

ORDINANCE NO. 2020-32

AN ORDINANCE AMENDING TEXT WITHIN THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF WHITESTOWN, INDIANA

WHEREAS, the Whitestown Plan Commission seeks to amend the Whitestown Unified Development Ordinance; and

WHEREAS, pursuant to Indiana Code § 36-7-4-607, the Whitestown Plan Commission conducted the required public hearing and determined its favorable recommendation on the proposed amendments by a 7-0 vote on October 19, 2020; and

WHEREAS, the Whitestown Plan Commission certified its favorable recommendation to the Whitestown Town Council on November 4, 2020; and

WHEREAS, pursuant to Indiana Code §36-7-4-607, the Town Council of the Town of Whitestown, having considered the proposals and the recommendation to the Whitestown Plan Commission, now adopts the proposal and approves the text amendments, all as hereinafter set out.

IT IS THEREFORE CONSIDERED, ORDAINED, AND ADOPTED as follows:

Section 1. The Whitestown Plan Commission seeks to amend the text of the Whitestown Unified Development Ordinance generally to add to the Chapter 12 Definitions, make changes to Chapter 2 Districts, and make changes to Section 1.10 Nonconforming Buildings and Structures. The language proposed to amend is attached hereto as **Exhibit A**, **Exhibit B**, and **Exhibit C**, and incorporated herein by reference.

Section 2. The Town Council of the Town of Whitestown has paid reasonable regard to the comprehensive plan; current conditions and the character of structures and uses in each district; the most desirable use for which the land in each district is adapted; the conversation of property values throughout the jurisdiction; and responsible development and growth.

Section 3. The Town Council hereby adopts the proposed amendments of the Whitestown Plan Commission as certified, and hereby adopts the revisions set forth in **Exhibit A**, **Exhibit B**, and **Exhibit C**, as amendments to the Whitestown Unified Development Ordinance. All other provisions of the Unified Development Ordinance not otherwise specifically amended in **Exhibit A**, **Exhibit B**, and/or **Exhibit C** remain in full force and effect.

Section 4. The terms or provisions of other ordinances in conflict with the terms or provisions hereof, if any, are hereby superseded. The terms, paragraphs, sentences, words, and acts of this Ordinance and the UDO are separable, and if a court of competent jurisdiction hereof declares any portion of this Ordinance or

UDO unconstitutional, invalid, and unenforceable for any reason, such declaration shall not affect the remaining portions or acts hereof and the court shall substitute such provisions or acts with a constitutional, valid, and enforceable provision or act as would be necessary to effectuate the enforceability of the applicable provision.

Section 5. This Ordinance shall be in full force and effect upon its passage as provided by applicable law.

ALL OF WHICH IS ADOPTED on the ____ day of _____, 2020, by the Town Council of the Town of Whitestown, Indiana, by a vote of ____ in favor and ____ against.

THE TOWN COUNCIL OF THE
TOWN OF WHITESTOWN, INDIANA

Clinton Bohm, President

ATTEST:

Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

3958219

Exhibit A

Ordinance Language to Amend

Language to be deleted is [~~stricken through~~]. Language to be added is [underlined].

Unified Development Ordinance

Chapter 12 Definitions

Assisted Living: A facility licensed by the State of Indiana that provides social opportunities within the residence community and provides supportive services with daily tasks and activities, which may include prescription distribution, transportation, and personal care.

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 automobiles, excluding commercial wrecking, dismantling, junk yard, truck and tractor repair.

Liquor Store: Establishments engaged in the sale of alcoholic beverages for off-premises consumption.

Exhibit B

Ordinance Language to Amend

Language to be deleted is ~~stricken through~~. Language to be added is underlined.

Unified Development Ordinance

Chapter 2 Districts

COMMERCIAL SALES, SERVICES, AND REPAIR PRIMARY USES						
Adult Business						
All Types	§3.3	NP	NP	NP	L-SE	NP
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	NP	L	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
<u>Liquor Store</u>		<u>P-SE</u>	<u>NP</u>	<u>P-SE</u>	<u>P-SE</u>	<u>NP</u>
Pawn Shop	14	L-SE	NP	L	NP	NP
Retail Sales, Service & Repair, Outdoor	15	L-SE	NP	NP	L	NP
Retail Sales, Service & Repair, Special Handling		NP	NP	NP	L-SE	NP
Retail Sales, Service & Repair, All Others		L	L	L	L	L

Vehicle/Equipment Sales, Service & Repair						
Automobile Services, Light	16	L	NP	NP	L	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

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
<u>Liquor Store</u>		<u>NP</u>	<u>SE</u>
Retail Sales, Service & Repair, Outdoor	16	NP	L
Retail Sales, Service & Repair, All Others		NP	L
Vehicle/Equipment Sales, Service & Repair			
Automobile Services, Light	17	NP	L
Auto/Motorcycle/Boat/Light Truck Sales or Rentals	18	NP	L

Exhibit C

Ordinance Language to Amend

Language to be deleted is [~~stricken through~~]. Language to be added is [underlined].

Unified Development Ordinance

Section 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 structure if the reconstruction, repair, or renovation meets the following requirements:
 - a. The structure will continue to be used for residential purposes.
 - b. 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.