VERSION 1.6

JULY 30, 2018

ZONING ORDINANCE

THE CITY OF NEW ALBANY, INDIANA

11th Street DEVELOPMENT

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CHAPTER 2

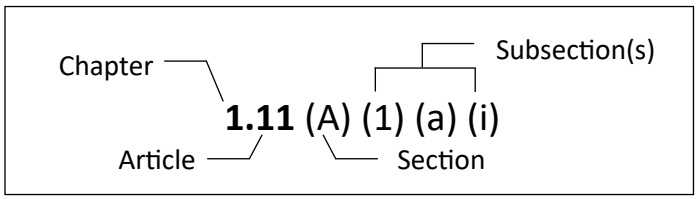
2.1 TITLE

A. This chapter and ordinances supplemental or amendatory thereto shall be known as "An Ordinance for the Development Through Zoning of the City of New Albany, Indiana, and the Unincorporated Two-Mile Fringe Area within the Jurisdiction of the New Albany City Plan Commission".

B. This chapter, and ordinances supplemental or amendatory thereto, shall be known and may be cited thereafter as the "Zoning Code of the City".

2.2 ORDINANCE FORMAT / QUICK LINKS

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



B. **How to Use Hyper-Linked Cross-References:**

1. **ELECTRONIC FORMAT:** If used in the electronic format, certain aspects of this document allow the user to quickly navigate the document by clicking on hyperlinks and quick access chapter tabs.
2. **QUICK CHAPTER TAB LINKS:** Clicking on the Chapter Title in the tabs located in the right margin will direct the user to that chapter's table of contents.
3. **CHAPTER TABLE OF CONTENTS:** The Article headings located in the table of contents at the beginning of each Chapter may be clicked to direct the user to that Article within the Chapter.
4. **ZONING DISTRICTS:** Zoning District names that appear within this document are colored and emphasized in italics and may be clicked to direct the user to the Zoning District's standards in ***CHAPTER 4: ZONING DISTRICTS*** of this Ordinance.
5. **ARTICLE CROSS-REFERENCES:** In-line text cross-references to other Articles within this document are colored and emphasized. Clicking on the emphasized text will direct the user to the cross-referenced Article.

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6. **HYPERLINK CROSS-REFERENCES**: This document includes cross-references to documents and websites outside of this document. These links are provided for convenience only and the City does not guarantee the accuracy of these links or its content, nor that the links will work all the time. These cross-references are colored and underlined. Clicking on the text in the emphasized cross-reference will direct the user to the document or link.

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2.3 AUTHORITY AND PURPOSE

A. **Authority:** This Ordinance is adopted by the City pursuant to its authority under the laws of the State of Indiana, *I.C. 37-7-4 et seq*. Whenever codes cited in this Ordinance refer to Indiana Code ("I.C." or "Indiana Code") or Indiana Administrative Code ("I.A.C.") which has been amended or superseded, then this Ordinance shall be deemed amended in reference to the new or revised code.

B. **Jurisdiction:** This Ordinance shall apply to all land within the City of New Albany, Indiana, and the Unincorporated Two-Mile Fringe Area within the Jurisdiction of the New Albany City Plan Commission, 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 *I.C. 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 the future development of the community to the end that:
   a. The community grows with adequate public ways, utilities, health, education, and recreation facilities;
   b. The needs of industry, and business be recognized in future growth;
   c. Residential areas provide healthful surroundings; and
   d. The growth of the community is commensurate with and promotes the efficient and economical use of public funds.

D. **Amendments:** All amendments to this Ordinance shall be in conformance with the provisions of Indiana law.

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2.4 INTERPRETATION & APPLICATION

A. **Compliance:** No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, enlarged, or used, nor shall any piece of land be used, nor shall any existing use be expanded except when in full compliance with all provisions of this Ordinance and the permits and certificates required by this Ordinance have been lawfully issued. See also *CHAPTER 9: NONCONFORMING REGULATIONS* and *CHAPTER 7: PROCESSES & PERMITS.*

B. **Conflicting Requirements:** The provisions of this Ordinance shall be the minimum requirements for the protection of the health, safety, comfort, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment. If two or more provisions within this Ordinance are in conflict or are inconsistent with one another, then the provision which is most restrictive shall control.

C. **Overlapping Regulations:** It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, commitments, permits, state laws, Federal laws or other agreements between parties; nor any chapters, rules, regulations or permits previously adopted or issued, or which shall be adopted or issued and which are not in conflict with any of the provisions of this Ordinance; except that, where this Ordinance imposes a greater restriction upon the use of buildings or land, or upon the building Height, or requires larger Open Spaces or greater Lot Area per Family or Dwelling Unit, than are required or imposed by such easements, covenants, commitments, permits, Indiana laws, Federal laws or agreements between parties, or by such chapter, rules, regulations or permits, then the provisions of this Ordinance shall control.

D. **Severability:** If any provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole or any portion thereof, other than the portion so declared invalid.

E. **Defined Words:** Words used in a special sense in this Ordinance are defined in *Article 3.1 Definitions*. All other words shall have the meaning inferred from their context in this Ordinance or their ordinarily accepted definitions.

F. **Meanings:** The following rules of construction shall apply to the text of this Ordinance:

1. The particular and specific provisions of this Ordinance shall supersede any general requirements that are established by it.
2. The words “shall” and “will” are always mandatory requirements and not discretionary. The word “may” is permissive. The word “should” is a preferred and discretionary requirement.

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3. Words used in the present tense include the future; and 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 neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.
4. The phrase "used for" includes "arranged for, designed for, intended for, maintained for, or occupied for."
5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
6. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two (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:
   a. "And" means that all the connected items, conditions, provisions, and events apply together and not separately.
   b. "Or" means that the connected items, conditions, provisions, or events apply separately or in any combination.
   c. "Either . . . or" means that the connected items, conditions, provisions, or events shall apply separately but not in combination.
7. 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.
8. The word "City" means the City of New Albany, the word "County" means Floyd County, Indiana, the word "State" means the State of Indiana, and the word "Department" means the City of New Albany Department of Planning.

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2.5 PUBLIC UTILITY INSTALLATIONS

A. Structures and land used for Public Utility Installations shall be subject to the provisions of this Ordinance to the extent permitted under Indiana law.

B. All structures for a Public Utility Installation, including substations, shall be effectively landscaped and shall require approval of a Development Plan (see ***Article 7.7 Development Plan Review***) and Improvement Location Permit (see ***Article 7.8 Improvement Location Permit***).

2.6 MINERAL EXTRACTION EXEMPT

In accordance with ***I.C. 36-7-4-1103***, nothing herein shall prevent, outside of urban areas, the complete use and alienation of any mineral resources or forests by a Property Owner or alienee of them. For the purpose of this Article, an urban area shall include: (i) all lands and lots within the corporate boundaries of a municipality; (ii) any other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area; and, (iii)

other lands or lots that have been or are planned for residential areas contiguous to the municipality.

2.7 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 hereby included as part of this Ordinance. The map may be known and referred to as the "Official Zoning Map" and as the "Zoning Map".

B. **Official Zoning Map Copies:** Copies of the Official Zoning Map may be made and distributed to interested persons. The Official Zoning Map copies shall be labeled as copies and have the date which they were last modified printed on them. A fee may be established for the purchase of Official Zoning Map copies.

C. **Location of the Official Zoning Map:** The Official Zoning Map will be located in the office of the Department and may be maintained as an electronic zoning map.

D. **Determination and Interpretation of District Boundaries:** The following rules shall apply where uncertainty exists as to 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 shall be deemed to follow the centerline of the affected Street, easement, or Right-of-way.
2. Zoning District boundaries shown within or parallel to the lines of Streets, easements, and Rights-of-way at the boundaries of the Jurisdiction of the Plan Commission shall be deemed to include the full width of such Streets, easements, and Rights-of-way.
3. Zoning District boundaries indicated as following or being parallel to section or fractional sectional lines, Lot Lines, or City corporation lines shall be construed as following or paralleling such lines.
4. Zoning District boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
5. Zoning District boundaries indicated as approximately following the parcel lines as established by the City shall be construed to follow such parcel lines.
6. If the boundary line of a district divides a lot in a manner essentially perpendicular to a street, that district which applies to the larger part of the lot applies to the entire lot.
7. If the boundary line of a district divides a lot in a manner essentially perpendicular to a street, that restriction which applies to the larger part of the lot applies to the entire lot.

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8. Areas designated as "A" zones on Flood Insurance Rate Maps shall always be classified as the Open Space District (see *Section 4.11(F) – Open Space District Miscellaneous Requirements*).
9. In the case of uncertainty, the Director of the City of New Albany Department of Planning shall interpret the intent of the Zoning Map and determine the location of the boundary in question. If the Director cannot definitively determine the location of a Zoning District boundary, then the Board of Zoning Appeals may then determine the location of the Zoning District boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this Ordinance.

E. **Regular Revisions:** The Official Zoning Map should be formally revised annually, or otherwise as the Plan Commission determines necessary.

F. **Procedure Relating to Annexed or Vacated Areas:** Land which may hereafter be annexed into the City shall remain as zoned, unless changed by an amendment to this Ordinance. Whenever any Right-of-way or other similar area is vacated by proper authority, the Zoning Districts adjoining each side of such Right-of-way or similar area shall be extended automatically to the center of such vacation and all areas included in the vacation shall then and thenceforth be 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, shall be extended automatically to include all of the vacated area.

2.8 CHAPTER AMENDMENT LOG

Ordinance No.	Docket No.	Council Approval	Effective Date	Sections Affected

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ABUTTING: Bordering or contiguous.

ACCESSORY BUILDING: A subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings.

ACCESSORY USE: A use subordinated to another use located on the same lot and which does not change or alter the character of the premises.

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

ADULT BOOTH: Any area of an adult entertainment establishment set off from the remainder of such establishment by one (1) or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

ADULT BUSINESS, ESTABLISHMENT OF:

a. The opening or commencement of any sexually oriented business as a new business; or
b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.

ADULT BUSINESS, PROTECTED USES: The following uses are protected uses for purposes of the Adult Entertainment Establishment Standards in this Ordinance.

a. A church, synagogue, mosque, or other place of worship.
b. A public or private nursery school or any other public or private school serving any one (1) or more of grades K through 12.
c. A child care facility licensed by the Indiana Family and Social Services Administration.
d. A public or private park, playground, playing field, or sports facility.
e. A public or private cemetery.
f. A public housing facility.

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g. Gymnasiums, dance studios, theater companies, and other facilities used by children.

ADULT CABARET: Any commercial establishment that as a substantial or significant portion of its business features or provides any of the following:

a. Persons who appear nude or semi-nude.

b. Live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

c. Films, motion pictures, video or audio cassettes or discs, slides, computer displays, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

ADULT DAY-CARE CENTER: Any building or place where adults receive care from a provider while unattended by a parent, legal guardian or custodian, for a period of less than twenty-four hours per day. Where required by state law, day-care centers shall be and remain licensed by the state and shall operate in accordance with their license and all applicable state laws. Day-care centers exempt from state licensing requirements shall provide proof of exemption.

ADULT ENTERTAINMENT ESTABLISHMENT: An Adult Cabaret, Adult Store, or Adult Theater.

ADULT MATERIAL: Any of the following, whether new or used:

a. Books, magazines, periodicals, or other printed matter, or digitally stored materials that depict Sexual Activities.

b. Films, motion pictures, video or audio cassettes or discs, slides, computer displays, or other visual representations or recordings of any kind, that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

c. Instruments, novelties, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities, or that depict or describe specified anatomical areas.

ADULT STORE: Any commercial establishment (a) that contains one (1) or more adult booths; (b) that as a substantial or significant portion of its business offers for sale, rental, or viewing any adult materials; or (c) that has a segment or section devoted to the sale or display of adult materials.

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ADULT THEATER: Any commercial establishment that as a substantial or significant portion of its business features or provides films, motion pictures, video or audio cassettes or discs, slides, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

Ee

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AGRICULTURAL USE: The use of land and buildings where food or ornamental crops are grown or processed to be sold or donated that includes, but is not limited to, outdoor growing operations, indoor growing operations, vertical farms, aquaponics, aquaculture, hydroponics and rooftop farms.

Ii

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ALLEY: A right-of-way, other than a street, road, driveway, crosswalk, or easement, designed to provide a secondary means of access for the accommodation of the property it reaches.

Kk

Ll

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AMUSEMENT PARK: An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and buildings for shows and entertainment.

Nn

Oo

Pp

APARTMENT COMPLEX, LARGE: A medium- to large-scale multifamily building consisting of 7 to 18 side-by-side and/or stacked dwelling units, typically with one shared entry on the front façade of the building. For additional information regarding the Apartment Complex, Large building type refer to *Section 6.5(D)(7)*.

Qq

Rr

Ss

Tt

APARTMENT COMPLEX, SMALL: A medium-scale multifamily building consisting of 3 to 6 side-by-side and/or stacked dwelling units, typically with one shared entry or individual entries along the front façade of the building. For additional information regarding the Apartment Complex, Small building type refer to *Section 6.5(D)(6)*.

Uu

Vv

APPLICANT: A Property Owner or any person or entity acting as an agent on behalf of a Property Owner in an application made to the City in accordance with this Ordinance.

Ww

Xx

Yy

Zz

ARCHITECTURAL GARAGE DOOR: A garage door with architectural detailing and ornamentation reflecting the design of the building. Architectural details may include windows, materials, patterns, colors, hardware specifications, brackets, etc. consistent with the details of the remainder of the Primary Building.

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ARENA/AUDITORIUM, INDOOR: An enclosed structure designed or intended for use for the gathering of people as an audience to watch sports or hear music, lectures, plays, and other presentations.

ARENA/AUDITORIUM, OUTDOOR: An outdoor or open-air structure designed or intended for use for the gathering of people as an audience to hear music, lectures, plays, and other presentations.

ARTERIAL (STREET), MAJOR OR MINOR: A Street identified on the Thoroughfare Plan intended to carry large volumes of traffic to provide both intermediate and long-distance trips across the community and utilizing traffic control devices to facilitate traffic flow and manage access where appropriate.

ASSISTED LIVING FACILITY: A facility for persons having such disabilities as to require assistance with daily living tasks. Such facilities provide a combination of housing, support services, personalized assistance, and health care; and respond to needs of a person requiring assistance with the activities of daily living (i.e. dressing, grooming, bathing, food preparation) but do not require 24-hour skilled medical care.

AUCTION ROOM: A building, area, or areas within a building used for the public sale of goods, wares, merchandise, or equipment to the highest bidder.

Bb

BASEMENT: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

BED AND BREAKFAST (B&B): A residential building, typically a Single-family Dwelling with three (3) to five (5) guest rooms, that is occupied by an owner-operator providing lodging and breakfast accommodations to transient guests for compensation.

BEDROOM: A room which is intended, arranged, and designed to be occupied by one or more persons primarily for sleeping purposes.

BILLBOARD: All structures regardless of size and shape, used as an outdoor display of any notice or advertisement, pictorial or otherwise, for the purpose of making anything known, the origin or place of sale of which is not on the property with the billboard.

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BLOCK: Property having frontage on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersection or intercepting street and railroad right-of-way, waterway or other barrier. In the absence of the preceding, a distance of 400 feet in either direction from the subject site shall constitute a block.

Dd

BOARD: The New Albany Board of Zoning Appeals.

Ee
Ff
Gg

BUFFER YARD: A strip of land together with improvements and plantings thereon intended to separate and visually screen uses or other visually obtrusive features of development in order to minimize conflicts and increase aesthetic compatibility without precluding connectivity between uses.

Hh
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BUILDING: A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels, or property. The word ***BUILDING*** includes the word ***STRUCTURE*** and vice-versa.

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Ll

BUILDING, DETACHED: A building having no structural connection with another building.

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Pp

BUILDING, PRINCIPAL: A building in which is conducted the main or primary use of the Lot on which said building is located. Where a substantial portion of an ancillary building is attached to the Principal Building in a substantial manner, as by a roof, then such ancillary building shall be counted as a part of the Principal Building and not as an Accessory Building.

Qq
Rr

BUILDING AREA: The maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces and architectural appurtenances projecting not more than two feet.

Ss
Tt

BUILDING CODE: The various codes of the City that regulate construction of structures and buildings.

Uu

BUILDING COMMISSIONER: The official designated by the Mayor, authorized to enforce the City's Building Code.

Vv
Ww

BUILDING FACADE: That portion of any exterior elevation on a building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.

Xx
Yy
Zz

BUILDING FACADE, FRONT: The Building Facade which is oriented towards and is most closely parallel to a Front Yard, and that Building Facade which contains a residence's front door or a business's primary public entrance.

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BUILDING HEIGHT: The vertical distance measured from the lot ground level to the high point of the roof. The lot ground level shall be determined as follows: (a) for buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street; (b) for buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets; or (c) for buildings having no walls adjoining the street, the average level of the ground adjacent to the exterior walls of the building. The high point of the roof is (a) the highest point of the roof or coping for a flat roof; (b) the deck line of a mansard roof; or (c) the plate height for gable, hip and gambrel roofs.

BUILDING LINE: The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way.

BUILDING PERMIT: An official document or certification that is issued by the Building Commissioner which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure. The Building Permit is part of the Improvement Location Permit.

BUILDING SEPARATION: The least distance between the walls of two (2) structures, regardless of whether they are located on the same Lot or parcel.

BUILDING SETBACK LINE: A line parallel to a Right-of-way line, edge of a stream, or other Lot Line established on a parcel of land or Lot for the purpose of prohibiting construction of a building or structure in the area between such line and the Right-of-way, stream bank, or other Lot Line.

BUNGALOW COURT: Two or more single-family detached dwellings occupied and arranged around one, two, or three sides of a court that opens onto a street. For additional information regarding the Bungalow Court building type refer to *Section 6.5(D)(3)*.

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

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CALIPER: A standard trunk diameter measurement for trees, taken six (6) inches above the finished grade for trees with a diameter of four (4) inches or less, and twelve (12) inches above the finished grade for larger sizes.

CAMP, PUBLIC OR PRIVATE: Any area or tract of land used or designed to accommodate two or more travel trailers or two or more camping parties, including cabins, tents, or other camping outfits.

CEMETERY: Land used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

CERTIFICATE OF COMPLIANCE: A document issued by signature of the Department certifying that a proposed development or property complies with the terms and provisions of this Ordinance; such certification shall not constitute an authorization of other permits, approvals, and certifications as may be required by this Ordinace and other ordinances and codes of the city. [See also *Article 7.4 Certificate of Compliance*.]

CERTIFICATE OF OCCUPANCY: A document signed by the Building Commissioner allowing the occupancy or use of a building or structure and certifying that the building, structure, or use has been constructed in compliance with all the applicable codes and ordinances.

CHILD CARE CENTER: A building, other than the operator's primary place of residence, where children receive child care from a provider: (1) while unattended by a parent, legal guardian, or custodian; (2) for regular compensation; and (3) for more than four hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays and holidays. The child care provider must hold a valid license from the State of Indiana. It is intended that Child Care Centers be classified as commercial uses and be located in commercial zoning districts. Childcare uses on abutting lots operating in affiliation with each other shall constitute a Child Care Center.

CHILD CARE HOME: A residential structure in which at least six (6) children receive child care from a provider and where the residential structure is the primary residence of the provider, as further defined in *IC 12-7-2-28.6*.

CITY: The City of New Albany, Floyd County, Indiana and the unincorporated two-mile fringe area within the jurisdiction of the New Albany Plan Commission.

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CLINIC, PAIN MANAGEMENT: A facility in which:

a. The primary component of practice is the treatment of pain; and
b. The majority of patients are prescribed controlled substances or other drugs. No drugs are administered or dispensed at this location. A pain management clinic operated at or by a public or private hospital is exempt from this definition.

CLUB, CIVIC: Buildings and facilities, owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried-on as a business.

CLUB, PRIVATE: Buildings and facilities owned or operated by a corporation, association, person or persons catering exclusively to members and their guests for social, intellectual, or recreational purposes that are conducted for profit; includes a lodge, swim clubs, etc.

CODE ENFORCEMENT OFFICER: An employee designated by the Director to perform inspections of rental housing units under *Section 6.17(D)* or a private inspector registered with the City as a qualified rental housing inspector who certified by the State of Indiana as a Licensed Home Inspector.

COLLECTOR (STREET): A Street identified on the Thoroughfare Plan intended for relatively low-speed and low-volume to provide for short trips intended for collecting trips from local streets and distributing them to Arterial Streets.

COLLEGE OR UNIVERSITY: A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This may also include community colleges that grant associate or bachelor degrees or certificates of completion in business or technical fields.

COMMERCIAL CENTER: A building or combination of buildings containing three (3) or more tenants, stores, service establishments, offices or other permitted uses which are planned, platted, organized, or managed to function as a unified whole and shares one or more of the following: (1) vehicular access; (2) Parking Areas; (3) signage; (4) landscaping; or (5) design theme; and/or is platted as part of a Subdivision or coordinated shopping center, which may include Outlots for lease or for sale.

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COMMERCIAL USE, INDIVIDUAL: Any building or combination of buildings with a single tenant, store, service establishment, office or other permitted nonresidential use and not part of a Commercial Center.

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COMMERCIAL ESTABLISHMENT: Any place where admission, services, performances, or products are provided for or upon payment of any form of consideration.

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COMMON AREA: Land identified on a Plat or Development Plan that is held in common or single ownership, typically by a property owners' association, which is designed and intended for the common use and enjoyment of the residents or tenants of the development and not reserved for the exclusive use or benefit of an individual tenant or Property Owner. Such areas may include complementary structures and improvements.

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COMMON ELEMENTS: The areas of a rental housing property accessible to all occupants, including, but not limited to, lobbies, laundry rooms, recreation areas, common kitchens, hallways, stairs, courtyards, light wells, garbage areas, boiler rooms, storage rooms, basements, roof areas, walkways, or parking areas.

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

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COMPREHENSIVE PLAN: The New Albany Comprehensive Plan, as adopted and amended in accordance with *I.C. 36-7-4-500* et seq.

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CONDOMINIUM: Real estate lawfully subject to *I.C. 32-25*, by the recording of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

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CONFERENCE CENTER: One or more structures accommodating multiple assembly, meeting, and/or exhibit rooms, and related support facilities (e.g., kitchens, offices, etc.)

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CONSERVATION EASEMENT: An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition retaining such areas as suitable habitat for fish, plants, wildlife, or maintaining existing land uses.

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COUNCIL: The Common Council of the City of New Albany, Floyd County, Indiana.

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CONVENIENCE STORE: A small retail establishment, usually located within or associated with another use, that offers for sale convenience goods, such as prepackaged food items, tobacco, periodicals, and other household goods. Such stores may have on-site service of food or drink for immediate consumption.

CONVENT, MONASTERY: A building or group of buildings designed to provide group housing for persons under religious vows or orders.

CRITICAL ROOT ZONE (CRZ): A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for trees to remain healthy and calculated at one (1) foot of radial distance per one (1) inch of tree Caliper, with a minimum of eight (8) feet.

CUL-DE-SAC: A dead-end Street (public or private) with a single common ingress and egress at one end and one vehicular turnaround at the other end.

Dd

DECORATIVE POLE: A vertical, rigid support that is mounted to the ground, containing ornamental element(s).

DEPARTMENT OF NATURAL RESOURCES (DNR). The Indiana Department of Natural Resources or the Indiana Natural Resources Commission.

DEPARTMENT: The City of New Albany Department of Planning.

DETENTION AREA (OR DETENTION POND): An area of land, naturally or artificially designed, which stores stormwater on a temporary basis and releases it at a controlled rate. A Detention Area may drain completely after a storm event, or it may be a body of water with a fixed minimum and maximum water elevation between runoff events.

DEVELOPER: A person improving or proposing to improve a parcel of land and who may or may not be the Property Owner.

DEVELOPMENT AMENITIES: Neighborhood or development features that provide comfort, convenience, pleasure, and increased quality of life and may include, but are not limited to: clubhouses, gyms, swimming pools, tennis courts, basketball courts, ballfields (soccer, football, etc.), walking/jogging/biking trails, picnic/barbecue group areas, playgrounds, volleyball courts, and racquetball courts; and related facilities and activities integrated into the development's homeowners' or property owners' association.

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DEVELOPMENT: Any human-caused change to improved or unimproved land, including but not limited to: construction of new buildings or other structures; subdivision of land; the relocation of an existing building; the use of land; parking; fences; pools; Signs; Land Disturbing Activity; temporary uses; clearing of land; paving; mining; dredging; filling; grading; paving; excavation; drilling operations. Development does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing of roads or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

DIRECTOR: The Director of the City of New Albany's Department of Planning and the official, designated by the Mayor, authorized to enforce this Ordinance.

DISTRICT, BUSINESS: Shall mean and refer to individually, or collectively, the Highway-Oriented Commercial District, the Mixed-Use Corridor Commercial District, the Downtown District, the Mixed Use District, and the Institutional District.

DISTRICT, RESIDENTIAL: Shall mean and refer to individually, or collectively, the Low Density Residential District, the Mixed Density Residential District, and/or the Traditional Residential District.

DISTRICT, ZONING: Areas of land delineated on the Zoning Map subject to the terms and provisions of this Ordinance or which may hereinafter be created subsequent to the enactment of this Ordinance for which regulations governing the area, height, use of buildings, or use of land, and other regulations relating to development or maintenance of existing uses or structures, are uniform. [See also *CHAPTER 4: ZONING DISTRICTS*.]

DRIPLINE: A vertical line extending perpendicularly from the ground to the outermost edges of a tree canopy or shrub branches.

DRIVE-IN RESTAURANT: A food service establishment where food is consumed on the premises outside of fully enclosed buildings or structures.

DRIVEWAY: A private vehicular way, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel or Lot in which it is located. A Driveway is not a Right-of-way or Street (public or private).

DWELLING, DUPLEX: A multi-family structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and

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floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units, each Dwelling Unit being a minimum of twenty-three (23) feet wide. For additional information regarding the Duplex building type, refer to *Section 6.5(D)(4)*.

DWELLING, EFFICIENCY UNIT: A Dwelling Unit consisting of one (1) principal room, including sanitary, cooking, living, sleeping facilities, and/or dining alcove.

DWELLING, FOURPLEX: A building containing four (4) Dwelling Units, each Dwelling Unit being a minimum of twenty-three (23) feet wide.

DWELLING, MULTI-FAMILY: A Dwelling Unit located within a building typically designed to accommodate three (3) or more Dwelling Units or part of a mixed use building with each Dwelling Unit living independently of another. Multifamily Dwellings include apartments, Condominiums, Group Homes, Boarding Houses, dormitories, etc., but does not include Quadraplex, Triplex, Duplex or Rowhouse Dwellings.

DWELLING, ROWHOUSE: A Dwelling Unit with a private entrance, which is part of a building with Dwelling Units attached in a linear arrangement, and having a totally exposed front and rear walls, used for access, light, and ventilation. For additional information regarding the Rowhouse building type, refer to *Section 6.5(D)(5)*.

DWELLING, SINGLE-FAMILY: A building containing one (1) Dwelling Unit being a minimum of twenty-three (23) feet wide, which does not share a common wall with any other Dwelling Unit and is surrounded on all sides by outside areas located on the same Lot (e.g., detached building). For additional information regarding the Single-Family Detached House: Medium building type, refer to *Section 6.5(D)(1)*. For additional information regarding the Single-Family Detached House: Compact building type, refer to *Section 6.5(D)(2)*.

DWELLING, TRIPLEX: A building containing three (3) Dwelling Units, each Dwelling Unit being a minimum of twenty-three (23) feet wide.

DWELLING: A building or portion thereof used primarily as a place of complete, independent living facilities for one or more persons, including permanent provisions for living, eating, cooking, sanitation and one or more separate bedrooms for sleeping. A dwelling does not include hotels, motels, lodging or boarding houses or tourist homes.

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EASEMENT: A legal interest in land, granted by a Property Owner to another person or entity, which allows the use of all or a portion of the Property Owner's land for the purpose stated therein, which may include but is not limited to: access, signage, landscaping, conservation, drainage, temporary construction, utilities, or other infrastructure.

EDUCATIONAL INSTITUTION: Public or parochial pre-primary, primary, grade, junior high, secondary, high, preparatory school or academy; junior college, College or University, if public or founded or conducted by or under the sponsorship of a religious or charitable organization. This definition does not include trade or business schools or colleges.

Established Yard: See *YARD, ESTABLISHED FRONT* or *YARD, ESTABLISHED REAR* or *YARD, ESTABLISHED SIDE*.

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FAMILY: An individual or a group of people all of whom are related to each other by blood, marriage, or legal adoption, and any other dependent children of the household. Family also includes a group of no more than three adults, and their dependent children, living together as a single housekeeping unit in a Dwelling Unit. Family does not include a group occupying a hotel, motel, club, nursing home or fraternity or sorority house.

FARM STAND: A temporary structure, capable of being dismantled or removed, from which agricultural products (i.e. fresh fruits, vegetables, flowers, herbs, plants, pies, honey, jam, jelly) produced on the premises are seasonally sold.

FARMERS MARKET: An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages dispensed from booths located on-site.

FIBER CEMENT SIDING: A composite material made of cement, sand, cellulose fiber and various additives mixed with water and manufactured into an exterior siding material.

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.

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FLOOD PLAIN. The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The Flood Plain includes both the floodway and the floodway fringe districts.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOOR AREA PER DWELLING UNIT: The total area on all floors used exclusively by one family for dwelling purposes, measured on horizontal planes.

FLOOR AREA, GROSS: The sum area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

FRONTAGE ROAD: A Right-of-way which runs to and characteristically, but not necessarily, parallel to a limited access Right-of-way.

FUNERAL HOME OR MORTUARY: An establishment in which the deceased are prepared for burial or cremation. The facility may include a crematorium, a chapel for the conduct of funeral services, spaces for funeral services and informal gatherings, or display of funeral equipment.

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GARAGE, PRIVATE: An accessory designed to store no more than four (4) motor vehicles per family, no more than one (1) of which may be a commercial vehicle. A garage designed to store not more than two (2) motor vehicles for each family housed in an apartment shall be classified as a private garage.

GARAGE, PUBLIC: Any building or premises, except those defined herein as a private garage, used for the storage or care of motor vehicles, or where the vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GARBAGE: All putrescible animal solid, vegetable solid and semi-solid wastes resulting from the processing, handling, preparation, cooking, serving or consumption of food or food materials.

GARDEN AND LAWN CENTER: A place of business or portion of a business where retail and wholesale products and produce are sold to the consumer and may include plants, nursery products and stock, potting soil, hardware,

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power equipment and machinery, hoes, rakes, shovels, and other lawn, garden and farm variety tools and utensils.

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GASOLINE SERVICE STATION: Any building or land used for the retail sale of automobile fuels and lubricants and which typically includes fuel pumps and underground storage tanks. This use does not include the sale of automobiles.

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GLARE: Light emitted by a luminaire at an intensity that causes a reduction in visibility, eye fatigue, or in extreme cases momentary blindness.

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GOLF COURSE: A tract of land providing a private or public golf recreation area, including at least nine (9) holes, designed for executive or regulation play, and including supporting facilities as accessory uses (e.g., practice facilities, clubhouse, locker rooms, maintenance buildings, recreational facilities, related retail sales such as a pro shop and restaurant), but excluding miniature golf.

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GOVERNMENTAL SERVICE OR USE: Any use of land or building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal, without reference to the ownership of the building or of the property upon which it is situated and used by the public for the transaction of public or quasi-public business. Such uses shall include, but are not limited to: a city hall, fire station, license branch, library, and police station. This use does not include Educational Institutions.

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GRADE: The average level of the finished surface of ground adjacent to the exterior walls of the building.

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GREENHOUSE OR NURSERY: The use of land and buildings for the growing or production of fruits, vegetables, flowers, nursery stock, including ornamental plants and trees, and cultured sod as a business activity that then sells as retail and/or wholesale only the plants that are grown on the Lot. This definition does not include Agritourism Uses or landscaping contractor uses [see ***Office, Construction Trade***].

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GROUND FLOOR AREA: The area of a building in square feet, as measured in a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of terraces, garages, and exterior stairways.

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GROUNDCOVER: Ornamental plants growing less than two (2) feet in height at maturity and used as an alternative to grass.

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GROUP HOME: The use of land and a building for the purposes as defined by *I.C. 31-9-2* and regulated by *I.C. 31-27-5*, as amended.

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HEALTH, FITNESS OR EXERCISE CENTER: An establishment that provides exercise facilities such as running, jogging, aerobics, weight lifting, court sports, and swimming, as well as locker rooms, showers, massage rooms, saunas and related accessory uses.

HELIPORT: An area used or intended to be used for the landing and takeoff of helicopters and may include any or all of the areas of buildings appropriate to accomplish these functions.

HOME BUSINESS: An Accessory Use incidental and secondary to the use of a property as a Dwelling Unit and which use complies with the standards of the Zoning District in which the property is located and complies with the standards set forth in *Article 6.9 Home Business Standards*.

HOME GARAGE SALES: The conducting of home rummage sales for the benefit of the family or a group of families.

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

HOSPITAL: An institution licensed by the State Board of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the facility, provided such institution is operated by or treatment is given under direct supervision of a licensed physician. Types of hospitals may include general, mental, chronic disease and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer, rehabilitation, substance abuse treatment, and the like.

HOTEL: A building or group of buildings in which lodging is provided and offered to the public for compensation and which is open to transient guests and with access to units primarily from interior lobbies, courts, or hallways.

HOUSE OF WORSHIP: Any church, synagogue, mosque, temple or building that is used primarily for religious worship and related religious activities.

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IMPROVEMENT LOCATION PERMIT: A document signed by the Director stating that a proposed Improvement complies with the provisions of this Ordinance. [See also ***Article 7.8 Improvement Location Permit***.]

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IMPROVEMENT: Any building, structure, parking facility, fence, gate, wall, work of art, underground utility service, Land Disturbing Activity, or other object constituting Development, a physical alteration of real property, or any part of such alteration.

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IN-LINE TENANT: Any tenant within a multi-tenant building where each individual tenant has an exterior storefront and public entrance for its patrons.

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INDEPENDENT COMMERCIAL PARKING: A structure or open area, other than a street or alley, designed for or used for the parking of more than four motor vehicles, when available for public use whether free or for compensation as an accommodation for clients or customers.

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INDUSTRY, HEAVY: Manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. Such uses frequently require outdoor or exposed work or storage. Example uses include, but not are limited to: thermal, electric, steam, and atomic power plants; coke manufacturing; oil processing, refining and manufacturing; hazardous waste facility; manufacturing of explosive, matches and fireworks; production of emulsified asphalt and preparation of asphaltic concrete paving materials; reduction plants; bulk storage of petroleum products; manufacturing of chemicals and gasses; ice and coal stations; manufacturing and processing of tar, tar paper products.

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INDUSTRY, LIGHT: Research and development activities, manufacturing, compounding, processing, packaging, storage, assembly, fabrication, processing, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building using processes that ordinarily do not create noise, smoke, fume, odors, glare or health or safety hazards outside of the building or Lot and shall not include any use that is otherwise listed specifically in this Ordinance. Example uses include, but are not limited to: leather products manufactured from finished leather; casket and casket supplies; crating and packaging service; exterminators; glass fabrication

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and installation; newspaper publishing; storage and transfer (household goods); manufacturing and/or assembly of storm doors, windows, awnings, siding, cabinets, can or containers, communication equipment, household appliances, marine equipment, office equipment and machinery, cloth products from finished cloth, furniture, glass and glass products, jewelry without retail, musical instruments, optical goods, paper boxes and paper products from finished paper, portable household appliances, electric hand tools, railroad equipment (including repair and service), recording instruments, tools, implements, machinery, mattress and upholstering, pharmaceutical, advertising and business signs, medicine and cosmetics; assembly operations of pre-manufactured parts, components; assembly, repair and manufacture of light component parts; taxidermist; machine, welding, tool and die shops; stamping and fabricating metal shops; tire recapping; malt products, brewery, distiller of liquor and spirits; bottling of alcoholic and non-alcoholic beverages; secondary food processing and packaging of products not produced on site.

INDUSTRY, MEDIUM: The assembly, fabrication or processing of goods and materials using processes that ordinarily have greater than minimal impacts on the environment, or that otherwise may not constitute light manufacturing, and which may include open uses and outdoor storage that otherwise comply with this Ordinance. Example uses include, but are not limited to: creosote manufacturing and treatment; construction and manufacturing of outdoor advertising signs; manufacturing of cement, lime, or gypsum, detergents and soaps, boiler tanks and glue; concrete mixing, batch plant; production of concrete blocks, shapes, cinder blocks, etc.; malt products, brewery, distiller of liquor and spirits; manufacturing, engraving and sales of cemetery monuments and tombstones; structural steel fabricating; foundries; open hearths and blast furnaces; laundry and dry cleaning plants; leather curing and tanning.

INSTITUTIONAL USE: Educational Institutions, Religious Institutions, Public Safety and Service Uses, Parks and other similar uses, as listed under Cultural & Institutional Uses in ***Article 5.2 Use Table***.

INTERESTED PARTY: Any persons requiring notice of a public hearing or meeting in accordance with this Ordinance, Indiana Code, the Rules of Procedure of the Plan Commission, the Rules of Procedure of the Board of Zoning Appeals, or other individuals or entities as deemed appropriate by the Director.

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KENNEL: Any lot or premises on which five or more dogs or other domestic pets are kept for the purpose of raising, boarding or training for a fee, or for sale.

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LAMP: A component of a luminaire that produces light. A lamp includes a bulb and its housing.

LAND DISTURBING ACTIVITY: Any man-made change of land surface area, including clearing, cutting, excavating, filling, grading, or any other activity that alters land topography or vegetative cover, not including Agricultural Uses or gardening.

LANDSCAPE PLAN: A plan which depicts compliance with and meets the requirements of ***Article 6.10 Landscaping Standards***.

LANDSCAPING: The improvement of land with a combination of living plants (i.e. grasses, shrubs, trees, and/or other plant materials) and nonliving materials (i.e. mounds/berms, rocks, mulch, walls, fences, and/or ornamental objects) designed and arranged to produce an aesthetically pleasing effect.

LIBRARY: a collection of sources of information and similar resources, made accessible to a defined community for reference or borrowing. It provides physical or digital access to material.

LIGHT EMITTING DIODE (LED): A semiconductor device that emits visible light when electric current passes through it.

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 6.11 Lighting Standards***.

LIQUOR STORE: A facility for the sale of package liquor for off-premises consumption.

LIVESTOCK: Domesticated animals such as horses, mules, ponies, dairy and beef cattle, sheep, goats, swine, poultry, and other similar animals which are kept for personal or Agricultural Use, or raised for sale and profit.

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LIVE-WORK: A live/work unit is defined as a single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident.

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LIVING AREA: The floor area of a Dwelling Unit above the finished grade of a building, measured from the outside dimensions of the building's exterior walls, exclusive of Basements, open porches, breezeways, terraces, garages, and exterior stairways.

Ff

LOADING AND UNLOADING BERTHS: The off-street area required for the receipt or distribution by vehicles of material or merchandise.

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LOCAL CONTACT REPRESENTATIVE: A designee of the Owner of a rental housing property who has full authority to act on behalf of the Owner for the purposes of ***Article 6.17***, including the acceptance of all notices from the City. The Local Contact Representative must be available to accept telephone calls at all times a Rental is occupied. The Local Contact Representative must have a key to access the Rental(s) and be capable of being physically present at the Rental(s) within three (3) hours to address issues unless arrangements are made for another person to address issues within the same time frame. The Owner of the rental housing property may act as the Local Contact Representative.

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LOCAL STREET (LOCAL ROAD): A Street which is intended for low-speed and low-volume to provide for vehicular access from Collectors through Subdivisions, neighborhoods, and business areas to abutting property.

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LOT: A parcel, tract or area of land that fronts on a street or place. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder, or it may include parts of or a combination of the parcels when adjacent to one another and used as one. In determining lot and boundary lines, no part thereof within the limits of a street shall be included.

Tt

LOT AREA: The total of the area, measured in a horizontal plane, within the lot lines of a lot.

Uu

Vv

LOT, CORNER: A Lot at the junction of and abutting two (2) or more intersecting Streets (public or Private Streets).

Ww

LOT COVERAGE: The percentage of the lot area covered by the building area.

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LOT DEPTH: The horizontal distance between the Front and Rear Lot Line, as measured in the general direction of the Side Lot Line.

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LOT FRONTAGE: The length of the Front Lot Line.

LOT GROUND LEVEL:

a. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.

b. For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.

c. For buildings having no walls adjoining the street, the average level of the ground adjacent to the exterior walls of the building.

LOT, INTERIOR: A Lot other than a Corner Lot or Through Lot.

LOT LINE: The property line bounding the Lot.

LOT LINE, FRONT: A Lot Line abutting a Street (public or Private Street). In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, unless otherwise determined by the Director.

LOT LINE, REAR: The Lot Line that is opposite the Front Lot Line and farthest from it, except that for a triangular or other irregularly shaped Lot, the line ten (10) feet long, parallel to the Front Lot Line, and wholly within the Lot, that is farthest from the lot line.

LOT LINE, SIDE: A Lot Line other than a Front Lot Line or Rear Lot Line.

LOT LINE, STREET SIDE: A lot line, other than a Front Lot Line or Rear Lot Line, that abuts a street. Street Lot Line does not include lot lines that abut an alley.

LOT OF RECORD: A Lot which is part of a subdivision, the plat of which has been recorded in the Office of the Recorder of Floyd County, Indiana, or a parcel of land, the deed to which has been recorded in the Office of the Recorder of Floyd County, Indiana, prior to the date of passage of this Ordinance.

LOT, THROUGH: A Lot having Lot Frontages on two (2) parallel or approximately parallel Streets (public or Private Street).

LOT WIDTH: The dimension of a Lot, measured between Side Lot Lines on the Building Setback Line.

LUMEN: A unit of measurement of luminous flux. One (1) foot-candle is equal to one (1) lumen per square foot

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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

MASONRY MATERIAL: Brick, limestone, natural stone, manufactured stone (e.g., Cultured Stone®), or a combination of the same, bonded together with a mortar to form a wall, buttress, or similar mass. Fiber Cement Siding is not a Masonry Material for purposes of this Ordinance.

MASSAGE PARLOR: Any building, room, place, or establishment, other than a regularly licensed hospital or dispensary, where nonmedical and nonsurgical manipulative exercises or massages are practiced on the human body, with or without the use of mechanical or bath devices, by anyone not a physician, osteopath, chiropractor, podiatrist, or physical therapist duly registered with and licensed by the state. The term shall also include any school or therapy clinic following the same general description, which school or therapy clinic is not duly registered with and licensed by the state.

MASSAGE: Any method of treating the superficial soft parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading, or tapping with the hands or instruments.

MATERIAL RECYCLING FACILITY (MRF): A business or governmental unit that collects, separates, or otherwise processes solid waste secondary materials for which there is a generally accepted market for such products.

MEDICAL CENTER: An establishment where patients are admitted for special study and treatment by two or more licensed physicians, dentists, chiropractors, and their professional associates, practicing medicine together.

MEDICAL FACILITIES: Those uses concerned with the diagnosis, treatment, and care of human beings. These include, but are not limited to, hospitals, dental services, medical services or clinics, nursing, and convalescent homes.

MINERAL EXTRACTION: Mining, quarrying, or removing earth materials.

MOBILE HOME, CLASS A: A Dwelling Unit, designed and built in a factory after January 1, 1981, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and

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Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.) and that exceeds twenty-three (23) feet in width and nine hundred fifty (950) square feet of Living Area.

MOBILE HOME, CLASS B: A factory assembled Dwelling Unit, other than a Class A Mobile Home, that is transportable and intended for year around occupancy and is designed either for transportation on highways or for temporary or permanent placement on a foundation on a Lot or in a mobile home park. This definition is not intended to apply to other modular housing or prefabricated housing panels, trusses, or other sub-elements, nor any other Dwelling Unit which is defined as a Manufactured Home by this Ordinance.

MOBILE HOME PARK: A parcel of land which has been planned and improved for the placement of Manufactured Homes for residential use and complies with the minimum standards established by this Ordinance.

MOBILE HOUSING SALES: Establishments primarily engaged in the retail sale of new and used mobile homes, and new modular homes, including incidental storage.

MODEL HOME: A Dwelling Unit temporarily used for display purposes as an example of Dwelling Units available or to be available for sale or rental in a particular Subdivision or other residential development approved by the City. Model Homes may also incorporate sales or rental offices for Dwelling Units within the development and may include temporary trailers. [See also ***Article 6.21 Temporary Uses and Events***.]

MODULAR HOME: A dwelling unit constructed on-site in accordance with the Building Code, composed of components substantially assembled in a manufacturing plant, and transported to the building site for final assembly on a permanent foundation. The dwelling is not equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle and does not have any wheels or axles permanently attached to its body or frame.

MOTEL: A building or a detached building used as dwelling units containing bedroom, bathroom and closet space, and each unit having convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients.

MOTOR TRUCK TERMINAL: Any premises used by a motor freight company as a carrier of goods, which is not the origin or destination point of goods being transported, for the purpose of storing, transferring,

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loading, and unloading goods, but excluding loading and unloading of freight accessory to an otherwise permitted use on the site.

MULTI-FAMILY COMPLEX: A lot or parcel to be developed for use with two or more multi-family dwellings under one ownership.

MULTI-FAMILY DWELLING: A building designed for or occupied by two or more families, exclusively for dwelling purposes.

MUSEUM: A room or building primarily for exhibiting, or an institution in charge of, a collection of books, or artistic, historical, or scientific objects.

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NATURAL AREAS: An area possessing one or more of the following environmental characteristics: steep slopes as defined in **Section 4.11 (F) (2) Open Space**; Flood Plain; land incapable of meeting percolation requirements; Riparian Corridors; mature stands of Native Vegetation; aquifer recharge and discharge areas; wetlands and wetland transition areas (as regulated by State and Federal agencies); and Significant Wildlife Habitats.

NIGHTCLUB: An establishment operated as a place of entertainment, characterized by any or all of the following as a primary use: (1) live, recorded, or televised entertainment, including but not limited to performance by magicians, musicians, or comedians; (2) dancing.

NONCONFORMING BUILDING (OR NONCONFORMING STRUCTURE): A Building, Structure, or portion thereof, which uses does not conform to the regulations of the Zoning District in which it is located. [See also ***CHAPTER 9: NONCONFORMING REGULATIONS***.]

NONCONFORMING SIGN: A Sign which does not conform to the regulations of this Ordinance, or any amendment thereto. [See also ***CHAPTER 9: NONCONFORMING REGULATIONS***.]

NONCONFORMING USE: A use which does not conform to the regulations of the Zoning District in which it is located. [See also ***CHAPTER 9: NONCONFORMING REGULATIONS***.]

NUDITY or **STATE OF NUDITY:** A state of dress or undress that exposes to view (i) less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed; or (ii) human male

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genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.

NURSING HOME: A facility licensed by the State Board of Health, which: (1) provides nursing services on a continuing basis; (2) admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; (3) provides for licensed physicians services or supervision; (4) maintains medical records; and (4) may also provide other and similar medical or health service provided that no occupant requires physical restraint within the facility. A Nursing Home may include similar uses such as convalescent homes, maternity homes, rest homes, homes for the aged, and the like, if such use complies with the above criteria.

Oo

OCCUPANT: An individual living in, sleeping in, or otherwise having a possession of space.

OFFICE, CONSTRUCTION TRADE: Electrical contractors, general contractors or construction offices, home remodeling companies, septic system contractors, heating and cooling contractors, painting contractors, landscaping contractors, and plumbing contractor offices, and the like, where such use is typically characterized to include some or all of the following aspects: storage of product for sale or for installation, storage of materials related to the business, storage of equipment or other implements, office space, parking of company vehicles, service areas for equipment and vehicles, warehouse space, showroom space, and/or retail sales.

OFFICE, GENERAL SERVICES: Employment services, temporary employment agency, investment firm, membership associations, secretarial service, consumer service offices, publishing corporate offices, reading clinic, service organization, title company, trade office, tailor or seamstress, interior decorator, philanthropic or charitable institution and travel agency, and the like.

OFFICE, MEDICAL: Dental clinic, medical clinic, optical clinic, general physician's office, hospital (minor), related labs and the like.

OFFICE, PROFESSIONAL: An office used by members of a recognized profession such as accountants, architects, artists, Art Studio, engineers, lawyers, musicians, physicians, surgeons, pharmacists, and real estate or insurance agents and brokers.

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OFFICE: A building used primarily for conducting the affairs of a business, profession, service, industry, government, or like activity, which may include ancillary services for office workers, such as a restaurant, coffee shop, or newspaper or candy stand.

ONE AND TWO FAMILY DWELLING CODE: The nationally recognized model building code adopted by the Indiana Administrative Building Council (ABC) as a statewide code for the construction of one- and two-family dwellings in the state and which includes those supplements and amendments promulgated by the ABC.

OPEN SPACE: Land used for recreation, resource protection, amenity, and/or screening. Open Space may include Natural Areas, Parks, Development Amenities, Recreational Facilities, railroad corridors, Buffer Yards, public art spaces, interpretative sites, and performing art spaces. Open Space does not include medians in Rights-of-way or any area of land included on a Lot used for another primary use such as residential or commercial.

ORIGINAL ART DISPLAY: A hand-painted work of visual art that is either affixed to or painted directly on the exterior wall of a structure with the permission of the property owner. An original art display does not include: mechanically produced or computer-generated prints or images, including but not limited to digitally printed vinyl; electrical or mechanical components; or changing image art display.

OUTDOOR STORAGE: The keeping of any inventory, goods, material, or merchandise, including raw, semi-finished, and finished materials for any period of time, and as an accessory to the primary use of the establishment located outside a building.

OUTDOOR SALES DISPLAY: Area used for display of merchandise or goods available for purchase from the business located outside of a building. Said use shall be allowable only as an accessory to the primary use of the establishment.

OWNER: A person holding legal or equitable title to the Premises. An Owner may designate an agent to perform duties or receive notice under this Article.

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PARK: Any land used or designated as an area for recreational activities, including but not limited to, playgrounds, nature trails, swimming pools, athletic fields, basketball, baseball, tennis courts, walking paths or similar public land within the city.

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PARKING AREA: Any public or private land area designed and used for parking more than four (4) motor vehicles, and shall include garages, Driveways, Parking Spaces, drive aisles and areas of Streets legally designated for parking.

PARKING SPACE (OFF-STREET, ONE): A space, other than on a street or alley, designed for use or used for the temporary parking of a motor vehicle.

PARKING SPACE: An area designed or used for parking a motor vehicle which complies with ***Article 6.16 Parking and Loading Standards***.

PASSENGER TERMINAL: A facility for the transfer, pickup, or discharge of people or goods without the long-term storage of such items.

PERIMETER LOT: Shall include Lots abutting:

a. An External Street; or

b. A Common Area abutting an External Street. If a Lot abutting a Common Area is not within the view shed (without regard to landscaping and mounding) from the Subdivision's External Street, then the Perimeter Lot standards shall not apply.

PERMITTEE: A person whose name appears on the permit/application.

PERSON: An individual, proprietorship, partnership, corporation, association, or other legal entity.

PLAN COMMISSION: The New Albany City Plan Commission.

PLANNED UNIT DEVELOPMENT: An area of land that is under unified control and is planned and developed as a whole and containing a single land use or a mix of land uses in a single development operation or a definitely programmed series of development phases. The development may include streets, circulation ways, parking, utilities, buildings, open spaces and other site features and improvements. A Planned Unit Development is built according to approved general and detailed plans including a map showing the entire development area, a text that establishes the uses and development standards to be used and exhibits that further describe the development. A Planned Unit Development includes a program for the provision, operation, and maintenance of any areas, facilities and improvements as will be for common use (see ***Article 7.9 Planned Unit Development***).

PLAT, PRIMARY: The initial plat and plans upon which the approval of a proposed subdivision is based, pursuant to ***I.C. 36-7-4-700 et seq***., and subject to review and approval in accordance with this Ordinance.

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PLAT, SECONDARY: The final plat document in recordable form, pursuant to ***I.C. 36-7-4-700 et seq***., which shall substantially conform with the preceding Primary Plat, or section thereof and subject to review and approval in accordance with this Ordinance.

PLAT: A map or chart that shows a division of land and is intended to be filed for record.

POLYMERIC CLADDING: A siding material constructed of a natural polymer base combined with an inorganic mineral with a natural wood grain embossing, a minimum plank thickness of 0.22", and with an applied board exposure of at least 6-7/8" (e.g., Norandex Everlast™). Polymeric Cladding in not vinyl siding, Fiber Cement Siding or a Masonry Material for purposes of this Ordinance.

POST OFFICE: A facility that contains service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.

PRACTICAL DIFFICULTIES: For Variances of Development Standards, a significant development limitation that:

a. Arises from conditions on the property that do not generally exist in the area (i.e., the property conditions create a relatively unique development problem);
b. Precludes the development or use of the property in a manner enjoyed by other conforming properties in the area;
c. Cannot be reasonably addressed through the redesign or relocation of the development, building, or structure; and,
d. May not be reasonably overcome because of a uniquely excessive cost of complying with the standard.

PREMISES: Premises means the property, lot, parcel, tract, or plot of land together with the buildings, structures, and improvements thereon.

PROPERTY OWNER: An individual, firm, association, organization, partnership, trust, company, corporation, lessor, or any other legal entity who owns, owns in part, or holds title to real property as shown on records of the office of the Floyd County Recorder.

PUBLIC SANITARY SEWER: Any sanitary sewage system maintained by a governmental unit or a utility company that provides off-site treatment and disposal of sewage in which sewage is conveyed by interceptor to a treatment plant and disposed of through means approved by the State (as opposed to an individually owned septic sewer system).

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PUBLIC UTILITY INSTALLATIONS: The erection, construction, alteration, or maintenance by public utilities, municipal departments, commissions, or common carriers of underground, surface or overhead gas, oil, electrical, steam, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utility or municipal departments, commissions, or common carriers, for the public health or safety or general welfare.

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RACETRACK or SPEEDWAY: A measured course where animals or machines are entered in competition against one another or against time, including tracks used only in the training of animals.

RECREATIONAL FACILITY, INDOOR: A recreational land use conducted entirely within a building, including, but not limited to, arcade, art gallery and studio, art center, assembly hall, bowling alley, community center, gymnasium, library, movie theater, museum, performance theater, pool, or billiard hall, skating rink, swimming pool, and/or tennis court.

RECREATIONAL FACILITY, OUTDOOR: A recreational land use conducted outside of a building, characterized by potentially moderate impacts on traffic, the natural environment, and the surrounding neighborhood, including, but not limited to, athletic fields, miniature golf, skateboard park, swimming pools, tennis courts, handball courts, basketball courts, batting cages, and/or trampoline facilities.

RECREATIONAL VEHICLE: A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light duty truck; and, designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

RECYCLING COLLECTOR SYSTEM: A commercial container utilized to collect one or more types of recyclable materials which does not include semi-trailers or single containers utilized by a commercial establishment conducting another business and located in or adjacent to the commercial facility.

REFUSE DUMP: A lot, or any portion of a lot, where refuse is placed.

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REFUSE: All putrescible and nonputrescible solid, and semi-solid wastes, except human excreta, but including garbage, rubbish, ashes, abandoned automobiles, street cleanings, dead animals, offal and solid commercial, industrial and institutional wastes.

REGULARLY FEATURES: The consistent and repeated offering of the identified goods or services to the public as one of the intended profit-making objectives of the commercial enterprise, which enterprise regularly holds itself forth to the public as a place where the goods or services may be obtained.

RENT or RENTAL: To permit, provide for, or offer possession or occupancy of a Dwelling in which the Owner does not reside for a period of time to a person who is not the legal Owner of record, pursuant to a written or unwritten agreement for a fee.

RENTAL HOUSING UNIT: A single unit providing living facilities for one or more persons that has permanent provisions for living, sleeping, and sanitation and is rented or available to rent to tenants.

RESIDENTIAL DISTRICT: A district which permits primarily residential uses (LDR, MDR, AND TR).

RESIDENTIAL FACILITY: A residential facility for individuals with a developmental disability or mental illness that meets the requirements of ***I.C. 12-28-4-7*** and otherwise complies with the Zoning District in which the facility is located.

RESIDENTIAL PROPERTY: Any Lot or other tract of land zoned any of the following Zoning Districts: LDR, MDR, and TR. Also, any Lot or other tract of land zoned in any of the following Zoning Districts and used for residential purposes: HC, MC, D, MO, IND, IST, and OS, or any PUD.

RESTAURANT, FAST FOOD: An establishment whose primary business is the sale of food prepared and available before an order is placed and typically includes most of the following characteristics: (i) the meal is paid for prior to consumption; (ii) patrons often order from a menu board, are served their food at a counter or in a motor vehicle in packages prepared to leave the premises or may be taken to a table or counter to be consumed; (iii) includes a high-volume drive-through facility. Example businesses include drive-in food and beverage establishments and restaurants or cafeterias having less than fifty percent (50%) of gross sales derived from food sales excluding drive-through.

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RESTAURANT, SIT DOWN: An eating establishment that offers full-service that typically includes most of the following characteristics: (i) customer turnover rates around one (1) hour; (ii) generally serve lunch and dinner, some serve breakfast, and some may be open twenty-four (24) hours; (iii) may accept reservations and patrons commonly wait to be seated; (iv) may offer as a secondary service call-ahead ordering and pick-up conveniences; (v) usually served patrons by a waiter/waitress; (vi) order from menus and patrons pay for their meal after they eat.

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RESTAURANT, SPECIALTY: An establishment whose primary business is the sale of a single specialty type of food or beverage that is not considered a complete meal (e.g., bakery with seating, candy shop, delicatessen, custard stand, coffee shop, or ice cream parlor) and the sale of other food, beverages, or merchandise is incidental to the sale of the specialty food or beverage.

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RESTAURANT, TAKEOUT AND DELI-STYLE: An establishment whose primary business is the sale of food and/or beverages that are sold in a form ready for consumption either on or off the premises and typically includes most of the following characteristics: (i) food is typically prepared after ordering; (ii) food may be taken to a table or counter to be consumed; (iii) limited seating (indoor or outdoor) is typically available; (iv) may provide a low volume drive-through facility; (v) the majority of gross sales are derived from call-ahead ordering and/or sales transacted with the patron inside the establishment. Example businesses include pizza and sandwich shops.

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RETAIL, HIGH INTENSITY: Retail businesses that have a high impact on neighboring properties, traffic generation, and public safety. Example businesses include, but are not limited to: building finishes store (large), building supply store (large), department store (large), discount store (large), furniture store (large), grocery/supermarket (large), home electronics/appliance store (large), office supplies (large), sporting goods (large), superstore, variety store (large), auto and motorcycle service uses (e.g., parts sales, tire sales and/or repair, service garage, rust proofing, storage, car wash), pet-oriented businesses (e.g., pet shop, obedience schools, grooming), toy store (large). Generally, a retail business over twelve thousand (12,000) square feet qualifies as large for purposes of this definition.

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RETAIL, LOW INTENSITY: Retail businesses that have a low impact on neighboring properties, traffic generation, and public safety. Example businesses include, but are not limited to: art gallery, banks and savings

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and loans, bakery with limited seating, barber and beauty shop, bookstore (small), camera store, convenience store (small), craft gallery (small), drug store (small), dry cleaning pick-up, flower shop, gift shop, jewelry store, laundromats and self-service dry cleaning, mail order stores, meat market, news dealer and stationary stores. Generally, a retail business under eight thousand (8,000) square feet qualifies as small for purposes of this definition.

RETAIL, MEDIUM INTENSITY: Retail businesses that have a moderate impact on neighboring properties, traffic generation, and public safety. Example businesses include, but are not limited to: antique shop, apparel shop, art and craft supplies, auto part sales, auto rental, bicycle shop, bookstore (large), boutique, building finishes store (small), building supply or hardware store (small), china and glassware shops, coin shop, computer sales, convenience store (large), craft gallery (large), department store (small), discount store (small), drug store (large), fabric shop and upholsters, furniture store (small), furrier shop, gift shop (large), golf/tennis pro shop, grocery/supermarket (small), hobby shops, home electronics/appliance store (small), locksmith shop, liquor sales, luggage store, music/media shop, musical instruments store, office supplies (small), printing and photocopying (small jobs), shoe sales and repair, sporting goods (small), tobacco shop, toy store (small), variety store (small). Generally, a retail business between eight thousand (8,000) and twelve thousand (12,000) square feet qualifies as medium for purposes of this definition.

RETAIL, SPECIAL HANDLING: Retail businesses that primarily sell products that require special handling due to risks to public safety. Example businesses include but are not limited to: pawn shops, massage parlors, tatoo shops, vapor smoke shops, gun sales and hunting stores.

RETAIL, VERY HIGH INTENSITY: Retail businesses that have a very high impact on neighboring properties, traffic generation, and public safety and that inherently operates in whole or part outdoors through sale, display or other general activities. Example businesses include but are not limited to: vehicle and motorcycle sales (new or used), construction vehicle and trailer sales, farm equipment sales, farm implement sales and service, feed sales, heavy equipment sales, tool and light equipment rental, manufactured or mobile home sales, boat and trailer sales and service, travel trailer sales and rental, and semi tractor-trailer cleaning, service, rental, repair and sales.

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RETENTION AREA (OR RETENTION POND): An area of land, naturally or artificially designed, intended to accept runoff from a developed site and discharge it at a limited rate. Flows exceeding the limited rate are stored until they can be released at the limited rate (when the runoff rate into the system drops below the limited rate). A specified volume may be stored indefinitely (retained) until it is displaced by runoff from another storm. Retention Areas may provide multipurpose uses such as recreational areas and Open Space.

RIGHT-OF-WAY: An area of land not on a Lot for public or private use to accommodate a transportation system and necessary utility infrastructure (including but not limited to roads, streets, alleys, water lines, sewer lines, power lines, and gas lines) that is dedicated or deeded to a governmental entity and under the control of a public agency for public use.

RIPARIAN CORRIDOR: The strip of land lying along the sides of natural or man-made bodies of water, including land adjacent to river and stream corridors, but may also include land adjacent to lakes and ponds. Such land is often located within Flood Plains and covered by dense vegetation.

ROW HOUSE: Three or more attached dwellings separated by a party wall or walls on one or more sides (see **Section 6.5(5)**).

RUBBISH: All nonputrescible solid waste, such as cardboard, paper, plastic, metal or glass food containers, rags, waste metal, yard clippings, small pieces of wood, excelsior, rubber, leather, crockery and other waste materials that ordinarily accumulate around a home, business or industry. It shall not include garbage, ashes, bulk refuse, dead animals, hazardous refuse, industrial waste or building waste resulting from the operation of a contractor.

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SALVAGE YARD: Land on which personal property is or may be bought, maintained, sold, exchanged, stored, processed, or handled for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or assorted, including but not limited to: used or salvaged base metal or metals, their compounds or combinations; machinery; used or salvaged rope, bags, paper, rags, glass, rubber, bottles, discarded goods, lumber, millwork, brick; used motor vehicles (including two (2) or more inoperable motor vehicles); machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom. Includes auto wrecking or shredding.

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SANITARY LANDFILL: A lot or any portion of a lot which is used for the disposal of Refuse, utilizing the method of confining the Refuse to the smallest practical area, reducing it to the smallest practical volume, and covering it with a layer of earth daily, or at more frequent intervals.

SCHOOL, TRADE, FINE ARTS, OR COMMERCIAL: A facility which offers instruction specific to an art or other commercial purpose and is not publicly owned or owned or conducted by or under the sponsorship of a religious, charitable, or non-profit organization. Examples include, but are not limited to, schools or academies teaching the arts for profit (e.g., language school, music school, dance studio, gymnastics studio, photography school, cooking classes, karate studio).

SCHOOL, VOCATIONAL OR BUSINESS: A facility which offers instruction specific to a trade or business and is not publicly owned or owned or conducted by or under the sponsorship of a religious, charitable, or non-profit organization. Examples include but are not limited to vocational or industrial training facilities (e.g., culinary arts, barber and beauty schools, business and clerical schools, professional and technical schools, industrials schools and training facilities).

SCHOOL. Any nursery school; day-care facility; preschool; kindergarten school; public or private elementary, middle, or secondary school; special education school; vocational school, junior college or college and university**.** School includes all school grounds.

SCREEN, VEGETATIVE: A Screen of vegetation with dense foliage.

SCREEN: Plants, berms, fences, walls, or any appropriate combination thereof used to visually obscure aesthetically unpleasing features of development or to reduce noise pollution.

SELF-SERVICE STORAGE FACILITY: A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property. This use also includes the covered or uncovered storage of automobiles, recreational vehicles, boats, etc.

SEMI-NUDE or **SEMI-NUDE CONDITION.** The showing of the female breast below a horizontal line across the top of the areola at its highest point, or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel; provided, the areola is not exposed, in whole or in part.

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SEXUAL DEVICE. Any three-dimensional object designed and marketed for stimulation of the male or female human genital organ or anus, or for sadomasochistic use or abuse of oneself or others, and shall include devices such as dildos, vibrators, and penis pumps, and shall also include other devices with non-sex related utility, such as leather whips, straps, and ligatures, when the devices are marketed in a context suggesting sexual or sadomasochistic purposes. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

SEXUAL DEVICE SHOP: A commercial establishment that regularly features Sexual Devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic or any establishment primarily dedicated to providing medical or healthcare products or services.

SEXUALLY ORIENTED BUSINESS: A commercial establishment including, but not limited to, Adult Booths, Adult Cabaret, Adult Entertainment Establishment, Adult Store, or Adult Theater.

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.

SHORT-TERM RENTAL: The rental or subletting of any Dwelling or portion thereof for a term of less than 30 days at a time. Short-term Rental does not include the use of campgrounds, hotel rooms, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinic, mental-health facility, or other health-care related clinic. The term does not include property that is used for any nonresidential use.

SHORT-TERM RENTAL, OWNER OCCUPIED: Property that is the owner's primary residence and is offered to the public as a Short-term Rental.

SHRUB: A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.

SIGN: A name, identification, description, display or illustration, which is affixed to, painted, or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended

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to direct attention to the sign face or to an object, product, place, activity, person, institution, organization, or business. Signs located completely within an enclosed building, and not exposed to view from a street, shall not be considered a sign. Each display surface of a sign or sign face shall be considered to be a sign.

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SIGN AREA: The space enclosed within the extreme edges of the sign for each sign face, not including the supporting structure or, where attached directly to a building wall or surface, the space within the outline enclosing all the characters of the words, numbers, or design.

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SIGN FACE: The entire display surface area of a sign upon, against or through which copy is placed.

SIGN, ELECTRIC: Any sign containing a power source such as electricity, battery, or solar power. This does not include signs illuminated by an exterior floodlight source.

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SIGN, FLASHING: Any illumined sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any moving illuminated sign, except digital billboards, shall be considered a flashing sign.

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SIGN, FREESTANDING: A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including ground mounted signs.

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SIGN, GOVERNMENT: A sign that is constructed, placed, or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

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SIGN, GROUND MOUNTED: A sign which extends from the ground or has support which places the bottom of the sign less than two (2) feet from the ground.

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SIGN, HIGHWAY: A Freestanding sign, Integral Sign or Flat Mounted Sign that is erected and maintained within the view of motorists who are driving on a highway.

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SIGN, INTEGRAL: A sign that is embedded, extruded, or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.

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SIGN, MARQUEE: A canopy or covering structure bearing a signboard or copy projecting from and attached to a building.

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SIGN, OUTDOOR ADVERTISING: A sign which advertises goods, products or services which are not sold, manufactured, or distributed on or from the premises or facilities on which the sign is located.

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SIGN, PORTABLE: Any structure without a permanent foundation or otherwise permanently attached to a fixed location and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its mobility.

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SIGN, PROJECTING: A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

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SIGN, ROOF SIGN: A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascia.

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SIGN, TEMPORARY: A banner, pennant, poster, or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the code official to be displayed for a limited period of time.

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SIGN, FLAT WALL (FACADE-MOUNTED): A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.

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SIGN, DIGITAL BILLBOARD: A sign that is static and changes messages by any electronic process or remote control.

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SIGN, VEHICLE: Any sign attached to or displayed on a vehicle.

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SITE PLAN: A drawing, including a legal description of property involved, which shows the existing and proposed location and size of the following: all buildings, structures and yards; location and dimension of Building Setback Lines and Easements; widths and lengths of all entrances and exits to and from said property; location of all adjacent and adjoining Streets, service facilities, and other improvements such as planting areas.

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SOLID OR LIQUID WASTE TRANSFER STATION: A facility that receives solid or liquid waste products, typically from small collection facilities and commercial vehicles for the purpose of storing, handling, batching and baling, or sorting prior to transferring to another facility.

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SPECIAL EXCEPTIONS: A use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate

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neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted. (See also ***Article 7.12 Special Exceptions***.)

SPECIAL FLOOD HAZARD AREA. Those lands within the jurisdiction of the city that are subject to inundation by the regulatory flood. The **SFHAs** of the city are generally identified as such on the Flood Insurance Rate Map of the city prepared by the United States Department of Homeland Security and dated April 16, 2014. The **SFHAs** of those parts of unincorporated Floyd County that are within the extraterritorial jurisdiction of the city or that may be annexed into the city are also included in the Flood Insurance Rate Map dated April 16, 2014.

SPECIFIED ANATOMICAL AREAS: Any of the following:

a. Less than completely and opaquely covered human genitals; pubic region; buttocks; anus; or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed.
b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.

SPECIFIED SEXUAL ACTIVITIES: Any of the following:

a. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
c. Masturbation, actual or simulated.
d. Human genitals in a state of sexual stimulation, arousal, or tumescence.
e. Excretory functions as part of or in connection with any of the activities set forth in paragraphs (a), (b), (c), or (d) of this definition.

STABLE, PRIVATE: A Stable used for the private use, enjoyment and benefit of the property owner and their guests, but not for remuneration or hire.

STAND-ALONE DRIVE-UP AUTOMATED VENDING MACHINES: Vending machines, whether dispensing items manufactured on-site or off-site, that

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are the principal use of the lot, together with any and all appurtenances thereto.

STORY, HALF: That portion of a building under a sloping gable, hip or gambrel roof, the wall plates on at least two (2) opposite exterior walls of which are not more than three (3) feet above the floor level of such half-story.

STORY: That portion of a building, exclusive of a Basement, between the surface of any floor and the surface of any floor next above it; or, if there is no floor above it, then the space between such floor and the ceiling next above it.

STREET (OR ROAD): Right-of-way designated for use by motor vehicles that is dedicated or deeded to a governmental entity and under the control of a public agency for public use.

STREET, EXTERNAL: A Street identified on the Thoroughfare Plan as an Expressway, Arterial or Collector.

STREET, INTERNAL: A Street or Private Street other than an External Street.

STREET, PRIVATE: A vehicular way established in an access easement or common area affording access to abutting properties for private users of such property and constructed in accordance with this Ordinance and not controlled or maintained by a governmental entity. A Driveway is not a Private Street for purposes of this Ordinance.

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 the roof.

STRUCTURE: Anything constructed or erected which requires location on the ground or attachment to something located on the ground. The term includes a gas or liquid storage tank, a mobile home, or a modular building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

SUBDIVISION: The division of any parcel of land into two (2) or more parcels or Lots or, the combination of two (2) or more smaller parcels or Lots into one (1) Lot, for the purpose of transfer of ownership or development.

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SUBDIVISION CONTROL ORDINANCE: The Subdivision Control Ordinance of the City of New Albany, Indiana, and the Unincorporated Two-Mile Fringe Area within the jurisdiction of the New Albany City Plan Commission.

SUBSTANTIAL ENLARGEMENT: Of a building or structure, the increase by 30% or more of the exterior size, bulk, or dimensions, of a building or structure. Such an enlargement is considered to occur when the first significant alteration of any wall, ceiling, floor, or other structural element of that building or structure commences.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not include improvement of structures to correct existing violations of state or local health, sanitary or safety code requirements or any alteration of a historic structure; provided that, the alteration will not preclude the structure's continued designation as a historic structure.

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TAVERN: A commercial establishment dispensing alcoholic beverages for consumption in the premises in which the service of food is only incidental to the consumption of such beverages. Example businesses include bars, sports bars, billiard parlors, micro-brewery, nightclubs, comedy clubs, dance clubs, bottle clubs, and similar facilities.

TEMPORARY USE AND EVENT: A use or structure which is associated with a holiday or special event, or which is accessory to a permitted use and transitory in nature and complies with ***Article 6.21 Temporary Uses and Events***.

THEATER, INDOOR: An enclosed structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service allowed.

THERAPEUTIC MASSAGE: A health care service involving the palpation and manipulation of the soft tissues of the body in order to improve circulation, reduce stress, increase range of motion, and relieve soft tissue pain. Massage therapy may also involve, but is not limited to, exercises that promote balance in the musculoskeletal, postural, and biomechanical

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systems. Additionally, massage therapy may involve topical applications. The therapeutic purpose of the above is to enhance health and well-being.

TIMBER HARVESTING: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for construction approved under this ordinance.

TRAVEL TRAILER: A vehicle or other portable structure that is designed to move on the highway and designed or used as a temporary dwelling.

TREE PROTECTION: Measures taken to protect existing Trees from damage or loss during and after construction, such as installing temporary fencing, maintaining existing grades within the Dripline, and the use of tree wells. Tree Protection Area: The area within the Dripline identified for preservation.

TREE SPECIMEN, SIGNIFICANT: A Tree noted for some desirable characteristic, such as flower, fruit, size, value to wildlife, uniqueness, or position in the landscape.

TREE WELL: A retaining wall or structure that preserves the existing grade and growing conditions within the Dripline of existing Trees.

TREE, ORNAMENTAL: A small to medium sized Tree, growing approximately fifteen (15) feet to forty (40) feet in height at maturity, planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

TREE, SHADE: A large Tree growing to over forty (40) feet in height at maturity, usually Deciduous and planted to provide canopy cover shade.

TREE, STREET: A Tree planted along a Street or Private Street, which is typically located within or along the Right-of-way in accordance with ***Article 6.10 Landscaping Standards***.

TREE: A large, woody plant having one or several self-supporting stems or trunks and numerous branches.

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UNNECESSARY HARDSHIP: Significant economic injury that:

a. Arises from the strict application of this ordinance to the conditions of a particular, existing parcel of property;

b. Effectively deprives the parcel owner of all reasonable economic use of the parcel; and

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c. Is clearly more significant than compliance cost or practical difficulties.

UPPER STORY RESIDENTIAL: Residential uses located on the second or higher floors of a vertically mixed-use building. Non-residential uses are not permitted above the residential uses in such a building.

USABLE OPEN SPACE: Common or private open space, excluding the following:

a. Required front yards;
b. Areas devoted to parking, driveways, and maneuvering areas;
c. Open space less than 10 feet wide;
d. Patios, balconies, or decks less than seven feet in their minimum dimension.

USE: Any purpose for which a lot, building, or other structure or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Vv

VARIANCE, DEVELOPMENT STANDARDS: A specific approval granted by the Board of Zoning Appeals in the manner set forth by this Ordinance, to deviate from a development standard (such as height, bulk, area) of this Ordinance.

VARIANCE, USE: A specific approval granted by the Board of Zoning Appeals in the manner set forth by this Ordinance, to allow a use otherwise not permitted or specifically regulated by this Ordinance in a particular Zoning District.

VEGETATION, NATIVE: Any plant species that is indigenous to all or part of Floyd County, Indiana and does not include plant species that have been introduced by man.

VEHICLE REPAIR: A facility for the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, or providing collision services, including body, frame, or fender repair and overall painting.

VEHICLE SALES AND SERVICE: Storage and display for sale of more than two motor vehicles and where repair or body work is incidental to the operation of the new or used vehicle sales. Motor vehicle sales includes motor vehicle retail or wholesale sales.

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VEHICLE WASH: The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

VETERINARY/ANIMAL HOSPITAL: An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence.

VIBRATION: Oscillatory motion transmitted through the ground.

VINES: A woody plant that has a spreading pattern of growth typically used on the ground, on walls, and on trellises.

VISION CLEARANCE ON CORNER LOTS: A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision (see 5.23 Vision Clearance).

Ww

WAREHOUSE DISTRIBUTION CENTER: A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

WAREHOUSE, INDOOR MULTI-STORY: A Self-Service Storage Facility located entirely within, and occupying several floors of, a building.

WAREHOUSING AND DISTRIBUTION OPERATIONS: Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

WASTE-RELATED SERVICES: A category of land uses involving waste, recycling, and composting. Uses include receiving solid or liquid wastes from others for transfer to another location, the collection of sanitary wastes, or the production of goods or energy from wastes or the composting of organic material.

WHOLESALE DISPLAY: An establishment or place of business with outdoor display and storage that is primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers,

WHOLESALE TRADE: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general commercial use.

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WILDLIFE HABITAT, SIGNIFICANT: A geographic area which provides food, shelter, nesting sites, territory, and protection for animal, insect, and/or plant species.

WINDOW: Any single window pane or a series of adjacent window panes separated by mullion(s) of three (3) inches or less. Adjacent window panes set at different angles shall constitute separate windows regardless of the width of their mullion separation.

WINDMILLS: An alternative energy device which converts wind energy by means of a rotor to mechanical or electrical energy.

WIRELESS COMMUNICATION SERVICE FACILITIES: Antennas or antenna support structures for private or commercial mobile radio communications, broadcast radio or television; and associated equipment buildings, broadcasting studios, or radio or television business offices.

Xx

Yy

YARD: A space on the same Lot with a Principal Building that is open, unoccupied, and unobstructed by structures other than by steps, walks, terraces, driveways, lamp posts and similar structures, or except as otherwise provided by this Ordinance.

YARD, FRONT: A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lampposts and similar structures, the depth of which is the least distance between the street right-of-way and the building 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 unoccupied other than by an accessory building which does not occupy more than 30% of the required space, the depth of which is the least distance between the rear lot line and the rear of such main building.

YARD, SIDE: A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest part of the main building.

YARD, ESTABLISHED FRONT: A Yard extending across the full width of the Lot between the Principal Building, as built, and the Front Lot Line, the

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depth of which is the least distance between the Front Lot Line and the Principal Building.

YARD, ESTABLISHED REAR: A Yard extending across the full width of the Lot between the Principal Building and the Rear Lot Line, the depth of which is the least distance between the Rear Lot Line and the Principal Building.

YARD, ESTABLISHED SIDE: A Yard extending the full depth of the Lot between the Principal Building and the Side Lot Line or Street Side Lot Line, the width of which is the least distance between the Side Lot Line or Street Side Lot Line and the Principal Building.

Zz

ZONING ADMINISTRATOR: The Zoning Administrator of the City of New Albany's Department of Planning.

ZOO: An area, building, or structures which contain wild animals on exhibition for viewing by the public.

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4.1 ESTABLISHMENT OF DISTRICTS

A. Land within the Jurisdiction of the Plan Commission is hereby classified and divided into the following Zoning Districts:

1. ***Low Density Residential***
2. ***Mixed Density Residential***
3. ***Traditional Residential***
4. ***Highway Oriented Commercial***
5. ***Mixed Use Corridor Commercial***
6. ***Downtown***
7. ***Mixed Use***
8. ***Industrial***
9. ***Institutional***
10. ***Open Space***
11. ***Cemetery***

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4.2 LOW DENSITY RESIDENTIAL

A. Purpose
The Low Density Residential (LDR) district is intended for low density residential dwellings of a Single Family Dwelling type. Directly related types of uses, such as community services and accessory facilities, may also be allowed. This district provides a variety of lot sizes and dwelling types, as well as flexibility in development.

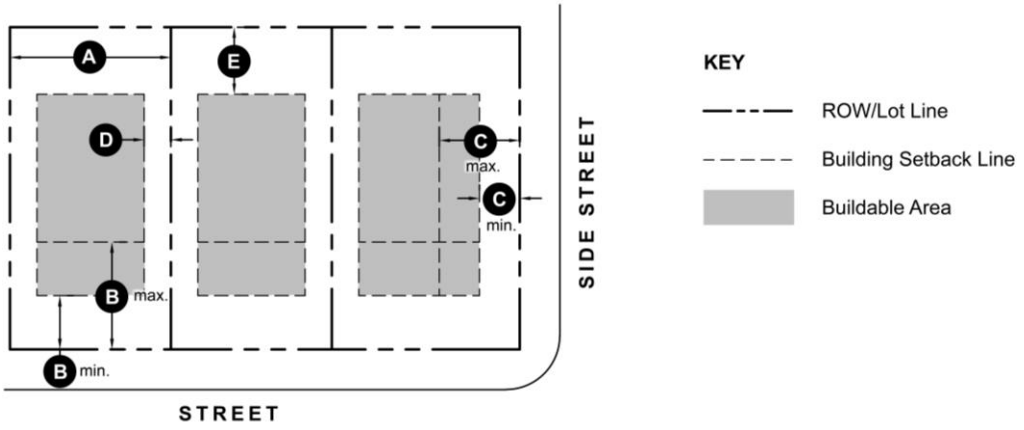

Figure 4-1: Low Density Residential Setbacks

B. Lot Requirements		
Lot Size	7,200 s.f. min.	
Lot Width	60’ min.	A
Lot Frontage/Street Frontage	40’ min.	
C. Building Placement Requirements		
Setback		
Front	20’ min., 40’ max. [1]	B
Street Side	15’ min., 30’ max. [1]	C
Side Yard [2]	10’ min.	D
Rear [3]	25’ min.	E
Distance between Main Building and Accessory Buildings	6’ min.	
Garage Along Any Street	20’ min.	
1 For lots less than 9,200 s.f. No maximum for lots 9,200 s.f and greater.		
[2] Additional 5’ for every story above the first story.		
[3] 15’ min. for attached, single-story screened enclosures.		
D. Building Form Requirements		
Building Height	35’ max.	
Lot Coverage	35% max.	
Ground Floor Area		
1 Story Dwelling	960 s.f. min.	
Dwelling with more than 1 Story	750 s.f. min.	

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E. Parking Requirements
See ***Article 6.16 – Parking Standards***.
F. Miscellaneous Requirements
None
G. Use Table
See ***CHAPTER 5 – PERMITTED USE TABLE***

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4.3 MIXED DENSITY RESIDENTIAL

A. Purpose

The Mixed Density Residential (MDR) district is intended for the broadest range of residential densities from Single Family Dwellings to Multi-Family Dwellings. This district provides a transition from low density residential uses to traditional neighbors and the city's urban core. The appropriateness of uses and building types will depend upon compatibility of new development with the adjacent neighborhood.

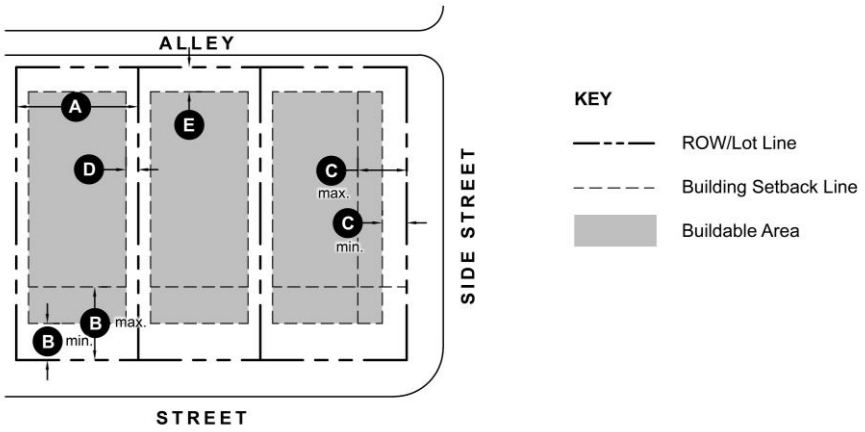

Figure 4-2: Mixed Density Residential Setbacks

B. Lot Requirements		
Lot Size	4,000 s.f. min.	
Lot Width	40' min.	A
Lot Frontage/Street Frontage	30' min.	
C. Building Placement Requirements		
Setback		
Front	15' min., 30' max.	B
Street Side	10' min., 20' max. [1]	C
Side Yard	5' min.	D
Rear [1]	10' min.	E
Distance between Main Building and Accessory Buildings	6' min.	
Garage Along Any Street	20' min.	
[1] Lots 6,500 square feet or less shall have a rear yard setback of 5' minimum.		
D. Building Form Requirements		
Building Height	35' max.	
Lot Coverage	50% max.	
Ground Floor Area		
1 Story Dwelling	740 s.f. min.	
Dwelling with more than 1 Story	600 s.f. min.	

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E. Parking Requirements
See ***Article 6.16 – Parking Standards***.
F. Miscellaneous Requirements
Usable Open Space – For each dwelling unit there shall be provided a minimum of 300 square feet of usable open space, as defined by ***Chapter 3 – Definitions***.
G. Use Table
See ***CHAPTER 5 – PERMITTED USE TABLE***

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4.4 TRADITIONAL RESIDENTIAL

A. Purpose

The Traditional Residential (TR) district is intended for neighborhoods that are primarily residential in character with interspersed local business uses to support the neighborhood. Single family home lots are compact. Multifamily housing types within the district include duplex, triplex, and small scale multifamily buildings. These multifamily buildings should serve as a transitional use buffering single family homes from nearby, intense land uses such as regional commercial or industrial uses. The permitted intensity of new development will depend upon its compatibility with the existing neighborhood, proximity to major streets and public transit, the distance to shopping, and environmental constraints.

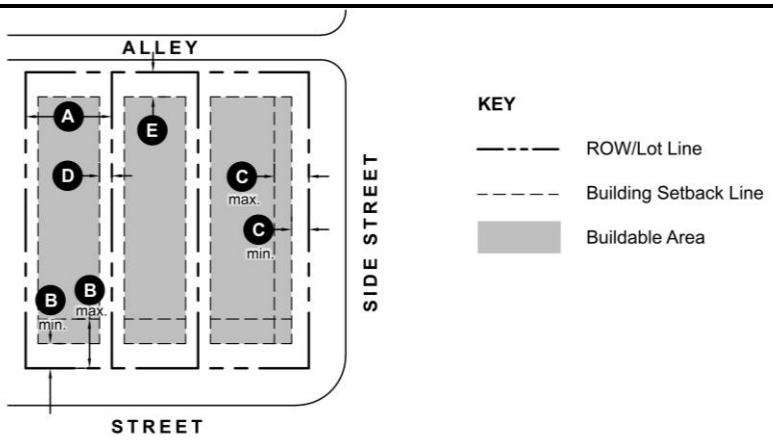

Figure 4-3: Traditional Residential Setbacks

B. Lot Requirements

Lot Size		
Single Family Dwelling	4,200 s.f. min.	
Multi-Family Dwelling	1,800 s.f. min. per dwelling unit	
Lot Width	35’ min.	A
Lot Frontage/Street Frontage	20’ min.	

C. Building Placement Requirements

Setback		
Front [1]	10’ min., 20’ max.	B
Street Side [1]	7’ min., 15’ max.	C
Side Yard [1]	5’ min.	D
Rear [1]	10’ min.	E
Distance between Main Building and Accessory Buildings	6’ min.	
Garage Along Any Street	20’ min.	

[1] The minimum front, street side, side, and rear setback requirements shall be increased by 5 feet for each story over two.

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D. Building Form Requirements	
Building Height	3 stories, 45’ max.
Lot Coverage	50% max.
Ground Floor Area	
1 Story Dwelling	740 s.f. min.
Dwelling with more than 1 Story	600 s.f. min.
Floor Area/Dwelling Unit for Multi-Family Dwellings	450 s.f. plus 150 s.f. per bedroom

E. Parking Requirements

See ***Article 6.16 – Parking Standards***.

F. Miscellaneous Requirements

Usable Open Space – For each dwelling unit there shall be provided a minimum of 300 square feet of usable open space, as defined by ***Chapter 3 – Definitions***.

G. Use Table

See ***CHAPTER 5 – PERMITTED USE TABLE***

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4.5 HIGHWAY-ORIENTED COMMERCIAL

A. Purpose

The Highway Oriented Commercial (HC) district is intended for areas highly visible along major transportation corridors and supports uses appropriate for businesses predominantly servicing a regional customer base. Typical uses include "big box" retail, chain restaurants, drive-through establishments, and supporting retail uses.

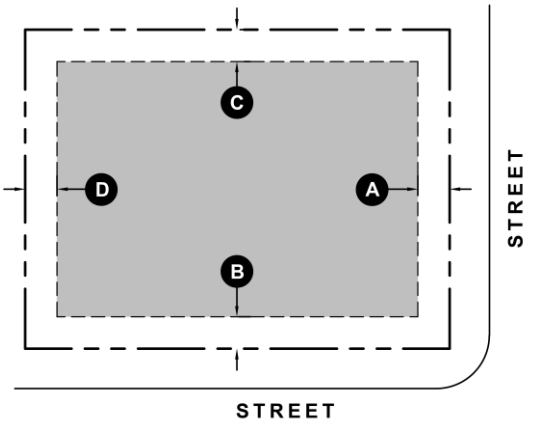

Figure 4-4: Highway-Oriented Commercial Setbacks

B. Lot Requirements

Lot Size	No minimum
Lot Width	No minimum
Lot Frontage/Street Frontage	No minimum requirement for street frontage provided that any lot with street frontage has an unobstructed access easement at least 25' wide.

C. Building Placement Requirements

Setback		
Front	25' min.	A
Street Side		
Where abuts R zone	25' min.	B
All others	No min.	
Side Yard		
Where abuts R zone	25' min.	C
All others	No min.	
Rear		
Where abuts R zone	25' min.	D
All others	No min.	
Distance between Main Building and Accessory Buildings	6' min.	
Garage Along Any Street		
Where abuts R zone	25' min.	
All others	No min.	

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D. Building Form Requirements	
Building Height	35’ max.
Lot Coverage	50% max.

E. Parking Requirements

See ***Article 6.16 – Parking Standards***.

F. Miscellaneous Requirements

The minimum zone size for the Highway Oriented Commercial district shall be two (2) acres. See ***Article 6.10*** for the required landscape buffer where the parcel abuts a residential use.

G. Use Table

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4.6 MIXED-USE CORRIDOR COMMERCIAL

A. Purpose

The Mixed-Use Corridor Commercial (MC) district is intended to accommodate a variety of commercial and residential uses along the primary transportation corridors of the city. The mix of uses should create a high-quality pedestrian-oriented environment within walking distance of local neighborhoods. This district provides a variety of neighborhood-oriented commercial uses including small-scale shopping centers, supermarkets, bakeries, pharmacies, variety stores, restaurants, laundries, and hardware stores. Residential uses are a multifamily building type. Mixed-use buildings are encouraged. Given the various uses and densities within and adjoining the district, new development will need to be compatible with the adjacent uses.

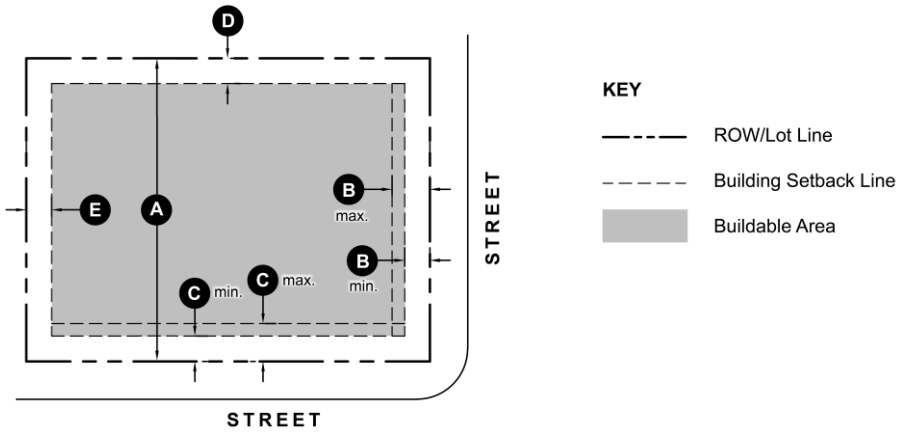

Figure 4-5: Mixed-Use Corridor Commercial Setbacks

B. Lot Requirements

Lot Size		
Residential Uses	1,800 s.f. minimum per dwelling unit	
Non-Residential Uses	No minimum	
Lot Width		
Residential Uses	75’ min.	A
Non-Residential Uses	No minimum	
Lot Frontage/Street Frontage	No minimum requirement for street frontage provided that any lot with street frontage has an unobstructed access easement at least 25’ wide.	

C. Building Placement Requirements

Setback		
Front		
Residential Uses	20’ min., 30’ max.	
Non-Residential Uses adjacent to Residential use and/or district	25’ min., 35’max.	B
Non-Residential Uses all others	No min.	

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Parking Area	30’ min.	
Street Side		
Residential Uses	10’ min., 20’ max.	
Non-Residential Uses adjacent to Residential use and/or district	20’ min., 30’ max.	C
Non-Residential Uses all others	No min.	
Parking Area	20’ min.	
Side Yard		
Residential Uses	5’ min.	
Non-Residential Uses adjacent to Residential use and/or district	20’ min.	D
Non-Residential Uses all others	No min.[1]	
Rear		
Residential Uses	10’ min.	
Non-Residential Uses adjacent to Residential use and/or district	20’ min.	E
Non-Residential Uses all others	No min.	
Distance between Main Building and Accessory Buildings	6’ min.	
Garage Along Any Street		
Where abuts R zone	20’ min.	
All others	No min.	

[1]Side yard setback shall be a minimum of 5’ if the building is not located on the property line.

D. Building Form Requirements	
Building Height	
Residential Uses	40’ max.
Non-Residential Uses	35’ max.
Lot Coverage	50% max.
Floor Area/Dwelling Unit for Multi-Family Dwellings	450 s.f. plus 150 s.f. per bedroom

E. Parking Requirements
See ***Article 6.16 – Parking Standards***.

F. Miscellaneous Requirements
See ***Article 6.10*** for the required landscape buffer where the parcel abuts a residential use.

G. Use Table
See ***CHAPTER 5 – PERMITTED USE TABLE***

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4.7 DOWNTOWN

A. Purpose

The Downtown (D) district is intended for the expansion of residential, employment, governmental, and recreational uses currently found within the downtown area to continue its revitalization and create a high-quality pedestrian-oriented environment. Commercial uses, office space, residential uses, and compatible light industrial uses are appropriate in this district.

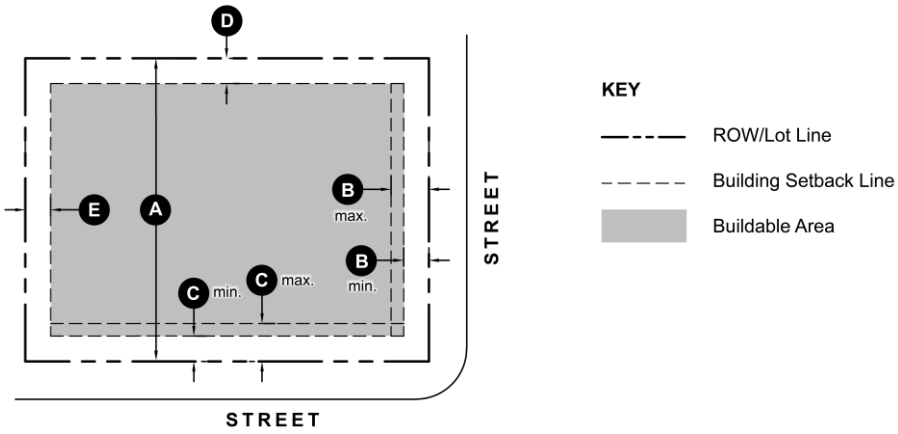

Figure 4-6: Downtown Setbacks

B. Lot Requirements

Lot Size		
Residential Uses	900 s.f. per dwelling unit	
Non-Residential Uses	No minimum	
Lot Width		
Residential Uses	35’ min.	A
Non-Residential Uses	No minimum	
Lot Frontage/Street Frontage	No minimum requirement for street frontage provided that any lot with street frontage has an unobstructed access easement at least 25’ wide.	

C. Building Placement Requirements

Setback		
Front		
Residential Uses	0’ min., 10’ max.	B
Non-Residential Use	0’ min., 10’ max.	
Street Side		
Residential Uses	15’ min.	
Non-Residential Use adjoining a Residential District	5’ min.	C
Non-Residential Use not adjoining a Residential District 1	0’ min., 10’ max.	

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Side Yard		
Residential Uses	10’ min.	
Non-Residential Use adjoining a Residential District	10’ min.	D
Non-Residential Use not adjoining a Residential District [1]	0’ min., 10’ max.	
Rear		
Residential Uses	20’ min.	E
Non-Residential Use	15’ min.	
Distance between Main Building and Accessory Buildings	6’ min.	
Garage Along Any Street		
Residential Uses	20’ min.	
Non-Residential Use	0’ min.	
[1]If the building is not placed on the property line, the side setback shall be 5’ minimum.		
D. Building Form Requirements		
Building Height		
Residential Uses	80’ max.	
Non-Residential Uses	80’ max.	
Lot Coverage		
Residential Uses	60% max.	
Non-Residential Uses	90% max.	
Ground Floor Area		
Single-Family Residential - 1 Story Dwelling	740 s.f. min.	
Single-Family Residential - with more than 1 Story	600 s.f. min.	
Floor Area/Dwelling Unit for Multi-Family Dwellings		
Multi-Family Residential	400 s.f + 150 s.f. per bedroom	
All other uses	No minimum	
E. Parking Requirements		
See ***Article 6.16 – Parking Standards***.		
F. Miscellaneous Requirements		
Where a non-residential use in this district abuts a residential district, a 6’ high masonry wall and a Type B buffer shall be provided. (See ***Article 6.10 - Landscape Standards***)		
G. Use Table		
See ***CHAPTER 5 – PERMITTED USE TABLE***		

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4.8 MIXED-USE

A. Purpose

The Mixed-Use (MU) district is intended to accommodate a variety of commercial and residential uses. Office and professional services, and higher density residential uses are encouraged within this district. Mixed-use buildings are encouraged. Given the various uses and densities within and adjoining the district, new development will need to be compatible with adjacent uses.

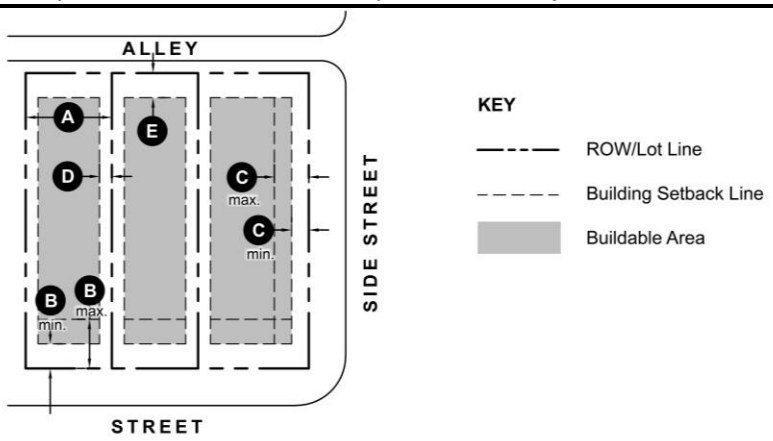

Figure 4-7: Mixed Use Setbacks

B. Lot Requirements

Lot Size		
Single Family Residential Uses	4,000 s.f.	
Multi-Family Residential Uses	1,800 s.f. per dwelling unit	
All other uses	No minimum	
Lot Width		
Single Family Residential Uses	35’ min.	Ⓐ
Multi-Family Residential Uses	60’ min.	
All other uses	No minimum	
Lot Frontage/Street Frontage		
Single Family Residential Uses	30’ min.	
Multi-Family Residential Uses	25’ min.	
Non-Residential	No minimum requirement for street frontage provided that any lot with street frontage has an unobstructed access easement at least 25’ wide.	

C. Building Placement Requirements

Setback		
Front		
Residential Uses	10’ min., 20’ max.	Ⓑ
Non-Residential Uses	10’ min., 20’ max.	

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Street Side		
Residential Uses	15’ min.	
Non-Residential Use adjoining a Residential District	5’ min.	C
Non-Residential Use not adjoining a Residential District	0’ min.	
Side Yard		
Residential Uses	15’ min.	
Non-Residential Use adjoining a Residential District	5’ min.	D
Non-Residential Use not adjoining a Residential District1	0’ min.	
Rear		
Residential Uses	20’ min.	E
Non-Residential Use	15’ min.	
Distance between Main Building and Accessory Buildings	6’ min.	
Garage Along Any Street		
Residential Uses	20’ min.	
Non-Residential Use	0’ min.	
[1]If the building is not placed on the property line, the side setback shall be 5’ minimum.		
D. Building Form Requirements		
Building Height		
Residential Uses	50’ max.	
Non-Residential Use	35’ max.	
Lot Coverage		
Residential Uses	50%	
Non-Residential Use	50%	
Ground Floor Area		
Single-Family Residential - 1 Story Dwelling	740 s.f. min.	
Single-Family Residential - with more than 1 Story	600 s.f. min.	
All other uses	No minimum	
Floor Area/Dwelling Unit for Multi-Family Dwellings		
Multi-Family Residential	450 s.f + 150 s.f. per bedroom	
All other uses	No minimum	
E. Parking Requirements		
See ***Article 6.16 – Parking Standards***.		

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F. Miscellaneous Requirements
Where a non-residential use in this district abuts a residential district, a 6' high masonry wall and a Type B buffer shall be provided. (See ***Article 6.10 - Landscape Standards***)
G. Use Table
See ***CHAPTER 5 – PERMITTED USE TABLE***

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4.9 INDUSTRIAL

A. Purpose

The Industrial (IND) district is intended for a variety of small- to medium-scale, clean industrial uses including wholesaling, warehousing, flex space, construction, and distribution. Light industrial uses include research and development facilities, businesses parks, small-scale product assembly, and advanced manufacturing. Emissions of fumes, noise, smoke, and other pollutants is strictly controlled. Outside storage and use is very limited.

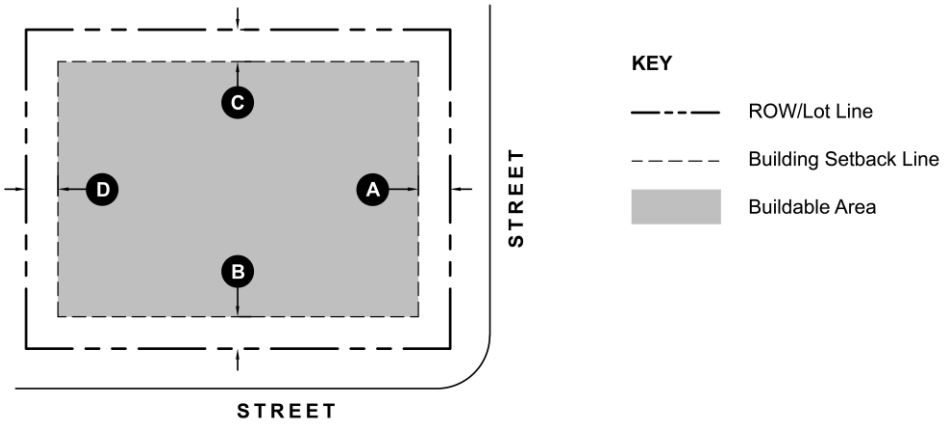

Figure 4-8: Industrial Setbacks

B. Lot Requirements	
Lot Size	20,000 s.f. min.
Lot Width	100’ min.
Lot Frontage/Street Frontage	60’ min.

C. Building Placement Requirements		
Setback		
Front		
Major Streets	35’ min.	A
All other streets	25’ min.	A
Parking Area	40’ min but in no case less than 10’ from the front façade of building	
Street Side		
Major Streets	35’ min.	B
All other streets	25’ min.	B
Parking Area	40’ min but in no case less than 10’ from the front façade of building	
Side Yard		
Adjoining a residential district	25’ min.	C
All others	No minimum	
Rear		
Adjoining a residential district	25’ min.	D
All others	No minimum	

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Distance between Main Building and Accessory Buildings	6’ min.
Garage Along Any Street	20’ min.
D. Building Form Requirements	
Building Height [1]	50’ max.
Lot Coverage	75 % max.
[1] The height may be increased up to a maximum of 100’ with approval of a Conditional Use Permit.	
E. Parking Requirements	
See ***Article 6.16 – Parking Standards***.	
F. Miscellaneous Requirements	
Where this district abuts a residential district, a buffer shall be provided. (See ***Article 6.10 - Landscape Standards***)	
G. Use Table	
See ***CHAPTER 5 – PERMITTED USE TABLE***	

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4.10 INSTITUTIONAL

A. Purpose
The Institutional (IST) district is intended for public services including hospitals, schools, colleges, and universities, whether public or private. The district is to ensure these public services grow in a compatible manner with the surrounding land uses.

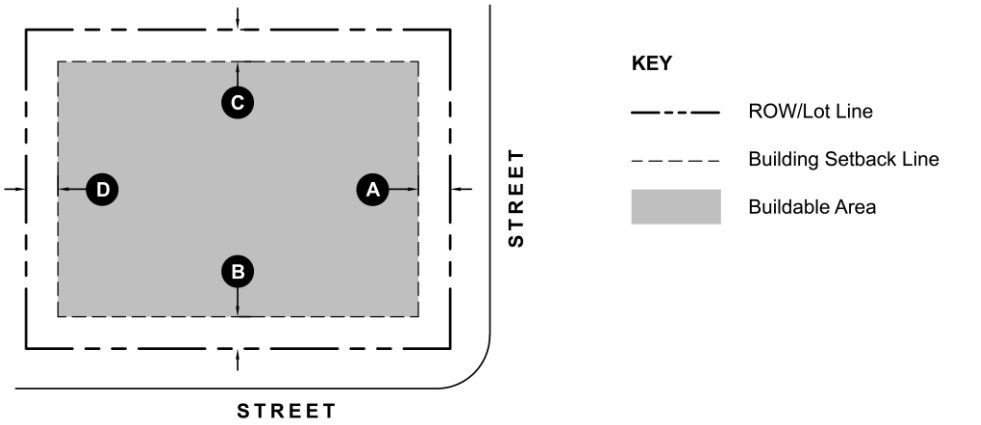

Figure 4-9: Institutional Setbacks

B. Lot Requirements		
Lot Size	20,000 s.f. min.	
Lot Width	100’ min.	
Lot Frontage/Street Frontage	80’ min.	
C. Building Placement Requirements		
Setback		
Front	25’ min.	A
Street Side	25’ min.	B
Side Yard	25’ min.	C
Rear	25’ min.	D
Distance between Main Building and Accessory Buildings	6’ min.	
Garage Along Any Street	20’ min.	
D. Building Form Requirements		
Building Height	60’ max.	
Lot Coverage	50% max.	

E. Parking Requirements
See ***Article 6.16 – Parking Standards***.
F. Miscellaneous Requirements
Where this district abuts a residential district, a buffer shall be provided. (See ***Article 6.10 - Landscape Standards***)
G. Use Table
See ***CHAPTER 5 – PERMITTED USE TABLE***

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4.11 OPEN SPACE

A. Purpose
The Open Space (OS) district is intended to conserve permanent or semi-permanent open spaces to promote active and passive greenspace uses. Appropriate uses include undeveloped open space, parks, golf courses, cemeteries, riparian corridors, and scenic resources. Park uses include active and passive activities occurring indoors and outdoors. Open space uses can also protect environmentally sensitive areas such as steep slopes and Flood Plains.

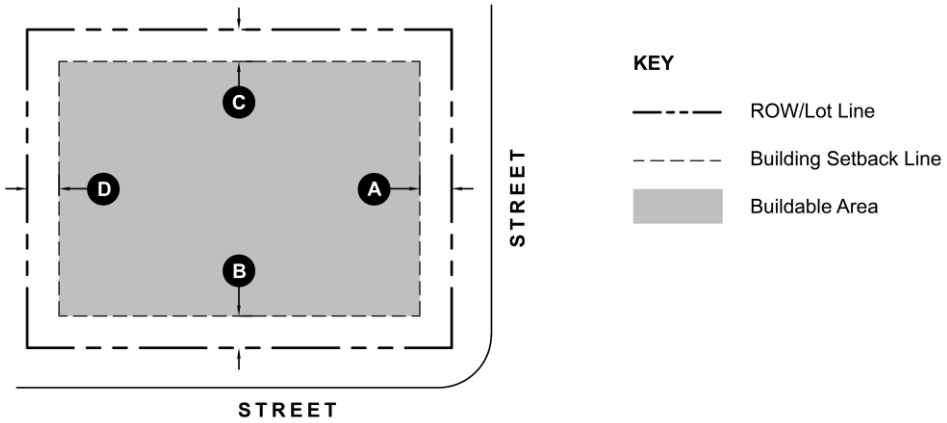

Figure 4-10: Open Space Setbacks

B. Lot Requirements		
Lot Size	2 acre min.	
Lot Width	150’ min.	
Lot Frontage/Street Frontage	200’ min.	
C. Building Placement Requirements		
Setback		
Front	20’ min.	A
Street Side	15’ min.	B
Side Yard	10’ min.	C
Rear	25’ min.	D
Distance between Main Building and Accessory Buildings	6’ min.	
Garage Along Any Street	20’ min.	
D. Building Form Requirements		
Building Height	35’ max.	
Lot Coverage	35% max.	
Ground Floor Area		
1 Story Dwelling	960 s.f. min.	
Dwelling with more than 1 Story	750 s.f min.	
Floor Area/Dwelling Unit for Multi-Family Dwellings	450 s.f plus 150 s.f per bedroom	

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E. Parking Requirements

See ***Article 6.16 – Parking Standards***.

F. Miscellaneous Requirements

1. The Open Space District is bounded as shown in all areas designated as "A" zones (Zone A, AE, AH and AO) on maps entitled FIA Flood Insurance Rate Map, Index and Nos. 127, 128, 129, 131, 133, 136, 137, 138, 139, and 141, to be made effective by the U.S. Department of Homeland Security on December 4, 2012, and adopted by the Common Council of the city on November 15, 2012, and Series F flood maps effective April 12, 2014, collectively which, with all explanatory matter thereon, are made a part of this chapter by reference These areas may be depicted on the Official Zoning Map as the Open Space: Flood Plain District (OS:FP).
2. The Open Space District shall include steep slope areas one acre or larger. Steep slopes shall mean slopes equal to or steeper than twelve (12) percent. The percent slope shall be measured as a six (6) foot fall or greater in any fifty (50) foot distance. Land Disturbing Activity shall not be permitted on steep slopes. These areas may be depicted on the Official Zoning Map as the Open Space: Steep Slopes District (OS:SS).
3. Adjoining use districts may be extended into this district with Special Exception approval. Such approval shall be contingent upon the correction of or protection from flooding or slope hazards or destructive effects to the property within the development or to property in the vicinity. Based upon site conditions, the Director may require third-party review by qualified professionals regarding geotechnical analysis, erosion control measures, and other reviews for the protection of public health, safety, and welfare.

G. Use Table

See ***CHAPTER 5 – PERMITTED USE TABLE***

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4.12 CEMETERY

H. Purpose
The Cemetery (CEM) district is intended for the operation of cemeteries and related uses including columbaria, crematories, mausoleums, mortuaries, churches, flower shops, administrative buildings, dwellings for persons employed on the premises, storage and vault fabrication facilities, maintenance buildings, and uses incidental to and located within the boundaries of the cemetery.

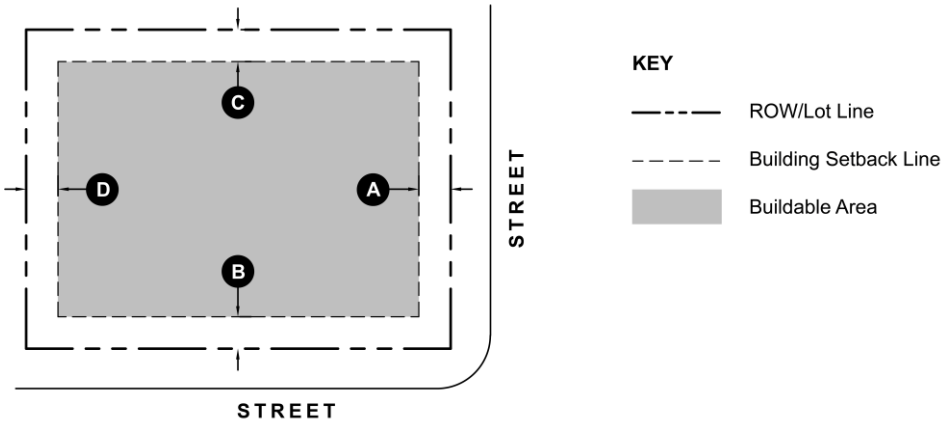

Figure 4-11: Cemetery Setbacks

I. Lot Requirements		
Lot Size	20,000 s.f. min.	
Lot Width	100’ min.	
Lot Frontage/Street Frontage	80’ min.	
J. Building Placement Requirements		
Setback		
Front	25’ min.	A
Street Side	25’ min.	B
Side Yard	25’ min.	C
Rear	25’ min.	D
Distance between Main Building and Accessory Buildings	6’ min.	
Garage Along Any Street	20’ min.	
K. Building Form Requirements		
Building Height	60’ max.	
Lot Coverage	35% max.	
L. Parking Requirements		
See ***Article 6.16 – Parking Standards***.		
M. Miscellaneous Requirements		
See ***Article 6.10 - Landscape Standards*** for buffering requirements.		
N. Use Table		
See ***CHAPTER 5 – PERMITTED USE TABLE***		

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5.1 APPLICATION

A. **APPLICABILITY**: No Building, Structure or land shall be used, and no Building or Structure shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a Zoning District in which such a Building, Structure or land is located.

B. **LAND USE SPECIFIED:** Each land use is either a permitted, not permitted, or a special exception use in each Zoning District as set forth in ***CHAPTER 5 - USE TABLE*** (the "Use Table") or elsewhere in this Ordinance.

C. **SPECIAL EXCEPTION USES:** A Special Exception designation is not meant to imply that the use will be disallowed, but that the use requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for those Zoning Districts in which it is permitted. The determination of whether the Special Exception may be approved shall be subject to a public hearing by the Board of Zoning Appeals and review in accordance with ***Article 7.12 – Special Exceptions***.

D. **Unlisted or Questionable Land Uses:** Any use not listed in the Use Table or otherwise permitted by this Ordinance shall be prohibited. The Zoning Administrator shall determine into which category a land use is placed if it is not specifically listed. This determination may be appealed to the Board of Zoning Appeals consistent with ***Article 7.3 - Appeals of Administrative Decisions***.

5.2 USE TABLE

A. [See Following Pages]

LDR	Low Density Residential
MDR	Mixed Density Residential
TR	Traditional Residential
HC	Highway Oriented Commercial
MC	Mixed Use Corridor Commercial
D	Downtown
MU	Mixed Use
IND	Industrial
IST	Institutional
OS	Open Space
CEM	Cemetery

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KEY: Blank cell = Not Permitted P = Permitted S = Special Exception

USE CATEGORY	SPECIFIC USE	LDR	MDR	TR	HC	MC	D	MU	IND	IST	OS	CEM	Use Standard
RESIDENTIAL													
Household Living	Single-Family Detached House: Medium	P	P	P		S		S			S		
	Single-Family Detached House: Compact		P	P		S	P	S			S		
	Duplex		P	P		P	P	S					
	Triplex & Fourplex		S	P		P	P	P					
	Courtyard Apartment			S		P	P	P					
	Bungalow Court			P		P	P	P					
	Rowhouse					P	P	P					
	Apartment Complex: Small		S	S		S	S	S					
	Apartment Complex: Large					P	P	P					
	Efficiency Unit												
	Accessory Dwelling Unit		S	S		S	S	S					
	Upper Story Residential					P	P	P					
	Mobile Home												
	Mobile Home Park	See Planned Unit Development											
	Modular Home	S	S	S		S		S					

KEY: Blank cell = Not Permitted P = Permitted S = Special Exception

USE CATEGORY	SPECIFIC USE	LDR	MDR	TR	HC	MC	D	MU	IND	IST	OS	CEM	Use Standard
Household Living	Home Business	P	P	P		P	P	P					
	Live-Work					S	S	S					
	Model Home	P	P	P		P	P	P					
Group Living	Assisted Living Facility			P		P	S	P		P			
	Group Home	S	S	S		S		S					(1)
	Hospice			S		P		P					
	Convent, Monastery			S		S		S					
	Nursing Home				S	P	S	P					
	Residential Facility	P	P	P				P		P	S		
CIVIC													
Community Service	Club, Civic				P	P	P	P		P			
	Club, Private	S	S	S		P	P	P		P			
	Conference Center					S	P	P		P			
	Museum, Library					P	P	S		P			
	Governmental Service or Use	P	P	P	P	P	P	P	P	P	P		
	Temporary Use or Event	P	P	P	P	P	P	P	P	P	P		

KEY: Blank cell = Not Permitted P = Permitted S = Special Exception

USE CATEGORY	SPECIFIC USE	LDR	MDR	TR	HC	MC	D	MU	IND	IST	OS	CEM	Use Standard
Educational Facility	All educational institutions, except as listed below:				P	P	S	P		P			
	College or University		S	S	(2)	P	S (3)	P		P			
	School, Vocational or Business				S	P	P	P		P			
	School, Trade, Fine Arts or Commercial				P	P	S	P	S	P			(4)
Medical Facility	All medical facilities, except as listed below:				P	P	P	P		P			
	Hospital, Medical Center				P	S	S	S	P	P			
	Pain Management Clinic				P		S	S	P	P			
	Therapeutic Massage				P		S	S	P	P			
Parks and Open Area	All parks and open areas, except as listed below:	P	P	P	P	P	P	P	P	P	P		
	Cemetery	S								S	P	P	
Passenger Terminal	Heliport	S							S	S			
	Passenger Terminal				P	S	S	S	P				
Place of Worship	All houses of worship	S	S	S	P	P	P	P	S	P	P	P	
Utilities	All Public Utilities, except as listed below:	S	S	S	S	S	S	S	S	S	S		
	Windmills								S	S	S		

KEY: Blank cell = Not Permitted P = Permitted S = Special Exception

USE CATEGORY	SPECIFIC USE	LDR	MDR	TR	HC	MC	D	MU	IND	IST	OS	CEM	Use Standard
Utilities	Wireless Communication Service Facility								P		S		
COMMERCIAL													
Indoor Recreation	All indoor recreation facilities, except as listed below:				P	P	P	P	S	P			
	Arena/Auditorium, indoor				S		S			S			
	Recreational Facility, Commercial				P	P	P	S	S	P			
	Theater, Indoor				P	S	P	S		P			
Office	All offices				P	P	P	P	P				
Outdoor Recreation	All outdoor recreation facilities, except as listed below:	S	S	S	S	S		S		S			
	Amusement Parks				S				S				
	Camp, Public or Private							S					
	Golf Course	P	P	S		S		S	S	S	P		
	Racetrack or Speedway, Outdoor								S				
	Arena/Auditorium, outdoor				S	S	S	S	S	S			
	Zoo									S			
Overnight Lodging	Bed and Breakfast					P	P	P		S			
	Hotel or Motel				P	P	P	S		S			

KEY: Blank cell = Not Permitted P = Permitted S = Special Exception

USE CATEGORY	SPECIFIC USE	LDR	MDR	TR	HC	MC	D	MU	IND	IST	OS	CEM	Use Standard
Overnight Lodging	Short Term Rental	S	S	S		S	S	S		S	S		
Parking, Commercial	Independent commercial parking				S	S	S	S	P				
Restaurant & Entertainment	Restaurant, Fast Food				P	P	(6)	P	P	P			
	Restaurant, Sit Down				P	P	P	P		P			
	Restaurant, Specialty				P	P	P	P		P			
	Restaurant, Takeout & Deli-style				P	P	P	P	P	P			
	Nightclub				S	P	P	S					
	Tavern				S	P	P	S					
Retail Sales and Service	Retail, Low Intensity				P	P	P	P		P			
	Retail, Medium Intensity				P	P	P	S		S			
	Retail, High Intensity				P	S							
	Retail, Very High Intensity				S								
	Retail, Special Handling				S				S				
	Veterinary/Animal Hospital				P	P	S	S	S				
	Kennel								S				

KEY: Blank cell = Not Permitted P = Permitted S = Special Exception

USE CATEGORY	SPECIFIC USE	LDR	MDR	TR	HC	MC	D	MU	IND	IST	OS	CEM	Use Standard
Retail Sales and Service	Auction Rooms				P	S	S	S	P				
	Convenience store with gas pumps, Gasoline service station				S	S	S		P				
	Convenience store without gas pumps				P	S	S	S	P				
	Adult Day Care Center	S	S	S	S	S	S	S		S			
	Child Care Center	S	S	S	S	S	S	S	S	S			Section 6.6
	Farmers Market				S	S	S	S					
	Funeral Home or Mortuary				P							p	(5)
	Garden and Lawn Center				P	P		S	S				
	Greenhouse or Nursery, Commercial							S	P				
	Health, Fitness, or Exercise Center				P	P	P	P	P				
	Liquor Store				P	P	P	S					
	Mobile Housing Sales				S				S				
	Off-Premise Signage/Billboards												
	Post Office	P	P	P	P	P	P	P	P				
	Sexually-Oriented Business					S			S				

KEY: Blank cell = Not Permitted P = Permitted S = Special Exception

USE CATEGORY	SPECIFIC USE	LDR	MDR	TR	HC	MC	D	MU	IND	IST	OS	CEM	Use Standard
Self-Service Storage	Warehouse, self-service, mini-storage				S				P				
	Warehouse, indoor multi-story				S		S		S				
Vehicle Sales and Service	All Vehicle Sales & Service, except as listed below:				P								
	Full- or Self-Service Vehicle Wash				P	S							
	All Vehicle Repair				S	S							
Wholesale Trade	All wholesale trade				S				P				
	Wholesale display				S				S				
INDUSTRIAL													
Light Industrial	Industry, Light								P				
Medium Industrial	Industry, Medium								P				
Heavy Industrial	Industry, Heavy								S				
Warehouse & Distribution	All warehouse and distribution, except as listed below:								P				
	Motor Truck Terminal								S				
	Warehousing & Distribution Operations (Outside Storage)								S				
	All waste related services, except as listed below:								P				
	Composting Facility, Commercial								S				

KEY: Blank cell = Not Permitted P = Permitted S = Special Exception

USE CATEGORY	SPECIFIC USE	LDR	MDR	TR	HC	MC	D	MU	IND	IST	OS	CEM	Use Standard
Waste-Related Services	Material Recycling Facility								S				
	Recycling Collector System								S				
	Salvage Yard								S				
	Solid or Liquid Waste Transfer Station								S				
AGRICULTURE													
Agricultural Uses	All agricultural uses, except as listed below:	S									P		(7)
	Farm Stand	S			S	S		S	S		S		
	Stable, Private	P						S	S		P		
	Timber Harvesting	S									S		

5.3 USE STANDARD NOTES

1. 1,000 feet between Group Homes.
2. Colleges and Universities without dormitory facilities are Permitted Use in the Highway-Oriented (HC) district.
3. Colleges and Universities without dormitory facilities are Permitted Use in the Downtown (D) district.
4. Excludes schools for heavy equipment or truck operators.
5. Facilities with a crematorium require Special Exception approval.
6. Permitted by right if no drive-thru facilities. Special Exception approval required for drive-thru facilities.
7. The slaughter of animals shall be prohibited in all Zoning Districts.

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6.1 ACCESSORY USE AND BUILDING

A. **General Standards:**

1. Accessory Buildings shall be subordinate in height, width, length, and bulk to the Principal Building on the same Lot.
2. No Accessory Building shall be constructed until the construction of the Principal Building on the same Lot has been commenced.
3. Accessory Buildings shall be constructed in a manner that does not substantially alter the character of the vicinity in which such buildings are to be located.
4. Accessory Buildings shall be held under the same ownership and maintenance as the Principal Building.
5. Accessory Uses or Buildings such as large ground microwave antenna dishes shall be not permitted in an Established Front Yard or an Established Side Yard; however, a satellite receiver antenna which is two (2) feet in diameter or less may be installed in any location in accordance with the provisions of ***IC 36-7-4-201.1***.
6. The standards of this Ordinance shall 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.
7. Carports shall be consistent in design, appearance, and materials with the Principal Building.

B. **Accessory Uses:**

Accessory Uses shall be permitted in each Zoning District when determined by the Director that the use is incidental to the permitted and primary use, and that the use is consistent and compatible with the intent of the Zoning District in which it is located. Accessory Uses shall be conducted in accordance with this Article. Accessory uses such as walks, driveways, curbs, retaining walls, mailboxes, nameplates (not exceeding 12 inches by 12 inches), lamp posts, bird baths and structures of a like nature are permitted in any required front, side or rear yard. Trees, shrubs, flowers, or plants, except as otherwise herein regulated, shall be permitted in any required front, side or rear yard. Any constructed or otherwise erected accessory use shall be of substantial materials and shall be maintained in a state of good repair.

C. **Accessory Buildings:**

Accessory Buildings shall be permitted in all Zoning Districts in accordance with this Article. No more than one Accessory Building, including a detached private garage, shall be permitted on any single-family dwelling lot. In the Low Density Residential District, the ground floor area of an Accessory Building shall not exceed the lesser of the ground floor area of the Principal Building or one thousand eight hundred (1,800) square feet. In all other districts, the ground floor area of such an Accessory Building shall not exceed the lesser of

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the ground floor area of the Principal Building or one thousand (1,000) square feet.

D. **Building Location:** Accessory Buildings shall be constructed on the same Lot as the Principal Building to which they are accessory and in accordance with this section. Accessory Buildings which are temporary may only be constructed in the Rear Yard.

1. Front Setback: No Accessory Building may be erected closer than ten (10) feet from the Established Front Yard or the Front Yard Building Setback Line if an Established Front Yard does not exist on the Lot.

2. Side and Rear Setbacks:
   i. An Accessory Building of two hundred (200) square feet or less shall be a minimum of three (3) feet from the Side and Rear Lot Lines and shall be located outside of all easements.
   ii. An Accessory Building over two hundred (200) square feet shall meet the minimum Side, Side Street, and Rear Yard Building Setback Lines of the underlying Zoning District, except as otherwise established by this Article.

E. **Maximum Accessory Building Height:** Eighteen (18) feet to the highest point of the roof.

F. **Timing:**

1. No Accessory Building shall be constructed until the construction of the Principal Building on the same Lot has been commenced.

2. No Accessory Building shall be occupied/utilized unless the Principal Building on the same Lot is first legally occupied for a permitted use within the applicable Zoning District.

3. The construction of an Accessory Building shall be completed:

   a. Within one (1) year of the issuance of a Building Permit, if such permit is obtained individually; or

   b. Within one (1) year of the completion of construction of the Principal Building, if the Accessory Building's Building Permit is obtained at the same time that the Building Permit for the construction of the Principal Building is obtained.

G. **Declaration of Covenants**: Property owners are advised to refer to their Subdivision's Declaration of Covenants and Restrictions, if applicable, which may impose greater restrictions than are found herein. This ordinance does not abrogate any private covenants that may apply to property.

H. **Swimming Pools:**

1. Swimming pools shall be constructed on the same parcel as the Principal Building to which they are accessory.

2. Swimming pools shall not be constructed in the Established Front Yard.

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3. Swimming pools shall be required to meet the same minimum Building Setback Line as the Principal Building to which they are accessory.
4. Access to residential pools shall be restricted in accordance with ***I.A.C., Title 675, Article 14-4.3-296***.

I. **Screening of Receptacles and Loading Areas:** These standards shall apply to all garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas and other similar facilities in all Zoning Districts; however, these standards shall not apply to Single-family Dwellings:

1. Garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas, loading areas and other similar facilities shall be completely and permanently screened from view of Rights-of-way and where possible, adjoining properties.
2. Enclosures shall not be located in an Established Front Yard or in any required Side or Rear Yard.
3. Screening methods shall include a solid enclosure on all sides not less than six (6) feet in height above grade or two (2) feet above the receptacle, whichever is greater.
4. Enclosures shall be constructed of materials that match or complement the Principal Building.
5. Enclosures shall be equipped with opaque gates. Gates shall not be oriented towards residential properties or the Right-of-way, where possible.
6. Man-doors which do not include swinging, moveable doors are encouraged to provide daily access to dumpsters for waste disposal.
7. Enclosures, which include swinging, moveable doors, shall be kept closed at all times when said doors are not in active use.
8. Landscaping shall be provided around enclosures in accordance with ***Article 6.10 Landscaping Standards***.

6.2 ADULT ENTERTAINMENT ESTABLISHMENT STANDARDS

C. **Location Standards:**

1. Requirements: Except for existing legal nonconforming uses governed pursuant to Section 5 of this Article, Adult Entertainment Establishments located, established, maintained, or operated on any Lot shall also comply, in addition to complying with all other applicable regulations set forth in these regulations, with the regulations set forth below. In the event of a conflict between the provisions of any other such regulations and the regulations set forth below, then the regulations set forth below shall control to the extent of any conflict.
2. Permitted Zoning Districts: Adult Entertainment Establishments shall only be permitted as indicated on the Permitted Use Table

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3. Minimum Separation Requirements: No Adult Entertainment Establishment shall be located, established, maintained, or operated on any Lot that has a property line within:
   a. One thousand (1,000) feet of the property line of any other Lot on which any other Adult Entertainment Establishment is located, established, maintained, or operated;
   b. One thousand (1,000) feet of the property line of any other Lot on which a Protected Use is located, established, maintained, or operated;
   c. One thousand (1,000) feet of the boundary line of a residential district;
   d. Five hundred (500) feet of the property line of any residential dwelling; or
   e. One thousand (1,000) feet of a right-of-way line of any Federal or State highway.
4. Measurement: For the purposes of this Article, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the Adult Entertainment Establishment is located to the nearest point on a property line of (i) any residential property or (ii) any Lot on which a Protected Use or other Adult Entertainment Establishment, as the case may be, is located, established, maintained, or operated, or (iii) the right-of-way line of any Federal or State highway.
5. Limited Exception: An Adult Entertainment establishment lawfully operating under these regulations and under the City's adult use licensing ordinance shall not be deemed to be in violation of the location restrictions set forth herein solely because (i) a Protected Use subsequently locates within the minimum required distance of the Adult Entertainment Establishment, (ii) a business that sells or dispenses alcoholic beverage subsequently locates within the same building as the Adult Entertainment Establishment, or (iii) property within the minimum required distance of an Adult Entertainment Establishment subsequently becomes residential property. This subsection shall not apply to an Adult Entertainment Establishment at a time when an application for an "adult entertainment license" under the City's adult use licensing ordinance for that establishment is submitted after the license has previously expired, has been revoked, or is at that time under suspension.

B. **Termination of nonconforming adult entertainment establishments upon amortization:** Any Adult Entertainment Establishment that is deemed under the provisions of these regulations to be a Nonconforming Use, and that has not been terminated pursuant to any other provision of this Article, shall be converted to a conforming use or shall be terminated not later than three hundred sixty-five (365) days after the effective date of these standards.

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6.3 ARCHITECTURAL STANDARDS

A. **Purpose and Intent:** The implementation of various design standards is a catalyst to ensure quality construction for present and future developments and to create variation and interest in the built environment.

B. **Applicability:** The standards of this Article shall apply to all buildings constructed within the Zoning Districts as set forth below. Single Family Dwellings permitted and constructed in non-Residential Districts shall comply with the Residential District (Residential Uses) architectural standards.

C. **Residential Districts (Residential Uses):** All new Single-family Dwellings located in a Subdivision containing five (5) or more lots shall comply with the following:

1. Perimeter Lots: A minimum of one (1) of the following two (2) design objectives shall be met for Dwellings on Perimeter Lots.

   a. Front Façade Orientation: Dwellings on Perimeter Lots shall be designed so the Front Building Façade is oriented toward the External Street. This design objective may be accomplished through the utilization of a Frontage Road.

   b. Rear/Side Building Façade Enhancements: Dwellings on a Perimeter Lot with a side or rear Building Façades oriented toward an External Street shall utilize design features in accordance with the following table:

Building Orientation Toward External Street	External Street Roadway Classification	Minimum Number of Points of Design Features Required
Rear Building Façade	Arterial	7
Rear Building Façade	Collector	5
Side Building Façade	Any External Street	4

2. Design Features: All design features listed below are worth one (1) point unless indicated otherwise.

   a. Main Roof Design (a maximum of two (2) points from this subsection may qualify):
      i. Two (2) or more dormers.
      ii. Twelve (12) inch overhangs around the entire Dwelling, as measured prior to the installation of Masonry Materials.
      iii. A minimum roof pitch of 8:12 around the entire Dwelling.
      iv. Two (2) or more gables.

3. Exterior Materials (exclusive of trim) (a maximum of one (1) point from this subsection may qualify):

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a. One hundred percent (100%) Masonry Materials around the entire Dwelling, as architecturally appropriate (i.e. exception for areas above the main roof line).

b. Full first floor Masonry Materials around the entire Dwelling (exclusive of openings). If the Dwelling includes a walk-out basement (or basements with daylight windows without the use of window wells), then full Masonry Material around the entire Dwelling to the top height of the basement (e.g., wainscot on the front and side Building Façades and on the entire height of the exposed basement wall on the rear Building Façade).

c. Three (3) or more siding materials or material patterns (e.g., board and batten, shake, lap siding) on the Building Façade, to include a minimum of Masonry Material at a height of twenty-four (24) inches tall around the entire Dwelling. Each siding material or material pattern shall be a minimum of ten percent (10%) of the applicable rear or side Building Façade (exclusive of openings and trim).

4. Façade Projections or Recessions (a maximum of three (3) points from this subsection may qualify, one (1) point each unless specified):

a. A minimum of one (1) four-foot (4') deep offset, which is a minimum height equivalent to one-story.

b. A minimum of two (2) two-foot (2') deep offsets which is a minimum height equivalent to one-story.

c. Sunroom (minimum sixty-four (64) square feet)(2 points).

d. Screened-in porch (minimum sixty-four (64) square feet).

e. Covered patio or covered porch, as a projection or recession in the Building Façade (minimum one hundred and twenty (120) square feet).

f. Exterior (projects from the Building Façade) fireplace chase that extends above the roof line.

g. Exterior (projects from the Building Façade) fireplace chase that extends above the roof line and is covered with Masonry Material(s) (2 points)

h. Second floor cantilever with a minimum depth of one (1) foot projecting over the first floor and minimum length of thirty percent (30%) of the total length of the rear Building Façade.

5. Windows (exclusive of doors) (a maximum of two (2) points from this subsection may qualify, one (1) point each unless specified):

a. Multiple Masonry Material detailing (e.g., quoins, keystones, arches, soldier courses), as architecturally appropriate.

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b. A minimum of seventy-five (75) square feet of windows on rear Building Façades or forty-five (45) square feet on side Building Façades .

c. Larger windows (a minimum of fifteen (15) square feet each) with proportions consistent with the architectural style of the home. A minimum of three (3) such windows is required for a façade to meet this standard.

d. Restoration of historic windows or use of new windows in proportions architecturally appropriate for the style of the home.

e. Minimum five and one-half inch (5-1/2") wide trim around all windows of the Dwelling. Alternative decorative window trim detailing (i.e. arches, cornices, crossheads, ornate moldings, pediments) may be considered by the Director if the trim otherwise results in a comparable visual contrast that enhances the architectural interest of the Building Façade.

6. Streetscape Diversity for Perimeter Lots: The rear Building Façade of Dwellings on adjacent Perimeter Lots may not have more than three (3) of the same architectural features that qualify towards meeting the above requirements. Exceptions to this standard may be approved by the Director if the design or placement of the same architectural features otherwise result in substantially different rear Building Façades for adjacent Dwellings.

7. Streetscape Diversity: At minimum of one (1) of the following design objectives shall be met:

a. The front façade of a front-load garage shall be recessed from the Front Building Façade by at least five (5) feet. A rear-load garage or a side-load garage, with a minimum of twenty-five (25) square feet of windows in the Building Façade oriented toward the Street, shall also meet this objective.

b. All front-load garages not recessed from the Front Building Façade as detailed in Subsection 4. above shall have Architectural Garage Doors.

c. Single-Family Dwellings located on adjacent Lots with a Front Lot Line abutting the same Street shall, at the time of the issuance of the Certificate of Occupancy:

i. Be a significantly different front Building Façade (i.e. architectural style, roof lines, window placement, proportion of siding materials) than the adjacent Lot. Minor variations in architectural features or materials (i.e. shutters, door styles, siding patterns) shall not qualify as significantly different if the Dwelling on the adjacent Lot is of a similar floorplan;

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ii. Have a different primary siding color than the adjacent Lot; and
iii. Have a different color from the adjacent Lot for at least one (1) of the following exterior elements: Masonry Material, the trim, any accent siding (e.g., board and batten, shake).

8. Building Materials: In order to create variation and interest in the built environment, roofing and siding materials on all Building Façades shall be restricted as follows:

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

b. Vinyl siding on more than twenty-five percent (25%) of any Building Façade, exclusive of window, doors, or other openings, shall be prohibited.

D. **Residential Districts (Non-Residential Uses):** All non-residential uses in a Residential District shall comply with the following:

1. Building Orientation:

a. No loading spaces or loading docks shall be permitted to face a Street.

b. Loading spaces or loading docks facing or oriented to a Side or Rear Lot Line of an adjoining Residential District shall be screened from view from such Residential District by the use of: (i) evergreen trees; or, (ii) a combination of overstory, understory or evergreen trees and a solid wall or fence, which creates a dense visual barrier to a minimum height of six (6) feet.

2. Building Materials: In order to insure compatibility of non-residential uses with surrounding residential uses in Residential Districts, all nonresidential uses shall use exterior building materials, roof line treatments and roofing materials that are compatible with and consistent with the residential character and building materials of the surrounding residential area.

E. **Multi-Family Dwellings:** All new Multi-Family Dwellings shall comply with the following:

1. Four-Side Architecture: Design detailing shall be continued completely around the building consistent with the building's intended architectural style. Detailing elements shall include, but are not limited to, number and style of windows, window placement, trim detailing, roof design, and exterior materials.
2. Building Materials:
a. Permitted Materials: Permitted exterior materials shall 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 shall be prohibited.

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b. Masonry Materials: A minimum seventy-five percent (75%) of each Building Façade, excluding windows and doors, shall be Masonry Materials.

c. Diversity of Materials: Each Building Façade shall utilize a minimum of two (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.

3. Windows: A Building Façade shall incorporate a minimum of one (1) window (a minimum size of fifteen (15) square feet) per Dwelling Unit located along that Building Façade. Required windows may be located anywhere on the Building Façade, as architecturally appropriate. All windows shall have treatment consisting of either: (i) shutters (that match the size of the window); or (ii) casing (a minimum of three and one-half (3.5) inches in dimension).

   a. For windows in a Building Façade consisting of a Masonry Material, then the treatment shall be of natural or Masonry Material and shall be applied to at least the window sill.

   b. For windows in a Building Façade consisting of a non-Masonry Material, then the windows shall be trimmed to match the architectural style of the building.

4. Roof Design:

   a. Minimum Pitch: The minimum roof pitch of the building's primary or main roof shall be 6:12. Elements such as porches, bays, walkways, etc., may be covered with a lower roof pitch. Lower roof pitches may occur on rear elevations if concealed by side roof elements.

   b. Minimum Overhang: The roof overhang or eaves shall be a minimum of twelve (12) inches, as measured prior to the installation of Masonry Materials.

   c. Roof Form: The roof form and pitch design of a building shall include, where appropriate, varied pitches and ridge levels in accordance with the intended architectural style of the Building and the Building Façade projections.

5. Streetscape Variety:

   a. Building elevations of similar floor plans shall have a variety in style, massing and 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 two (2) different elevation styles.

   b. If more than one (1) building is proposed, then the building(s) shall be located so that no more than two (2) buildings are in a straight, unbroken line. An unbroken line shall include an offset in the building setback a minimum of one-third (1/3) the height of the adjacent building.

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F. **Business Districts:** All new nonresidential buildings or additions located within a Business District shall comply with the following:

1. Mechanical Screening: All roof or ground mounted mechanical equipment shall be completely enclosed. Ground-mounted enclosures for mechanical equipment shall be landscaped on all sides not facing the building served in accordance with ***Article 6.10 Landscaping Standards***.
2. Building Materials:
   a. External Façades : Each Building Façade visible from a Street or oriented to an adjoining Residential District shall comply with the following:
      i. Shall be one hundred percent (100%) Masonry Materials, excluding window, door, roofing, fascia, and soffit materials; or
      ii. Shall incorporate two (2) or more building materials, excluding window, display window, door, and roofing materials; provided, however, that a minimum of sixty percent (60%) of the Building Façade shall be Masonry Materials.
   b. All Other Façades: No more than twenty-five percent (25%) of all other Building Façades , 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.
   c. General Standards:
      i. The exterior building material selection for all Building Façades shall be supplemented 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.).
      ii. No loading spaces, loading docks or oversized service doors shall be permitted on an External Façade, as defined herein; 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 in accordance with the General Screening Standards of ***Article 6.10 Landscaping Standards***.
3. Architectural Theme: Buildings and structures within a single development shall have complementary architectural themes.
4. Four-sided Architecture: All Building Façades visible from an adjacent Lot or Street shall be constructed with the same building material quality and level of architectural detail on all Building Façades (e.g., 360-degree architecture).
5. Building Elevations:

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a. Horizontal Design: All Building Façades shall have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated, cornice or molding.
b. Wall Planes: Building Façades, which are ninety (90) feet or greater in length, shall be designed with offsets (projecting or recessed) at intervals of not greater than sixty (60) feet. Buildings less than ten thousand (10,000) square feet in Gross Floor Area shall be designed with offsets at interval of not greater than forty (40) feet. Offsets shall extend the entire vertical plane of the Building Façade and shall be a minimum depth of four (4) feet and a minimum aggregate length of twenty percent (20%) of the horizontal plane of the overall Building Façade. The offset may be met with setbacks of the Building Façade and/or with architectural elements (i.e. arcades, columns, ribs, piers, and pilasters), if such architectural elements meet the minimum offset requirements of this requirement.

6. Gutters and Downspouts: Shall be visually integrated with the architectural style of the structure. The color of gutters and downspouts shall be selected to complement or to be consistent with the building materials.
7. Roof Design:
   a. Pitched Roofs: Pitched roofs shall comply with the following:
      i. Minimum Pitch: 5 (vertical units): 12 (horizontal units).
      ii. Shall be comprised of three (3) or more roof slope planes.
      iii. Shall be covered with high quality roofing materials such as natural clay tiles, slate, concrete tiles (with natural texture and color), high quality standing seam metal roofing, wood shakes or shingles (with adequate fire protection), three-dimensional asphalt or fiberglass shingles. Metal roofs shall have a low-gloss finish to reduce glare.
   b. Flat Roofs: Flat roofs shall comply with the following:
      i. Flat roofs are permitted if edged by a parapet wall with an articulated, three-dimensional cornice or molding.
      ii. Parapet walls shall be fully integrated into the architectural design of the building to create seamless design transitions between the main building mass and roof-mounted architectural elements (which may include screening elements for roof mounted equipment).
      iii. Modulation or variation of the roofs and/or roof lines shall be required in order to eliminate the appearance of box-shaped buildings.
      iv. Flat roofs shall be prohibited for one-story buildings in the Mixed Use Corridor Commercial District and the Mixed Use District unless otherwise approved by the Plan Commission or Director

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after consideration of the building architecture, building context, and sensitivity to the residential character of the area.

c. General Standard: All visible vents, attic ventilators, turbines, flues, and other visible roof penetrations shall be: (i) painted to match the color of the roof or flat black; and (ii) oriented to minimize their visibility from adjacent Lots and Streets.

8. Main Entrances:
   a. Building entrances shall 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 as a whole.
   b. The location, orientation, proportion, and style of doors shall complement the style of the building.
9. Windows:
   a. All window designs shall 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 architectural design elements designed to accent the windows shall be consistent with and complementary to the architectural style of the building.
   b. Window trim and other architectural design elements designed to accent the windows shall be required for all windows. Acceptable design elements include shutters, keystones, masonry arches, awnings, decorative stone frames, masonry rowlock frames, or other such trim or design elements as approved by the Plan Commission or Director.
10. Awnings:
    a. Fixed or retractable awnings are permitted if they complement the building's architectural style, material, colors, and details.
    b. Awnings shall be made of a non-reflective material.
    c. All awnings shall be kept in good repair.
    d. Awnings used to comply with the architectural design requirements of this Ordinance shall not be removed unless the Building Façade would otherwise comply with such architectural design requirements without such awnings.
11. Gasoline Service Station Canopies: This section shall apply to canopies for all Gasoline Service Stations:
    a. Materials: The support structures for canopies shall be wrapped in Masonry Materials to complement the Principal Building if located within the Downtown District. In all other districts, the support structures for canopies shall be wrapped in material(s) to complement the Principal Building Canopy fascia and canopy roof materials shall match the color and texture of the Principal Building.

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b. Height: To reduce the visual impact of the canopy structure and corresponding lighting, the maximum height of the canopy clearance shall be sixteen (16) feet and the maximum top of the canopy shall be twenty-two (22) feet. The maximum width of the canopy fascia shall be thirty (30) inches.

12. Accessory Buildings: All Accessory Buildings shall be architecturally compatible with the Principal Building(s) with which they are associated.

G. **Industrial Districts:** All new nonresidential buildings or building additions located within the Industrial District shall comply with the following:

1. Mechanical Screening: All roof or ground mounted mechanical equipment shall be completely enclosed. Ground-mounted enclosures for mechanical equipment shall be landscaped on all sides not facing the building served in accordance with ***Article 6.10 Landscaping Standards***.

2. Building Façades:

a. External Façades: Each Building Façade visible from a Street, oriented to an adjoining Residential District, shall comply with the following:

i. A minimum of sixty percent (60%) of the Building Façade (exclusive of window and doors) shall be Masonry Materials.

ii. Building Façades, which are ninety (90) feet or greater in length, shall be designed with offsets (projecting or recessed) at intervals of not greater than sixty (60) feet. Offsets shall extend the entire vertical plane of the Building Façade and shall be a minimum depth of twelve inches (12") and a minimum aggregate length of twenty percent (20%) of the horizontal plane of the overall Building Façade. The offset may be met with setbacks of the Building Façade and/or with architectural elements (i.e. arcades, columns, ribs, piers, and pilasters), if such architectural elements meet the minimum offset requirements of this requirement.

iii. No loading spaces, loading docks or oversized service doors shall be permitted on an External Façade, as defined herein.

b. All Building Façades: If materials other than Masonry Materials are utilized on any Building Façade, then the Building Façade shall be supplemented 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.).

6.4 BUILDING STANDARDS

A. **General Standard:** Every building hereafter erected shall be located on a Lot and in accordance with this Ordinance.

B. **Single-family Residential Uses:** In no case shall there be more than one (1) Principal Building used for residential purposes, and its Accessory Buildings, located on one (1) Lot, except as otherwise permitted herein.

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C. **Multi-family Residential Uses:** More than one (1) Principal Building used for residential purposes, and its Accessory Buildings, shall be permitted on a Lot used for a Multi-Family purpose.

D. **Industrial and Business Uses:** More than one (1) Principal Building shall be permitted on a Lot in an Industrial or Business District when such buildings are devoted to Industrial or Business Uses.

6.5 BUILDING TYPES

A. **Purpose:** This Section sets forth the standards applicable to the development of each building type. These standards supplement the standards for each Zoning District in which the building types are allowed. These standards are intended to ensure development that reinforces the highly-valued existing character and scale of New Albany's neighborhoods and downtown.

B. **Applicability:** The requirements of this Section shall apply to all proposed development and shall be considered in combination with the standards for the applicable Zoning District.

C. **Building Types Overview:**

1. The names of the building types are not intended to limit uses within a building type. For example, a detached house may have non-residential uses within it, such as a restaurant or office.

2. Each lot shall only have one building type.

D. **Specific Building Types:** [See Following Pages]

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1. Single Family Detached: Medium

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H. Description

The Single Family Detached House: Medium Building Type is a medium-sized detached structure on a medium-sized lot that incorporates one unit. It is typically located within a primarily single-family residential neighborhood in a walkable urban setting, potentially near a neighborhood main street.

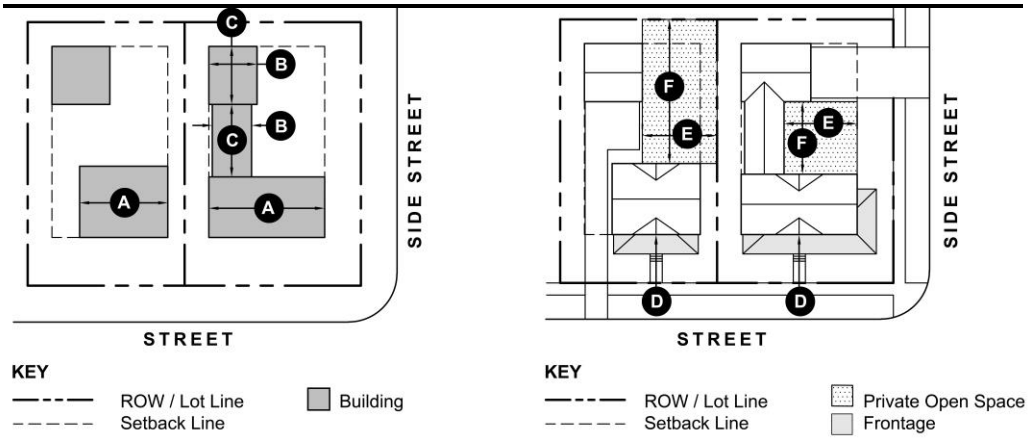

Figure 6-2: Medium Detached House: Model Site Plan

I. Number of Units		
Units per Building	1 max.	
Medium Houses per Lot	1 max.	
J. Building Size and Massing		
Height		
Per Zoning District standards in ***CHAPTER 4***.		
Main Body		
Width	48’ max.	A

Secondary Wing(s)		
Width	20’ max.	B
Depth	30’ max.	C
K. Pedestrian Access		
Main Entrance Location	Front Street	D
L. Private Open Space		
Width	20’ min.	E
Depth	20’ min.	F
Area	500 s.f. min.	

Required street setbacks and driveways shall not be included in the private open space area calculation.

Required private open space shall be located behind the main body of the building.

M. Parking Location	
With alley	Rear Yard
Without alley	Front Yard or Street Side Yard

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2. Single Family Detached: Compact

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A. Description

The Single Family Detached House: Compact Building Type is a small, detached structure on a small lot that incorporates one unit. It is typically located within a primarily single-family neighborhood in a walkable urban setting, potentially near a neighborhood main street. This Type enables appropriately-scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.

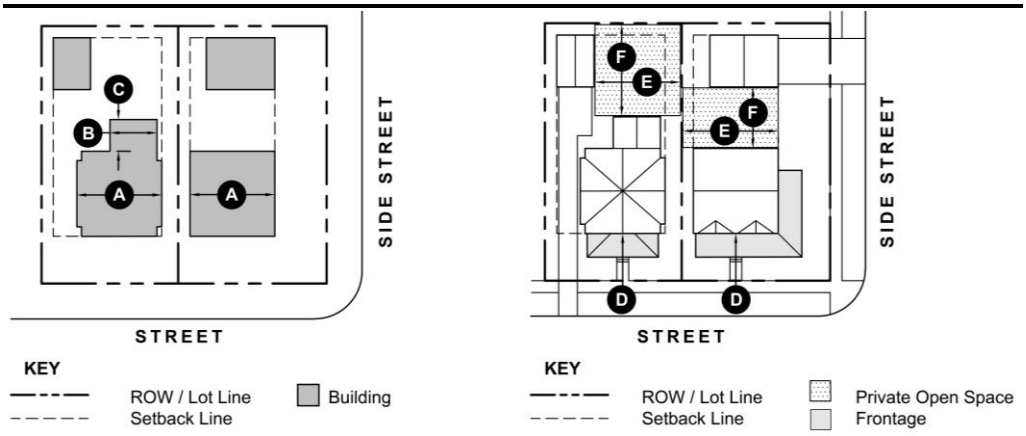

Figure 6-4: Compact Detached House: Model Site Plan

B. Number of Units		
Units per Building	1 max.	
Compact Houses per Lot	1 max.	
C. Building Size and Massing		
Height		
Per Zoning District standards in ***CHAPTER 4***.		
Main Body		
Width	36’ max.	A

Secondary Wing(s)		
Width	20’ max.	B
Depth	30’ max.	C
D. Pedestrian Access		
Main Entrance Location	Front Street	D
E. Private Open Space		
Width	15’ min.	E
Depth	15’ min.	F
Area	300 s.f. min.	

Required street setbacks and driveways shall not be included in the private open space area calculation.

Required private open space shall be located behind the main body of the building.

F. Parking Location	
With alley	Rear Yard
Without alley	Front Yard or Street Side Yard

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3. Bungalow Court

A. Description

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

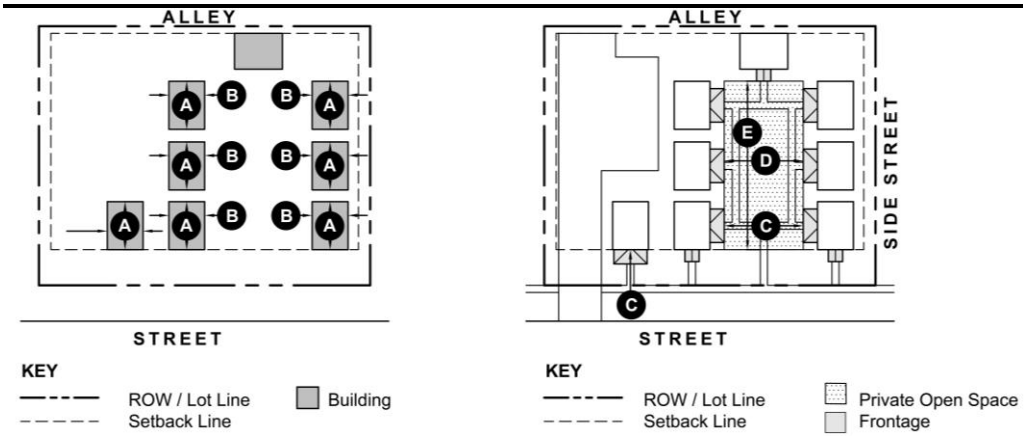

Figure 6-6: Bungalow Court: Model Site Plan

B. Number of Units	
Units per Building	1 max.
Bungalow Houses per Lot	3 min., 9 max.

C. Building Size and Massing
Height
1½ stories max.

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Main Body		
Width	32’ max.	A
Depth	24’ max	B
Secondary Wing(s)		
Width	24’ max.	
Depth	12’ max.	
D. Pedestrian Access		
Main Entrance Location	Front Street or Courtyard	C
E. Private Open Space		
Width	20’ min.	D
Depth	20’ min.	E
Area	400 s.f. per unit min.	
Required street setbacks and driveways shall not be included in the private open space area calculation.		
F. Parking Location		
	Rear Yard or Side Yard	

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4. Duplex

A. Description

The Duplex Building Type is a small- to medium-sized structure that consists of two side-by-side or stacked dwelling units, both facing the street, and within a single building massing. This Type has the appearance of a medium to large single-family home and is appropriately scaled to it within primarily single-family residential neighborhoods or medium-density residential neighborhoods. It enables appropriately-scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.

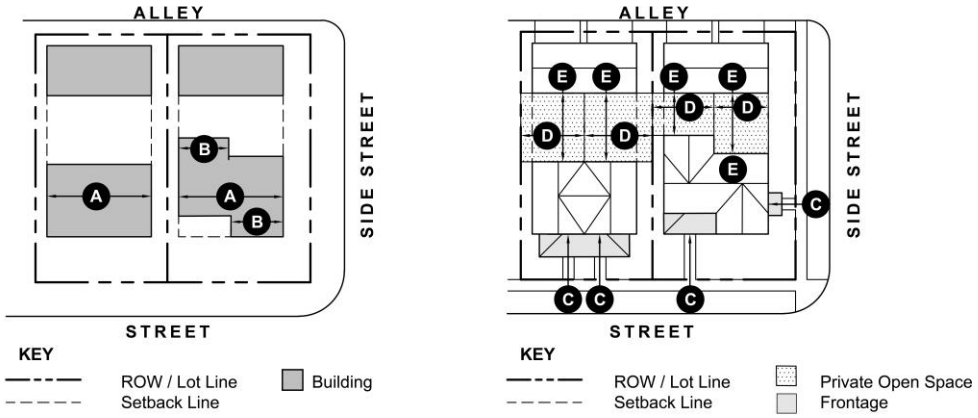

Figure 6-8: Duplex: Model Site Plan

B. Number of Units

Units per Building	2 max.
Duplexes per Lot	1 max.

C. Building Size and Massing

Height

Per Zoning District standards in ***CHAPTER 4***.

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Main Body		
Width	48’ max. (24’ per unit max.)	A
Secondary Wing(s)		
Width	24’ max.	B
D. Pedestrian Access		
Main Entrance Location	Front Street or Side Street	
Each unit shall have an individual entry facing a street.		C
E. Private Open Space		
Width	15’ per unit, min.	D
Depth	15’ per unit, min.	E
Area	300 s.f. per unit, min.	
Required street setbacks and driveways shall not be included in the private open space area calculation.		
Required private open space shall be located behind the main body of the building.		
F. Parking Location		
With alley	Rear Yard	
Without alley	Front Yard or Street Side Yard	

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5. Rowhouse

A. Description

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

Syn: Townhouse

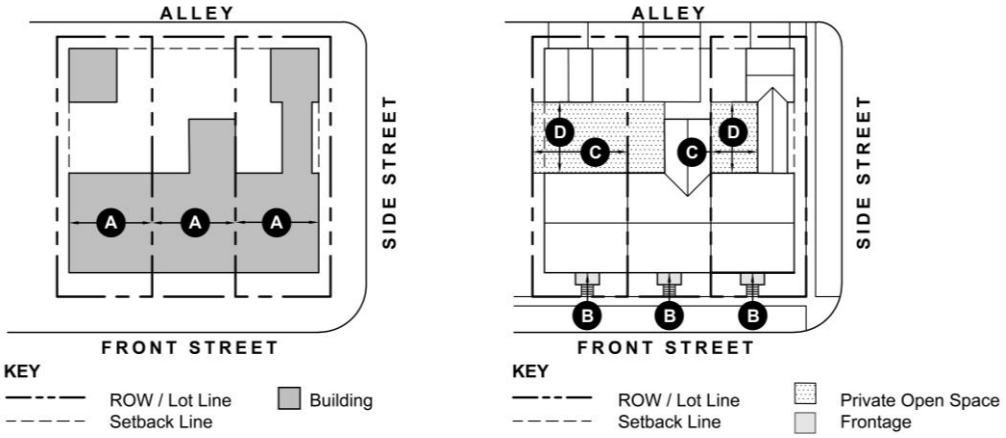

Figure 6-10: Rowhouse: Model Site Plan

B. Number of Units

Units per Rowhouse	1 per floor max.
Rowhouses per Lot	1 max.
Rowhouses per run	2 min., 8 max.

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C. Building Size and Massing		
Height		
Per Zoning District standards in ***CHAPTER 4***.		
Main Body		
Width per Rowhouse	18’ min., 36’ max.	A
D. Pedestrian Access		
Main Entrance Location	Front Street	B
Each unit shall have an individual entry facing the street.		
E. Private Open Space		
Width	8’ per unit, min.	C
Depth	8’ per unit, min.	D
Area	100 s.f. per unit, min.	
Required street setbacks and driveways shall not be included in the private open space area calculation.		
Required private open space shall be located behind the main body of the building.		
F. Parking Location		
	Rear Yard	

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6. Apartment Complex: Small

A. Description

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

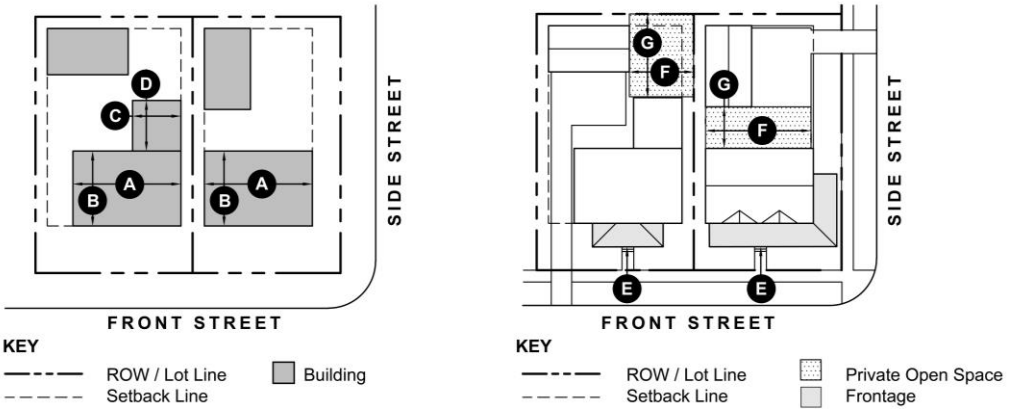

Figure 6-12: Small Apartment Complex: Model Site Plan

B. Number of Units

Units per Building	3 min., 6 max.
Small Apartment Buildings per Lot	1 max.

C. Building Size and Massing

Height

Per Zoning District standards in ***CHAPTER 4***.

Main Body

Ⓐ

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Width	48’ max.	
Depth	48’ max	B
Secondary Wing(s)		
Width	30’ max.	C
Depth	30’ max.	D
D. Pedestrian Access		
Main Entrance Location	Front Street	E
Each unit may have an individual entry.		
E. Private Open Space		
Width	8’ min.	F
Depth	8’ min.	G
Area	100 s.f. per unit min.	
Required street setbacks and driveways shall not be included in the private open space area calculation.		
Required private open space shall be located behind the main body of the building.		
F. Minimum Dwelling Unit Size		
Studio Apartment	550 s.f.	
1 Bedroom Apartment	650 s.f.	
2 Bedroom Apartment	800 s.f.	
3 Bedroom Apartment	1,000 s.f.	
G. Parking Location		
	Rear Yard or Side Yard	

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7. Apartment Complex: Large

A. Description

The Apartment Complex: Large Building Type is a medium-to-large-sized structure that consists of 7–18 side-by-side and/or stacked dwelling units, typically with one shared entry. This Type is appropriately scaled to fit within Mixed Density Residential neighborhoods or sparingly within large lot predominantly single-family residential neighborhoods. This Type enables appropriately-scaled, well-designed higher densities, provides a broad choice of housing types, and promotes walkability.

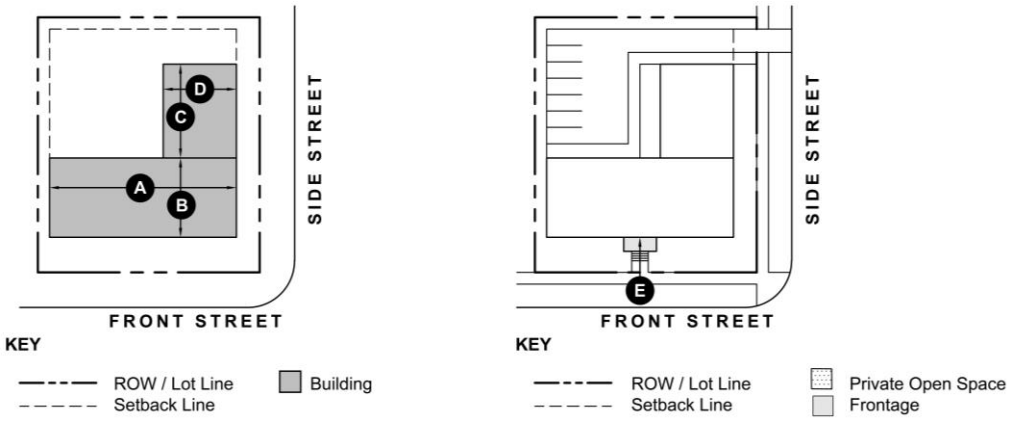

Figure 6-14: Large Apartment Complex: Model Site Plan

B. Number of Units

Units per Building	7min., 18 max.
Large Apartment Buildings per Lot	1 max.

C. Building Size and Massing

Height

Per Zoning District standards in ***CHAPTER 4***.

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Main Body		
Width	80’ max.	A
Depth	75’ max	B
Secondary Wing(s)		
Width	48’ max.	C
Depth	36’ max.	D
D. Pedestrian Access		
Main Entrance Location	Front Street	E
Units located in the main body shall be accessed by a common entry along the front street.		
On corner lots, units in a secondary wing may enter from the side street.		
E. Private Open Space		
No private open space requirement.		
F. Minimum Dwelling Unit Size		
Studio Apartment	550 s.f.	
1 Bedroom Apartment	650 s.f.	
2 Bedroom Apartment	800 s.f.	
3 Bedroom Apartment	1,000 s.f.	
G. Parking Location		
	Rear Yard or Side Yard	

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8. Live/Work

A. Description

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

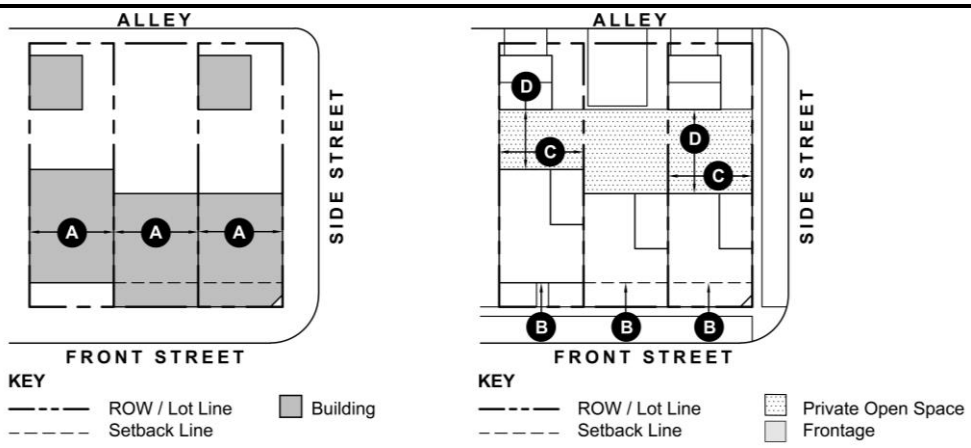

Figure 6-16: Live/Work: Model Site Plan

B. Number of Units

Units per Building	2 max.; both shall be used by same occupant
Live/Work Buildings per Lot	1 max.

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C. Building Size and Massing		
Height		
Height	2 stories min.; 4 stories max. [1]	
[1] Height shall also comply with Zoning District standards in ***CHAPTER 4***.		
Main Body/Secondary Wings		
Width	18’ min., 36’ max.	A
D. Pedestrian Access		
Main Entrance Location	Front Street	B
Ground-floor space and upper unit shall have separate entries.		
E. Private Open Space		
Width	20’ min.	C
Depth	20’ min.	D
Area	15% of lot area min.	
F. Parking Location		
	Rear Yard	

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6.6 CHILD CARE CENTER

A. **Applicability:** These standards shall apply Child Care Centers in all Zoning Districts and do not apply to Child Care Homes as defined in ***I.C. 36-7-4-1108***.

B. **Location:** No child care center shall be located or established on any Lot that has a property line within:

1. One thousand (1,000) feet of any known business that has or is required to have a permit for hazardous materials or regulated substances, excluding underground fuel storage tanks;
2. One thousand (1,000) feet of any known business that handles compressed flammable gases in excess of 1,500 pounds;
3. One thousand (1,000) feet of any known business that handles flammable liquids in excess of 10,000 gallons.
4. Five hundred (500) feet of another Child Care Center.

C. **Additional Standards:**

1. The 1,000-foot separation distance shall be measured from the property line of the proposed child care facility to the use, storage, or handling areas for the regulated substances. For businesses containing a Child Care Center on site, the distance shall be measured from the exterior wall of the Child Care Center to the area(s) containing the regulated substances.
2. The child care center operator has the burden of proof of demonstrating compliance with the separation requirement.
3. Drop-off and pick-up of children from vehicles shall be permitted only on the driveways, in approved parking areas, or in the street directly in front of the facility.
4. All outdoor play and activity areas shall be enclosed with a fence that is at least four (4) feet and no more than six (6) feet in height.
5. All outdoor play and activity areas shall be separated from vehicular circulation, parking areas, equipment enclosures, storage areas, and refuse and recycling storage areas.

6.7 FENCE STANDARDS

A. **Applicability:** These standards shall apply to all Zoning Districts.

B. **Location:** No fence shall be erected or altered on a corner or other lot in such a manner that obstructs or in any way hinders the vision of a vehicle driver (see ***Article 6.23 Vision Clearance Section***). Fences may be built directly along Lot Lines; however, fences shall not encroach into the Right-of-way, nor into easements that otherwise prohibit the installation of fences (e.g., drainage and utility easements). A survey drawing or survey of the site prepared by a licensed surveyor shall be provided with applications.

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C. **Height Limitations:**

1. Fence height is measured from the topmost point thereof to the grade of the ground adjacent to the fence. Any fence placed upon an erected mound or berm or masonry wall must govern its total height to the limitations herein.
2. Fences located within a required Side, Street Side, or Rear Yard of a residential lot shall not exceed six (6) feet in height.
3. Fences located within a required or Established Front Yard of a residential lot shall not exceed forty-two (42) inches in height.
4. Open wire mesh fences surrounding tennis courts that only enclose a regulation court area and standard apron areas may be erected to a height of sixteen (16) feet.
5. Fences enclosing an Institutional Use or a business or industrial property may consist of an open mesh fence not to exceed a height of ten (10) feet unless otherwise further restricted by this Ordinance.
6. Fences for Agricultural Uses shall not be subject to height limitations.

D. **Opaque Fences:** Fences shall be installed so the finished side of the fence is facing outward (e.g., toward the Lot Line). Fences on a Lot Line in which two (2) or more Property Owners share in the expense of the fence shall not be subject to this provision.

E. **Outdoor Screening:** Fences for screening of permitted outdoor storage or display areas shall also comply with ***Article 6.14 Outdoor Storage and Outdoor Sales Display***.

F. **Vision Clearance:** Fences shall comply with ***Article 6.23 Vision Clearance Standards***.

G. **Declaration of Covenants:** Property Owners are advised to refer to their Subdivision's Declaration of Covenants and Restrictions, if applicable, which may impose greater restrictions than are found herein.

H. **Materials:** Chain link fencing is prohibited in all Zoning Districts except the Industrial District. Barbed wire and razor wire are prohibited in all districts.

I. **Maintenance:** Fences shall be maintained in good condition and operating order at all times.

J. **Exemptions:** In all Zoning Districts, temporary fences for safety and construction are permitted and shall be exempted from the standards of this sections.

6.8 HEIGHT STANDARDS

A. **Applicability:** No building shall be erected, reconstructed, or structurally altered to exceed in height the limits established and specified for the use of the Zoning District in which such building is located except as otherwise provided by this Article.

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B. **Exceptions:** 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.

6.9 HOME BUSINESS STANDARDS

A. **Permitted:** Home Businesses shall be permitted in Zoning Districts as set forth in ***CHAPTER 5: USE TABLE***.

B. **Home Businesses:** Professional services and domestic occupations, crafts, or services which, as typically carried out can be conducted in a Dwelling without impairment of the use thereof as a place of residence and with no detrimental effect upon adjacent residential properties, are permitted Home Businesses. Examples of permitted Home Businesses include:

1. Art Studio.
2. Beauty Salon (one chair operated by a resident).
3. Business conducted entirely by mail and/or web-based.
4. Seamstress or tailor.
5. Home garage sales not to exceed seven (7) days per year.
6. Personal motor vehicle sales not to exceed two (2) vehicles per year.
7. Professional office of a clergyman, lawyer, architect, accountant, counselor, or consultant.
8. Repairing, servicing or refurbishing equipment or parts, excluding motor vehicles, as long as the work is entirely within the Dwelling and performed by members of the family living in the Dwelling.
9. Teaching (e.g., musical instruments or dancing).
10. Office support services (e.g., data entry, research, telephone-based services).
11. Other uses as determined by the Zoning Administrator.

C. **Zoning District Standards:** In addition to the standards set forth in this Article, permitted Home Businesses shall comply with all other standards set forth in the respective Zoning District.

D. **Home Business as an Accessory to Dwelling:** All Home Businesses shall comply with the following standards:

1. Home Business Subordinate to Primary Use: The Home Business shall be clearly incidental and subordinate to the primary residential use of the Lot. The primary use of the Dwelling shall remain residential.

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2. Primary Residence of Operator: The operator of the Home Business shall make the Dwelling within which the Home Business is conducted their legal and primary residence.
3. Activity Limited to Dwelling Unit: All aspects of the Home Business activity that occur on the Lot shall be conducted within the dwelling structure in which the operator makes their actual residence. For purposes of this Article, only areas completely enclosed by walls and under the same roof system as the living quarters shall be considered a part of the "dwelling structure."

E. **Residential Character:** Any Dwelling containing a Home Business shall maintain its residential character in accordance with the following:

1. Structural Improvements:
   a. There shall be no room additions, enlargements, structural, or exterior aesthetic alterations that change the residential character of the Dwelling or Lot.
   b. There shall be no exterior, structural, or aesthetic alterations to the Dwelling to accommodate the Home Business that would affect the interior of the Dwelling and would render it undesirable for residential use or habitation.
   c. There shall be no additional or separate exterior entrances to the Dwelling for conducting business or to accommodate the Home Business.
2. Walk-in Retail Sales: Walk-in / walk-up retail sales shall not be permitted.
3. Parking: No provision for off-street parking or loading facilities, other than the requirements of the applicable Zoning District, shall be permitted. No part of a minimum required Yard shall be used for off-street parking or loading purposes. No additional driveway to serve the Home Business shall be permitted.
4. Outdoor Storage or Display: There shall not be any outdoor storage or display of products, trailers, equipment, or materials used in connection with the Home Business. No external evidence of the Home Business shall be permitted, except for the sign permitted in *Section 6.9(E)(8)* below.
5. Utilities: The Home Business shall not require the increasing or enhancing of the size, capacity, or flow of the water, gas, septic, sewer, electrical systems, or trash removal types or volumes beyond what is standard for a residence.
6. Equipment: The equipment used for the Home Business shall be limited to computers, fax machines, telephones, copy machines, other small office equipment, and other similar equipment that may typically be found in a Dwelling, as determined by the Director. Manufacturing operations shall be prohibited.

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7. Gross Floor Area: No more than fifteen percent (15%) of the Gross Floor Area of structures on the Lot shall be used for a Home Business.
8. Signs: Signs shall comply with ***Section 6.20(H)(1)(a) Sign Standards***.

F. **Additional Standards:**

1. Vehicles: Except for purposes of loading and unloading, vehicles of one-ton capacity or more, or more than twenty (20) feet in length, shall not park on the Lot on which the Home Business is conducted or on any Street adjacent thereto.
2. Hours of Operation: Hours of operation shall not interfere with the use and enjoyment of adjacent residential properties.
3. Employees: No more than one employee not residing in the Dwelling shall be present on site at the Home Business.
4. Nuisances: No Home Business shall create electrical interference (e.g., interfere with local radio and television reception), odors, noise, vibration, light, smoke, fumes, or anything offensive.

G. **Appeals:** Any use purported as a Home Business may be deemed not permitted if, in a public hearing on the matter, the Board rules the use to be a nuisance or that it does not comply with this Article. The Director or any person reasonably affected by the Home Business may request such a hearing in accordance with ***Article 7.3 Appeals of Administrative Decisions***.

6.10 LANDSCAPING STANDARDS

A. **Purpose:** The purposes of the landscaping and buffer yard regulations are to:

1. Promote attractive development and preserve the appearance and character of the surrounding area through the use of landscaping.
2. Eliminate or minimize conflicts between potentially incompatible, but otherwise permitted land uses on adjoining lots through buffering, which may include a combination of setbacks and visual buffers or barriers.
3. Prescribe standards for the development and maintenance of planting, fences, and walls.
4. Provide provisions that apply to all development where specific landscaping is required under the New Albany Zoning Code.

B. ***C:\Users\Admin\images\1423-01-01.png*****Landscaping Plan:** When landscaping is required, a landscaping plan must be submitted in conjunction with other application materials.

1. Components of Plan: A landscaping plan must include a site plan, drawn to scale with a north arrow that is equal to standard architectural or engineering quality and indicates the following:

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a. The species and size of all existing trees greater than four-inch (4") caliper, showing those that are proposed for removal and those proposed for retention.

b. All proposed plant materials clearly labeled and drawn to size at maturity.

c. Adjacent land uses.

d. Plant list, indicating common names, scientific names and varieties, quantities, planting sizes and types and plant spacing for all plant materials proposed.

e. Description of the proposed method of protecting existing trees during construction.

f. Irrigation system, if any.

2. Required Materials: All plant materials must be suitable for New Albany's soils and climatic conditions and the plant's solar exposure.

a. Plant material should be distributed so as to provide a relatively uniform planting. Where the planting is along a street and some visibility into the development is desired, the plant material may be arranged to provide view corridors.

b. Ground cover must be installed appropriate to the surface conditions of the area. Grass is the default landscaping material, although in parking lots and on steep slopes, other ground covers able to withstand the physical conditions are appropriate.

c. The landscaped planting areas should be entirely pervious except for walls or walks that provide pedestrian access. No more than 25 percent of the required area may consist of inorganic materials such as gravel, stones, or paving.

d. A minimum of 50% of the required trees and 50% of the required shrubs shall be plant species native to or indigenous to all or part of Floyd County, Indiana.

C. ***C:\Users\Admin\images\1423-03-01.png*****Landscaping Maintenance:**

1. All plantings shown on the approved plan must be permanently maintained in good growing condition and replaced with new plant materials when necessary to ensure continued compliance with applicable landscaping requirements.

2. Evidence of completion of required landscaping must be supplied to the and submitted prior to issuance of an occupancy permit for new construction. There may be cases where landscaping cannot be completed prior to building occupancy due to weather or other conditions. In these instances, the City may issue a temporary occupancy permit with a commitment that landscaping will be installed within 120 days of the issuance of said permit.

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D. **Buffer Yards:** Buffer yards are intended to eliminate or minimize conflicts between potentially incompatible, but otherwise permitted land uses on adjoining lots. Buffering may include a combination of setbacks and visual buffers or barriers. ***Table 6.10a*** prescribes the minimum buffer yard requirements and ***Table 6.10b*** defines types of buffer yards required for specific situations.

E. **Applicability of Buffer Yard Standards:** The buffer yard standards of this chapter apply to:

1. Development of Vacant Land: All new development on vacant land.

2. Redevelopment: Redevelopment or expansion of existing site ground coverage, which includes buildings, accessory uses or structures, parking, and outdoor storage areas by more than 30 percent, not including single-family dwellings.

3. Change in Use: Any change in use that increases development intensity and results in increased traffic, processes, noise, water, or air pollution, etc. For the purposes of this section, a change in use includes: from a residential use to a commercial use; from a commercial use to a manufacturing use; and in some cases, from a manufacturing use to a commercial use.

F. **Required Buffer Yards:** Buffer yards are required between certain zone districts with the type of yard depending on the adjoining zoning district. Tables 6.10.a. and 6.10.b. prescribe the required buffer yards between adjoining districts.

1. Buffer Yard Plan: A buffer yard plan must be submitted in conjunction with Development Plan materials. The buffer yard plan must incorporate a landscaping plan. The buffer yard plan must show the location of all buffer yards on the project site, location of utility easements, roads, emergency access, walkways, and existing and proposed structures on the site.

2. Location: Required buffer yards of Table 5.10 must be developed along the perimeter of the lot and extend inward from the property line of the development site. Buffer yards may not be located within any dedicated public or private street right-of-way.

3. Additional Buffering for Loading Docks: When the proposed use has a loading dock abutting the adjoining property, the buffer classification is increased one level (e.g. a Type B buffer shall be a Type C buffer)- when a loading dock is present against the buffer.

4. Uses Permitted in Buffer Yards: Buffer yards may be used as required yards, open space or driveways. Accessory structures and surface parking are not permitted in a buffer yard.

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Table 6.10a - Required Buffer Yards

Zoning District of Proposed Use	Zoning District of Properties Abutting Proposed Use										
	LDS	MDS	TR	HC	MC	D	MU	IND	IST	OS	CEM
LDS	-	-	-	-	-	-	-	-	-	-	-
MDS	-	-	-	-	-	-	-	-	-	-	-
TR	A	-	-	-	-	-	-	-	-	-	-
HC	C	C	B	-	-	-	-	-	-	-	-
MC	B	B	A	A	-	-	-	-	-	-	-
D	B	B	B	C	B	-	-	-	-	-	-
MU	C	B	B	B	A	A	-	-	-	-	-
IND	D	D	C	A	B	B	B	-	-	-	-
IST	C	B	B	B	A	A	B	B	-	-	-
OS	A	A	A	C	B	A	B	C	B	-	-
CEM	A	A	A	C	B	A	B	C	B	-	-

Table 6.10b - Buffer Yard Standards

Buffer Yard Standards prescribe the minimum width, screening, and landscaping. Buffer Yards B, C and D provide the applicant with a choice of two options.

	Number of Plants per 50 Linear Feet of Buffer Yard						
Buffer Type	Width (feet)	Height of Screen Wall or Fence (feet)	Height of Berm (feet)	3 ft. High Shrubs on Berm*	6 ft. High Evergreen Tree*	1 ½" Caliper Trees	2 ½" Caliper Trees
A	10	6	--	--	--	--	--
B	15	6	--	--	1	2	1
B	15	--	4	12	--	2	--
C	25	6	--	--	2	2	2
C	25	--	6	6	2	2	1
D	35	6	--	--	4	4	3
D	35	--	8	--	3	3	2

* Height of Installation

G. General Screening Standards:

1. Heating and Cooling Facilities: Ground-mounted heating and cooling units for nonresidential or multi-family structures shall be completely screened from all ground-level viewpoints. (See also ***Article 6.3 Architectural Standards*** for roof-mounted equipment.)

2. Dumpster and Loading Areas: Dumpster enclosures, trash pads, loading areas, loading docks, service areas, and maintenance areas shall be screened from residential uses and Rights-of-way. Screening shall be achieved by using either: (i) a six (6) feet high, completely opaque fence or wall; (ii) a six (6) feet high berm; (iii) a six (6) feet high screen of evergreen trees planted nine (9) feet on center in a double staggered row; or (iv) a combination of the aforementioned that accomplishes the

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same effect. See also ***Article 6.1 Accessory Use and Building Standards*** regarding dumpster enclosures.

H. **Street Trees:** Street Trees shall be required in accordance with the following, and the placement standards set forth herein:

1. Requirement: Street Trees shall be required with all new or re-developed Local Streets (public or private) within Residential Districts. Street Trees shall only be required on one side of a Frontage Road.

2. Location: Street Trees located within the Right-of-way shall be installed in accordance with the City's Construction Standards. If the Street Tree is not planted within the Right-of-way, then the Street Trees shall be planted on the adjacent Lot or Common Area within ten (10) feet of the Right-of-way; however, the Street Tree shall not be credited towards that Lot or Common Area's Minimum Lot Landscaping Requirements.

3. Spacing: Street Trees shall be required an average of every fifty (50) feet; however, the Street Trees may be spaced at a maximum spacing of sixty (60) feet but at a minimum spacing of twenty (20) feet.

I. **Foundation Plantings:** Foundation plantings shall be provided as follows:

1. Plant materials shall be required intermittently (approximately every forty (40) feet) against long expanses (over eighty (80) feet) of Building Façades , fences, and other barriers to create a softening effect.

2. Plant materials shall also be required along the Front Building Façade of all Buildings at a minimum ratio of one (1) shrub or ornamental tree per twelve (12) lineal feet.

3. The primary landscaping material used shall be ornamental trees, shrubs, and ornamental grasses. Groundcover plants may supplement the required plant materials. Plantings should be clustered to provide a more natural appearance and to accommodate vehicular and pedestrian access, loading and maintenance areas.

4. Plantings shall be located within fifteen (15) feet of the Building Façade, fence or other barrier being softened, and shall occur within planting beds at least eight (8) in width.

J. **External Street Frontage Landscaping Requirements:** The landscaping in this section shall be required where any portion of a development abuts an External Street where Side Yards and Rear Yards are within 100 feet of an External Street.

1. Residential Uses: A landscaping area with a minimum depth of thirty (30) feet shall be required abutting an External Street along any residential development. The landscaping area shall include a minimum of four (4) evergreen trees, three (3) shade trees, three (3) ornamental trees and twenty-five (25) shrubs per one hundred (100) lineal feet. In addition, a

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minimum three-foot (3') tall undulating mound shall required along the entire External Street frontage. Meandering mounds are encouraged.

2. Non-residential Uses: A landscaping area with a minimum depth of ten (10) feet shall be required abutting an External Street along any non-residential development. The landscaping area shall include a minimum of three (3) shade or evergreen trees, two (2) ornamental trees and twenty-five (25) shrubs per one hundred (100) lineal feet. This requirement may be credited toward required Parking Area Landscaping requirements if the required Parking Area Landscaping is located within twenty (20) feet of the Right-of-way. In addition, for Industrial Districts, a minimum three-foot (3') tall undulating mound shall be required along the entire External Street frontage.

3. Easements: Trees required to be planted along External Streets should be located outside drainage and utility easements that would otherwise prohibit the required landscaping and shall be located in a manner that mitigates interference with infrastructure located within such easements. Trees may be clustered or grouped in order to attain creative site design and/or to accommodate utility infrastructure.

4. Unimproved Rights-of-way: The Plan Commission or Director may approve a Development Plan that lessens the planting requirements per the External Street Frontage Landscaping Requirements by up to fifty percent (50%) along the portion of a development that abuts future Right-of-way, as set forth in the Thoroughfare Plan, if: (i) said Right-of-way is unimproved at the time of Development Plan approval; and (ii) there are no immediate plans by the City or requirement of the Applicant to improve said Right-of-way.

K. Perimeter Parking Area Landscaping:

1. Application: Perimeter landscaping is required for Parking Areas with ten (10) or more spaces where the Parking Area is located within: (i) an Established Front Yard; (ii) a required Yard; or (iii) twenty (20) feet of a Lot Line or Right-of-way line.

2. Design: Perimeter Parking Area landscaping shall be a minimum of five (5) feet wide and shall extend along the perimeter of Parking Areas and include:

   a. A minimum of one (1) tree per thirty (30) linear feet of Parking Area length. Trees may be clustered in an aesthetically pleasing manner.

   b. A minimum of one (1) shrub per three (3) feet of Parking Area length. Shrubs may be clustered in an aesthetically pleasing manner.

   c. Grass or other permitted Groundcover for areas not planted with trees or shrubs.

3. Drive Aisles: Plantings within perimeter Parking Area landscape areas between drive aisles and a Rear or Side Lot Line may be reduced by up to

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fifty percent (50%) of the required plantings above, if no Parking Spaces are located between the Lot Line and the drive aisle.

4. Multi-family Uses: In addition to the other standards set forth in this Article, the following shall apply to multi-family uses:

   a. Parking Areas, Parking Spaces and service facility areas in a multi-family use that may be visible from Streets or perimeter Lot Lines shall be screened by walls or fencing in addition to landscaping required herein. Screening shall be depicted on the Development Plan.

   b. Solid screens or landscape materials shall be installed to protect the privacy of residents when parking spaces are located within ten (10) feet of residential units and to prevent headlights from shining directly into windows.***C:\Users\Admin\images\1423-13B-01.png***

6.11 LIGHTING STANDARDS

A. **Purpose and Intent:** The community wishes to enhance the visual environment, protect the public health, safety and welfare, provide safe roadway conditions for motorists, cyclists, and pedestrians, and promote energy efficient, cost-effective lighting while minimizing light pollution, intrusion and trespass from uncontrolled light sources. It is the intent of this Article to minimize the intrusion of lighting across property lines, thereby avoiding a disruption to the quality of life of residents.

B. **Applicability**: These regulations shall be applicable to all outdoor lighting sources which:

   1. Are newly designed, constructed, erected, or placed into operation after the effective date of this Article; and

   2. Require the relocation or replacement of existing lighting fixtures commenced after the effective date of this Article.

C. **Exceptions:** Exceptions to this Article shall include the following:

   1. All outdoor light fixtures permitted prior to the adoption of these regulations shall be exempt from the shielding requirements of this Article, except that when an outdoor light fixture becomes inoperable, the replacement light fixture shall comply with the standards of this Article.

   2. All hazard warning lighting required by Federal and State regulatory agencies.

   3. All temporary emergency lighting required by local law enforcement, emergency service and utility department(s).

   4. All traffic control and directional lighting.

   5. All underwater lighting used for the illumination of swimming pools and water features shall be exempt from the lamp type and shielding standards of this Article.

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6. All lighting for temporary festivals and carnivals (see ***Article 6.21 Temporary Uses and Events***).
7. All low wattage residential accent and landscape lighting fixtures having a maximum output of 1600 lumens (equal to one 100-watt incandescent light) per fixture.

D. **Prohibitions:** The following shall be prohibited:

1. The installation, sale, lease, or purchase of any mercury vapor lamp or low-pressure sodium lamp.
2. The use of laser source light or other similar high-intensity light for outdoor advertising, except when otherwise permitted in conjunction with an Electronic Sign, when projected above the horizontal.
3. The operation of searchlights and floodlights for advertising purposes.
4. The use of any lighting source on towers shall be prohibited except as required by the Federal Aviation Administration.
5. The illumination of off-site advertising signs.

E. **General Lighting Standards:** The following standards shall apply:

1. All Light Fixtures, except for internally-illuminated signs or Electronic Signage, shall be Fully Shielded and direct light downward toward the earth's surface.
2. All lighting sources shall be directed away from reflective surfaces to minimize glare upon adjacent Lots and Rights-of-way.
3. All lighting sources, except for internally-illuminated signage or Electronic Signage, shall be positioned in such a manner as to direct light away from adjacent Lots and Rights-of-way.
4. Light pole height shall not exceed twenty-five (25) feet. All Light Fixtures in Parking Areas shall be designed and located to confine emitted light to the Parking Area.
5. All Light Fixtures shall meet City Building Code requirements for their appropriate construction class.

F. **Multi-Family Residential, Business and Industrial Standards:** The following shall apply to all Multi-family, Business, and Industrial Uses:

1. All Light Fixtures, except for internally-illuminated signage or Electronic Signage, shall be positioned in such a manner so that no light emitting surface is visible from a residential Lot or Right-of-way when viewed at ground level.
2. Light meter readings shall not exceed two tenths (0.2) foot-candle at the Lot Lines. It should be understood that, with all of these measurements, light will still be visible at or beyond Lot Lines.

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3. All lights on poles, stands, or mounted on a building shall have a shield, adjustable reflector, and non-protruding diffuser.
4. All canopy structures shall have lights with diffusers which are recessed, and which do not extend below the surface of the canopy as measured on a plane parallel to the earth's surface.
5. Lighting under awnings and canopies shall only illuminate a Front Building Façade, a sign under an awning or canopy, or the sidewalk, but shall not illuminate the awning or canopy itself.
6. All Parking Area lighting for nonresidential uses shall be reduced (e.g., turned off or dimmed) by a minimum of thirty percent (30%) within thirty (30) minutes of closing of the last business or no later than 11:00 p.m.
7. No outdoor sports or Recreational Facilities shall be illuminated after 11:00 p.m., except to conclude a scheduled recreational or sporting event in progress prior to 11:00 p.m.
8. The off-street Parking Areas and service facility areas for multi-family residential uses shall have sufficient lighting facilities, which shall be located and adjusted so that the glare or beam is directed away from any adjoining property, Street or Multi-family Dwelling window.

G. **Sign Lighting:**

1. Light Fixtures used to illuminate an outdoor advertising sign, other than a Monument Sign or an internally-illuminated sign, shall be mounted on top of or above the sign structure and shall comply with the shielding requirements of this Article.
2. Light Fixtures used to illuminate ground mounted or Monument Signs may be illuminated with a ground mounted or bottom mounted Light Fixture, provided that the Light Fixture is Fully Shielded and all light output is directed onto the sign surface.
3. Lamps utilized for the internal illumination of Wall Signs shall be turned off at 11:00 p.m. or when business closes.

H. **Lighting Plans:** The Applicant for any permit required by this Ordinance that proposes outdoor lighting shall submit a Lighting Plan which includes:

1. A site plan indicating the location of all lighting structures, supports and Light Fixtures, including those Light Fixtures which presently exist on site and those which are proposed for the site.
2. A graphic and/or textual description of all lighting fixtures, both proposed and existing on-site. The description may include, but is not limited to, cut sheets and illustrations by the manufacture, lamp types, wattages, and lumen outputs.

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3. A site plan with illuminance levels superimposed on the site plan in the form of an iso foot-candle diagram or point-by-point grid diagram. The lighting levels shall be depicted at ten-foot intervals or less.
4. The iso foot-candle diagram shall plot foot-candle increments of one-half (0.5) foot-candle or less.
5. Photometric data depicting the angle of cut off of light emissions.
6. Any other information that the Director determines necessary to ensure compliance with the provisions of this Article.

6.12 LOT STANDARDS

A. Lot Area shall be as set forth by the Zoning District.

B. Lot Width shall be as set forth by the Zoning District.

C. All Lots shall abut on a Street or Private Street and shall have a minimum Lot Frontage as set forth by the Zoning District.

D. Residential Corner Lots shall be of sufficient width to permit appropriate Building Setback Lines and driveway setbacks from both Streets (see also ***Article 6.18 Setback Standards***).

6.13 MOBILE HOME AND PARK STANDARDS

A. **Purpose and Intent:** ***I.C. 36-7-4-1106*** provides for the regulation of Mobile Homes by this Ordinance. Class B Mobile Homes are recognized as viable forms of housing that are best served by the residents of such Mobile Homes and the community if such housing is in a planned Mobile Home Park.

B. **Permitted Use:** Mobile Homes and Mobile Home Parks are permitted as set forth in ***CHAPTER 5 - USE TABLE***; however, the number of Class A Mobile Homes in a Subdivision, not specifically platted for Mobile Homes, shall not exceed ten percent (10%) of the total number of platted Lots in the Subdivision. All Mobile Homes shall only be used for residential purposes.

C. **Mobile Home Park General Requirements:** The following standards shall apply to all Mobile Home Parks.

1. Minimum Tract Size: 5 acres
2. Lot Size: 4,000 square feet
3. Minimum Lot Frontage: 40 feet
4. Pads or Slabs: An adequate concrete slab or pad shall be provided for the parking of all mobile homes and should provide anchoring devices for protection of the home due to excessive wind.
5. Minimum Front Yard Setback: 30 feet
6. Minimum Structure Separation: 20 feet
7. Sewer and Water: Public sewer and water hook up are required.

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8. Soil Coverage: All areas must be covered with a hard surface (e.g., concrete, blacktop, or stone) or attractive grasses/vegetative matter in accordance with ***Article 6.10 Landscaping Standards***.
9. Screening: Screening or fencing must enclose the entire Mobile Home Park. Such screening must be attractive to the area and be able to be easily maintained.
10. Development Amenities: Appropriate Development Amenities shall be provided in all Mobile Home Parks that can accommodate twenty-five (25) or more Dwelling Units.
11. Lighting: Shall be appropriately lighted to protect the health and safety of residents. Such lighting shall not be considered a nuisance to residents, industry, or business development.
12. Entrance to Park: All entrances shall be constructed in an attractive manner. The name of the park shall be adequately designated. Entrance areas inside the park shall provide for internal street names and addresses and provide adequate mail facilities for the park's residents.
13. Service Building: An adequate service building shall be provided to contain office and maintenance space, laundry, and other support services.
14. Parking: A minimum of two (2) parking spaces shall be provided for each Mobile Home.

D. **Mobile Home General Requirements:** The following standards shall apply to all Class B Mobile Homes.

1. Location: Class B Mobile Homes shall be located in an approved Mobile Home Park, except for the following:
   a. A Class B Mobile Home located on any platted Lot prior to September 1977, may be replaced with another Class B Mobile Home if all of the following conditions are met:
      i. Only one (1) Mobile Home shall be permitted per Lot.
      ii. Mobile Home shall be placed upon a permanent foundation and be subject to real estate tax assessment.
      iii. Mobile Home shall be served by public sanitary sewer or an approved private sewer system.
      iv. Mobile Home shall be used for a residence only.
      v. Mobile Home shall exceed thirty-five (35) feet in length.
      vi. Mobile Home shall meet the requirements of subsection (D)(2) below.
   b. Mobile Homes used as a temporary office or for other purposes on an approved construction site.
   c. Mobile Homes normally used as a Recreational Vehicle may be permitted, but only on the property of the owner and it may not be occupied as a temporary or permanent residence.

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2. Standards: Class A Mobile Homes not located in a Mobile Home Park shall be subject to the following requirements and limitations.
    a. Shall be required to meet the minimum Living Area requirements provided for in the applicable Zoning District.
    b. Shall meet all requirements applicable to Single Family Dwellings and Duplex Dwellings and shall be subject to all necessary permits (e.g., Improvement Location Permit, Building Permit, and Certificates of Occupancy).
    c. Shall be permanently attached to a solid foundation extending down below the frost line, a minimum of thirty (30) inches, or on Basement walls. The space between the floor joists of the home and the excavated area under floor grade shall be completely enclosed with a permanent, perimeter foundation, or Basement walls, except for required openings.
    d. Shall be covered with an exterior material of one (1) or more of the following types:
        i. Horizontal aluminum or vinyl lap siding
        ii. Cedar or wood siding
        iii. Weather resistant grain pressboard
        iv. Stucco, brick, or stone
        v. Other approved materials
        vi. Such materials shall overlap the top of the foundation.
    e. Shall have a roof composed of a material customarily used on site built residential dwellings, such as, fiberglass, shake, asphalt, or tile, which shall be installed onto a surface appropriately pitched for the materials used.
3. Placement with Permit: Mobile Homes not meeting the terms of this Article shall be permitted within the Jurisdiction of the Plan Commission only after: (i) receiving a variance approved by the Board; or (ii) being located in an approved Mobile Home Park.

6.14 OUTDOOR STORAGE AND OUTDOOR SALES DISPLAY

A. **Applicability:** This Article shall apply as an Accessory Use in all Zoning Districts, as set forth herein.

B. **Residential Uses:** Storage or parking of Recreational Vehicles shall be subject to the following conditions:

1. A Recreational Vehicle shall not be parked outdoors on a residential lot or parcel at any time. A Recreational Vehicle may be stored inside a lawfully-erected structure that includes a roof and fully encloses the vehicle.
2. Non-motorized Recreational Vehicles may not be stored on a Right-of-way at any time except for the immediate loading and unloading of the vehicle.

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3. Shall not be occupied or used for living or sleeping purposes and shall not be connected to gas, electric, water or sanitary sewer service for purposes of living or sleeping.
4. Shall not be parked or stored in a manner as to create a dangerous or unsafe condition on the property where parked or stored. Parking or storage while not locked or chocked, whether loaded or not, and the removal of wheels (except for immediate repairs), shall be considered a dangerous and unsafe condition.

C. **Business Uses:** The following shall apply to business uses:

1. Outdoor Storage: Outdoor Storage shall only be permitted if delineated on an approved Development Plan and in accordance with the following:
   a. Size: A Lot's Outdoor Storage area shall not exceed fifty percent (50%) of the Lot's Principal Buildings' gross floor area.
   b. Location: Outdoor Storage areas:
      i. Shall be located immediately adjacent to the Principal Building.
      ii. Shall not encroach into any required Rear or Side Yard.
      iii. Shall be prohibited in an Established Front Yard.
      iv. Shall be delineated on an approved Development Plan.
   c. Screening: Outdoor Storage areas shall be incorporated into the building's design as part of the Principal Building as follows:
      i. Outdoor Storage areas shall be completely screened from view from any adjacent property or right-of-way.
      ii. Outdoor Storage areas shall be screened on all sides with a solid wall, fence, or landscaping, or a combination thereof not less than seven (7) feet in height. A wall or fence shall consist of Masonry Materials that complement the Principal Building.
      iii. Perimeter access into Outdoor Storage areas shall not be oriented toward a Front Yard. Gates shall be required for such access and shall be opaque and architecturally compatible with the materials used on the Principal Building. A chain link fence or a variation of a chain link fence combination shall not constitute an acceptable gate material.
   d. Storage Restrictions: All materials, product or merchandise stored in an Outdoor Storage area shall be stacked no higher than one (1) foot below the top of the wall.
2. Outdoor Sales Display: Outdoor Sales Displays, including vending machines, kiosks, and outdoor point of sale items (e.g., flowers, propane, salt, firewood), shall be prohibited, except for the following:
   a. Automobile dealerships, and other similar uses as determined by the Director or Plan Commission.
   b. Outdoor Sales Displays that otherwise comply with the Outdoor Storage standards set forth in this Article.

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c. Merchandise associated with a temporary use or event conducted pursuant to ***Article 6.21 Temporary Uses and Events***.

3. Approval: Any proposed Outdoor Sales Display shall be delineated on an approved Development Plan and subject to approval by the Plan Commission, except as otherwise permitted by ***Article 6.21 Temporary Uses and Events***, and subject to the following:

   a. The Development Plan shall include the types of merchandise and/or finished products, location, landscaping, and other improvement of the Outdoor Sales Display area.

   b. Pedestrian circulation areas shall not be obstructed and enhancements may be required by the Director or Plan Commission to ensure safe pedestrian movements.

   c. The Director or Plan Commission may require enhanced site design features to ensure that Outdoor Sales Display areas are delineated and that such areas are compatible with the design of the building and site context.

   d. In addition to the standards of the Zoning District, the Plan Commission or Director may require enhanced screening or landscaping to ensure the compatibility of the proposed use with adjoining areas.

   e. Once approved, the Outdoor Sales Display area shall not be materially or substantially changed or altered without the approval of an amendment to a Development Plan.

D. **Industrial Uses:** Outdoor Storage may be permitted in industrial uses, subject to the following standards:

1. Yards: No Outdoor Storage shall be permitted in the Established Front Yard or in a Yard adjoining a Residential District.

2. Screening: Outdoor Storage areas shall be screened as follows:

   a. Continuous screening by a combination of walls, fencing, and landscaping a minimum of six (6) feet high.

   b. Materials stored Outdoor shall not be stacked higher than one (1) foot below the top of the wall or fence. Equipment and vehicles shall be stored at their lowest state.

3. Storage Surface:

   a. An area fifty (50) feet in depth adjacent to the building and high-volume travel lanes in Outdoor Storage areas shall be hard surfaced with asphalt or concrete.

   b. The balance of areas used for Outdoor Storage shall, at a minimum, be finished with stone and have dust control measures implemented by the business during operation.

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c. Curbing shall not be required around Outdoor Storage areas.

6.15 OUTDOOR CAFÉ AND EATING AREAS

A. **Applicability:** Outdoor cafes and eating areas shall be subject to this Article.

B. **Health Department:** All outdoor cafés and eating areas shall conform to all State and County Health Department regulations and code, including but not limited to ***I.C. 16-42-5*** and ***410 IAC 7-24***.

C. **Lighting:** Shall comply with ***Article 6.11 Lighting Standards***.

D. **Audio:** Music and other audio devices shall be maintained at a level: (i) not audible from forty (40) feet from the source; or (ii) ninety (90) decibels or less when measured six (6) feet from source on a dB(A) meter.

E. **Pedestrian Ways:** Shall not impede pedestrian traffic or force pedestrians into vehicular travel lanes in accordance with the following:

1. A five (5) foot pedestrian access area on the perimeter of the outdoor café and eating area shall be maintained at all times subject to approval by the Board of Public Works. At its discretion, the Board of Public Works may approve a narrower pedestrian access area. The pedestrian access area on the sidewalk shall not be interrupted with building, infrastructure, utility, or landscaping elements such as but not limited to columns, supports, plantings or other such materials.
2. Proposed outdoor cafés and eating areas that would occupy or extend into public rights-of-way may not be located in such a manner that renders any Right-of-way, sidewalk, or path non-compliant with Federal, State, or City Building Code.
3. Shall be compliant with all Federal, State and City Building Codes and access requirements.

F. **Required Approvals:** Outdoor cafes and eating areas that are utilized or set aside for use for a period longer than seven (7) days in a calendar year shall be deemed permanent in nature. Permanent outdoor cafes and eating areas shall require Development Plan approval, in accordance with ***Article 7.7 Development Plan Review***, to ensure compliance with this Ordinance and that its use and design is compatible with the surrounding area and Zoning District.

6.16 PARKING AND LOADING STANDARDS

A. **Purpose and Intent:** The intent of this Article is to: (i) require parking standards in order to assure public health, safety and welfare for a mobile society; (ii) minimize risks to the natural environment; and (iii) minimize conflict and promote vehicular and pedestrian safety.

B. **Applicability:** Parking Spaces and loading and unloading berths, as specified for the use to which such building or land is to be devoted, shall be provided in accordance with this Article for each building hereafter erected and for certain other uses of land.

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C. **Loading Berths:** Off-street loading berths shall be subject to the requirements as set out by the Director in accordance with the following guidelines. Exceptions may be granted by the Director upon presentation of justification for a lesser number of loading berths. Additional berths may also be required to serve the needs of the proposed business or industry. Loading and unloading berths shall not be required for business uses which demonstrate that they do not receive or transmit goods or wares in quantity by truck delivery. A loading berth shall have a loading space of at least a 12-foot in width and at least 35-foot in length with a minimum 14-foot height clearance.

1. Business and Professional Offices, Medical Facilities, Schools, Hotels, Clubs and Similar Businesses: One (1) loading berth for each 100,000 square feet of space or additional fraction thereof.
2. Industrial Manufacturing and Warehousing: One (1) loading berth for each 40,000 square feet or additional fraction thereof.
3. Other Local and General Business Uses:

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 berth for each 25,000 sq. ft. or fraction thereof.

D. Site Access and Circulation:

1. All proposed site access locations shall provide for the safe and efficient movement of vehicular and pedestrian movement to and from the proposed development and shall be designed so vehicles do not obstruct the Right-of-way.
2. Site circulation patterns shall be designed to minimize conflicts between vehicular and pedestrian traffic and create a safe and efficient movement of both vehicular and pedestrian traffic in and around the site.
3. Site access approval by an agency other than the City shall not compel the Plan Commission or Director to approve the access point.

E. **Stacking Requirements for Drive-Through Facilities:** The following requirements shall apply for uses with drive-through facilities.

1. General Requirements:
   a. Drive-through lanes and required stacking spaces shall not interfere with parking space maneuvering aisles, parking drive aisles, loading spaces, internal site circulation, designated fire lanes or points of ingress and egress.
   b. Drive-through lanes and stacking spaces shall be designed to prevent vehicles from stacking in the Right-of-way.
   c. No stacking space may occupy any portion of a Right-of-way.

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d. A stacking space does not constitute a Parking Space.

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

2. Minimum Size: A stacking space shall be a minimum of eight (8) feet by twenty (20) feet with direct forward access to a service window or station of a drive-through facility.

3. By-Pass Lane: A minimum eight (8) foot wide lane parallel to a drive-through lane shall 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 that strict compliance with the by-pass lane requirement is impracticable or would result in a less desirable site design, then the Department may waive this requirement.

4. Minimum Number of Spaces: The minimum number of required stacking spaces shall be as follows, which shall exclude the position at the service window but may include spaces between the service window and any ordering position.

a. Fast Food Restaurant: 7 stacking spaces

b. Financial institutions, pharmacies, Takeout and Deli-style Restaurant with drive-through: 3 stacking spaces per service window

c. All other facilities: 2 stacking spaces per service window

5. Reduction in Number of Spaces: If an Applicant demonstrates that strict compliance with the minimum number of stacking spaces is impracticable or would result in a less desirable site design, then the Department may approve a reduction of the stacking requirement. If determined by the Director, then demonstration 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 may be required.

F. **Landscaping:** Parking and loading areas shall be screened in accordance with ***Article 6.10 Landscaping Standards***.

G. **Off-street Vehicle Parking:** In connection with any building or structure which is to be erected or substantially altered, and which requires off-street parking spaces, there shall be provided such off-street parking space in accordance with regulations set forth hereinafter:

1. Use: Except as may otherwise be provided for the parking of trucks or for special uses, required accessory off-street parking facilities required as accessory to uses listed herein, shall be solely for the parking of passenger vehicles of patrons, occupants, or employees during business hours.

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2. Location: Parking Spaces shall be located on the same Lot as the use served with the exception of parking facilities located on land other than the Lot on which the building or use served is located, in which case the Parking Spaces shall be located within three hundred (300) feet walking distance from the main entrance to the use served.
3. Computation: When determination of the number of off-street parking spaces required by this Article results in a requirement of fractional space, any fraction of one-half (0.5) or less may be disregarded; while a fraction in excess of one-half (0.5) shall be counted as one (1) parking space.
4. Collective Provisions for Non-Residential Uses: Off-street parking facilities for separate uses may be provided collectively if the total number of Parking Spaces so provided is not less than the sum of the separate requirements of each such use, and if all regulations governing the location of accessory Parking Spaces in relation to the use served are observed. But no Parking Space, or portion thereof, shall serve as the required space for more than one (1) use unless otherwise authorized.
5. Shared Parking: Groups of users requiring Parking Spaces may join in establishing group Parking Area if all the following criteria are met, with the approval of the Plan Commission or Director:
    a. Location: The off-site, off-street parking facilities are within 300 feet of the property.
    b. Minimum Number of Parking Spaces Required: The shared Parking Spaces shall provide at least eighty percent (80%) of the cumulative minimum off-street Parking Spaces required for each use.
    c. Reciprocal Parking Agreement: A written reciprocal parking agreement or other similar document with a minimum duration of 20 years, signed by all Property Owners involved is required and shall include provisions concerning at least the following items: easements (if applicable), maintenance, snow removal, ownership, and liability. The agreement or other similar document shall be recorded in the County Recorder's office and a copy shall be provided to the Department. Should the Reciprocal Parking Agreement expire or otherwise terminate, the uses for which the off-site parking was provided shall be considered non-conforming and any and all approvals shall be subject to revocation. Continuation or expansion of the uses shall be prohibited unless the use is brought into compliance with the parking regulations of this Article.
6. Size: Off-street parking spaces shall be at least nine (9) feet in width and at least eighteen (18) feet in length, exclusive of access drives, aisles, ramps, columns, and office or work area. Such Parking Spaces shall have a vertical clearance of at least seven (7) feet. Parallel Parking Spaces shall be at least eight (8) feet in width and at least twenty-four (24) feet in length.

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7. Access: Each required off-street Parking Space shall open directly upon an aisle or a drive (not a lane or stacking space designated to serve a drive-through), of such width and design as to provide safe and efficient means of vehicular access to such Parking Space. All off-street parking facilities shall be provided with appropriate means or vehicular access to a street in a manner which will least interfere with traffic movements. The minimum aisle width for angled parking shall be as follows:

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

8. Surfacing and Curbs:
   a. Public Parking Areas and loading and unloading berths shall be paved with a hard, dust-proof surface in accordance with the City's Construction Standards.
   b. A stormwater collection, conveyance, detention, and treatment system, designed in accordance with applicable City standards, policies, and ordinances, shall be installed for all Parking Areas.
   c. The perimeter of all Parking Areas and any islands located therein shall be curbed and guttered, in accordance with the City's Construction Standards.
   d. If the proposed on-site storm water quality best management practices require that curbing or alternative surfacing, or portions thereof, not be installed, then a waiver from the requirements of this subsection may be considered at the discretion of the Director.
9. Traffic Control: Pavement markings and traffic control devices shall conform to the requirements of the Indiana Manual of Uniform Traffic Control Devices, latest revision.
10. Lighting: A system of lights shall be installed to provide an adequate standard of illumination over the entire Parking Area of business uses during business hours and minimum-security illumination during nonbusiness hours. All lights shall be shielded so that minimum glare will extend to the adjacent property and meet the requirements of ***Article 6.11 Lighting Standards***.

H. **Heavy Truck Parking Standards:** The following standards shall apply for the circulation and parking of heavy trucks, semi-trucks, buses, and similar vehicles with two or more rear axles:

1. Site Access: The site shall be designed so all heavy trucks are able to enter and leave the site without having to back out onto the Right-of-way.

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2. Location: Heavy truck parking areas shall be located no closer than (10) feet from the Front Lot Line or Street Side Lot Line.
3. Surfacing and Curbs:
   a. Heavy truck parking and circulation areas shall be paved with a hard, dust-proof surface in accordance with the City's Construction Standards.
   b. A stormwater collection, conveyance, detention, and treatment system, designed in accordance with applicable City standards, policies, and ordinances, shall be installed for all Parking Areas.
4. Screening: Where a heavy truck parking area is located within 50 feet of a Front Lot Line or Street Side Lot Line a six (6) foot high decorative wall the full length of the Front Lot Line or Street Side Lot Line shall be provided. The wall does not need to be provided at entrances and exits and where the Principal Building is constructed within 50 feet of the Front Lot Line or Street Side Lot Line.
5. Lighting: A system of lights shall be installed to provide an adequate standard of illumination over the entire Parking Area of business uses during business hours and minimum-security illumination during nonbusiness hours. All lights shall be shielded so that minimum glare will extend to the adjacent property and meet the requirements of ***Article 6.11 Lighting Standards***.

I. Bicycle Parking: It is the purpose of this section to provide adequate and safe facilities for the storage of bicycles. This section shall apply to all new development and/or building expansions requiring Development Plan approval or an Improvement Location Permit.

1. Number of Spaces: Bicycle parking spaces shall be provided on the Parking Ratios Table in Section I below. When no minimum Bicycle Spaces rate is provided on the table, bicycle spaces hall be provided at a minimum rate of one (1) bicycle parking space (or parking position) shall be provided per thirty (30) vehicular parking spaces. No more than fifteen (15) bicycle parking spaces shall be required for any Principal Building.
2. Size: Bicycle spaces shall be at least two and a half (2.5) feet in width and six (6) feet in length, with a minimum overhead vertical clearance of seven (7) feet.
3. Proximity to Principal Building: The bicycle parking spaces shall be located within 50 feet of the main entryway into the Principal Building or be located inside the Principal Building.
4. Rack Requirement: A bicycle rack, which may contain multiple bicycle parking spaces, shall be securely affixed to the ground or wall on a hard, dustless surface and allows for the bicycle to be chained and locked.

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5. Pedestrian Ways: Bicycle Parking Areas shall be designed such that when in use, the bicycles (and trailers), shall not obstruct an adjacent sidewalk, path, or other pedestrian way and located to provide a minimum of five (5) feet of clearance behind the bicycle to allow for room to maneuver.

6. Exemptions: The Plan Commission or Director may exempt certain uses from this section where it can be clearly demonstrated that the use is not a destination for the general public utilizing bicycles (e.g., daycare centers, warehousing and distribution, car washes, drive up establishments, other auto-oriented uses as determined by the Director).

J. Parking Ratios for Vehicles and Bicycles:

1. Required Spaces: Off-street vehicular parking spaces and bicycle spaces shall be provided as indicated on the Parking Ratio Table below.

2. Uses Not Identified: The Director shall determine the parking requirement for uses that do not correspond to the categories listed on the Parking Ratios Table. In such instances, the Applicant shall provide adequate information by which the proposal can be reviewed, which includes but may not be limited to the following:

   a. Types of use,
   b. Number of employees by use,
   c. Building design capacity,
   d. Square feet of sales area and service area,
   e. Parking spaces provided on-site,
   f. Parking spaces provided elsewhere, and
   g. Hours of operation.

3. Multiple Uses: Where the application identifies accessory or multiple uses within a structure or multiple structures, the minimum standards shall apply to each use or structure. This does not apply to Shared Parking in this chapter (see ***Section 6.16(G)(5) - Parking Standards***).

4. On-Street Parking: The minimum number of required off-street parking spaces shall be reduced by the number of on-street parking spaces abutting the property lines of the Lot or parcel.

5. Minimum Parking Ratios: The Parking Ratios Table establishes the minimum number of vehicular and bicycle parking spaces required for the uses indicated. For the purposes of parking calculations, the gross area of any parking garage within a building shall not be included within the GFA of the building. Parking requirements may be met by one or a combination of the following methods:

   a. Providing on-site parking spaces.

   b. Providing off-site parking spaces in a shared parking facility.

6. Maximum Parking Ratios: The Parking Ratios Table establishes the maximum number of parking spaces required for the use indicated. If a

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maximum parking space ratio applies, the number of parking spaces shall not exceed the maximum number permitted. The maximum spaces allowed do not include accessible spaces required by the Building Code.

USE	Minimum Vehicle Spaces	Maximum Vehicle Spaces	Minimum Bicycle Spaces
RESIDENTIAL			
Accessory Dwelling Unit	--	--	--
Attached Dwelling Units	1/DU	1.9/DU	0.5/DU
Detached Dwelling Units	2/DU	--	--
Group Living Arrangements	0.3/bedroom	1/bedroom	--
CIVIC			
Club, Civic or Private	1/s3 persons	--	1/20 vehicle spaces
Educational institutions, except as listed below: • College or University • School, Vocational, Trade, Fine Arts or Commercial Schools	1/classroom 1/ 4 students 1/200 sf GFA	2/classroom 1/ 2 students 1/150 sf GFA	1/10 students 1/5 vehicle spaces 1/10 students
Houses of worship	1/8 seats	1/1.5 seats	1/20 vehicle spaces
Medical facilities, except as listed below: • Hospital, Medical Center	1/250 sf GFA 1/400 sf GFA	1/200 sf GFA 1/100 sf GFA	1/20 vehicle spaces 1/20 vehicle spaces
Museum, Library	1/500 sf GFA	1/150 sf GFA	1/20 vehicle spaces
Parks and open areas	--	--	--
Public Assembly Areas (conference centers, arenas, auditoriums, etc.)	1/6 seats or 1/30 sf GFA if no permanent seats	1/4 seats or 1/50 sf GFA if no permanent seats	1/20 vehicle spaces
COMMERCIAL			
Convenience store with gas pumps, Gasoline service station	1/375 sf GFA	1/200 sf GFA	1/20 vehicle spaces
Convenience store without gas pumps	6/1000 sf GFA	10/1000 sf GFA	1/10 vehicle spaces
Day Care Center	1/375 sf GFA	1.5/375 sf GFA	--
Farmers Market	--	--	--
Funeral Home or Mortuary	1/ 4 seats	1/ 2 seats	--
Garden and Lawn Center	1/375 sf GFA of sales and service buildings	1.5/375 sf GFA of sales and service buildings	--

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USE	Minimum Vehicle Spaces	Maximum Vehicle Spaces	Minimum Bicycle Spaces
Health, Fitness, or Exercise Center	1.5/1000 sf GFA	10/1000 sf GFA	1/10 vehicle spaces
Indoor Theater	1/6 seats	1/4 seats	1/20 vehicle spaces
Lodging: Bed and Breakfast	1/guest room + 2 spaces for owner's portion	--	--
Lodging: Hotel or Motel	0.8/room + 1/800 sf of public meeting area and restaurant space	1/room + 1/400 sf of public meeting area and restaurant space	--
Offices	1/250 sf GFA	1/140 sf GFA	1/20 vehicle spaces
Recreation facilities, Indoor	5/1000 sf GFA	6/1000 sf GFA	1/20 vehicle spaces
Recreation facilities, Outdoor	1/1000 sf GFA	1.5/1000 sf GFA	1/20 vehicle spaces
Restaurants: Fast Food or Sit Down	1/75 sf GFA	1/50 sf GFA	1/10 vehicle spaces
Restaurants: Specialty, Takeout, or Deli-style	1/250 sf GFA	1/140 sf GFA	1/20 vehicle spaces
Restaurants: Tavern	1/2 seats	1/1.5 seats	1/10 vehicle spaces
Retail, High Intensity	1/250 sf GFA	1/140 sf GFA	1/10 vehicle spaces
Retail, Low Intensity	1/300 sf GFA	1/200 sf GFA	1/20 vehicle spaces
Retail, Medium Intensity	1/300 sf GFA	1/200 sf GFA	1/10 vehicle spaces
Retail, Special Handling	1/300 sf GFA	1/200 sf GFA	1/20 vehicle spaces
Retail, Very High Intensity	6/1000 sf GFA	10/1000 sf GFA	1/10 vehicle spaces
Self-service warehouse or mini-storage	4 spaces + 2 for manager's quarters	--	--
Sexually-Oriented Business	1/300 sf GFA	1/200 sf GFA	1/20 vehicle spaces
Vehicle Sales & Service	1/375 sf GFA of sales and service buildings	1.5/375 sf GFA of sales and service buildings	--
Wholesale trade	1/300 sf GFA	1/200 sf GFA	1/20 vehicle spaces
INDUSTRIAL			

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USE	Minimum Vehicle Spaces	Maximum Vehicle Spaces	Minimum Bicycle Spaces
Industry, Light	1/300 sf GFA	1/150 sf GFA	--
Industry, Medium	1/300 sf GFA	1/150 sf GFA	--
Industry, Heavy	1/600 sf GFA	1/350 sf GFA	--
Warehousing & Distribution	1/600 sf GFA	1/350 sf GFA	--
Waste related services (Recycling Facility, Salvage Yard, Transfer Station, etc.)	1/employee	--	--

6.17 PERFORMANCE STANDARDS: PROPERTY MAINTENANCE STANDARDS; RENTAL HOUSING MAINTENANCE STANDARDS

A. **Applicability:** This section shall apply to all uses in all Zoning Districts as set forth herein. The restrictions of this Article shall not apply to: (1) the activities of site preparation or construction, maintenance, repair, alterations, modification or improvement of buildings, equipment or other improvements on or within the Lot; (2) the operation of motor vehicles or other facilities for the transportation of personnel, materials or products; (3) conditions beyond the control of the user such as fire, explosion, accidents, failure or breakdown of equipment or facilities or emergencies; or (4) safety or emergency warning signals or alarms necessary for the protection of life, limb or property.

B. **General Requirements:** This section shall apply to Uses in all Zoning Districts.

1. Obnoxious Characteristics: No use shall exhibit obnoxious characteristics to the extent that it constitutes a public nuisance.
2. Fire Protection: Firefighting equipment and prevention measures acceptable to the Fire Department and any federal, State, County, and/or local authorities that may also have jurisdiction shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive materials is conducted.
3. Electrical Disturbance: No use shall cause electrical disturbance adversely affecting radio, television, or other equipment in the vicinity.
4. Noise: No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness or vibration. Said noise shall be muffled or otherwise controlled so as not to become detrimental, provided, however, public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.
5. Vibration: No use shall cause vibrations or concussions detectable beyond the lot lines without the aid of instruments.
6. Odor: No use shall emit across the lot lines malodorous gas, obnoxious odor, or matter in such quantity as to be detectable at any point along the lot lines.

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7. Air Pollution: No use shall discharge across the lot lines fly ash, dust, smoke, vapors, noxious, toxic, or corrosive matter, or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property, or conflict with public air quality standards.
8. Heat and Glare: No use shall produce heat or glare in such a manner as to be a nuisance or create a hazard perceptible from any point beyond the lot lines.
9. Water and Solid Waste Pollution: No use shall produce erosion or pollutants in such quantity as to be detrimental to adjacent properties or conflict with public water quality standards.
10. No authorization of a use under this Ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under Indiana State statute. Plans and specifications for proposed sewage and other waste treatment and disposal facilities shall be approved by authorities that may have jurisdiction.
11. No use shall accumulate within the Lot or discharge beyond the Lot Lines any waste matter, whether liquid or solid, in conflict with applicable public health, safety and welfare standards and regulations.

C. **Property Maintenance Standards:** This section shall apply to all land, whether improved or unimproved, within the Unincorporated Two-Mile Fringe Area.

1. Exterior Property Maintenance Standards: All land including exterior premises and vacant land, whether improved or unimproved, and exterior areas under any roof not enclosed by the walls, doors, or windows of any building shall be maintained free from the following:
   a. Any accumulation of garbage, debris, rubble, hazardous waste, litter, rubbish, refuse, waste material, or blight, to include, but not limited to: graffiti; bottles; paper; tires; vehicle parts; broken glass; cans; organic or inorganic material; wood, metal, plastic, rags, and metal not neatly stacked, or anything that becomes a hazard to the public health and safety or harbors insect, rodent, or vermin infestation;
   b. The exterior visible use or display of tarps, plastic sheeting, or other similar materials as screening, fencing, or wall covering;
   c. Abandoned, inoperable, junk, or unregistered vehicle(s), or part(s) thereof, which are not concealed from ordinary public view by means of inside storage, fencing, landscape buffering or other means outside of an enclosed building on any lot, except the safe and neat keeping of:
      i. A single inoperable vehicle on any lot or premises that is registered to a resident of the property and undergoing minor repair work, not to exceed 72 hours; or

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ii. Lawful commercial activities involving vehicles as allowed by this Code;

d. Any abandoned, unattended, discarded, broken or inoperable commercial or industrial equipment, appliances, machinery, freezers, refrigerators or other household items, equipment, and furnishings;

e. Any object, tree, or bush on private property that interferes with, obstructs, partially obstructs, or renders dangerous the free passage, use, or vision in the customary manner of any sidewalk, street, alley, highway, or traffic light or sign in the city;

f. Any landscaping visible from public property that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated appearance; uncultivated plants, weeds, tall grass, tumbleweeds, uncultivated shrubs or growth (whether growing or otherwise) higher than six inches; or any dead trees and branches, bushes, shrubs, or portions thereof;

g. Anything whatsoever that is or may become an imminent hazard to public health and safety or which may otherwise create a fire hazard;

h. Any unguarded and unprotected, or abandoned excavation, pit, well, cellar, hole, trench or other excavation of more than two feet in depth on any unenclosed lot that may constitute a threat or public hazard;

i. Any wall or fence that is missing blocks, boards, or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property; and

j. Graffiti that is capable of being viewed by a person using any public area or right-of-way in the Unincorporated Two-Mile Fringe Area.

These general property maintenance standards shall not be deemed to include: items kept in covered bins or receptacles approved by any other ordinance of the city; a Salvage Yard or any other junkyard lawfully established pursuant to this Code; any neatly stored materials used in the development of property; and any items stored or kept in enclosed trailers or vehicles.

These general property maintenance standards shall not apply to the neat and orderly storage of non-hazardous materials in the side and rear yards provided such storage does not exceed ten percent (10%) of the area of the side or rear yard in which the material is stored and further provided such storage does not exceed the height of any fence or wall enclosing such yards and is not visible from the exterior of the property.

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2. Exterior Insect and Rodent Control: All premises shall be kept free from insect and rodent infestation and other noxious pests. This provision shall not require action to disturb the natural or cultivated activity of bees, rabbits, or other insects and animals where such activity is not a danger or nuisance to any resident or residents of the area and where other applicable legal requirements are met.
3. Drainage: All premises shall be maintained to prevent the accumulation of stagnant water which otherwise may cause a hazardous or unhealthy condition; become a breeding area for insects; cause a build-up of ice; or allow soil erosion or damage to foundation walls.
4. Fences and Walls: All fences, screen walls, perimeter walls and retaining walls shall be safe, structurally sound, and uniform in color, structure, and design. They shall be maintained so that they do not constitute a hazard, blight, or condition of disrepair. Examples of hazards, blight, or conditions of disrepair include, but are not limited to: leaning fences, fences missing slats, walls missing blocks, graffiti, peeling paint, deterioration of surface finish, rotting, or damaged components. Repair or replacement of an existing fence or wall or portions thereof shall be made with the same or similar materials as the existing fence or wall.
5. Garbage Receptacles: Each occupied building or structure shall be provided with an adequate number of appropriate receptacles for garbage and rubbish, which are maintained in clean condition and good repair. The Owner or Occupant shall arrange for the removal of garbage and rubbish from the premises. Each garbage receptacle shall be constructed of watertight material and have the ability to contain no more than the maximum sized receptacle allowed by the solid waste collection company. The cover shall not be removed except when necessary to place garbage therein or remove garbage therefrom unless the contents are contained in a bag to prevent trash from leaving the container. Each receptacle and its cover shall be kept clean from accumulating grease and decomposing material. All trash receptacles, containers, dumpsters, and similar containers shall be properly maintained so that trash and discarded materials placed in the containers cannot be transported by wind.
6. Dumping: Vacant lots or lands that have been subject to enforcement action regarding dumping on more than one occasion shall be secured to prevent future occurrences of dumping. Methods of securing vacant lots or lands may include the following: fencing; placing four-foot-high posts at four-foot intervals; or other equally effective methods. Where methods of securing vacant lots or lands by other than fencing are utilized, signs with the words "no dumping" shall be erected in accordance with applicable laws.
7. Excavations, Septic Tanks, and Cesspools: Unenclosed, unsecured, or dangerous excavations, septic tanks, cesspools, and other like or similar

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conditions must be fully restored to a safe, serviceable condition, or filled with clean fill or other material approved by the New Albany Building Commissioner. Excavations shall be maintained in a secure manner to prevent a hazard to public health and safety. An excavation is considered secure when (a) an excavation more than two feet in depth is protected by a permanent and complete five-foot minimum height enclosure that surrounds the excavation or property; or (b) a well, pit, abandoned swimming pool, or similar excavation is covered, securely fenced, or otherwise protected in an equivalent manner.

8. Dangerous Buildings and Structures: Buildings or structures determined to be unsafe or dangerous as defined in the Building Code shall be abated in accordance with the provisions of that code.

9. Vacant and Unsecured Buildings, Structures, and Premises: Vacant and unsecured buildings, structures, and premises shall meet the requirements of this section. The requirements of this section do not apply to vacant buildings that do not contribute to blight because the Owner is actively maintaining and monitoring the building. Active maintenance shall include:

   a. Maintenance of the exterior of the building, landscaping, and plant materials in good condition; regular removal of all exterior trash, debris, and graffiti; and maintenance of the building in continuing compliance with all applicable codes and regulations; and

   b. Prevention of reoccurring criminal activity on the premises. When required by the Director, unsecured buildings and structures shall be completely secured in the following manner:
      i. All gas and electric utility services may be required to be disconnected within five days upon notice and order;
      ii. Doorways, crawl spaces, windows, and openings are to be completely boarded by use of five-eighths inch or thicker exterior grade plywood, fastened by tamper-proof screws or one-way bolts to the frame or a cross brace, or both;
      iii. All boarding shall be painted to match the dominant exterior color of the elevation of the building or structure on which the barricade is placed. The dominant exterior color shall be that color that occupies at least 60 percent of the particular elevation; and
      iv. For commercial buildings, opaque window coverings may be allowed by the Director in lieu of boarding provided all windows are maintained and if broken or cracked, are replaced within 48 hours. The Director may revoke the use of the alternative when the Owner or responsible party fails to maintain the windows or replace cracked or broken windows within the specified 48-hour period.

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The lot or premises upon which a vacant building exists shall be maintained free of weeds, litter, and rubbish; and landscaping shall conform to the requirements of this Code.

If, after notice has been provided, the Owner of a vacant building or unsecured structure fails to install barricades as specified herein, the Director is authorized to barricade the building or structure, and all costs associated therewith shall be recovered from the property Owner.

D. **Rental Housing Maintenance Standards.**

1. Purpose and Applicability: The purpose of this Section is to establish periodic, systematic inspection of rental housing within the City to protect the health and safety of the public, prevent blight, and preserve property values. This Section shall apply to all rental housing units within the planning jurisdiction of the City unless otherwise exempted in ***Section 6.17(D)(2)***.
2. Exemptions: All Rental Housing Units shall be subject to the requirements of this Section, except for the following:
    a. Rental Housing Units for transient lodging, including hotels, motels, inns, and tourist homes. This exception does not apply to residential hotels.
    b. Rental Housing Units in a state licensed hospital, hospice, community care facility or nursing home; convent, monastery, or other facility occupied exclusively by members of a religious order; on-campus fraternity or sorority houses; or on-campus housing accommodations owned, operated, or managed by an institution of higher education or secondary school for occupancy by its students.
    c. Rental Housing Units that are owned, operated by, or receive funding or subsidies from federal, state, or local government entities and are inspected by the governmental entity at least once every five (5) years.
    d. Rental Housing Units that have been newly constructed, for a period of five (5) years from the issuance of a certificate of occupancy.
3. Registration: Rental Housing Units shall be registered with the City of New Albany Building Department.
4. Inspections
    a. All rental housing properties and Rental Housing Units are subject to routine, periodic inspections, as provided by this Section, to ensure the rental housing complies with all applicable building, housing, and sanitation codes and ordinances.

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b. If there are multiple housing units on a single rental housing property, the Code Enforcement Officer shall inspect the exterior of the property, all Common Elements, and all vacant Rental Housing Units. If there are more than four (4) vacant Rental Housing Units, the Code Enforcement Officer may randomly select no fewer than twenty-five percent (25%) of vacant Rental Housing Units for inspection. If the Code Enforcement Officer determines one or more violations exist on the property, the Code Enforcement Officer may conduct an inspection of additional vacant units.

c. Frequency of Inspections. All rental housing properties shall be inspected within sixty (60) days of registration. Properties already registered with the City on the date this Ordinance is adopted shall be inspected prior to the next annual registration fee payment deadline. Thereafter, properties shall be inspected once every three (3) years or more frequently if the Director determines the property poses a risk of harm to its tenants based upon the following factors:
   i. The current condition of the premises, including the number, nature, and severity of violations found;
   ii. Whether, within the three (3) prior years:
      1. A Code Enforcement Officer has found violations on the property;
      2. The Owner or manager of the property has other properties found in violation of this ordinance;
      3. Delinquent fees have been assessed on the property; or
      4. The Owner is delinquent in paying property taxes or sewage and stormwater fees.
   iii. Other criteria determined by the Director that indicate the presence of health or safety violations.

d. Self-Certification Program.
   i. Qualification. A rental housing property shall be placed in the Self-Certification Program if all the following circumstances exist:
      1. After the last inspection conducted pursuant to this Section, the Code Enforcement Officer determines no violations exist on the property or violations identified were abated within thirty (30) days.
      2. The Owner and Local Contact Representative comply with all applicable provisions of this Section; and
      3. The Owner is not delinquent on any payment to the City of property or other taxes, fees, penalties, or any other monies related to the property.

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ii. Removal from the Program. A rental housing property may be removed from the Self-Certification Program if any of the following circumstances occurs:
   1. The rental housing property is in violation of this Section or any other provision of law, even if the violation is abated within thirty (30) days: or
   2. Any of the circumstances set forth in *Section 6.17(D)(4)(d)* cease to exist.

iii. Self-Certification. Owners of rental housing properties that are in the Self-Certification Program shall certify, under penalty of perjury, that each rental housing unit on the property is in compliance with all building, housing, and sanitary codes annually by no later than January 31, and upon each change in tenancy. Self-certification shall consist of the following:
   1. The Owner, or his or her designee, shall inspect all Common Elements and each unit that becomes vacant since the prior certification for compliance with the requirements of Self-Certification as provided by the City;
   2. The Owner shall repair immediately any conditions necessary to achieve compliance with the Self-Certification requirements;
   3. The Owner shall complete the Self-Certification documentation and submit the form to the City and to the occupants of the corresponding rental housing unit.
   4. In the event any rental housing unit cannot be self-certified due to conditions of the property or an inability to repair conditions, the Owner must immediately notify the City.

iv. Random Inspections. The City may inspect rental housing properties and vacant Rental Housing Units in the Self-Certification Program on a random basis, but not more frequently than once per year.

e. Non-exclusivity. None of the inspection provisions in this Section shall prohibit, condition, or otherwise limit any inspection conducted pursuant to this code or other applicable law.

f. Notice of Inspection. The Director shall serve written notice of the date and time of any inspection to be conducted under this Section, by mailing such notice by first class mail at least 14 calendar days prior to the date of inspection. The Director shall mail the notice to the Owner and the Local Contact Representative to the addresses provided on the registration application. The Director shall also post official notice of the inspection in a Common Element of the rental property. In the case of multiple Owners of the same property, notice to any one of the Owners shall comply with the notice requirement under this Section.

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g. Re-scheduling an Inspection. An Owner or Local Contact Representative may reschedule an inspection once by contracting the Director's office at least five (5) calendar days prior to the scheduled inspection date. A rescheduled inspection must occur within 14 calendar days of the original inspection date. Violation of this Section shall result in the imposition of a re-scheduling fee.

h. Entry.
   i. The Owner or Local Contact Representative shall provide the Code Enforcement Officer with access to all Common Elements and vacant units on the rental housing property.
   ii. If the Code Enforcement Officer has reasonable cause to believe an occupied rental housing unit is so hazardous, unsafe, or dangerous as to require immediate inspection in order to safeguard the public health or safety, the Code Enforcement Officer shall have the right to immediately enter and inspect the premises and may use any reasonable means required to effect the entry and make inspection.

i. Results of Inspection.
   i. If the Code Enforcement Officer finds no code violations, the Code Enforcement Officer shall issue a notice of compliance stating in plain language the property complies with all applicable laws. The Code Enforcement Officer shall mail the notice to the Owner and Local Contact Representative to the addresses provided on the registration application.
   ii. If upon inspection, the Code Enforcement Officer discovers one or more violations of this Code and any other applicable law, the Director shall cause to be issued a notice and order to the Owner and Local Contact Representative to correct the violations. The order shall state in plain language the violations of law found and the sections of law with which the property is not in compliance. The order shall also state that failure to correct the violations may result in additional inspection fees under Section 6.17(D)(4)(i) and other enforcement actions. The Director shall mail the notice and order to the Owner and the Local Contact Representative to the addresses provided on the registration application.
   iii. If the Director determines the conditions pose a present, imminent, extreme, and immediate hazard to health or safety, he or she shall order abatement of the conditions within 48 hours. Within 24 hours after the deadline to abate, the Director shall conduct a re-inspection of the property or rental housing unit to determine compliance with the order. If the conditions have not been abated, the Director is authorized to make the

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necessary repairs to ensure immediate repair of dangerous, life-threatening conditions.

iv. Except as provided in subsection iii, the Director shall specify a reasonable period for correction of violations, depending upon the severity of the condition, between 48 hours and 30 days from receipt of the order to correct the violations and schedule a re-inspection of the property. The City shall impose a fee for the additional inspection required under this subsection. The City may also commence any enforcement action as provided in this Section, including, but not limited to those in ***Section 6.17(D)(5)***.

v. Except for conditions specified in subsection iii, if the violation has not been corrected by the compliance date, but the Owner has made significant progress in correcting the violation since the prior inspection, the Director may grant a single extension of time not to exceed 30 days. In determining whether to grant the extension of time, the Director shall consider the factors listed in ***Section 6.17(D)(4)(c)***.

5. Enforcement.

a. Penalties.

i. If, after re-inspection of the property, the Owner fails to correct the conditions in violation of the law, the City may seek compliance by any remedy allowed under this Code or state law.

ii. Any person or entity that violates a provision of this Section shall be liable for a civil penalty as identified in ***CHAPTER 10: ENFORCEMENT AND PENALTIES***.

iii. The City may collect any judgment, fee, cost, or charge, including any fees, late charges, or interest, incurred under this Section that has not been paid within 45 days of notice thereof. Any Owner who fails to pay any judgment, fee, cost, or charge, will be subject to the placement of a lien against the rental housing property that is the subject of the fees, costs, or charges.

iv. The remedies provided in this Section shall be cumulative and not exclusive of any other remedies available under federal, state, or local laws.

b. Tenant Protections.

i. Retaliatory Eviction. It shall be unlawful for an Owner to repossess a rental housing unit in retaliation for a tenant exercising his or her right to file a complaint with the City advising that a building, housing, sanitation Code or ordinance violation or permit violation may exist on the property.

ii. Rent Increase or other Retaliatory Actions. If an order is made under Section ***6.17(D)(4)(d)(i)(ii)***, the Owner shall not:

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- Increase the rent for the existing tenants of any rental housing unit that is the subject of the order from the date of the order to a period of one (1) year after the Director determines the Owner has complied with the order; or
- Engage in other types of retaliatory conduct, including, but not limited to, depriving the tenants of use of the premises, decreasing services, or otherwise interfering with the tenants' rights under the lease.

iii. The City shall establish and maintain a phone line and/or website where tenants may contact the City inspection staff with concerns about the condition of their rental unit. The owner shall post this contact information within each rental unit.

c. Relocation Costs. If the Director finds it necessary to vacate any rental housing unit because of an unsafe or unsanitary condition, or to correct any violations, the costs and expenses of any tenant relocation shall be the responsibility of the Owner.

6. Program Review. On an annual basis the Director shall report to the City Council on the activities of the Rental Inspection Program, including, but not limited to: (a) The number of rental units registered; (b) The number of rental units inspected; (c) Owners' compliance in allowing inspections to be completed within the timeframe; (d) The number of inspections finding violations; (e) The types of violations found; (f) The number of units that were not brought into compliance within the timeframe; (g) The number of inspections that have resulted from complaints; (h) An evaluation of whether the program fees reflect the program costs and recommendations for any changes to the fee structure; (i) A description of the number of cases requiring enforcement and the enforcement measures used; (j) A comparison of this year's activities to prior years; (k) The number and types of referrals to other agencies (i.e. Child Protective Services); and (l) Any recommendations for modifications to the Program.

6.18 SETBACK STANDARDS

A. **Applicability:** This Article shall apply to all Zoning Districts.

B. **Measurement:** The measurement of any Building Setback Line or Building Separation is the shortest distance between the Building Façade or foundation and the Lot Line or Right-of-way line, whichever is closest. In the case where there is no Right-of-way line, the Building Setback Line shall be measured from the Building Façade or foundation and the edge of pavement or the access easement line, whichever is closest.

C. **Minimum Building Setback Lines:** The minimum Building Setback Lines and minimum Building Separation requirements shall be as set forth in this Ordinance (see also ***CHAPTER 4: ZONING DISTRICTS***).

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D. **Minimum Building Separation:** If a minimum Building Separation requirement is not otherwise provided by the Zoning District of a Lot that permits multiple Principal Buildings, then the minimum Building Separation requirement of the Zoning District's minimum Side Yard Building Setback Line shall apply.

E. **Established Areas:** Where twenty-five percent (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 determine the location of the Building Setback Line for the Block Frontage in lieu of the Building Setback Lines contained in this Ordinance.

F. **Recorded Subdivision Setback Lines:** Building Setback Lines established in a recorded Subdivision shall establish the setback of buildings in such subdivisions, except when such Building Setback Lines may be less restrictive than provided in this Ordinance.

G. **Through Lots:** On through lots, the front yard is established by the existing principal buildings in the block.

H. **Vision Clearance:** Regardless of the minimum setback requirements set forth herein, all Improvements are subject to ***Article 6.23 Vision Clearance Standards***, unless specifically exempted elsewhere in this Ordinance.

6.19 SHORT-TERM RENTALS

A. **Purpose**: These standards are intended to ensure compatibility with the other permitted uses and the residential character of the neighborhoods in which Short-term Rentals are located. All Short-term Rentals shall meet the standards contained in this section and shall be located and operated so that the average neighbor, under normal circumstances, will not be aware of its existence.

B. **Applicability**: Short-term Rentals are permitted in all districts.

C. **Exceptions:** The following circumstances do not constitute a Rental:

1. Family occupancy: Any member of a family, as well as that family member's guests, may occupy a Dwelling as long as that family member's family owns the Dwelling. Family occupancy also exempts guest houses or similarly separate Dwellings legally located on the same Premises as the Owner's domicile, when occupied by family guests, exchange students, visitors, medical caregivers, and child caregivers, without remuneration to the Owner.

2. 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.

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3. Dwelling sales: Occupancy of up to 90 days by a prior Owner after the sale of a Dwelling under a Rental agreement following closing is permitted.
4. Estate representative: Occupancy by a personal representative, trustee, or guardian (including family members) of the estate, with or without remuneration is permitted.

D. **Performance Standards**: All Short-Term Rentals shall be subject to the following performance standards:

1. The Owner shall provide off-street parking on paved portions of the Premises and not in the yard to accommodate all Occupants' vehicles, including motor vehicles and trailers.
2. Rental of the Dwelling shall be done in a manner that is consistent with the intent of a single family residential neighborhood.
3. The Owner shall provide the Occupant with the following information prior to occupancy and post such information in a conspicuous location within the Dwelling:
   a. The name of the contact person and a telephone number at which the contact person may be reached any time the Dwelling is Rented;
   b. Notification of the Maximum Occupancy permitted in the Dwelling;
   c. Notification and instructions as to the parking locations;
   d. A copy of this Article, as may be amended from time to time; and
   e. Notification that an Occupant may be cited or fined by the City, in addition to any other remedies available at law, for violating any provisions of this Article.
4. The Owner's contact person must be available to accept telephone calls at all times 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 three (3) hours to address issues, unless arrangements are made for another person to address issues within the same timeframe.
5. The appearance of the Dwelling shall not conflict with the residential character of the neighborhood. The Dwelling shall be properly maintained per all applicable local and state codes and kept in good repair so the use in no way detracts from the general appearance of the neighborhood.
6. Occupants shall not encroach on neighboring properties.
7. The premises shall be maintained free of debris and unwholesome substances. Garbage must be kept in a closed container and disposed of on a regular, weekly schedule.

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8. Occupants shall not create a nuisance. For purposes of this subsection, a nuisance includes, but is not limited to, any of the following:
   a. Any activity that violates the City noise regulations;
   b. Any outside noise that is audible at the property line of the Premises occurring between 10:00 p.m. and 7:00 a.m. on weeknights (Sunday, Monday, Tuesday, Wednesday, and Thursday), and between 11:00 p.m. and 7:00 a.m. on weekend nights (Friday and Saturday); and
   c. Any activity that violates the City firework regulations.
9. Short-term Rentals shall not be used to:
   a. House sex offenders;
   b. Operate a structured sober living home;
   c. Manufacture, exhibit, distribute, or sell illegal drugs, liquor, pornography, or obscenity; or
   d. Operate an adult entertainment establishment as defined in IC 12-7-2-1.8).

E. **Permit Required**: A Short-term Rental permit is required prior to the use of any property as a Short-term Rental.

F. **Noncompliance:** Any change in the use or construction of a Dwelling that results in noncompliance with the standards of any City or State standards, as determined by the Director, shall void the approval.

6.20 SIGN STANDARDS

A. **Purpose and Intent:** Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this Article is to regulate the size, color, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation. The intent of this regulation is to reduce hazards to motorists, bicyclists, and pedestrians and to protect property values and the character of the various neighborhoods, to create a convenient, attractive, and harmonious community, to protect against destruction or encroachment of historic resources, and to encourage economic development. This Article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This Article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech.

A sign placed on land or on a building for identification, protection, or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this Article is to establish limitations on signs to ensure they are appropriate to the land, building or use to which they are

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appurtenant and are adequate for their intended purpose while balancing the individual and community interests.

These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists and others, and are constructed and maintained in a structurally sound and attractive condition.

B. **Applicability:**

1. This Article shall apply to all Signs in all Zoning Districts.
2. These regulations are not intended to and do not apply to signs erected, maintained, or otherwise posted, owned, or leased by the State of Indiana, the Federal Government, or the City.

C. **Prohibited Signs:** The following signs or lights are prohibited:

1. Signs of a size, location, movement, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;
2. Signs that contain or consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other similarly moving devices or signs which may move or swing because of wind pressure. These devices, when not part of any sign, are similarly prohibited, unless they are permitted specifically by other legislation;
3. Signs with blinking, flashing, or fluttering lights or other illuminating devices which exhibit movement, except digital billboards as permitted pursuant to this Code;
4. Roof signs except;
5. Billboards except as allowed for consolidation in ***Section 9.7(D)***;
6. An Original Art Display that does not have the permission of the owner of the property on which it is located or is graffiti;
7. Portable signs that do not comply with the location, size, or use restrictions of this Article; or
8. Commercial signs in Residential Districts or on property used for residential uses.

D. **Authorized Signs:** The following signs are authorized in every District:

1. All regulatory, information, identification, or directional sigs required by law or government entity.
2. Traffic control devices erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted by the Indiana Department of Transportation.

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3. Numerals that identify the address of a property so public safety departments can easily identify the address from the public street. In cases where the building is not visible from the street, the identifier shall be located on the mailbox or other suitable device visible from the street.
4. Flags (***see Section 6.20(F)***).
5. Temporary signs up to 32 sf per sign face and a maximum height of 8 feet erected during construction activities on the site.

E. **Temporary Signs:**

1. Temporary signs allowed at any time:
   a. A property owner may place one sign with a sign face no larger than two (2) square feet on the property at any time.
   b. A property owner may place a sign no larger than 8.5 inches by 11 inches in one window on the property at any time.
   a. One temporary sign may be located, with owner consent, on a property offered for sale through a licensed real estate or for sale by the owner. The sign shall be removed no later than 15 days after a contract of sale has been executed.
2. One temporary sign may be located on a property on days when the property owner is opening the property to the public provided this type of sign shall not be used more than two consecutive days per year in a Residential District and not more than 14 consecutive days per year for any commercial uses.
3. A person exercising the right to place temporary signs on a property as described in this Section shall limit the number of signs on the property at any one time to two signs per 0.25 acre plus a sign allowed in ***Section 6.20(E)(1)(b)*** or, if the property is smaller than 0.25 acres, then no more than two signs plus a sign allowed in ***Section 6.20(E)(1)(b)*** per principal building on the property.

For purposes of this Section, the lessor of a property is considered the property owner of the leased property. If there are multiple lessors of a property, then each lessor shall have the same rights and duties as the property owner for the portion of the property they lease. The size of the property shall be the property the lessor has the sole right to occupy.

F. **Flags:** In a Residential District, two (2) flags and one (1) flagpole per premises are permitted. Each flag shall be a maximum of 15 square feet in area. The flagpole shall be a maximum of 25 feet in height. Flagpoles shall meet the minimum yard setback requirements for a Principal Building.

G. **Permit required:**

1. A sign permit is required before displaying or installing any sign except those exempted in *Section 6.20(G)(3)* below. Additionally, private signs

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located within the Right-of-way require the approval of the Board of Public Works (***See Article 7.11 – Sign Permits***).

2. Permit fee: A nonrefundable fee as set forth in the fee schedule adopted by the City Council shall accompany all sign permit applications.
3. Permits Not Required: A sign permit is not required for signs:
   a. Described in *Section 6.20(D) - Authorized Signs*.
   b. Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs shall be removed no more than ten (10) days after their purpose has been accomplished.
4. Appeals: If the Zoning Administrator denies a permit, the applicant may appeal under 7.3 Appeals of Administrative Decisions.

H. **Residential Districts:**

1. Size:
   a. When a sign is authorized on a property, the sign shall not exceed two (2) square feet in area. Where attached dwellings exist on a property the total square footage of signs shall not exceed two (2) square feet per dwelling unit and shall not exceed a total of twelve (12) square feet in area per structure.
   b. For Residential Developments (including subdivision identification) the maximum size and number of signs that the owner or owners of the residential development may erect and maintain at the entrances to the development shall be controlled according to the following:
      i. Residential developments four (4) acres or less in area may have a sign or signs with a total area of no more than thirty-two (32) square feet.
      ii. Residential developments over four (4) acres in area may have a sign or signs which have a total area of no more than forty-eight (48) square feet.
2. Prohibited Signs: Highway Signs, Billboards, and Portable Signs are not permitted.
3. Location: Permitted signs may be anywhere on the premises, except in a required side yard, within ten (10) feet of a street right-of-way, or within the Vision Clearance Triangle (see ***Article 6.23***).
4. Height:
   a. Ground-mounted signs shall have a maximum height of four (4) feet above the ground; and
   b. Flat Wall Signs shall be flush mounted and shall not project above the roof line.
5. Illumination: Illumination if used shall not be blinking, fluctuating, or moving. Light rays shall shine only upon the sign and upon the property within the premises.

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I. **Business Uses**

1. Number and Size: For each lot or parcel a sign at the listed size may be authorized:
   a. Mixed Use Corridor Commercial (MC) and Mixed Use (MU) district signs shall not exceed thirty-five (35) square feet.
   b. Downtown (D) district signs shall not exceed fifty (50) square feet.
   c. Highway Oriented Commercial (HC) signs shall not exceed the following area requirements based on the speed limit and number of traffic lanes of the adjacent public street:

Maximum Speed Limit	No. of traffic lanes	Max. Sq. Footage of sign
30 mph or less	3 or less	32 sq. ft.
35 mph or more	3 or less	50 sq. ft.
30 mph or less	4 or more	40 sq. ft.
35 mph or more	4 or more	72 sq. ft.

   d. Two (2) or more lots or parcels having a combined linear frontage of eighty-five (85) feet may combine their sign areas allowed by this Section for providing one common free-standing or ground-mounted sign. The sign shall not exceed thirty-five (35) square feet.
   e. Corner Lots: Where a Lot fronts on more than one street, only the square footage computed for each street frontage shall face that street frontage.
   f. If not otherwise regulated as to maximum sign area in this code, signs are governed by the following:

Maximum Sign Area	Street Frontage
20 sq. ft.	85 ft. or less
25 sq. ft.	86-90 ft.
30 sq. ft.	91-99 ft.
35 sq. ft.	100 ft. or more

2. Commercial Center: Signs used for Commercial Centers shall be allowed as follows:
   a. Only one (1) sign of one hundred fifty (150) square feet shall be permitted for centers less than five (5) acres and greater than one (1) acre.
   b. A maximum of two (2) signs of four hundred (400) square feet shall be permitted for complexes for five (5) to fifty (50) acres.

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c. A maximum of three (3) signs of four hundred (400) square feet shall be permitted for complexes of more than fifty (50) acres.

d. Individual businesses are allowed a face building mounted sign pursuant to this Section.

3. Prohibitted Signs: Highway Signs and Billboards are not permitted.

4. Location:

a. Flat Wall Signs may be located on any wall of the building.

b. Freestanding Signs shall have a minimum clearance of eight feet, six inches (8'-6") above a sidewalk and fifteen (15) feet above driveways or alleys.

c. One Freestanding or Ground-Mounted sign per lot or parcel except as provided in Section I.2 may be located anywhere on the premises except as follows:

i. A ground-mounted sign shall not be in a required side yard, rear yard or within five (5) feet of a street right-of-way.

ii. A Freestanding Sign shall not be in a required side or rear yard. A Freestanding Sign may project up to the street right-of-way provided there is a minimum ground clearance of eight feet, six inches (8'-6") and the location complies with the Manual on Uniform Traffic Control Devices.

d. Marquee Signs or Signs shall have a minimum clearance of not less than eight feet, six inches (8'-6"). The maximum vertical dimension of signs shall be determined as follows:

Height above Grade	Vertical Dimension
8' 6" up to 10'	2' 6" high
10' up to 12'	3' high
12' up to 14'	3' 6" high
14' up to 16'	4' high
16' and over	4' 6" high

e. Wall signs shall not extend above the top of a parapet wall or a roofline at the wall, whichever is higher.

5. Height:

a. Ground-mounted Signs shall not exceed four (4) feet in height from ground level.

b. Freestanding Signs shall not exceed twenty-eight (28) feet in height from ground level.

6. Content:

a. Any of the signs pursuant to this Section (I) may be changeable copy signs.

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b. The primary identification sign as allowed under D.3 for each firm shall contain its street number. The street number shall be clearly visible from the street right-of-way.

7. Illumination: Shall be as provided in *Section 6.20 (L)*.

J. **Industrial Uses**

1. Number and Size:

a. One (1) sign for each street frontage, each with a maximum area of five (5) percent of the total square footage of the face of the building facing that street frontage shall be permitted.

b. One Freestanding or Ground-Mounted Sign not exceeding fifty (50) square feet per lot or parcel.

c. The maximum size and number of signs that the owner or owners of an industrial park development may erect and maintain at the entrances to the development shall be controlled according to the following:

i. A maximum of two (2) signs of three hundred (300) square feet per face shall be permitted for industrial parks or complexes of less than ten (10) acres;

ii. A maximum of three (3) signs of four hundred (400) square feet shall be permitted for complexes of ten (10) acres or more.

2. Location: Shall be as provided in *Section 6.20(I)(4).*

3. Illumination: Shall be as provided in *Section 6.20(L)*.

K. **Supplemental Criteria for all Uses**

1. Temporary Signs: Temporary signs are subject to the following standards:

a. On one property, the total sign area shall not exceed sixteen (16) square feet in area;

b. Signs shall not be located within any right-of-way;

c. Signs shall not be placed on any utility pole, street light, or similar object, or on public property;

d. Signs shall not be illuminated except as allowed in *6.20(L)*; and

e. Signs shall be removed within seven (7) days after the certification of the election, sale, rental, lease, completion of construction, or conclusion of event unless otherwise allowed in Section E.

2. Integral Signs: There are no restrictions on sign orientation including whether it is oriented toward a highway. Integral signs shall not exceed seventy-two (72) square feet per façade and may be illuminated externally but shall not be illuminated internally.

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3. Private Traffic Direction: Illumination of signs erected as required by the Manual on Uniform Traffic Control Devices shall be in accordance with *Section L*. Horizontal directional signs flush with paved areas are exempt from these standards.

    a. Original Art Display: Original art displays are allowed if they are not placed on a dwelling, do not extend more than six (6) inches from the plane of the wall upon which it is painted or to which it is affixed, and are no more than sixty-four (64) square feet in size, per lot or parcel.

L. **Illumination:** No sign shall be erected or maintained which, by use of lights or illumination, creates a distracting or hazardous condition to a motorist, pedestrian, or the general public. In addition:

1. No exposed reflective type bulb, par spot or incandescent lamp, which exceeds twenty-five (25) Watts, shall be exposed to direct view from a public street or highway, but may be used for indirect light illumination of the display surface of a sign.
2. When neon tubing is employed on the exterior or interior of a sign, the capacity of such tubing shall not exceed three hundred (300) milliamperes rating for white tubing or one hundred (100) milliamperes rating for any colored tubing.
3. When fluorescent tubes are used for the interior illumination of a sign, such illumination shall not exceed:
    a. Within Residential districts: Illumination equivalent to four hundred twenty-five (425) milliamperes rating tubing behind a Plexiglas face with tubes spaced at least seven inches, center to center.
    b. Within land use districts other than Residential: Illumination equivalent to eight hundred (800) milliampere rating tubing behind a Plexiglas face spaced at least nine (9) inches, center to center.
4. Digital billboards allowed pursuant to ***Article 9.7 Nonconforming Signs*** and conforming to the regulations of the Indiana Department of Transportation shall:
    a. Display only static messages that remain constant in illumination intensity and do not have movement or the appearance or optical illusion of movement;
    b. Not operate at an intensity level of more than 0.3 foot-candles over ambient light as measured at one hundred and fifty (150) feet;
    c. Be equipped with a fully operational light sensor that automatically adjusts the intensity of the billboard according to the amount of ambient light;
    d. Change from one message to another message no more frequently than once every ten (10) seconds and the actual change process is accomplished in two (2) seconds or less;

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e. Be designed to either freeze the display in one static position, display a full black screen, or turn off in the event of a malfunction; and

f. Not be authorized until the Zoning Administrator is provided evidence that best industry practices for eliminating or reducing uplight and light trespass were considered and built into the digital billboard.

M. **Prohibited Signs:** The following signs or lights are prohibited which:

9. Are of a size, location, movement, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;

10. Contain or consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other similarly moving devices or signs which may move or swing because of wind pressure. These devices, when not part of any sign, are similarly prohibited, unless they are permitted specifically by other legislation;

11. Have blinking, flashing, or fluttering lights or other illuminating devices which exhibit movement, except digital billboards as permitted pursuant to this Code;

12. Are roof signs except as allowed in Section K.4;

13. Are freeway-oriented signs except as allowed as Highway signs;

14. Would be an Original Art Display but does not have the permission of the owner of the property on which it is located or is graffiti; or

15. Are portable signs that do not comply with the location, size, or use restrictions of this Code.

N. **Procedures:** Applications for a sign permit shall be processed as described in ***Article 7.11 - Sign Permits***.

O. **Compliance:** Any sign which is altered, relocated, or replaced shall be brought immediately into compliance with all provisions of this Code.

6.21 TEMPORARY USES AND EVENTS

The Zoning Officer will issue a temporary improvement location permit in accordance with other applicable provisions of this chapter, for a temporary construction trailer or office structure on any site in any permitted district only when used in conjunction with ongoing construction work taking place on the site. The trailer or structure shall be used only for such purpose and no other and shall be removed within one month following the completion of construction work or the issuance of a certificate of occupancy for the construction work, whichever is earlier.

A. **Purpose and Intent:** The purpose of this Article is to ensure that the public health, safety, and general welfare of the community is protected within temporary uses and during temporary events.

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B. **Applicability:** All Temporary Uses, Events and Structures shall comply with this Article.

C. **Permit:** Unless otherwise provided herein, Temporary Uses, Events and Structures shall require a Temporary Uses, Events, and Structures permit as set forth in ***Article 7.13 Temporary Use and Events Permits***. Board of Public Works approval is required for events within the Right-of-way.

D. **Exemptions:**

1. Events hosted on an individual homeowner's property, including but not limited to garage sales, estate sales, private parties.
2. City sponsored events as approved by the Council or Board of Public Works and Safety.
3. Events held on public park property; however, rules and policies established by the City, as administered by the Parks and Recreation Department, shall apply.
4. Non-incorporated children's stands, such as a lemonade stand.
5. Existing festivals in operation for more than 10 consecutive years on the date this Ordinance is adopted.

E. **General Standards:**

1. The Director may limit the location for traffic flow or public safety reasons.
2. All temporary structures must meet the setbacks as defined by this Ordinance for the Zoning District in which they are being installed.
3. A proposed temporary event or use shall be located on a Lot with a permitted Principal Building or on a vacant Lot when the minimum required setbacks for the Zoning District are met.
4. Temporary event/use shall be incidental to the principal permitted use or structure existing on the Lot or an abutting Lot.
5. Goods and display materials shall be stored inside either a permanent or temporary structure during non-event hours.
6. The temporary event shall not eliminate or negatively impact required parking for the underlying use. Additional parking may be required upon finding that the proposed temporary event/use increases the need for parking.
7. Temporary uses and events shall not impede pedestrian traffic nor force pedestrians into vehicle traffic lanes.
8. All equipment, materials, goods, poles, wires, and other items associated with the event shall be removed from the premises within two (2) days of the conclusion of the temporary use or event.

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9. All temporary events shall conform to all State and County Health Department regulations and codes, including but not limited to ***I.C. 16- 42-5*** and ***410 IAC 7-24***.

6.22 TREE PRESERVATION

A. **Purpose and Intent:** This Article establishes regulation for the preservation of existing trees and woodlands. The regulations specified herein are intended to promote the health, attractiveness, and safety of the community; protect environmentally-sensitive areas and Natural Areas; and preserve the appearance and character of the community.

B. **Applicability:** This Article shall apply in all Zoning Districts to all wooded areas of properties for which approvals are sought for ***Development Plans (see Article 7.7)***, ***Special Exceptions (see Article 7.12)***, and/or ***Variances (see Article 7.14)***.

C. **Preservation and Replacement of Trees:**

1. Developers shall take reasonable measures to design and locate proposed buildings and related infrastructure in a manner that minimizes the destruction of significant tree specimens.
2. The following considerations shall be made regarding tree preservation efforts:
    a. The practicability of arranging site plan components around existing features. Plans for groups of structures should be designed to preserve areas of high tree concentrations, desirable individual tree specimens, and desirable stands of trees and shrubs.
    b. The condition of vegetation with respect to continued vitality.
    c. The possibility of preserving vegetation through pruning rather than removal.
    d. The desirability of a particular tree or species by reason of its appearance; historic or ecological significance; botanical characteristics; and the function the vegetation would fulfill as a site plan component.
    e. The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation.
    f. The potential for interference with utility services along the use of Streets and walkways.
3. The Tree Board shall review, evaluate, and make recommendations regarding the trees being preserved, those identified for removal, the tree preservation techniques proposed, and any mitigation measures for the loss of urban forest resources due to the proposed development.

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6.23 VISION CLEARANCE STANDARDS

A. **Vision Clearance:** No Sign, fence, wall, landscaping, Public Utility Installation, or other Improvement which obstructs sight lines between three (3) and nine (9) feet above a Street shall be permitted on a Corner Lot, unless otherwise approved in writing by the Director, within the triangular area formed by the Right-of-way line and a line connecting points:

1. Fifteen (15) feet from intersections of Collectors, Private or Local Street.
2. Thirty (30) feet from intersections of Expressways or Arterials.
3. Five (5) feet from intersections of Driveways or Alleys.

B. **Rounded Property Corners:** In the case of rounded Lot Lines, the distances shall be measured from the point at which the Right-of-way lines would intersect if they were not to have been rounded at the corner.

6.24 WIRELESS COMMUNICATION SERVICE FACILITIES

A. **Applicability:** All Wireless Communication Service Facilities within the Jurisdiction of the Plan Commission shall be subject to this Article.

B. **Permitted Zoning Districts:** Wireless Communication Service Facilities shall be permitted as set forth below and in ***CHAPTER 5: USE TABLE***.

1. In any Zoning District where the antennas are to be located upon preexisting structures or buildings owned or operated by units of government or public utilities so long as the antennas and antenna support structures do not exceed the height of those structures or buildings by more than twenty (20) feet.
2. In a non-Urban Area in any Zoning District. For purposes of this Article and as defined in ***I.C. 36-7-4-1103***, an urban area shall include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

C. **Applicability:** Wireless Communication Service Facilities shall be bound by the standards set forth in this Article as well as the applicable requirements of the Zoning District in which they are located, unless otherwise provided herein.

D. **Procedural Standards:** All Wireless Communication Service Facilities shall meet the following requirements:

1. Locate Wireless Communication Service Facilities according to the following order of preference:
   a. Co-location on existing buildings, towers, or other structures.
   b. On existing public, semi-public buildings or lands, towers, or other structures such as water towers or utility poles/towers.

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c. On existing privately-owned buildings.

d. New tower in industrial or commercial districts.

e. New tower in commercial districts near residential areas.

f. New tower in residential areas.

2. An Applicant for a Wireless Communication Service Facility must demonstrate that they have exhausted all efforts to locate the proposed facilities upon existing antenna support structures in the geographical area of the proposed Wireless Communication Service Facility, which shall include submitting a master plan for their Wireless Communication Service Facilities throughout the Planning Jurisdiction of the Plan Commission. The master plan should show efforts to minimize the size and number of antenna support structures throughout the geographical area, taking into consideration existing technology.

3. The placement of antennas upon existing antenna support structures may be administratively approved by the Department with an application made pursuant to ***Article 7.4 Certificate of Compliance***.

4. In the event an antenna support structure ceases to be used, then the antenna support structure shall be removed within one hundred eighty (180) days of termination of use.

5. A Wireless Communication Service Facility may be deemed an Accessory Use in Zoning Districts in which a Wireless Communication Service Facility is listed as either a permitted use (see ***CHAPTER 5: USE TABLE***) or a Special Exception (see ***Article 7.12 Special Exceptions***).

E. **Development Standards:** All Wireless Communication Service Facilities shall meet the following requirements:

1. The height of the antenna support structure shall not exceed two hundred (200) feet.

2. The antenna support structure shall be set back a minimum of forty (40) feet from the Lot Line unless the adjoining Lot is zoned or used for a residential use. If the antenna support structure adjoins a Lot which is zoned or used for residential use, then the setback shall not be less than the height of the support structure.

3. Except as required by the Federal Aviation Administration or Federal Communications Commission, the antenna support structure shall not be illuminated by any artificial means and shall not display strobe lights.

4. No Signs or advertising shall be placed upon an antenna support structure and associated equipment buildings or structures.

5. A Landscape Plan for the Wireless Communication Service Facility shall be submitted with the application and shall be substantially similar to landscaping required for other uses in Business or Industrial Districts.

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6. All Wireless Communication Service Facilities shall be designed structurally, electrically, and in all other respects to accommodate the user's equipment and the equipment of at least two (2) additional service providers.
7. A qualified and licensed engineer must approve the design of the antenna support structure and certify that it is constructed to comply with the requirements set out in this Article.
8. All applications shall include a notarized letter of intent committing the antenna support structure owner or lessee on behalf of themselves and their successors that the antenna support structure shall be shared with additional users if the additional user(s) agrees to meet reasonable terms and conditions of shared use.
9. No transmissions from a Wireless Communication Service Facility shall interfere with any existing public safety communications.

F. **Limitations on Zoning Authority:**

1. The Board of Zoning Appeals, in consideration of the Special Exception, shall not consider any evidence or base a denial of the location of a Wireless Communication Service Facility on any evidence concerning adverse environmental or health effects of radio frequency emissions so long as those emissions meet the standards of the Federal Aviation Administration or Federal Communications Commission.
2. Nothing herein shall be construed as a prohibition of the location of Wireless Communication Service Facilities within the Jurisdiction of the Plan Commission.
3. Nothing herein shall be construed or applied to unreasonably discriminate between providers of functionally equivalent service, or services which compete one against the other for various wireless communication services.

6.25 YARD STANDARDS

A. **Yard, Lot Area, and Size of Building:** No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the Yards, Lot Area, Minimum Living Area, or Lot Coverage provisions established and specified for the use and the Zoning District or Overlay District in which such building is located.

B. **Partial use of Alley for Yard:** One-half (0.5) 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 the carrying of traffic; however, such Alley area shall not be included for loading and unloading berths.

C. **Measurement of Required Yards:** The Yard width and depth shall be measured as the shortest horizontal distance (e.g., ninety degrees) from a Lot

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Line to the required Building Setback Line. In the case of a standard applying to an Established Yard, the Yard width and depth shall be 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. **Use of Required Yards:** All required Yards shall be maintained as Open Space and landscaped with grass, trees, shrubs, or hedge, or in combination with other suitable Groundcover materials in compliance with ***Article 6.10 Landscaping Standards***, except as otherwise improved in accordance with this Ordinance (e.g., Parking Areas).

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6.26 CHAPTER AMENDMENT LOG

Ordinance No.	Docket No.	Council Approval	Effective Date	Sections Affected

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7.1 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 ***City's website***.

C. **Fees:** Fees shall be paid in accordance with the Fee Schedule, as set forth in ***Article 8.1 General Administration***. No permit shall be granted by the Department until all applicable fees pertaining to that permit have been paid in full. No permit shall be granted by the Department until all fees and fines owed by the Applicant to the City have been paid in full. This requirement shall apply not only to fees and fines specific to the individual application but shall also include all fees and fines owed on any permit previously issued to the Applicant. The Director may approve a payment schedule addressing owed fees to satisfy the requirement of this section.

D. **Public Meetings:** Applications requiring public meetings shall be filed in accordance with the adopted Schedule of Meeting and Filing Dates, as set forth in ***Article 8.1 General Administration*** and subject to the Rules of Procedure of the applicable hearing body.

7.2 ADMINISTRATIVE DETERMINATION

A. **Purpose:** The interpretation authority established by this Ordinance is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied. Many such situations can be readily addressed by an interpretation of the specific provisions of this Ordinance considering the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, it is not intended to add to or change the essential content of this Ordinance but is intended only to allow authoritative application of that content to specific cases.

B. **Authority:** The Director may by written order, subject to the procedures, standards, and limitations of this Ordinance, render interpretations of the provisions of this Ordinance and of any rule or regulation issued pursuant to it ("Administrative Interpretation" or "Administrative Determination").

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; provided interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

D. **Procedure for Review and Decision**

1. Application: Applications for interpretations of this Ordinance shall be filed in accordance with the requirements of this Article.

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2. Action on Application: Within ten (10) working days following the receipt of a properly completed application, the Director shall inform the Applicant in writing of his/her determination, stating the specific precedent, reasons, and analysis upon which the determination is based. The failure of the Director to act within ten (10) working days, or such further time to which the Applicant may agree, shall be deemed to be a decision denying the application rendered on the day following such ten (10) day period.
3. Records: A record of all applications for determinations shall be 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 Floyd County, Indiana.
4. Appeal: Appeals from interpretations rendered by the Director may be made in accordance with ***Article 7.3 Appeals of Administrative Decisions***.

E. **Standards for Interpretations:** The following standards shall govern the Director, and the Board on appeals from the Director, in issuing determinations:

1. No determination shall permit any use in any Zoning District unless evidence shall be presented that demonstrates that it will comply with the general regulations established for that particular Zoning District;
2. No determination shall permit any use in a Zoning District unless such 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;
3. If a proposed use is most similar to a use permitted only as a Special Exception in the Zoning District in which it is proposed to be located, then any determination permitting such use shall be conditioned on the approval of the Special Exception pursuant to ***Article 7.12 Special Exceptions***; and
4. No determination shall permit the establishment of any use that would be inconsistent with the purpose and intent of the Zoning District.

F. **Effect of Favorable Interpretations:** No determination shall authorize the establishment of a use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by this Ordinance and ordinances of the City including, but not limited to, a Building Permit, a Certificate of Occupancy, Primary and Secondary Plats, or Development Plan approval.

G. **Limitations on Interpretations:** A determination shall be limited only to the particular circumstance for which it was issued, and such determination shall not be deemed to authorize any allegedly similar circumstance for which a separate determination has not been issued, unless otherwise provided for in the determination.

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7.3 APPEALS OF ADMINISTRATIVE DECISIONS

A. **Right of Appeal:** The Board of Zoning Appeals may grant an appeal of any decision, interpretation, or determination made by the Director, or any other administrative official or board charged with the duty of enforcing and interpreting this Ordinance. The procedure set forth in this Article shall apply to all appeals of administrative decisions, unless otherwise set forth by local or Indiana law.

B. **Stay of Enforcement:** If an appeal is filed in accordance with this Article, then the enforcing party shall 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 shall submit 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 shall include, but not be limited to, the following:

   1. Original Submittals: Copies of all materials upon 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. **Board Review:** The Board will then, at a meeting scheduled consistent with the adopted Schedule of Meeting and Filing Dates, review 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: The Board shall consider at the meeting a report from the Department 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 shall be consistent with the Rules and Procedures of the Board.

E. **Board Action:** The Board may affirm, affirm with modifications, reverse, or continue the appeal.

   1. Affirm: If the Board finds the administrative decision was consistent with the provisions of this Ordinance, then the Board shall affirm the determination in writing.
   2. Affirm with Modifications: If the Board determines the proper interpretation of the provision(s) of this Ordinance that are subject to the

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appeal is consistent with neither the administrative decision nor the requested interpretation of the Applicant, then the Board may affirm the determination with modifications in writing.

3. Reverse: If the Board finds the administrative decision was inconsistent with the provisions of this Ordinance, then the Board shall reverse the determination in writing.

4. Continuances: The appeal may be continued based on a request by the Department or Applicant; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request. The continuing of all applications shall be consistent with the Rules and Procedures of the Board.

7.4 CERTIFICATE OF COMPLIANCE

A. **Applicability:** An application for a Certificate of Compliance ("CofC") may be filed in accordance with this Article. A CofC: (i) may be required as set forth by this Ordinance; (ii) may serve as a written confirmation by the City that a property or use complies with this Ordinance, as may be requested by an Applicant; (iii) may serve as a written verification of a property's zoning, as may be requested by an Applicant; and, (iv) at the discretion of the Director 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 Director.

B. **Application:** An Applicant shall submit a completed application, on forms provided by the Department, or a detailed written request to the Department with supporting information. Applications, requests, plans, and specifications filed by an Applicant shall be checked by the Department for compliance with this Ordinance. If the Department 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, then the Department shall issue a Certificate of Compliance to the Applicant.

C. **Effect:** No CofC shall authorize the establishment of a use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely certify compliance of an existing property, use and/or improvements thereon made in accordance with 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 City including, but not limited to, a Building Permit, a

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Certificate of Occupancy, Primary and Secondary Plats, or Development Plan approval, for proposed improvements or uses.

D. **Limitations:** A CofC shall be limited only to the particular circumstance for which it was issued and at the time it was issued, and the CofC shall not be deemed to authorize any allegedly similar circumstance for which a separate review or certificate has not been issued or change in circumstances, unless otherwise provided for in the CofC.

E. **Records of Certificate of Compliance:** Every CofC issued pursuant to this Article shall be kept on file in the office of the Department and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

7.5 COMMITMENTS

A. **Applicability:** An Applicant may be required or allowed to make a commitment to the Plan Commission or Board 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 shall be reduced to writing in a recordable form approved by the City and signed by the owner(s) of the real estate.

C. **Expiration:** Commitments may contain terms providing for its own expiration. A commitment may contain terms providing that the commitment automatically terminates: (i) if the Zoning District or classification applicable to the property is changed; (ii) if the use to which the commitment relates is changed; or (iii) otherwise in accordance with the Rules of Procedure of the Plan Commission or Board to which the commitment is made. If not otherwise provided, commitments shall be in effect until otherwise modified or terminated pursuant to this Article.

D. **Recording:** When required, the Applicant shall record the commitments in the Office of the Recorder of Floyd County, Indiana, within ten (10) days of the final approval of the related petition. The Applicant shall return a copy of the recorded commitments to the Department for its files.

E. **Enforcement:** The Plan Commission, Property Owners of real estate adjoining the subject real estate and all Property Owners of real estate within the area included in the petition who were not Applicants for approval, and other affected persons specifically designated in such commitments shall be entitled to enforce such commitments pursuant to ***I.C. 36-7-4-1015***, or as otherwise provided by applicable law.

F. **Modification of Commitments:** A commitment made pursuant to this Ordinance may be modified or terminated only by a decision of the Plan Commission or Board to which the commitment was made. The decision must be made: (i) at a public hearing by the Plan Commission or Board after

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notice of the hearing has been provided under the applicable Rules of Procedure; and (ii) following an introductory presentation of the proposed modification to the Council, prior to the public hearing, if the proposed modification is to a commitment originally made in connection with a change of zoning petition. Any modification or termination of the commitments shall not be effective until: (i) reduced to writing in a form approved by the City Attorney; (ii) approved by the Plan Commission or Board, as the case may be; (iii) executed by the current Property Owner of the real estate; and, (iv) recorded in the Office of the Recorder of Floyd County, Indiana.

7.6 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 shall be required as part of the Development Plan Review process (see ***Article 7.7***) unless otherwise waived in writing by the Director.

C. **Approvals Required:** Design Review is part of the process for approval of a Development Plan, as set forth in ***Article 7.7***.

D. **Design Review Criteria:** In addition to the criteria identified in ***Section 7.7 (E***), Development Plans submitted as part of the Design Review process shall be reviewed by the Design Review Board for compatibility of the proposed development with the surrounding neighborhood on the following requirements:
   1. Massing of the building form,
   2. Building scale,
   3. Location and treatment of entryways, including porch heights,
   4. Surface materials, finishes, and textures,
   5. Size of building footprint,
   6. Eave heights,
   7. Building silhouette,
   8. Spacing between buildings,
   9. Setbacks from street property lines,
   10. Proportions of windows, bays, doorways, etc.
   11. Shadow patterns from massing and features, and
   12. Landscaping.

E. **Application Documentation and Supporting Information:** All applications for Design Review shall include the documentation and supporting information set forth in ***Section 7.7 (G)***. Other information as deemed necessary to support a thorough review of the project may be requested in writing by the Plan Commission or Director. The Director, in its sole discretion, may, in writing, waive or relax any of the documentation required which is not relevant or is deemed unnecessary for a thorough review of the development.

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1. Landscape Plan: A Landscape Plan in accordance with ***Article 6.10 Landscaping Standards***, shall be required as part of any Development Plan. Landscape Plans for Overall Development Plans shall generally detail perimeter areas, Buffer Yards, common areas, entryways, and any other Open Space as deemed appropriate by the Plan Commission or Director. Landscape Plans for a Detailed Development Plan shall generally be site or Lot specific showing compliance with Parking Area areas, Buffer Yards, 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 shall 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 in accordance *with* ***Article 6.11 Lighting Standards***, shall be required as part of any Development Plan.
4. Sign Plan: A Sign Plan in accordance with ***Article 6.20 Sign Standards***, may be required with the submission of any Development Plan; however, all signs shall be subject to approval and obtaining a Sign Permit (see also ***Article 7.11 Sign Permits***) prior to erection.
5. Building Elevations: Drawings of proposed buildings shall be filed in connection with the submission of a Detailed Development Plan and shall be drawn to scale and include the following (see also ***Article 6.3 Architectural Standards***):
   a. Address of the property and graphic scale.
   b. Proposed name of the development.
   c. Elevations for each Building Facade (360 degree).
   d. Specification or sample of the type and color of exterior materials to be used for all wall, window, roof, and other architectural features.
   e. A separate true color rendering, or other realistic depiction, of the proposed building, including any areas designated for signage.
   f. Details of any exterior architectural lighting.

7.7 DEVELOPMENT PLAN REVIEW

A. **Authority:** A Development Plan review process, as set forth herein, is hereby established to ensure adherence to the standards of this Ordinance.

B. **Purpose:** The purpose of the Development Plan review process is to assure 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 (1) building is proposed on a site; (ii) the site is five (5) acres or larger; (iii) expanding a building by more than 50,000 square feet; or, (iv) if required by a PUD ordinance.

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1. Exception: Individual Single-family Dwellings shall not require Development Plan approval in accordance with this Article; rather, the Building Permit review process (see also ***Article 7.8 Improvement Location Permit***) shall serve 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 shall be deemed to be an approved Development Plan.

   b. Existing Lots without Approved Development Plans or Site Plans: New improvements or changes to existing improvements on a Lot which was lawfully developed but did not receive approval of a development plan or site plan by the Plan Commission, shall require Development Plan approval, pursuant to this Article.

D. **Approvals Required:** The approval of a Development Plan is hereby delegated to the Plan Commission.

E. **Development Plan Review Criteria:** Development Plans shall be reviewed by the Plan Commission with approval being granted upon finding that the Development Plan complies with the following requirements:

1. Compliance with all applicable development and design standards of the Zoning District in which the real estate is located.

2. Management of traffic will be in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community

3. The applicable utilities have sufficient capacity to provide potable water, sanitary sewer facilities, electricity, telephone, natural gas, and cable service at a satisfactory level of service to meet the needs of the proposed development.

F. **Approval Process:**

1. Application Procedures:

   a. Pre-Filing Conference: A pre-filing conference with the Department 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 shall accompany the application.

   c. Filing Deadline: Applications shall be filed in accordance with the Schedule of Meeting and Filing Deadlines. The Applicant shall be responsible for distributing a copy of the application and Development Plan to Design Review Board members, as applicable.

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d. Forms of Filing: An Applicant shall submit a completed application to the Department on forms provided by the Department with documentation and supporting information as set forth in this Article. The number of copies of all petitions and supporting documentation required to be filed shall be as established by the Department.

e. Docketing by Department: All Development Plans which are determined to be in proper form pursuant to the guidelines established by the Department shall be numbered and docketed for an initial hearing by the Plan Commission.

2. Investigation of Petitions: The Design Review Board may review any Development Plan prior to the Plan Commission's consideration. The Department 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 Department in accordance with the Schedule of Meeting and Filing Deadlines to allow the Department's written report to include comments and recommendations related to the amended plans. If the Director determines the amended plans require additional review by the Department and/or Design Review Board, then the Director may continue the public hearing and require such review.

4. Public Hearing and Notice: A public hearing by the Plan Commission shall be required for any Development Plan and notification for the scheduled public hearing shall be completed consistent with the requirements of the Rules of the Procedure of the Plan Commission and the Schedule of Meeting and Filing Deadlines. Any Development Plan which has been delegated to the Director for approval may occur without public notice and without 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 is of such a nature that additional time is needed for review, then the Plan Commission may continue its consideration in accordance with 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, then revised plans indicating all amendments approved by the Plan Commission shall be filed with the Department.

6. Plan Commission Action: The Plan Commission will hold the public hearing and act on the petition in accordance with this Ordinance, Indiana law, and the Rules of Procedure of the Plan Commission.

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7. Amendments to Approved Development Plan: Changes to an approved Development Plan shall be subject to this section.

8. Surety Requirement: The Applicant shall provide financial sureties for all public improvements shown on the Development Plan in accordance with the bonding provisions in Section 154.02(F) of the *Subdivision Control Ordinance.*

9. Appeals of Determinations by Director: Any determination of the Director made under the authority of this Article may be appealed by any interested party to the Plan Commission. Such letter shall request a hearing on the matter by the Plan Commission at the Plan Commission's next regularly scheduled meeting for which published notice of the appeal pursuant to ***I.C. 5-3-1*** can be provided. Further, appeals of the Plan Commission's determination may be made in accordance with ***Article 7.3 Appeals of Administrative Decisions***.

G. **Application Documentation and Supporting Information:** All applications for Development Plan approval shall include the documentation and supporting information set forth herein. Other information for a thorough review of the project may be requested by the Plan Commission or Director. The Director, in its sole discretion, may, in writing, waive or relax any of the documentation required which is not relevant or is deemed unnecessary for a thorough review of the development.

1. Development Plan Scope: A Development Plan shall include those details applicable to the overall development, shared or common areas, shared infrastructure, and other areas deemed appropriate by the Director or Plan Commission in order that adequate consideration is given to ensure a coordinated development.

2. General Plan Requirements: A Development Plan shall include the following, which shall be drawn to scale of not more than 1" = 100':

   a. Title, scale, north arrow, and date.
   b. Proposed name of the development.
   c. Area map insert showing the general location of the site referenced to Streets and section lines, as well as the Zoning District and use of adjacent properties;
   d. Address and legal description of the property.
   e. Boundary lines of the property including all dimensions.
   f. Location, name, centerline and width of all Streets, Alleys, access easements and transportation plan system improvements that are existing or proposed to be located within or adjacent to the property.
   g. Location, centerline, and width (at the Lot Line) measurements of any proposed or existing Driveways within two hundred (200) feet of the property, and any connection to an Alley must be indicated.
   h. Location and dimensions of primary vehicular ways in and around the proposed development.

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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, but not limited to: 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 Primary Plat shall be submitted prior to or contemporaneous with the Development Plan.

4. Landscape Plan: A Landscape Plan in accordance with ***Article 6.10 Landscaping Standards***, shall be 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 shall 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.

6. Lighting Plan: A Lighting Plan in accordance with ***Article 6.11 Lighting Standards***, shall be required as part of any Development Plan.

7. Sign Plan: A Sign Plan in accordance with ***Article 6.20 Sign Standards***, may be required with the submission of any Development Plan; however, all signs shall be subject to approval and obtaining a Sign Permit (see also ***Article 7.11 Sign Permits***) prior to erection.

8. Building Elevations: Drawings of proposed buildings shall be filed in connection with the submission of a Development Plan and shall be drawn to scale and include the following (see also ***Article 6.3 Architectural Standards***):

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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 that ensure that the development will be provided with, at a minimum: (i) regular trash pick-up; (ii) common vehicle access point(s), and drive(s) and Parking Area(s), including maintenance thereof.

10. Traffic Impact Study: A Traffic Impact Study may be required to be conducted at the discretion of the Director, the Department of Public Works Director, or the Plan Commission. If required, the Traffic Impact Study shall be prepared by a registered professional engineer and shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system.

11. Statement of Development Build-Out: Phased developments shall include a statement of the order and timing of development and the content of each phase.

7.8 IMPROVEMENT LOCATION PERMIT

A. **Applicability:** Applications for an Improvement Location Permit shall be filed in accordance with this Article.

B. **Application:** An Applicant shall submit a completed application to the Department on forms provided by the Department with supporting information. Applications, plans, and specifications filed by an Applicant for a permit shall be checked by the Department. If the Department is satisfied that the plans and work described in the application conform to the requirements of this Ordinance and other applicable laws and ordinances, then the Department shall issue an Improvement Location Permit to the Applicant.

1. Site Plan: Any persons, who shall make application for an Improvement Location Permit, shall, at the time of making such application furnish a site plan or development plan of the real estate. Site plans so furnished shall become a permanent public record and shall be drawn to scale showing, at a minimum, the following:
   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 said real estate.
   e. All adjacent Rights-of-way.

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f. Building construction elevation points.
g. If required to upgrade the electrical system, a note identifying the size of the service is increasing (e.g. from 100A to 200A service).
h. The Director, in its sole discretion, may, in writing, waive or relax any of the documentation required which is not relevant or is deemed unnecessary for a thorough review of the development.

2. Performance Standards: An application for any use subject to ***Article 6.17 Performance Standards*** shall be accompanied by a certificate subscribed by a registered professional engineer or architect, certifying that the use intended will satisfy the performance standards of this Ordinance, if requested by the Zoning Administrator. The Zoning Administrator may take fifteen (15) days in which to study the application, during which time he may consult with appropriate technical consultants. If the Zoning Administrator has not required any additional information or stated any objections in writing after the fifteen (15) day period, then the Department shall issue the Improvement Location Permit.

C. **Special Exception Uses:** The Zoning Administrator shall issue an Improvement Location Permit for a Special Exception only after the Special Exception has been approved by the Board in accordance with this Ordinance (see also ***Article 7.12 Special Exceptions***).

D. **Penalties:** Penalties may be assessed pursuant to this Ordinance if construction has commenced prior to obtaining a permit or payment of fees. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, realtor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

E. **Inspections:** After the issuance of any permit, the Zoning Administrator shall make, or cause to be made, inspections of the work being done as are necessary to ensure compliance with the provisions of 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 as prescribed herein. The Fire Marshal, or designated representatives, may assist the Zoning Administrator in the inspection of fire suppression, detection and alarm systems and may provide reports of such inspection to the Zoning Administrator.

F. **Entry:** Upon presentation of proper credentials, the Zoning Administrator, or duly authorized representatives, 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 contrary to the provisions of this Ordinance, the Zoning Administrator, or duly authorized representatives, may order the work stopped by notice, in writing, served on any persons engaged in the causing of such work to be done. Any such persons shall

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forthwith stop such work until authorized by the Zoning Administrator, or duly authorized representatives, to proceed with the work.

H. **Sewage Disposal:** An application for an Improvement Location Permit for any use shall not be approved until it has been ascertained by the Department that the proposed development will meet the minimum standards for a sewage disposal system as required by the New Albany Sewer Board or County Health Department for a septic system.

I. **Workmanship:** All work on construction and alteration of buildings and other structures shall be performed in a good and skillful manner 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 be commenced within six (6) months of the date of issuance of such permit, otherwise the same shall lapse and be and become null and void. All work so authorized shall be completed within twenty-four (24) months from the issuance of the permit. The Director may extend the work completion time if good cause is shown by Applicant.

2. Renewing Permits: If construction is commenced pursuant to an issued permit but not completed in the period established herein, then it will be necessary for the Applicant to renew the permit at the end of the prescribed time frame. The fee that shall be collected for this renewal shall be equal to fifty percent (50%) of the fee originally paid for the permit and the fee must be paid prior to the issuance of the renewed permit.

K. **Changes to Approved Permits:** Construction shall be consistent with plans and specifications approved as part of an issued permit. Such plans and specifications shall not be changed, modified, or altered without written authorization by the Department. Changes to approved plans shall be reviewed and approved or disapproved in accordance with this Ordinance and upon determination by the Department of whether further action is required by the Plan Commission or Board and whether any additional permits or fees are due.

L. **Appeals:** Appeals may be made in accordance with ***Article 7.3 Appeals of Administrative Decisions***.

M. **Enforcement and Penalties:** See ***CHAPTER 10: ENFORCEMENT & PENALTIES***.

7.9 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.

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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 7.7 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 Department is required prior to the filing of any PUD application. This conference shall be held to allow the applicant to discuss characteristics of the development in relation to adopted city policies and to allow the Director or his or her designee 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 and the Applicant is encouraged to incorporate the Department'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 jurisdiction 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 shall accompany the application.

c. Filing Deadline: Applications shall be filed in accordance with the Schedule of Meeting and Filing Deadlines. The Applicant shall be 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 shall submit a completed application to the Department on forms provided by the Department with documentation and supporting information as set forth in this Article. The number of copies of all petitions and supporting documentation required to be filed shall be as established by the Department.

e. Docketing by Department: Each filed application shall be reviewed for completeness. Applications which are determined to be in proper form pursuant to the guidelines established by the Department shall be numbered and docketed by the Department.

f. Neighbor Meeting: Applicants requesting approval of a PUD Ordinance, and any amendments thereto, are encouraged to host a

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neighbors' meeting and submit a written report to the Department summarizing the meeting prior to the Plan Commission public hearing. Applicants shall, at a minimum, invite to the neighbor meeting those Interested Parties required to receive mailed notice of the Plan Commission public hearing.

g. Review and Approval: After docketing, an application shall be reviewed and considered by the Plan Commission and Council in accordance with ***Article 7.15 Zoning Map Changes (Rezones)***.

h. In consideration of a PUD Ordinance, the Director or designee in his or her report to the Plan Commission, the Plan Commission, in its recommendation, and the Common Council, in its decision, shall consider as many of the following as may be 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 otherwise applicable to the subject property, including, but not limited to, the density, dimension, bulk, use, required improvements and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest;
   iii. The extent to which the PUD meets the purposes of this zoning chapter, the Comprehensive Plan and any other adopted planning or development policies and objectives of the City;
   iv. The design of the PUD and the extent to which it makes adequate provision of public services, provides adequate control over vehicular traffic, provides for, and protects designated common open space and furthers 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 whether the proposed plan would substantially interfere with the use or diminish 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 planning jurisdiction;
   vii. The proposal will not cause undue 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 be injurious to the public health, safety, and general welfare; and

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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 shall become effective after its approval by the Council and shall be recorded by the City in the Office of the Recorder of Floyd County, Indiana. The Zoning Map shall be amended accordingly. The use and development of the property shall thereafter be 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 commencement of construction within the PUD.

D. **Development Plan Approval:** Development Plan Review approval, as set forth in ***Article 7.7 Development Plan Review***, shall be required for all PUDs. Development Plans shall 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, petitioners may seek a time extension of up to 18 months from the City Council.

E. **Permits:** No permit of any kind shall be issued for any purpose within a PUD except in accordance with the approved Development Plan, and after acceptance by the City of all required guarantees for improvements pursuant to this Ordinance.

F. **PUD Ordinance Requirements:** PUD Ordinances and supporting data shall include the following documentation. The Director, in his or her sole discretion, may, in writing, waive or relax any of the requirements listed which are not relevant or deemed unnecessary for a thorough review of the development.

1. PUD Ordinance: The PUD Ordinance shall follow a standard format adopted by the City for PUD Ordinances.

2. Concept Plan: A drawing of the PUD ("Concept Plan") shall be included at a scale not less 1"=100', or at a scale as otherwise deemed appropriate by the Director.

a. General Concepts: The Concept Plan shall show in general terms the following: major circulation; generalized location and dimensions of buildings, structures, and Parking Areas; Open Space areas; recreation facilities; and other details to indicate the character of the proposed development.

b. Detailed Concepts: The Concept Plan shall include in detailed terms the following:
   i. A site location map showing the project location and other development projects in the vicinity.
   ii. The name of the development, with the words "Concept Plan".
   iii. Boundary lines and acreage of each land use component.
   iv. Existing easements, including location, width, and purpose.

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v. Existing land use on abutting properties.
vi. Other conditions on the site and adjoining land: topography (at 10-foot contours) 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 depicted 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 shall 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 shall include:

   a. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies which affect the land in question.

   b. Development phasing indicating phases in which the project will be built, 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 shall be described and mapped.

   c. General details of the proposed uses:
      i. Residential Uses shall indicate gross area, architectural concepts (narrative, sketch, or representative photo), and number of dwelling units for each residential component;
      ii. Nonresidential Uses shall 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

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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 shall designate and convey active and/or passive recreational areas in accordance with the following:

   a. Recreational amenities and open space shall be allocated to the property in proportion to the uses assigned in the PUD and shall be located within reasonable walking distance to those uses; however, the recreational amenities need not be located in proximity to the use in the case of preservation of existing features.

   b. If the PUD Ordinance provides for development in stages, then amenities and open space shall be provided in each stage of the PUD in proportion to that stage, unless otherwise indicated and approved in the PUD Ordinance.

   c. Amenities shall 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 hereunder shall be structured to ensure that the grantee has the obligation and the right to effect maintenance and improvement of the amenities and that such 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 and its maintenance and improvement, running with the land for the benefit of residents of the PUD or adjoining property owners or the community, or any combination of these.

5. Traffic Impact Study: A Traffic Impact Study may be required to be conducted at the discretion of the Director, the Department of Public Works Director, the Plan Commission, or Council. If a Traffic Impact Study is required, then it shall be prepared by a registered professional engineer and shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to commencement, an Applicant shall meet with the Department to determine the appropriate scope for the study.

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6. Additional Materials: The Department shall inform the Applicant in writing of any additional information, documents or data deemed necessary to support a thorough review of the proposed development.

G. **PUD Ordinance Amendments:**

1. Changes that shall require an amendment to a PUD Ordinance include changes which alter the concept or intent of the initial PUD, as determined by the Director, which shall include but are not limited to:
   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, where such change constitutes an intensification of use of the Open Space.
   f. Changes in the final governing agreements where such changes conflict with the Concept Plan approval.
2. The procedure for amending an approved PUD Ordinance ("text amendment") shall be the same as the procedure for the adoption of the initial PUD Ordinance as set forth herein.

7.10 SHORT-TERM RENTAL PERMITS

A. **Cross-Reference:** See ***Article 6.19 Short-term Rentals*** for Short-term Rental standards.

B. **Application:** Applications for a Short-term Rental permit shall be made by the property owner on forms published by the Department and include appropriate filing fees and documentation below. An owner shall submit a separate permit application for each property requiring a permit.

C. **Supporting Documentation:** Applications shall be accompanied by the following information. The Director may, in its sole discretion, waive or relax any of the requirements listed which are not relevant or deemed 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 of each Short-term Rental and whether the Short-term Rental is a

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single-family home or a dwelling unit within a single-family home, multifamily dwelling, condominium, cooperative, or time share.

D. **Permit Issuance:** If an owner's permit application meets the requirements for Short-term Rentals, the Department shall issue 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 the permit is issued.

F. **Permit Fee:** A non-refundable fee as set forth in the fee schedule adopted by the City Council shall 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 Director may revoke the Short-term Rental permit for a period of 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 Short-term Rental ordinance violations are paid.

7.11 SIGN PERMITS

A. **Cross-Reference:** See ***Article 6.20 Sign Standards*** for sign standards.

B. **Application:** Applications for a sign permit shall be on forms published by the Department and include appropriate filing fees and documentation set forth herein.

C. **Supporting Documentation:** The following information shall accompany applications. The Director may, in his or her sole discretion, waive or relax any of the requirements listed which are not relevant or deemed 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 sign(s) and a Site Plan including the proposed sign location, as well as the location and square footage of all existing on-site sign(s).
6. Elevation and a true color rendering or other realistic depiction of the proposed sign, including size, materials, color, and dimensions.

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7. Illumination details for proposed signs, including the timing of sign illumination and method of control of such illumination.
8. Indication of sign type(s) as defined by this Ordinance.
9. Written consent of the Property Owner on which the sign is to be erected if the Applicant is not the Property Owner.
10. Temporary and special event sign displays shall provide a schedule for sign displays which indicate 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 Director.

D. **Effect of Sign Permit Issuance:** A sign permit issued under the provisions of this Ordinance shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign. See also ***Article 9.7 - Nonconforming Signs***.

E. **Expiration:** A sign permit shall become null and void if work has not been completed within one hundred and eighty (180) days of the date the permit is issued.

F. **Revocation of Permit:** The City may revoke a sign permit under any of the following circumstances:

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

7.12 SPECIAL EXCEPTIONS

A. **Permitted:** The Board of Zoning Appeals may approve a use listed as a Special Exception in ***CHAPTER 5: USE TABLE***, and their Accessory Buildings and uses, in accordance with the procedures set forth in this Article, and other regulations applicable to the Zoning District in which the subject property is located.

B. **Purpose:** A Special Exception is a use that requires more scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted.

C. **Procedures:**

1. Application: Applications shall be made in writing on forms prescribed by the Department with documentation and supporting information the

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Department determines is necessary to assure compliance with this Ordinance.

2. Action by the Director: The Director shall review a filed application for completeness. All applications which are determined to be in proper form shall be docketed by the Department for a hearing by the Board of Zoning Appeals.
3. Investigation of Application: The Design Review Board may review any Special Exception prior to the Board's consideration.
4. Plan Commission Review: The Plan Commission shall review the 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. If the Plan Commission makes a favorable recommendation, the Special Exception shall be forwarded to the Board. If the Plan Commission makes an unfavorable recommendation, the Special Exception is denied and is not forwarded to the Board. The Director shall report the unfavorable recommendation to the Board.
5. Public Notice: Notification for the scheduled public hearing regarding the application shall be completed consistent with the Schedule of Meeting and Filing Dates and the Rules and Procedures of the Board.
6. Public Hearing: The Board, in a public hearing scheduled consistent with the Schedule of Meeting and Filing Dates, shall review the facts and circumstances of each application and supporting information.
7. Board Decision: Following the public hearing, the Board shall direct the Director to either: (i) reject the application; or (ii) approve, or approve with conditions, the application if the Board finds adequate evidence is shown that the Special Exception meets the criteria set forth herein.

D. **Review Criteria:** The Board may approve a Special Exception only upon a determination in writing that the Special Exception at the proposed location 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 be injurious to 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.

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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 and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.
5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.
7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, 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 that such Special Exception will be approved. Rather, each Special Exception shall be evaluated on an individual basis, in relation to its compliance with the standards and conditions set forth herein, to determine whether approval of the Special Exception is appropriate at the particular location and in the particular manner proposed.

F. **Limitations of Approval:** The approval of a Special Exception by the Board shall be deemed to authorize only that use at that particular location for which the approval was granted. Except when otherwise provided by the Board's approval of the Special Exception, a Special Exception shall be deemed to relate to, and be for the benefit of, the use and Lot in question, rather than the Property Owner or operator of such use or Lot, unless otherwise conditioned by the Board.

G. **Effect of Approval:** The approval of a Special Exception by the Board shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required, which may include but is not limited to approval of Development Plan, Improvement Location Permit, Building Permit, and a Certificate of Occupancy.

H. **Existing Use:** An existing use which is listed herein as a Special Exception, and which is in a Zoning District in which such Special Exception may be permitted, is a conforming use, providing such use meets the minimum Lot Area requirements set forth in the respective Zoning District. Any expansion of such Special Exception involving the enlargement of buildings, structures, and land area devoted to such use, shall be subject to the requirements and procedures described in this Ordinance.

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I. **Conditions:** In granting a Special Exception, the Board may prescribe conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by a Special Exception as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. If required by the Board, conditions shall be recorded in the Office of the Recorder of Floyd County, Indiana. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the Special Exception or related Improvement Location Permit, pursuant to ***CHAPTER 10: ENFORCEMENT & PENALTIES***.

7.13 TEMPORARY USE AND EVENTS PERMITS

A. **Application:** Applications for a temporary use and/or event permit, pursuant to ***Article 6.21 Temporary Uses and Events***, shall be made in writing on forms provided by the Department at least thirty (30) days prior to the scheduled event.

B. **Supporting Documentation:** Applications shall include (i) a written statement describing the requested use, operations plan, traffic control and the proposed period and (ii) a sketch plan showing the location(s) of proposed activity areas in relation to property lines and existing buildings and structures, pedestrian and vehicular circulation on the site, and parking areas.

1. If a permit for encroaching into any right-of-way is required, a copy of the encroachment request shall 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 shall be required with the application.

7.14 VARIANCES

A. **Authority:** In no case shall any variance to the terms of this Ordinance be authorized without the approval of the Board. Further, no decisions on previous applications shall serve to set a precedent for any other application before the Board. The procedure set forth in this Article shall apply to all variance of development standard and variance of use applications.

B. **Application:** The Applicant shall 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 shall include, but not be limited to, the following:

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1. Site Plan: A site plan shall be signed and dated. The site plan shall be drawn to scale and/or fully dimensioned to the satisfaction of the Director 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 Board 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.

C. **Public Notice:** Notification for the scheduled public hearing regarding the variance request shall be completed consistent with the Schedule of Meeting and Filing Dates and the Rules and Procedures of the Board.

D. **Public Hearing:** The Board, in a public hearing scheduled consistent with the Schedule of Meeting and Filing Dates, shall review 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 petition and address the decision criteria.
2. Testimony: The Board shall consider a report from the Department 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 shall be consistent with the Rules and Procedures of the Board.
4. Possible Action: The Board may approve, approve with conditions, deny, or continue the application in accordance with ***I.C. 36-7-4-918.4*** & ***I.C. 36-7-4-918.5***.

E. **Denial:** The Board will not consider an application that is substantially similar to a variance application that was denied with the prior twelve (12) months.

F. **Continuances:** The application may be continued by the Board based on a request by the Director, Applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request. The continuing of all applications and any potential additional legal notice shall be consistent with the Rules and Procedures of the Board.

G. **Decision Criteria:** In acting on all variance requests, the Board shall use decision criteria to approve or deny variances consistent with the requirements of Indiana Code as set forth below:

1. Variances of Use: A variance of land use may be approved only upon a determination that:

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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 for which the variance is sought.

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 a determination that:

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.

H. **Commitments:** The Board may require the owner of the property to make written commitments concerning the use or development of the property. Such commitments shall be recorded in the Office of the Recorder of Floyd County, Indiana, and a copy of the recorded commitments shall be provided to the Department for inclusion in the petition file at the time of application for a permit.

I. **Conditions:** The Board may impose conditions and limitations concerning matters under the jurisdiction of this Ordinance in order to prevent or minimize adverse effects upon other properties in the vicinity of the Lot benefited by the variance. Such conditions shall be expressly set forth in the order granting the variance.

J. **Effect of Approval:** Approval of a variance shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required, which may include but are not limited to approval of a Primary or Secondary Plat Development Plan, Improvement Location Permit, Building Permit, and/or a Certificate of Occupancy.

K. **Acknowledgement of Variance:** Approval of a variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall specify the granted variance and any commitments made or conditions imposed in granting of the variance.

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L. **Compliance and Violations:** No permit shall be issued which does not comply with an approved variance, conditions of approval, or commitments. Violations of an approved variance, conditions of approval or commitments shall constitute grounds for revocation of the variance.

7.15 ZONING MAP CHANGES (REZONES)

A. **Applicability:** This Article shall apply to all petitions regarding a request to amend the Zoning Map.

B. **Initiation:** Proposals to amend the Zoning Map may be initiated by either the Plan Commission, the Council, or through an application signed by Property Owners of at least fifty percent (50%) of the land involved.

1. Legislative Body Initiation: The Department shall prepare the application for Zoning Map amendment if either the Plan Commission or Council has initiated the application. The Director shall serve as the representative of the Applicant for such proposals.

2. Property Owner Initiation: Any Property Owner(s) requesting a Zoning Map amendment shall be the Applicants and assume responsibility for preparing application materials.

C. **Application Procedures:**

1. Pre-Filing Conference: A pre-filing conference with the Department is required prior to the filing of an application. The Applicant is encouraged to incorporate the Department's comments into the application prior to filing.

2. Filing Deadline: Applications shall be filed in accordance with 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 shall submit a completed application to the Department on forms provided by the Department with documentation and supporting information as set forth in this Article. The number of copies of all petitions and supporting documentation required to be filed shall be as established by the Department.

4. Application Requirements for Property Owner Initiated Applications:

a. Consent Form: If an Application is filed by a Property Owner's authorized agent, then a consent form signed by the Property Owner shall 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 pursuant to the Rules of Procedure of the Plan Commission, as obtained from the County.

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d. Supporting Document and Information: Which should include but is not limited to the following:
   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 five hundred (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 for which the change of zoning is sought. The narrative should include any written commitments being made by the Applicant.

D. **Public Notice:** A public hearing by the Plan Commission shall be required and notification for the scheduled Plan Commission public hearing shall be completed consistent with the requirements of the Rules of Procedures of the Plan Commission.

E. **Plan Commission Public Hearing:** The Plan Commission, in a public hearing scheduled consistent with the adopted Schedule of Meeting and Filing Dates, shall review the application and required supportive 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 shall consider a report from the Department 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 shall 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 in accordance with 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 Director, Applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to action being taken on the request. The continuing of all applications and any potential additional legal notice shall be consistent with the Rules and Procedures of the Plan Commission.

G. **Certification:** The Plan Commission shall certify its recommendation to the Council in accordance with Indiana Code. The Department shall forward the Plan Commission certification, the application and all supporting information, any Department reports regarding the application, and an ordinance to the Council for its consideration.

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H. **Council Action:** The Council will review 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 ninety (90) days of the Plan Commission's certification and the Applicant has not otherwise withdrawn its request or requested additional consideration by the Plan Commission, then the ordinance shall become effective or be defeated with the provisions of ***I.C. 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 shall give consideration to the following criteria in accordance with 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.

7.16 CHAPTER AMENDMENT LOG

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8.1 GENERAL ADMINISTRATION

A. **Department of Planning Duties:**

1. Receive and examine all applications for improvement location permits and to refer applications to persons or bodies as specified by this chapter or to make any other referrals as deemed advisable by the Zoning Administrator;
2. Issue improvement location permits after approval and Certificates of Compliance only when there is compliance with the provisions of this chapter and with other city ordinances. However, the issuance of an improvement location permit shall not be deemed a waiver of the requirements of any other city ordinance;
3. Receive and examine applications for special exceptions and refer these applications to the secretary of the Plan Commission and Board of Zoning Appeals who shall investigate the applications and forward them to the Plan Commission and Board;
4. Receive applications for variances and refer these applications to the Secretary of the Board of Zoning Appeals who shall investigate the applications and forward them to the Board for action thereon;
5. Receive applications for appeals from alleged error of the Zoning Administrator and refer these applications the Board of Zoning Appeals as described in ***Article 7.3 - Appeals of Administrative Decisions***;
6. Receive applications for zoning amendments and changes in zoning and refer these applications to the Secretary of the Plan Commission who shall investigate the applications and forward them to the Plan Commission and the Common Council, as applicable, for their action thereon;
7. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter;
8. Issue stop, cease and desist orders, in writing, for of all conditions found to be in violation of the provisions of this chapter. The written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Zoning Officer to be violating the terms of the chapter. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer and any person violating any such order shall be guilty of a violation of this chapter;
9. With approval or direction of the Plan Commission or the Board institute in the name of the Plan Commission or Board any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use and to restrain, correct or abate the violation, so as to prevent the occupancy or use of any building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises;

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10. Revoke by order, an improvement location permit issued under a mistake of fact or contrary to the law or the provisions of the chapter;
11. Upon request of the Plan Commission or Board, present to the bodies facts, records or reports which they may request to assist them in making decisions; and
12. Maintain a map showing the current Zoning Districts of all land in the city.

B. **Fee Schedule:** Filing fees for applications and petitions filed pursuant to this Ordinance are set forth in the Fee Schedule. The Fee Schedule is established by resolution of the Council. Copies of the Fee Schedule shall be available in the office of the City Clerk and in the office of the Department.

C. **Schedule of Meeting and Filing Dates:** The Department shall maintain an annual Schedule of Meeting and Filing Dates for the Architectural Review Board, Technical Advisory Committee, Plan Commission, and Board of Zoning Appeals. Modifications of filing dates are contemplated if determined reasonable by the Department. The existence of this calendar shall not be interpreted as prohibiting special meetings or changes of meeting dates by the Architectural Review Board, Technical Advisory Committee, Plan Commission, or Board of Zoning Appeals. The Schedule of Meeting and Filing Dates shall be made available in the office of the Department.

D. **Summary of Authority:** The decision-making bodies and officials described herein, without limitation upon such authority as each may possess by local and Indiana law, each has responsibility for implementing and administering this Ordinance in the manner described herein.

8.2 BOARD OF ZONING APPEALS

A Board of Zoning Appeals (the "Board") is hereby established with membership and appointment provided in accordance with Indiana law and all acts now or hereafter amendatory thereto. The powers and duties of the Board are defined by Indiana law and are generally described below.

A. **General Duties:**

1. The Board shall adopt rules and regulations ("Rules of Procedure of the Board") as it may deem necessary to effectuate the provisions of this Ordinance.
2. All meetings of the Board shall be open to the public. The Board shall 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 shall be filed in the office of the Department and shall be a public record.

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B. Appeals of Administrative Decisions:

1. Any decision of the Director in enforcement or application of this Ordinance may be appealed to the Board by any person claiming to be adversely affected by such decision.
2. The Board shall hear and determine appeals from and review any order, requirement, decision, or determination made by the Director in the enforcement of this Ordinance (see also ***Article 7.3 Appeals of Administrative Decisions***).
3. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decisions, or determination appealed, and to that end shall have all the powers of the Director from whom the appeal is taken.
4. Every decision of the Board shall be subject to review pursuant to *I.C. 36-7-4-1016*.

C. **Special Exceptions:** The Board shall approve or deny all special exceptions in accordance with this Ordinance, but only in the particular situations specified herein. The Board may impose reasonable conditions as a part of its approval (see also ***Article 7.12 Special Exceptions***).

D. **Variances of Use:** The Board shall approve or deny variances of land use in accordance with this Ordinance (see also ***Article7.14 Variances***).

E. **Variances of Development Standards:** The Board shall approve or deny variances from the development standards of this Ordinance in accordance with this Ordinance (see also ***Article7.14 Variances***).

F. **Flood Plain:** The Board shall be governed by the provisions of this Ordinance concerning variances applicable to the Flood Plain Overlay District (FOD).

8.3 COMMON COUNCIL

The powers and duties of the Common Council of the City of New Albany, Floyd County, Indiana (the "Council"), with regard to this Ordinance, are defined by Indiana law and generally described below.

A. **Duties:** Duties should be interpreted as activities that are obligations and generally include:

1. Plans and Ordinances: Adopt, reject, or amend the Comprehensive Plan, any other plans, the Zoning Ordinance, and the Subdivision Control 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.

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3. Zoning Map Amendments: Adopt, reject, or amend proposals to amend the Official Zoning Map certified by the Plan Commission (see also ***Article 7.15 Zoning Map Changes (Rezones)***).
4. Planned Unit Developments: Adopt, reject, or amend proposals for Planned Unit Developments as certified by the Plan Commission (see also ***Article 7.9 Planned Unit Developments***).
5. Fee Schedule: Adopt, reject, or amend proposals to adopt or amend a Fee Schedule (see also ***Article 8.1 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 and include:

1. Plan and Ordinance Amendments: Initiate amendments to the text of the Comprehensive Plan, any other plans, the Zoning Ordinance, and the Subdivision Control Ordinance pursuant to *I.C. 36-7-4-511*, *I.C. 36-7-4-602*, and *I.C. 36-7-4-701*, respectively.
2. Zoning Map Amendments: Initiate amendments to the Zoning Map.
3. Other Powers: To take such other actions not delegated to other bodies that may be desirable and necessary to implement the provisions of this Ordinance and all additional powers as permitted by Indiana law.

8.4 DESIGN REVIEW BOARD

The powers and duties of the New Albany Design Review Board ("DRB") are generally described below.

A. **Establishment and Membership:** The Design Review Board is hereby created and shall consist of members, as invited by the Director, which may include design professionals, neighborhood representatives, City departments, representatives of City Boards and Commissions, and other agencies or consultants deemed appropriate by the Director. The members shall be nominated by the Director and confirmed by the Council. Members shall serve a two-year term. A member may be recalled by a supermajority vote of the Council.

B. **Jurisdiction and Authority:** The Design Review Board 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 staff, Board, or Plan Commission, pursuant to the procedures and standards for variances or waivers set forth herein.
2. To review and evaluate Development Plans and site plans and proposed demolitions, and make recommendations to the staff, Board, or Plan Commission as may be appropriate, pursuant to the procedures and standards set forth herein.

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3. To review, evaluate, and make recommendations to the staff, Board, or Plan Commission regarding architectural and landscaping design matters for development and redevelopment projects, including, but not limited to:
    a. The compatibility of proposed development with the surrounding neighborhood.
    b. The architecture of proposed buildings and structures to ensure architectural features reflect a similar design style or period and that building elements are used to create a high-quality project with visual interest and architectural style.
    c. The proposed landscape design to protect valuable existing trees and features, ensure proposed landscape materials support the project's overall design concept, and make sure proposed landscaping does not obstruct the vision of motorists or pedestrians in proximity to the site.
    d. The proposed signage is compatible with the building design, scale, color, and materials.
    e. The accessory features (such as trash receptacles, storage and loading areas, and mechanical equipment) are screened in a manner architecturally compatible with the principal building(s).
4. To take such other actions as delegated by the Director, Council, Plan Commission, Board, or other bodies which may be desirable and necessary to implement the provisions of this Ordinance.

8.5 DIRECTOR OF THE DEPARTMENT

A. **Administrative Officer:** It shall be the duty of the Director of the Department of Planning (the "Director") to enforce and render interpretations of the provisions of this Ordinance and receive applications required by this Ordinance, issue permits, and furnish the prescribed certificates.

B. **Department Duties:** The Director, and/or their designee, shall in connection with the implementation of this Ordinance and in accordance with Indiana law:
    1. Maintain a Council approved Comprehensive Plan, the Zoning Ordinance, and the Subdivision Control Ordinance, as authorized under Indiana law.
    2. Maintain rules of procedures for holding meetings, holding public hearings, and enforcing the Comprehensive Plan, the Zoning Ordinance, and the Subdivision Control Ordinance.
    3. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission and Board of Zoning Appeals.
    4. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission and

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Board of Zoning Appeals. All such records shall 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, of permits issued, of certificates issued, or inspections made, or reports rendered, and of notices or orders issued. Retain on file copies of all documents in connection with building work so long as any part of the building or structure to which they relate may be in 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, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings, structures and land, except as may be otherwise provided for in local or Indiana law.
8. Issue such notices or orders as may be necessary for the purpose of enforcing compliance with the laws or for the purpose of preventing a violation of provisions of this Ordinance.
9. Other duties set forth herein or that may be delegated by the Plan Commission, Board of Zoning Appeals, or Council.

8.6 FLOOD PLAIN ADMINISTRATOR

A. **Flood Plain Administrator:** The Director and/or designated staff of the Department, is hereby designated as the Flood Plain Administrator.

B. **Authority:** The Flood Plain Administrator is hereby authorized and directed to enforce and implement the provisions of the Flood Plain Regulations set forth herein.

C. **Duties:** The Flood Plain Administer shall, in connection with the implementation of this Ordinance (see also *Chapter 157: Flood Plain Regulations*) and in accordance with Indiana law:

1. Review all Flood Plain development permits to assure that 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 *Chapter 157: 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.

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6. Maintain related permits and information for buildings constructed subject to *Chapter 157: Flood Plain Regulations*.
7. Utilize and enforce Letters of Map Change (LOMC) or Physical Map Revisions (PMR) 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 to which any new or substantially improved buildings have been floodproofed.
11. Notify adjacent communities and the State's Flood Plain coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency.
12. Assure that maintenance is provided within the altered or relocated portion of said Watercourse so that the flood-carrying capacity is not diminished.

8.7 PLAN COMMISSION

The powers and duties of the New Albany City Plan Commission (the "Plan Commission") are defined by Indiana law and are generally described below. The Plan Commission may delegate its authority to the Department or a committee to perform ministerial acts except where final action of 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, the Zoning Ordinance, and the Subdivision Control 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, the Zoning Ordinance, and the Subdivision Control 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 Zoning Ordinance, the Subdivision Control Ordinance, and Zoning Map (see also ***Article 7.15 Zoning Map Changes (Rezones)***).

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6. Certify and submit recommendations to the Council for adopting a Planned Unit Development (see also ***Article 7.9 Planned Unit Developments)***).
7. Approve or deny plats or replats of Subdivisions (see also Subdivision Control Ordinance).
8. Approve or deny requests for waivers pursuant to the Subdivision Control Ordinance.
9. Approve or deny site plans or Development Plans and amendments to site plans or Development Plans (see also ***Article 7.7 Development Plan Review***).
10. Review applications for Special Exceptions for compliance with the Comprehensive Plan.
11. Enforce regulations and procedures of the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance to the extent of the local resolutions, ordinances, and Indiana law.
12. 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.

8.8 TECHNICAL ADVISORY COMMITTEE

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

A. **Establishment and Membership:** The Technical Advisory Committee is hereby created and shall consist of members, as invited by the Director, which may include utility agencies, County departments, City departments and other agencies or consultants deemed appropriate by the Director.

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 or Plan Commission, pursuant to the procedures and standards for variances or waivers set forth herein.
2. To review and evaluate Development Plans and site plans and make recommendations to the Board or Plan Commission as may be appropriate, pursuant to the procedures and standards set forth herein.

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3. To take such other actions as delegated by the Director, Council, Plan Commission, Board, or other bodies which may be desirable and necessary to implement the provisions of this Ordinance.

8.9 TREE BOARD

The powers and duties of the New Albany Tree Board ("Tree Board") are as generally described below:

A. **Authority:** The Tree Board is hereby authorized and directed to provide recommendations for the conservation of existing woodlands and promotion of the urban forest throughout the city.

B. **Duties:** The Tree Board 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 staff, Board, or Plan Commission, pursuant to the procedures and standards for variances or waivers set forth herein.
2. To review and evaluate Development Plans and site plans, and make recommendations to the staff, Board, or Plan Commission as may be appropriate, pursuant to the procedures and standards set forth herein.
3. To recommend mitigation measures for urban forest resources lost due to the development or redevelopment of an area.
4. To take such other actions as delegated by the Director, Council, Plan Commission, Board, or other bodies which may be desirable and necessary to implement the provisions of this Ordinance.

8.10 ZONING ADMINISTRATOR

A. **Zoning Administrator:** The Director and/or designated staff of the Department, is hereby designated as the Zoning Administrator.

B. **Authority:** The Zoning Administrator is hereby authorized and directed to enforce and implement the provisions of the Zoning Ordinance set forth herein.

C. **Duties:** The Zoning Administrator shall, in connection with the implementation of this Ordinance and in accordance with Indiana law:

1. Determine the appropriate categories of land uses not specifically listed on the Permitted Uses Table.
2. Determine if a proposed Home Business use not specifically listed is compatible as a home business.
3. Approve or deny sign permit applications.
4. Review applications for Improvement Location Permits for compliance with the performance standards of this Ordinance.
5. Issue Improvement Location Permits for Special Exceptions after approval by the Board.

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6. Inspect properties for compliance with the provisions of this Ordinance.
7. Take enforcement actions to bring violations into compliance with the requirements of this Ordinance, including, but not limited to investigating complaints, issuing stop work orders, and revoking of sign permits.

8.11 CHAPTER AMENDMENT LOG

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9.1 PURPOSE AND INTENT

Upon the adoption of the Zoning Ordinance, Zoning Map, and amendments thereto, 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 the Zoning District in which they are located. This Chapter has been generated, for this reason, to provide the rules, policies, and regulations that apply to these buildings, structures, lots and uses.

9.2 EXEMPTION FOR NONCONFORMITY CREATED BY PUBLIC ACQUISITION

Any property, lot or structure which is rendered nonconforming solely by the action of a governmental agency in the opening, closing, widening, paving or improvement of any street, shall be exempt from the nonconformance provisions of this Article.

9.3 LEGAL NONCONFORMING AND ILLEGAL NONCONFORMING

A. **Legal Nonconforming:** Legal Nonconforming is caused by an amendment to this Ordinance, not as a result of a change to the property, that has resulted in the property no longer conforming to the policies and standards of the applicable Zoning District. When this situation occurs the property is deemed legal nonconforming and shall be subject to the terms of this Ordinance.

B. **Illegal Nonconforming:** A Building, Structure, Sign, or Lot which was constructed or is being used without an approved Building Permit, Improvement Location Permit or approval from the Board or Plan Commission is considered illegal nonconforming when it does not conform to this Ordinance. An illegal nonconforming property shall be subject to enforcement and penalties as set forth in ***CHAPTER 10: ENFORCEMENT & PENALTIES***, and all other applicable State or Municipal law, and shall be altered to conform with all applicable standards and regulations of this Ordinance.

9.4 NONCONFORMING BUILDINGS AND STRUCTURES

A. A Legal Nonconforming Building or Structure shall be deemed as such for any Building or Structure that: (i) has been continuously occupied and legally existed prior to the enactment of this Ordinance, or an amendment thereto; and (ii) no longer conforms to the regulations set forth in this Ordinance, or its subsequent amendments.

B. A Legal Nonconforming Building or Structure may continue provided it remains the same or fits within the tolerances described below:

1. A Legal Nonconforming Building or Structure shall not be enlarged or altered in a manner that the enlargement or alteration increases its nonconformity; however, the Building or Structure, or portion thereof, may be altered to maintain or decrease its nonconformity.

2. A Legal Nonconforming Building or Structure damaged or destroyed by more than fifty percent (50%) of its fair market value shall thereafter conform to the regulations of the Zoning District in which it is located.

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C. If a Legal Nonconforming Building or Structure is moved for any reason, for any distance, then it shall thereafter conform to the provisions of this Ordinance.

9.5 NONCONFORMING LOTS OF RECORD

A. A Legal Nonconforming Lot shall be deemed as such for any Lot that: (i) was established and recorded prior to the date of passage of this Ordinance; and (ii) no longer conforms to the regulations set forth in this Ordinance, or its subsequent amendments, as applicable to Lots (e.g., Lot Area, Lot Width, Lot Depth, Lot Frontage).

B. A Legal Nonconforming Lot may be: (i) used as permitted by the Zoning District in which the Lot is located; and (ii) built upon, only if the Lot and improvements otherwise comply with all other standards of this Ordinance, and provided the Property Owner of said Lot does not own, in whole or in part, sufficient adjacent land to enable the Lot to conform to the dimensional and area requirements of this Ordinance;

C. A Legal Nonconforming Lot shall lose its status as Legal Nonconforming Lot if the Lot has been either: (i) combined into a single Lot or parcel that either fully conforms with the standards of the Zoning District or decreases the nonconformity; or (ii) is combined with a conforming Lot. Once combined with another Lot, a Legal Nonconforming Lot shall not thereafter be subdivided except when the resulting Lots are in full compliance with this Ordinance.

9.6 NONCONFORMING USES, LAND, OR STRUCTURES AND LAND IN COMBINATION

A. A Legal Nonconforming use of Structures, land, or Structures and land in combination shall be deemed collectively as a Legal Nonconforming Use if it: (i) was established prior to the date of passage of this Ordinance; (ii) does not conform to the regulations set forth in this Ordinance, or its subsequent amendments; (iii) no longer is a permitted use in the applicable Zoning District in which it is located.

B. A Legal Nonconforming Use may continue provided that it remains otherwise lawful, subject to the following conditions:

1. No existing Structure devoted to a Legal Nonconforming Use shall be enlarged, expanded, increased, extended, constructed, reconstructed, moved, or structurally altered unless it:

   a. Complies with this Chapter for limited and small expansions;

   b. Changes the use of the Structure to a use permitted by the Zoning District in which it is located; or

   c. Changes the use to a less intensive nonconforming use and is approved by the Director or Plan Commission.

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2. No new Building or Structure shall be constructed in connection with an existing Legal Nonconforming Use.
3. A Legal Nonconforming Use of a Building or Structure may be extended throughout any parts of a Building or Structure which were plainly arranged or designed for such use prior the effective date of this Ordinance, but no such use shall be extended to occupy any land outside the Building or Structure.
4. A Structure being used by a Legal Nonconforming Use may be expanded an aggregate of up ten percent (10%) of the original Gross Floor Area, as it existed prior the effective date of this Ordinance. Expansions shall otherwise conform to all applicable standards of this Ordinance unless a variance is granted by the Board.
5. If no structural alterations are made, a Legal Nonconforming Use may be changed to another Legal Nonconforming Use provided the use is equally appropriate or more appropriate to the Zoning District than the existing Legal Nonconforming Use, as determined by the Director. If a new Legal Nonconforming Use requires more parking than the previous use, as set forth by ***Article 6.16 Parking and Loading Standards***, then such new use shall comply with ***Article 6.16 Parking and Loading Standards***, as determined by the Director.
6. If a Legal Nonconforming Use is discontinued or abandoned for twelve (12) consecutive months, except when government action impedes access to the premises, then any subsequent use of such land, Structure or land and Structure shall conform to the provisions of this Ordinance.
7. A Legal Nonconforming Use superseded by a permitted use shall lose its legal nonconforming status.
8. Removal or destruction of a Structure in which a Legal Nonconforming Use existed shall result in the property losing its legal nonconforming status. Destruction is defined as deliberate damage of more than fifty percent (50%) of the Structure's fair market value at the time of destruction.

9.7 NONCONFORMING SIGNS

P. Except as provided in 9.7(C) and 9.7(D), signs lawfully in existence on the date the provisions of this Code were first advertised, which do not conform to the provisions of this Code, but which were in compliance with the applicable regulations at the time they were constructed, erected, affixed or maintained shall be regarded as nonconforming. Provided, however, a sign constructed during the period of time following the day on which the Supreme Court released its opinion in *Reed v. Town of Gilbert* and the date the provisions of this Code were first advertised for adoption, shall not be considered a non-conforming sign unless it conformed to the regulations in effect on the day

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immediately preceding the release of the Supreme Court's decision in *Reed v. Town of Gilbert*.

Q. For the purpose of amortization, these signs may be continued from the effective date of this Code for a period not to exceed ten (10) years unless under a previous regulation the signs were to be amortized for a shorter time period, and, in that case, the amortization period shall be as previously required or ten years whichever is less.

R. Signs which were nonconforming to the prior Ordinance and which do not conform to this Code shall be removed immediately.

S. Outdoor Advertising Signs may be consolidated and replaced with electronic message signs with approval by the Director. A sign permit is required for such a change. Two (2) Legal Nonconforming Outdoor Advertising Signs may be consolidated and replaced with one (1) Digital Billboard. The maximum sign face area of the Digital Billboard shall not exceed the average sign face area of the two signs being consolidated. One sign face and its supporting structure shall be removed while the other sign face shall be replaced with the Digital Billboard. Such consolidated signs shall not be subject to the amortization in *Section 9.7(B)* above.

T. Legal Nonconforming Signs shall be kept in good repair, safe, neat, clean and attractive condition. If Legal Nonconforming Signs are not kept in said condition for a period exceeding six (6) consecutive months or are demolished by any force whatsoever to the extent of fifty percent (50%) or more of the fair market value of the Sign, including its structure, then the Sign(s) shall lose its legal nonconforming status and shall conform to this Ordinance.

U. A Legal Nonconforming Sign shall be removed by the owner or lessee of the premises upon which the Sign is located when the business it advertises is no longer conducted on the premises. If the Property Owner or lessee fails to remove the Sign, then the Plan Commission or Director shall give the Property Owner thirty (30) days written notice to remove it. Upon failure to comply with this notice, the Plan Commission or Director may remove the sign at a cost to the Property Owner or lessee.

V. A Legal Nonconforming Sign that loses its legal nonconforming status shall comply immediately with all provisions of this Ordinance or be granted a variance(s) from the Board of Zoning Appeals.

9.8 REPAIRS AND MAINTENANCE

The following shall apply to Legal Nonconforming Structures or Buildings, and Legal Nonconforming Uses of Structures, or Structures and land in combination:

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

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B. If a Building or Structure or portion of a Building or Structure were to become unsafe or condemned due to lack of repairs or maintenance and is declared by an authorized official to be unsafe or condemned due to physical condition; and if the Building or Structure is not restored, repaired, or rebuilt within the six (6) months, then the Building or Structure shall lose its Legal Nonconforming status and any future improvements shall conform to the standards and regulations of this Ordinance.

C. If a Building or Structure becomes unsafe or unlawful due to physical condition and is razed, then the Building or Structure shall be rebuilt in conformity with the Zoning District in which it is located.

D. Nothing herein shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any Building or Structure or part thereof declared to be unsafe by any official charged with protecting public safety.

9.9 CHAPTER AMENDMENT LOG

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CHAPTER 10 – ENFORCEMENT AND PENALTIES

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10.1 AUTHORITY

The City of New Albany, including the Director, Zoning Administrator, Council, Plan Commission, Board, Building Commissioner, Fire Marshal, and their delegates are designated to enforce the provisions, regulations, and intent of this Ordinance, in accordance with *I.C. 36-7-4-100, et. seq.*, as amended.

10.2 VIOLATION

A. Violation of or failure to comply with any of the provisions of this Ordinance or its requirements is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law. Such violation may include, but is not limited to, the following:

   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, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any provisions of this Ordinance shall be subject to judgment for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. A violation continues to exist until corrected. Correction includes, but is not limited to:

   1. Cessation of an unlawful practice;
   2. Removal of a building, structure, or other improvement;
   3. Faithful or otherwise-approved restoration or replacement of a building, structure, site or natural feature;
   4. Any other remedy specified in this title; and/or
   5. Other remedy acceptable to the city.

10.3 ENFORCEMENT

Complaints made pertaining to this Ordinance may be investigated by the Director, Zoning Administrator, the Building Commissioner, the Fire Marshal, and/or their designees. Also, any violations suspected by the Plan Commission, Council, Zoning Administrator, or Director shall be investigated by the Director or Zoning Administrator. Action may or may not be taken depending on the findings. The degree of action will be at the discretion of the investigating person and should reflect what is warranted by the violation.

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10.4 PENALTY

A. Any violation that is subject to this chapter shall be subject to a civil penalty of not more than two thousand five hundred dollars, ($2,500) for each such violation, and not more than seven thousand five hundred dollars ($7,500) for the second and any subsequent violation, in addition to any and all other remedies available to the City, except where a lesser fine is specified herein.

B. Any person who shall commence any land improvements or construction subject to the provisions contained in this Ordinance without first receiving the required approvals as designated, or obtaining a Building Permit, Improvement Location Permit and/or Certificate of Occupancy, shall pay twice the amount of the fees for such approvals.

C. The following violations of this title shall be subject to the fines listed in the table below for the first offense. In addition, if a responsible party commits a second or subsequent violation of the same provision of this title within three years of the first such violation, regardless of whether the second or subsequent violation is on the same property as the first such violation, the listed fine for such second or subsequent offense shall be twice the previous fine, subject to the maximum set forth in subsection (a) above. (For example, a violation that is subject to a one hundred dollar fine per the table will be subject to a two hundred dollar fine for the second offense, a four hundred dollar fine for the third offense, and so forth.)

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Zoning Ordinance Violation	Fine
Temporary signage without a permit	$ 100.00
Permanent signage without a permit	250.00
Parking on an unimproved surface	50.00
Temporary use without a permit	500.00
Illegal land use	Up to 2,500.00
Operation of home business without certificate of compliance	200.00
Alteration of land without Improvement Location Permit	200.00
Failure to comply with conditions/commitments of an approval	500.00
Failure to obtain a certificate of compliance	500.00
Failure to comply with the certificate of compliance	250.00
Failure to comply with development standards	100.00
Any other violation	Up to 2,500.00

10.5 REMEDIES

A. If the Director or his or her designee finds that any violation is occurring, or has occurred, a notice of zoning violation (NOV) may be issued to the responsible party. Such notices of zoning violation may be further accompanied by additional warnings following the same procedures of this chapter. For purposes of issuing a notice of zoning violation, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation:

   1. The property owner;
   2. Persons with any possessory interest (lessor, renter, etc.) in the property; and
   3. Any person who, whether as a property manager, principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, causes, maintains, suffers or permits the violation to occur and/or to continue.

B. The notice of zoning violation (NOV) shall be in writing and shall be served on all of the responsible parties in one or more of the following manners: delivery in person or by first-class mail. The notice of zoning violation shall state: (1) the location of the violation; (2) the nature of the violation; (3) the date the violation began; (4) the daily fine assessed for the violation; (5)

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additional remedies the city may seek for violation; (6) the fine is paid to the City of New Albany; (7) the notice of violation may be appealed to the Board of Zoning Appeals; and (8) the fine may be contested in the Floyd County Circuit Courts.

C. Each item of noncompliance enumerated on the notice of violation shall be a separate violation, and each day that each such item of noncompliance continues shall be considered to be a separate violation. Fines shall accrue from the date the zoning violation commenced.

D. If the responsible party refuses inspection of the property, the Director or his or her designee may obtain an inspection warrant from any court of record in the county in which the property is located.

E. In addition to issuing a notice of violation (NOV), the Director or his or her designee may utilize and/or seek through legal proceedings one or more of the following remedies:

1. Revoke or withhold other approvals, certificates and/or permits relevant to the development or use of the site on which the violation has occurred;
2. Issue a stop-work order;
3. Request the city building department to issue a stop-work order and instruct the building official to suspend and withhold all building code inspections relevant to the development or use of the site on which the violation has occurred;
4. Revoke the permits, certificates and/or approvals that have been violated;
5. The Plan Commission, Board, Director or Zoning Administrator, or any designated enforcement official or any person or persons, firm, or corporation, jointly or severally aggrieved, may institute a suit of injunction in the circuit court of Floyd County to restrain an individual, a corporation, or a government unit from violating the provisions of this Ordinance;
6. The Plan Commission or the Board may also institute a suit for mandatory injunction directing any individual, a corporation or a governmental unit to remove a structure erected in violation of the provisions of this Ordinance; and/or
7. Any and all penalties and remedies listed in ***Article 10.4 Penalty***, and other remedies provided for or allowed by Indiana law or City Code.

F. As an additional remedy to 10.5(E)(6) and 10.5(E)(7) above, if the plaintiff prevails the court may allow costs, expenses and reasonable attorney fees in any judgment so rendered.

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10.6 CHAPTER AMENDMENT LOG

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