WHITESTOWN
INDIANA

UNIFIED DEVELOPMENT ORDINANCE

JULY 2020

Town of Whitestown Unified Development Ordinance

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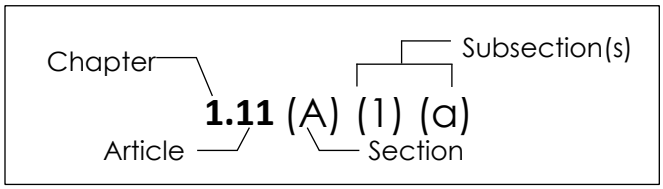
1.1 Title

This ordinance is formally known as the "Town of Whitestown Unified Development Ordinance," and may be cited and referred to as the "Zoning Ordinance," "Subdivision Control Ordinance," or "Unified Development Ordinance" (referred to here as this "Ordinance").

1.2 Ordinance Format / 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 on the tabs located in the margins will direct the user to that chapter's table of contents.
- Article headings located in the table of contents at the beginning of each chapter 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 Town does not guarantee the accuracy of these links.

1.3 Authority and Purpose

A. **Authority.** This Ordinance is adopted by the Town pursuant to its authority under the laws of the State of Indiana, *IC 36-7-4 et seq.* Whenever codes cited in this Ordinance refer to Indiana Code ("IC" or "Indiana Code") or Indiana Administrative Code ("IAC") which has been amended or superseded, then this Ordinance is deemed amended in reference to the new or revised code.

B. **Jurisdiction.** This Ordinance applies to all land within the Town of Whitestown to the extent permitted under Federal and Indiana law.

C. **Purpose.** This Ordinance is intended to guide the growth and development of the community in accordance with the Comprehensive Plan for the following purposes (consistent with *IC 36-7-4-601(c)*):

1. Adequate Facilities: To secure adequate light, air, and convenience of access; and provide safety from fire, flood, and other dangers.
2. Public Safety: To promote the public health, safety, convenience, and general welfare of the community.
3. Future Development: To plan for future development of the community so:
   - The community grows with adequate public ways, utilities, health, education, and recreation facilities;
   - The needs of industry and business are recognized in future growth;
   - Residential areas provide healthful surroundings; and
   - The growth of the community promotes the efficient and economical use of public funds while being sensitive to the surrounding environment and neighboring development.

D. **Amendments.** All amendments to this Ordinance must conform with the provisions of Indiana law.

1.4 Interpretation and Application

A. **Compliance.** The use of land and structures must comply with all provisions of this Ordinance, including obtaining all required permits and certificates. See also *Nonconforming Regulations* below and *CHAPTER 11: PROCESSES, PERMITS AND ENFORCEMENT.*

B. **Conflicting Requirements.** The provisions of this Ordinance are the minimum requirements for the protection of the health, safety, comfort, convenience, and general welfare of the people. This Ordinance is designed to encourage the establishment and maintenance of reasonable community standards

for the physical environment. 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.

C. **Overlapping Regulations.** This Ordinance is not intended to interfere or modify any easements, covenants, commitments, permits, state or federal laws, or any agreements between parties except where this Ordinance imposes a greater restriction on the use of structures or land, then the provisions of this Ordinance control.

D. **Severability.** 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.

E. **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 12 Definitions*).

1.5 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 (*see Article 11.7 Development Plan Review*) and improvement location permit (see *Article 11.8 Improvement Location Permit*).

1.6 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 located 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, and rights-of-way are deemed to follow the centerline of the affected street, easement, or right-of-way. At the boundaries of the jurisdiction of the Plan Commission, district boundaries are deemed to include the full width of such streets, easements, and rights-of-way.
2. Zoning District boundaries indicated as following or being parallel to section or fractional sectional lines, lot lines, or town 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 Town 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 WBZA may determine the location of the Zoning District boundary.

C. **Procedure Relating to Annexed or Vacated Areas.** Land annexed into the Town 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 then subject to all appropriate provisions of the extended Zoning District(s). 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.

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

1.8 Exemption for Nonconformity Created by Public Acquisition

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

1.9 Legal Nonconforming and Illegal Nonconforming

A. **Legal Nonconforming.** Legal nonconformance is caused 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 WBZA 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 11: PROCESSES, PERMITS & ENFORCEMENT*, and all other applicable state or municipal law. The illegal nonconforming property must be altered to conform with all applicable standards and regulations of this Ordinance.

1.10 Nonconforming Buildings and Structures

A legal nonconforming structure is any structure that:

- Has been continuously occupied and legally existed prior to the enactment of this Ordinance or its amendments; and
- No longer conforms to the regulations set forth in this Ordinance or its subsequent amendments.

A legal nonconforming structure may continue provided it remains the same or fits within the tolerances described below:

A. A legal nonconforming structure must not be altered in a manner that increases its nonconformity. However, the structure may be altered to maintain or decrease its nonconformity.

B. Except as provided in subsection C. below, a legal nonconforming structure damaged by more than 50% of its fair market value must conform to the regulations of the Zoning District in which it is located.

C. Pursuant to IC 36-7-4-1019, whenever a legal, nonconforming structure on a parcel of real property used for residential purposes is damaged or destroyed, the owner of the parcel shall be permitted to reconstruct, repair, or renovate the nonconforming structures if the reconstruction, repair, or renovation meets the following requirements.

1. The structure will continue to be used for residential purposes.
2. The new foundation of the reconstructed, repaired, or renovated structure may not exceed the square footage of the foundation of the damaged or destroyed structure.

D. If a legal nonconforming structure is moved, it must conform to the provisions of this Ordinance.

1.11 Nonconforming Lots of Record

A legal nonconforming lot is any Lot that:

- Was established and recorded prior to the date of passage of this Ordinance; and
- No longer conforms to the regulations of this Ordinance or its amendments, as applicable to lots (e.g. lot area, lot width, lot depth, lot frontage).

A legal nonconforming lot may be:

- Used as permitted by the Zoning District in which the Lot is located; and
- Built upon, only if the Lot and improvements otherwise comply with all other standards of this Ordinance, and if the lot owner does not have an ownership interest in enough adjacent land to allow the lot to conform to the requirements of this Ordinance.

A legal nonconforming lot loses its nonconforming status if the lot is combined into a single lot or parcel that conforms with the standards of the Zoning District. Once combined, the lot may not be subdivided unless the resulting lots comply with this Ordinance.

1.12 Nonconforming Combinations

A legal nonconforming use of structures or land, individually or in combination, is collectively a legal nonconforming use if it:

- Was established prior to the date of passage of this Ordinance;
- Does not conform to the regulations in this Ordinance or its amendments; and
- No longer is a permitted use in the applicable Zoning District in which it is located.

A legal nonconforming use may continue with the following conditions:

A. No existing structure used for a legal nonconforming use may be altered unless it:
   - Complies with the requirements for limited expansions;
   - Changes the use of the structure to a use permitted by the Zoning District in which it is located; or
   - Changes the use to a less intensive nonconforming use after approval by the Administrator.

B. A legal nonconforming use of a structure may be extended throughout the structure but must not be extended outside the structure.

C. A structure being used by a legal nonconforming use may be expanded an aggregate of 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.

D. If no structural alterations are made, a legal nonconforming use may be changed to another legal nonconforming use provided the use is equally or more appropriate to the Zoning District than the existing legal nonconforming use, as determined by the Administrator. If a new legal nonconforming use requires more parking than the previous use, then the new use must comply with the parking standards as determined by the Administrator.

E. If a legal nonconforming use is discontinued for 12 consecutive months, then any subsequent use of the land or structure, individually or in combination, must conform to the provisions of this Ordinance. This standard does not apply when government action impedes access to the premises.

F. A legal nonconforming use loses its nonconforming status if it is replaced by a permitted use.

G. Removal or destruction of a structure containing a legal nonconforming use results in the property losing its nonconforming status. Destruction is defined as deliberate damage of 50% or more of the structure's fair market value at the time of destruction.

1.13 Repairs and Maintenance

The following regulations apply to legal nonconforming structures and uses:

A. Work may be done for ordinary repairs or replacement of walls, heating, fixtures, wiring, or plumbing under the condition the square footage and volume of usable space does not increase.

B. If all or part of a structure is declared unsafe or condemned by an authorized official and is not repaired or rebuilt within 6 months of such declaration, the structure loses its nonconforming status. All future improvements must conform to the standards of this ordinance.

1.14 Effective Date; Transitional Provisions

A. This Ordinance comprises a replacement ordinance for the Jurisdiction of the Town of Whitestown, as described in *IC 36-7-4-602(a)*. Accordingly, the prior Whitestown Unified Development Ordinance, which was adopted on or about June 9, 2015, is hereby repealed on the effective date of this Ordinance.

B. The effective date of this Ordinance is the latest of the following dates:

1. The final day on which notice of the adoption of the penalty provisions of this Ordinance (Sections 11.16--11.25) is published under *IC 36-7-4-610(a)*.
2. The day on which this Ordinance is filed in the Clerk-Treasurer's office under *IC 36-7-4-610(f)*.
3. May 1, 2020.

C. This subsection applies to any application for a Permit pending before the Planning Department on the effective date of this Ordinance. The Applicant may request the Director treat the application as an application filed according to this Ordinance instead of the prior Whitestown Unified Development Ordinance. If the Director grants the request, the application is then approved or denied by the Planning Department, the WBZA, the WPC, or the Council according to the provisions of this Ordinance.

Chapter 2 – Zoning Districts

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2.1 Establishment of Districts

Land within the jurisdiction of the Plan Commission is classified and divided into the following Zoning Districts:

A. **Residential Districts**

R1	Low Density Single-Family Residential
R2	Low Density Single-Family and Two-Family Residential
R3	Medium Density Single-Family and Two-Family Residential
R4	High Density Mixed Residential
MF	High Density Multi-Family Residential

B. **Business Districts**

LB	Local Business
PB	Professional Business
UB	Urban Business
GB	General Business
AB	Accommodation Business

C. **Industrial Districts**

I1	Light Industrial
I2	General Industrial
I3	Technology Industrial
AG	General Agriculture

D. **Mixed-Use Districts**

MU-OSR	Mixed-Use – Open Space, Recreation
MU-COR	Mixed-Use – Commercial, Office, Residential
PUD	Planned Unit Development

E. **Overlay Districts**

O1	I-65 Corridor Overlay
O2	Legacy Core Overlay

2.2 PERMITTED USES

A. **Applicability**. Buildings, structures, or land must only be used in a manner permitted in the Zoning Districts where they are located. Buildings or structures must be erected, reconstructed, or structurally altered in compliance with this ordinance.

B. **Land Use Specified.** Each land use is classified as a permitted, not permitted, or a special exception use for each Zoning District in the use tables of this chapter (the "Use Table") or elsewhere in this Ordinance.

C. **Special Exception Uses.** A special exception use requires a greater degree of review because of its potential impact upon the immediate neighborhood and the community. The WBZA reviews a special exception petition's characteristics and impacts to determine its suitability in each location for those Zoning Districts in which it is permitted. Special exception approval is subject to a public hearing by the WBZA and review (*11.12 – Special Exceptions*).

D. **Unlisted or Questionable Land Uses.** Uses not listed in the use tables or otherwise permitted by this Ordinance are prohibited. The Administrator determines land use category if not specifically listed. This determination is appealable to the WBZA (*11.3 – Appeals of Administrative Decisions*).

E. **Organization.** The Use Table presents uses in the following order:

- Primary uses
- Accessory uses to primary uses

Primary uses are arranged within the table by use classification, category of primary uses, and then by specific use type.

F. **Primary Use Classifications, Categories & Specific Use Types**

1. Primary Use Classifications. All primary land uses in the Use Table are organized into one of the following five general land use classifications:
   - Residential Uses
   - Civic, Public & Institutional Uses
   - Commercial Sales, Service & Repair Uses
   - Industrial, Manufacturing & Wholesale Uses
   - Agriculture
2. Primary Use Categories and Specific Use Types. Primary uses are further organized into use categories and specific use types under each general classification. The use table is organized into the above five general land use classifications, use categories and specific use types.
3. Classifications and Categories Are Mutually Exclusive. The general land use classifications and use categories listed in the use table are mutually exclusive. For example, the use "Lodging Accommodations," cannot be classified in a different use category, such as "Group Living," unless otherwise expressly allowed by this Ordinance.

G. **General Explanation of Table Cell Entries**. In each of the table cells, the entry indicates whether use limitations apply to the specific use, and then, separated by a hyphen, if special exception review is required prior to establishment of the use under this Ordinance. For example, a cell entry "L-SE" means the use is subject to use limitations (the "L"), and the use is subject to special exception review (the "SE") prior to its establishment.

H. **Permitted, Limited, Not Permitted, Special Exception Review**

- Permitted Use - No Use Limitations Apply ("P"). A "P" in a table cell indicates the use is permitted in the respective zone district and is not subject to use limitations.
- Permitted Use - Subject to Use Limitations ("L"). "L" in a table cell indicates the use is permitted in the zone district subject to compliance with the use limitations referenced in the second column of the use table ("Use Limitations").

- Uses Not Permitted ("NP"). "NP" in a table cell indicates the use is not permitted in the specific zone district.
- Use Subject to Special Exception Review ("SE"). "SE" in a table cell indicates the use is generally appropriate in the neighborhood context and zone district. Special exception uses may have the potential for limited impacts on adjacent properties or on the established character of the neighborhood context or zone district. "SE" uses are subject to WBZA public hearing according to Special Exception Review, which grants the Board the authority to impose conditions on the specified use to mitigate any potential impacts. Such uses must comply with any applicable use limitations noted in the condition column of the use table ("Use Limitations"), as well as the review criteria stated in *11.12, Special Exceptions*.

I. **Enclosure of Uses**. All primary, accessory, and temporary uses must be established, operated, and maintained within an enclosed structure, unless otherwise specifically allowed by this Ordinance. The use tables indicate when a use may be established, operated, or maintained outside an enclosed structure by including an asterisk "*" next to the specific use type. For example, the asterisk following the "Telecommunication Tower*" use type indicates a telecommunication tower use need not be enclosed.

2.3 Residential Development Standards and Uses

A. Purpose

1. **R1 Low-density Single-family Residential** - This is a low-density suburban residential district. The lot area and minimum floor area requirements are larger than the other residential districts. Development in this district is typically at a density of less than 1 dwelling unit per 2 acres.
2. **R2 Low-density Single-family and Two-family Residential** - This is a low-density single-family district, which could include two-family dwellings with development plan approval. This district is primarily suited for suburban residential development in areas contiguous to the urban centers of the town. Development in this district typically ranges from 0.50 dwelling units per acre (without public water and public sewer) to 1.75 dwelling units per acre (with public water and public sewer).
3. **R3 Medium-density Single-family and Two-Family Residential** - This is a medium-density single-family district, which may include two-family dwellings with development plan approval. Development in this district typically ranges from 1.75 to 3.00 dwelling units per acre. In this district, residential development at these densities requires connection to public water and public sewer utilities.
4. **R4 High-density Mixed Residential** - This is a high-density mixed district, which may include narrow-lot single-family homes, two-family dwellings, and small-scale multi-family dwellings with development plan approval. Development in this district typically ranges from 3.00 to 7.00 dwelling units per acre. In this district, residential development at these densities requires connection to public water and public sewer utilities.
5. **MF High-density Multi-family Residential** - This is a high-density multi-family district. Development in this district is typically at a density of up to 22 dwelling units per acre. Development in this district requires connection to public water and public sewers.

	R1	R2	R3	R4	MF
B. Lot Requirements					
Maximum Density (units/acre)	1.0	1.75	3.0	7.0	22.0
Minimum Lot Size (s.f.)					
Single-Family Dwelling	12,000	9,000	6,000	4,200	N/A
Multi-Family Dwelling (s.f. per dwelling unit)	N/A	4,500	3,000	2,100	1,800
Minimum Lot Width	90'	70'	50'	40'	100'
Minimum Lot Frontage/Street Frontage (1)	50'	50'	40'	30'	80'
C. Building Placement Requirements	See Fig. 2-1	See Fig. 2-2	See Fig. 2-3	See Fig. 2-4	See Fig. 2-5
Minimum Front Setback	30'	25'	20'	10'	25'
Minimum Street Side Setback	20'	15'	10'	7'	15'
Minimum Side Yard Setback	10'	7'	5'	5'	10'
Minimum Rear Setback	20'	20'	10'	10'	10'
Min. Separation of Primary and Accessory Buildings	10'	10'	6'	6'	10'
Garage Along Street Setback	30'	25'	20'	20'	20'
D. Building Requirements					
Maximum Building Height	35'	35'	35'	45'	50'
Maximum Lot Coverage	50%	50%	60%	80%	70%
Minimum Ground Floor Area (s.f.)					
1 Story Dwelling	1,200	1,200	960	700	N/A
Dwelling with more than 1 story	900	850	750	400	N/A
Min. Floor Area per D.U. for Multi-Family Dwellings	N/A	N/A	N/A	(3)	(4)

Notes:
(1) Any lot without street frontage must have an unobstructed access easement at least 12' wide.
(2) The side yard setback between attached single-family units multi-family units within the same building is 0'.
(2) 450 s.f. + 150 s.f. per bedroom
(3) 400 s.f. + 150 s.f. per bedroom

E. Parking Requirements

See *CHAPTER 7 – PARKING AND LOADING STANDARDS*

F. Architectural Standards

See *9:4 – Residential Architectural Standards*

G. Use Table

P – Permitted
L - Subject to Use Limitations
NP - Not Permitted
SE - Special Exception Approval Required

USE	Use Limitation	R1	R2	R3	R4	MF
RESIDENTIAL PRIMARY USES						
Household Living						
Dwelling, Multifamily		NP	NP	NP	P	P
Dwelling, Single Family		P	P	P	P	NP
Dwelling, Two Family		NP	P	P	P	P
Live/Work Dwelling	1	NP	NP	NP	NP	L
Manufactured Home Park	§3.7	L	L	L	NP	NP
Group Living						
Assisted Living		NP	NP	NP	NP	P
Fraternity, Sorority, or Student Housing		NP	NP	NP	NP	P
Group Residential Facility		NP	SE	P	P	P
Nursing Home, Hospice		NP	NP	NP	NP	P
CIVIC, PUBLIC & INSTITUTIONAL PRIMARY USES						
Basic Utilities						
Utility, Major Impact	2	SE	SE	SE	SE	SE
Utility, Minor Impact	3	P	P	P	P	P
Community/Public Services						
Community Center	4	L	L	L	L	L
Child Care Center	§3.5	NP	NP	NP	L	L
Hospital		NP	NP	NP	NP	P
Municipal & Government Buildings		SE	P	P	P	P
Cultural/Special Purpose/Public Parks & Open Space						
Cemetery	5	L	L	L	L	NP
Libraries		P	P	P	P	P
Publicly Owned Park or Recreational Facility	6	L	L	L	L	L

USE	Use Limitation	R1	R2	R3	R4	MF
Education						
Colleges & Universities		SE	SE	SE	SE	P
Elementary & Secondary Schools		P	P	P	P	P
Public & Religious Assembly						
All Types	7	L	L	L	L	L
COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES						
Arts, Recreation & Entertainment						
Arts, Recreation, Entertainment, Indoor	8	L-SE	L-SE	L-SE	L	L
Lodging Accommodations						
Bed & Breakfast		P-SE	P-SE	P-SE	P-SE	P-SE
INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES						
Communications & Information						
Antennas Not Attached to a Tower	§3.4	L-SE	NP	NP	NP	NP
Amateur Radio Antenna	§3.4	P	P	P	P	SE
Telecommunication Towers	§3.4	L-SE	NP	NP	NP	NP
Telecommunication Facilities – All Others	§3.4	L-SE	NP	NP	NP	NP
Mining & Extraction and Energy Producing Systems						
Mineral Extraction	9	L-SE	L-SE	L-SE	L-SE	L-SE
Transportation Facilities						
Terminal Station/Service Facility for Passenger System	10	L	L	L	L	L
AGRICULTURE PRIMARY USES						
Farm		P	P	P	P	P
Garden, Urban		L	L	L	L	L
ACCESSORY TO PRIMARY RESIDENTIAL USE						
Unlisted Accessory Uses	§3.1	L	L	L	L	L
Accessory Dwelling Unit		NP	NP	NP	NP	NP
Garden	§3.1	L	L	L	L	L
Keeping of Household Animals	§3.1	L	L	L	L	L
Keeping and Off-Street Parking of Vehicles, Motorcycles, Trailers, and Recreational Vehicles	§3.1, §3.8(A)	L	L	L	L	L
Animal Exercise Run	11, §3.1	L	L	L	L	L
Outdoor Storage, Residential	12, §3.1	L	L	L	L	L
Short-Term Rental	§3.10	L	L	L	L	L
Vehicle Storage, Repair and Maintenance	§3.1	L	L	L	L	L
Yard or Garage Sales	13, §3.1	L	L	L	L	L

Residential Use Limitation Notes

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

   a. A Live/Work Dwelling use is not a "residential use" or "residential district" or "Protected District," 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 commercial activity must not exceed 50% of the gross floor area of the use.

   d. The commercial activity cannot have more than 2 employees or assistants on the premises at one time. The employees or assistants may be in addition to residents of the Live/Work Dwelling.

   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 commercial activity.

2. Major Impact Utility. In all Zoning Districts where permitted with limitations, 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. In all Zoning Districts where permitted with limitations, 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.

   c. 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. In all Zoning Districts where permitted with limitations:

   a. A community center cannot have an outdoor public address system or any type of amplified music or sound device.

   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. In all Zoning Districts where permitted with limitations, a cemetery may include a crematorium. A crematorium must be at least 500 feet from a residential district.

6. Publicly Owned Park or Recreation Facility. In all Zoning Districts where permitted with limitations, 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 with limitations, 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, child care centers 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 with limitations, seating capacity in a permitted Arts, Recreation, and Entertainment, Indoor use is limited to no more than 100 people.

9. Mineral Extraction is prohibited within urban areas as defined in I.C. 36-7-4-1103.

10. Terminal Station/Service Facility for Passenger System. In all residential districts where permitted with limitations, 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. Animal Exercise Run. In all Zoning Districts where permitted with limitations, an Animal Exercise Run accessory use must comply with the following:

   a. Outdoor animal exercise runs cannot exceed 200 square feet;

   b. The use must be at least 20 feet from any habitable building on an adjacent lot;

   c. The use must be in the rear half of the lot; and

   d. The use must be visually screened from adjacent residential property by a solid fence or wall.

12. Outdoor Storage, Residential. In all Zoning Districts where permitted with limitations, an Outdoor Storage, Residential accessory use must comply with the following:

   a. The storage of junk, waste, discarded, or salvaged materials, or items customarily associated with indoor use (e.g. upholstered furniture or indoor appliances) is not allowed.

   b. Automobile parts and tools, equipment, and supplies used for automobile repair must not be stored outdoors.

   c. Heavy tools, equipment, and supplies typically used for commercial construction, such as backhoes, excavators, and stockpiles of brick, gravel, or lumber, must not be stored outdoors, except when used in connection with on-site construction and only for the duration of the construction.

13. Yard or Garage Sales. In all Zoning Districts where permitted with limitations, Yard or Garage Sales:

   a. Must not exceed 72 total hours;

   b. Must not have more than one sale from January 1st to June 30th and no more than one sale from July 1st to December 31st;

   c. Items offered for sale must not have been bought or consigned for resale purposes; and

   d. All external evidence of the sale must be removed immediately upon the sale's conclusion.

2.4 Business Development Standards and Uses

A. Purpose

1. **LB Local Business** – This district is designed and located in neighborhoods to accommodate the primary needs of the area. This district locates convenience and necessity facilities close to consumers in limited areas near residences. Development in this district requires connection to public water and public sewers and development plan approval.
2. **PB Professional Business** – This district is established as a buffer between commercial and residential districts. This district allows selected business and professional uses having limited contact with the public. Development in this district requires connection to public water and public sewers and development plan approval.
3. **UB Urban Business** – This district is designed to address the needs of existing and future downtown development. This district carries virtually all the characteristics of the GB district but without commercial setbacks, bufferyards, or other design requirements common to suburban development. Development in this district requires connection to public water and public sewers and development plan approval.
4. **GB General Business** – This district is designed to include central business districts in established urban places. This district would be used for most types of business and service uses. Development in this district requires connection to public water and public sewers and development plan approval.
5. **AB Accommodation Business**– This district is established for commercial uses commonly found along interstate and highway corridors and promote coordinated quality development in these areas. Uses in this district may range in scale and intensity but are closely related to the needs of the traveling public. Development in this district requires connection to public water and public sewers and development plan approval.

	LB	PB	UB	GB	AB
B. Lot Requirements					
Minimum Lot Size	No min.	No min.	No min.	No min.	No min.
Minimum Lot Width	No min.	No min.	No min.	No min.	No min.
Minimum Lot Frontage/Street Frontage (1)	No min.	No min.	No min.	No min.	No min.
C. Building Placement Requirements	See Fig. 2-6	See Fig. 2-7	See Fig. 2-8	See Fig. 2-9	See Fig. 2-10
Minimum Front Setback					
Where abutting a residential district	20'	20'	10'	20'	20'
All others	20'	20'	0'	20'	20'
Minimum Street Side Setback					
Where abutting a residential district	15'	15'	7'	15'	15'
All others	0'	0'	0'	15'	15'
Minimum Side Setback					
Where abutting a residential district	10'	10'	5'	10'	10'
All others	0'	0'	0'	10'	10'
Minimum Rear Setback					
Where abutting a residential district	10'	10'	10'	10'	10'
All others	0'	0'	0'	10'	10'
Min. Separation of Primary and Accessory Buildings	10'	10'	6'	10'	10'

	LB	PB	UB	GB	AB
Garage Along Street Setback					
Where abutting a residential district	20'	20'	20'	20'	20'
All others	0'	0'	0'	10'	10'
D. Building Requirements					
Building Height	35'	35'	75'	75'	35'
Lot Coverage	80%	80%	90%	75%	80%

Notes:
(1) Any lot without street frontage must have an unobstructed access easement at least 25' wide.

E. Parking Requirements

See *CHAPTER 7 – PARKING AND LOADING STANDARDS*

F. Architectural Standards

See *9:5 – Business and Mixed Use Architectural Standards*

G. Use Table

P - Permitted
L - Subject to Use Limitations
NP - Not Permitted
SE - Special Exception Approval Required

USE	Use Limitation	LB	PB	UB	GB	AB
RESIDENTIAL PRIMARY USES						
Household Living						
Live/Work	1	L	NP	L	NP	NP
Group Living						
Assisted Living		P	P	SE	SE	NP
Fraternity, Sorority, or Student Housing		NP	NP	NP	SE	NP
Group Residential Facility		P	NP	NP	NP	NP
Nursing Home, Hospice		P	P	NP	NP	NP
CIVIC, PUBLIC & INSTITUTIONAL PRIMARY USES						
Basic Utilities						
Utility, Major Impact	2	SE	SE	SE	SE	SE
Utility, Minor Impact	3	P	P	P	P	P
Community/Public Services						
Community Center	4	L	L	L	L	L
Child Care Center	§3.5	L	NP	L	L	NP
Hospital		P	NP	NP	P	NP
Municipal & Government Buildings		P	P	P	P	P
Cultural/Special Purpose/Public Parks & Open Space						
Libraries		P	NP	P	NP	NP
Museum		NP	P	P	P	NP
Publicly Owned Park or Recreational Facility	5	L	L	L	L	L
Education						
Colleges & Universities		NP	P	NP	P	P

USE	Use Limitation	LB	PB	UB	GB	AB
Elementary & Secondary Schools		P	P	P	P	P
Trade or Business School		NP	P	NP	P	P
Public & Religious Assembly						
All Types	6	L	L	L	L-SE	NP
COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES						
Adult Business						
All Types	§3.3	NP	NP	NP	NP	L-SE
Arts, Recreation & Entertainment						
Arts, Recreation, Entertainment, Indoor		P	P	P	P	P
Arts, Recreation, Entertainment, Outdoor	7	NP	L	NP	L	L
Parking of Vehicles						
Parking Garage	8	NP	L	L	L	L
Parking Lot		P	NP	P	P	NP
Eating & Drinking Establishments						
Restaurant, Class A		P	P	P	P	P
Restaurant, Class B		P-SE	P	P	P	P
Taverns & Lounges		P-SE	P	P	P	P
Lodging Accommodations						
Bed & Breakfast		NP	NP	P	NP	P
Hotel or Motel		NP	NP	P	P	P
Office						
Dental/Medical Office or Clinic	9	L	L	NP	L	NP
Office, All Others		P	P	P	P	P
Retail Sales, Service & Repair						
Animal Sales and Services, Household Pets	10	NP	NP	L	L	NP
Animal Sales and Services, All Others	11	NP	NP	NP	L	NP
Food Sales or Market	12	L	NP	L	L	NP
Kennel, Small	13	L-SE	NP	NP	L-SE	NP
Liquor Store		P-SE	NP	P-SE	P-SE	NP
Pawn Shop	14	L-SE	NP	L	NP	NP
Landscape Contractor	15	L-SE	NP	NP	L	NP
Retail Sales, Service & Repair, Special Handling	24	NP	NP	NP	L-SE	NP
Retail Sales, Personal Service, & Repair	23	L	NP	L	L	L
Vehicle/Equipment Sales, Service & Repair						
Automobile Services, Light		P	NP	NP	P	NP
Automobile Services, Heavy	17	NP	NP	NP	L-SE	NP
Auto/Motorcycle/Boat/Light Truck Sales or Rentals	18	NP	NP	NP	L	NP
Service Station, Local	16	SE	NP	NP	SE	L

USE	Use Limitation	LB	PB	UB	GB	AB
Service Station, Truck Stop		NP	NP	NP	NP	P
INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES						
Communications & Information						
Antennas Not Attached to a Tower	§3.4	L-SE	NP	NP	L-SE	NP
Amateur Radio Antennal	§3.4	P	P	P	P	P
Communication Services	§3.4	NP	NP	NP	L	NP
Telecommunication Towers	§3.4	NP	NP	NP	L-SE	NP
Telecommunication Facilities – All Others	§3.4	L-SE	L-SE	NP	NP	NP
Mining & Extraction and Energy Producing Systems						
Mineral Extraction	19	L-SE	L-SE	L-SE	L-SE	L-SE
Transportation Facilities						
Terminal Station/Service Facility for Passenger System	20	P	P	P	P	P
Wholesale Storage, Warehouse &Distribution						
Mini-storage facility	21	L	NP	NP	L	NP
Vehicle Storage, Commercial	22	NP	NP	NP	L	NP
AGRICULTURE PRIMARY USES						
Garden, Urban		L	L	L	L	L
Roadside Produce Stand		P	NP	NP	P	NP

Business Use Limitation Notes

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

    a. A Live/Work Dwelling use is not a "residential use" or "residential district" or "Protected District," 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 commercial activity must not exceed 50% of the gross floor area of the use.

    d. The commercial activity cannot have more than 2 employees or assistants on the premises at one time. The employees or assistants may be in addition to residents of the Live/Work Dwelling.

    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 commercial activity.

2. Major Impact Utility. In all Zoning Districts where permitted with limitations, 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. In all Zoning Districts where permitted with limitations, 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.

c. 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. In all Zoning Districts where permitted with limitations:

a. A community center cannot have an outdoor public address system or any type of amplified music or sound device.

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. Publicly Owned Park or Recreation Facility. In all Zoning Districts where permitted with limitations, 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.

6. Public and Religious Assembly Uses. When located within 500 feet of a residential district, 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, child care centers 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.

7. Arts, Recreation, and Entertainment, Outdoor Uses. In all Zoning Districts where permitted with limitations, an Arts, Recreation, and Entertainment, Outdoor use must comply with the following:

a. If the Arts, Recreation and Entertainment Services, Outdoor use is located within 200 feet of a residential district, outdoor public address systems and other types of amplified music or sound devices are prohibited.

b. Outdoor lighting must be extinguished when outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, and by 11:00 p.m. on Friday and Saturday.

c. Unless within a completely enclosed structure, courts or swimming pools must be located at least 50 feet from the boundary of a residential district.

8. Parking Garage. In all Zoning Districts where permitted with limitations, 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.

9. Dental/Medical Office or Clinic. In all Zoning Districts where permitted with limitations, up to 20 patients or clients may stay overnight at any one time in a Dental/Medical Office or Clinic use.

10. Animal Sales and Services, Household Pets. In all Zoning Districts where permitted with limitations, 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.

11. Animal Sales and Services, All Others. In all Zoning Districts where permitted with limitations, 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.

12. Food Sales or Market. In all Zoning Districts where permitted with limitations, a Food Sales or Market use must comply with the following:

    a. Accessory outdoor sales and displays, including outdoor sales of fruits or vegetables, must occupy no greater than 1/4 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.

13. Kennel, Small. In all Zoning Districts where permitted with limitations, Small Kennels must comply with the following:

    a. Principal Use. All principal use activities, other than outdoor dog runs or exercise areas, must be conducted within a totally enclosed building.

    b. Dumpsters. Any dumpsters used by a kennel must be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and must not be visible from lot lines. Any disposal of bio-hazardous waste must be in conformance with State and local requirements.

    c. Noise. Any activities must not generate a noise level of greater than 60 decibels for more than 4 hours in any 24-hour period at any property line.

    d. Minimum Lot Area: 3 acres.

    e. Where a Small Kennel located in the agricultural district, the outermost edge of the facility (including the parking lot and runs) must be at least 500 feet from the property line. Where a Small Kennel is located in an industrial, business, or mixed-use district, the

outermost edge of the facility (including the parking lot and runs) must be at least 500 feet from the nearest agricultural, residential, or mixed-use zoning district boundary.

14. Pawn Shop. In all Zoning Districts where permitted with limitations, a pawn shop cannot be established, operated, or maintained within 1,000 feet of another pawn shop.

15. Landscape Contractor. In all Business Districts where permitted with limitations, only outdoor retail sales are permitted, and outdoor repair or service uses must take place indoors.

16. Service Station. In all Zoning Districts, where Service Stations are permitted with limitations, 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.

    d. In addition to any other required off-street parking, the use must provide for each washing stall, sufficient hard-surfaced and dust-free space on the lot to accommodate at least 3 vehicles waiting to be washed.

17. Automobile Services, Heavy. In all Zoning Districts where permitted with limitations, 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 (4.9 – 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.

18. Auto/Motorcycle/Boat/Light Truck Sales or Rentals. In all Zoning Districts where permitted with limitations, 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.

19. Mineral Extraction. Mineral Extraction is prohibited within urban areas as defined in I.C. 36-7-4-1103.

20. Terminal Station/Service Facility for Passenger System. In all residential districts where permitted with limitations, 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.

21. Mini-Storage Facility. In all Zoning Districts where permitted with limitations, a Mini-Storage Facility use cannot have individual entrances to storage units from the exterior of the structure.

22. Vehicle Storage, Commercial. In all Zoning Districts where permitted with limitations, 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. Retail Sales, Personal Services, & Repair. In all Business Districts where permitted with limitations, retail sales and personal services are permitted outright except for Massage Establishments. Massage Establishments are only permitted with a Special Exception from the Board of Zoning Appeals.

24. Retail Sales, Service & Repair, Special Handling. In all Business Districts where permitted with limitations and requires a Special Exception from the Board of Zoning Appeals, Special Handling establishments must provide proof of license to sell and compliance with state requirements.

2.5 Industrial Development Standards and Uses

A. Purpose

1. **I1 Light Industry** – This 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.
2. **I2 General Industry** - This 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.
3. **I3 Technology Industrial** - This district is established for industrial and office uses that focus on engineering or manufacturing technology. Uses may include corporate offices, high tech manufacturing, and research and development facilities. Development in this district requires connection to public water and public sewers and development plan approval.
4. **AG General Agriculture** - This district is established for all types of agricultural uses and to conserve significant farm land and open space in the community through the creation of contiguous parcels of non-residential acreage and maximizing the clustering of rural residential lots. Development in this district does not require connection to public water or sewers.

	I1	I2	I3	AG
B. Lot Requirements				
Maximum Density (units/acre)	N/A	N/A	N/A	0.5
Minimum Lot Size (s.f.)	20,000	30,000	20,000	15,000
Minimum Lot Width	100'	120'	100'	200'
Minimum Lot Frontage/Street Frontage	45'	60'	45'	50'
C. Building Placement Requirements	See Fig. 2-11	See Fig. 2-12	See Fig. 2-13	See Fig. 2-14
Minimum Front Setback				
Residential Uses	N/A	N/A	N/A	50'
Nonresidential Uses	20'	30'	25'	20'
Minimum Street Side Setback				
Residential Uses	N/A	N/A	N/A	25'
Nonresidential Uses	15'	20'	15'	15'
Minimum Side Setback				
Residential Uses	N/A	N/A	N/A	10'
Nonresidential Uses	10'	10'	10'	10'
Minimum Rear Setback				
Residential Uses	N/A	N/A	N/A	40'
Nonresidential Uses	10'	20'	20'	10'
Min. Separation of Primary and Accessory Buildings	10'	10'	10'	10'
Garage Along Street Setback	20'	20'	20'	20'
D. Building Requirements				
Maximum Building Height	75'	75'	75'	35'
Maximum Lot Coverage	N/A	N/A	N/A	50%
Minimum Ground Floor Area (s.f.)				
1 Story Dwelling	N/A	N/A	N/A	1,200
Dwelling with more than 1 story	N/A	N/A	N/A	900

E. Parking Requirements

See *CHAPTER 7 – PARKING AND LOADING STANDARDS*

F. Architectural Standards

See *9:6 – Industrial Architectural Standards*

G. Use Table

P - Permitted
L - Subject to Use Limitations
NP - Not Permitted
SE - Special Exception Approval Required

USE	Use Limitation	I1	I2	I3	AG
RESIDENTIAL PRIMARY USES					
Household Living					
Dwelling, Single Family		SE	SE	NP	SE
Dwelling, Two Family		SE	SE	NP	SE
Group Living					
Nursing Home, Hospice		P	NP	NP	NP
CIVIC, PUBLIC & INSTITUTIONAL PRIMARY USES					
Basic Utilities					
Utility, Major Impact	1	SE	SE	SE	SE
Utility, Minor Impact	2	P	P	P	P
Community/Public Services					
Community Center	3	NP	NP	NP	L
Correctional Institution		NP	SE	NP	NP
Child Care Center	§3.5	L	L	L	L
Fairgrounds	4	NP	L	NP	L
Municipal & Government Buildings		P	P	P	P
Cultural/Special Purpose/Public Parks & Open Space					
Cemetery	5	L	L	NP	L
Publicly Owned Park or Recreational Facility	6	L	L	L	L
Education					
Elementary & Secondary Schools		NP	NP	NP	P
Public & Religious Assembly					
All Types	7	NP	L-SE	NP	L
COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES					
Adult Business					
All Types	§3.3	NP	L-SE	NP	NP
Arts, Recreation & Entertainment					
Arts, Recreation, Entertainment, Indoor		NP	NP	NP	P
Arts, Recreation, Entertainment, Outdoor	8	NP	NP	NP	L
Sports and/or Entertainment Arena or Stadium	9	NP	L-SE	L-SE	NP
Shooting Range	26	NP	NP	NP	L-SE

USE	Use Limitation	I1	I2	I3	AG
Parking of Vehicles					
Parking Garage	10	L	L	L	NP
Parking Lot		P	P	P	NP
Eating & Drinking Establishments					
Restaurant, Class B		P-SE	NP	NP	NP
Lodging Accommodations					
Bed & Breakfast		NP	NP	NP	P-SE
Office					
Office, All Others		P	NP	P	NP
Retail Sales, Service & Repair					
Animal Sales and Services, All Others	11	L	NP	NP	NP
Kennel, Medium or Large	12	L-SE	L-SE	NP	L
Retail Sales, Personal Services, & Repair	25	L	L	NP	NP
Vehicle/Equipment Sales, Service & Repair					
Automobile Services, Light		P	P	NP	NP
Automobile Services, Heavy	14	L-SE	L	NP	NP
Auto/Motorcycle/Boat/Light Truck Sales or Rentals	15	L	L	NP	NP
Heavy Vehicle/Equipment Sales, Rentals & Service	16	NP	L	NP	NP
Service Station, Local	13	L	L	L	NP
INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES					
Communications & Information					
Antennas Not Attached to a Tower	§3.4	NP	NP	NP	L-SE
Amateur Radio Antenna	§3.4	P	P	P	P
Communication Services	§3.4	L	L	L	NP
Telecommunication Towers	§3.4	NP	NP	NP	L-SE
Telecommunication Facilities – All Others	§3.4	NP	NP	NP	L-SE
Industrial Services					
Contractors, Special Trade – General	17	L	L	NP	NP
Contractors, Special Trade – Heavy/Contractor Yard	18	L-SE	L	L-SE	NP
Food Preparation and Sales, Commercial		PCU	L	NP	NP
Laboratory, Research, and Development Services	19	L	L	L	NP
Manufacturing & Extraction and Energy Producing Systems					
Manufacturing, Fabricating, & Assembly – General	18	L	L	L	NP
Manufacturing, Fabricating, & Assembly – Heavy	18	NP	L	NP	NP
Mining & Extraction and Energy Producing Systems					
Oil, Gas – Transmission Facility		NP	P	P	P
Mineral Extraction	20	L-SE	L-SE	L-SE	L-SE

Wind Energy Conversion System		NP	NP	NP	P-SE
USE	**Use Limitation**	**I1**	**I2**	**I3**	**AG**
Transportation Facilities					
Airport		NP	SE	NP	NP
Terminal Station/Service Facility for Passenger System	21	P	P	P	P
Waste Related Services					
Automobile Parts Recycling Business	22	NP	L-SE	NP	NP
Composting Facility		P	P	NP	P-SE
Junkyard		NP	NP	NP	NP
Recycling Center	18	NP	L	NP	NP
Recycling Collection Station	18	L	L	NP	NP
Recycling Plant, Scrap Processor	18	NP	L	NP	NP
Solid Waste Facility	18	NP	L-SE	NP	L-SE
Wholesale Storage, Warehouse &Distribution					
Automobile Towing Service Storage Yard	18	L	L	NP	NP
Mini-storage facility	23	P	P	NP	NP
Truck Freight Terminal/Distribution Center	18	L-SE	L	NP	NP
Vehicle Storage, Commercial	18	P	P	NP	NP
Wholesale Trade or Storage, General	18	L-SE	L	NP	NP
Wholesale Trade or Storage, Light		P	P	NP	NP
AGRICULTURE PRIMARY USES					
Anhydrous Ammonia Storage & Distribution		P	P	P	P-SE
Aquaculture	24	L	L	L	P
Confined Feeding		NP	NP	NP	P
Farm		P	P	P	P
Garden, Urban		NP	NP	NP	P
Plant Nursery		L	L	L	P
Roadside Produce Stand		P	P	NP	P
Sale Barn for Livestock		NP	P	NP	P
Slaughterhouse		NP	P-SE	NP	P

Industrial Use Limitation Notes

1. Major Impact Utility. In all Zoning Districts where permitted with limitations, 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.

2. Minor Impact Utility. In all Zoning Districts where permitted with limitations, 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.

c. 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.

3. Community Center. In all Zoning Districts where permitted with limitations:

a. A community center cannot have an outdoor public address system or any type of amplified music or sound device.

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.

4. Fairgrounds. In all Zoning Districts where permitted with limitations, fairgrounds 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.

5. Cemetery. In all Zoning Districts where permitted with limitations, a cemetery may include a crematorium. A crematorium must be at least 500 feet from a residential district.

6. Publicly Owned Park or Recreation Facility. In all Zoning Districts where permitted with limitations, 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. When located within 500 feet of a residential district, 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, child care centers 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, Outdoor Uses. In all Zoning Districts where permitted with limitations, an Arts, Recreation, and Entertainment, Outdoor use must comply with the following:

a. If the Arts, Recreation and Entertainment Services, Outdoor use is located within 200 feet of a residential district, outdoor public address systems and other types of amplified music or sound devices are prohibited.

b. Outdoor lighting must be extinguished when outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, and by 11:00 p.m. on Friday and Saturday.

c. Unless within a completely enclosed structure, courts or swimming pools must be located at least 50 feet from the boundary of a residential district.

9. Sports and/or Entertainment Arena or Stadium. In all Zoning Districts where permitted with limitations, 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.

10. Parking Garage. In all Zoning Districts where permitted with limitations, 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.

11. Animal Sales and Services, All Others. In all Zoning Districts where permitted with limitations, 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.

12. Kennel, Medium or Large. In all Zoning Districts where permitted with limitations, Kennels must comply with the following:

    a. Principal Use. All principal use activities, other than outdoor dog runs or exercise areas, must be conducted within a totally enclosed building.

    b. Dumpsters. Any dumpsters used by a kennel must be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and must not be visible from lot lines. Any disposal of bio-hazardous waste must be in conformance with State and local requirements.

    c. Noise. Any activities must not generate a noise level of greater than 60 decibels for more than 4 hours in any 24-hour period at any property line.

    d. Minimum Lot Area: 3 acres.

    e. Where a Medium Kennel located in the agricultural district, the outermost edge of the facility (including the parking lot and runs) must be at least 1,000 feet from the property line. Where a Medium Kennel is located in an industrial, business, or mixed-use district, the outermost edge of the facility (including the parking lot and runs) must be at least 1,000 feet from the nearest agricultural, residential, or mixed-use zoning district boundary.

    f. Where a Large Kennel located in the agricultural district, the outermost edge of the facility (including the parking lot and runs) must be at least 1,500 feet from the property line. Where a Large Kennel is located in an industrial, business, or mixed-use district, the outermost edge of the facility (including the parking lot and runs) must be at least 1,500 feet from the nearest agricultural, residential, or mixed-use zoning district boundary.

13. Service Station, Local. In all Zoning Districts, where Service Stations are permitted with limitations, 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.

    d. In addition to any other required off-street parking, the use must provide for each washing stall, sufficient hard-surfaced and dust-free space on the lot to accommodate at least 3 vehicles waiting to be washed.

14. Automobile Services, Heavy. In all Zoning Districts where permitted with limitations, 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 (*4.9 – 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.

15. Auto/Motorcycle/Boat/Light Truck Sales or Rentals. In all Zoning Districts where permitted with limitations, 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.

16. Heavy Vehicle/Equipment Sales, Rentals, and Service. In all Zoning Districts where permitted with limitations, 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.

17. Contractors, Special Trade – General. In all Mixed-Use Districts, where permitted with limitations, trucks having a manufacturer's capacity of more than 2 tons cannot remain on the premises except as necessary to load and unload contents. Any unenclosed areas must have a fence or wall high enough to conceal any vehicles, equipment, or supplies located on the lot with asphalt, concrete, or any other dust-free surfacing. These areas must be maintained in good condition, free of weeds, dust, trash, and debris.

    In all Industrial Districts where permitted with limitations, 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.

18. In all Zoning Districts where permitted with limitations, 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.

19. Laboratory, Research and Development Services. In all Zoning Districts where permitted with limitations, 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.

20. Mineral Extraction. Mineral Extraction is prohibited within urban areas as defined in *I.C. 36-7-4-1103*.

21. Terminal Station/Service Facility for Passenger System. In all residential districts where permitted with limitations, 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.

22. Automobile Parts Recycling Business. In all Zoning Districts where permitted with limitations, an Automobile Parts Recycling Business use must comply with the following:

    a. 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.

    b. Vehicle parts must be arranged in an orderly manner. Outdoor aisles must be graveled or covered with a dust-free surface material, and the site, along with abutting rights-of-way, must be kept free of weeds and litter. The dismantling area cannot be visible from the street or from abutting Residential or Business zoned properties. Outdoor storage areas must be enclosed by a solid wall or fence, except where the business adjoins a similar use along a side or rear lot line. Provision must be made to control, contain, and collect for proper disposal oil, antifreeze, and other liquids generated by the dismantling or storage of motor vehicles or parts. Disposal of CFC's (chlorofluorocarbons) from vehicle air conditioners must be done in accordance with all applicable rules and regulations.

23. Mini-Storage Facility. In all Zoning Districts where permitted with limitations, a Mini-Storage Facility use cannot have individual entrances to storage units from the exterior of the structure.

24. Aquaculture. In all Zoning Districts where permitted with limitations, the outdoor storage of waste material from fish processing is prohibited.

25. Retail Sales, Personal Services, & Repair. In all Industrial Districts where permitted with limitations, retail sales and personal services are permitted subject to compliance with the following standards:

    a. Uses are permitted except for Massage Establishments. Massage Establishments are only permitted with a Special Exception from the Board of Zoning Appeals.

    b. Retail sales and services is limited to 20% or up to 5,000 square feet, whichever is less, of the overall gross square footage of the building.

26. Shooting Range. In all districts where permitted with limitations, outdoor shooting ranges are subject to compliance with the following standards:

    a. Facilities shall be designed to minimize safety concerns for nearby properties. Each facility must utilize a safe backstop and/or conducted shooting in a sage direction as determined by the Whitestown Police Department and must contain all of the bullets, shot, or any other debris on the range facility.

    b. All shooting stations shall be located at least 1,000 feet from any existing residential structure within any jurisdiction.

    c. All shooting stations shall be at least 200 feet from any property line.

    d. Warning signs identifying the presence of the shooting range shall be posted at 100-foot intervals along the entire perimeter of the shooting range facility property boundary.

2.6 Mixed-Use Development Standards and Uses

A. Purpose

1. **MU-OSR Mixed-Use – Open Space, Recreation** – This district is established to promote active and passive greenspace uses in a manner maintaining the feel and character inherent to the district. Development in this district requires connection to public water and public sewers and development plan approval.
2. **MU-COR Mixed-Use – Commercial, Office, Residential** – This district is established to accommodate developments containing a variety of commercial, office, and residential uses. Development in this district requires connection to public water and public sewers and development plan approval.
3. **PUD - Planned Unit Development** – This district is established to encourage large-scale, identity-building developments mixing uses, building types, and building arrangements. Development in this district requires connection to public water and public sewers and development plan approval. See Section *11.9 – Planned Unit Development*.

	MU-OSR	MU-COR
B. Lot Requirements		
Maximum Density (units/acre)	1.0	15.0
Minimum Lot Size		
Residential Use (per dwelling unit)	6,000	1,800
Nonresidential Use	No min.	No min.
Minimum Lot Width		
Residential Use	50'	40'
Nonresidential Use	No min.	No min.
Minimum Lot Frontage/Street Frontage (1)		
Residential Use	40'	30'
Nonresidential Use	No min.	No min.
C. Building Placement Requirements	See Fig. 2-15	See Fig. 2-15
Minimum Front Setback		
Residential Use	20'	10'
Nonresidential Use	20'	0'
Minimum Street Side Setback		
Residential Use	10'	7'
Nonresidential Use	7'	0'
Minimum Side Setback		
Residential Use (2)	5'	5'
Nonresidential Use	5'	0'
Minimum Rear Setback		
Residential Use	20'	10'
Nonresidential Use	10'	0'
Min. Separation of Primary and Accessory Buildings		
Residential Use	6'	6'
Nonresidential Use	6'	10'
Garage Along Street Setback		
Residential Use	20'	20'
Nonresidential Use	0'	0'

	MU-OSR	MU-COR
D. Building Requirements		
Building Height		
Residential Use	35'	45'
Nonresidential Use	50'	40'
Lot Coverage		
Residential Use	60%	80%
Nonresidential Use	80%	80%
Ground Floor Area (s.f.)		
1 Story Dwelling		
Residential Use	960	700
Nonresidential Use	No min.	No min.
Dwelling with more than 1 story		
Residential Use	750	400
Nonresidential Use	No min.	No min.
Min. Floor Area per D.U. for Multi-Family Dwellings	N/A	(3)

Notes:
(1) Any lot without street frontage must have an unobstructed access easement at least 25' wide.
(2) The side yard setback between attached single family units and multi-family units within the same building is 0'
(3) 450 s.f. + 150 s.f. per bedroom

E. Parking Requirements

See *CHAPTER 7 – PARKING AND LOADING STANDARDS*

F. Architectural Standards

See *9:5 – Business and Mixed Use Architectural Standards*

G. Use Table

P - Permitted
L - Subject to Use Limitations
NP - Not Permitted
SE - Special Exception Approval Required

USE	Use Limitations	MU-OSR	MU-COR
RESIDENTIAL PRIMARY USES			
Household Living			
Dwelling, Multifamily		NP	P
Dwelling, Single Family		SE	P
Dwelling, Two Family		NP	P
Live/Work Dwelling	1	NP	L
Group Living			
Assisted Living		NP	P
Fraternity, Sorority, or Student Housing		NP	P
Group Residential Facility		NP	P
Nursing Home, Hospice		NP	P
CIVIC, PUBLIC & INSTITUTIONAL PRIMARY USES			
Basic Utilities			
Utility, Major Impact	2	SE	SE
Utility, Minor Impact	3	P	P
Community/Public Services			

Community Center	4	NP	L
Fairgrounds	5	L	NP
USE	**Use Limitations**	**MU-OSR**	**MU-COR**
Hospital		NP	P
Municipal & Government Buildings		P	P
Cultural/Special Purpose/Public Parks & Open Space			
Cemetery	6	L	L
Libraries		NP	P
Museum		NP	P
Publicly Owned Park or Recreational Facility	7	L	L
Education			
Colleges & Universities		NP	P
Elementary & Secondary Schools		P	P
Trade or Business School		NP	P
Public & Religious Assembly			
All Types	8	L	L
COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES			
Arts, Recreation & Entertainment			
Arts, Recreation, Entertainment, Indoor	9	P	L
Arts, Recreation, Entertainment, Outdoor	10	L	L
Sports and/or Entertainment Arena or Stadium	11	L-SE	NP
Parking of Vehicles			
Parking Garage	12	NP	L
Eating & Drinking Establishments			
Restaurant, Class A		NP	P
Restaurant, Class B		NP	P
Taverns & Lounges		NP	P
Lodging Accommodations			
Bed & Breakfast		P-SE	P
Hotel or Motel		NP	P
Office			
Dental/Medical Office or Clinic	13	NP	L
Office, All Others		NP	P
Retail Sales, Service & Repair			
Animal Sales and Services, Household Pets	14	NP	L
Food Sales or Market	15	NP	L
Liquor Store		NP	SE
Landscape Contractor	16	NP	L
Retail Sales, Personal Services, & Repair	28	NP	L
Vehicle/Equipment Sales, Service & Repair			

USE	Use Limitations	MU-OSR	MU-COR
Automobile Services, Light		NP	P
Auto/Motorcycle/Boat/Light Truck Sales or Rentals	18	NP	L
Service Station, Local	17	NP	SE
INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES			
Communications & Information			
Antennas Not Attached to a Tower	§3.4	L-SE	NP
Amateur Radio Antenna	§3.4	P	P
Communication Services	§3.4	NP	L
Telecommunication Towers	§3.4	L-SE	NP
Industrial Services			
Contractors, Special Trade – General	19	NP	L
Laboratory, Research, and Development Services	20	NP	L
Manufacturing & Extraction and Energy Producing Systems			
Manufacturing, Fabricating, & Assembly – General	21	NP	L
Mining & Extraction and Energy Producing Systems			
Oil, Gas – Transmission Facility		P	P
Mineral Extraction	22	L-SE	L-SE
Transportation Facilities			
Terminal Station/Service Facility for Passenger System	23	P	P
Wholesale Storage, Warehouse &Distribution			
Mini-storage facility	24	NP	L
AGRICULTURE PRIMARY USES			
Farm		P	NP
Garden, Urban		L	L
Plant Nursery		L	NP
Roadside Produce Stand		P	NP
ACCESSORY TO PRIMARY RESIDENTIAL USE			
Unlisted Accessory Uses	§3.1	NP	L
Garden	§3.1	NP	L
Keeping of Household Animals	§3.1	NP	L
Keeping and Off-Street Parking of Vehicles, Motorcycles, Trailers, and Recreational Vehicles	§3.1, §3.8(A)	NP	L
Animal Exercise Run	25, §3.1	NP	L
Outdoor Storage, Residential	26, §3.1	NP	L
Short-Term Rental	§3.10	NP	L
Vehicle Storage, Repair and Maintenance	§3.1	NP	L
Yard or Garage Sales	27, §3.1	NP	L

Mixed-Use District Use Limitation Notes

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

   a. A Live/Work Dwelling use is not a "residential use" or "residential district" or "Protected District," 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 commercial activity must not exceed 50% of the gross floor area of the use.

   d. The commercial activity cannot have more than 2 employees or assistants on the premises at one time. The employees or assistants may be in addition to residents of the Live/Work Dwelling.

   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 commercial activity.

2. Major Impact Utility. In all Zoning Districts where permitted with limitations, 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. In all Zoning Districts where permitted with limitations, 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.

   c. 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. In all Zoning Districts where permitted with limitations:

   a. A community center cannot have an outdoor public address system or any type of amplified music or sound device.

   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. Fairgrounds. In all Zoning Districts where permitted with limitations, fairgrounds 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.

6. Cemetery. In all Zoning Districts where permitted with limitations, a cemetery may include a crematorium. A crematorium must be at least 500 feet from a residential district.

7. Publicly Owned Park or Recreation Facility. In all Zoning Districts where permitted with limitations, 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.

8. Public and Religious Assembly Uses. In residential districts where permitted with limitations, 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, child care centers 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.

9. Arts, Recreation, and Entertainment, Indoor Uses. In all residential districts where permitted with limitations, seating capacity in a permitted Arts, Recreation, and Entertainment, Indoor use is limited to no more than 100 people.

10. Arts, Recreation, and Entertainment, Outdoor Uses. In all Zoning Districts where permitted with limitations, an Arts, Recreation, and Entertainment, Outdoor use must comply with the following:

    a. If the Arts, Recreation and Entertainment Services, Outdoor use is located within 200 feet of a residential district, outdoor public address systems and other types of amplified music or sound devices are prohibited.

    b. Outdoor lighting must be extinguished when outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, and by 11:00 p.m. on Friday and Saturday.

    c. Unless within a completely enclosed structure, courts or swimming pools must be located at least 50 feet from the boundary of a residential district.

11. Sports and/or Entertainment Arena or Stadium. In all Zoning Districts where permitted with limitations, 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.

12. Parking Garage. In all Zoning Districts where permitted with limitations, 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.

13. Dental/Medical Office or Clinic. In all Zoning Districts where permitted with limitations, up to 20 patients or clients may stay overnight at any one time in a Dental/Medical Office or Clinic use.

14. Animal Sales and Services, Household Pets. In all Zoning Districts where permitted with limitations, 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.

15. Food Sales or Market. In all Zoning Districts where permitted with limitations, a Food Sales or Market use must comply with the following:

    a. Accessory outdoor sales and displays, including outdoor sales of fruits or vegetables, must occupy no greater than 1/4 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. Landscape Contractor. In all Mixed-Use Districts where permitted with limitations, only outdoor retail sales are permitted, and outdoor repair or service uses must take place indoors.

17. Service Station, Local. In all Zoning Districts, where Service Stations are permitted with limitations, 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.

    d. In addition to any other required off-street parking, the use must provide for each washing stall, sufficient hard-surfaced and dust-free space on the lot to accommodate at least 3 vehicles waiting to be washed.

18. Auto/Motorcycle/Boat/Light Truck Sales or Rentals. In all Zoning Districts where permitted with limitations, 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.

19. Contractors, Special Trade – General. In all Mixed-Use Districts, where permitted with limitations, trucks having a manufacturer's capacity of more than 2 tons cannot remain on the premises

except as necessary to load and unload contents. Any unenclosed areas must have a fence or wall high enough to conceal any vehicles, equipment, or supplies located on the lot with asphalt, concrete, or any other dust-free surfacing. These areas must be maintained in good condition, free of weeds, dust, trash, and debris.

In all Industrial Districts where permitted with limitations, 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.

20. Laboratory, Research and Development Services. In all Zoning Districts where permitted with limitations, 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.

21. In all Zoning Districts where permitted with limitations, 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.

22. Mineral Extraction. Mineral Extraction is prohibited within urban areas as defined in I.C. 36-7-4-1103.

23. Terminal Station/Service Facility for Passenger System. In all residential districts where permitted with limitations, 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.

24. Mini-Storage Facility. In all Zoning Districts where permitted with limitations, a Mini-Storage Facility use cannot have individual entrances to storage units from the exterior of the structure.

25. Animal Exercise Run. In all Zoning Districts where permitted with limitations, an Animal Exercise Run accessory use must comply with the following:

    a. Outdoor animal exercise runs cannot exceed 200 square feet;

    b. The use must be at least 20 feet from any habitable building on an adjacent lot;

    c. The use must be in the rear half of the lot; and

    d. The use must be visually screened from adjacent residential property by a solid fence or wall.

26. Outdoor Storage, Residential. In all Zoning Districts where permitted with limitations, an Outdoor Storage, Residential accessory use must comply with the following:

    a. The storage of junk, waste, discarded, or salvaged materials, or items customarily associated with indoor use (e.g. upholstered furniture or indoor appliances) is not allowed.

    b. Automobile parts and tools, equipment, and supplies used for automobile repair must not be stored outdoors.

    c. Heavy tools, equipment, and supplies typically used for commercial construction, such as backhoes, excavators, and stockpiles of brick, gravel, or lumber, must not be stored outdoors, except when used in connection with on-site construction and only for the duration of the construction.

27. Yard or Garage Sales. In all Zoning Districts where permitted with limitations, Yard or Garage Sales:

    a. Must not exceed 72 total hours;

    b. Must not have more than one sale from January 1st to June 30th and no more than one sale from July 1st to December 31st;

    c. Items offered for sale must not have been bought or consigned for resale purposes; and

    d. All external evidence of the sale must be removed immediately upon the sale's conclusion.

28. Retail Sales, Personal Services, & Repair. In all Mixed Use Districts where permitted with limitations, retail sales and personal services are permitted outright except for Massage Establishments. Massage establishments are only permitted with a Special Exception from the Board of Zoning Appeals.

2.7 I-65 Corridor Overlay

A. **Purpose**. This district is established to provide consistent and coordinated treatment of the properties bordering I-65 within Whitestown. The I-65 Corridor is a premier office and industrial business location and employment center whose vitality, quality, and character are important to adjacent residents, employees, business owners, taxing districts, and the community as a whole. Therefore, this district seeks to promote the aesthetic qualities of properties within the corridor through:

- Coordinated development within the district;
- Establishment of high standards for buildings, landscaping, and other improvements constructed on properties within the corridor which permit innovative site designs while encouraging efficient land usage; and
- Establishment of development requirements that encourage substantial capital investments in properties within the district while promoting the quality, scale, and character of development consistent with existing and planned uses within the corridor.

This district further seeks to foster development that creates a sense of identity and increases property values, protects real estate investment, encourages commercial activity, and attracts new businesses. This sense of identity is promoted through coordinated design principles for site planning, buildings, landscaping, and signage. These principles guide individual development activities to be harmonious with the overall theme described below. Development in this district requires connection to public water and public sewers and development plan approval.

B. **Boundaries**. The I-65 Corridor Overlay boundaries are noted on the Zoning Map.

C. **Uses**. All uses permitted in the underlying zoning district are permitted except the following uses are prohibited within the I-65 Corridor Overlay District:

1. Confined feeding
2. Junk yard
3. Manufacture, use, or storage of explosives
4. Slaughterhouses
5. Sanitary landfill
6. Restricted waste site
7. Adult businesses
8. Any other use excluded by the underlying zoning district

D. **Site Design Standards**.

1. Primary Building Orientation. The facades of all primary buildings located within the I-65 Corridor Overlay facing I-65, Indianapolis Road, or any other primary thoroughfare identified in the Comprehensive Plan must contain at least one main entrance as described in 2.7(E)(4) below. Unless otherwise approved by the WPC, loading docks must not be located on a façade facing I-65, Indianapolis Road, or any other primary thoroughfare identified in the Comprehensive Plan.
2. Accessory Buildings. All accessory buildings permitted in the underlying zoning district are permitted. Accessory buildings within the I-65 Overlay must have the same building proportions, architectural features, construction materials, and in general be architecturally compatible with the principal building with which it is associated.
3. Building Height. Principal buildings for residential uses must have a minimum height of 20 feet. Principal buildings for non-residential uses must comply with the underlying zoning district.
4. Commercial Buildings. Retail and office buildings must be oriented with their longest axis parallel to the adjoining street to create a sense of enclosure along the street, with parking to the rear, and if necessary, to the side of the building. Retail and office buildings are encouraged to

have office or residential uses above the first floor of the building.

5. Site Circulation. The following standards apply; however, the Plan Commission, Town Council, or Administrator 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 specifically approved by the Plan Commission or Administrator prior to installation.

   b. Access roads must be provided for parcels along the I-65 Corridor. The access road may: (1) be dedicated right-of-way, or (2) remain private if constructed to public road standards and public access is provided using cross access easements.

   c. Approval of a zoning petition containing an illustrative concept plan showing vehicular drive cuts does not constitute approval of curb cuts by the Town Council.

   d. Developments must provide for vehicular and pedestrian connectivity between adjacent lots or parcels in order to encourage and facilitate circulation without directly accessing perimeter streets.

   e. 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 200f feet.

   f. Streets must align and connect with existing or planned streets and provide for connections with adjacent property. Proposed streets must extend to the boundary line of the parcel to be developed 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 such street continuation is prevented due to topography or other physical condition, or unless such extension is found by the Plan Commission to be unnecessary.

6. Signs.

   a. On-Premise Signs. A sign plan must be submitted to the WPC as part of the Development Plan. Signs for each proposed use must be uniform in character as approved by the WPC. Should a sign plan be replaced with a new design, the amended sign plan must be approved by the WPC. Individual signs that conform to the Zoning Ordinance and the sign plan do not require approval by the WPC but do require a sign permit for each sign.

   b. Off-Premise Signs. Off-premise signs are prohibited within the I-65 Corridor Overlay. Incidental signs located at the entrances to commercial or industrial subdivisions are exempt from this requirement.

E. **Architectural Design Standards**. The development plan submittal must include the architectural design of buildings to be constructed in the development. In reviewing the architectural design, the WPC will consider the following factors:

   1. Building Design. The appearance of a building is based upon the quality of its design and its relationship to the surroundings. New buildings are not required to imitate surrounding buildings but must incorporate their salient design features. Pre-existing buildings on adjoining parcels are not a factor in the design of new buildings unless they are consistent with the architectural objectives of this Overlay.

   2. Building Facades. To avoid long, monotonous, uninterrupted walls or roof planes, building facades must incorporate changes in pattern, texture, or color. Facades constructed with more than one material must only change material along a horizontal or vertical line (not a diagonal line). In the case of a change

along a horizontal line, the heavier material must be placed beneath the lighter material. Front and side facades of buildings located on corner lots must have the same materials and architectural detailing.

3. Roofs. Flat roofs must be edged by a railing or parapet. Rooftop mechanical equipment must be camouflaged on all sides or visually integrated into the overall design of the building. Rooftop mechanical equipment must not be visible from adjoining residential districts or uses.

4. Entrances. Building entrances must be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, and other design elements appropriate to the architectural style and detailing of the building. The location, orientation, proportion, and style of doors must reflect the architectural style of the building. Building facades for industrial and warehouse uses must be designed with a main entrance and at least two window openings associated with the entry door.

5. Windows. All window design must be compatible with the style, materials, color, details, and proportion of the building. The number of panes, manner of opening, decorative trim, and use of shutters must be consistent with the architectural style of the building.

6. Awnings. Fixed or retractable awnings are permitted if: (a) they complement the building's architectural style, materials, colors, and details; (b) do not conceal architectural features (such as cornices, columns, pilasters, or decorative details); (c) do not impair façade composition; and (d) are designed as an integral part of the façade.

7. Additional Requirements for Retail and Commercial Buildings. The following requirements are applicable to buildings having office and retail as the primary use.

   a. Storefronts must be integrally designed with the overall façade character. Ground floor retail, service, and restaurant uses should have large pane display windows, but the windows should not exceed 75% of the total ground floor façade area. Buildings with multiple storefronts must have a unified design through the use of common materials, architectural detailing, signage, and lighting consistent with the overall building style.

   b. Drive-thru windows must be designed as a related, integrated architectural element and part of the overall design composition of the building. Stacking for drive-thru lanes is confined to the sides and rear of the parcel. Stacking for drive-thru facilities is not permitted along the front of the building nor is staking allowed to spill onto adjoining properties nor into the right-of-way.

   c. Roofs. Pitched roofs must be clad in wood shingles, slate, composition asphalt shingle, or standing-seam metal panels. Asphalt shingles must be colored to resemble gray slate; standing-seam panels may be gray, black, dark blue, dark green, or barn red. If appropriate to the style of the building, dormers may be used if designed with the correct details, proportion, and style. Belvederes, cupolas, and pergolas are permitted if appropriate to the style, well-proportioned, and fully detailed. All vents, attic ventilators, turbines, flues, and other roof penetrations must be painted to match the color of the roof or flat black, except those made of metal may be left natural. Gutters and downspouts must be appropriate to or visually integrated with the architectural style of the building.

8. Exterior Building Materials. Unless otherwise approved by the WPC, exterior building materials must comply with the following requirements:

   a. Foundation. The exposed foundation must be constructed with one or more

of the following: (1) red brick; (2) stone (limestone, granite, fieldstones, etc.); and/or (3) split-face block or architectural pre-cast concrete, if the surface looks like brick or stone.

b. Façade Walls of Buildings. The following standards apply to all uses except industrial buildings and warehouse facilities. Façade walls of buildings must be constructed of one or more of the following materials:

   i. Red brick or stone;

   ii. Smooth cut cedar shingles;

   iii. Wood clapboard siding;

   iv. Wood beaded siding;

   v. Stucco with smooth finish, or dryvit (or equivalent), not to exceed 20% of the overall non-window façade area;

   vi. Architectural metal panels;

   vii. Glass (up to 75% of the façade area); and

   viii. Ornamental metal.

c. Façade Walls of Industrial Buildings and Warehouses Facilities (including self-storage and mini-warehouse uses) visible from I-65 must be constructed of one or more of the following materials:

   i. Red brick facades trimmed with split-faced aggregate block of a color and texture resembling Indiana limestone, provided it also includes red brick accents such as windowsills, lintels above windows and doorways, building corners, parapet coping, etc.

   ii. Split-faced aggregate block of a color and texture resembling Indiana limestone, provided it also includes red brick accents;

   iii. Pre-cast concrete wall panels of a color and texture resembling either red brick or Indiana limestone, provided the building design also incorporates architecturally appropriate details of contrasting color and material;

   iv. Architectural metal panels;

   v. Glass (up to 75% of the façade area); and

   vi. Ornamental metal.

d. Accent and Trim Elements. The use of accent and trim elements (accent panels, banding, cornices, canopies/awnings, etc.) is recommended to add visual interest and break down the scale of facades. Permitted building trim materials include: brick, clay, stone, simulated cut stone, tile (ceramic or porcelain), wood, glass, painted aluminum, and formed polymers.

e. Color. Colors used on building facades must be complementary. Natural, muted colors (earth tones or neutral colors) should serve as the primary façade color, with brighter colors used only as accents.

2.8 Legacy Core Overlay

A. **Purpose**. This district is established to maintain the character and traditional compact form of Whitestown's historic core. The properties within this district are poised for change ranging from rehabilitation of existing homes to infill development to new construction. This district seeks to coordinate development activity for compatibility between uses and contribution of the building form to the urban fabric. This district seeks to promote mixed-use infill in a pedestrian-oriented pattern.

B. **Boundaries**. The Legacy Core Overlay boundaries are noted on the Zoning Map.

C. **Uses**. All uses permitted in the underlying zoning district are permitted except the following uses are prohibited within the Legacy Core Overlay District:

1. Buildings with a footprint larger than 16,000 s.f.
2. Drive-thru windows
3. Confined feeding
4. Junk yard
5. Manufacture, use, or storage of explosives
6. Slaughterhouses
7. Sanitary landfill
8. Restricted waste site
9. Adult businesses
10. Any other use excluded by the underlying zoning district

When considering a change in land use within the Legacy Core Overlay, the Plan Commission and Town Council should pay reasonable regard to *Figure 2-17: Legacy Core Overlay District Proposed Land Use Map*.

D. **Compatibility with Surrounding Development**. In addition to the criteria identified in Section 11.7(E), Development Plans submitted within the Legacy Core Overlay are reviewed for compatibility of the proposed development with the surrounding neighborhood on the following criteria:

- 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 WPC 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.

E. **Site Design Standards**.

1. Primary Building Orientation. The facades of all primary buildings located within the Legacy Core Overlay must face existing public streets or the Big-4 Rail Trail and must contain at least one main entrance

as described in 2.7(E)(4). Unless otherwise approved by the WPC, loading docks must not be located on a façade facing any primary thoroughfare identified in the Comprehensive Plan.

2. Accessory Buildings. All accessory buildings permitted in the underlying zoning district are permitted. Accessory buildings within the Legacy Core Overlay must have the same building proportions, architectural features, construction materials, and in general be architecturally compatible with the principal building with which it is associated. Accessory buildings larger than 12' x 12' are prohibited.

3. Building Form. Building massing and the location of the building on the lot are key in maintaining and enhancing the character of the Legacy Core. The following development standards apply based upon the type of building constructed as noted on *Figure 2-17: Legacy Core Overlay District Proposed Land Use Map*.

   a. Single Family Residential Detached Dwellings – The requirements of the underlying zoning district apply, except the maximum building height is three stories.

   b. Single Family Residential Attached Dwellings – The requirements of the underlying zoning district apply, except the maximum building height is three stories.

   c. Multifamily Residential Dwellings – The front setback and street side setback is a minimum of 20'. The maximum building height is three stories.

   d. Mixed-Use/ Commerical and Residential Uses – The front setback and street side setback is a minimum of 20' and a maximum of 30' measured from the back of the curb to the building façade. The maximum building height is two stories.

   e. Mixed-Use Commercial and Office Uses - The front setback and street side setback is a minimum of 20' and a maximum of 30' measured from the back of the curb to the building façade. The maximum building height is two stories.

4. Parking

   a. Off-street parking is prohibited in the front yard and street side setback of buildings, excluding single-famliy residential detached uses. Parking areas should be located behind the primary building. Where necessary, parking may be located in the side yard of the lot. Where a parking area abuts a public right-of-way other than an alley, the parking area must be screened in accordance with 5.5(A)Parking Lot Landscaping.

   b. The amount of parking required for each non-residential individual use within the project may be reduced by 50%.

   c. On-street parking and public parking within 600' of the use may be counted toward the minimum parking requirement.

5. Signs

   a. On-Premise Signs. A sign plan must be submitted to the WPC as part of the Development Plan. Signs for each proposed use must be uniform in character as approved by the WPC. Should a sign plan be replaced with a new design, the amended sign plan must be approved by the WPC. Individual signs that conform to the Zoning Ordinance and the sign plan do not require approval by the WPC but do require a sign permit for each sign.

   b. Off-Premise Signs. Off-premise signs are prohibited within the Legacy Core Overlay. Incidental signs located at the entrances to commercial or industrial subdivisions are exempt from this requirement.

F. **Architectural Design Standards**. The development plan submittal must include the architectural design of buildings to be constructed in the development. In reviewing the

architectural design, the WPC must consider the following factors:

1. Building Design. The appearance of a building is based upon the quality of its design and its relationship to the surroundings. New buildings are not required to imitate surrounding buildings but must incorporate their salient design features. Pre-existing buildings on adjoining parcels are not a factor in the design of new buildings unless they are consistent with the architectural objectives of this Overlay.

2. Building Facades. To avoid long, monotonous, uninterrupted walls or roof planes, building facades must incorporate changes in pattern, texture, or color. Facades constructed with more than one material must only change material along a horizontal or vertical line (not a diagonal line). In the case of a change along a horizontal line, the heavier material must be place beneath the lighter material. Front and side facades of buildings located on corner lots must have the same materials and architectural detailing.

3. Roofs. Flat roofs must be edged by a railing or parapet. Rooftop mechanical equipment must be camouflaged on all sides or visually integrated into the overall design of the building. Rooftop mechanical equipment must not be visible from adjoining residential districts or uses.

4. Entrances. Building entrances must be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, and other design elements appropriate to the architectural style and detailing of the building. The location, orientation, proportion, and style of doors must reflect the architectural style of the building. Building facades for industrial and warehouse uses must be designed with a main entrance and at least two window openings associated with the entry door.

5. Windows. All window design must be compatible with the style, materials, color, details, and proportion of the building. The number of panes, manner of opening, decorative trim, and use of shutters must be consistent with the architectural style of the building.

6. Awnings. Fixed or retractable awnings are permitted if: (a) they complement the building's architectural style, materials, colors, and details; (b) do not conceal architectural features (such as cornices, columns, pilasters, or decorative details); (c) do not impair façade composition; and (d) are designed as an integral part of the façade.

7. Storefronts. Storefronts must be integrally designed with the overall façade character. Ground floor retail, service, and restaurant uses should have large pane display windows, but the windows should not exceed 75% of the total ground floor façade area. Buildings with multiple storefronts must have a unified design through the use of common materials, architectural detailing, signage, and lighting consistent with the overall building style.

2.9 IMAGES

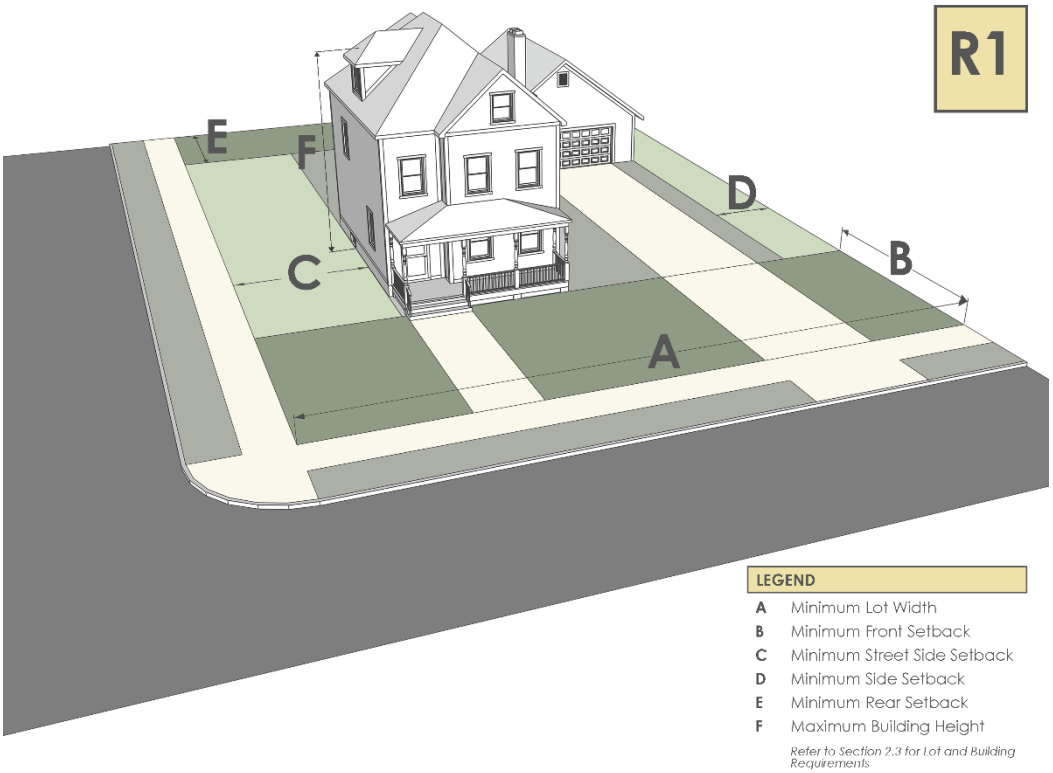

Figure 2-1: R1 Zoning Development Standards

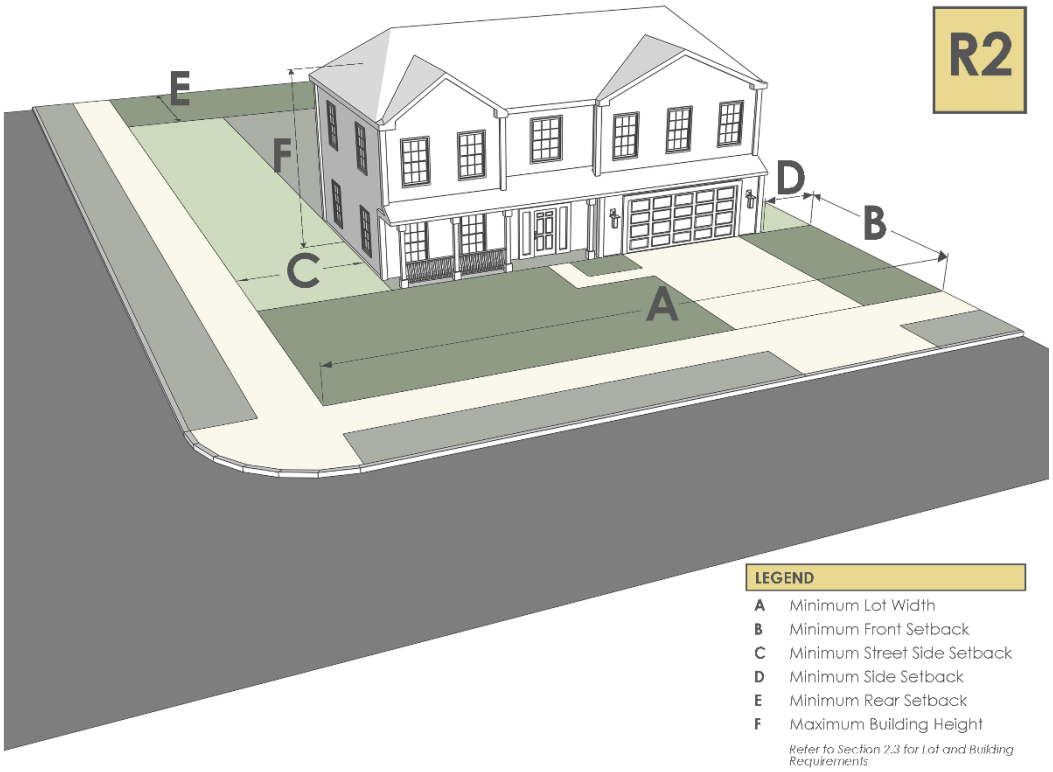

Figure 2-2: R2 Zoning Development Standards

GENERAL PROVISIONS
DISTRICTS
SPECIFIC USES
DESIGN STANDARDS
LANDSCAPE
LIGHTING
PARKING
SIGNS
SUBDIVISION
ADMIN
PROCESS
DEFINITIONS

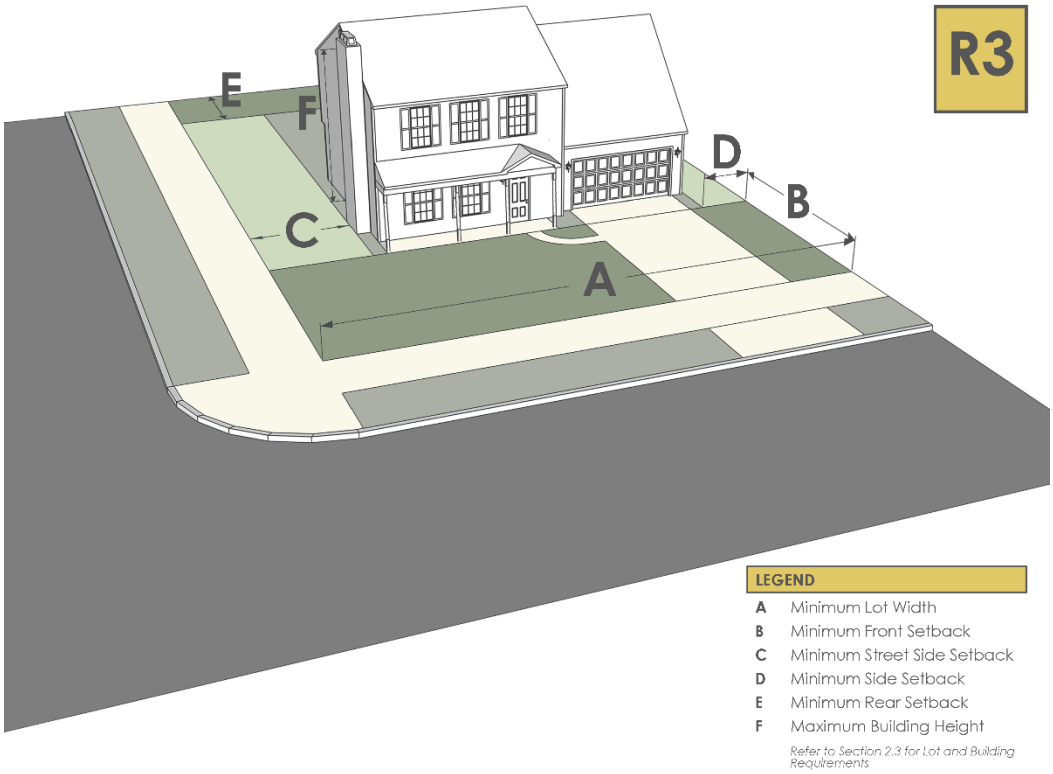

Figure 2-3: R3 Zoning Development Standards

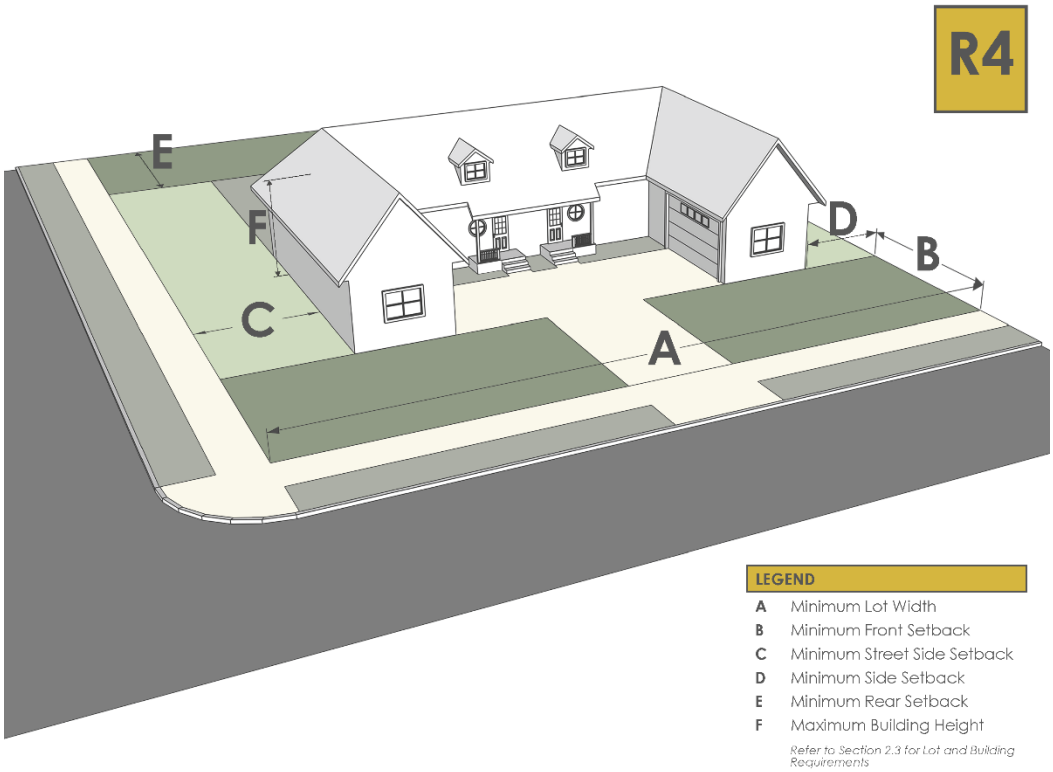

Figure 2-4: R4 Zoning Development Standards

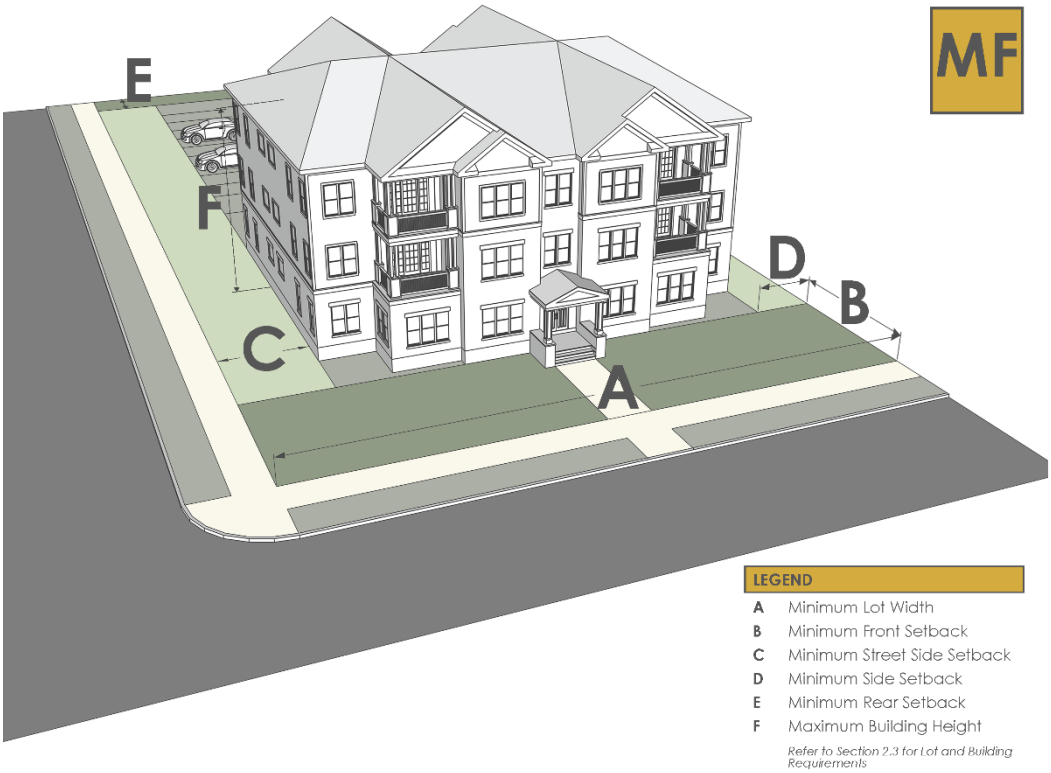

Figure 2-5: MF Zoning Development Standards

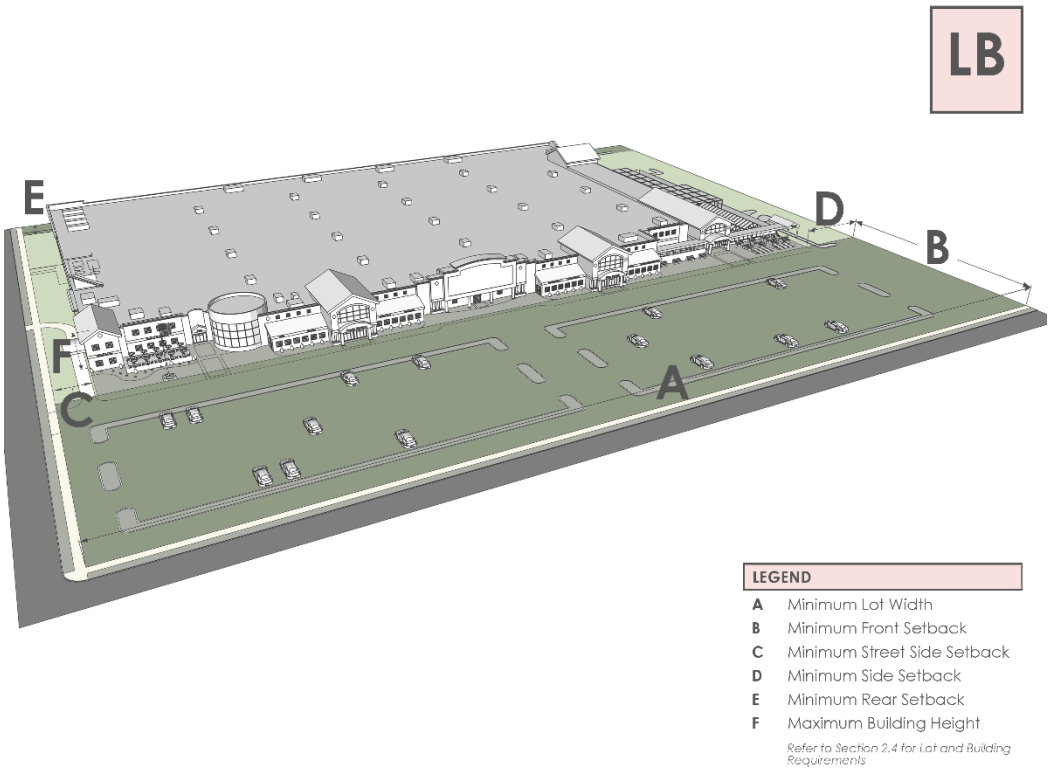

Figure 2-6: LB Zoning Development Standards

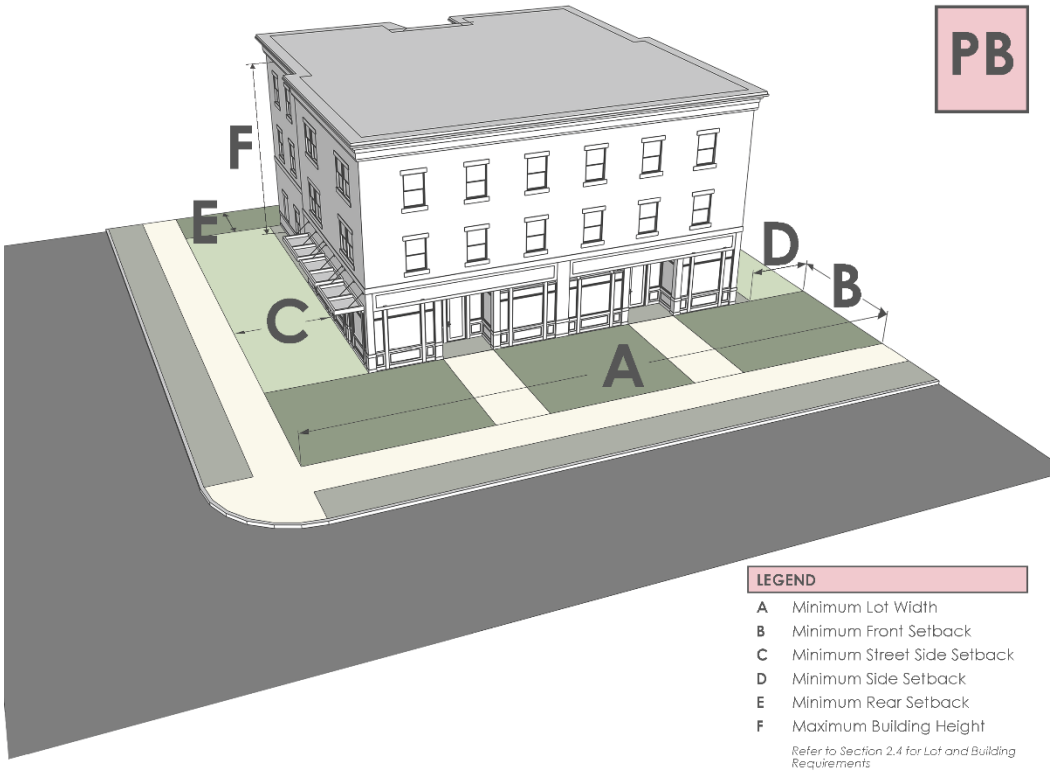

Figure 2-7: PB Zoning Development Standards

Figure 2-8: UB Zoning Development Standards

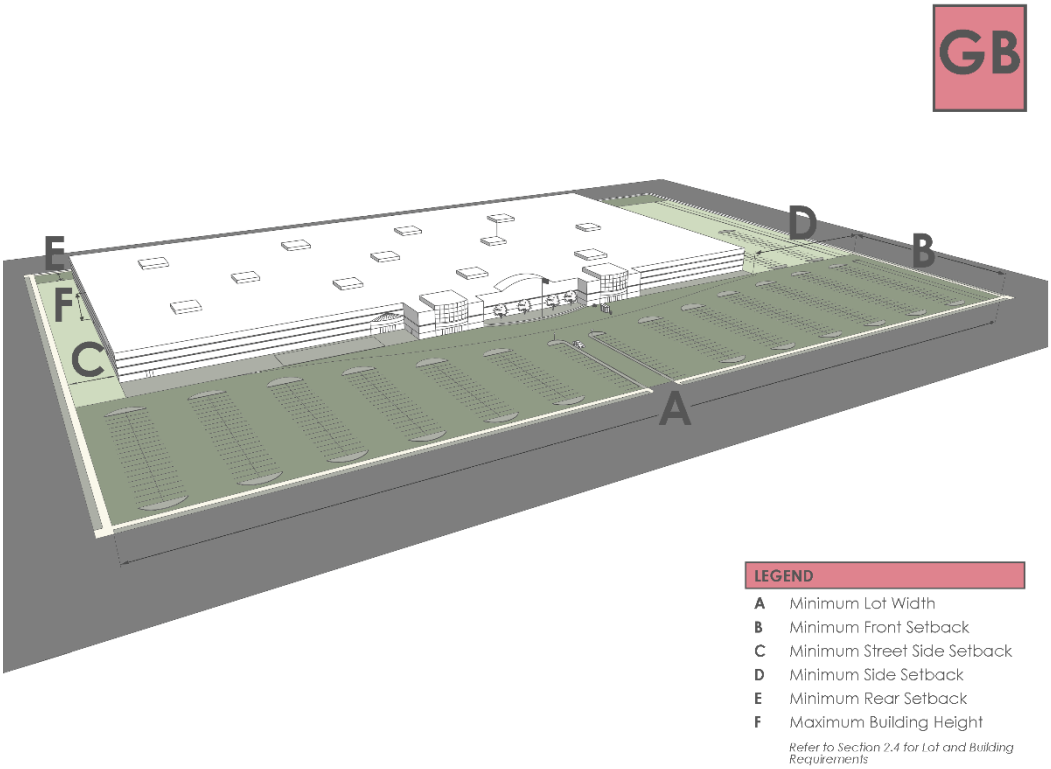

Figure 2-9: GB Zoning Development Standards

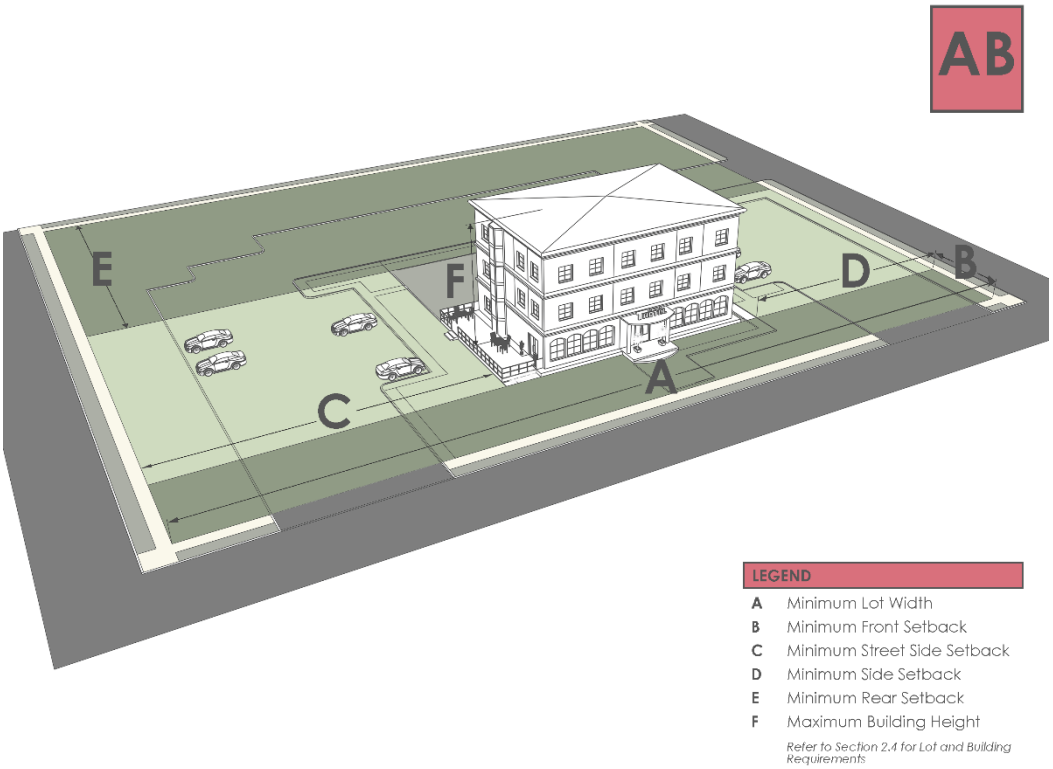

Figure 2-10: AB Zoning Development Standards

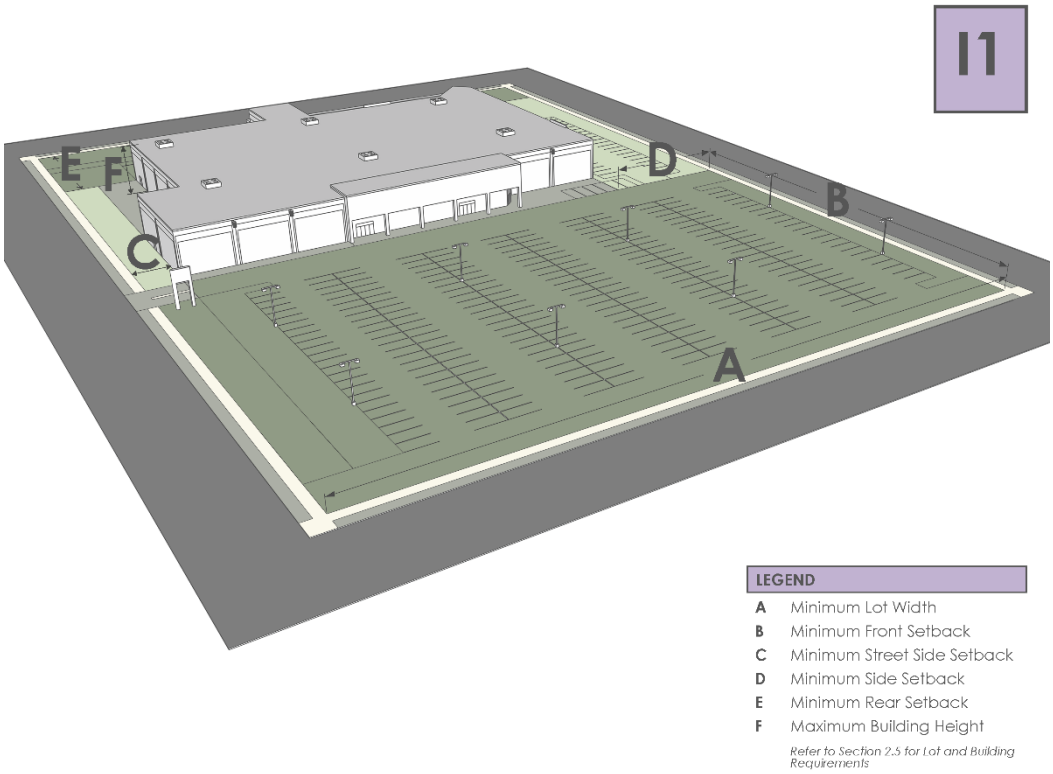

Figure 2-11: I1 Zoning Development Standards

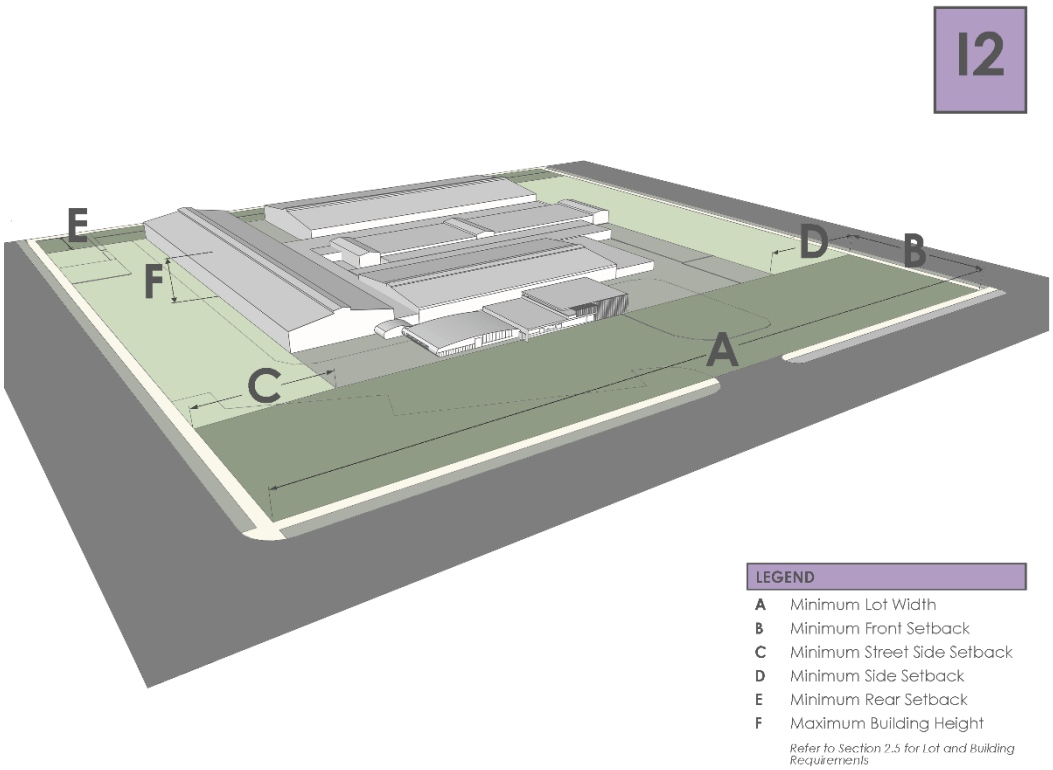

Figure 2-12: I2 Zoning Development Standards

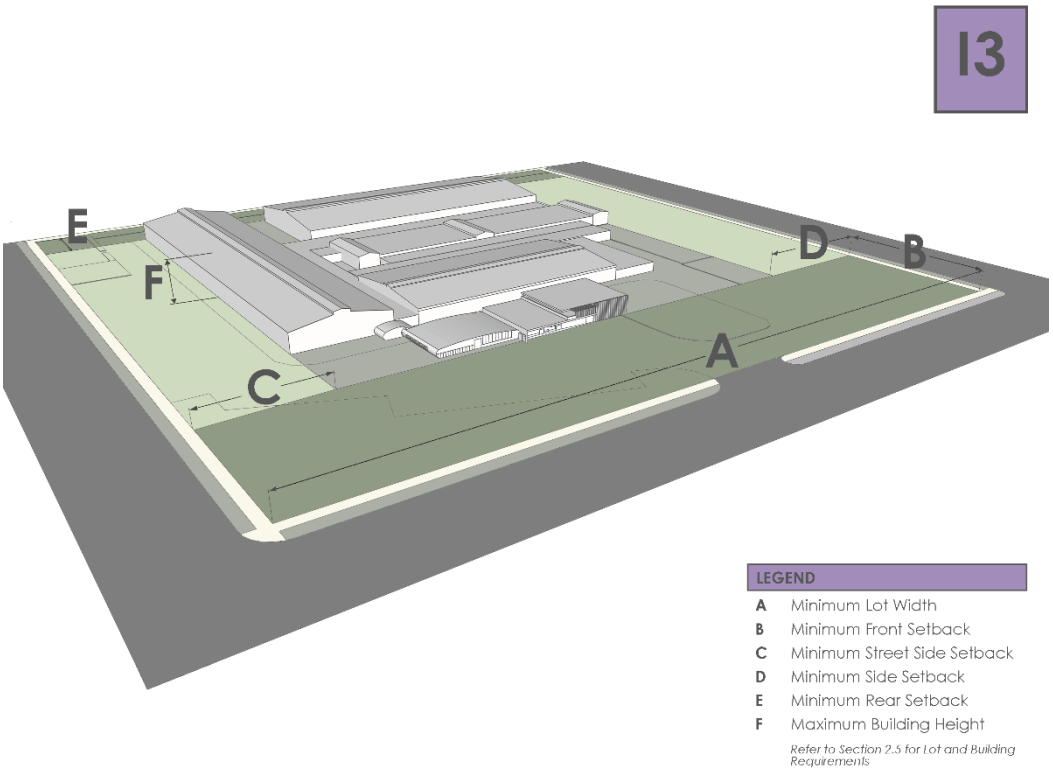

Figure 2-13: I3 Zoning Development Standards

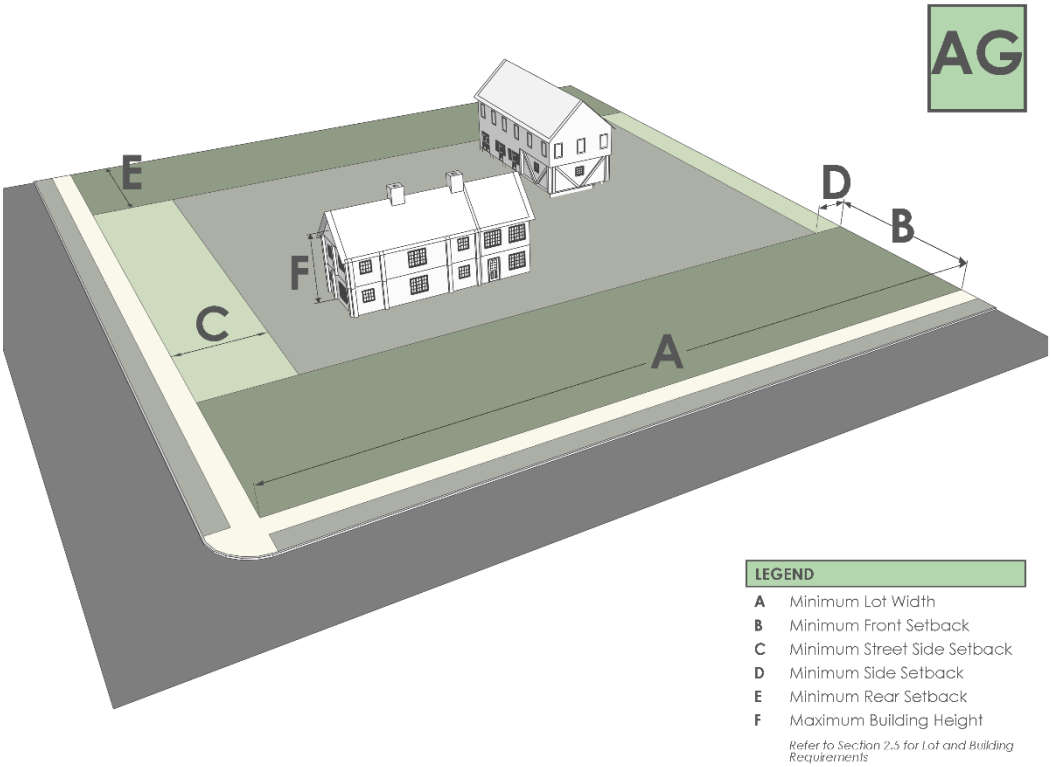

Figure 2-14: AG Zoning Development Standards

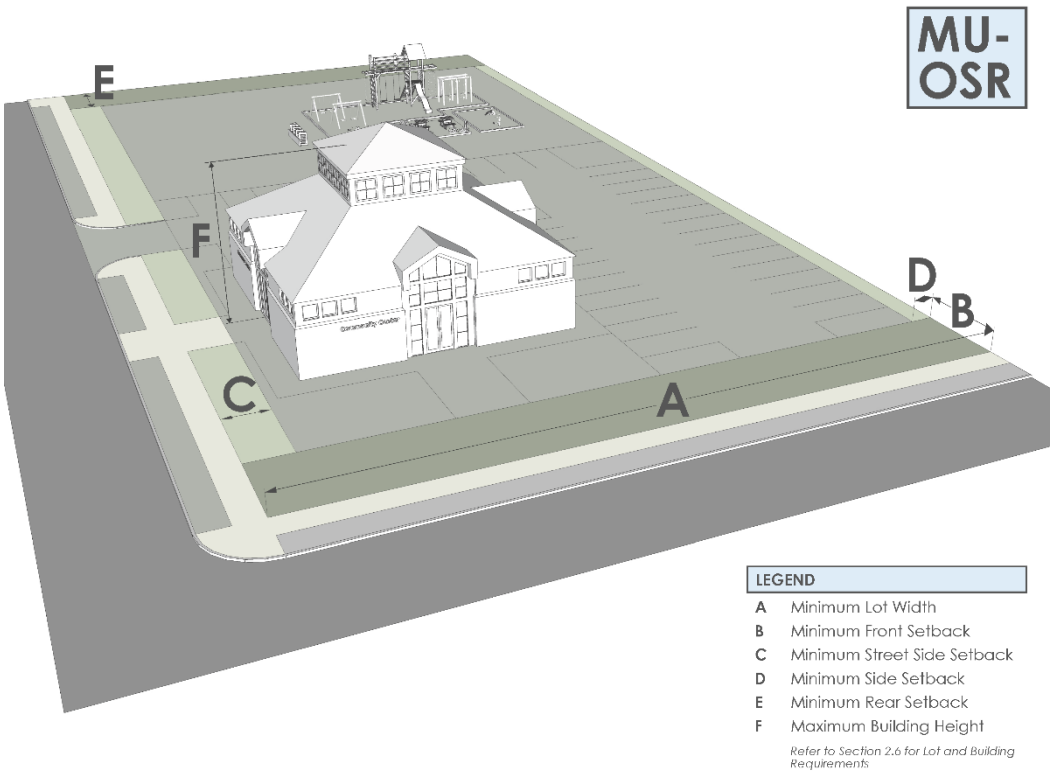

Figure 2-15: MU-OSR Zoning Development Standards

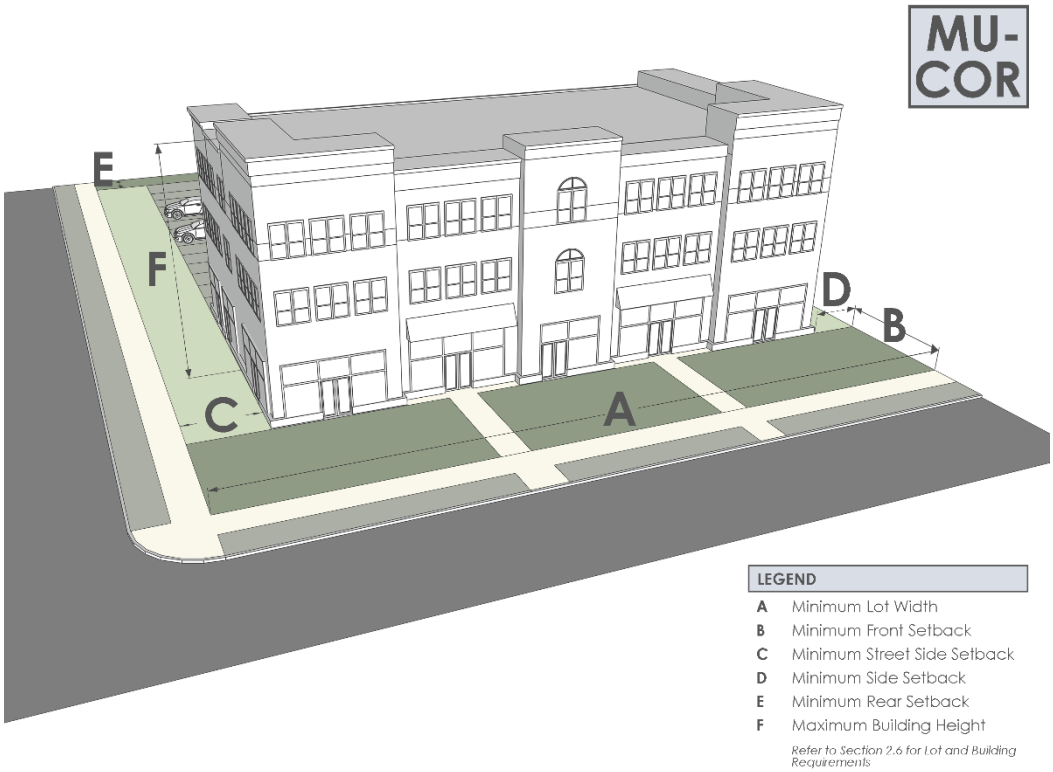

Figure 2-16: MU-COR Zoning Development Standards

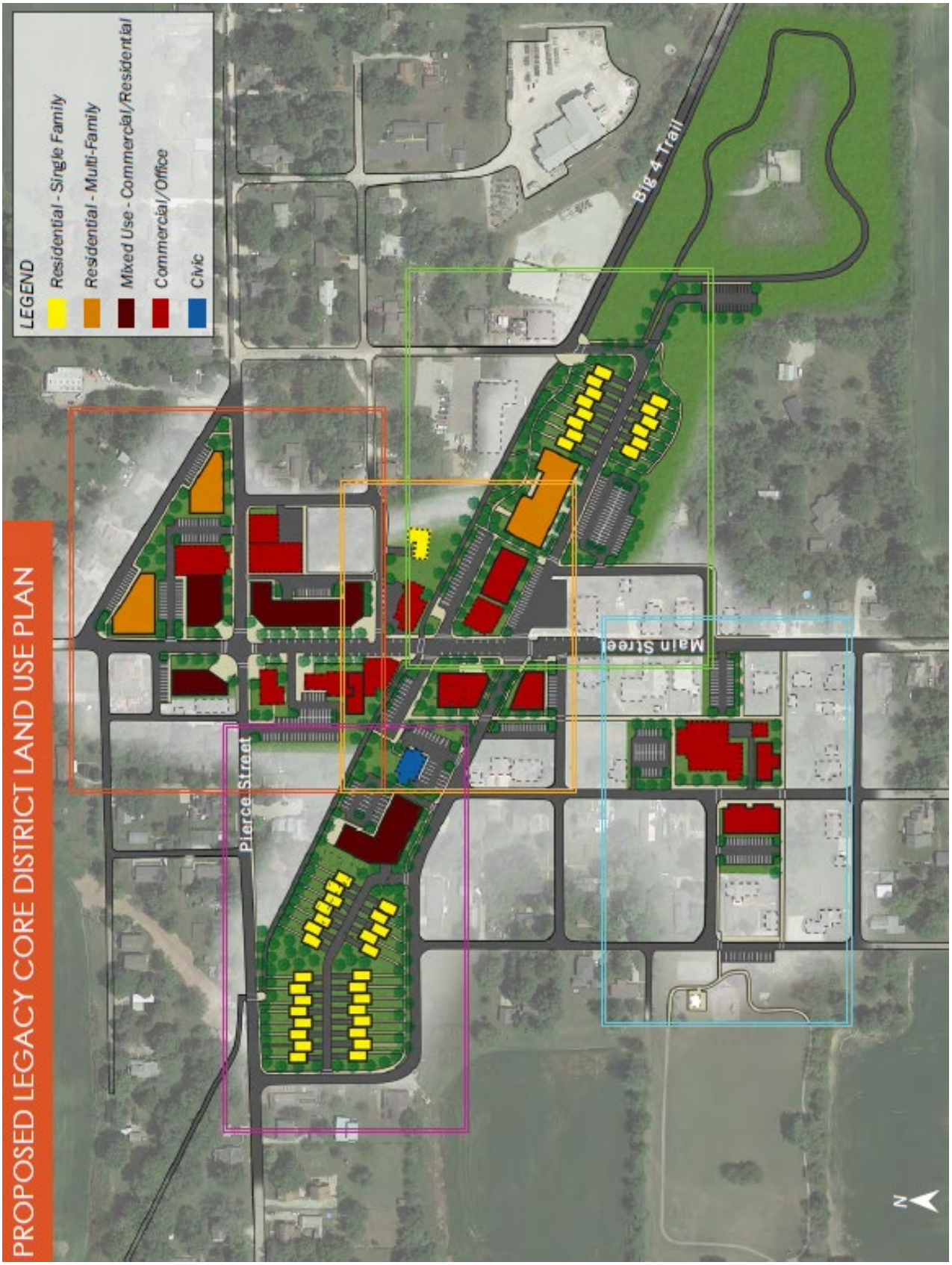

Figure 2-17: Legacy Core Overlay District Proposed Land Use Map

Images

Chapter 3 – Specific Uses

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3.1 Accessory Uses

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 must be conducted in accordance with this chapter.

3.2 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 *11.13 Temporary Use and Events Permits*. Director of Public Works 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).
- Town sponsored events as approved by the Council or Director of Public Works.
- Events held on public park property; however, rules and policies established by the Town 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 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. Temporary uses must be incidental to the primary use of the site.
4. Goods and display materials must be stored inside a structure during non-event hours.
5. 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.
6. Temporary uses and events must not impede pedestrian traffic nor force pedestrians into vehicle traffic lanes.
7. 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.
8. 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 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.

3.3 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 protected uses.

A. An adult business must be separated at least 1,000 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.

3.4 Cell Towers and Wireless Communications Facilities

All cell towers and wireless communications facilities within the Town must comply with the provisions of this chapter.

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 WBZA 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.

A. 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 WBZA conducts the hearing and acts on the request.

B. 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 or 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.
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.

C. 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.

D. 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 WBZA 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 WBZA 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.

E. The following provisions apply to all applications submitted under this chapter:

1. The Administrator and WBZA 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 WBZA 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 WBZA 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 WBZA 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 WBZA 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 WBZA must be based on actual, direct, and reasonable costs incurred for the review, processing, and hearing of the application, and may not include:

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

8. If an application is approved and after final action has occurred, the applicant will record with Boone County provisions for the removal of the cell tower or wireless communication facility as outlined in Section 3.4 G.

F. These design standards apply to all cell towers and wireless communication facilities, except small cell towers.

1. All cell towers and wireless communications facilities shall be constructed as a monopole structure.
2. All cables and wires shall be installed inside the monopole structure.
3. Unless required by state and/or federal regulations, all cell towers and communications facilities shall be uniform grey or black in color.
4. All structures, except fences, shall be located a minimum distance from the property line or lease line of any adjoining property that is equal to one-half (1/2) the height of the tower, but not less than 50 feet.
5. A cell tower or wireless communication facility may be a maximum height of 200 feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to the any tower taller than 10 feet constructed on top of another building or structure, with the height being the overall height of the building/structure and tower together.
6. Cell towers and wireless communications facilities shall not be illuminated, except in accordance with state or federal regulations.
7. The communications tower base and all accessory equipment shall be enclosed by a fence at least 8 feet in height with an access gate that remains locked except when attended by authorized personnel. In addition, the enclosure shall be screened on all sides. The security fence shall be opaque and shall be of colors that are compatible with the natural and built environment. The use of barbed wire and sharp pointed fences shall be prohibited.

G. Removal.

1. If a cell tower or wireless communication facility is not used for a period of one year, it shall be the duty and obligation of the party then in possession and control of the site to have the unused antenna support structure and any other unused cell site apparatus completely dismantled and removed from the site.

3.5 Child Care Centers

These standards apply to child care centers in all Zoning Districts and do not apply to Child Care Homes.

A child care center 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 in excess of 1,500 pounds;
- 1,000 feet of any known business handling flammable liquids in excess of 10,000 gallons.
- 500 feet of another child care center.

Separation distance is measured from the property line of the proposed day care facility to the use, storage, or handling areas for the regulated substances. For businesses containing a child care center on site, the distance is measured from the exterior wall of the child care center to the area(s) containing the regulated substances.

The child care center 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 lease 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.

3.6 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.

C. A home occupation must not employ anyone other than a member of the immediate family residing in the residence and one non-family member.

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 2 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 8.9.

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.

3.7 Manufactured Home Parks

These provisions apply to manufactured home parks in any Zoning District.

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 homes for permanent occupancy must meet the standards for the zoning district in which it is located and the following requirements:

A. An Improvement Location Permit is required for the placement of any manufactured home.

B. A manufactured home must not be located under overhead electric lines.

C. Manufactured homes must be skirted before occupancy.

D. Accessory structures for storage on individual sites must meet setback requirements 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 and 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.

3.8 Outdoor Storage and Outdoor Display

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 conditions:

- Outdoor parking of a recreational vehicle is prohibited.
- Trailers and campers may not be stored on a right-of-way at any time except for the immediate loading and unloading of the vehicle.
- Recreational vehicles must not 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 (*see Figure 3-1*) is only permitted if delineated on an approved development plan and in accordance with 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 (*see Figure 3-2*).

C. Outdoor storage may be permitted in industrial uses (*see Figure 3-3*), 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 (*see Figure 3-4*).
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.

D. Any proposed outdoor sales display must be delineated on an approved development plan and in accordance with 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.

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.

3.9 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 Director of Public Works 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.

3.10 Short-Term Rentals

These standards are intended to ensure compatibility between short-term rentals and the residential character of the surrounding neighborhood. Short-term rentals must meet the standards contained in this chapter and be operated so the average neighbor, under normal circumstances, is not aware of their existence.

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

- Family occupancy: Any member of a family and the family's guests may occupy a dwelling as long as owned by the family. Family occupancy extends to guest houses or similarly separate dwellings legally located on the same premises as the primary building and used without remuneration to the owner.
- House sitting: During the temporary absence of the owner and the owner's family, the owner may permit non-owner occupancy without remuneration to the owner.
- Dwelling sales: Occupancy of up to 90 days after closing by a prior owner after the sale of a dwelling is permitted.
- Estate representative: Occupancy by a personal representative, trustee, or guardian of the estate, with or without remuneration is permitted.

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

A. When provided off-street parking must occur only on designated paved portions of the lot, such as driveways.

B. Rental of the dwelling is done in a manner consistent with the character of the surrounding neighborhood.

C. The owner provides the renter the following information prior to occupancy and posts this information in a conspicuous location within the dwelling:

- Notification of the maximum occupancy permitted in the dwelling;
- The name and telephone number of the contact person who may be reached any time the dwelling is rented;
- Notification and instructions of the parking locations;
- A copy of this chapter, as amended; and
- Notification that a renter may be cited or fined by the Town, in addition to any other remedies available at law, for violating any provisions of this chapter.

D. The owner's contact person must always be available to accept calls when the dwelling is rented. The contact person must have a key to the dwelling and be capable of being physically present at the dwelling within 3 hours to address issues.

E. The appearance of the dwelling must not conflict with the residential character of the neighborhood. The dwelling must be properly maintained and kept in good repair so the use does not detract from the general appearance of the neighborhood.

F. Renters must not encroach on neighboring properties.

G. The premises must be maintained free of debris and unwholesome substances. Garbage must be kept in a closed container and disposed of on a regular, weekly schedule.

H. Renters must not create a nuisance. For purposes of this chapter, a nuisance includes, but is not limited to, any activity that violates the Town noise regulations or fireworks regulations.

I. Short-term rentals must not be used to house sex offenders; operate a structured sober living home; manufacture, exhibit, distribute, or sell illegal drugs, liquor, pornography, or obscenity; or operate an adult business as defined in *IC 12-7-2-1.8*.

J. A short-term rental permit is required prior to the use of any property as a short-term rental. Any change in the use or construction of a dwelling resulting in noncompliance with Town or state standards, as determined by the Administrator, will void the short-term rental permit approval.

3.11 Solar Energy Systems

All Solar Energy Systems must comply with this chapter.

A Solar Energy System is permitted when incidental to the primary use of the site. Solar Energy Systems must not adversely affect the character of the district or interfere with the reasonable enjoyment of adjacent properties.

Concept and Development approval through the Plan Commission is required for proposed Ground-mounted Solar Energy Systems. Approval for Roof-mounted Solar Energy Systems is reviewed administratively. The Administrator reviews the completeness of applications and compliance with this chapter to construct or modify Solar Energy Systems. Solar Energy Systems shall comply with all applicable building and electric codes and are not exempt from any such inspections and permits.

A. Ground-mounted Solar Energy Systems

1. Not permitted in residential zoning districts, adjacent to residential zoning districts, or on a site primarily used for residential use.
2. Setbacks. Solar Energy Systems shall not be located in any front yard or street side yard, and when oriented at minimum and maximum design tilt must comply with the side and rear setbacks as outlined in the applicable zoning district.
3. Maximum Size. Systems shall not exceed the footprint of the principal building or structure served.
4. Height. Solar Energy Systems shall not exceed 20 feet in height at maximum tilt.
5. Lot Coverage. Ground-mounted systems shall be exempt from the lot coverage

restrictions for the zoning district when the soil under the solar collector is maintained in vegetation and not compacted.

B. Roof or Building-mounted Solar Energy Systems, Residential

1. Setbacks. No part of the system shall extend into any required side or rear yard as outlined in the applicable zoning district.

2. Wall mounting. In the case of wall mounting, no part of the system shall project more than 5 feet from the building. Wall mounting is not permitted on the front wall.

3. Height. Systems shall not exceed the maximum height in the zone, with the height being the overall height of the building/structure and solar system together. Additionally, systems shall be mounted parallel to the pitch of the roof and be no higher than 6 inches from the roof surface.

C. Roof or Building-mounted Solar Energy Systems, Non-Residential

1. Setbacks. No part of the system shall extend into any required yard as outlined in the applicable zoning district.

2. Wall mounting. In the case of wall mounting, no part of the system shall project more than 5 feet from the wall.

3. Height. No part of the system shall exceed the maximum height permitted in the applicable zoning district. For roof mounting, no part of the system shall project more than 10 feet from the roof surface. For wall mounting, no part of the system shall project more than 10 feet above the top of wall, if a parapet wall is used then no part of the system shall project above the parapet wall

3.11 IMAGES

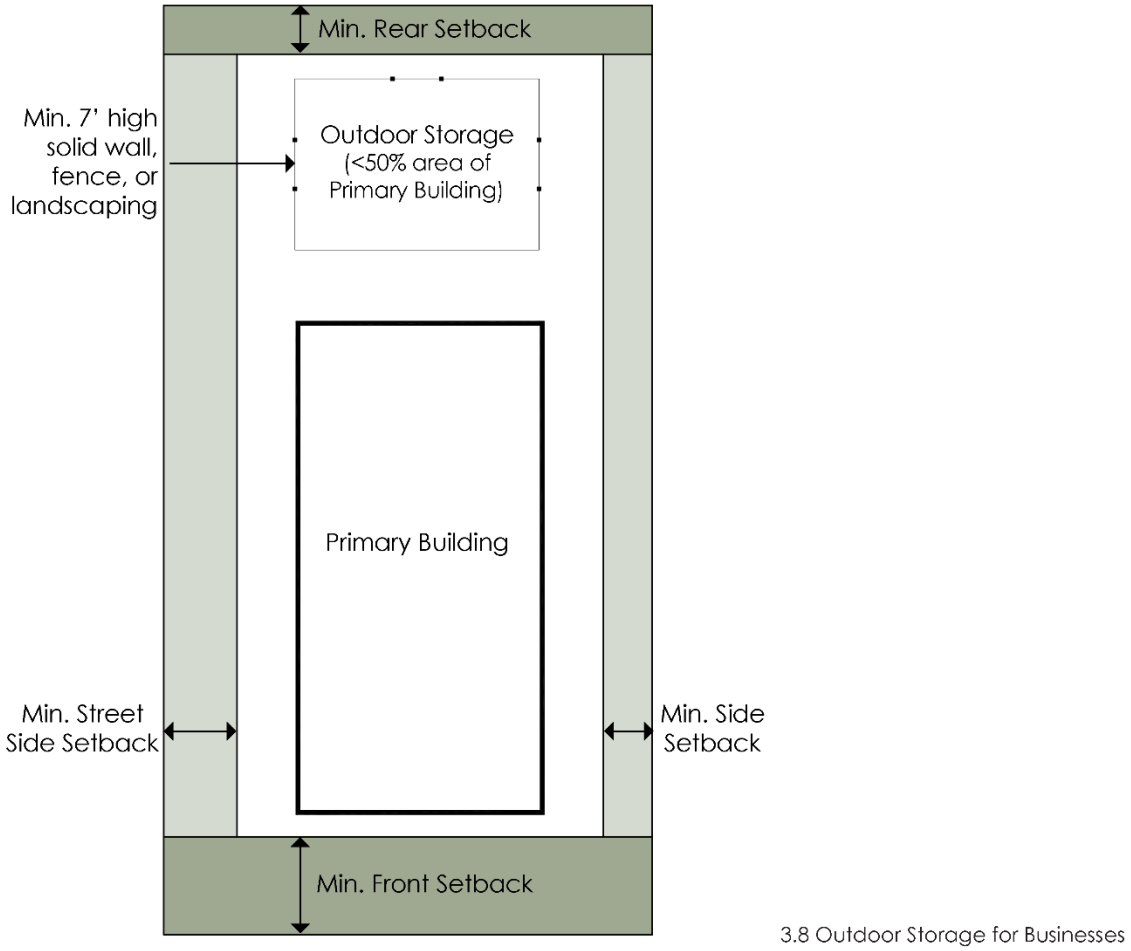

Figure 3-1: Outdoor Storage for Business Uses

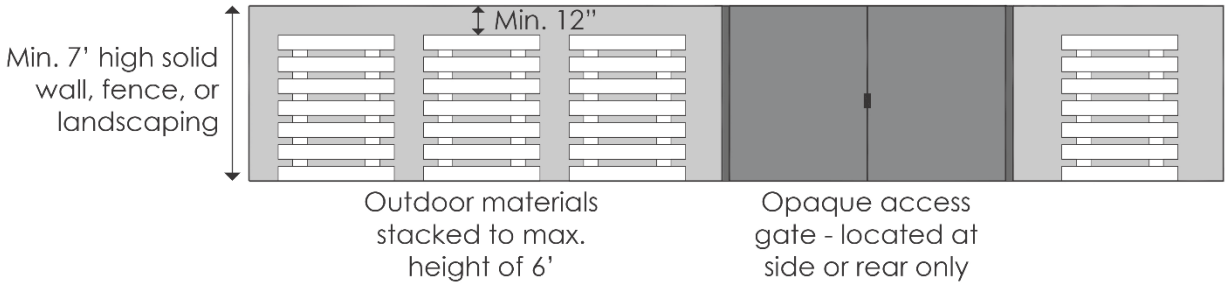

Figure 3-2: Outdoor Storage Screening for Businesses

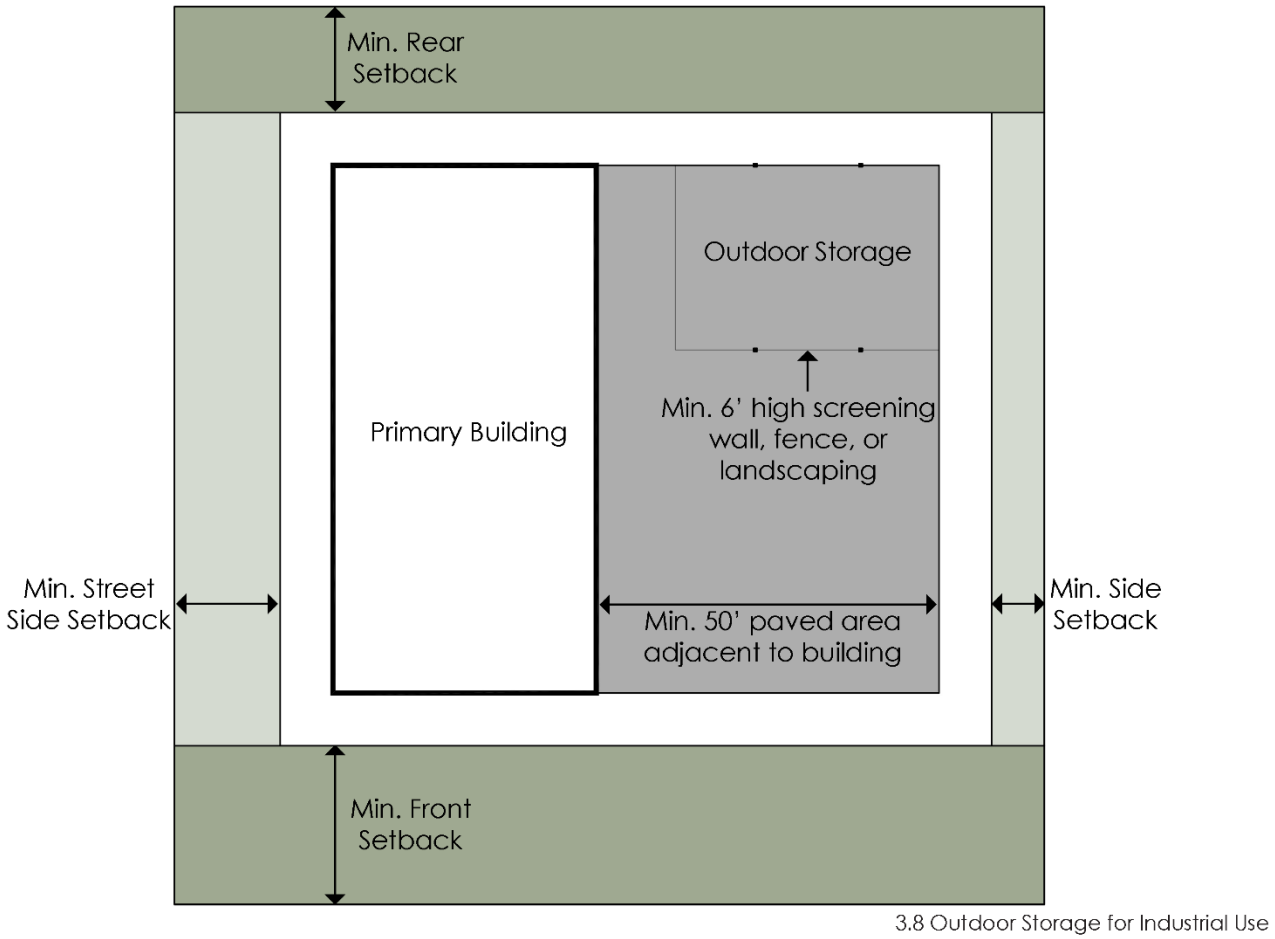

Figure 3-3: Outdoor Storage for Industrial Uses

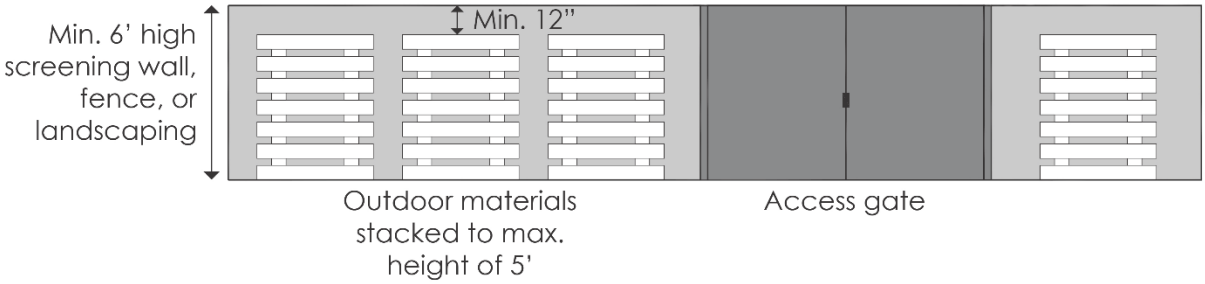

Figure 3-4: Outdoor Storage Screening for Industrial Uses

Chapter 4 – Design and Maintenance Standards

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4.1 Accessory Structures

A. Accessory buildings are permitted in all Zoning Districts. No more than one accessory building, including a detached private garage, is permitted on any attached or detached single-family dwelling lot.

B. The maximum ground floor area of an accessory building is the lesser of the ground floor area of the principal building or 1,000 square feet.

- Accessory buildings located in the AG Zone and used for agriculture purposes are exempt from maximum floor area regulations.

C. Accessory buildings must be constructed on the same lot as their principal building.

D. Accessory buildings for residential uses must be setback at least 10 feet behind the front facade of the principal building.

E. 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, except as otherwise established by this chapter.

F. Accessory buildings must not be constructed until the construction of the principal building on the same 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.
3. 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.

G. 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.

H. Swimming pools must be constructed on the same parcel as the principal building to which they are accessory. Swimming pools cannot be constructed in the established front yard. Swimming pools are required to meet the same minimum building setback line as their principal building. Access to residential pools must be restricted in accordance with I.A.C., Title 675, Article 20.

I. 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 for commercial, industrial, and multi-family uses:

1. 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.
2. Enclosures cannot be in an established front yard or in any required side or rear yard.
3. 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.
4. Enclosures must be constructed of materials that match or complement the principal building.

5. Enclosures must have opaque gates. The gates cannot be oriented towards residential properties or rights-of-way, where possible.

6. Trash enclosures should provide convenient pedestrian access for daily waste disposal. Such access should be provided without swinging or moveable doors.

7. Gates and doors on enclosures must be kept closed when not in use.

8. Landscaping must be provided around enclosures in accordance with *5.3 General Landscaping Standards*.

J. Large ground microwave antenna dishes are not permitted in an established front yard or an established side yard; however, 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*.

K. Carports must be consistent in design, appearance, and materials with the principal building.

4.2 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 principle building devoted to residential use, except as otherwise permitted in this ordinance.

C. A lot used for multi-family 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.

4.3 Fence 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 (*see 4.9 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). A survey of the site prepared by a licensed surveyor must be provided with applications.

B. Height 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 (*see Figure 4-1*).

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, business, 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) (*see Figure 4-2*). 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 *3.8 Outdoor Storage and Outdoor Display*.

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. Chain link fencing is prohibited in all Zoning Districts except industrial districts. Barbed wire and razor wire are prohibited in all districts.

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.

4.4 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 provided in this Article.

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

4.5 Lot Standards

A. Lots must meet the area and width requirements for the lot's Zoning District.

B. All Lots must abut on a street, private street , or alley and must have a minimum lot frontage as set forth by the Zoning District.

4.6 Performance Standards

The following performance standards apply to all industrial uses.

A. **Smoke**. Uses in the I1 zoning district must not emit more than 10 smoke units per hour per stack or smoke in excess of Ringelmann No. 2. However, once during any 24-hour period, for soot blowing, process purging, and fire cleaning, each stack may emit an additional 10 smoke units, and during that period it may emit smoke up to and including Ringelmann No. 3.

Uses in the I2 zoning district must not emit more than 30 smoke units per hour per stack or smoke in excess of Ringelmann No. 2. However, once during any 24-hour period, for soot blowing, process purging, and fire cleaning, each stack may emit an additional 10 smoke units, and during that period it may emit smoke up to and Including Ringelmann No. 3.

B. **Odor**. No industrial use may release an odor detectable at the lot line.

C. **Toxic Materials**. Gases or fumes toxic to persons or injurious to property must not escape beyond the building in which they occur.

D. **Glare and Heat**. An industrial use must not cause heat at the property line so intense as to be a public nuisance or hazard. Glare must not be seen from any public street or residential area.

E. **Vibration**. Vibration created or maintained by an industrial use must not be noticeable beyond the lot lines of the tract on which it is located.

F. **Noise and Sound**. The sound level of any industrial use must not exceed 70 decibels at the lot line of any non-industrial district. Noise must be muffled to not be objectionable due to intermittence, frequency, or shrillness. Background noises produced by sources not under the control of the industrial use, such as the operation of motor vehicles, are exempt from this standard.

G. The performance standards above do not apply to:

- Site construction, maintenance, repair, or alterations of buildings or other improvements on or within the lot lines; and
- The operation of motor vehicles; and
- Safety or emergency warning signals or alarms.

H. Any industrial use must conform to any applicable state and federal government regulations. Where the requirements of this ordinance are more restrictive, they take precedence. All relevant federal and state permits or approvals are required prior to issuance of an Improvement Location Permit.

4.7 Property Maintenance Standards

This chapter 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;
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 town;
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. 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.

F. Vacant lots or land subject to enforcement action for dumping must be secured to prevent future dumping.

G. 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.

H. Buildings or structures determined to be unsafe or dangerous as defined in the Building Code must be abated in accordance with the provisions of that code.

I. Vacant structures and premises must be maintained and monitored including:

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 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.

4.8 Setback Standards

These standards apply in all Zoning Districts.

A. The measurement of any building setback line is the shortest distance between the building façade and the lot line. The front yard setback for new lots is measured from the lot line or right-of-way line, whichever is closest 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. On through lots, the front yard is established by the existing principal buildings in the block.

G. All improvements are subject to *4.9 Vision Clearance Standards*, unless specifically exempted.

4.9 Vision Clearance Standards

Unless otherwise approved in writing by the Administrator, no sign, fence, wall, landscaping, utility, or other improvement obstructing sight lines between 3 and 9 feet above a street are permitted on a corner lot, within the triangular area formed by the right-of-way lines and a line connecting points:

- 15 feet from intersections of collectors, private or local street.
- 30 feet from intersections of expressways or arterials.
- 5 feet from intersections of driveways or alleys.

For rounded lot lines, the distances are measured from the point at which the right-of-way lines would intersect if they were not rounded at the corner.

4.10 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.

D. 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 *5.3 General Landscaping Standards*, except as otherwise improved in accordance with this Ordinance (e.g. Parking Areas).

4.11 Images

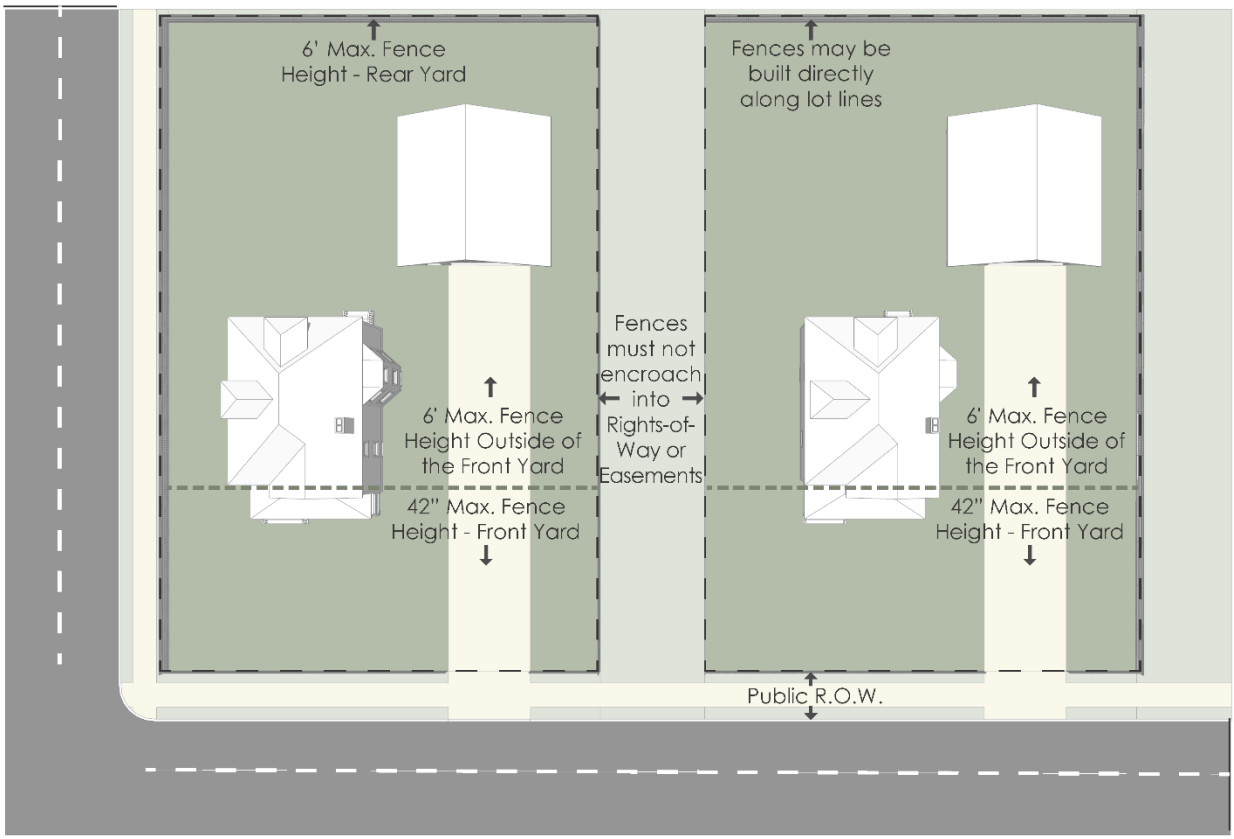

Figure 4-1: Fence Standards

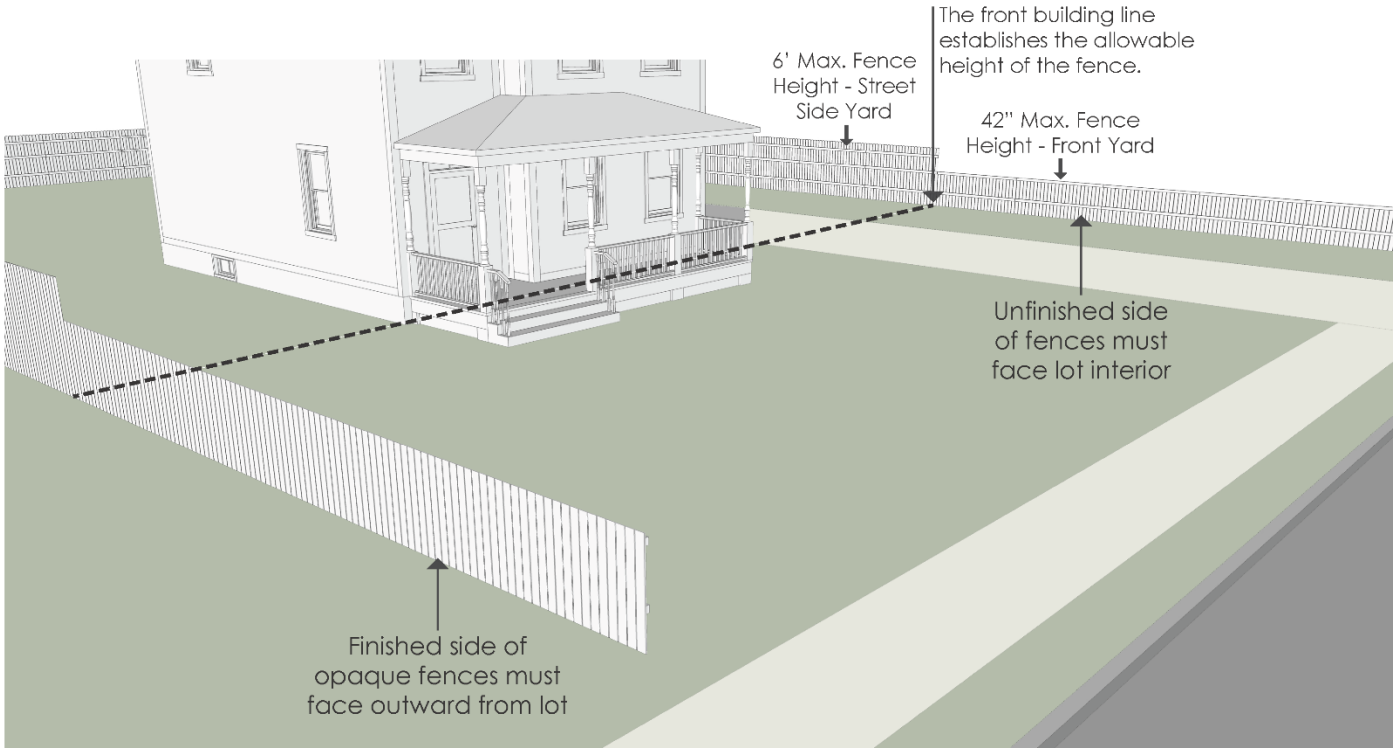

Figure 4-2: Opaque Fences

Chapter 5 – Landscaping Standards

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5.1 Purpose and Intent

This chapter 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 encourages the preservation of natural areas.

5.2 Applicability

This chapter 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.

5.3 General Landscaping Standards

A. **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.

B. **Required Plant Materials.** Tree and shrub species used to meet the requirements of this Ordinance must be from the *Approved Plant List*. Plants listed on the *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.

C. **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.

D. **Soil Condition and Planting Beds**

1. Landscaping required by this Ordinance must be planted in uncompacted soil at least 2 feet in depth.
2. 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.
3. 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.

E. **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 Shade Tree (Type 1 or Type 2) Single Trunk Multi-Trunk	2 in. caliper 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

F. **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

particular landscape area to which 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.

G. **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.

H. **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 (see 4.9 Vision Clearance Standards).

I. **Existing Vegetation Credit and Bonus.**

1. 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 *Prohibited Plant List*.

2. 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.

3. 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.

4. 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	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

J. **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 Town as close to the site as feasible.

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

1. 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.

2. 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.

3. 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.

L. **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.

M. **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.

N. **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:

1. Is consistent with the purposes of this chapter;
2. Does not include invasive vegetation;
3. Does not include a reduction of tree planting requirements;
4. Provides equal or superior buffering of adjacent properties from anticipated impacts of the proposed development; and
5. Provides equal or superior visual appearance of the property when viewed from the street;

O. **Installation and Delay of Installation Due to Season**.

1. 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.

2. 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 Town, 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.

P. **Maintenance.**

1. All landscaping required by this Ordinance must always be maintained.
2. 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.
3. The owner is responsible for the maintenance, repair, and replacement of all required landscaping, screening, and curbing.
4. Fences, walls, and other barriers must be maintained in good repair. All barriers that are damaged, broken, or with failing paint must be repaired, replaced or refinished.
5. 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.
6. Plant materials must be adequately watered to sustain long-term growth.

5.4 Street Frontage Landscaping

A. The front yard must be landscaped with at least 1 shade tree per 35 feet of street frontage (see Figure 5-1). 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 (see Figure 5-2).

B. 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 (see Figure 5-3 and Figure 5-4). 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.

C. All planting in the public right-of-way may be counted toward fulfilling the requirements of this chapter.

D. 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.

E. 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:

1. 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.
2. 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.

5.5 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 (see Figure 5-5).

A. **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.

B. **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:

- 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.

5.6 Landscape Buffer Areas

A. **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 (see Figure 5-6).

1. **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.

2. **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.

B. **Commercial or Mixed-Use Abutting Residential.** Where a commercial or mixed-use district, building, or project abuts a residential district, building, or project, a landscape buffer must be provided using either Option 1 or Option 2 below (see Figure 5-7).

1. **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.

2. **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.

C. **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 (see Figure 5-8).

1. **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.

2. **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.

D. **Industrial Abutting Commercial.** Where an industrial district, building, or project abuts a commercial district, building, or project a landscape buffer must be provided by using either Option 1 or Option 2 below (see Figure 5-9).

1. **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.

2. **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.

5.7 Residential Districts

In the R1, R2, and R3 districts, at the time of development, trees must be provided on the lot being developed as follows:

Lot Size (square feet)	Number of Trees Required
Up to 3,500	1
3,500-9,999	2
10,000-19,999	3
20,000 and above	4

In addition to the provisions for street frontage landscaping and the lot planting requirements above, trees must be provided or preserved on site at a rate of 10 shade trees per acre of open space and common area.

5.8 Screening of Facilities and Equipment

A. **Mechanical Equipment.**

1. 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.

2. 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.

B. **Loading and Service Areas.**

1. 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.

   a. 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.

   b. Service areas must not be in any front yard.

   c. 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 Town.

2. 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.

3. 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.

5.9 IMAGES

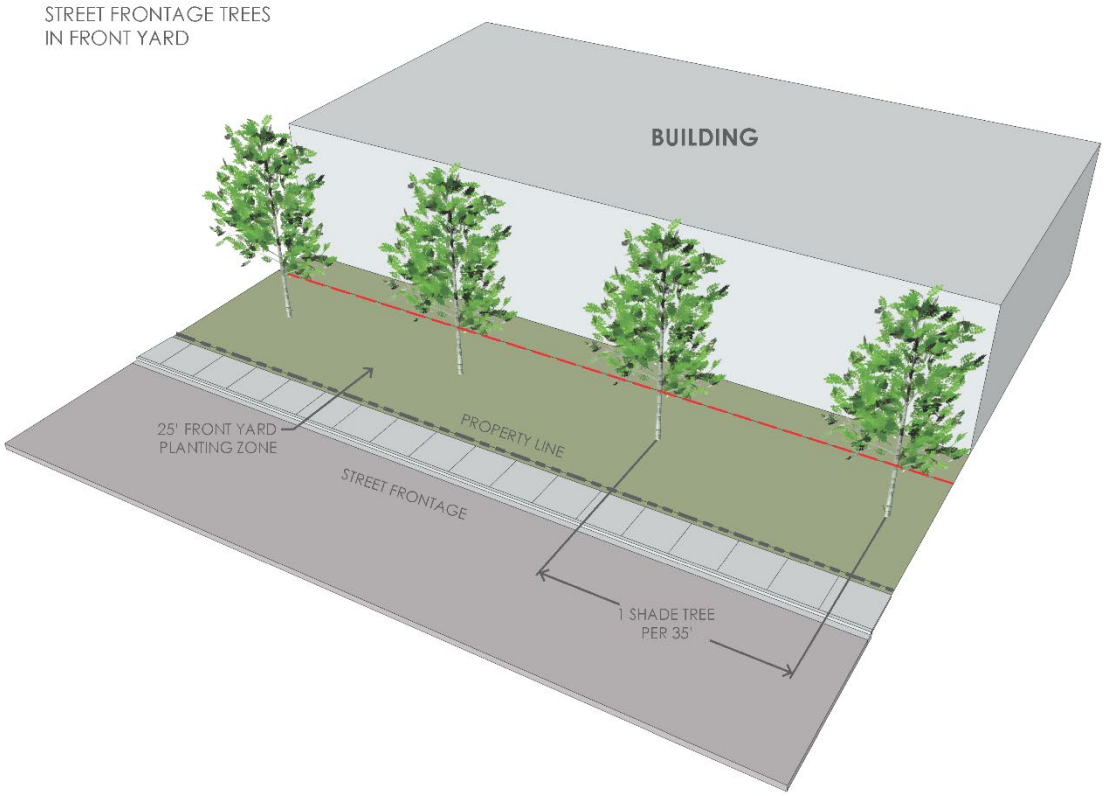

Figure 5-1: Street Frontage Landscaping Placed in Front Yard

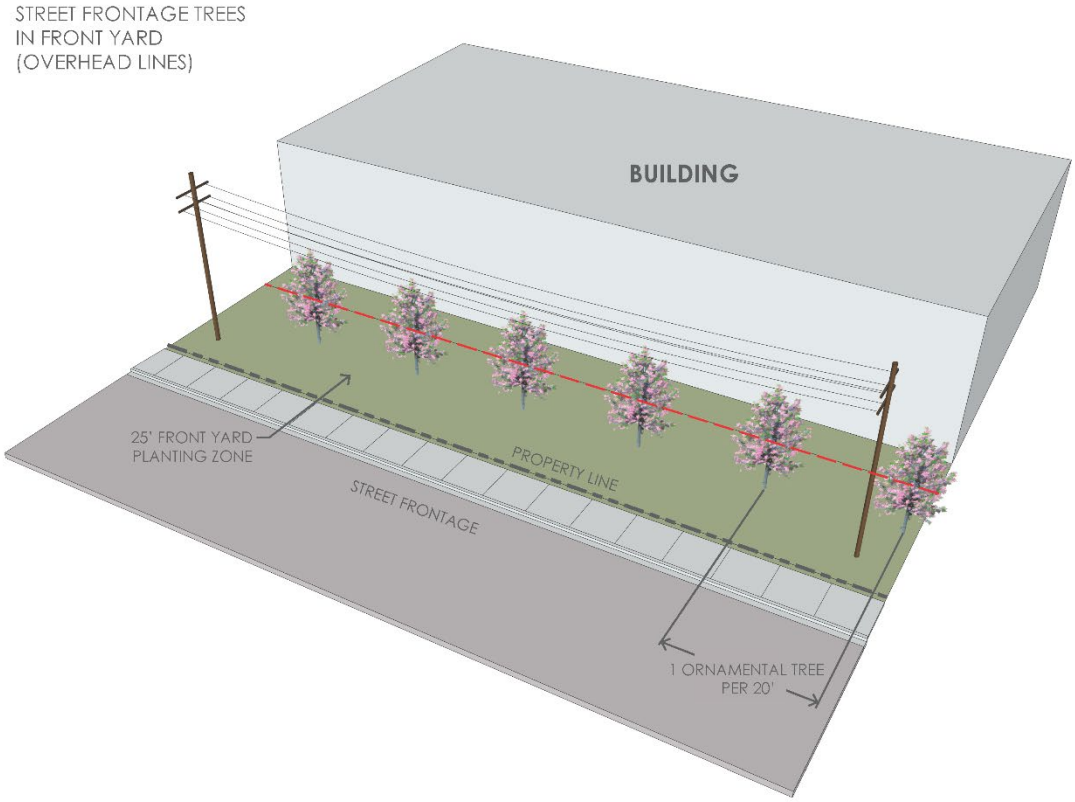

Figure 5-2: Street Frontage Landscaping Placed in Front Yard when Overhead Power Lines are Present

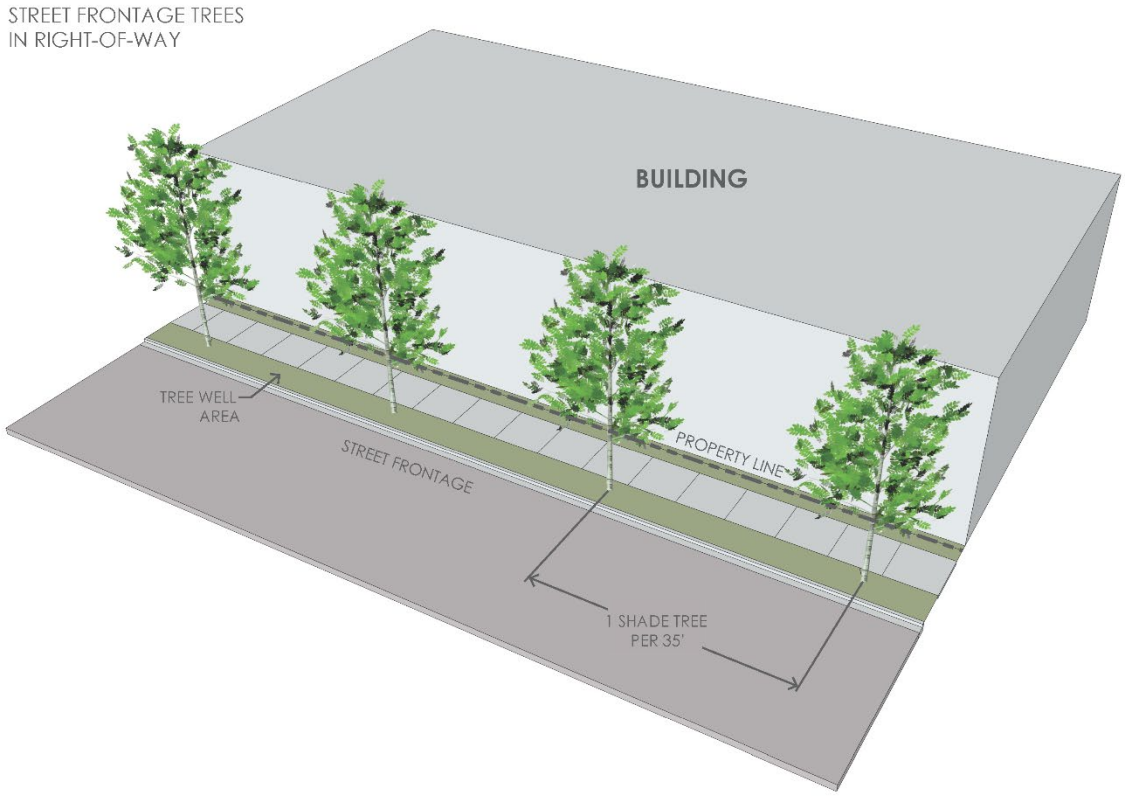

Figure 5-3: Street Frontage Landscaping in Tree Well

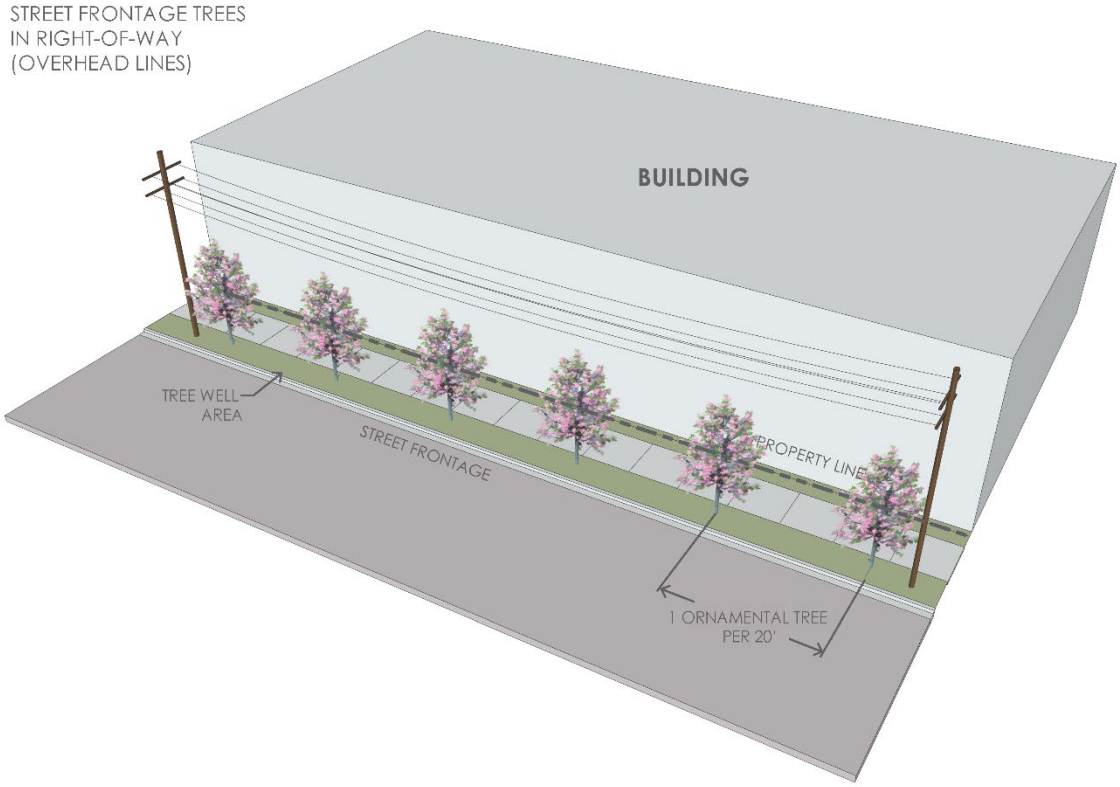

Figure 5-4: Street Frontage Landscaping in Tree Well when Overhead Power Lines are Present

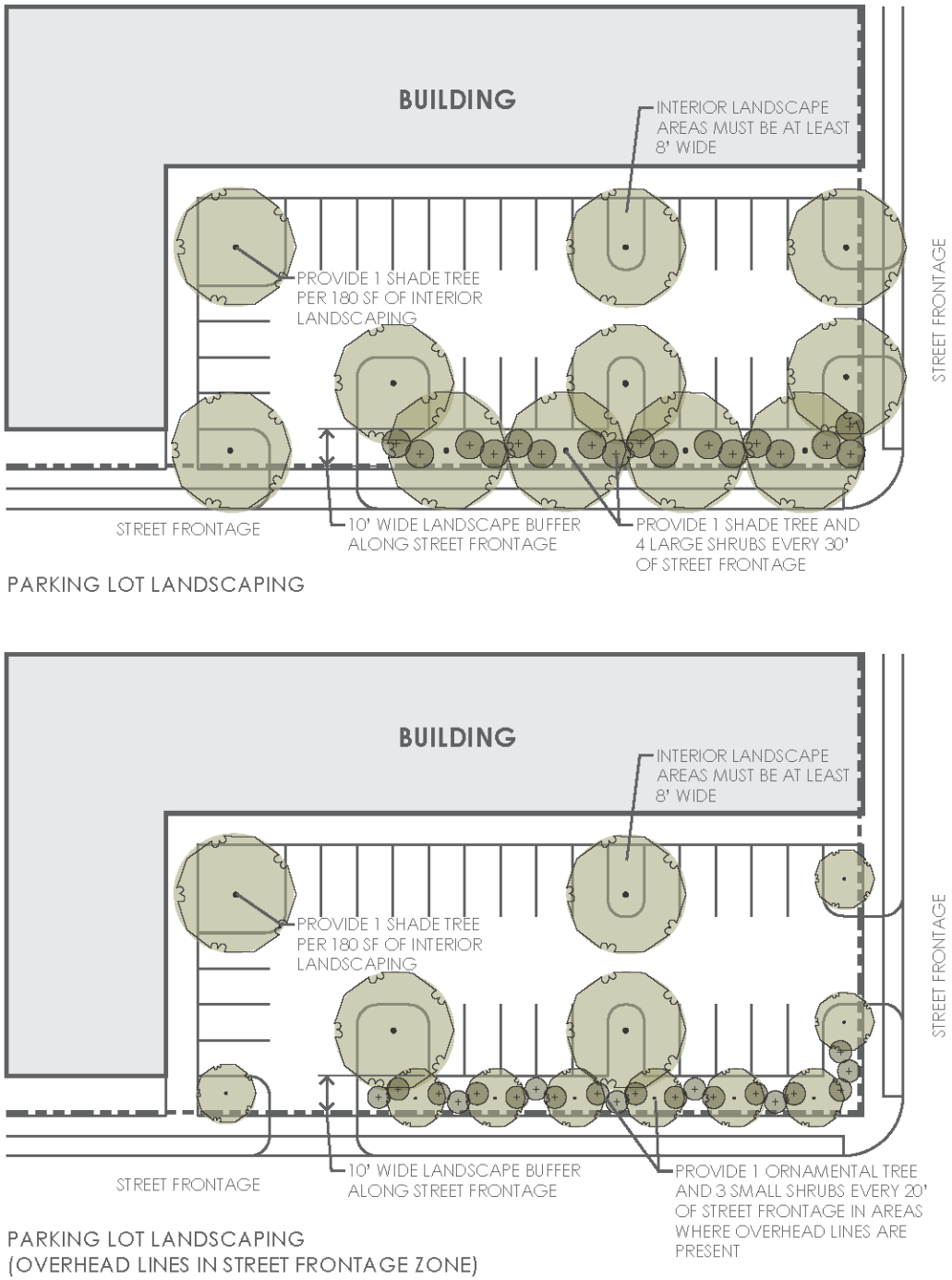

Figure 5-5: Parking Lot Landscaping

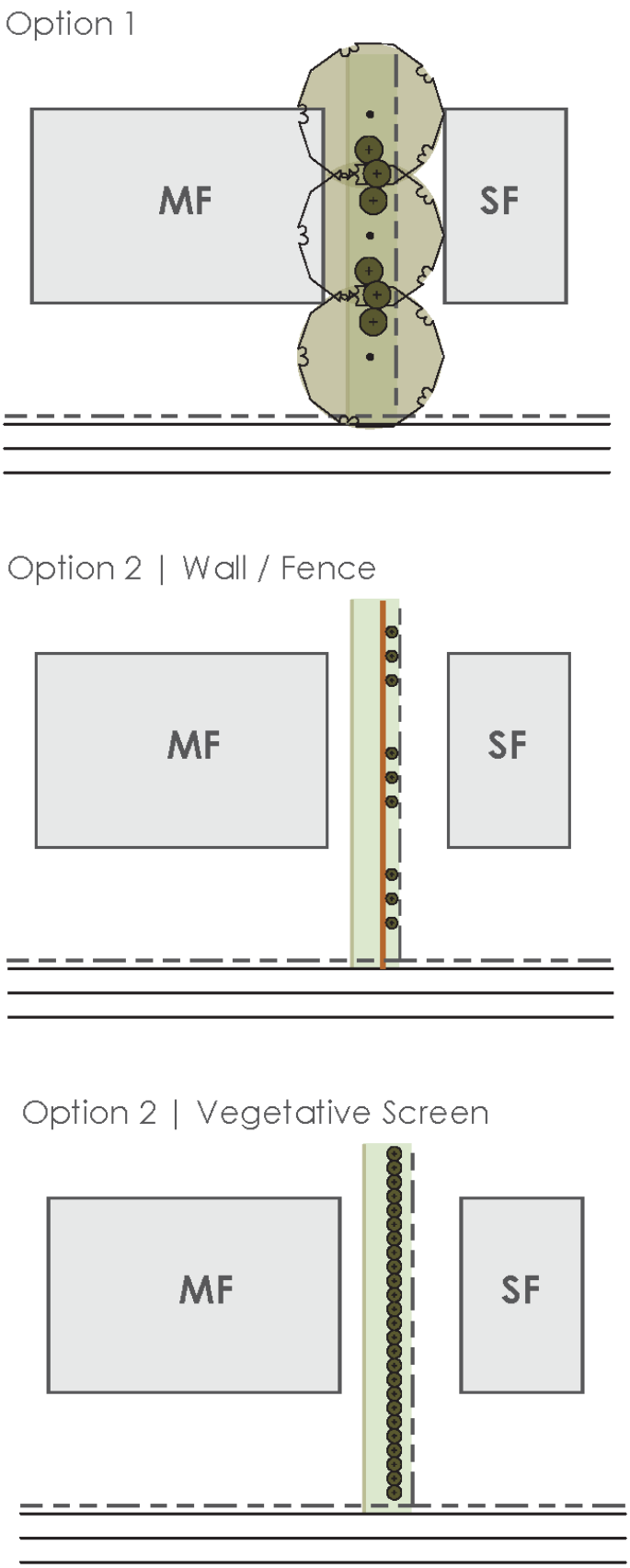

Figure 5-6: Landscape Buffer – Multifamily Residential abutting Single-Family Residential

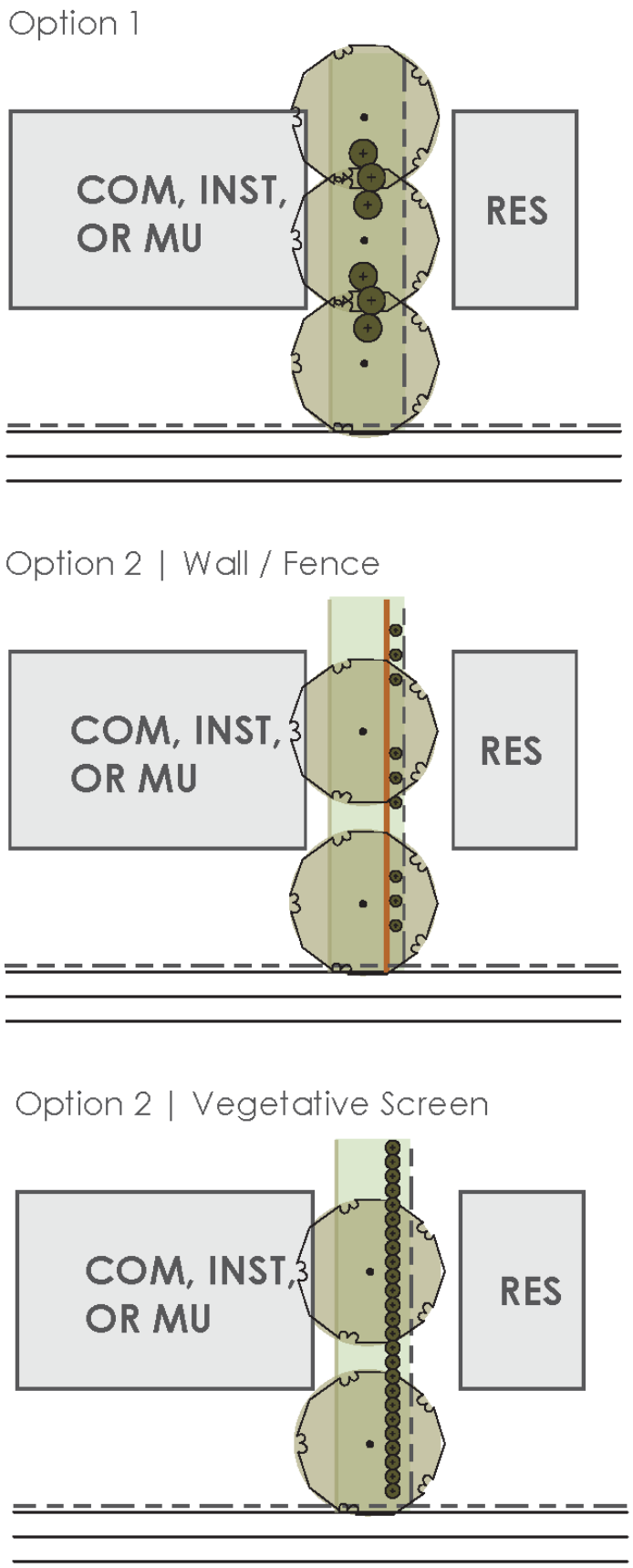

Figure 5-7: Landscape Buffer – Commercial, Institutional, or Mixed Use abutting Residential

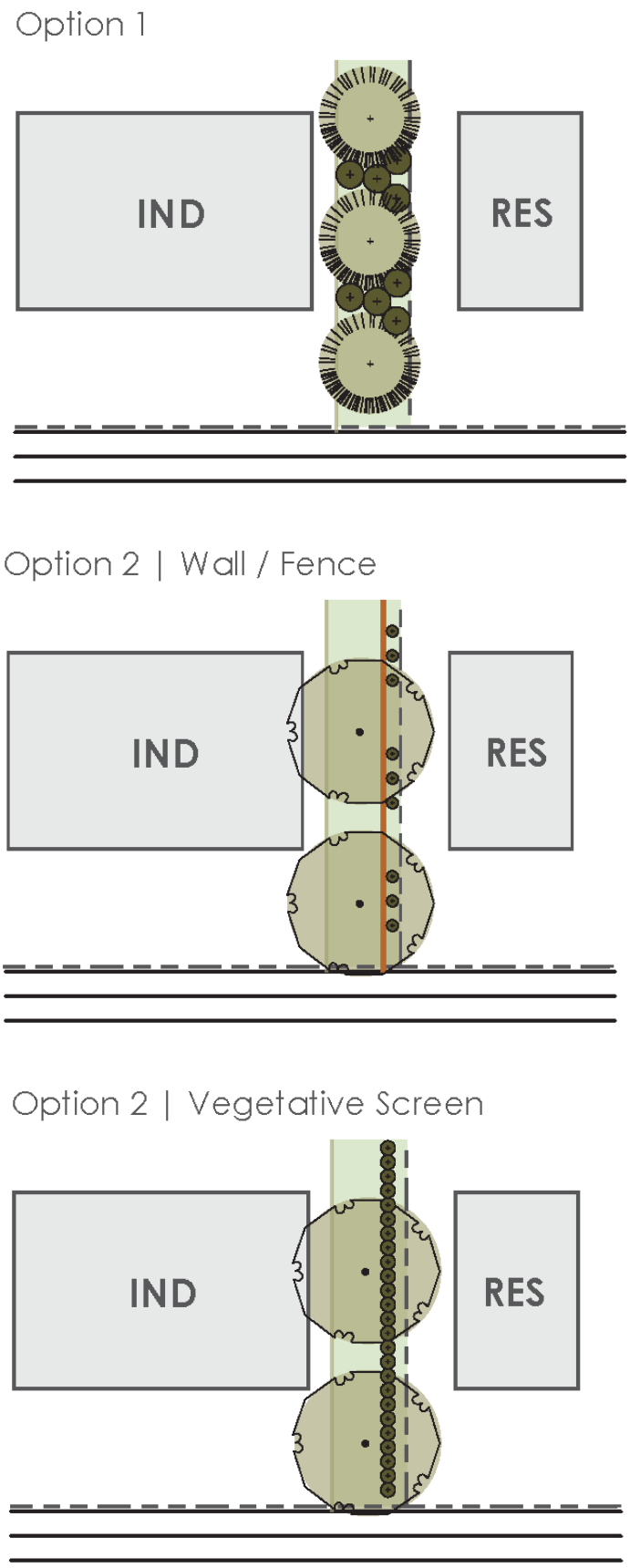

Figure 5-8: Landscape Buffer – Industrial abutting Residential

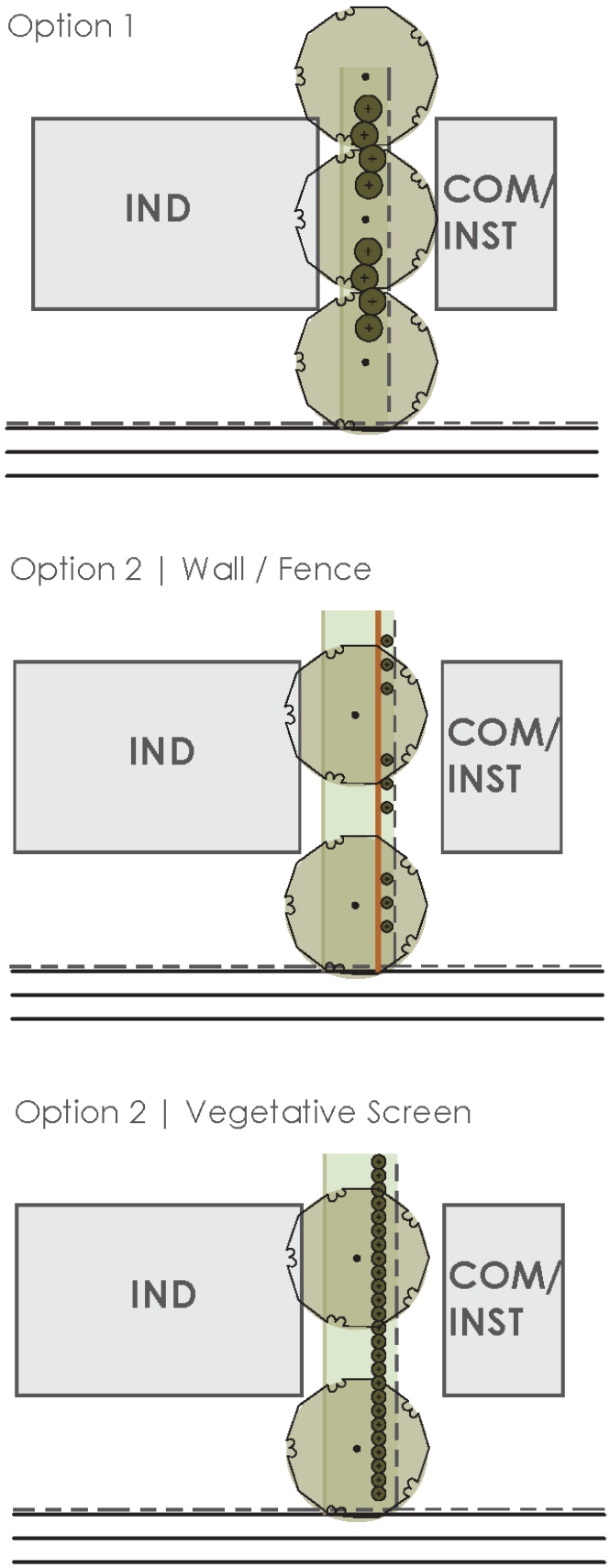

Figure 5-9: Landscape Buffer – Industrial abutting Commercial or Institutional

5.10 Appendix A – Approved Plant List

Approved Tree Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native	Approved Street Tree	Use Under Utility Lines
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 Service-berry	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 illinoinensis	Pecan	100'	70'	Yes		
Carya laciniosa	Shellbark Hickory	80'	60'	Yes		
Carya ovalis	Red Hickory	80'	70'	Yes		
Carya ovata	Shagbark Hickory	90'	70'	Yes		
Carya pallida	Sand Hickory	100'	70'	Yes		
Carya texana	Black Hickory	50'-100'	45'	Yes		
Carya tomentosa	Mockernut Hickory	80'	60'	Yes		
Catalpa speciosa	Northern Catalpa	70'	50'	Yes		
Celtis laevigata	Sugarberry	70'	60'	Yes		
Celtis occidentalis	Hackberry	80'	60'	Yes	Yes	

Approved Tree Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native	Approved Street Tree	Use Under Utility Lines
Cercis canadensis	Eastern Redbud	30'	20'	Yes	Yes	Yes
Chionanthus virginicus	Fringetree	20'	15'	Yes		Yes
Cladrastis lutea	Yellowwood	50'	55'	Yes		
Cornus alternifolia	Pagoda Dogwood	25'	20'	Yes		Yes
Cornus florida	Flowering Dogwood	30'	35'	Yes		Yes
Cornus kousa	Kousa Dogwood	30'	30'	No		
Cornus mas	Cornelian Cherry Dogwood	25'	20'	No	Yes	Yes
Cotinus coggygria	Smoketree	15'	15'	No		Yes
Crataegus phaenopyrum	Washington Hawthorn	30'	30'	No	Yes	
Crataegus punctata	Dotted Hawthorn	25'	25'	Yes		Yes
Crataegus virids	Green Hawthorn	35'	35'	Yes	Yes	
Cuprocyparis leylandii	Leyland Cypress	70'	15'	No		
Diospyros virginiana	Persimmon	60'	35'	Yes		
Euonymus atropurpurea	Eastern Wahoo	20'	25'	Yes		Yes
Fagus grandifolia	American Beech	80'	80'	Yes		
Fagus sylvatica 'Tricolor'	Tricolor Beech	30'	30'	No		
Ginkgo biloba	Ginkgo (male)	80'	40'	No	Yes	
Gleditsia triancanthos var. inermis	Thornless Honeylocust	80'	50'	Yes	Yes	
Gymnocladus diocus	Kentucky Coffeetree	100'	40'	Yes	Yes	
Hamamelis virginiana	Witchhazel	15'	15'	Yes		Yes
Juglans cinerea	Butternut	60'	60'	Yes		
Juglans nigra	Black Walnut	100'	100'	Yes		
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 tulipfera	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

Approved Tree Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native	Approved Street Tree	Use Under Utility Lines
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		
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		

Approved Tree Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native	Approved Street Tree	Use Under Utility Lines
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		
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 Cyprus	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		
Ulmas 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	

Approved Shrub Species

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 davdii	Butterfly Bush	6'	6'	No
Buxus microphylla	Littleleaf Boxwood	4'	4'	No
Buxus spp.	Glencoe or Green Velvet Box-wood	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 Dog-wood	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
Hibiscus syriacus	Rose-of-Sharon	12'	12'	No
Hydrangea aborescens	Smooth Hydrangea	5'	5'	Yes
Hydrangea quercifolia	Oak Leaf Hydrangea	10'	8'	Yes

Approved Shrub Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native
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
Sambucus racemosa	American Red Elderberry	12'	15'	Yes
Shepherdia argentea	Buffaloberry	8'	8'	Yes
Staphylea trifolia	Bladdernut	12'	12'	Yes
Stephanandra incisa	Cutleaf Stephanandra	3'	4'	No
Symphoricarpos x chenaultii	Snowberry	6'	8'	No
Syringa patula	Miss Kim Lilac	8'	10'	No

Approved Shrub Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native
Syringa x chinensis	Chinese Lilac	15'	15'	No
Taxus x media	Yew	6'	12'	Yes
Vibrunum lentago	Nannyberry	15'	12'	Yes
Viburnum dentatum	Arrowwood Viburnum	15'	15'	Yes
Viburnum ferreri	Fragrant Viburnum	10'	10'	No
Viburnum lantana	Wayfaring Tree	10'	10'	No
Viburnum nudum v. cassinoides	Smooth Witherod Viburnum	10'	10'	Yes
Viburnum opulus	European Cranberry	12'	12'	No
Viburnum plicatum	Doublefile Viburnum	10'	10'	No
Viburnum prunifolium	Blackhaw Viburnum	15'	12'	Yes
Viburnum rufidulum	Rusty Blackhaw Viburnum	15'	12'	No
Viburnum sieboldii	Siebold Viburnum	30'	12'	No
Viburnum x burwoodii	Burkwood Viburnum	10'	10'	No
Viburnum x judii	Judd Viburnum	10'	10'	No
Weigela florida	Old Fashioned Weigla	10'	12'	No
Weigela florida 'Wine and Roses'	Wine and Roses Weigela	5'	6'	No
Yucca filamentosa	Yucca	5'	5'	Yes

Approved Ornamental Grass Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native
Caerulea arundinacea 'Wind-spiel'	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 'Aureomar-ginata'	Variegated Prairie Cord Grass	6'	4'	Yes

Approved Groundcover and Vine Species

Scientific Name	Common Name	Max. Height	Max. Spread	Native
Aeqopodium 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 pychnostachya	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
Partenocissus 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

5.11 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	Meditteranean 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 Virgins-bower	Invasive
Conium maculatum	Poison Hemlock	Invasive
Convolvulus arvensis	Field Bindweed	Invasive
Coronilla varia/Securigera varia	Crown vetch	Invasive
Cynanchum louiseae	Black Swallow-Wort	Invasive
Cynanchum rossicum	Pale Swallow-Wort	Invasive
Daucus carota	Queen Anne's Lace	Invasive
Dioscorea oppositifolia	Chinese Yam	Invasive
Dipsacus fullonum	Common Teasel	Invasive
Dipsacus laciniatus	Cut-Leaved Teasel	Invasive

Prohibited Plant Species

Scientific Name	Common Name	Reason
Egeria densa	Brazilian Waterweed	Invasive/ Prohibited Plant Species
Eichhornia azurea	Anchored Water Hyacinth	Invasive/ Prohibited Species
Elaeagnus angustifolia	Russian Olive	Invasive; Poor Form; Shallow Roots
Elaeagnus umbellate	Autumn Olive	Invasive; Poor Form; Shallow Roots
Elymus repens	Quack Grass	Invasive
Euonymus alatus	Burning Bush	Invasive
Euonymus fortune	Wintercreeper	Invasive
Euphorbia esula	Leafy Spurge	Invasive
Festuca arundinacea	Tall Fescue	Invasive
Frangula alnus/Rhamnus frangula	Glossy Buckthorn	Invasive
Fraxinus species	Ash	Emerald Ash Borer
Galega officinalis	Goatsrue	Invasive
Ginkgo biloba (female only)	Ginkgo (female only)	Undesireable Fruit
Glechoma hederacea	Creeping Charlie	Invasive
Hedera helix	English Ivy	Invasive
Heracleum mantegazzianum	Giant Hogweed	Invasive
Hesperis matronalis	Dame's Rocket	Invasive
Humulus japonicus	Japanese Hops	Invasive
Hydrilla verticillate	Hydrilla	Invasive/Prohibited Plant Species
Hydrocharis morsus-ranae	European Frogbit	Invasive/Prohibited Plant Species
Hygrophilia polysperma	Indian Swampweed	Invasive/Prohibited Plant Species
Hypericum perforatum	St. John's Wort	Invasive
Imperata cylindrica 'Rubra	Japanese Blood Grass	Invasive Tendencies
Ipomoea aquatic	Chinese Water Spinach	Invasive/Prohibited Plant Species
Iris pseudacorus	Yellow Iris	Invasive/Prohibited Plant Species
Kummerowia stipulacea	Korean Lespedeza	Invasive
Kummerowia striata	Striate Lespedeza	Invasive
Lagarosiphon major	African Elodea	Invasive/Prohibited Plant Species
Lepidium latifolium	Pepperweed	Invasive
Lespedeza bicolor	Bicolor Lespedeza	Invasive
Lespedeza cuneate	Sericea lespedeza	Invasive
Leymus arenarius / Elymus arenarius	Sand Ryegrass	Invasive
Ligustrum amurense	Amur Privet	Invasive
Ligustrum obtusifolium	Border Privet	Invasive
Ligustrum ovalifolium	California Privet	invasive
Ligustrum sinense	Chinese Privet	Invasive
Ligustrum vulgare	Common Privet	Invasive
Limnophila sessiliflora	Asian Marshweed	Invasive/Prohibited Plant Species
Lonicera japonica	Japanese Honeysuckle	Invasive
Lonicera maackii	Amur Honeysuckle	Invasive

Prohibited Plant Species

Scientific Name	Common Name	Reason
Lonicera morrowii	Morrow's Honeysuckle	Invasive
Lonicera spp.	Bush Honeysuckle	Invasive
Lonicera tatarica	Tartarian Honeysuckle	Invasive
Lonicera x bella	Bella Honeysuckle	Invasive
Lysimachia nummularia	Creeping Jenny	Invasive
Lysimachia nummularia	Moneywort	Invasive
Lythrum salicaria	Purple Loosestrife	Invasive/Prohibited Plant Species
Maclura pomifera	Osage-Orange	Invasive Tendencies; Weak Wood
Melilotus spp.	Sweet Clover	Invasive
Microstegium vimineum	Japanese Stiltgrass	Invasive
Miscanthus sinensis	Chinese Maiden Grass	Invasive
Miscanthus x gigantea	Miscanthus Hybrid	Invasive
Monochoria hastata	Arrowleaf	Prohibited Plant Species
Monochoria vaginalis	False Pickerelweed	Prohibited Plant Species
Morus alba	White Mulberry	Invasive
Myriophyllum aquaticum	Parrot Feather	Invasive/Prohibited Plant Species
Myriophyllum spicatum	Eurasian Watermilfoil	Invasive/Prohibited Plant Species
Najas Minor	Brittle Naiad	Invasive/Prohibited Plant Species
Nymphoides peltate	Yellow Floating Hearts	Invasive/Prohibited Plant Species
Ornithogalum umbellatum	Star-of-Bethlehem	Invasive
Ottelia alismoides	Duck Lettuce	Invasive/Prohibited Plant Species
Pastinaca sativa	Wild Parsnip	Invasive
Paulownia tomentosa	Princess Tree	Invasive
Phalaris arundinacea	Ribbon Grass	Invasive
Phellodendron amurense	Amur Cork Tree	Invasive
Phragmites australis	Reed Grass	Invasive
Phragmites australis ssp australis	Common Reed	Invasive
Polygonum cuspidatum	Japanese Knotweed	Invasive
Polygonum perfoliatum	Mile-A-Minute	Invasive
Potamogeton crispus	Curly-Leaved Pondweed	Invasive/Prohibited Plant Species
Pueraria lobate	Kudzu	Invasive/Pest Species
Pyrus calleryana	Callery Pear	Invasive
Pyrus species	Ornamental Pear	Weak Branching/ Invasive
Quecus acutissima	Sawtooth Oak	Invasive
Ranunculus ficaria	Lesser Celandine	Invasive
Rhamnus cathartica	Common Buckthorn	Invasive
Rhodotypos scandens	Jetbead	Invasive
Robinia pseudoacacia	Black Locust	Shallow, Invasive Roots
Rosa multiflora	Multiflora Rose	Invasive/Prohibited Plant Species
Rubus phoenicolasius	Wineberry/Wine Raspberry	Invasive

Prohibited Plant Species

Scientific Name	Common Name	Reason
Sagittaria sagittifolia	Arrowhead	Prohibited Plant Species
Salix species	Willow	Invasive Roots; Weak Wood
Salvinia auriculata/biloba/herzogii	Giant Salvinia	Prohibited Plant Species
Salvinia molesta	Giant Salvinia	Prohibited Plant Species
Saponaria officinalis	Bouncing bet/Soapwort	Invasive
Sicyos angulatus	Bur Cucumber	Noxious Weed
Sonchus arvensis	Perennial Sow Thistle	Noxious Weed
Sorbus spp.	Moutain Ash	Susceptible to Pests and Diseases
Sorghum almum	Sorghum almum	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

Chapter 6 – Lighting Standards

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6.1 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.

6.2 Applicability

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

6.3 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 *3.2 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.

6.4 Prohibitions

The following actions are prohibited:

A. The use of any mercury vapor lamp or low-pressure sodium lamp.

B. The use of laser source light or other similar high-intensity light for outdoor advertising.

C. The operation of searchlights and floodlights for advertising purposes.

D. The use of any lighting source on towers is prohibited except as required by the Federal Aviation Administration.

6.5 General Lighting Standards

A. All light fixtures must be fully shielded and direct light downward. Internally-illuminated signs or electronic signage is exempt from this standard.

B. Lighting sources must be directed away from reflective surfaces to minimize glare upon adjacent lots and rights-of-way.

C. 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.

D. Light pole height must not exceed 25 feet. Wall mounted light fixtures must not exceed 30 feet. Light fixtures in parking facilities must be designed and located to confine emitted light to the parking facility.

E. Light fixtures must meet Town Building Code requirements.

F. 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.

6.6 Multi-Family Residential, Business and Industrial Standards

A. 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.

B. 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.

C. Lights on poles, stands, or mounted on a building must have a shield, adjustable reflector, and non-protruding diffuser.

D. Canopy structures must have lights with diffusers which are recessed, and which do not extend below the surface of the canopy.

E. 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.

F. Parking facility lighting must be turned off or dimmed by at least 30% within 30 minutes of closing of the last business or no later than 11:00 p.m.

G. 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.

6.7 Sign Lighting

A. 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.

B. 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.

C. Lamps used for the internal illumination of wall signs must be turned off at 11:00 p.m. or when business closes.

6.8 Lighting Plans

A lighting plan for proposed outdoor lighting must include:

A. A site plan indicating the location of all existing and proposed lighting structures, supports and light fixtures.

B. 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.

C. 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.

D. The iso foot-candle diagram must plot foot-candle increments of 0.5 foot-candle or less.

E. Photometric data depicting the angle of cut off of light emissions.

F. Any other information the Administrator determines necessary to ensure compliance with the provisions of this chapter.

Chapter 7 – Parking and Loading Standards

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7.1 Purpose and Intent

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

7.2 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.

7.3 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.

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

7.4 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 Town does not require the Plan Commission nor Administrator to approve the access point.

7.5 Stacking Requirements for Drive-Through Facilities

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

A. **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 (*see Figure 7-1*).

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.

B. 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.

C. 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.

D. 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, take-out 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 that a reduction in the stacking requirements is appropriate for the proposed use given the use's proposed intensity or the site's context.

7.6 Landscaping

Parking and loading areas must be screened in accordance with *Article 5.5 Parking Lot Landscaping*.

7.7 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.

A. Required off-street parking facilities are solely for the parking of passenger vehicles of patrons, occupants, or employees during business hours.

B. 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.

C. 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.

D. 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.

E. 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.

1. Off-site, off-street parking facilities are within 500 feet of the property.
2. The shared parking spaces provide at least 70% of the cumulative minimum off-street parking spaces required for each use.
3. 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.

F. 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.

G. 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.

H. 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.

I. 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 7-2)

J. Surfacing and Curbs:

1. Public parking facilities and loading berths must be paved with a hard, dust-proof surface in accordance with the Town's construction standards.
2. A stormwater system, designed in accordance with applicable Town standards, must be installed for all parking facilities.
3. Curbs and gutters built per the Town's construction standards are required around the perimeter of all parking facilities and landscape islands within the parking facilities.
4. 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).

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

L. 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 CHAPTER 6 - LIGHTING STANDARDS.

7.8 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:

A. The site design must allow heavy trucks to enter and leave the site without backing onto the right-of-way.

B. Heavy truck parking facilities must be at least 10 feet from the front lot line or street side lot line.

C. Heavy truck parking and circulation areas must be paved with a hard, dust-proof surface in accordance with the Town's Construction Standards.

D. A stormwater system, designed in accordance with applicable Town standards, must be installed for all parking facilities.

E. 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.

F. 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 CHAPTER 6 - LIGHTING STANDARDS.

7.9 Bicycle Parking

The purpose of this article to provide adequate and safe facilities for the storage of bicycles. This article applies to all new development and/or building expansions requiring development plan approval or an improvement location permit.

A. The minimum number of bicycle parking spaces to be provided is shown on the Parking Requirements Table. When no minimum bicycle spaces rate is provided on the table, bicycle spaces must be provided at a minimum rate of 1 bicycle parking space per 30 vehicular parking spaces. No more than 15 bicycle parking spaces are required for any principal building.

B. Bicycle parking spaces must be at least 2.5 feet in width and 6 feet in length, with a minimum vertical clearance of 7 feet.

C. Bicycle parking spaces must be located within 50 feet of the main entryway into the principal building or be located inside the principal building.

D. A bicycle rack must be secured to the ground or wall on a hard, dustless surface and allow for the bicycle to be chained and locked.

E. Bicycle parking facilities must not obstruct an adjacent sidewalk, path, or pedestrian way.

F. The Plan Commission or Administrator may exempt certain uses from this article when it is demonstrated the use is not a destination the general public travels to by bicycle (e.g., daycare centers, warehousing and distribution, car washes, and other auto-oriented uses).

7.10 Parking Ratios for Vehicles and Bicycles

A. Off-street vehicular parking spaces and bicycle 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.

B. 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.

C. 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 (See *Section 7.7.E – Shared Parking*).

D. 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.

E. 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.

F. Parking is not required for accessory uses unless specifically stated on the Permitted Use Table or in an applicable use limitation.

G. Parking Requirements Table

RESIDENTIAL PRIMARY USES	Vehicle Min	Vehicle Max	Bicycle Min
Household Living			
Dwelling, Multifamily	1.25/unit	2.0/unit	1/5 units
Dwelling, Single Family	2.0/unit	No max	No requirement
Dwelling, Two Family	1.25/unit	4.0/unit	No requirement
Live/Work Dwelling	1.25/unit	2.0/unit	1/5 units
Mobile Home Park	1.5/unit	4.0/unit	1/5 units
Group Living			
Assisted Living	0.75/unit	2.0/unit	No requirement
Fraternity, Sorority, Student Housing	1.25/unit	2.0/unit	1/5 units
Group Residential Facility	0.75/unit	1.5/unit	No requirement
Nursing Home, Hospice	0.75/unit	2.0/unit	No requirement
CIVIC, PUBLIC & INSTITUTIONAL PRIMARY USES	**Vehicle Min**	**Vehicle Max**	**Bicycle Min**
Basic Utilities			
All Types	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Community/Public Service			
Community Center	0.5/1,000 of GFA	1/1,000 of GFA	1/10,000 of GFA
Correctional Institution	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Day Care Center	1/1,000 of GFA	1.5/1,000 of GFA	1/10,000 of GFA
Fairgrounds	No requirement	No requirement	No requirement
Hospital	2.5/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Municipal & Government Buildings	1/1,000 of GFA	1.75/1,000 of GFA	1/10,000 of GFA
Cultural/Special Purpose/Public Parks & Open Space			
Cemetery	1/1,000 of GFA	2/1,000 of GFA	1/10,000 of GFA
Libraries	1/1,000 of GFA	1.75/1,000 of GFA	1/10,000 of GFA
Museum	1/1,000 of GFA	1.75/1,000 of GFA	1/10,000 of GFA
Publicly Owned Park or Recreational Facility	No requirement	No requirement	No requirement
Education			
Colleges & Universities	1/1,000 of GFA	1.5/1,000 of GFA	1/10,000 of GFA
Elementary Schools	2/1,000 of GFA	2.5/1,000 of GFA	1/10,000 of GFA
Secondary Schools	1/1,000 of GFA	1.5/1,000 of GFA	1/20,000 of GFA
Trade or Business School	1/1,000 of GFA	1.5/1,000 of GFA	1/10,000 of GFA
Public & Religious Assembly			
All Types	1/1,000 of GFA	1.5/1,000 of GFA	1/10,000 of GFA

COMMERCIAL SALES. SERVICES, AND REPAIR PRIMARY USES	Vehicle Min	Vehicle Max	Bicycle Min
Adult Business			
All Types	2.5/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Arts, Recreation & Entertainment			
Indoor – Art Studio	0.3/1,000 of GFA	1/1,000 of GFA	1/20,000 of GFA
Indoor – All Others	2.5/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Arts, Recreation & Entertainment -Outdoor	2.5/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Sports and/or Entertainment Arena or Stadium	1/1,000 of GFA	2/1,000 of GFA	1/20,000 of GFA
Parking of Vehicles			
All Types	No requirement	No requirement	No requirement
Eating & Drinking Establishments			
All Types	5/1,000 of GFA	7/1,000 of GFA	1/5,000 of GFA
Lodging Accommodations			
All Types	1/guest room	1.5/guest room	1/20,000 of GFA
Office			
All Types	2/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Retail Sales, Service & Repair			
Animal Sales and Services, Household Pets	2.5/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Animal Sales and Services, All Others	1.5/1,000 of GFA	2.5/1,000 of GFA	No requirement
Food Sales or Market	2.5/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Kennel, All Types	1.5/1,000 of GFA	2.5/1,000 of GFA	No requirement
Pawn Shop	2.5/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Retail Sales, Service & Repair	2.5/1,000 of GFA	4/1,000 of GFA	1/20,000 of GFA
Vehicle/Equipment Sales, Service & Repair			
All Types	0.5/1,000 of GFA	1/1,000 of GFA	No requirement

INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES	Vehicle Min	Vehicle Max	Bicycle Min
Communications & Information			
Antennas Not Attached to a Tower	No requirement	No requirement	No requirement
Communication Services	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Telecommunication Towers	No requirement	No requirement	No requirement
Telecommunication Facilities – All Others	No requirement	No requirement	No requirement
Industrial Services			
All Types	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Manufacturing & Extraction and Energy Producing Systems			
All Types	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Mining & Extraction and Energy Producing Systems			
All Types	No requirement	No requirement	No requirement
Transportation Facilities			
Terminal Station/Service Facility for Passenger System	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Waste Related Services			
All Types	No requirement	No requirement	No requirement
Wholesale Storage, Warehouse & Distribution			
Automobile Towing Service Storage Yard	All Types	All Types	All Types
Mini-Storage Facility	0.1/1,000 of GFA	0.3/1,000 of GFA	No requirement
Truck/Freight Terminal/Distribution Center	0.25/1,000 of GFA	0.5/1,000 of GFA	No requirement
Vehicle Storage, Commercial	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Wholesale Trade or Storage, All Types	0.5/1,000 of GFA	1/1,000 of GFA	No requirement

AGRICULTURE PRIMARY USES	Vehicle Min	Vehicle Max	Bicycle Min
Garden, Urban	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Sale Barn for Livestock	0.5/1,000 of GFA	1/1,000 of GFA	No requirement
Slaughterhouse	0.5/1,000 of GFA	2/1,000 of GFA	No requirement
All Others	All Types	All Types	All Types

7.11 IMAGES

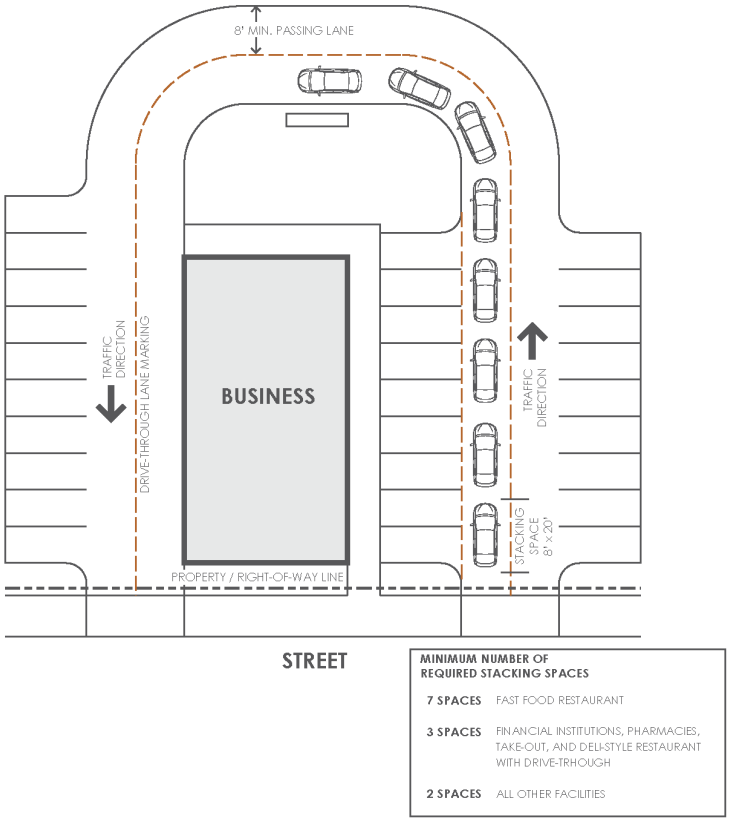

Figure 7-1: Stacking Requirements

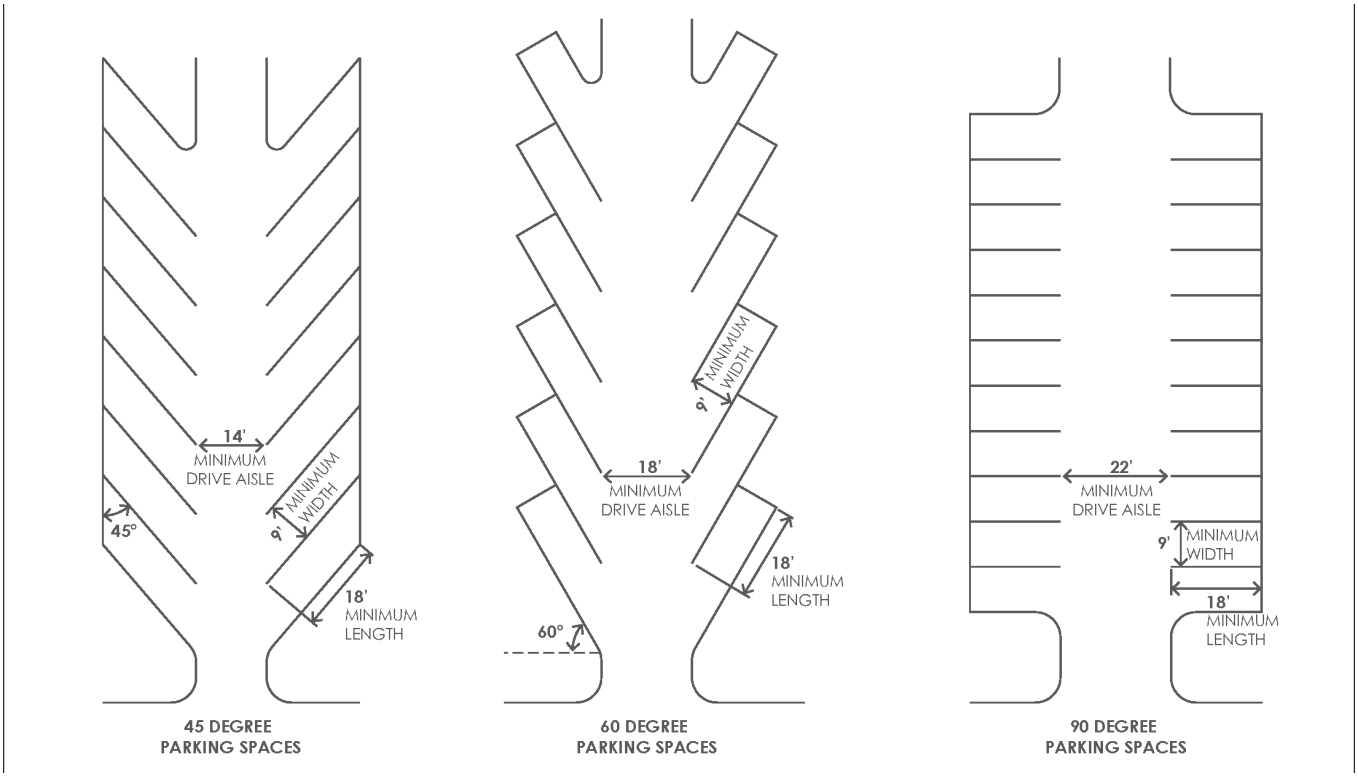

Figure 7-2: Dimensions for Parking

Chapter 8 – Sign Regulations

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8.1 Purpose and Intent

The purpose of this chapter is to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this chapter 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.

8.2 Exempt Signs

The following signs are exempt from this chapter:

- Government signs, including signs erected by the Town 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.

8.3 Prohibited Signs

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

- Abandoned signs.
- Animated signs.
- Balloon signs.
- Billboards.
- Blinking signs.
- Flashing signs.
- Inflatable signs.
- Intermittent signs.
- Manual changeable copy, temporary, signs.
- Moving signs.
- Pole signs.
- Pennant banner.
- Reflective signs.
- Rotating signs.
- Scrolling 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.

8.4 Sign Plans and Sign Program

A. **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.

B. **Master Sign Plans**. The Design Review Board may approve a master sign plan as an alternative to the requirements set forth in *Section 8.9 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.

1. Conditions. The Design Review Board 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 Design Review Board must not base any condition on the message content of a sign.
2. Evaluation Criteria. Master sign plans are evaluated on the following criteria:
   a. 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.
   b. Quantity. The number of signs approved within any development must be sufficient for internal traffic and navigation for vehicles and pedestrians.
   c. Size. Signs must be no larger than necessary for visibility and legibility. A master sign plan must not contain a free-standing 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%.
   d. Design Features and Materials. Sign design themes and materials must be compatible with the architecture, colors, and materials of the project.
   e. Development Standards. The Design Review Board 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% of the maximum standard. The Design Review Board must not base any decision on the message content of a sign.
   f. 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.

8.5 Review of Sign Applications for Permanent Signs

Applications for permanent signs are considered by the Design Review Board, 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 Administrative Design Review application approved by the Administrator.

8.6 General Provisions for Signs

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

A. **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 Town to regulate signs to not favor commercial speech over noncommercial speech. The Town 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.

B. **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.

C. **Discretionary Approval**. When a sign permit or other approval is subject to discretion, consideration is given to the following:

1. The location and placement of the sign will not endanger motorists;
2. The sign will not interfere with the prominent view of a structure or façade of historical or architectural significance;
3. The sign will not obstruct views of users or adjacent buildings to side yards, front yards or open space;
4. 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.
5. The sign is compatible with existing neighborhood building heights;
6. The sign's lighting will not cause hazardous or unsafe driving conditions;

D. **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.

E. **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 Town has the right to recover the cost of removal and disposal of the sign from the owner or person placing such sign.

F. **Placement of Signs**.

1. An encroachment permit from the Town is required prior to installing a permanent sign projecting into or over the public right-of-way.
2. The lowest portion of any sign extending over an area intended for pedestrian use must be at least 8 feet above finished grade.
3. The lowest portion of any sign extending over an area intended for vehicular use must be at least 14 feet above the finished grade.
4. 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.
5. Signs are prohibited within sight visibility triangles, except for appropriately placed traffic control device signs.

G. **Flagpoles**. Each premises in a residential district containing a principal structure may install one flagpole. There is no limit to the number of flags that may be displayed per flagpole. Each premises over 1/2 acre in size containing a nonresidential use 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 and flagpoles exceeding a height of 30 feet on residential properties.

H. **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.

I. **Measurement of Sign Area**. The area of a sign is measured or calculated as follows (*see Figure 8-1*):

1. 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.

2. 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.

3. Illuminated background signs. The area of a sign with copy on an illuminated surface is measured as the entire illuminated surface containing sign copy.

4. 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.

5. 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.

J. **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 (*see Figure 8-2*). 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.

K. 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.

L. 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.

M. 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.

N. 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.

O. Signs at bus shelters are permitted. Standards for these signs are determined in accordance with bus shelter design requirements established by the Town Engineer.

8.7 Temporary Signs

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

A. **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 8.1*. 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.

B. **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 8.2: Temporary Signs*.

1. 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.
2. 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.
3. 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.
4. 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.

C. **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 set forth in *Table 8.2: Temporary Signs*.

D. **Flying Banner Signs**. Flying banner signs must meet the criteria and limitations set forth in *Table 8.2: Temporary Signs*.

1. 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.
2. 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.
3. 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.

E. **Sign Walkers**. Sign walkers are permitted in all Zoning Districts. Sign walkers must comply with state law and meet the following criteria and limitations:

1. 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.
2. Sign walkers must not be located:
   - In medians.
   - In parking aisles or stalls.
   - In driving lanes or driveways.
   - 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.
3. The sign must be displayed only when the business is open to conduct business and held, worn, or balanced at all times.
4. 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.

F. **Flags**. Unless otherwise required by state law or specified in this chapter, no more than 2 flags

may be displayed on a flagpole, from a flag bracket, or on a flag stanchion. The sign area of a flag displaying a commercial message is 24 square feet. In determining the sign area of a flag, only one side of the flag is counted. Flags on residential or nonresidential parcels may be externally illuminated. A sign permit is not required for a flag.

G. **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.

H. **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 8.3: Temporary Signs*.

I. **Offsite Temporary Signs on Private Property**. Offsite temporary signs are permitted in all Zoning Districts on unimproved lots or parcels of 10 acres or more subject to criteria and limitations set forth in *Table 8.2: Temporary Signs*.

8.8 Permanent Sign Lighting and Changing Message Displays

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

A. **General Lighting Standards**. The illumination of signs must meet all regulations of the lighting standards in *CHAPTER 6 - LIGHTING STANDARDS*.

1. 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.

2. Exposed light sources are prohibited except for marquee signs. Light sources must be shielded to prevent light trespass onto adjacent properties.

3. 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.

B. **Sign Illumination**.

1. 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.

2. 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.

3. 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.

4. 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.

5. Illumination of Signs adjacent to Single Family Residential Uses. Signs located within 50 feet of a single-family district cannot be internally illuminated.

C. **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.

D. **Electronic Changing Message Displays**. The entire sign face of a freestanding monument and tower 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.

1. Display. An electronic changing message display may be in full color.
2. Minimum Display Time. An electronic changing message display must not change more than once every 8 seconds.
3. Transition Method. An electronic changing message display must change by an instant change method.
4. 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.
5. 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.

8.9 PERMANENT SIGNS TYPES.

The following types of permanent signs are allowed in one or more Zoning Districts, as more specifically set forth below (*see Figure 8-3*).

A. **Street Address Signs**.

1. 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.
2. 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.
3. 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.

B. **Unit and Building Identification Signs**.

1. 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.
2. 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.

C. **Wall Signs in Residential Uses**.

1. Each single-family dwelling unit must be clearly identified by a street address sign for first responders to locate the unit.
2. 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.
3. 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.
4. 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.

D. **Wall Signs in Non-Residential Uses**

1. Design. Wall signs must fit proportionally with building massing and architectural features of the elevation.

2. Length. The length of a wall sign must not exceed 80% of the horizontal length of the exterior building elevation of a tenant suite.

3. 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.

4. 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.

5. Wall Signs on building elevations abutting property designated for residential use in the Comprehensive Plan must:

   - Not be illuminated;
   - Not exceed 16 square feet in sign area; and
   - Be installed no higher than 14 feet above grade.

6. Wall Sign Area: Buildings One-Story in Height. Wall signs on a building one-story in height must conform to the following criteria:

   a. 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.

   b. 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.

   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. 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.

   e. 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.

7. 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.

   a. 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 *8.9(D)(6)* above.

   b. 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.

   c. 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.

d. Approval is required through either a comprehensive sign program or a master sign plan.

8. 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.

a. 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 *Section 8.9(D)(6) - Wall Sign Area: Buildings One-Story in Height* above.

b. 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 8.4: Wall Signs for Buildings Three-Stories or Greater*. The maximum sign area for a wall sign on the top floor cannot be increased through a comprehensive sign program or master sign plan.

c. 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.

d. Approval is required through either a comprehensive sign program or a master sign plan.

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

1. Design. Wall signs must fit proportionally with building massing and architectural features of the elevation.

2. Length. The length of a wall sign must not exceed 80% of the horizontal length of the exterior building elevation of a tenant suite.

3. 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.

4. 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.

5. Wall Signs on building elevations abutting property designated for residential use in the Comprehensive Plan must:

- Not be illuminated;
- Not exceed 16 square feet in area; and
- Be installed no 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 8.4: Wall Signs for Buildings Three-Stories or Greater*. 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.

F. **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.

G. **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.

H. **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.

I. **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.

J. **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.

K. **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.

L. **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 *Section 8.9(Y) – Canopy Signs for Service Islands*. This provision does apply to projecting signs and projecting roof signs.

M. **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 *Article 8.6 – 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.

N. **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.

O. **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 *Article 8.6 – General Provisions for Signs*. Suspended signs may be indirectly illuminated. Lighting fixtures must be decorative and architecturally compatible with the building.

P. **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.

Q. **Freestanding Sign**: **Monument Signs**.

a. 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. The maximum size of a monument sign is 6 square feet and 6 feet high. Monument signs must be set back at least 3 feet from the right-of-way.

b. 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.

R. **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.

S. **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.

T. **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 subdivision entry sign structures added following the initial development of the subdivision require administrative design review approval.

U. **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.

V. **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.

W. **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.

X. **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.

Y. **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.

Z. **Historic Markers**. One historic marker per parcel is allowed. The maximum sign area of a historic marker is 6 square feet.

8.10 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 8.5: Permitted Permanent Signs by Zoning District*. Refer to each sign type for criteria and limitations as specified in *Section 8.9: Permanent Sign Types*.

8.11 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.

8.12 Nonconforming Signs

A. 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.

B. 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.

C. Sign faces may be replaced on non-conforming signs.

D. 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.

8.13 Sign Violations

A. **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 Town without first obtaining a sign permit in according to the provisions of this chapter.

B. **Requirement of Compliance**. Signs must be installed, placed, or maintained in the Town 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 *Section 11.22*.

8.14 Sign Regulation Tables

A. Table 8.1 – Temporary Signs: General Criteria and Limitations

Standard	Residential Districts	Non-Residential Districts
Maximum Number of Signs Per Parcel	4	4
Maximum Sign Area	6 sq. ft.	32 sq. ft.
Sign Height Maximum for a Freestanding Sign[1]	4 ft.	8 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[3]	10 ft.	10 ft.
Minimum Spacing from any Other Sign (temporary sign or permanent sign)[1]	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[4]	No	No
Duration Allowed After Conclusion of an Event if Sign Pertained to an Event	3 days	3 days[5]
Lighting or Illumination Allowed	No	No
Movement Allowed	No	No

Notes:

1. Not applicable to signs displayed on flagpoles.
2. Window Signs cannot cover more than 25% of the first-floor window area.
3. 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.
4. Government signs displaying government speech are exempt from regulation under this chapter.
5. 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.

B. Table 8.2: 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	15 feet
Minimum Setback/ Distance from Roadway[3]	5 feet	3 feet	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	30 day periods and 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	No	No
Movement Allowed	No	No	Yes
Incorporation of Florescent Color or Exhibition of Florescence Allowed	No	No	No

GENERAL PROVISIONS
DISTRICTS
SPECIFIC USES
DESIGN STANDARDS
LANDSCAPE
LIGHTING
PARKING
SIGNS
SUBDIVISION
ADMIN
PROCESS
DEFINITIONS

C. Table 8.3: Temporary Residential Subdivision Signs

Standard	Principal Entry(ies)	Model Home(s)	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]	96 SF[5]	32 SF[5]	32 SF
Maximum Width	N/A	N/A	N/A	N/A
Maximum Height	8 feet	12 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 256 SF.

D. **Table 8.4: Wall Signs for Buildings Three-Stories of Greater**

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

E. **Table 8.5: Permitted Permanent Signs by Zoning District**

Sign Type	Residential Districts	Nonresidential Uses in Residential Districts	Business Districts	Industrial Districts	Mixed-Use Districts
1. Street Address Signs	Yes	Yes	Yes	Yes	Yes
2. Unit and Building Identification Signs	Yes	Yes	Yes	Yes	Yes
3. Wall Signs at Entrances to Dwelling Units	Yes	Yes	Yes	Yes	Yes
4. Painted Wall Signs	No	No	Yes	No	Yes
5. Wall Signs at Entrances to Non-residential Tenant Offices and Suites	No	No	Yes	Yes	Yes
6. Wall Signs at Entrances to Restaurants	No	No	Yes	Yes	Yes
7. Wall Signs at Service and Delivery Entrances	No	No	Yes	Yes	Yes
8. Window Signs	No	Yes	Yes	Yes	Yes
9. Door Signs	Yes	Yes	Yes	Yes	Yes
10. Wall-Mounted Cabinet Signs	No	No	Yes	Yes	Yes
11. Projecting Signs	No	No	Yes	No	Yes
12. Projecting Roof Signs	No	No	Yes	No	No
13. Suspended Signs	No	No	Yes	No	Yes
14. Drive-Through Lane Signs	No	No	Yes	Yes	Yes
15. Freestanding Sign: Monument Signs	No	Yes	Yes	Yes	Yes
16. Freestanding Sign: Tower Signs	No	No	Yes	Yes	Yes
17. Freestanding Sign: Onsite Traffic Signs	No	No	Yes	Yes	Yes
18. Freestanding Sign: Residential Subdivision Entry Signs	Yes	No	No	No	No
19. Freestanding Sign: Multi-Family Complex Entry Signs	Yes	No	Yes	No	No
20. Freestanding Sign: Directory Signs	No	No	Yes	Yes	Yes
21. Awning Signs	No	No	Yes	No	Yes
22. Umbrella Signs	No	No	Yes	No	Yes
23. Canopy Signs for Service Islands	No	No	Yes	Yes	Yes
24. Historic Markers	Yes	Yes	Yes	Yes	Yes

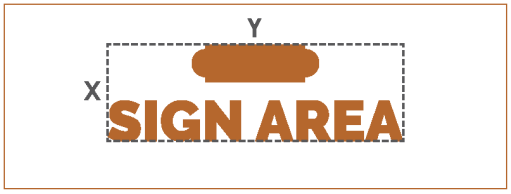
Yes = Allowed No = Prohibited

8.15 Images

Copy with Illuminated Background

Copy within a Logo

Copy within an Irregular Shape



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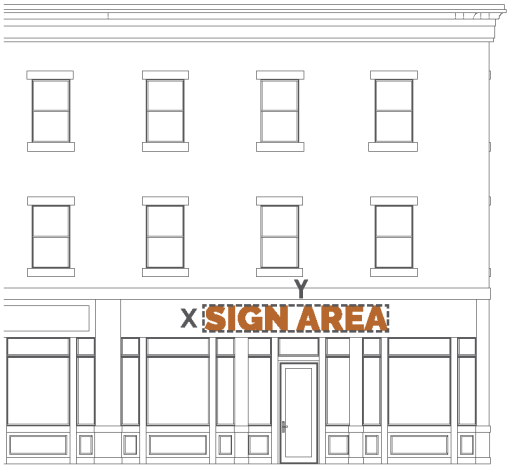

Copy on a Surface

X × Y = Sign Area

Figure 8-1: Sign Area

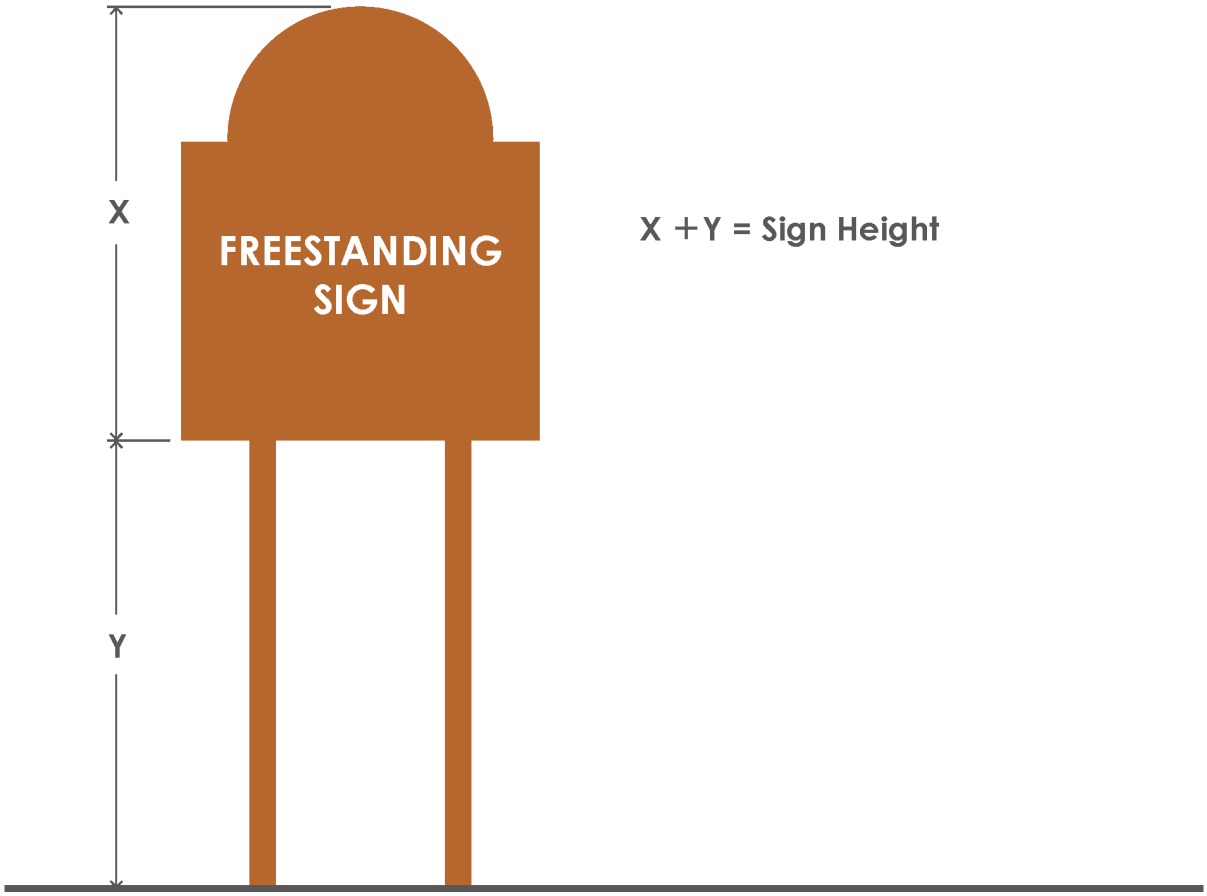

Figure 8-2: Sign Height

Legend

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

Figure 8-3: Sign Types

Chapter 9 – Subdivision Regulations

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9.1 Establishment of Controls

Subdivision plats, replat, amendments or corrections to a recorded plat cannot be recorded until approved according to this Ordinance. 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 except major subdivisions are prohibited in the AG-General Agriculture District.

9.2 Subdivision Process

This article establishes the process for subdividing land to ensure conformity to the standards of this Ordinance. Subdivision applications will generally be considered favorably by the Plan Commission and Administrator.

The procedures in this article are required for all minor and major subdivisions.

A. **Approval Process**.

1. 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.

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.

B. **Requirement for Development Plan Approval**. Development Plan approval will not be granted unless an overall Secondary Plat is approved prior to or simultaneously with the Development Plan.

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.

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 9.3 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.

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 Public Works Department, 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 Town'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 Recorder of Boone County, Indiana, as required by law, and provide the Department with a recorded copy to remain on file.

F. **Secondary Plat Amendments ("replats").**

1. Major amendments to a recorded secondary plat are processed and reviewed in the same manner as a secondary plat application.

2. Minor amendments to a recorded secondary plat are processed and reviewed administratively by the Director. Amendments authorized by this section require the Applicant to submit an amended secondary plat application.
   a. The following amendments to a secondary plat shall be considered minor amendments:
      - Housekeeping revisions such as corrections of a misspelling, bearing, distance, curve data, and street names.
      - Modification of the function of an easement to increase the use of the easement.
      - The combination of two or more lots to create one or more lots that are all larger than the original lots being joined, demonstrating a decrease in lot density.
      - Shifting or adjusting parcel lines while maintaining the density, use, intent of the site.

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 11.7 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.
   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, state highway departments, or the Public Works Department concerning rights-of-way, road improvements, roadside improvements, roadside drainage, entrances, culvert pipes, and other specifications deemed necessary.

q. For private sewage systems, a statement from the County Health Department whether private septic system can be used on the property.

r. If regulated drain is involved, a statement from the County Drainage Board or County Surveyor's Office concerning easements, right-of-way, permits, etc.

s. 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.

l. **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 Recorder of Boone County, Indiana, 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.

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 Recorder of Boone County, Indiana.

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 (*Article 11.7 Development Plan Review*).

q. Plat certificates and deeds of dedication, as set forth in *Article 9.17 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.

9.3 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 Town of Whitestown Construction Standards and Specifications ("Construction Standards), as published and maintained by the Whitestown Public Works Department, 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 9.7-9.17* 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 11.5 Commitments*. A waiver may only be granted upon finding:

1. The proposed development will enhance the use or value of area properties.

2. The proposed development will not be injurious to the public health, safety, morals or general welfare of the community.

3. The strict application of the Ordinance standard will result in a development that is undesirable when compared with the proposed development.

4. The proposed development is consistent and compatible with other development located in the area.

5. The proposed development is consistent with the intent and purpose of the Comprehensive Plan.

9.4 Residential Architectural Standards

A. **Architectural Standards for Single-Family 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 buildings constructed within the Zoning Districts as detailed below. Single-family dwellings permitted and constructed in non-Residential Districts must comply with the Residential District (Residential Uses) architectural standards. All new single-family dwellings located in a subdivision

containing 5 or more lots must comply with the architectural standards.

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 9-2* illustrates this requirement.

   - In *Figure 9-2*, 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.
   - In *Figure 9-2*, 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.
   - In *Figure 9-2*, 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.

3. Perimeter Lot Enhancements. These standards are intended to improve the appearance at the interface between new residential developments and existing perimeter streets. Long, straight lines of homes, berming, or landscaping parallel to perimeter streets is discouraged. Homes facing the perimeter street and variation in the distance between homes and perimeter streets is encouraged.

   a. For purposes of this section, a perimeter lot includes lots abutting a perimeter street or a common area abutting a perimeter street. If a lot abutting a common area is not within the viewshed from the perimeter street, then the perimeter lot standards do not apply.

   b. To encourage architectural diversity, a point system is used for the application of architectural standards. Design features are placed in different categories and each design feature is assigned a point value. Design features are required from different categories. The maximum number of points permitted from each category is noted. Design features are worth 1 point unless otherwise indicated.

   c. When side or rear building facades are facing the perimeter street, the design features listed below are used to meet the perimeter lot enhancements. The following design features are required:

      - At least 7 points of design features are required when a rear building façade faces a perimeter street classified as an arterial.
      - At least 5 points of design features are required when a rear building façade faces a perimeter street classified as a collector.
      - At least 4 points of design features are required when a side building façade faces any perimeter street.

Category #1 – Site Design and Building Massing (5 points maximum to qualify)

- Single story dwelling. A single-story dwelling with a loft less than 50% of the area of the first floor qualifies for this design feature.
- Undulation in the width of the common area between the perimeter lot and the perimeter street. The common area width varies from 20 feet to 50 feet or greater.
- Interior streets within 15˚ of parallel of the perimeter street have a maximum length of 300 feet before turning or ending in a cul-de-sac.
- The dwelling is separated from the perimeter street by a landscape buffer at least 30 feet wide planted with at least

5 evergreen trees, 2 shade trees, 2 ornamental trees, and 15 shrubs per 100 lineal feet. This formula is used to determine the amount of landscaping required. Landscaping may be arranged in the buffer where needed to better screen buildings and allow views of open space. The landscape buffer may be located within common area or within a landscape easement on the perimeter lot. If within a landscape easement, the easement may not overlap other easements on the lot. An additional point is earned if an undulating mound of at least 5 feet tall is used within the landscape buffer.

Category #2 – Main Roof Design (2 points maximum to qualify)

- 2 or more dormers.
- A roofline change at least 1/3 the length of the façade.
- 11-inch overhangs on the main roof of the dwelling as measured prior to the installation of masonry materials. This requirement does not apply to dormers, shed roofs, secondary gables, porches, and similar architectural features.
- A minimum roof pitch of 8:12 around the entire dwelling.
- 2 or more gables.
- A hip roof.
- A clipped hip roof extending at least 20% of the distance from the peak of the gable to the bottom of the gable.
- Installation of dimensional shingles.

Category#3 – Exterior Materials Exclusive of Trim (1 point maximum to qualify)

- At least 3 exterior materials or patterns are used on the elevation.
- At least 3 exterior colors are used on the elevation.
- 100% masonry materials are used from the main roof line and continuing down to the foundation.
- Masonry materials are used from the first floor plate line and continuing down to the foundation.
- Masonry wainscot from the first floor windowsill and continuing down to the foundation.
- An exterior fireplace chase finished in masonry material.
- Use of architectural garage doors.

Category #4 - Façade Projections or Recessions (3 points maximum to qualify)

- At least one offset (i) minimum 4 feet deep, (ii) minimum height equivalent of one story.
- At least two offsets (i) minimum 2 feet deep, (ii) minimum height equivalent of one story.
- A sunroom at least 64 square feet (2 points).
- A screened porch at least 64 square feet.
- Covered patio or covered porch, as a projection or recession in the building façade at least 120 square feet.
- An exterior fireplace chase projecting at least 18 inches from the building façade and extending above the roof line.
- A second-floor cantilever projecting at least 12 inches over the first floor and for at least 30% of the total length of the rear building façade.

Category #5 - Windows (exclusive of doors) (2 points maximum to qualify)

- Multiple masonry material detailing (e.g. quoins, keystones, arches, soldier courses), as architecturally appropriate.
- At least 75 square feet of windows on rear building façades or at least 45 square feet on side building façades.
- Larger windows a minimum of 15 square feet each with proportions consistent with the architectural style of the home. At least 3 such windows are required for a façade to meet this standard.
- Restoration of historic windows or use of new windows in proportions architecturally appropriate for the style of the home.
- Window trim at least 5½ inches wide around all windows of the dwelling. As an alternative, decorative window trim detailing (i.e. arches, cornices,

crossheads, ornate moldings, pediments) may be considered by the Administrator if the trim otherwise results in a comparable visual contrast that enhances the architectural interest of the building façade.

4. Streetscape Diversity for Perimeter Lots. The rear building façade of dwellings on adjacent perimeter lots may not have more than 3 of the same architectural features that qualify towards meeting the above requirements. Exceptions to this standard may be approved by the Administrator if the design or placement of the same design features otherwise result in substantially different rear building façades for adjacent dwellings.

5. Corner Lot Enhancements. Corner lot side facades adjacent to the street must provide at least 5 points of design features listed in 9.1(A)(3) above. Additionally, landscape plantings of at least 1 shade tree, 1 ornamental or evergreen tree, and 5 shrubs may be installed for 1 point toward this requirement.

6. Building Aesthetics. In order to create variation and interest in the built environment, the following aesthetic standards apply to roofing and siding materials on all building façades.

   a. Rolled roofing or tar paper, as the visible final layer of roofing materials, is prohibited.

   b. Vinyl materials and installation shall meet or exceed the minimum requirements of the current Indiana Building Code.

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.

In order 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 multi-family dwellings must comply with the following:

1. Design detailing must continue completely around the building consistent with the intended architectural style. Detailing elements include, but are not limited to, number and style of windows, window placement, trim detailing, roof design, and exterior materials.

2. Permitted exterior materials include Exterior Insulation and Finish System (E.I.F.S.), synthetic stucco, masonry materials, wood, fiber cement siding, and polymeric cladding. Aluminum and vinyl siding are prohibited.

3. At least 75% of each building façade, excluding windows and doors, must be masonry materials or fiber cement siding.

4. Each building façade must utilize at least 2 different exterior building materials (excluding window, door, and roofing materials). A different style of the same building material (e.g., horizontal and shake-style fiber cement siding) does not constitute two different building materials.

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.

9.5 Business and Mixed Use Architectural Standards

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

A. Buildings and structures within a single development should have complementary architectural themes.

B. All roof or ground mounted mechanical equipment must be completely enclosed. Ground-mounted enclosures must be landscaped on all sides not facing the building being served in accordance with *5.8 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 facades, up to 25% of the façade, exclusive of windows (including faux windows and glazing), doors and loading berths, may be covered with metal, fiber cement siding, polymeric cladding, E.I.F.S., stucco, or vinyl exterior building materials.
- The exterior building material selection for all building façades must be further enhanced with: (i) the use of multiple colors, multiple textures (e.g., rough, smooth, striated, etc.); or (ii) the addition of architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.).
- Loading spaces, loading docks or oversized service doors are prohibited on an external façade; however, if all building façades are determined to be external façades, then loading spaces, loading docks or oversized service doors may be permitted on the least visible external façade if screened according to the *5.8 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.

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 facia cannot be more than 30 feet wide.

9.6 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 5.8 Landscaping 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.)

9.7 Block Standards

The maximum length of a single-family residential subdivision block is 1,250 feet, except where an internal street or frontage road parallels an expressway or arterial.

9.8 Easement Standards

This article applies to all development.

A. **Drainage and Utility Easements**. All development 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 Public Works Department 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 Public Works Department, 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.

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 Town.

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 Public Works Department.
2. If a Declaration of Covenants, Conditions, and Restrictions is included or cross-referenced on the secondary plat, an easement certificate must not be incorporated into the Declaration of Covenants, Conditions, and Restrictions and must be clearly separate from the Declaration of Covenants, Conditions, and Restrictions.

E. **Cross-access Easements**.

1. Easement Instrument Specifications.
When required by this Ordinance, each property owner ("grantor") must execute a cross-access easement instrument in favor of the adjoining property owner ("grantee"). The instrument must:
   a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
   b. Grant the public the right to utilize the easement for purposes of accessing adjoining parking facilities.
   c. Prohibit the parking of vehicles within the easement.
   d. Prohibit any person from placing any obstruction within the easement.
   e. Be binding on all heirs, successors, and assigns to the properties where the easement is located.
   f. Be enforceable by each party to the easement and by the Town.
   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 Town 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 Whitestown Unified Development Ordinance, or its successor ordinance."

b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.

c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the cross-access easement certificate must not be incorporated into the Declaration of Covenants, Conditions, and Restrictions and must be clearly separate from the Declaration of Covenants, Conditions, and Restrictions.

F. **Private Street Easements.**

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

a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.

b. Grant the grantee the right to access the easement to access their lot.

c. Specify the grantee's financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.

d. Prohibit any person from placing any obstruction within the easement.

e. Require the private street be built to the standards of the Town.

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 Town.

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 Town 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 Whitestown Unified Development Ordinance, or its successor ordinance."

b. In addition, the secondary plat must include the following language: "The subdivider expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision that because the streets are private all maintenance, repairs and replacement now and forever must be undertaken at the expense of the lot owners according to the terms and conditions set forth in the owners association bylaws and articles. The subdivider, and their successors and assignees, 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 not be incorporated into the Declaration of Covenants, Conditions, and Restrictions and must be clearly separate from 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 Town.

   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 on 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 Town 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 Whitestown Unified Development Ordinance, or its successor ordinance."

b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.

c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the shared driveway easement certificate must not be incorporated into the Declaration of Covenants, Conditions, and Restrictions and must be clearly separate from 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 Town.

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 *4.9 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 Town 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 Whitestown Unified Development Ordinance, or its successor ordinance."

   b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.

   c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the subdivision sign easement certificate must not be incorporated into the Declaration of Covenants, Conditions, and Restrictions and must be clearly separate from 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.

9.9 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 monument(s) reset.

B. **Monument Standard.** Monuments must be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of 4 inches by 4 inches by 30 inches, set vertically in place. They must be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross.

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

1. At the intersection of lines forming angles in the boundary of the subdivision,

2. At least 2 monuments must be set on each side of a straight section of a street and on lot corners near each end of the street,

3. At least 2 monuments must be set on any straight line over 400 feet in length and on lot corners near each end of the line, and

4. Any location a bearing changes.

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

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

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

9.10 Open Space and Amenity Standards

A. **Applicability**. This article applies to all residential development plans and primary and secondary plats. 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
R1	5%
R2	8%
R3	10%
R4	12%
MF	15%

2. Exemption. Residential developments with a gross density of 0.33 dwelling units per acre or less are exempted from providing open space under this article.
3. Plantings. Open space must be supplemented with tree plantings according to the minimum lot landscaping requirements of *CHAPTER 5 - LANDSCAPING 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, where applicable, must 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 for preservation of existing features.

E. **Open Space Ownership.** The ownership of open space, common areas, development amenities, how they are protected from future development, and responsibility for future maintenance (e.g., homeowners' association) must be documented and recorded.

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

1. Requirement. Open space and development amenity improvements (e.g., fencing, walls, mounds, pathways, playgrounds, amenities) must be improved according to an approved development plan and require a Certificate of Compliance (*Article 11.4 Certificate of Compliance*).
2. Approval. Open space and development amenity areas must be identified on the development's overall development plan, according to *Article 11.7 Development Plan Review*. Open space and development amenity improvements require approval and detailed development plan reviewed and approved by the Administrator.
3. Timing of Installation. Open space and development amenity improvements must be installed within 12 months from issuance of the first building permit in the secondary plat section.

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 comply with *Article 5.3 Landscaping Standards* and are located and designed for the 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 *Article 5.3 Landscaping 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 *Article 5.3 Landscaping Standards*.

H. **Amenity Centers within Major Subdivisions.** Amenity centers must be provided in common areas, other than common areas created for perimeter landscaping, and buffer yards. The following requirements are cumulative:

1. Neighborhood Park. A neighborhood park is required in any residential subdivision with more than 120 dwelling units or a parent tract greater than 60 acres. An additional neighborhood park is required for each additional 120 dwelling units or additional 60 acres within the parent tract. When an additional neighborhood park is required, one of the following may occur:

   a. A sport court may be substituted and located adjacent to the first park or on a unique site; or

   b. The additional neighborhood park may be located adjacent to the first and the minimum required amenities for both parks are integrated as a single park; or

   c. The additional neighborhood park can be located on a unique site.

2. Amenity Center. A swimming pool, skate park, indoor playground or equivalent is required in any residential subdivision with more than 220 dwelling units or a parent tract greater than 120 acres. An additional amenity different than the first is required for every additional 220 dwelling units or additional 120 acres within the parent tract. When an additional amenity center is required, one of the following may occur:

   a. Nature Center

   b. At least 1,320 feet of 8' wide asphalt multi-use pathway located within common area in addition the pathway requirements of the Thoroughfare Plan. Pathways must connect to other streets, pathways, or sidewalks. Dead-end pathways are prohibited.

   c. Swimming Pool.

   d. Skate Park.

   e. Indoor Playground.

   f. Standard Clubhouse.

   g. Neighborhood Park equivalent to at least double the minimum standards for a neighborhood park.

   h. A swimming pool at least double the minimum standards for a swimming pool may be substituted for a separate amenity center.

   i. A clubhouse upgraded to an enhanced clubhouse may be substituted for a separate amenity center.

3. A doubling of the minimum standards for a swimming pool may be substituted for an additional major amenity center.

I. **Minimum Standards for a Neighborhood Park.**

1. The minimum standards for a passive neighborhood park include:
   a. At least 1 acre in size;
   b. At least 50% of the lot will be covered by tree canopy of native trees or 80% of the lot will be covered by tree canopy of non-native trees;
   c. Contains a small open shelter at least 200 square feet in area; and
   d. Contains at least 300 feet of trails surfaced with 2 inches of crushed limestone or 500 feet of trails surfaced with 3 inches of mulch.
2. The minimum standards for an active neighborhood park include:
   a. At least 18,000 square feet in size;
   b. Playground equipment with at least 2 slides, 4 swings, 3 climbing apparatus, and 3 additional play apparatus. All playground equipment must be commercial grade and permanently affixed to the ground. At least 1/3 of all apparatus must be designed for toddlers; and
   c. A safe surface must be installed below and around each apparatus. A safe surface may include, at least 8 inches of mulch or at least 4 inches of rubberized surfacing.

J. **Sport Courts**. A sport court must be 1 of the court options listed below.

1. A tennis court meeting the following standards:
   a. A single regulation sized tennis court and net;
   b. At least 16 feet of hard surface at each end of the court and 12 feet of hard surface on each side of the court;
   c. Side fences at least 6 feet tall and end fences at least 8 feet tall with at least 2 entrances; and
   d. Commercial quality net and court striping.
2. A basketball court meeting the following standards:
   a. A minimum three-quarter regulation sized court; and
   b. A minimum of 8 feet of hard surface from all edges of the court.
3. A volleyball court meeting the following standards:
   a. A single regulation sized sand volleyball court;
   b. A minimum of 8 feet of sand at each end of the court and 6 feet of sand on each side of the court;
   c. A commercial quality net, poles, and boundary tapes; and
   d. Very fine sand at least 8 inches deep.

K. **Minimum Standards for Clubhouses**

1. The minimum standards for a standard clubhouse include the following:
   a. The clubhouse must be fully enclosed, heated, and air-conditioned for year-round use;
   b. The clubhouse must be designed to reflect the best residential characteristics in the neighborhood;
   c. The clubhouse must be at least 850 square feet in floor area;
   d. The clubhouse must have at least men's and women's restrooms, a kitchenette, and at least 50 square feet of lockable storage;
   e. At least 300 square feet of patio space plus sidewalks connecting the clubhouse to the surrounding pedestrian network.
   f. The clubhouse must have commercial grade chairs, tables, and other furnishings for small parties, small gatherings, and small meetings.
2. The minimum standards for an enhanced clubhouse include the following:

a. The clubhouse must be fully enclosed, heated, and air-conditioned for year-round use;

b. The clubhouse must be designed to reflect the best residential characteristics in the neighborhood and have a brick or stone chimney;

c. The clubhouse must be at least 1,760 square feet in floor area;

d. The clubhouse must have at least men's and women's restrooms, a full kitchen, gas or wood burning fireplace, and at least 100 square feet of lockable storage;

e. At least 600 square feet of patio space plus sidewalks connecting the clubhouse to the surrounding pedestrian network.

f. The clubhouse must have commercial grade chairs, tables, and other furnishings for large parties, large gatherings, and large meetings.

L. The minimum standards for a nature center include the following:

1. The nature center must be located adjacent to or on a wooded lot at least 1/2 acre in size;

2. The nature center must be fully enclosed and heated and air-conditioned. Mechanical equipment must be substantially screened;

3. The nature center must be designed to blend into the natural area and be complementary to the neighborhood;

4. The nature center must be at least 500 square feet in floor area;

5. The nature center must have at least men's and women's restrooms, 20 educational displays, and a minimum of 50 square feet of lockable storage;

6. A minimum of 300 square feet of gathering space plus sidewalks leading to and from the nature center. The gathering space and sidewalks leading to the nature center may be wood, stone, crushed limestone, or similar natural material;

7. The nature center must have commercial grade chairs, tables, and other furnishings for small parties, small gatherings, and small meetings; and

8. The nature center must have at least 5 canopy trees planted around the facility if it is not located on or immediately adjacent to a wooded lot.

M. The minimum standard for a swimming pool includes the following:

1. The pool must be at least 1,200 square feet in surface area;

2. A decorative metal fence must be installed as per the height required by state code;

3. Enclosed men's and women's restrooms/changing rooms required in proximity to the pool;

4. A hard surface area must extend at least 12 feet from the edge of the pool on all sides; and

5. Landscaping must be installed around the facility and reflect the best characteristics of the neighborhood.

N. The minimum standard for a skate park includes the following:

1. The skate park must be at least 800 square feet in area and comprised of appropriate hard surfaces;

2. A decorative metal fence at least 4 feet tall installed around the facility with at least 2 entrances; and

3. A series of ramps, edges, half-pipes, and the like designed by an experienced skate park designer.

O. The minimum standard for an indoor playground includes the following:

1. The facility must be fully enclosed, heated, and air-conditioned;

2. The facility must be at least 700 square feet in area;

3. The facility must be designed to reflect the best residential characteristic in the neighborhood;
4. The indoor playground must have at least 2 slides, 4 climbing apparatus, and 2 additional apparatus. The ceiling height must be at least 14 feet and the floor must be effectively padded with a foam or rubber covering where appropriate; and
5. The indoor playground must have men's and women's restrooms and a minimum of 50 square feet of lockable storage.

P. **Plan Commission Authority to Substitute**. The Plan Commission has the authority to accept a clearly equivalent or greater amenity center in lieu of what is required. The developer must provide plan view drawings, elevation drawings, supportive illustrations, and a description of the facility and products proposed to be used for the Plan Commission to determine equivalency. Further, a developer can locate multiple required amenity centers together in a single area, if the intent of this ordinance is clearly met.

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

R. **Joint Provision of Amenity Center Facilities**. If 2 or more subdivisions are contiguous, separated by a right-of-way or easement, or are within 100 feet of the boundary of each other and are platted by a single developer or affiliated company; or built-out by a single builder or dominantly built-out by a single builder, then the subdivisions may aggregately be subjected to the amenity center standards above. For example, if a 110-lot subdivision is separated by a major collector from a 350-lot subdivision platted by the same developer, then the amenity standards may apply to both developments as if they were a single development. Together they would be regulated as if they were a 460-lot subdivision requiring 3 core amenity centers, two 2 minor amenity centers, and 1 major amenity center.

9.11 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 Town's Construction Standards (*Article 9.3 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 be 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 pathways, connections to the sidewalks or pathways are 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, asphalt pathways must be provided along the perimeter streets according to the Thoroughfare Plan.

2. Required pedestrian pathways should be located within the right-of-way. Pathways located outside the right-of-way must be located within an easement approved by the Administrator or Public Works Department.

9.12 Storm Water Standards

Proposed developments must provide for the collection and management stormwater according to the Town's Construction Standards (*Article 9.3 Principles and Standards of Design*).

9.13 Street and Right-of-Way Standards

A. **Applicability**. Proposed developments must allocate adequate areas for new streets in conformity with *Article 9.3 Principles and Standards of Design* and the Thoroughfare Plan.

B. **Thoroughfare Plan**. The Whitestown 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 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 Town 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 Town the price paid by the Town 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 Town's Construction Standards (*Article 9.3 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 Town's Construction Standards.

2. Private streets must be established within access easements complying with *Article 9.7 Easement Standards*.

3. When a private street easement appears on a secondary plat, a private streets certificate (*Article 9.7 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 *Article 9.15 Surety Standards* and the Town'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 *Article 9.3 Principles and Standards of Design*.

2. Construction. Street improvements, must be designed, constructed and installed according to *Article 9.3 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:

   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 9.18 Images*).

   b. The cul-de-sac terminus must be designed according to *Article 9.3 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 Public Works Department.

   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 one 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 *Article 9.10 Pedestrian Network Standards* and located within an easement or common area.

4. Alleys. Alleys must be constructed according to the Town's Construction Standards, unless otherwise approved by the Public Works Department.

5. Intersections. Street intersections must be designed and improved according to *Article 9.3 Principles and Standards of Design*. Lot line corners must be rounded by arcs with minimum radii in

accordance *Article 9.3 Principles and Standards of Design*.

6. Access Points. The following standards apply to access points for a development. The Plan Commission, Council, or Public Works Department 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. Developments must not permit direct access from a driveway to any arterial or collector, 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 *Article 9.3 Principles and Standards of Design*.

H. **Delay of Surface Layer.** Installation of the surface layer of asphalt may be delayed with permission of the Town 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.

I. **Fire Hydrants**. Fire hydrants must be provided throughout the development as determined by the Whitestown Fire Department.

J. **Acceptance of Improvements.** Before any financial surety (*Article 9.15 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 Town. The results of the testing must be provided to the Public Works Department 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 Town 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 Town's plan approval process.

9.14 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 Town's Construction Standards (*Article 9.3 Principles and Standards of Design*) and the public utility providing the lighting. The Public Works Department 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

3. A combination of the above options.

D. If the Town has established a street light standard along the street where the entrance is located, the development must install the same lighting standard. Luminaires must be shielded to prevent glare on residential properties.

E. Decorative street lights may differ from the Town's Construction Standards if approved by the Public Works Department. Decorative street lights must be installed at the expense of the developer and maintained by the property owners' association. An agreement between the Town 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. If the Town or public utility providing the lighting must replace a street light, it is not obligated to use a decorative street light.

9.15 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* and the Town's Construction Standards (*Article 9.3 Principles and Standards of Design*).

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 Town's Construction Standards if approved by the Public Works Department. Decorative street signs must be installed at the expense of the developer and maintained by the property owners' association. An agreement between the Town and the property owner's association is required to establish that the property owner's association is responsible for replacing the decorative street signs and poles when the original signs installed are lost or damaged. If the Town must replace a street sign, it is not obligated to install a decorative sign.

9.16 Surety Standards

A. A bond, irrevocable letter of credit, or other guarantee acceptable to the Town ("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 Town's Construction. The surety must be according to this article and the Town's Construction Standards.

B. **Construction/Performance Surety**.

1. A performance surety to the Town must include any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility to be dedicated to the Town. 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 Town to be sufficient to complete the improvements in compliance with this Ordinance and the Town's Construction Standards;

   b. Provide surety satisfactory to the Town;

   c. Run to and be in favor of the Town;

   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 Director of Public Works. The performance surety must not be released until the Public Works Department 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 Town and which had not been completed after having been initiated.

5. The Town may consider alternative forms of ensuring the proper completion of improvements to be dedicated to the Town or for the benefit of the public.

C. **Maintenance Surety.**

1. When the improvements are completed and accepted by the Town, the performance surety may be released. For 3 years after the date of improvements were accepted by the Town 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 Town for any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility dedicated to the Town. 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 Town;

   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 Town;

   d. Warrant the workmanship and materials used in the installation of the improvements

   e. Include a certification from the developer that all improvements have been made according to the approved plans.

4. Maintenance sureties are effective from the date of acceptance and must not terminate

until the Public Works Department certifies inspection and approval of the improvements.

9.17 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, except the ***AG: Agriculture District***.

C. Utilities must be installed underground in designated utility easements or rights-of-way.

D. Development must provide for the collection of all sanitary sewage discharges by the installation of sanitary sewers. These sewers must be tied into a public sanitary sewer system and constructed within right-of-way and/or dedicated sewer and utility easements. When a public sanitary sewer is not available, then a septic sewer system on an individual lot may be provided if permitted by this Ordinance and if constructed according to the minimum requirements of the County Health Department.

E. Development must provide a complete water main supply system connected to a municipal or a community water supply system approved by the County Health Department. When a municipal or community water supply is not available, then an individual water supply on each lot must be provided according to minimum requirements of the County Health Department.

9.18 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, and all acts amendatory thereto, and an ordinance adopted by the Town Council of the Town of Whitestown, Boone County, Indiana, this plat was given approval by the Whitestown Advisory Plan Commission, as follows:

Approved by the Director of the Planning and Community Development Department of the Town of Whitestown, Boone County, Indiana, pursuant to the Whitestown Unified Development Ordinance, on the ____ day of _____, _____.

Whitestown Plan Commission

By: _____

(Name), Director Planning and Community Development Department

(SEAL)

B. **Director of Public Works Certificate**:

This plat and the acceptance of any public rights-of-way dedicated herein is hereby approved on the ____ day of _____, 20__, by the Director of the Public Works Department of the Town of Whitestown, Indiana, on behalf of the Board of Public.

_____

(Name), Member

_____

(Name), Member

_____

(Name), Member

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, 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 Whitestown, 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, Public Works Department; 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, Boone 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 *Article 9.7 Easement Standards*.

9.19 Images

Figure 9-1: Measurement of Cul-de-sac Length

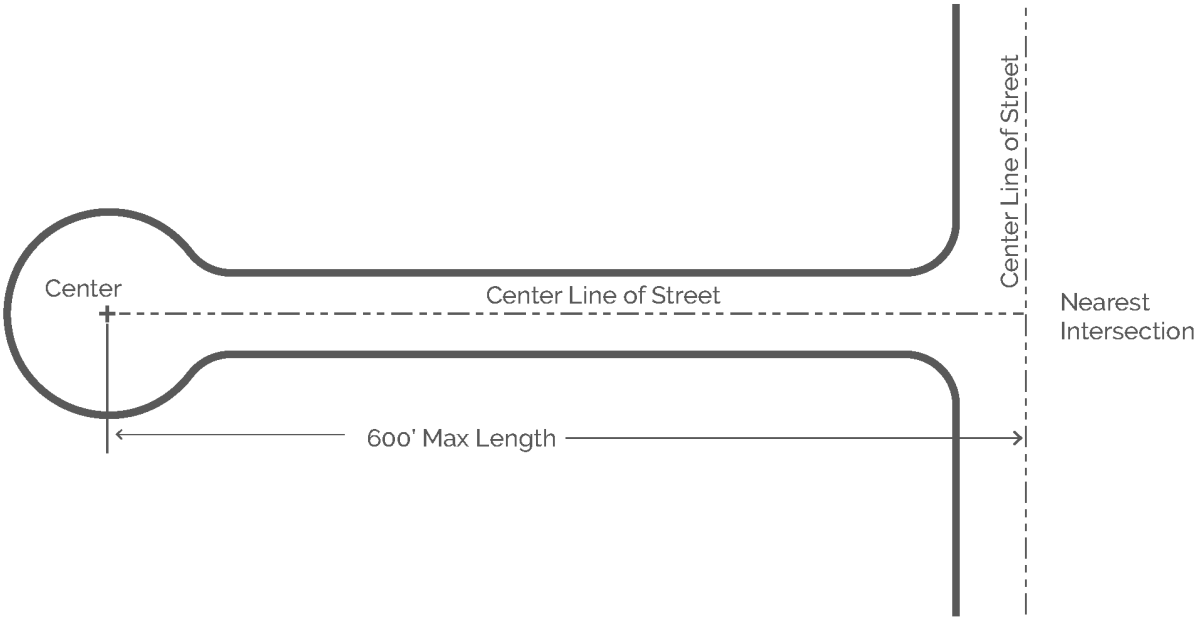
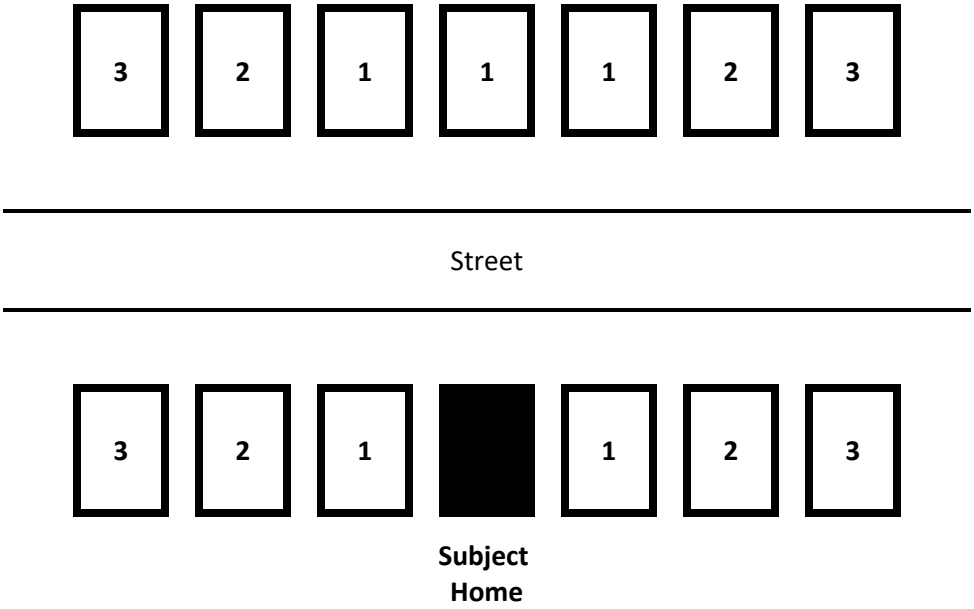


Figure 9-2: Anti-Monotony Standards



Chapter 10 – Administration

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10.1 General Administration

A. Administrator Duties:

1. Receive and examine applications for improvement location permits, refer applications to persons or bodies, or make any other referrals as deemed advisable by the Director;
2. Issue improvement location permits after approval and Certificates of Compliance after compliance the provisions of this chapter and other Town ordinances. However, the issuance of an improvement location permit is not a waiver of the requirements of other Town ordinances;
3. Receive and examine applications for special exceptions and forward them to the WBZA for action;
4. Receive and examine applications for variances and forward to the WBZA for action;
5. Receive and examine applications for appeals from alleged error of the Director and forwards to the WBZA as described in *Article 11.3 - Appeals of Administrative Decisions*;
6. Receive and examine applications for zoning amendments and changes in zoning and forward to the Plan Commission and the Common Council, as applicable, for action;
7. Conduct inspections and surveys to determine compliance with the terms of this chapter;
8. Issue stop, cease and desist orders, in writing, for all conditions in violation of the provisions of this chapter. The written orders must be served personally or by certified mail upon persons deemed by the Administrator to be violating the terms of the chapter. It is unlawful for any person to violate any such order lawfully issued by the Administrator Any person violating any such order is guilty of violating this chapter;
9. When directed by the Plan Commission or the Board, act to prevent the unlawful, construction, alteration, or use of any structure or land, or to prevent any illegal act or use in or about the premises;
10. Revoke an improvement location permit issued under a mistake of fact or contrary to the provisions of the chapter;
11. Upon request of the Plan Commission or Board, present facts, records, or reports requested to assist them in making decisions; and
12. Maintain a map showing the current Zoning Districts of all land in the Town.

B. Fee Schedule: Filing fees for applications and petitions are set forth in the fee schedule. The fee schedule is 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 WBZA. Modifications of filing dates are considered if determined reasonable by the Administrator. The existence of this calendar does not prohibit special meetings or changes of meeting dates by the Technical Advisory Committee, Plan Commission, or WBZA. The schedule of meeting and filing dates must be made available in the office of the Department.

10.2 Board of Zoning Appeals

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

A. **General Duties:**

1. The WBZA adopts rules and regulations ("Rules of Procedure of the Board") necessary to accomplish the provisions of this Ordinance.

2. All meetings of the WBZA are open to the public. The WBZA 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 WBZA by any person claiming to be adversely affected by such decision.

2. The WBZA will hear appeals of any order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance (*Article 11.3 - Appeals of Administrative Decisions*).

3. The WBZA may reverse, affirm, or modify the order, requirement, decision, or determination appealed. In this case the WBZA has all the powers of the Administrator from whom the appeal is taken.

4. Every decision of the WBZA is subject to review pursuant to *I.C. 36-7-4-1016*.

C. **Special Exceptions:** The WBZA will approve or deny all special exceptions in accordance with this Ordinance, but only in the situations specified. The WBZA may impose reasonable conditions as a part of its approval (*Article 11.12 Special Exceptions*).

D. **Use Variances:** The WBZA will approve or deny variances of land use in accordance with this Ordinance (*Article 11.14 Variances*).

E. **Development Standards Variances:** The WBZA approves or denies variances from the development standards of this Ordinance in accordance with this Ordinance (see also *Article 11.14 Variance*).

F. **Floodplain:** The WBZA is governed by the provisions of this Ordinance concerning variances applicable to the Floodplain Overlay District (FOD).

10.3 Town Council

The powers and duties of the Town Council of the Town of Whitestown, Boone 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 Unified Development Ordinance 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, the Zoning Ordinance, and the Subdivision Control 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 (*Article 11.15 Zoning Map Changes (Rezones)*).

4. Planned Unit Developments: Adopt, reject, or amend proposals for Planned Unit Developments as certified by the Plan Commission (*Article 11.9 Planned Unit Developments*).

5. Fee Schedule: Adopt, reject, or amend proposals to adopt or amend a Fee Schedule (*Article 10.1 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:

1. Plan and Ordinance Amendments: Initiate amendments to the text of the Comprehensive Plan, any other plans, and the Unified Development Ordinance 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.

10.4 Director of the Department

A. **Administrative Officer:** It is the duty of the Director of the Department of Planning and Community Development (the "Director") 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 Director and/or the Director'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 Unified Development Ordinance, as authorized under Indiana law.
2. Maintain rules of procedures for holding meetings, holding public hearings, and enforcing the Comprehensive Plan and the Unified Development Ordinance.
3. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission and WBZA.
4. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission and WBZA. 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 Board.
14. Other duties set forth here or that may be delegated by the Plan Commission, WBZA, or Council.

10.5 Floodplain Administrator

A. **Floodplain Administrator:** The Director 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 Administer 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.

10.6 Plan Commission

The powers and duties of the Town of Whitestown 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 Unified Development Ordinance 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 administrating and enforcing the Comprehensive Plan and the Unified Development Ordinance.

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 Unified Development Ordinance, and Zoning Map (*11.15 Zoning Map Changes (Rezones)*).
6. Certify and submit recommendations to the Council for adopting a Planned Unit Development (*11.9 Planned Unit Developments*).
7. Approve or deny plats or replats of Subdivisions (*CHAPTER 9 – 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 (*11.7 Development Plan Review*).
10. Enforce regulations and procedures of the Comprehensive Plan and the Unified Development Ordinance 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.

10.7 Technical Advisory Committee

The powers and duties of the Town of Whitestown Technical Advisory Committee ("TAC") are as generally described below:

A. **Establishment and Membership:** The Technical Advisory Committee is created and consists of members, as invited by the Director, that may include utility agencies, County departments, Town departments and other agencies or consultants.

B. **Jurisdiction and Authority:** The Technical Advisory 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. To take such other actions as delegated by the Administrator, Council, Plan Commission, Board, or other bodies to implement the provisions of this Ordinance.

Chapter 11 – Process, Permits & Enforcement

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11.1 General Standards

A. **Purpose.** This chapter outlines the procedure for permits, approvals, and appeals, as set forth in this Ordinance.

B. **Application.** Application and informational packets may be obtained through the Department and/or online through *the Town'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 Town, 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 *Article 10.1 General Administration,* and subject to the rules of procedure of the applicable hearing body.

11.2 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 such situations can be addressed by an interpretation of the specific provisions of this Ordinance considering the general and specific purposes for which those provisions have been enacted. The interpretation authority established is an administrative, not legislative, authority. It is not intended to add to or change the essential content of this Ordinance. It is intended only to allow authoritative application of content to specific cases.

B. **Authority.** The Director 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 ten (10) working days following the receipt of a properly completed application, the Director informs the applicant in writing of his/her determination, stating the specific precedent, reasons, and analysis upon which the determination is based. Failure of the Director to act within ten (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 Director and may, at the Director's discretion, be required to be recorded in the Office of the Recorder of Boone County, Indiana.

4. Appeal: Appeals of interpretations rendered by the Director are made according to *Article 11.3 Appeals of Administrative Decisions*.

E. **Standards for Interpretations.** The following standards govern the Director and the WBZA on appeals from the Director 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 *Article 11.12 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 Town 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.

11.3 Appeals of Administrative Decisions

A. **Right of Appeal.** The WBZA may grant an appeal of any decision, interpretation, or determination made by the Director, 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 take no further action on the matter pending the Board's decision, except for unsafe circumstances which present an immediate and serious danger to the public.

C. **Application.** The applicant submits an administrative appeal application within thirty (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. **WBZA Review.** At a meeting scheduled consistent with the adopted schedule of meeting and filing dates, the WBZA reviews the administrative appeal application and supporting information.

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 WBZA 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. **WBZA Action.** The WBZA may affirm, affirm with modifications, reverse, or continue the appeal.

1. Affirm: If the WBZA finds the administrative decision was consistent with the provisions of this Ordinance, the WBZA affirms the determination in writing.

2. Affirm with Modifications: If the WBZA 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 WBZA will affirm the determination with modifications in writing.

3. Reverse: If the WBZA finds the administrative decision was inconsistent with the provisions of this Ordinance, the WBZA 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 WBZA 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.

11.4 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 Town 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 five (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 applications for any permits and approvals may be required by this Ordinance and ordinances of the Town 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.

11.5 Commitments

A. **Applicability.** An applicant may be required or allowed to make a commitment to the Plan Commission or WBZA 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 Town and signed by the owner(s) 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 WBZA. 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 Recorder of Boone County, Indiana, within ten (10) days of the final approval of the completed application. The applicant must return a copy of the recorded commitments to the Department within ten (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 WBZA to which the commitment was made. The decision is made at a public hearing by the Plan Commission or WBZA 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 is sent digitally to the Council prior to the Plan Commission hearing, the Plan Commission will make a recommendation on the modification, and then Town Council will make a final decision at a Public Hearing. The modification or termination of the commitments is not effective until: (i) written in a form approved by the Town Attorney; (ii) approved by the Plan Commission or WBZA; (iii) executed by the current property owner of the real estate; and, (iv) recorded in the Office of the Recorder of Boone County, Indiana.

11.6 Land Development Process

A. Single-Family Residential Uses
   1. For applications developing a single-family, attached or detached, development the Applicant shall submit for a Primary Plat to be heard by Plan Commission. If approved, the Applicant shall submit for a Secondary Plat to be approved administratively.
   2. An approved Secondary Plat must be recorded with the Boone County office prior to the Applicant applying for building permits.

B. Planned Unit Developments
   1. For applications developing a PUD following the ordinance approval by the Town Council, the Applicant shall submit for a Primary Plat to be heard by Plan Commission. A Concept Plan, if applicable, can be heard by Plan Commission simultaneously or following the Primary Plat. If approved, the Applicant shall submit a Secondary Plat to be approved administratively. The Applicant shall submit for a Development Plan, if applicable, to be heard by Plan Commission simultaneously or following Secondary Plat approval.
   2. An approved Secondary Plat must be recorded with the Boone County office prior to the Applicant applying for building permits.

C. Multi-Family, Commercial, Industrial, and Mixed-Use Uses
   1. For applications developing a Multi-family, Commercial, or Mixed-Use development, the Applicant shall submit for a Primary Plat to be heard by Plan Commission. The Concept Plan can be heard by Plan Commission simultaneously or following the Primary Plat. If approved, the Applicant shall submit a Secondary Plat to be approved administratively. The Applicant shall submit for a Development Plan, if applicable, to be heard by Plan Commission simultaneously or following Secondary Plat approval.
   2. An approved Secondary Plat must be recorded with the Boone County office prior to the Applicant applying for building permits.

11.7 Design Review

A. **Purpose.** The purpose of the Design Review process is to ensure the compatibility of new development or construction with the existing development of the surrounding neighborhood.

B. **Applicability.** The Design Review process is required as part of the development plan review process (see *Article 11.7 Development Plan Review*) unless otherwise waived in writing by the Administrator.

C. **Approvals Required.** Design Review is part of the process for approval of a development plan, as set forth in *Article 11.7 Development Plan Review*.

D. **Design Review Criteria.** In addition to the criteria identified in *Article 11.7 Development Plan Review*, development plans submitted as part of the design review process are reviewed by the Design Review Board 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, including porch heights,
- Surface materials, finishes, and textures,
- Size of Building footprint,
- Eave heights,
- Building silhouette,
- Spacing between Buildings,
- Setbacks from Street property lines,
- Proportions of Windows, bays, doorways, etc.
- Shadow patterns from massing and features, and
- Landscaping.

E. **Application Documentation and Supporting Information.** All applications for design review must include the documentation and supporting information set forth in *Article 11.7*. Other information necessary to support a thorough review of the project may be requested in writing by the Plan Commission or Administrator. 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.

1. Landscape Plan: A landscape plan according to *Article 5.3 Landscaping Standards*, is required as part of any development plan. Landscape plans for overall development plans must detail perimeter areas, buffer yards, common areas, entryways, and any other open space as considered appropriate by the Plan Commission or Administrator. Landscape plans for a detailed development plan must be site or lot specific showing compliance with parking area, buffer yard, and on-site or foundation requirements.

2. 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, as part of any development plan.

3. Lighting Plan: A lighting plan according to *Article 6.5 General Lighting Standards*, is required as part of any development plan.

4. Sign Plan: A sign plan according to *Article 8.4 Sign Plans and Sign Programs*, may be required with the any development plan submission; however, all signs are subject to approval and obtaining a sign permit (*Article 11.11 Sign Permits*) before erection.

5. Building Elevations: Drawings of proposed buildings must be filed in connection with the detailed development plan submission. The buildings must be drawn to scale and include the following (see also *CHAPTER 2 – ZONING DISTRICTS*):

   - Address of the property and graphic scale.

- Proposed name of the development.
- Elevations for each building facade (360 degree).
- Specifications or samples of the type and color of exterior materials to be used for all wall, window, roof, and other architectural features.
- A separate true color rendering, or other realistic depiction, of the proposed building, including any areas designated for signage.
- Details of any exterior architectural lighting.

11.8 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 *Article 11.8 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 approval of a development plan is delegated to the Plan Commission.

E. **Development Plan Review Criteria.** Development plans are reviewed by the Plan Commission 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.

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 Design Review Board 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 of complete applications and supporting documentation 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.

2. Investigation of Complete Applications: The Design Review Board may review any development plan prior to the Plan Commission's consideration. 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 Design Review Board.

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 Design Review Board, 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 *Article 9.15 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 *Article 11.3 Appeals of Administrative Decisions.*

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 improvement s (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).

   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 secondary plat must be submitted prior to or in conjunction with the development plan. A primary plat must be approved prior to a secondary plat.

4. Landscape Plan: A landscape plan according to *Article 5.3 General Landscaping 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 *Article 6.5 Lighting Standards*, is required.

7. Sign Plan: A sign plan according to *Article 8.4 Sign Plans and Sign Programs*, is required; however, all signs are subject to approval and obtaining a sign permit (see also *Article 11.11 Sign Permits*) before erection.

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, and drives and parking facilities, including maintenance thereof.

10. Traffic Impact Study: A Traffic Impact Study may be required to be conducted at the discretion of the Administrator, the Department of Public Works Director, 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.

11.9 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. Anyone applying for an Improvement Location Permit, must, at the time of application furnish 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.

2. Performance Standards. If requested by the Administrator, an application for any use subject to *Article 4.6 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. 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 WBZA according to this Ordinance (see also *Article 11.12 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 Marshal, 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 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 Whitestown Sewer Board 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 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 WBZA and if any additional permits or fees are due.

L. **Appeals.** Appeals may be made according to *Article 11.3 Appeals of Administrative Decisions*.

M. **Enforcement and Penalties.** See *Article 11.18 Enforcement Options* and *Article 11.19 Penalty Schedule*.

11.10 PLANNED UNIT DEVELOPMENTS

A. **Applicability.** This Article is applicable to new Planned Unit Development District (PUD) proposals and to any proposed amendment to an existing Planned Unit Development that would affect either the text of the PUD Ordinance or the Ordinance's referenced exhibits.

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

1. Ordinance and Concept Plan (collectively, "PUD Ordinance")
2. Development Plan (see also *Article 11.7 Development Plan Review*)
3. Approval of Primary Plat and Secondary Plat as required by the Subdivision Control Ordinance, if applicable.

C. **PUD Ordinance.**

1. Application Procedures:

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

b. Who May File: Applications may be filed by a petition signed by the Property owners of the real estate involved in the petition, or the property owner's authorized agent. If an authorized agent, then a consent form signed by the property owner must accompany the application.

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 related materials to members of the Technical Advisory Committee and Design Review Board.

d. Forms of Filing: An applicant submits a completed application to the Administrator on forms provided by the Department with documentation and required supporting information. The Administrator establishes the number of copies of complete applications and supporting documentation required to be filed.

e. Docketing by Administrator: Each filed application is reviewed for completeness. Applications determined to be in proper form according to the guidelines established must be numbered and docketed by the Administrator.

f. Neighbor Meeting: Applicants requesting approval of a PUD Ordinance and any amendments, are encouraged to host a neighbors' meeting and submit a written report to the Administrator summarizing the meeting prior to the Plan Commission public hearing. Applicants must invite to the neighbor meeting at least the interested parties required to receive mailed notice of the Plan Commission public hearing.

g. Review and Approval: After docketing, an application is reviewed and considered by the Plan Commission and Council according to *Article 11.15 Zoning Map Changes (Rezones)*.

h. When considering a PUD Ordinance, in the Director's report to the Plan

Commission, in the Plan Commission's recommendation, and in the Common Council's decision, as many of the following are considered that are relevant to the specific proposal:

i. The extent to which the proposed plan meets the requirements, standards and stated purpose of the PUD regulations;
ii. The extent to which the proposed plan departs from the zoning and subdivision regulations applicable to the subject property, including the density, dimension, bulk, use, required improvements, and construction and design standards. They will also consider the reasons why such departures are or are not in the public interest;
iii. The extent to which the PUD meets the purposes of this zoning chapter, the Comprehensive Plan, and any other policies and objectives of the Town;
iv. The design of the PUD and the extent to which it provides public services and adequate control over vehicular traffic. Also providing and protecting designated common open space and furthering the amenities of light and air, recreation and visual enjoyment;
v. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and if the proposed plan substantially interferes with the use or diminishes the value of adjacent properties and neighborhoods;
vi. The desirability of the proposed plan to the physical development, tax base and economic well-being of the jurisdiction;
vii. The proposal will not cause traffic congestion more than anticipated in the existing base zoning and can be adequately served by existing or planned public facilities and services;
viii. The proposal preserves ecological, natural, historical, architectural, and human-made resources to the extent possible;
ix. The proposal will not damage the public health, safety, and general welfare; and
x. The proposed development is an effective and unified treatment of the development possibilities on the PUD site.

2. Effect of Approvals of PUD Ordinance: A PUD Ordinance becomes effective after its approval by the Council and is recorded by the Town in the Office of the Recorder of Boone County, Indiana. 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 which may be required prior to beginning construction within the PUD.

D. **Development Plan Approval.** Development plan review approval, as set forth in *Article 11.7 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 18 months of PUD Ordinance approval. If needed, applicants may seek a time extension of up to 18 months from the Town 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 Town 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 Town for PUD Ordinances.

2. Concept Plan: A drawing of the PUD ("Concept Plan") must be included at a

scale at least 1"=100', or at a scale the Administrator considers appropriate.

a. General Concepts: The concept plan must show in general terms the following: major circulation; location and dimensions of buildings, structures, and parking facilities; open space areas; recreation facilities; and other details indicating the character of the proposed development.

b. Detailed Concepts: The concept plan must include in detailed terms the following:
   i. A site location map showing the project location and other development projects in the vicinity.
   ii. The name of the development, with the words "Concept Plan".
   iii. Boundary lines and acreage of each land use component.
   iv. Existing Easements, including location, width, and purpose.
   v. Existing land use on abutting properties.
   vi. Other conditions on the site and adjoining land: topography (at 10-foot contours) including any embankments or retaining walls; use and location of buildings, railroads, power lines, towers, and other influences; name of any adjoining subdivision.
   vii. Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, pathways and bridges and other drainage structures.
   viii. Proposed public improvements: collector and arterial streets and other major improvements planned by the public for future construction on or adjacent to the tract.
   ix. Existing utilities on the tract.
   x. Any land on the tract within the floodway and floodway fringe as shown on the Flood Insurance Rate Maps.
   xi. Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, existing structures, and other significant features such as significant isolated trees.
   xii. Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.
   xiii. Map data such as north point, graphic scale, and date of preparation.

3. Written Statement of Character: A written statement of character of the PUD must provide an explanation of the character of the PUD and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement must include:

   a. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies affecting the land in question.

   b. Development phasing indicating building phases, including the area, density, use, public facilities, and open space to be developed with each phase, and projected dates for beginning and completion of each phase. Each phase must be described and mapped.

   c. General details of the proposed uses:
      i. Residential uses must indicate gross area, architectural concepts (narrative, sketch, or representative photo), and number of dwelling units for each residential component;
      ii. Nonresidential use s must indicate specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.

   d. Preliminary feasibility reports for the infrastructure and facilities, including:
      i. Streets
      ii. Street lighting
      iii. Sidewalks and pathways
      iv. Sanitary sewers
      v. Water supply system
      vi. Other utilities
      vii. Storm water management
      viii. Schools

4. Development Amenities and Open Space: The PUD Ordinance must include a statement of recreational amenities and open space. Such statements must designate and convey active and/or passive recreational areas according to the following:
   a. Recreational amenities and open space must be allocated to the property in proportion to the uses assigned in the PUD and be located within reasonable walking distance to those uses; however, when preserving existing features, the recreational amenities do not need to be located in proximity to the use.
   b. If the PUD Ordinance provides for development in stages, then amenities and open space must be provided in each stage in proportion to that stage, unless otherwise indicated and approved in the PUD Ordinance.
   c. Amenities must be conveyed in one of the following forms:
      i. To a municipal or public corporation;
      ii. To a not-for-profit corporation or entity established to benefit the owners and tenants of the PUD. All conveyances must be structured to ensure the grantee has the obligation and the right to effect maintenance and improvement of the amenities and the duty of maintenance and improvement is enforced by the owners and tenants of the PUD; or
      iii. To owners other than those specified in subsections (i) and (ii) above, and subject to restrictive covenants describing and guaranteeing the amenities, its maintenance and improvement, running with the land for the benefit of residents of the PUD or adjoining property owners or the community.
5. Traffic Impact Study: A Traffic Impact Study may be required at the discretion of the Administrator, the Department of Public Works Director, the Plan Commission, or Council. If a Traffic Impact Study is required, then it must be prepared by a registered professional engineer and must evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to beginning the study, an applicant must meet 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 to support a thorough review of the proposed Development.

G. **PUD Ordinance Amendments.**

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

11.11 SHORT-TERM RENTAL PERMITS

A. **Cross-Reference.** See *Article 3.10 Short-term Rentals* for short-term rental standards.

B. **Application.** Applications for a short-term rental permit must be made by the property owner on forms published by the

Department and include appropriate filing fees and documentation. An owner must submit a separate permit application for each property requiring a permit.

C. **Supporting Documentation.** Applications must be accompanied by the following information. The Administrator may waive or relax any of the requirements listed which are irrelevant or unnecessary for a thorough review of the application.

1. The owner's name, street address, mailing address, email address, and telephone number. If the owner is a corporation or partnership, the owner's state of incorporation or organization, and the owner's names, the addresses of the short-term rental(s), and the telephone numbers of the owner's principal officers or partners.
2. If a property manager is used, the property manager's name, street address, mailing address, email address, and telephone number.
3. A short description of how each of the owner's short-term rentals on the property are marketed or advertised including the advertised occupancy limits and whether the short-term rental is a single-family home or a dwelling unit within a single-family home, multi-family dwelling, condominium, cooperative, or time share.

D. **Permit Issuance.** If an owner's permit application meets the requirements for short-term rentals, the Administrator issues a permit to the owner within 30 days of receipt of the application.

E. **Permit Duration.** A short-term rental permit expires one year after the date it is issued.

F. **Permit Fee.** A non-refundable fee described in the fee schedule adopted by the Town Council must accompany each short-term rental permit application.

G. **Permit Transferability.** If an owner sells all or part of a permitted property, the short-term rental permit is not transferable to the new owner.

H. **Permit Violation.** Each short-term rental transaction completed without a short-term rental permit constitutes a separate violation.

I. **Permit Revocation.** If three or more citations for ordinance violations are issued to an owner for a permitted property within a calendar year, the Administrator may revoke the short-term rental permit for up to one year after the date the permit is revoked. An owner may apply for a short-term rental permit when the revocation period has ended and all outstanding fines for ordinance violations are paid.

11.12 Sign Permits

A. **Cross-Reference.** See *CHAPTER 8 - SIGN REGULATIONS* 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 sgn 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.** A sign permit issued under the provisions of this Ordinance does not constitute permission or authorization to maintain an unlawful sign nor a defense in an action to remove an unlawful Sign.

E. **Expiration.** A sign permit lapses and becomes null and void if work has not been completed within 180 days of the date the permit is issued.

F. **Revocation of Permit.** The Town may revoke a sign permit under any of the following circumstances:

1. The Town 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 code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance; or
4. The Administrator determines that the sign is not being properly maintained or has been abandoned.

11.13 SPECIAL EXCEPTIONS

A. **Permitted.** The WBZA 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 WBZA 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 prescribed by the Administrator with documentation and supporting information the Administrator determines is necessary to assure compliance with this Ordinance.
2. Action by the Administrator: The Administrator will review a filed application for completeness. All applications determined to be in proper form must be docketed by the Administrator for a hearing by the WBZA. The Administrator may determine the application should be referred to the Plan Commission for an advisory recommendation.
3. Investigation of Application: The Design Review Board may review any application for special exception prior to the Board's consideration.
4. Plan Commission Review: The Plan Commission will review the application for 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 scheduled public hearing regarding the application must be completed consistent with the schedule of meeting and filing dates and the Rules and Procedures of the Board.
6. Public Hearing: At a public hearing scheduled consistent with the schedule of meeting and filing dates, the Board reviews the facts and circumstances of each application and supporting information.

D. **Review Criteria.** The WBZA may approve a special exception only upon a determination in writing that the special exception meets the following:

1. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.

2. The special exception will be designed, constructed, operated, and maintained to: (i) not injure the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.
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.** The listing of a special exception as a permitted use does not constitute an assurance or presumption of approval. Rather, each special exception must be evaluated on an individual basis, in relation to compliance with the standards and conditions while determining if approval of the special exception is appropriate at the location and manner proposed.

F. **Limitations of Approval.** The approval of a special exception by the WBZA authorizes only that use at the location where the approval was granted. A special exception relates only to the property in question, not the property owner or operator of the approved use.

G. **Effect of Approval.** The approval of a special exception by the WBZA 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 which is listed here as a special exception located in 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 WBZA 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 Recorder of Boone County, Indiana, and a copy of the recorded commitments must be provided to the Department for inclusion in the complete application file at the time of application for a permit.

11.14 Temporary Use and Events Permits

A. **Application.** Applications for a Temporary use and/or event permit, according to *Article 3.2 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.

11.15 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 WBZA 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 schedule of meeting and filing dates and the rules and procedures of the Board.

C. **Public Hearing.** At a public hearing scheduled consistent with the schedule of meeting and filing dates, the Board reviews the variance application and required supporting information.

1. Representation: The applicant and/or any representative of the applicant must be present at the public hearing to present the complete application and address the decision criteria.
2. Testimony: The WBZA will consider a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
3. Procedures: The presentation of reports and testimony and all other aspects of the public hearing must be consistent with the Rules and Procedures of the Board.
4. Possible Action: The WBZA 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. **Denial.** The WBZA 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 WBZA based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the WBZA that additional information is required prior to action being taken on the request. The continuing of all applications and any potential additional legal notice must be consistent with the Rules and Procedures of the Board.

F. **Decision Criteria.** In acting on all variance requests, the WBZA must use 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 only upon determining:

a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

c. The strict application of the terms of the Ordinance will result in Practical difficulties in the use of the property.

G. **Commitments.** The WBZA 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 Recorder of Boone County, Indiana, and a copy of the recorded commitments must be provided to the Department for inclusion in the complete application file when applying for a permit.

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.

11.16 Zoning Map Changes (Re-zones)

A. **Applicability.** This article applies to all complete applications regarding a request 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.

1. Legislative Body 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 Schedule of Meeting and Filing Deadlines. The applicant may be responsible for distributing a copy of the application to members of the Technical Advisory Committee and/or Design Review Board.

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 Plan Commission 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 scheduled consistent with the adopted schedule of meeting and filing dates, the Plan Commission reviews the application and required supporting information.

1. Representation: The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any Plan Commission questions.

2. Testimony: The Plan Commission considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.

3. Procedures: The presentation of reports and testimony and all other aspects of the public hearing must be consistent

with the requirements of the Rules and Procedures of the Plan Commission.

4. Possible Action: 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 and Procedures 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.

11.17 Enforcement Authority

The Town of Whitestown, including the Director, Council, Plan Commission, Board, Building Commissioner, Fire Marshal, 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.

11.18 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;
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 Town.

11.19 Enforcement Options

A. **Options for Enforcement**. The Town 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. The citation may be processed through the WOVB, according to *IC 33-36* and *Article 11.20 – Citations for Zoning Violations*.
2. Issue a stop work order under *Section 11.21 – 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 *Article 11.22 – Municipal Action to Enforce Compliance* or *11.23 – Correcting Immediate Public Risk Violations*.
4. Initiate enforcement through an administrative proceeding before the WBZA, according to *IC 36-1-6-9* and *Article 11.23– Correcting Immediate Public Risk Violations*.
5. To bring a civil action in any court having jurisdiction, according to *IC 34-28-5-1* and *Article 11.24 – Administrative Enforcement*.

B. **Exercise of Options**. The Town'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 Town from taking any further action.

C. **Warnings**. Before exercising any of the Town'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.

11.20 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. **Processing through Ordinance Violations Bureau**. According to *IC 33-36-3-1(a)*, the Council designates the following schedule of Ordinance provisions that are subject to the jurisdiction of the WOVB. The first and second (or subsequent) admission of the same violation within a 12 month period is subject to the fixed civil penalty described in this section.

Ordinance violation subject to the jurisdiction of the Whitestown Ordinance Violations Bureau	Fine for first violation	Fine for subsequent violation
Temporary signage without permit	$100	$200
Permanent signage without permit	$250	$500
Parking on an unimproved surface	$50	$100
Temporary use without permit	$500	$1,000
Illegal land use	$1,000	$2,000
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.

11.21 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 *Section 11.19(B)*. A copy of the citation must be filed with the WOVB no later than the next business day following its issuance. A failure to file a copy of the citation does not affect its validity or the alleged violator's option to admit the violation and pay the fixed civil penalty.

B. **Form of Citation**. Citations must be numbered and contain the following information:

1. The date and time 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 *Section 11.19(B)*;
4. The date and location of the violation;
5. The name and address of the person alleged to have committed the violation, if known or readily obtainable;
6. The signature of the enforcement official issuing the citation or the enforcement official's name (and badge number, if any) in computer generated form; and
7. The duty of the alleged violator to appear.

C. **Service of Citation**. A citation is served by the enforcement official upon the alleged violator. If the alleged violator is present, the citation must be delivered personally to the alleged violator. If the alleged violator is not present and the violation involves specific premises, it must be served on the owner or other person in possession of the premises either in person or by first class mail.

D. **Duty to Appear**. Any person receiving a citation must appear in person or by attorney at the WOVB, or other place approved by the violations clerk, to admit or deny the alleged violation within 10 days of the date the citation is issued. Payment of the civil penalty fixed under *Section 11.19(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.

E. **Procedure on Admission of Violation**. If a violation is admitted to the WOVB, the civil penalty fixed under *Section 11.19(B)* for the violation must be paid to the Town in a manner authorized by the violations clerk. Whenever a person assessed a civil penalty fails to mail or deliver payment to the WOVB within 10 days of the date the citation is issued, the violations clerk adds a late charge in the amount of $25. Late payments are accepted by the violations clerk only with the consent of the Administrator if the violation has been referred to the Administrator under subsection (F).

F. **Procedure on Denial of Violation, Failure to Appear, or Failure to Pay**. If a person served a citation:

1. appears at the WOVB 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 violations clerk reports the circumstances to the Administrator to begin appropriate administrative or judicial proceedings against the person.

G. **Limitations**. The fixed civil penalties specified in *Section 11.19(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 *Section 11.19(A)* is applicable to the violation.

11.22 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 WBZA. Upon the resolution of the violation(s) to the satisfaction of the Administrator or the WBZA, the stop work order is lifted and construction activity may resume.

11.23 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 Town enter the property and take appropriate action to bring the property into compliance with the Ordinance.

B. **Notice Requirement**. Before the Town 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 Town constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the Boone 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 not described in subdivision (1).

D. **Issuance of Bill to Owner**. According to *IC 36-1-6-2(b)*, the Administrator may issue a bill to the owner of the real property for all expenses incurred by the Town 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 Boone 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 Boone 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 Boone 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 Town.

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 Town must notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than 15 days after the date of the notice. If payment is not received within 180 days after the date of the notice, the amount may be considered a bad debt loss.

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

1. liens filed with the Boone 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 Boone 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.

11.24 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 Town, the Administrator may opt to have employees or contractors of the Town 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 Town Manager or the WBZA, 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 Boone 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 *Article 11.19* 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 Town, 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.

11.25 Administrative Enforcement

A. **Provisions that Restrict or Prohibit Actions Harmful to the Land, Air, or Water**. According to *IC 36-1-6-9*, the Town 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 WBZA. The WBZA must find that the violation has been proved by a preponderance of the evidence. Upon finding a violation, the WBZA may assess a civil penalty within the limits set forth in *Article 11.19*.

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 WBZA's order imposing the penalty to the Boone Circuit or Superior Court. An appeal under this section must be filed not more than 60 days after the date on which the WBZA 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 Town 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 Town 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.*

11.26 Enforcement through Judicial Proceedings

A. **Initiation**. According to *IC 36-7-4-1014*, the Administrator or the WBZA may bring a civil action to enforce a provision of this Ordinance, or any conditions imposed by the Commission or WBZA under the Advisory Planning Law. The action is brought in the name of the Administrator or the WBZA 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 any court having jurisdiction.

B. **Procedure in General**. An action to enforce a provision of this Ordinance must be brought within 2 years after the alleged violation occurred. Proceedings initiated under this section are conducted according to the Indiana Rules of Trial Procedure. The plaintiff must prove the commission of a violation by a preponderance of the evidence. The complaint and summons described in *IC 9-30-3-6* (without the provisions relating to the operation of a vehicle) may be used in any Ordinance enforcement case.

C. **Right to Trial**. A person charged with an Ordinance violation is entitled to a court trial as provided by law, unless the person waives the right to trial and enters an admission of the violation.

D. **Judgment**. A judgment may be entered against the defendant upon a finding by the court that the defendant violated this Ordinance. A judgment up to the amount requested in the complaint may be entered for the violation. A defendant against whom a judgment for a violation is entered is liable for costs. Costs are part of the judgment and may not be suspended; however, whenever a judgment is entered against a person for the commission of two (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.

Chapter 12 – Definitions

The following rules of construction apply to the text of this Ordinance:

1. The specific provisions of this Ordinance supersede any general requirements established by this Ordinance.
2. The word "must" is a mandatory obligation and not discretionary. The phrase "must not" is a mandatory prohibition and not discretionary. The word "may" is a discretionary action. The word "should" is a recommendation. The word 'shall' imposes a duty on a Person or Persons.
3. Unless the context plainly indicates the contrary, the following rules apply. Words used in the present tense include the future. Words used in the singular number include the plural, and the plural includes the singular. Words of the masculine gender include the feminine, and the neutral gender will refer to any gender as required.
4. The phrase "used for" includes "arranged for, designed for, intended for, maintained for, or occupied for."
5. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves 2 or more items, conditions, provisions, or events connected by the conjunction "and, or," or "either . . . or," the use of the conjunction is defined as follows:
   - "And" means all the connected items, conditions, provisions, and events apply together and not separately.
   - "Or" means the connected items, conditions, provisions, or events apply separately or in any combination.
   - "Either . . . or" means the connected items, conditions, provisions, or events apply separately but not in combination.
6. The word "includes" does not limit a term to the specified examples but is intended to extend the term's meaning to all other instances or circumstances of like kind or character.

For this ordinance, terms or words used are interpreted or defined as follows.

Aa

ABANDONED VEHICLE has the meaning set forth in IC-9-13-2-1.

ACCESS STREET, MARGINAL. See **STREET, MARGINAL ACCESS**.

ACCESSORY STRUCTURE. A subordinate building or structure detached from a principal building but located on the same lot. It does not change the character of the premises. Agricultural buildings, public utility communications, electric, gas, water, and sewer lines, their supports and incidental equipment, and public telephone booths are considered accessory structures even though no principal building exists on the premises.

ACCESSORY USE. A use that:

- is clearly incidental and usually found connected with a principal building or use;
- is secondary and supportive to the primary use;
- is secondary in area, extent, or purpose to the primary use;
- contributes to the comfort, convenience, or necessity of occupants, business, or industry of the primary use;
- is located on the same lot as the primary use.

ADMINISTRATOR. The Director of Planning and Community Development or a person to whom the Director delegates authority under this Ordinance.

ADULT BUSINESS. An adult bookstore, adult cabaret, adult drive-in theater, adult live entertainment arcade, adult mini-motion picture theater, adult motion picture arcade, adult motion picture theater, or adult service establishment.

ADVISORY PLANNING LAW has the meaning set forth in *IC 36-7-4-101*.

AGRICULTURE. Areas where the use of land is devoted to 1 or more of the following: soil tillage in crop production; production or maintenance of hay and pasture crops; husbandry of livestock or poultry, and horses, and their products, excluding small animals commonly kept as household pets; and/or growing of trees for timber or timber products, erosion control and other purposes commonly found in agricultural areas.

AIRPORT. Any location either on land or water which is used for the landing and taking off of aircraft.

ALLEY. A right-of-way other than a street, road, crosswalk providing a secondary means of access to the property it reaches.

AMATEUR RADIO ANTENNA has the meaning set forth in Title 47 of the Code of Federal Regulations, Part 97.

ANIMAL has the meaning set forth in *IC 15-17-2-3*.

ANIMAL, DOMESTIC has the meaning set forth in *IC 15-17-2-26*.

ANTENNA. Any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.

APPLICANT. A person who submits to the Town a complete application for a permit or any related approval, including a proposal under *IC 36-7-4-608* to change the zone maps incorporated by reference into this Ordinance, a request for a waiver under the *IC 36-7-4-700* series or the *IC 36-7-4-1400* series, an appeal or a variance application under the *IC 36-7-4-900* series, or a request for a commitment modification or termination under *IC 36-7-4-1015*. The term does not include a person who files a petition for judicial review of a zoning decision under the *IC 36-7-4-1600* series.

APPLICATION, COMPLETE. Form(s) completed by an applicant, as required by this Ordinance or by the rules of the WPC or WBZA, to apply either for a permit or for any related approvals required from the Town with respect to the same general subject matter.

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 the servicing of automobiles, including engine over-haul or replacement, body work, upholstery work, glass replacement, transmission over-haul, brake repair with drum and disc grinding, replacement of electrical accessories such as starters and alternators, frame alignment, and rebuilding of wrecked auto-mobiles, excluding commercial wrecking, dismantling, junk yard, truck and tractor re-pair.

Bb

BASE STATION. A station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.

BED AND BREAKFAST. All or part of a residential building - other than a motel, apartment hotel or hotel - containing lodging rooms for 5 or more persons who are not members of the keeper's family. Lodging, meals, or both are provided by prearrangement, for definite periods, and for compensation.

BLOCK. An area that abuts a street and lies between 2 intersecting streets or barriers such as railroad rights-of-way or watercourses.

BOARD OF ZONING APPEALS (BZA). The Board of Zoning Appeals established by the Town under the Advisory Planning Law. For purposes of this Ordinance, "WBZA" refers to the Whitestown Board of Zoning Appeals.

BUFFERYARD. A unit of yard including the landscaping required to separate land uses.

BUILDING. Any enclosed structure.

BUILDING CODE. The Indiana Building Code as adopted by the Indiana Fire Prevention and Building Safety Commission.

BUILDING INSPECTOR. The employee or officer of the Town empowered to inspect and approve Improvement Location Permits and to act as the agent of the Administrator concerning the enforcement of building code ordinances.

BUILDING, DETACHED. A building without structural connection to another building.

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. *See Figures 12-1, 12-2, and 12-3*.

BUILDING PERMIT. See **IMPROVEMENT LOCATION PERMIT**.

BUILDING AREA. The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than 1 story high, and architectural features that project no more than 2 feet (*See Figure 12-4)*.

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

BZA. See **BOARD OF ZONING APPEALS**.

Cc

CEMETERY. Any land or structure in Indiana that is dedicated to, and used for, or intended to be used for, the interment, entombment, or inurnment of human remains.

CERTIFICATE OF OCCUPANCY. A certificate stating that the occupancy and use of land, building, or structure complies with the provisions of this Ordinance.

CHILD CARE. A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

CHILD CARE CENTER. A nonresidential building where at least one child receives child care from a provider:

1. while unattended by a parent, legal guardian, or custodian;
2. for regular compensation; and
3. for more than 4 hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

CHILD CARE HOME. A residential structure in which at least 6 children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative or any child who is at least 14 years of age and does not require child care) at any time receive child care from a provider:

1. while unattended by a parent, legal guardian, or custodian;
2. for regular compensation; and
3. for more than 4 hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

CHILD CARE MINISTRY. Child care operated by a church or religious ministry that is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

CHILD CARING INSTITUTION. An institution that:

1. operates under a license issued under *IC 31-27*;
2. provides for delivery of mental health services that are appropriate to the needs of the individual; and
3. complies with rules adopted by the Indiana Department of Child Services.

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

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

COMMITMENT. A covenant concerning the use or development of a parcel of real property made in writing by the owner of that parcel, either voluntarily or by an order or request of the Plan Commission, the WBZA, or the Town Council, pursuant to *IC 36-7-4-1015*.

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

COMPREHENSIVE PLAN. A composite of all materials prepared by the WPC and approved by the Council under the *IC 36-7-4-500* series or under prior law. It includes a master plan adopted under any prior law.

The Comprehensive Plan of the Town is separate from this Ordinance.

CONCEPT PLAN. An informal review of a proposed subdivision by the Plan Commission at a public hearing to alert applicants to problems and requirements before the official submission.

CONFINED FEEDING. The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:

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

However, the term does not include the following:

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

CONFINED FEEDING OPERATION. As defined in *IC 13-11-2-40*,

1. Any confined feeding of 300 or more cattle, 600 or more swine or sheep, 30,000 or more fowl, or 500 or more horses;
2. Any animal feeding operation where the operator elects to be subject to *IC 13-18-10*;
3. Any animal feeding operation that is causing a violation of the State's water pollution control laws or rules; or
4. Any animal feeding operation that is causing a violation of *IC 13-18-10*.

CONSERVATION AREA. Designated open space.

COUNCIL. The Town Council of the Town of Whitestown, Indiana.

COUNTY. The County of Boone, Indiana.

COURT. Any court having jurisdiction.

Dd

DEPARTMENT. The Department of Planning and Community Development of the Town of Whitestown, Indiana.

DEVELOPER. A person engaged in developing lots or structures for use or occupancy.

DEVELOPMENT PLAN. A specific plan for the development of real property that:

1. Requires approval by the Plan Commission under the 1400 Series of *IC 36-7-4*:
2. Includes a site plan.
3. Satisfies the development requirements specified in the ordinance regulating the development; and
4. Contains the plan documentation and supporting information required by the ordinance regulating development.

DEVELOPMENT REQUIREMENT. Development standards and additional requirements which must be satisfied in connection with the approval of a development plan.

As relates to *Section 9.4*, a requirement:

- for development of real property in a Zoning District for which a development plan is required; and
- that conforms to *IC 36-7-4-1403*.

As relates to planned unit development a requirement:

- for development of real property in a planned unit development district that must be met; and
- that conforms to *IC 36-7-4-1508*.

DIAMETER AT BREAST HEIGHT (DBH). The measurement of the caliper of a tree at a point 4.5 feet above finished grade on the uphill side of a tree.

DIRECTOR. The Director of Planning and Community Development.

DISTRICT. A specific district within the jurisdiction which has uniform regulations governing the use, height, area, size, and intensity of use of buildings and land, and open spaces.

DWELLING. All or part of a building used primarily as a place of residence, not including a hotel, motel, lodging house, boarding house, bed and breakfast, or manufactured home.

DWELLING, MULTI-FAMILY. A residential building designed for 3 or more families, with the number of families not exceeding the number of dwelling units.

DWELLING, SINGLE FAMILY. A detached residential dwelling unit designed 1 family.

DWELLING, TWO FAMILY. A detached residential building containing 2 dwelling units designed for occupancy by no more than 2 families.

DWELLING UNIT. A room or group of rooms including provisions for living, eating, sleeping and cooking designed for use by only 1 family and its household employees. The term includes mobile and manufactured homes but does not include recreational vehicles.

Ee

EASEMENT. An authorization by a property owner for providing services or access to the property.

ENFORCEMENT OFFICIAL. An individual who has enforcement authority under Section 11.16 of this Ordinance.

EQUIPMENT COMPOUND. The area that:

- Surrounds or is near the base of a wireless support structure; and
- Encloses wireless facilities.

ELECTRICAL TRANSMISSION TOWER. A structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

ESTABLISHED FRONT SETBACK. See **SETBACK, ESTABLISHED FRONT**.

ESTABLISHMENT OF AN ADULT BUSINESS. This phrase means and includes any of the following:

- The opening or beginning of any such business as a new business;
- The conversion of an existing business, whether or not an adult business, to any adult business;
- The addition of any adult businesses to any other existing adult business; or
- The relocation of any such business.

EXISTING STRUCTURE does not include a utility pole or an electrical transmission tower.

Ff

FAMILY. One or more people living as single housekeeping unit. Does not include a group occupying a hotel, motel, club, nursing home, dormitory, fraternity or sorority house.

FINANCIAL INSTITUTION. Any bank, trust company, corporate fiduciary, savings association, credit union, savings bank, bank of discount and deposit, or industrial loan and investment company organized or reorganized under Indiana law, and includes licensees under *IC 24-4.4*, *IC 24-4.5*, and *750 IAC 9*.

FIXTURE, LIGHT. The assembly that houses a lamp(s) and may include some or all of the following parts: an assembly housing, mounting bracket or pole socket, lamp holder, ballast, reflector or mirror, and a refractor or lens.

FLOODPLAIN. The actual channel and the areas adjoining any wetland, lake, or watercourse which have been or in the future may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts (*See Figure 12-5)*.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream

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

FLOOR AREA, GROSS. The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating 2 buildings but excluding any space where the floor-to-ceiling height is less than 6 feet.

FLOOR AREA, GROUND. Same as **FLOOR AREA, NET** except computed for ground floor only.

FOOD PROCESSING. The preparation, storage, or processing of food products.

FRATERNITY, SORORITY OR STUDENT HOUSING. A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.

FREEWAYS or **EXPRESSWAYS**. Similar to interstates, but without the interstate designation. They have regional or statewide significance.

FRONTAGE. The property's distance along a dedicated street or road.

FRONTAGE ROAD. A street that is parallel to and adjacent to a thoroughfare or other main road. It is designated to provide access to abutting properties and reduce the effects of the through traffic on the thoroughfare.

Gg

GARAGE, PRIVATE RESIDENTIAL. An accessory structure to a residential building used for the parking and storage of vehicles owned and operated by the residents.

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

GLARE: Light emitted by a luminaire at an intensity that causes a reduction in visibility, eye fatigue, or in extreme cases momentary blindness.

GRADE. The slope of a road, street, or other public way specified in percentage.

GROUND-MOUNTED SOLAR ENERGY SYSTEM. A device, array or devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting or water heating. The system is mounted on a rack or pole that rests or is attached to the ground.

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.

Hh

HOME OCCUPATION. A livelihood carried on by an occupant at his or her place of residence under the requirements of this ordinance.

HOMEOWNERS ASSOCIATION has the meaning set forth in *IC 32-25.5-2-4*.

HOSPITAL. A hospital that is licensed under *IC 16-21-2*.

HOTEL. Building(s) where lodging is provided to the public for compensation. A **HOTEL** is open to transient guests, unlike a boarding house or lodging house.

HOUSE OF WORSHIP. Any church, synagogue, mosque, temple, or building that is used primarily for religious worship and related religious activities.

Ii

IMPROVEMENT LOCATION PERMIT. Written permission issued by the administrator for the construction or alteration to a structure that complies with the development standards of this Ordinance and building codes.

INDUSTRIAL, GENERAL. Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, where operations, other than transportation, may be performed in open or closed areas.

INDUSTRIAL PARK. A land that is planned and developed as a unit featuring landscaped open spaces and well-designed structures to be used for research, offices, experimental, and testing laboratories, light industrial, storage and distribution facilities, and for necessary uses to the convenience of employees. It is managed by a company guaranteeing the continued maintenance of all common areas and installations.

INDUSTRY, LIGHT. Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, where operations, other than transportation, are performed entirely within enclosed buildings. Loading and unloading facilities are enclosed.

INSTITUTION. Any facility maintained or conducted by a public or private organization engaged in receiving and caring for dependent, neglected, handicapped, or permanently disabled persons, children in danger of becoming delinquent, or children who are unattended by parents or guardians.

INTERNAL ILLUMINATION. Sign illumination where the characters, letters, fixtures, designs or outlines are illuminated from the inside or behind the sign.

INTERSTATE. The highest classification of roadway. They prioritize mobility and have extremely limited access. Interstates are high speed, high volume and have statewide or national significance. They are planned and maintained by state authorities with federal oversight.

Jj

JUNK YARD. Any lot, parcel, or tract of real estate, platted or un-platted, where personal property is or may be salvaged for reuse, resale, reduction etc. The personal property is owned, possessed, collected, accumulated, dismantled, or assorted, including but not limited to used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper matter; and property used for the dismantling, wrecking, storage, sale, or dumping of 2 or more inoperative motor vehicles or their parts. This does not include farm machinery that is owned by a farm operator and is used for parts replacement for machinery currently being used in the farming operation.

JURISDICTION. The area inside the corporate boundaries of the Town.

Kk

KENNEL. Any lot or premises on which there are located run cages, pens and/or animal housing units for dogs or other small animals that are commonly kept as household pets, at least 3 months old and where the primary use of the facility is to breed and/or board the animals, whether on a temporary or long-term basis. All animals must be licensed in accordance with County regulations.

- A small kennel contains 4 to 25 run cages, pens and/or animal housing units.
- A medium kennel contains 26 to 50 run cages, pens and/or animal housing units.
- A large kennel contains more than 50 run cages, pens and/or animal housing units.

Ll

LANDSCAPE CONTRACTOR. An establishment primarily engaged in the decorative and functional alteration, planting, and maintenance of grounds.

LAMP. A component of a luminaire that produces light. A lamp includes a bulb and its housing.

LAW includes the Constitution of the State of Indiana, statutes, and ordinances.

LEGISLATIVE BODY. The town council for the Town of Whitestown.

LIGHT POLLUTION. General sky glow which is caused by the scattering of artificial light in the atmosphere, caused by luminaries.

LIGHT TRESPASS. Light emitted by a luminaire that shines beyond the Lot Lines of the Lot on which the luminaire is located.

LIGHTING PLAN. A plan which depicts compliance with and meets the requirements of *Article 6.8 Lighting Plans*.

LIFE CARE FACILITY. A facility for the housing and care of elderly residents that may or may not contain on-site health care facilities.

LIQUOR STORE. Establishments engaged in the sale of alcoholic beverages for off-premises consumption.

LIVESTOCK has the meaning set forth in *IC 15-17-2-47*.

LIVE/WORK DWELLING. A unit containing an integrated living and working space with shared access that is intended to function predominately as business workspace with incidental residential use that has bathing facilities. The unit typically has the workspace, public display area, or showroom on the ground floor of the unit and most of the residence located with on an upper floor or at the back of the unit.

LOADING BERTHS. The off-street area required for vehicles receiving or distributing material or merchandise.

LOCAL ROADS. The largest percentage of roadways in the town. Their primary function is to provide access to parcels. trips are short, speeds are lower and cut-through traffic may be discouraged. All remaining roads that are not arterials or collectors are considered local roads. In most cases, local roads are not part of the system of roads eligible for federal funding.

LOT. A platted parcel or tract of land which meets minimum zoning requirements and provide such yards and other open spaces as required.

LOT AREA. The area of horizontal plane bounded by the vertical planes through front, side, street side, and rear lot lines.

LOT COVERAGE. The total ground area within the **LOT** or project covered by the primary structure, accessory structures, and impervious surfaces (e.g. driveways, sidewalks, parking lots, patios, swimming pools, garages, carports, and storage sheds).

LOT, CORNER. A lot at the junction of or abutting 2 or more intersecting streets (*See Figure 12-6)*.

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

LOT, FLAG. A lot with access provided by a narrow corridor.

LOT, INTERIOR. A lot other than a **LOT, CORNER** or **LOT, THROUGH**. (*See Figure 12-7).*

LOT, MEW. A lot served by an alley or street fronting an open space or common area. The front yard setback for a mew lot is measured from the narrowest property line abutting the open space or common area (*See Figure 12-8)*.

LOT, PERIMETER. A subdivision lot that either:

1. Has a lot line that abuts the right-of-way of a street or frontage road located on the perimeter of the subdivision; or
2. Is separated by a common area from the right-of-way of a street located on the perimeter of the subdivision.

LOT, REVERSE FRONTAGE. A through lot fronting upon an existing perimeter street and served by a street or alley. For determining building setbacks, the front yard of a reverse frontage lot is the narrowest property line adjacent to the existing perimeter street, and the yard opposite the front yard is the rear yard.

LOT, THROUGH. A lot having frontage on 2 parallel or approximately parallel streets (*See Figure 12-9)*.

LOT LINE. A line dividing 1 lot from another lot or from a street or alley.

LOT LINE, FRONT. Any property line separating the lot from a street, or on a flag lot, the interior lot line most parallel to and nearest the street of access. In the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, unless otherwise determined by the Administrator.

LOT LINE, REAR. Any property line which is not intersecting, most distant from, and most parallel to the front lot line. A lot bounded by only 3 lot lines will not have a rear lot line.

LOT LINE, SIDE. Any lot boundary-line that is not a front lot line or rear lot line.

LOT LINE, STREET SIDE. A lot line other than a front lot line or a rear lot line that abuts a street. Street side lot lines does not include lot lines that abut an alley.

LOT OF RECORD. A lot whose existence, location, and dimensions have been legally recorded in a deed or on a plat recorded in the office of the Boone County Recorder, provided that the lot meets the development standards and requirements for lots in its district where it was located when recorded.

LOT WIDTH. The horizontal distance between side lot lines measured at the required front setback line or building line, whichever is less.

LUMEN. A unit of measurement of luminous flux. One foot-candle is equal to one lumen per square foot.

LUMINAIRE. A complete lighting system and includes the lamp or lamps and a Lighting Fixture.

LUMINANCE. A level of light measured at a point on a surface.

Mm

MAJOR ARTERIALS. Carry high volumes of regional traffic. They serve major cities from multiple directions and provide connectivity between cities in rural areas. Arterials provide direct access to adjacent

land but may limit the number of intersections and driveways to give higher priority to through-traffic. Principal arterials are spaced at two to three miles in suburban areas and farther apart in rural areas.

MAJOR COLLECTORS. Gather traffic from the local roads and connect them to the arterial network. They provide a balance between access to land and corridor mobility. Major collectors provide connectivity to traffic generators not already on the arterial system, such as schools, parks and major employers.

MAJOR THOROUGHFARE. All primary traffic corridors entering or leaving the Town including, but not limited to, C.R. 650 E, C.R. 400 S, C.R. 300 S, C.R. 500 S, 575 E, SR267, and Indianapolis Road.

MAJOR THOROUGHFARE, ADJACENT TO A. Any lot(s) located near a major thoroughfare not separated from the major thoroughfare by another buildable lot.

MAJOR UTILITY EASEMENT. Easements for high-voltage electric transmission lines used for trans-county or trans-state distribution; or easements for high-volume conveyance of natural gas or petroleum in underground pipelines for trans-county or trans-state distribution.

MANUFACTURED HOME. A dwelling unit designed and built in a factory, which bears a seal certifying it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974.

MASSAGE. Any method of treating the superficial soft parts of the body including rubbing, stroking, kneading, or tapping with the hands or instruments. Massage as used in this Ordinance does not apply to the activity of a Massage Therapist licensed by the State of Indiana.

MASSAGE ESTABLISHMENT. An establishment having a fixed place of business and a source of compensation derived from the practice of massage.

MAXIMUM DENSITY. The maximum number of units per acre of land on the total land to be developed, exclusive of rights-of-way of perimeter streets, floodway areas, and non-developable areas.

MINOR ARTERIALS. Similar to principal arterials but are spaced more frequently and serve trips of moderate length. Spacing of minor arterials is one to three miles in suburban areas and further apart in rural areas. Minor arterials connect most cities and larger towns and provide connectivity between principal arterials.

MINOR COLLECTORS Similar to major collectors but are used for shorter trips. They provide traffic circulation in lower-density developed areas and connect rural areas to higher-class roadways.

MANUFACTURED HOME PARK. A manufactured home community, as defined in *IC 16-41-27-5*, which includes 1 or more parcels of land that have all the following characteristics:

1. The parcels are subdivided and contain individual lots that are leased or otherwise contracted;
2. The parcels are owned, operated, or under the control of 1 or more persons; and
3. Where a total of at least 5 manufactured homes or manufactured homes are being occupied as principle residences.

Pursuant to *IC 16-41-27-5*, the term **MANUFACTURED HOME PARK** also includes all of the following: (i) All real and personal property used in the operation of the park; (ii) A single parcel; (iii) Contiguous but separately owned parcels if they are jointly operated; (iv) 2 or more parcels that are separated by other parcels, but are jointly operated and connected by a private road; (v) 1 more parcels, if at least 2 of the manufactured homes or manufactured homes located on the land are either (A) accessible from a private road or interconnected private roads; (B) served by a common water distribution system; or (C) served by a common sewer or septic system.

MOTEL. See **HOTEL**.

MOTOR VEHICLE. A vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

MUNICIPAL CORPORATION. A city, town, county, township, school corporation, library district, housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, or other separate local governmental entity that may sue and be sued under Indiana Law. The term does not include a special taxing district.

Nn

NIGHT CLUB. An establishment dispensing liquor and/or meals where music, dancing, or entertainment is conducted, excluding adult or sexually oriented activities.

NON-CONFORMING USE. Lots, structures, uses of land, and/or Zoning Districts which were lawful before this ordinance was amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments.

NURSING HOME. A facility licensed by the State of Indiana that provides nursing and health care services on a continuing basis to persons of all ages who require medical treatment but not hospitalization.

Oo

OFFICE, ALL OTHERS. A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

OPEN DUMP. The consolidation of solid waste from 1 or more resources or the disposal of solid waste at a single disposal site that does not fulfill the requirements of a sanitary landfill or other land disposal method as prescribed by law or regulations. It is established and maintained without cover and without regard to the possibilities of contamination of surface or subsurface water resources.

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

ORDINANCE VIOLATIONS BUREAU. The ordinance violations bureau established for the Town under Chapter 2.50 of the Whitestown Municipal Code.

OVERLAY DISTRICT. A Zoning District that encompasses 1 or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Pp

PARENT LOT, TRACT, OR PARCEL. The lot, tract or parcel of land for which approval is sought to subdivide it into at least 2 lots, tracts, parcels or other divisions of land for sale, development or lease.

PARK BOARD. The Whitestown Board of Parks and Recreation.

PARKING FACILITY includes the: (a) land; (b) structures and other improvements above, at, or below ground level; (c) entrances, exits, equipment, and fences; and (d) other accessories or appurtenances; necessary or desirable for safety and convenience in the off-street parking of vehicles, are owned or leased by the Town, and are used for the off-street parking of vehicles.

PARKING SPACE. A space not on a street or alley designed for the temporary parking of a motor vehicle.

PERIMETER FENCE OR WALL. Any fence or wall within 0° to 45° of being parallel to a perimeter road and within the rear yard setback for the applicable Zoning District.

PERIMETER LOT. See **LOT, PERIMETER**.

PERIMETER THOROUGHFARE. See **THOROUGHFARE, PERIMETER**.

PERMIT. Any of the following:

1. An improvement location permit.
2. A building permit.
3. A certificate of occupancy.
4. Approval of a site-specific development plan.
5. Approval of a primary or secondary plat.
6. Approval of a contingent use, conditional use, special exception, or special use.
7. Approval of a PUD ordinance.

PERSON. Any individual, firm, limited liability company, corporation, association, fiduciary, or government entity.

PLAN COMMISSION. The plan commission established by the Town under the Advisory Planning Law.

For purposes of this Ordinance, "WPC" refers to the Whitestown Plan Commission.

PLANNED UNIT DEVELOPMENT (PUD). A development of real property:

1. In the manner set forth in Section 11.9 of this Ordinance; and
2. That meets the requirements in the Advisory Planning Law for a specific PUD Ordinance.

PLANNING DEPARTMENT. The Whitestown Department of Planning and Community Development.

PLANT NURSERY. Any structure or land used primarily for the storage, cultivation, or transplanting of live trees, shrubs, or plants offered for retail or wholesale sale.

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

PLAT COMMITTEE. A committee appointed by the WPC under *IC 36-7-4-701* to hold hearings on and approve plats and replats on behalf of the WPC.

PRIMARY PLAT. A plat that qualifies for primary approval under the standards prescribed by Chapter 9 of this Ordinance. The term includes a preliminary plat that was approved under prior law.

PRIMARY STRUCTURE. A building in which the primary use of the lot or premises on which it is located is conducted, including a building that is attached to such a building in a substantial way, such as by a roof. With respect to residential uses, the primary building is the main dwelling.

PRIMARY USE. The predominant use of any lot or parcel or as determined by the primary structure.

PRINCIPAL USE. See **PRIMARY USE**.

PRIVACY FENCE. A fence with 60% or greater opacity.

PROJECTING SILL. A windowsill that projects out at least 0.75 inch from the plane of the façade to which it is incorporated.

PROTECTED USE: The following uses are protected uses for purposes of the Adult Business standards in this Ordinance.

1. A church, synagogue, mosque, or other place of worship.
2. A public or private nursery school or any other public or private school serving one or more of grades K through 12.
3. A child care center licensed by the Indiana Family and Social Services Administration.
4. A public or private park, playground, playing field, sports facility or fairground.
5. A public or private cemetery.
6. A public housing facility.
7. Gymnasiums, dance studios, theater companies, and other facilities used by children.
8. An Agricultural zoning district.
9. A Residential zoning district.

PUBLIC PLACE. Any tract owned by the State of Indiana or a political subdivision.

PUBLIC RECORD has the meaning set forth in *IC 5-14-3-2*.

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

PUBLIC SEWER UTILITY. A municipal or public sewage disposal service that has been issued a final order by the Indiana Utility Regulatory Commission (IURC) granting a Certificate of Territorial Authority (CTA) to the utility and maintains the CTA in good standing with the IURC.

PUBLIC UTILITY has the meaning set forth in *IC 8-1-2-1*.

PUBLIC UTILITY INSTALLATIONS. The construction, alteration, operation, or maintenance of buildings, power plants, substations, water and sewage treatment plants, pumping stations, and other similar public service structures by a public utility, railroad or by a municipal or other governmental agency.

PUBLIC WATER UTILITY. A municipally owned or investor owned water utility that has been issued a final order by the IURC granting a Certificate of Necessity and Convenience (CNC) to the utility and maintains the CNC in good standing with the IURC.

PUBLIC WAY includes highway, street, avenue, boulevard, road, lane, or alley.

PUD DISTRICT. A Zoning District for which a **PUD ORDINANCE** is adopted.

PUD ORDINANCE. An ordinance adopted by the Council under the IC 36-7-4-1500 series to establish a specific Planned Unit Development district within the meaning of IC 36-7-4-1502.

Rr

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

RECREATION FACILITY, INDOOR. An indoor place primarily designed and equipped for sports and leisure-time activities.

RECREATION FACILITY, OUTDOOR. An area primarily designed and equipped of outdoor sports and leisure-time activities. Such facility may be either public or private.

RECREATIONAL VEHICLE (RV). A vehicle designed as a temporary living quarters for recreation, camping or travel, either with their own motor power or mounted or towed by another powered vehicle.

RECREATIONAL VEHICLE PARK. Any lot or land upon which 2 or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

REGULATED DRAIN. An open drain, a tiled drain, or a combination of the two, that is regulated by the Boone County Drainage Board under IC 36-9-27.

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

RESIDENTIAL FACILITY FOR INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY has the meaning set forth in IC 12-7-2-166.

RESTAURANT. An establishment whose principal business is the sale of prepared food and/or beverages for consumption on or off the premises.

1. Class A restaurants principal operation include 2 of the following:
   - Customers are provided with an individual menu and served their food or beverages in non-disposable containers by a wait staff at the same table where the food or beverages are consumed.
   - Cafeteria-type operations where food or beverages are generally consumed within the restaurant building.
   - Carryout service is not the predominant type of service available.
2. Class B restaurants do not fall within the classification of Class A. Class B have the 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 quickly.

RETIAL SALES, PERSONAL SERVICES, & REPAIR. An establishment primarily engaged in the selling of goods, wares, or merchandise; or providing recurrently needed services to the general public. Specific uses and services include but are not limited to antique shop, apparel shop, bicycle shop, bookstore, barber and beauty shops, nail salons, and diet counseling services.

RETAIL SALES, SERIVCE & REPAIR, SPECIAL HANDLING. An establishment primarily engaged in selling products that require special handling due to risks to public safety. Specific uses include gun sales and CBD stores.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by transportation facilities, public utilities or other special public uses.

ROADSIDE PRODUCE STAND. A temporary structure designed or used for the display or sale of agricultural and related products.

ROOF-MOUNTED SOLAR ENERGY SYSTEM. A device, array or devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or colling, daylight for interior lighting or water hearing. The system is mounted on a rack that is fastened to or ballasted on a structure roof.

Ss

SATELLITE RECEIVER ANTENNA. A type of antenna that is designed to receive satellite signals and that is not more than 2 feet in diameter.

SCREENED-IN PORCH. A single-story structure architecturally incorporated into a primary structure, with a screened area in excess of 60% of the gross area of the structure's exterior walls.

SECONDARY PLAT. A plat that qualifies for secondary approval under the standards prescribed by Chapter 9 of this Ordinance. The term includes a final plat that was approved under prior law.

SERVICE STATION, LOCAL. Any structure or land use primarily for the dispensing or sale of fuels, including electric charging stations, to the local public to propel motor vehicles. Service stations include convenience stores on site.

SERVICE STATION, TRUCK STOP. Any structure or land use primarily for the dispensing or sale of fuels, including electric charging stations, or parking of tractor trucks or similar heavy commercial vehicles. Service stations include convenience stores on site and may also include overnight accommodations, showers, or restaurant facilities.

SETBACK, ESTABLISHED FRONT. The lease measured distance between the right-of-way line and the nearest point on the primary structure's foundation.

SETBACK LINE. A line established by this Ordinance defining the limits of a yard in which no building or structure may be located except as may be excluded in said ordinance (*See Figure 12-10)*.

SHARED DRIVEWAY. A single driveway that serves 2 to 4 adjacent lots pursuant to access easements.

SHIELD. Any attachment, which interrupts and blocks the path of light emitted from a Luminaire or Fixture.

SHIELDED, FULLY. A bulb not visible within a shielded Fixture and no light is emitted from the top or sides of the Fixture. All light emitted from a Fixture is projected downward below a horizontal plane running through the lowest point of a Fixture where light is emitted.

SHOOTING RANGE. An outdoor establishment primarily used for discharging firearms safely and engaged in providing qualifications, training, or practice services.

SIGN. Any object, device, display, or structure, or part thereof situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

1. Animated sign - any sign that uses movement or change of lighting to depict action or create a special effect or scene.
2. Banner - any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at 1 or more edges. National flags, state, or municipal flags, or the official flag of any institution or business are not considered banners.
3. Building marker - any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
4. Building sign - any sign attached to any part of a building, as contrasted to a freestanding sign.
5. Canopy sign - any sign that is a 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.
6. Flag - any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.
7. Flying Banner sign – 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.
8. Freestanding sign - any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
9. Incidental sign - a sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," and other similar directives. No sign with a commercial message legible from a position off the lot on which this sign is located is considered incidental.
10. Marquee - any 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.

11. Off-premises sign - directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.
12. Portable sign - any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible front the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
13. Projecting sign - any sign affixed to a building or wall in such a manner that its leading edge extends more than 6 inches beyond the surface of such building or wall.
14. Residential sign - any sign located in a residential district that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of this Ordinance.
15. Roof sign - any sign erected and considered wholly on an over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
16. Roof sign, integral - any sign erected or constructed as an integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than 6 inches.
17. Suspended sign - a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
18. Temporary sign - any sign that is used only temporarily and is not permanently mounted.
19. Wall sign - any sign attached parallel to, but within 6 inches of, a wall, painted on the wall surface of, 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 1 sign surface.
20. Window sign - any sign, poster, symbol, or other type of identification or information about the use or premises directly attached to the window of a building or erected on the inside or outside of the window, which is legible from any part of a public right-of-way or adjacent property. For purposes of this definition, a "window" is defined as an opening in the wall or roof of a building or vehicle that is fitted with glass or other transparent material in a frame to admit light or air and allow people to see out.

SIGN, ABANDONED. A sign associated with an abandoned use, a sign that remains after the termination of the business, or a sign on its immediate premises not adequately maintained or repaired.

SITE PLAN. A plan prepared to scale showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features, interior vehicular and pedestrian access proposed for a specific parcel of land.

SMALL CELL FACILITY. Either of the following:

1. A personal wireless service facility (as defined by the Federal Telecommunications Act of 1996 as in effect on July 1, 2015); or
2. A wireless service facility that satisfies the following requirements:
   a. Each antenna, including exposed elements, has a volume of 3 cubic feet or less.
   b. All antennas, including exposed elements, have a total volume of 6 cubic feet or less.
   c. The primary equipment enclosure located with the facility has a volume of 17 cubic feet or less. For purposes of this clause (c), the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure: electric meters; concealment equipment; telecommunications demarcation boxes; ground-based enclosures; backup power systems; grounding equipment; power transfer switches; cutoff switches.

SMALL CELL NETWORK. A collection of interrelated small cell facilities designed to deliver wireless service.

SOLAR COLLECTOR. A device, structure, or a part of such for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

SPECIAL EXCEPTION. The authorization of a use, designated as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the WBZA.

SPECIFIED ANATOMICAL AREAS. This phrase means and includes any of the following:

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

SPECIFIED SEXUAL ACTIVITIES. This phrase means and includes any of the following:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
4. Flagellation or torture in the context of a sexual relationship;
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
6. Erotic touching, fondling or other such contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in items 1 through 6 above.

STABLE, PRIVATE. An accessory building in which horses are kept for private use and not for remuneration, hire, or sale.

STABLE, PUBLIC. An accessory building in which horses are kept for commercial use including boarding, hire, riding, show, or sale.

STATE. The State of Indiana.

STATUTE. A law enacted by the Indiana General Assembly.

STORY. That part of a building between the surface of a floor and the ceiling immediately above; or if there is a floor above, the portion of a building between the surface of any floor and the surface of the next floor above. A basement is not counted as a story.

STREET OR ROAD. A right-of-way established for or dedicated to the public use, which affords the principal means of access to abutting properties.

STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls or roof.

STRUCTURE. Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

SUBDIVIDER. Any person having an interest in land that is the subject of an application for subdivision. Also, a person applying for subdivision.

SUBDIVISION. The division of a parcel of land into lots, parcels, tracts, or interests in the manner defined and prescribed by Chapter 9 of this Ordinance.

SUBDIVISION CONTROL ORDINANCE. The subdivision regulations of this Ordinance, which are contained in Chapter 9.

SUBDIVISION, MAJOR. The division of a lot, tract, or parcel of land into 5 or more lots, tracts, parcels or other divisions of land for sale, development or lease. The parent lot, tract or parcel of land counts as 1 of the subdivided lots, tracts, parcels or other subdivisions of land for the purpose of determining whether the application for approval is to be treated as a major or minor subdivision.

SUBDIVISION, MINOR. The division of a lot, tract, or parcel of land into 2 to 4 lots, tracts, parcels or other divisions of land for sale, development or lease. The parent lot, tract or parcel of land counts as 1 of the subdivided lots, tracts, parcels or other subdivisions of land for the purpose of determining whether the

application for approval is to be treated as a major or minor subdivision.

SUBSTANTIAL MODIFICATION OF A WIRELESS SUPPORT STRUCTURE. The mounting of a wireless facility on a wireless support structure in a manner that either:

1. Increases the height of the wireless support structure by 10% of the original height of the wireless support structure, or 20 feet, whichever is greater;
2. Adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than 20 feet, or the width of the wireless support structure at the location of the appurtenance, whichever is greater; or
3. Increases the square footage of the equipment compound in which the wireless facility is located by more than 2,500 square feet.

However, notwithstanding subdivisions (1), (2), and (3), the term does not include any of the following:

4. Increasing the height of a wireless support structure to avoid interfering with an existing antenna.
5. Increasing the diameter or area of a wireless support structure to shelter an antenna from inclement weather, or to connect an antenna to the wireless support structure by cable.
6. Any modification of a wireless support structure or base station that involves only collocation, removal of transmission equipment, or replacement of transmission equipment.

Tt

THOROUGHFARE. A public way or public place that is included in the Thoroughfare Plan of the Town. The term includes the entire right-of-way for public use of the thoroughfare and all surface and subsurface improvements on it such as sidewalks, curbs, shoulders, and utility lines and mains.

THOROUGHFARE PLAN. A statement of policy for the development of public ways which is included in the Comprehensive Plan under *IC 36-7-4-506*. The term includes any short or long range plan for the location, general design, and assignment of priority for construction of thoroughfares in the jurisdiction for the purpose of providing a system of major public ways which allows effective vehicular movement, encourages effective use of land, and makes economic use of public funds.

TOWN. The Town of Whitestown, Indiana.

TRACT. An area of land that is:

1. Under common fee simple ownership;
2. Contained within a continuous border; and
3. A separately identified parcel for property tax purposes.

TRADE OR BUSINESS SCHOOL. A secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable, or non-profit organization, or a school conducted as a commercial enterprise for teaching music, dancing, barbering, hair dressing, drafting, or industrial or technical arts.

Uu

USE. The specific purposes, for which land or a building is designated, arranged, intended or for which it is or may be occupied or maintained.

UTILITY POLE. A structure (other than a wireless support structure or electrical transmission tower) that is:

1. Owned or owned or operated by a public utility, a communications service provider, a political subdivision, an electric membership corporation, or a rural electric cooperative; and
2. Designed and used to carry lines, cables, or wires for telephony, cable television, or electricity, or to provide lighting.

UTILITY REGULATORY COMMISSION. The Indiana Utility Regulatory Commission.

Vv

VARIANCE. A modification of the specific requirements of this ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

VESTED RIGHT. A right vested in an applicant or other person to whom or which a permit or other approval

has been issued or granted within the meaning of IC 36-7-4-1109.

VETERINARY ANIMAL HOSPITAL OR CLINIC. A facility where the primary use is for a licensed veterinarian and his/her supervised staff to care for, diagnosis, and treat sick, ailing, infirm or injured animals, and those in need of medical or surgical attention. Temporary boarding on the premises as an accessory use is allowed

Ww

WAIVER. A decision of the WPC, the Plat Committee, any other committee, or a hearing examiner to waive or modify either a standard fixed in Chapter 9 of this Ordinance or a development requirement.

WATERCOURSE. Lakes, rivers, streams, and any other body of water. The term does not include an underground aquifer or water in an underground aquifer.

WIRELESS COMMUNICATIONS SERVICE. Service provided in accordance with the Federal Telecommunications Act of 1996.

WIRELESS FACILITY. The set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

WIRELESS SUPPORT STRUCTURE. A freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.

Yy

YARD. A space on the same lot with principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this ordinance.

YARD, FRONT. A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, parking lots, landscaping, lampposts and similar structures, the depth of which is the perpendicular distance between the street right-of-way line and the front setback line.

YARD, REAR. A yard extending across the full width of the lot between the rear of the main building and the rear lot line the depth of which is the perpendicular distance between the rear lot line and the rear setback line.

YARD, SIDE. A yard extending across the full length of the lot, unoccupied other than by steps, walks, terraces, driveways, parking lots, landscaping, lampposts, and similar structures, the depth of which is the perpendicular distance between the side lot line and the side setback line.

YARD, STREET SIDE. A yard extending across the full length of the lot, unoccupied other than by steps, walks, terraces, driveways, parking lots, landscaping, lampposts, and similar structures, the depth of which is the perpendicular distance between the side lot line abutting a street right-of-way and the side setback line.

YARD SALE. Garage sales, rummage sales, yard sales, and the like mean the sale of personal property from a residentially occupied site, provided that such sale does not extend beyond 3 consecutive days and further that they may be conducted to a maximum of 4 times in a calendar year.

Zz

ZONE MAP. The map or maps that are a part of this Ordinance and delineate the boundaries of zone districts and any amendments thereto of the jurisdiction of the Plan Commission.

ZONING ORDINANCE. All provisions of this Ordinance except for the subdivision regulations, which are contained in Chapter 9.

ZONING DISTRICT. See **DISTRICT**.

IMAGES

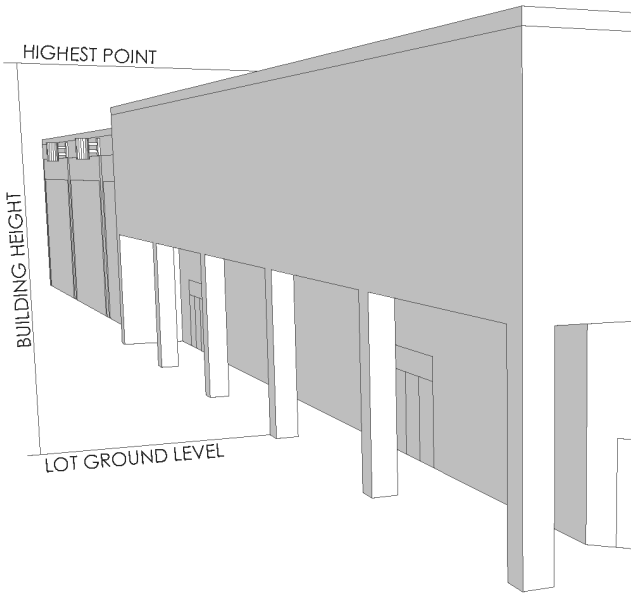

Figure 12-1: Building Height – Flat Roof

Figure 12-2: Building Height – Gable Roof

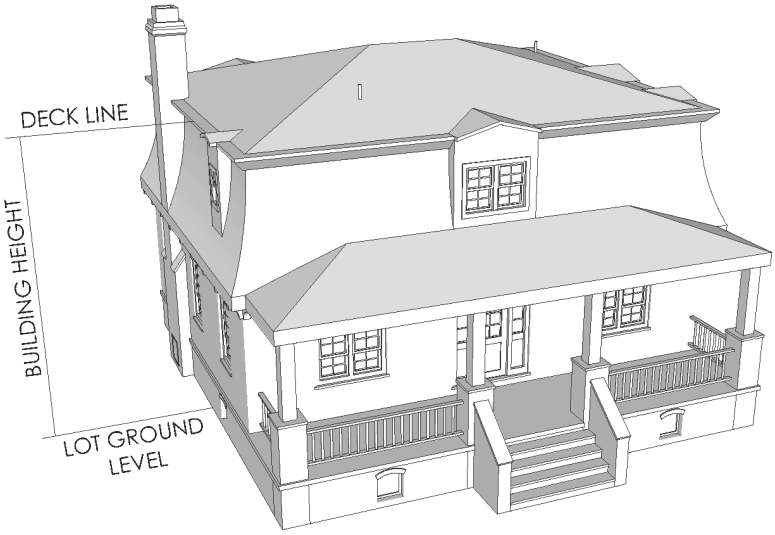

Figure 12-3: Building Height – Mansard Roof

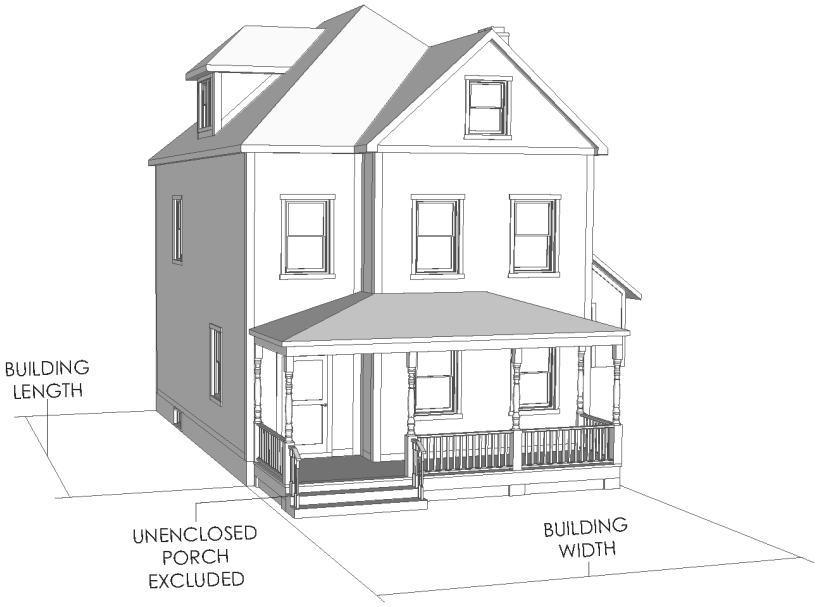

Figure 12-4: Building Area

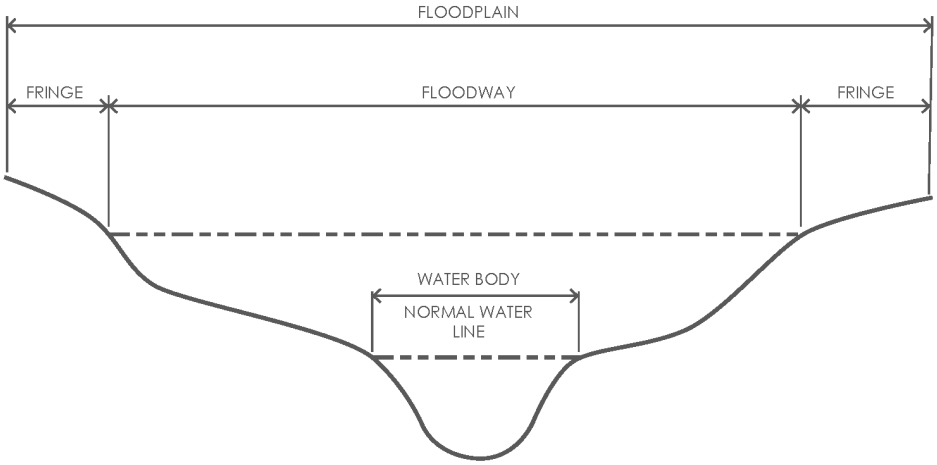

Figure 12-5: Elements of a Floodplain

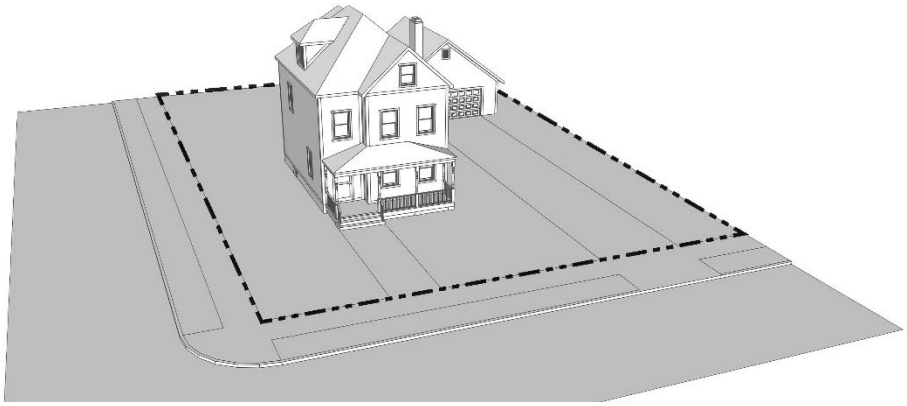

Figure 12-6: Corner Lot

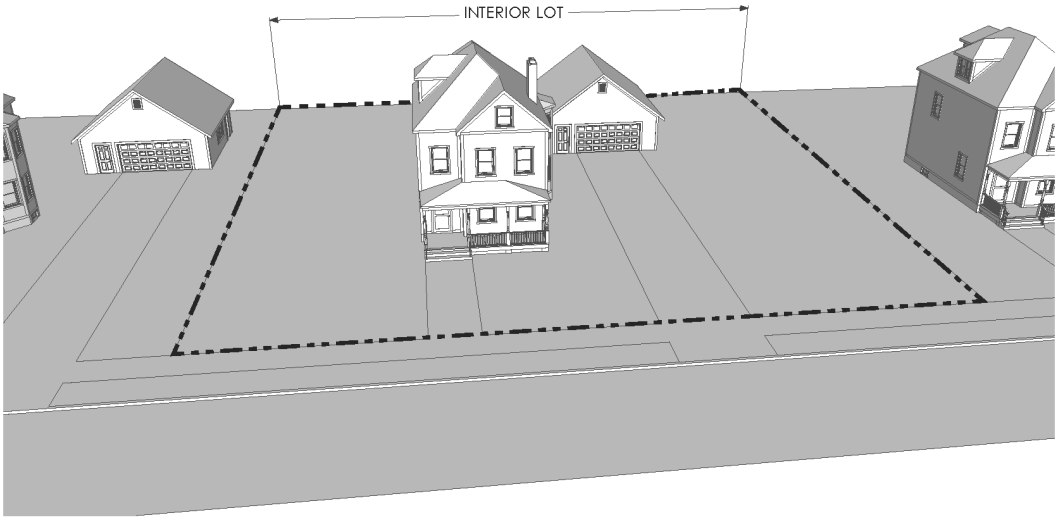

Figure 12-7: Interior Lot

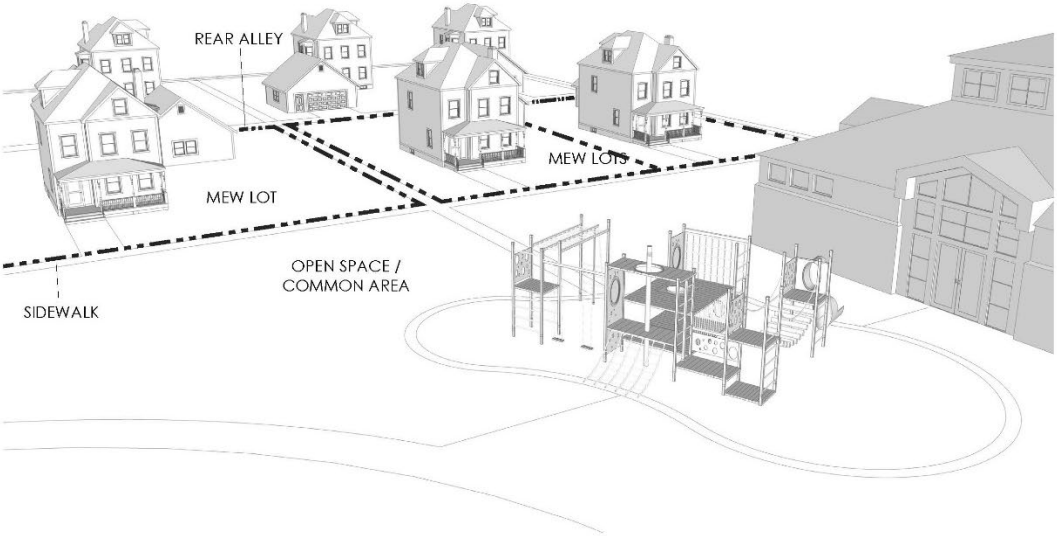

Figure 12-8: Mew Lot

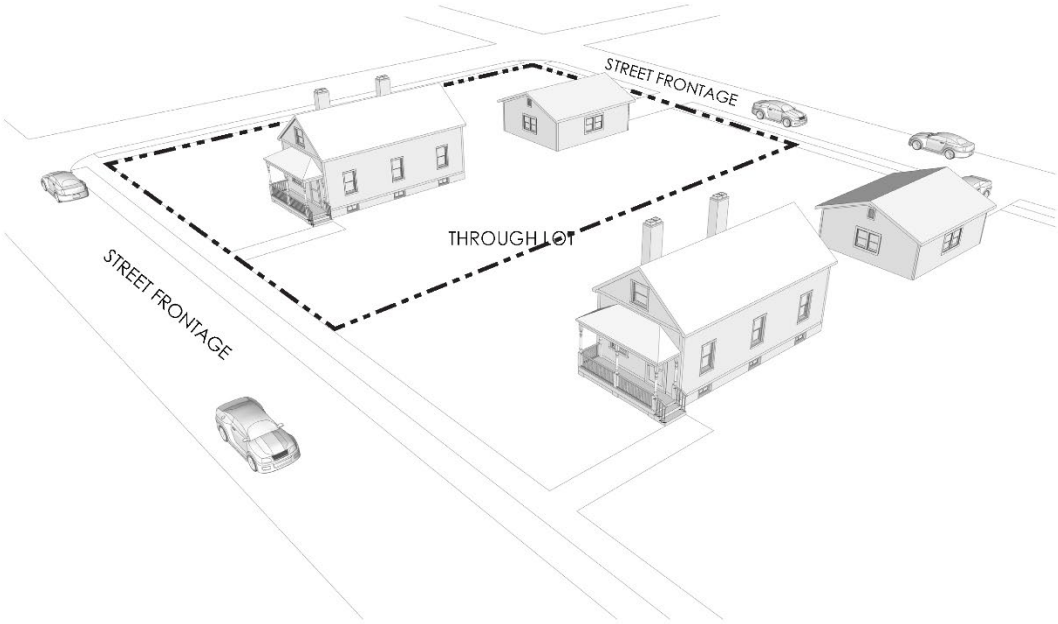

Figure 12-9: Through Lot

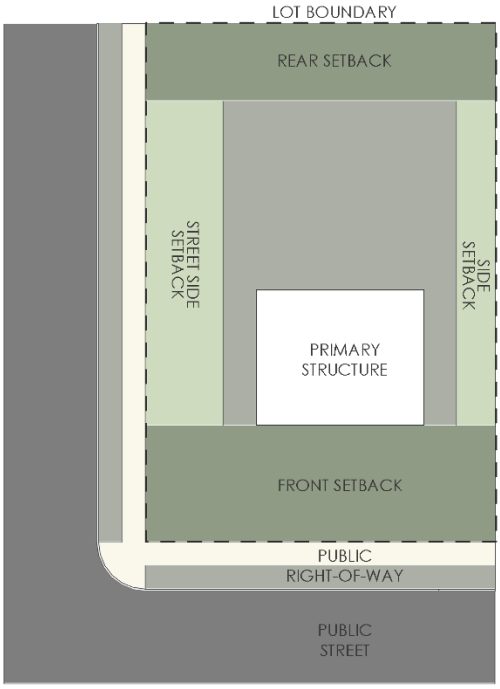

Figure 12-10: Setback Locations