner(s).

Street, Public: All property dedicated or intended for public highway, freeway, or roadway purpose or subject to public easements.

Street, Residential: A street designed primarily to provide access to abutting properties, usually residential. Certain **Residential Streets** may be marginal access streets parallel to arterial streets, which provide access to abutting property and ways for traffic to reach access points on arterial streets.

Structural Alteration: Any change in the supporting members of a building or structure, such as, bearing walls, partitions, columns, beams or girders, or any substantial change in the exterior walls or the roof.

Structure: Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground except utility poles and towers.

Subdivider: Any person responsibly engaged in developing or improving a tract of land that complies with the definition of a subdivision as defined in this chapter.

Subdivision:

1. The division of any parcel of land shown as a unit, as part of a unit, or as contiguous units on the last preceding transfer of ownership, into two or more parcels, sites, or lots, for the immediate or future purpose of transfer of ownership;



2. The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures, involving the subdivision and allocation of land as streets or other open spaces for common use by owners, occupants, or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public utilities and facilities;
3. These divisions are exempt from most of the requirements of this code:
 - a. A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;
 - b. A division of land pursuant to an allocation of land in the settlement of decedent's estate or a court decree for the distribution of property;
 - c. A division of land for federal, state, or local government to acquire street right-of-way;
 - d. A division of land for the transfer of a tract or tracts between adjoining lots provided that no additional principal building sites are created by the division; or
 - e. A division of land into cemetery plots for the sole purpose of burial of corpses.

Substantial Enlargement (Of A Sexually Oriented Business): The increase in floor areas occupied by the business by more than 25%, as the floor areas existed prior to the effective date of this title.

Supplied: Paid for, furnished, or provided by or under the control of the owner or operator.

Swale: A low-lying stretch of land which gathers or carries surface water runoff.

Tt

Television Antenna: A metal tower located on or adjacent to a residence or other structure, for the purpose of receiving broadcast messages from signal and/or relay towers.

Temporary Improvement Location Permit: An improvement location permit authorized by the Advisory Board of Zoning Appeals with a definite time limit attached thereto.

Territorial Jurisdiction: The territory within the city, the boundaries of which are shown on the zone map, latest edition, as amended, which includes all the area over which this Code of Ordinances is effective.

Thoroughfare Plan: The part of the Comprehensive Plan, now or hereafter adopted, which includes a **Thoroughfare Plan** and sets forth the location, alignment dimensions, identification, and functional classification of existing and proposed streets, highways, and other thoroughfares.

Transfer of Ownership or Control (of a Sexually Oriented Business): Includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Tree: A woody perennial plant that reaches a mature height of at least 8 feet (2.4 m).

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Use: The employment or occupation of a building, structure, or land for service, benefit or enjoyment to a person.

Use, Nonconforming: An existing lawful use of land or building which fails to comply in any manner with the requirements set forth in this code applicable to the districts in which the use is located.

Use Variance: The granting of a variance to permit a use in a district in which it is otherwise prohibited. A **Use Variance** authorized by the Board with due process of law becomes a lawful nonconforming use unless a subsequent district reclassification makes it a conforming use.

Utility: Any person, firm, or corporation duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, fiber optics, transportation, water, or sewerage systems.

Vv

Variance, Development Regulations/Design Standards: Same as **Development Regulation Variance**. A specific approval granted by a Board of Zoning Appeals in the manner prescribed in § 151.40 of this code, to deviate from the development standards (such as height, bulk, area) that the title otherwise prescribes.

Ww

Yy

Yard: A space on the same lot with a building which is open and unoccupied and unobstructed by structures, except as otherwise authorized by this code.

Yard, Front: A yard extending across the full width of the lot or in the case of a corner lot extending also along the length of the lot abutting the side street, unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar appurtenances, the depth of which is the least distance between the front lot line and the building line.

Yard, Rear: A yard extending across the full width of the lot between the rear of the principal building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than 30% of the required space, and steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the rear lot line and the rear of the principal building.

Yard, Side: A yard between the building and side lot line, extending from the front yard or from the front lot line where no front yard is required, to the rear yard, unoccupied other than by architectural appurtenances projecting not more the 24 inches from the building, or open or lattice-enclosed fire escapes or fireproof outside stairways, projecting not more than 4 feet, and certain accessory uses in accordance with the provisions of this title. The width of the required side yard is measured horizontally at 90 degrees with the side lot line from the nearest point of the building.

Yard, Street Side: The yard between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the shortest horizontal distance from the side lot line abutting a street and the side setback line.

Zz

Zoning Administrator: Same as **Administrator**. The officer appointed and/or delegated the responsibility for the administration of this title's regulations by the Common Council.

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Zoning District: Same as **District**. A section of the City of Batesville for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings are established.

Zoning Map: The official zoning map of the City of Batesville, Indiana, denoting zoning districts.

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Abies concolor	White Fir	70'	30'	No		
Acer griseum	Paperbark Maple	25'	35'	No	Yes	Yes
Acer miyabei	Miyabe Maple	40'	35'	No		
Acer nigrum/saccharum subsp. nigrum	Black Maple	90'	25'	Yes	Yes	
Acer palmatum 'Osakazuki'	Osakazuki Japanese Maple	25'	15'	No		
Acer rubrum	Red Maple	90'	70'	Yes	Yes	
Acer saccharum	Sugar Maple	75'	50'	Yes	Yes	
Acer x freemanii	Freeman Maple/Hybrid Red Maple	60'	40'	Yes	Yes	
Aesculus flava	Yellow Buckeye	75'	50'	Yes		
Aesculus glabra	Ohio Buckeye	40'	40'	Yes		
Aesculus x carnea	Red Horse Chestnut	40'	35'	No		
Amelanchier arborea	Downy Serviceberry	25'	20'	No	Yes	Yes
Amelanchier laevis	Allegheny Serviceberry	40'	40'	Yes		
Amelanchier spp.	Serviceberry	25'	20'	Yes		Yes
Amelanchier x grandiflora 'Autumn Brilliance'	Autumn Brilliance Serviceberry	25'	25'	No	Yes	Yes
Asimina triloba	Pawpaw	30'	25'	Yes		Yes
Betula alleghaniensis	Yellow Birch	75'	65'	Yes		
Betula nigra	River Birch	70'	60'	Yes		
Betula populifolia	Gray Birch	40'	20'	Yes		
Carpinus betulus 'Fastigiata'	Common Hornbeam	40'	30'	No	Yes	
Carpinus caroliniana	American Hornbeam	30'	30'	Yes	Yes	Yes
Carya cordiformis	Bitternut Hickory	80'	50'	Yes		
Carya glabra	Pignut Hickory	80'	40'	Yes		
Carya illinoensis	Pecan	100'	70'	Yes		
Carya laciniosa	Shellbark Hickory	80'	60'	Yes		
Carya ovalis	Red Hickory	80'	70'	Yes		

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<i>Carya ovata</i>	Shagbark Hickory	90'	70'	Yes		
<i>Carya pallida</i>	Sand Hickory	100'	70'	Yes		
<i>Carya texana</i>	Black Hickory	50'-100'	45'	Yes		
<i>Carya tomentosa</i>	Mockernut Hickory	80'	60'	Yes		
<i>Catalpa speciosa</i>	Northern Catalpa	70'	50'	Yes		
<i>Celtis laevigata</i>	Sugarberry	70'	60'	Yes		
<i>Celtis occidentalis</i>	Hackberry	80'	60'	Yes	Yes	
<i>Cercis canadensis</i>	Eastern Redbud	30'	20'	Yes	Yes	Yes
<i>Chionanthus virginicus</i>	Fringetree	20'	15'	Yes		Yes
<i>Cladrastis lutea</i>	Yellowwood	50'	55'	Yes		
<i>Cornus alternifolia</i>	Pagoda Dogwood	25'	20'	Yes		Yes
<i>Cornus florida</i>	Flowering Dogwood	30'	35'	Yes		Yes
<i>Cornus kousa</i>	Kousa Dogwood	30'	30'	No		
<i>Cornus mas</i>	Cornelian Cherry Dogwood	25'	20'	No	Yes	Yes
<i>Cotinus coggygria</i>	Smoketree	15'	15'	No		Yes
<i>Crataegus phaenopyrum</i>	Washington Hawthorn	30'	30'	No	Yes	
<i>Crataegus punctata</i>	Dotted Hawthorn	25'	25'	Yes		Yes
<i>Crataegus viridis</i>	Green Hawthorn	35'	35'	Yes	Yes	
<i>Cuprocyparis leylandii</i>	Leyland Cypress	70'	15'	No		
<i>Diospyros virginiana</i>	Persimmon	60'	35'	Yes		
<i>Euonymus atropurpurea</i>	Eastern Wahoo	20'	25'	Yes		Yes
<i>Fagus grandifolia</i>	American Beech	80'	80'	Yes		
<i>Fagus sylvatica</i> 'Tricolor'	Tricolor Beech	30'	30'	No		
<i>Ginkgo biloba</i>	Ginkgo (male)	80'	40'	No	Yes	
<i>Gleditsia triacanthos</i> var. <i>inermis</i>	Thornless Honeylocust	80'	50'	Yes	Yes	
<i>Gymnocladus dioica</i>	Kentucky Coffeetree	100'	40'	Yes	Yes	
<i>Hamamelis virginiana</i>	Witchhazel	15'	15'	Yes		Yes
<i>Juglans cinerea</i>	Butternut	60'	60'	Yes		
<i>Juglans nigra</i>	Black Walnut	100'	100'	Yes		

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Scientific Name	Common Name	Max. Height	Max. Spread	Native	Approved Street Tree	Use Under Utility Lines
Juniperus virginiana	Eastern Red Cedar	65'	25'	Yes		
Koelreuteria paniculata	Goldenrain Tree	50'	35'	No		
Larix laricina	Eastern Larch (Tamarack)	80'	30'	Yes		
Liquidambar styraciflua	Sweetgum	60'	40'	Yes	Yes	
Liriodendron tulipifera	Tulip Tree	150'	50'	Yes	Yes	
Maackia amurensis	Amur Maackia	30'	30'	No	Yes	
Magnolia acuminata	Cucumber Magnolia	70'	35'	Yes		
Magnolia stellata	Star Magnolia	20'	15'	No		Yes
Magnolia tripetala	Umbrella Magnolia	30'	30'	Yes		
Magnolia x soulgiana	Saucer Magnolia	25'	30'	Yes		Yes
Malus 'Adams'	Adams Crabapple	25'	25'	No		Yes
Malus 'Centurion'	Centurion Crabapple	25'	20'	No		Yes
Malus coronaria	Wild Sweet Crabapple	25'	25'	Yes	Yes	
Malus floribunda	Japanese Flowering Crabapple	25'	25'	No		Yes
Malus ioensis	Prairie Crabapple	30'	35'	Yes		Yes
Malus sargentii	Sargent Crabapple	10'	15'	No		Yes
Morus rubra	Red Mulberry	50'	40'	Yes		
Nyssa sylvatica	Black Gum	50'	30'	Yes		
Ostrya virginiana	Hophornbeam	45'	40'	Yes	Yes	
Oxydendrum arboreum	Sourwood	50'	25'	Yes		
Picea abies	Norway Spruce	60'	30'	No		
Picea omorika	Serbian Spruce	60'	20'	No		
Picea pungens' Glauca'	Colorado Blue Spruce	60'	20'	No		
Pinus banksiana	Jack Pine	50'	30'	Yes		
Pinus strobus	Eastern White Pine	80'	40'	Yes		
Pinus sylvestris	Scotch Pine	50'	30'	No		
Pinus virginiana	Virginia Pine/Scrub Pine	30'	20'	Yes		
Platanus acerifolia	Columbia London Planetree	80'	65'	No	Yes	
Platanus occidentalis	Sycamore	90'	70'	Yes		

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Populus balsamifera	Balsam Poplar	100'	70'	Yes		
Populus deltoides	Cottonwood	80'	60'	Yes		
Prunus americana	American Plum	25'	20'	Yes		Yes
Prunus cerasifera	Purple-Leaf Plum	20'	20'	No		Yes
Prunus maakii	Amur Chokecherry	25'	20'	No		Yes
Prunus pendula	Weeping Higan Cherry	25'	25'	No		
Prunus pensylvanica	Pin Cherry/ Fire Cherry	40'	30'	Yes		
Prunus serotina	Wild Black Cherry	80'	60'	Yes		
Prunus serrulata 'Kwanzan'	Kwanzan Cherry	25'	25'	No		
Pseudotsuga menziesii	Douglas Fir	80'	20'	No		
Ptelea trifoliata	Hoptree	25'	15'	Yes		Yes
Pyrus coronaria	Wild Sweet Crabapple	30'	30'	Yes		
Quercus alba	White Oak	100'	90'	Yes	Yes	
Quercus bicolor	Swamp White Oak	90'	70'	Yes	Yes	
Quercus coccinea	Scarlet Oak	70'	50'	Yes		
Quercus ellipsoidalis	Northern Pin Oak	70'	60'	Yes		
Quercus falcata	Southern Red Oak	80'	50'	Yes		
Quercus imbricaria	Shingle Oak	60'	50'	Yes	Yes	
Quercus lyrata	Overcup Oak	60'	60'	Yes		
Quercus macrocarpa	Bur Oak	80'	80'	Yes		
Quercus marilandica	Blackjack Oak	35'	25'	Yes		
Quercus michauxii	Swamp Chestnut Oak	60'	50'	Yes		
Quercus muehlenbergii	Chinkapin Oak	60'	70'	Yes		
Quercus pagoda	Cherrybark Oak	110'	50'	Yes		
Quercus palustris	Pin Oak	70'	60'	Yes		
Quercus prinus	Chestbut Oak	70'	70'	Yes		
Quercus robur f. fastigiata	English Oak	60'	20'	Yes	Yes	
Quercus rubra	Northern Red Oak	70'	60'	Yes	Yes	
Quercus shumardii	Shumard Oak	60'	40'	Yes		

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Scientific Name	Common Name	Max. Height	Max. Spread	Native	Approved Street Tree	Use Under Utility Lines
Quercus stellata	Post Oak	50'	50'	Yes		
Quercus velutina	Black Oak	60'	60'	Yes		
Rhus glabra	Smooth Sumac	20'	15'	Yes		Yes
Rhus typhina	Staghorn Sumac	25'	30'	Yes		
Salix amygdaloides	Peachleaf Willow	70'	60'	Yes		
Salix nigra	Black Willow	60'	60'	Yes		
Salix sericea	Silky Willow	12'	12'	Yes		
Sassafras albidum	Sassafras	60'	40'	Yes		
Sophora japonica	Scholar Tree	75'	75'	No		
Syringa reticulata	Ivory Silk Japanese Tree Lilac	25'	15'	No	Yes	Yes
Syringa vulgaris	Common Lilac	20'	15'	No		
Taxodium distichum	Bald Cypress	70'	45'	Yes		
Thuja occidentalis	American Arborvitae	40'	15'	Yes		
Thuja plicata	Western Arborvitae	70'	25'	Yes		
Tilia americana	Basswood	80'	50'	Yes		
Tilia cordata	Littleleaf Linden	50'	40'	No	Yes	
Tilia tomentosa	Silver Linden	50'	40'	No	Yes	
Tsuga canadensis	Canadian Hemlock	70'	35'	Yes		
Ulmus thomasii	Rock Elm/Cork Elm	80'	50'	Yes		
Ulmus alata	Winged Elm	50'	40'	Yes	Yes	
Ulmus americana 'New Harmony'	New Harmony American Elm	70'	60'	No	Yes	
Ulmus americana 'Princeton'	Princeton American Elm	70'	60'	No	Yes	
Ulmus americana 'Valley Forge'	Valley Forge American Elm	70'	60'	No	Yes	
Ulmus rubra	Slippery Elm	60'	50'	Yes		
Zelkova serrata	Japanese Zelkova	80'	75'	No	Yes	

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Scientific Name	Common Name	Max. Height	Max. Spread	Native
Abelia x grandiflora	Glossy Abelia	6'	6'	No
Aesculus parviflora	Bottlebrush Buckeye	12'	15'	Yes
Amalanchier canadensis	Serviceberry	25'	20'	Yes
Aronia arbutifolia	Red Chokecherry	10'	6'	Yes
Aronia melanocarpa	Black Chokeberry	6'	6'	Yes
Aruncus dioicus	Goat's Beard	6'	4'	Yes
Buddleia davidii	Butterfly Bush	6'	6'	No
Buxus microphylla	Littleleaf Boxwood	4'	4'	No
Buxus spp.	Glencoe or Green Velvet Boxwood	4'	4'	No
Callicarpa dichotoma	Beautyberry	6'	6'	Yes
Calycanthus floridus	Carolina Allspice	12'	12'	Yes
Caryopteris x clandonensis	Bluebeard	3'	3'	No
Ceanothus americanus	New Jersey Tea	4'	6'	Yes
Cephalanthus occidentalis	Buttonbush	12'	8'	Yes
Chaenomeles speciosa	Flowering Quince	10'	15'	No
Clethra alnifolia	Summersweet Clethra	6'	5'	Yes
Comptonia peregrina	Sweet Fern	4'	8'	Yes
Cornus amomum	Silky Dogwood	10'	10'	Yes
Cornus sericea	Redosier/Red Stemmed Dogwood	10'	8'	Yes
Corylus americana	American Hazlenut	10'	15'	Yes
Cotinus coggygria	Smoke Bush	15'	15'	Yes
Cotoneaster divaricatus	Spreading Cotoneaster	6'	8'	No
Daphne x burkwoodii	Daphne Burkwood	4'	4'	No
Deutzia gracilis	Slender Deutzia	3'	4'	No
Elaeagnus commutata	Silverberry	10'	6'	Yes
Euonymus americanus	Strawberry Bush	6'	6'	Yes
Euonymus atropurpureus	Eastern Wahoo	20'	15'	Yes
Forsythia x intermedia	Border Forsythia	10'	15'	No
Fothergilla gardenii	Fothergilla	3'	4'	Yes
Fothergilla major	Large Fothergilla	10'	9'	Yes
Fothergilla 'Mount Airy'	Mount Airy Fothergilla	5'	5'	Yes
Fothergilla x intermedia 'Blue Shadow'	Blue Shadow Fothergilla	6'	6'	Yes
Hamamelis virginiana	Witchhazel	15'	15'	Yes
Heptacodium miconioides	Seven-son Flower	20'	10'	No

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Scientific Name	Common Name	Max. Height	Max. Spread	Native
Hibiscus syriacus	Rose-of-Sharon	12'	12'	No
Hydrangea aborescens	Smooth Hydrangea	5'	5'	Yes
Hydrangea quercifolia	Oak Leaf Hydrangea	10'	8'	Yes
Ilex glabra	Inkberry	12'	12'	Yes
Ilex verticillata	Winterberry	12'	12'	Yes
Ilex x meserveae	Blue Holly	8'	8'	No
Itea virginica	Virginia Sweetspire	6'	14'	Yes
Juniperus aquamata 'Blue Carpet'	Blue Carpet Juniper	1'	5'	Yes
Juniperus aquamata 'Blue Star'	Blue Star Juniper	3'	4'	Yes
Juniperus communis	Common Juniper	10'	12'	Yes
Juniperus horizontalis 'Plumosa'	Andorra Juniper	18'	5'	Yes
Kalmia latifolia	Mountain Laurel	10'	10'	Yes
Kerria japonica	Japanese Kerria	6'	9'	No
Kolkwitzia amabilis	Beautybush	10'	10'	No
Ligustrum vicaryi	Golden Privet	12'	13'	No
Lindera benzoin	Spicebush	12'	12'	Yes
Lonicera involucrata	Twinberry	10'	10'	Yes
Myrica pensylvanica	Bayberry	12'	12'	Yes
Persicaria polymorpha	Knotweed	5'	4'	No
Physocarpus opulifolius	Ninebark	8'	6'	Yes
Physocarpus opulifolius 'Diablo'	Diablo Ninebark	8'	8'	Yes
Prunus glandulosa	Flowering Dwarf Almond	5'	4'	No
Rhamnus alnifolia	Alder-leaved Buckthorn	3'	3'	Yes
Rhododendron carolinianum	Carolina Rhododendron	5'	10'	No
Rhododendron catawbiense	Catawba Rhododendron	10'	20'	No
Rhododendron PJM hybrids	PJM Rhododendron	6'	5'	No
Rhodotypos scandens	Jetbead	4'	3'	No
Rhus aromatica 'Gro Low'	Gro Low Fragrant Sumac	3'	8'	No
Rhus copallinum	Shining Sumac	15'	20'	Yes
Rhus glabra	Smooth Sumac	15'	15'	Yes
Ribes alpinum 'Green Mound'	Alpine Currant	3'	3'	No
Rosa glauca/rubrifolia	Redleaf Rose	8'	7'	No
Rosa knockout	Knockout Roses	4'	4'	No
Salix eleagnos	Rosemary Willow	10'	8'	No
Sambucus canadensis	American Elderberry	12'	12'	Yes

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Approved Shrub Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native
<i>Sambucus racemosa</i>	American Red Elderberry	12'	15'	Yes
<i>Shepherdia argentea</i>	Buffaloberry	8'	8'	Yes
<i>Staphylea trifolia</i>	Bladdernut	12'	12'	Yes
<i>Stephanandra incisa</i>	Cutleaf Stephanandra	3'	4'	No
<i>Symphoricarpos x chenaultii</i>	Snowberry	6'	8'	No
<i>Syringa patula</i>	Miss Kim Lilac	8'	10'	No
<i>Syringa x chinensis</i>	Chinese Lilac	15'	15'	No
<i>Taxus x media</i>	Yew	6'	12'	Yes
<i>Viburnum lentago</i>	Nannyberry	15'	12'	Yes
<i>Viburnum dentatum</i>	Arrowwood Viburnum	15'	15'	Yes
<i>Viburnum ferreri</i>	Fragrant Viburnum	10'	10'	No
<i>Viburnum lantana</i>	Wayfaring Tree	10'	10'	No
<i>Viburnum nudum v. cassinoides</i>	Smooth Witherod Viburnum	10'	10'	Yes
<i>Viburnum opulus</i>	European Cranberry	12'	12'	No
<i>Viburnum plicatum</i>	Doublefile Viburnum	10'	10'	No
<i>Viburnum prunifolium</i>	Blackhaw Viburnum	15'	12'	Yes
<i>Viburnum rufidulum</i>	Rusty Blackhaw Viburnum	15'	12'	No
<i>Viburnum sieboldii</i>	Siebold Viburnum	30'	12'	No
<i>Viburnum x burwoodii</i>	Burkwood Viburnum	10'	10'	No
<i>Viburnum x judii</i>	Judd Viburnum	10'	10'	No
<i>Weigela florida</i>	Old Fashioned Weigela	10'	12'	No
<i>Weigela florida</i> 'Wine and Roses'	Wine and Roses Weigela	5'	6'	No
<i>Yucca filamentosa</i>	Yucca	5'	5'	Yes

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Approved Ornamental Grass Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native
Caerulea arundinacea 'Windspiel'	Grass Molinia Moor	7'	4'	Yes
Carex buchananii	Leatherleaf Sedge	2.5'	3'	Yes
Carex morrowii 'Ice Dance'	Ice Dance Sedge	1'	2'	Yes
Carex morrowii 'Variegata'	Variegated Japanese Sedge	1.5'	1'	No
Chasmanthium latifolium	Northern Sea Oats	5'	3'	Yes
Clamagrostis x acutiflora	Feather Reed Grass	5'	2'	Yes
Festuca glauca	Blue Fescue	1'	1'	No
Juncus effusus	Common Rush/Soft Rush	4'	4'	Yes
Liriope muscari	Lily Turf	1.5'	9"	No
Panicum virgatum	Switch Grass	6'	3'	No
Pennisetum alopecuroides	Fountain Grass	5'	5'	Yes
Pennisetum alopecuroides 'Hamein'	Dwarf Fountain Grass	2'	1.5'	No
Sesleria autumnalis	Autumn Moor Grass	1'	1'	No
Schoenoplectus acutus	Hardstem Bulrush	6'	4'	Yes
Schoenoplectus pungens	Common Threesquare	4'	3'	Yes
Sisyrinchium angustifolium	Blue-Eyed Grass	2'	1'	Yes
Spartina pectinata 'Aureomarginata'	Variegated Prairie Cord Grass	6'	4'	Yes

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Approved Groundcover and Vine Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native
Aegopodium podagraria 'Variegatum'	Bishop's Weed	2'	4'	No
Ajuga reptans	Bugleweed	10"	2'	No
Arctostaphylos uva-ursi	Bearberry	8"	1'	Yes
Asarum canadense	Wild Ginger	1'	1.5'	Yes
Asarum europaeum	Wild Ginger	.5'	1.5'	No
Asclepias incarnata	Swamp Milkweed	5'	3'	Yes
Celastrus scandens	American Bittersweet	20'	6'	Yes
Convallaria majalis	Lily of the Valley	1'	1'	Yes
Cotoneaster dammeri	Cotoneaster Bearberry	2'	1'	No
Epimedium x rubrum	Barrenwort	2'	4'	No
Galium odoratum	Sweet Woodruff	1'	2'	No
Helleborus spp.	Hellebore	1.5'	1.5'	Yes
Iris cristata	Crested Dwarf Iris	9"	1'	Yes
Liatris pycnostachya	Prairie Blazing Star	5'	2'	Yes
Liatris spicata 'Kobold'	Kobold Blazing Star	2.5'	1'	Yes
Lobelia cardinalis (incl. hybrid cultivars)	Cardinal Flower	4'	2'	Yes
Lonicera sempervirens	Coral Honeysuckle	15'	6'	Yes
Lonicera x heckrottii	Everblooming Honeysuckle	15'	6'	Yes
Parthenocissus quinquefolia	Virginia Creeper	50'	variable	Yes
Phlox paniculata 'Katherine'	Summer Phlox	2.5'	2'	Yes
Phlox paniculata 'David'	Summer Phlox	4'	3'	Yes
Phlox paniculata 'Shortwood'	Summer Phlox	4'	3'	Yes
Vernonia fasciculata	Prairie Ironweed	4'	3'	Yes
Waldsteinia fragarioides	Barren Strawberry	0.5'	1'	Yes

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APPENDIX B - PROHIBITED PLANT LIST

Prohibited Plant Species

Scientific Name	Common Name	Reason
Acer campestre	Hedge Maple	Invasive
Acer ginnala	Amur Maple	Invasive
Acer negundo	Box Elder	Weak Wood; Aggressive
Acer platanoides	Norway Maple	Invasive
Acer saccharinum	Silver Maple	Weak Wood; Aggressive
Acer tartarium	Tartarian Maple	Invasive
Achyranthes japonica	Japanese Chaff Flower	Highly Invasive
Ailanthus altissima	Tree of Heaven	Invasive; Suckers; Weak Wood
Alliaria petiolate	Garlic Mustard	Invasive
Alnus glutinosa	Black Alder	Invasive
Ampelopsis brevipedunculata	Porcelain Berry	Invasive
Artemisia vulgaris	Mugwort	Highly Invasive
Arthraxon hispidus	Small Carpgrass	Highly Invasive
Arundo donax	Giant Reed	Invasive
Azolla pinnata	Mosquito Fern	Prohibited Plant Species
Berberis thunbergii	Japanese Barberry	Invasive
Berberis vulgaris	Common Barberry	Invasive
Bromus inermis	Smooth Brome	Invasive
Buddleia davidii	Butterfly Bush	Invasive
Butomus umbellatus	Flowering Rush	Invasive/Prohibited Plant Species
Cardamine impatiens	Narrowleaf Bittercress	Invasive
Carduus acanthoides	Plumeless Thistle	Invasive
Carduus nutans	Musk Thistle	Invasive
Caulerpa taxifolia	Mediterranean Killer Algae	Prohibited Plant Species
Celastrus orbiculatus	Asian Bittersweet	Invasive
Centaurea biebersteinii	Spotted Knapwood	Invasive
Cirsium arvense	Canada Thistle	Invasive/Noxious Weed
Cirsium vulgare	Bull Thistle	Invasive
Clematis terniflora	Sweet Autumn Virginsbower	Invasive
Conium maculatum	Poison Hemlock	Invasive

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Prohibited Plant Species

Scientific Name	Common Name	Reason
<i>Convolvulus arvensis</i>	Field Bindweed	Invasive
<i>Coronilla varia/Securigera varia</i>	Crown vetch	Invasive
<i>Cynanchum louiseae</i>	Black Swallow-Wort	Invasive
<i>Cynanchum rossicum</i>	Pale Swallow-Wort	Invasive
<i>Daucus carota</i>	Queen Anne's Lace	Invasive
<i>Dioscorea oppositifolia</i>	Chinese Yam	Invasive
<i>Dipsacus fullonum</i>	Common Teasel	Invasive
<i>Dipsacus laciniatus</i>	Cut-Leaved Teasel	Invasive
<i>Egeria densa</i>	Brazilian Waterweed	Invasive/ Prohibited Plant Species
<i>Eichhornia azurea</i>	Anchored Water Hyacinth	Invasive/ Prohibited Species
<i>Elaeagnus angustifolia</i>	Russian Olive	Invasive; Poor Form; Shallow Roots
<i>Elaeagnus umbellata</i>	Autumn Olive	Invasive; Poor Form; Shallow Roots
<i>Elymus repens</i>	Quack Grass	Invasive
<i>Euonymus alatus</i>	Burning Bush	Invasive
<i>Euonymus fortune</i>	Wintercreeper	Invasive
<i>Euphorbia esula</i>	Leafy Spurge	Invasive
<i>Festuca arundinacea</i>	Tall Fescue	Invasive
<i>Frangula alnus/Rhamnus frangula</i>	Glossy Buckthorn	Invasive
<i>Fraxinus species</i>	Ash	Emerald Ash Borer
<i>Galega officinalis</i>	Goatsrue	Invasive
<i>Ginkgo biloba (female only)</i>	Ginkgo (female only)	Undesireable Fruit
<i>Glechoma hederacea</i>	Creeping Charlie	Invasive
<i>Hedera helix</i>	English Ivy	Invasive
<i>Heracleum mantegazzianum</i>	Giant Hogweed	Invasive
<i>Hesperis matronalis</i>	Dame's Rocket	Invasive
<i>Humulus japonicus</i>	Japanese Hops	Invasive
<i>Hydrilla verticillate</i>	Hydrilla	Invasive/Prohibited Plant Species
<i>Hydrocharis morsus-ranae</i>	European Frogbit	Invasive/Prohibited Plant Species
<i>Hygrophilia polysperma</i>	Indian Swampweed	Invasive/Prohibited Plant Species
<i>Hypericum perforatum</i>	St. John's Wort	Invasive
<i>Imperata cylindrica 'Rubra</i>	Japanese Blood Grass	Invasive Tendencies

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Prohibited Plant Species

Scientific Name	Common Name	Reason
<i>Ipomoea aquatic</i>	Chinese Water Spinach	Invasive/Prohibited Plant Species
<i>Iris pseudacorus</i>	Yellow Iris	Invasive/Prohibited Plant Species
<i>Kummerowia stipulacea</i>	Korean Lespedeza	Invasive
<i>Kummerowia striata</i>	Striate Lespedeza	Invasive
<i>Lagarosiphon major</i>	African Elodea	Invasive/Prohibited Plant Species
<i>Lepidium latifolium</i>	Pepperweed	Invasive
<i>Lespedeza bicolor</i>	Bicolor Lespedeza	Invasive
<i>Lespedeza cuneate</i>	Sericea lespedeza	Invasive
<i>Leymus arenarius / Elymus arenarius</i>	Sand Ryegrass	Invasive
<i>Ligustrum amurense</i>	Amur Privet	Invasive
<i>Ligustrum obtusifolium</i>	Border Privet	Invasive
<i>Ligustrum ovalifolium</i>	California Privet	invasive
<i>Ligustrum sinense</i>	Chinese Privet	Invasive
<i>Ligustrum vulgare</i>	Common Privet	Invasive
<i>Limnophila sessiliflora</i>	Asian Marshweed	Invasive/Prohibited Plant Species
<i>Lonicera japonica</i>	Japanese Honeysuckle	Invasive
<i>Lonicera maackii</i>	Amur Honeysuckle	Invasive
<i>Lonicera morrowii</i>	Morrow’s Honeysuckle	Invasive
<i>Lonicera spp.</i>	Bush Honeysuckle	Invasive
<i>Lonicera tatarica</i>	Tartarian Honeysuckle	Invasive
<i>Lonicera x bella</i>	Bella Honeysuckle	Invasive
<i>Lysimachia nummularia</i>	Creeping Jenny	Invasive
<i>Lysimachia nummularia</i>	Moneywort	Invasive
<i>Lythrum salicaria</i>	Purple Loosestrife	Invasive/Prohibited Plant Species
<i>Maclura pomifera</i>	Osage-Orange	Invasive Tendencies; Weak Wood
<i>Melilotus spp.</i>	Sweet Clover	Invasive
<i>Microstegium vimineum</i>	Japanese Stiltgrass	Invasive
<i>Miscanthus sinensis</i>	Chinese Maiden Grass	Invasive
<i>Miscanthus x gigantea</i>	Miscanthus Hybrid	Invasive
<i>Monochoria hastata</i>	Arrowleaf	Prohibited Plant Species
<i>Monochoria vaginalis</i>	False Pickerelweed	Prohibited Plant Species

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Prohibited Plant Species

Scientific Name	Common Name	Reason
<i>Morus alba</i>	White Mulberry	Invasive
<i>Myriophyllum aquaticum</i>	Parrot Feather	Invasive/Prohibited Plant Species
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil	Invasive/Prohibited Plant Species
<i>Najas Minor</i>	Brittle Naiad	Invasive/Prohibited Plant Species
<i>Nymphoides peltate</i>	Yellow Floating Hearts	Invasive/Prohibited Plant Species
<i>Ornithogalum umbellatum</i>	Star-of-Bethlehem	Invasive
<i>Ottelia alismoides</i>	Duck Lettuce	Invasive/Prohibited Plant Species
<i>Pastinaca sativa</i>	Wild Parsnip	Invasive
<i>Paulownia tomentosa</i>	Princess Tree	Invasive
<i>Phalaris arundinacea</i>	Ribbon Grass	Invasive
<i>Phellodendron amurense</i>	Amur Cork Tree	Invasive
<i>Phragmites australis</i>	Reed Grass	Invasive
<i>Phragmites australis ssp australis</i>	Common Reed	Invasive
<i>Polygonum cuspidatum</i>	Japanese Knotweed	Invasive
<i>Polygonum perfoliatum</i>	Mile-A-Minute	Invasive
<i>Potamogeton crispus</i>	Curly-Leaved Pondweed	Invasive/Prohibited Plant Species
<i>Pueraria lobate</i>	Kudzu	Invasive/Pest Species
<i>Pyrus calleryana</i>	Callery Pear	Invasive
<i>Pyrus species</i>	Ornamental Pear	Weak Branching/ Invasive
<i>Quecus acutissima</i>	Sawtooth Oak	Invasive
<i>Ranunculus ficaria</i>	Lesser Celandine	Invasive
<i>Rhamnus cathartica</i>	Common Buckthorn	Invasive
<i>Rhodotypos scandens</i>	Jetbead	Invasive
<i>Robinia pseudoacacia</i>	Black Locust	Shallow, Invasive Roots
<i>Rosa multiflora</i>	Multiflora Rose	Invasive/Prohibited Plant Species
<i>Rubus phoenicolasius</i>	Wineberry/Wine Raspberry	Invasive
<i>Sagittaria sagittifolia</i>	Arrowhead	Prohibited Plant Species
<i>Salix species</i>	Willow	Invasive Roots; Weak Wood
<i>Salvinia auriculata/biloba/herzogii</i>	Giant Salvinia	Prohibited Plant Species
<i>Salvinia molesta</i>	Giant Salvinia	Prohibited Plant Species
<i>Saponaria officinalis</i>	Bouncing bet/Soapwort	Invasive

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Sicyos angulatus	Bur Cucumber	Noxious Weed
Sonchus arvensis	Perennial Sow Thistle	Noxious Weed
Sorbus spp.	Moutain Ash	Susceptible to Pests and Diseases
Sorghum alnum	Sorghum alnum	Noxious Weed
Sorghum halapense	Johnson Grass	Invasive/Noxious Weed
Sparganium erectum	Exotic Bur-reed	Prohibited Plant Species
Spiraea japonica	Japanese Meadowsweet	Invasive
Torilis arvensis	Spreading Hedgeparsley	Invasive
Torilis japonica	Japanese Hedgeparsley	Invasive
Trapa natans	Water Chestnut	Invasive/Prohibited Plant Species
Typha angustifolia	Narrow-leaved Cattail	Invasive/Prohibited Plant Species
Typha x glauca	Hybird Cattail	Invasive
Ulmus Americana	American Elm	Dutch Elm Disease
Ulmus pumila	Siberian Elm	Invasive; Susceptible to Disease
Viburnum opulus var. opulus	European Cranberry-Bush	Invasive
Viburnum trilobum	Highbush Cranberry	Invasive
Vicia cracca	Vetch	Invasive
Vinca Major	Large-leaved Periwinkle	Invasive
Vinca Minor	Periwinkle	Invasive
Wisteria Sinensis	Chinese Wisteria	Invasive

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