

Acknowledgements



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Fairland Unified Development Ordinance

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Introductory Provisions

A. General Provisions.

1. **Title.** This ordinance shall be formally known as the “Unified Development Ordinance,” or the “UDO” for the jurisdiction of the Fairland Advisory Plan Commission (PC).
2. **Intent.** The intent of the UDO is to promote orderly development while aligning with the vision of the Comprehensive Plan to:
 - a. Accomplish the purposes of *IC 36-7-4 series: Local Planning and Zoning*; and further such other purposes as stated hereinafter within specific provisions of this UDO;
 - b. Protect and promote public health, safety, morals, and general welfare of the jurisdiction;
 - c. Guide the orderly, responsible, and sustainable development and redevelopment in accordance with the Comprehensive Plan, including all of the plan components;
 - d. Define the powers and duties of administrative officers and bodies as provided herein, and to establish procedures for the implementation and enforcement of this UDO;
 - e. Establish reasonable standards and procedures for subdivisions in order to further the orderly layout and use of land;
 - f. Protect the character and stability of residential, institutional, business, commercial, industrial, and natural areas;
 - g. Encourage compatibility between different land uses and to protect the scale and character of existing development from the encroachment of incompatible uses;
 - h. Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public facilities; and
 - i. Establish corrective and punitive recourse for violations or noncompliance regarding the provisions of this UDO.
3. **Purpose.** The purpose of this UDO is to combine the town’s Zoning Ordinance and the Subdivision Control Ordinance into a single document in order to reduce redundancy and improve efficiency in the application of land development laws for the jurisdiction.
 - a. **Zoning Ordinance Provisions.** The regulations established for the administration of a Zoning Ordinance under *IC-36-7-4-600 series* are covered specifically in this UDO by Chapters 2, 3, 4, 5, 9, and 10.
 - b. **Subdivision Control Ordinance Provisions.** The regulations established for the administration of a Subdivision Control Ordinance under *IC 36-7-4-700 series* are covered specifically in this UDO by Chapters 6, 7, and 8.

4. **Defined Terms.** Specific words and terms relative to this UDO are as defined in *Chapter 10: Definitions*. Words or terms used in this UDO that are not defined shall be as defined by a current dictionary.
5. **Severability.** If any provision or the application of any provision of this UDO is held unconstitutional or invalid by the courts, the remainder of the UDO or the application of such provision to other circumstances shall not be affected.
6. **Interpretation.** The provisions of this UDO are the minimum requirements necessary for the protection of the health, safety, comfort, morals, and general welfare of the people at large. If any provisions within this UDO are in conflict or are inconsistent with one another, the provision which is most restrictive shall prevail.
7. **Statutory Changes.** If any Indiana Code cited in this UDO has been amended, this UDO shall be deemed amended in reference to the new or revised code.
8. **Repealer.** The following titles of the participating jurisdictions are hereby repealed and are replaced by the adoption of this UDO: Shelby County UDO.
9. **Effective Date.** This UDO shall be in full force and effect upon passage by the Fairland Town Council.

B. Applicability, Authority, and Jurisdiction.

1. **Authority.** This UDO is enacted by the Town Council for the Town of Fairland pursuant to the authority granted in *IC 36-7-4-600 series* and other applicable state and federal statutes, as amended.
2. **Jurisdiction.** The UDO shall apply to all land within the jurisdiction of the Town of Fairland Advisory Plan Commission.
3. **Application.** It is not intended by this UDO to interfere with, abrogate or amend any existing easements, covenants, or other agreements between parties, nor is it intended by this UDO to repeal, abrogate, annul, or in any way interfere with any existing provision of laws or ordinances not specifically repealed by this UDO, or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of buildings or premises. This UDO shall not affect valid private covenants whose standards are above and beyond those of this UDO and which are not enforceable by the PC.
4. **Other Jurisdictions and Approvals.** Nothing in this ordinance shall eliminate the need for obtaining any other approval or entitlement required by other provisions of the jurisdiction, the State, or Federal Agency.
5. **Administration.** The Administrator shall have the primary responsibility of administering the UDO within the jurisdiction.

C. Transition Policies.

1. Pending Applications and Permits.

- a. **Pending Applications.** Applications that are received and submitted completely prior to the adoption of this UDO shall continue their respective process pursuant to the rules and provisions that were in place at the time of filing. This includes applications before the Fairland Town Council, the Fairland Advisory Plan Commission, the Fairland Advisory Board of Zoning Appeals (BZA) as well as applications for Improvement Location Permits (ILP) and Building Permits (BP).
- b. **Permits Issued.** A permit for an ILP or BP that was issued prior to the adoption of this UDO shall remain valid for the timeframe and provisions established by the regulations that were in effect at the time the permit completely filed or issued. If applicable, a valid permit may be renewed per the provisions established by the regulations that were in effect at the time of filing. Permits that have expired per the provisions established by the regulations that were in effect at the time of filing and need to be resubmitted shall now be subject to the regulations established by this UDO.

2. Approved Plats and Subdivisions.

Because subdivisions are subject to approval for both the primary plat and the secondary plat, the following policies for transition apply:

- a. **Primary Plat.** Any primary plat that was approved by regulations that were in place prior to the adoption of this UDO, that has not expired, expired per any previous terms or conditions that were in place, and is otherwise still valid under said previous regulations, shall continue its respective process pursuant to the rules and provisions that were in place at the time of filing. If the previous provisions did not identify an expiration for primary plat approval and an application for secondary plat (all or in part) has not been received and completed within two (2) years after the date of the adoption of this UDO, then said primary plat shall automatically expire two (2) years after the date of the adoption of this UDO.
- b. **Secondary Plat.** As long as the approved primary plat for a subdivision remains valid and has not expired, and the lot standards, structure standards, and utility standards that were in place in the UDO at the time the primary plat was approved shall apply to the secondary plat (all or in part) included in the primary plat approval.

3. Commitments or Conditions.

Commitments or conditions (whether recorded or not) that were made as part of an approval before the Fairland Town Council, PC, or BZA, or part of an application for an ILP or BP prior to the adoption of this UDO shall remain in full effect regardless of any resulting changes in regulations that are established by this UDO. Commitments or conditions may be modified pursuant to the applicable process outlined in *Chapter 5: Zoning Administration and Procedures* of this UDO and/or the applicable *PC Rules and Procedures* or *BZA Rules and Procedures*.

4. Property Not Included.

Property that, for whatever reason, has not been specifically included within a zoning district is hereby declared to be in the Conservation Agriculture District (A1) except for property designated as limited-access or interstate highway right-of-way.

D. UDO Administration: Administrator

1. **Duties.** The Administrator shall be appointed by the Plan Commission per *IC 36-7-4-311* and shall have the following duties:
 - a. Administer and enforce the provisions of this UDO in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this UDO;
 - b. Issue BPs, ILPs, and Certificates of Occupancy;
 - c. Maintain a permanent file of all permits and applications as public records; and
 - d. All other duties as outlined in the Administrator's job description.
2. **Administrative Decisions.** Whenever, in the course of administration and enforcement of this UDO, it is necessary to make an administrative decision which is not clearly governed by standards contained herein, such decision shall be made so that the result will not be contrary to the spirit and purpose of this UDO or injurious to the area affected. Any such decision can be appealed to the BZA per *Chapter 5: Appeal of Administrative Decision Procedures*.

E. UDO Administration: Advisory Plan Commission (PC).

1. **PC Establishment and Membership.** The PC shall be established in accordance with *IC 36-7-4-200 series*. The PC for the Town of Fairland shall have membership in accordance with *IC 36-7-4-207(b)*.
2. **PC Jurisdiction.** The PC shall have jurisdiction over all land within the municipal boundaries of the Town of Fairland.
3. **PC Organization.** The PC shall be organized in accordance with *IC 36-7-4-300 series*.
 - a. **Quorum.** In accordance with *IC 36-7-4-301*, a quorum of the PC consists of a majority of the entire membership of the PC.
 - b. **Official Action.** In accordance with *IC 36-7-4-302*, action of the PC is not official unless it occurs at a regular or special meeting, by a majority of the entire voting membership of the PC.
 - c. **President and Vice President.** In accordance with *IC 36-7-4-303*, at the first regular meeting in each year, the PC shall elect a president and a vice president from its membership.
 - d. **Secretary.** In accordance with *IC 36-7-4-304*, the PC shall appoint a secretary at the first regular meeting in each year, who is not required to be a member of the PC.
4. **PC Meeting and Minutes.**
 - a. **Regular Meetings.** In accordance with *IC 36-7-4-306*, the PC shall hold regular monthly meetings as necessary, keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken. All minutes and records shall be filed in the Office of the Administrator and shall be public record.
 - b. **Special Meetings.** In accordance with *IC 36-7-4-307*, a special meeting of the PC may be called by the president or by two (2) members of the PC upon written request to the Administrator.

5. **Employees.** In accordance with *IC 36-7-4-311*, the PC may appoint, prescribe duties, and fix the compensation of employees as necessary for the discharge of the duties of the PC. This compensation must be in conformity with salaries and compensation fixed by the Town Council. The PC may contract for special or temporary services and professional counsel.
6. **PC Powers and Duties.** The PC shall have the following powers and duties as authorized in *IC 36-7-4-400 series* including the following.
 - a. **Executive Committee.** Per *IC 36-7-4-408*, the PC may establish an executive committee of not less than three (3) nor more than seven (7) persons appointed by the PC from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its operation requires a two-thirds (2/3) majority vote of the entire membership of the PC. A majority of the executive committee may act on behalf of the PC, but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the PC.
 - b. **Fees.** Per *IC 36-7-4-411*, the PC may establish a fee schedule to defray the administrative costs associated with PC and BZA petitions, issuing permits, and other permitted actions.
 - c. **Rules and Procedures.** The PC shall adopt rules for its administration.
 - d. **Comprehensive Plan.** The PC shall approve and make amendments to the *Comprehensive Plan* for enactment by the Town Council in accordance with *IC 36-7-4-500 series*.
 - e. **Development Plans.** The PC shall make decisions regarding development plans or delegate this authority to the Administrator in accordance with *Chapter 5: Development Plan Procedures* and *IC 36-7-4-1400 series*.
 - f. **Streets and Addresses.** The president of the Fairland Town Council shall name or rename streets with a recommendation from the PC however, this responsibility may be delegated to the PC, the Administrator, or another department by ordinance.
 - g. **Subdivisions.** The PC shall make decisions regarding plats, replats, and amendments to plats in accordance with *Chapter 8: Subdivision Administration and Procedures*, the *PC Rules and Procedures*, and *IC 36-7-4-700 series*, including:
 - i. Primary Plats as described in *IC 36-7-4-702*; and
 - ii. Secondary Plats as described in *IC 36-7-4-709*. The PC may delegate the authority to approve secondary plats to the Administrator.
 - h. **Zone Map Changes.** The PC shall make recommendations to the Fairland Town Council concerning changes to the zoning map in accordance with *Chapter 5: Zone Map Change Procedures* and *IC 36-7-4-600 series*.
7. **PC Committees.** The following are established as committees of the Plan Commission as outlined in the *PC Rules and Procedures*.
 - a. **Technical Advisory Committee.** The Technical Advisory Committee (TAC) may assist in the review of applications by providing expert advice with regard to technical specifications, adequate capacity, public safety, and/or other specifications.

- i. Membership. The TAC may include, but is not limited to, Administrator, Parks Department, Public Works Department, Town Engineer, Fire District(s), Water Utility(ies), Sewer Utility(ies), Shelby County Surveyor, Shelby County Drainage Board, Shelby County Health Department, and/or public school district(s), as appropriate.
- ii. Duties. The TAC may be used on an as-needed basis and have the following powers and duties to provide review and comment on:
 - (a) Primary plats;
 - (b) Secondary subdivision plats and construction drawings;
 - (c) Zoning map amendments (rezoning);
 - (d) Development plans; and
 - (e) Variances, Variances of Use, and Special Exceptions.
- iii. Other Committees.
 - (a) RESERVED.

F. UDO Administration: Board of Zoning Appeals (BZA).

- 1. BZA Establishment and Membership.** The Advisory BZA shall be established in accordance with *IC 36-7-4-900 series*. The BZA shall have a membership in accordance with *IC 36-7-4-902(a)*.
- 2. BZA Jurisdiction.** The BZA shall have jurisdiction over all land within the municipal boundaries of the Town of Fairland.
- 3. BZA Organization.** The BZA shall be organized in accordance with *IC 36-7-4-900 series*.
 - a. **Quorum.** In accordance with *IC 36-7-4-910*, a quorum of the BZA consists of a majority of the entire membership of the BZA.
 - b. **Official Action.** In accordance with *IC 36-7-4-911*, action of the BZA is not official unless it is authorized by a majority of the entire membership of the BZA.
 - c. **Chair and Vice Chair.** In accordance with *IC 36-7-4-912*, the BZA shall elect a chair and vice chair from its membership at its first regular meeting each year.
 - d. **Secretary.** In accordance with *IC 36-7-4-913*, the BZA shall appoint a secretary at the first regular meeting in each year. The secretary is not required to be a member of the BZA.
 - e. **Meetings and Minutes.** In accordance with *IC 36-7-4-915*, the BZA shall keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken by making findings of fact. All minutes and records shall be filed in the Office of the Administrator and shall be public record.
 - i. Regular Meetings. The BZA shall fix the time for holding regular meetings each month or as necessary, keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken. All minutes and records shall be filed in the Office of the Administrator and shall be a public record.

- ii. **Special Meetings.** A special meeting of the BZA may be called by the Chair or by two (2) members of the BZA upon written request to the Administrator.
- 4. BZA Powers and Duties.** The BZA shall have the following powers and duties as authorized in *IC 36-7-4-900 series*.
- a. **Rules and Procedures.** The BZA shall adopt rules for its administration in accordance with *IC 36-7-4-916*.
 - b. **Appeals.** The BZA shall make decisions regarding appeals in accordance with *Chapter 5: Appeal of Administrative Decision Procedures* and *IC 36-7-4-918.1*.
 - c. **Special Exception.** The BZA shall make decision regarding special exceptions in accordance with *Chapter 5: BZA Petition Procedures* and *IC 36-7-4-918.2*.
 - d. **Variance from Development Standards.** The BZA shall make decisions regarding variances from development standards in accordance with *5: BZA Petition Procedures* and *IC 36-7-4-918.5*.
 - e. **Variance of Use.** The BZA shall make decisions regarding variances of use in accordance with *5: BZA Petition Procedures* and *IC 36-7-4-918.4*.

Zoning Districts

A. General Provisions.

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

Zoning Districts		
Land Use Category	Name of Zoning District	Abbreviation
Agricultural	Agriculture	AG
Residential	Low-density Residential	R1
	Medium-density Residential	R2
	High-density Residential	R3
Commercial	Village Mixed Use	VM
	Neighborhood Commercial	NC
Industrial	Low Intensity Industrial	I1
	High Intensity Industrial	I2
	High Impact Industrial	I3
Community	Institutional	IS
	Open Space and Parks	OP

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

Overlay Districts	
Name of Overlay District	Abbreviation
Floodway Overlay District	FWO

- 3. Official Zoning Map.** The Official Zoning Map is a geographic coverage layer that is maintained by the Executive Director of the Shelby County Planning Department as part of Shelby County's geographic information system (GIS) under the direction of the Administrator. This map shall be revised as changes are approved as permitted by this UDO (such as rezonings) or to correct drafting errors, clerical errors, or omissions on the map.
- a. **District Boundaries.** The location and boundaries of the zoning districts are hereby established on a map entitled "Official Zoning Map," as it may be amended from time to time, which accompanies and is hereby incorporated in and made a part of this UDO by reference.
 - b. **Interpretation of Boundaries.** All questions concerning the exact location of zoning district boundary lines shall be determined by the Administrator. An appeal of the Administrator's interpretation may be filed with the BZA per *Chapter 5: Appeal of Administrative Decisions*.
 - c. **Zoning Map Production.** The Administrator may authorize printed copies of the Official Zoning Map to be produced and shall maintain digital or printed copies of superseded versions of the Official Zoning Map for historical reference.

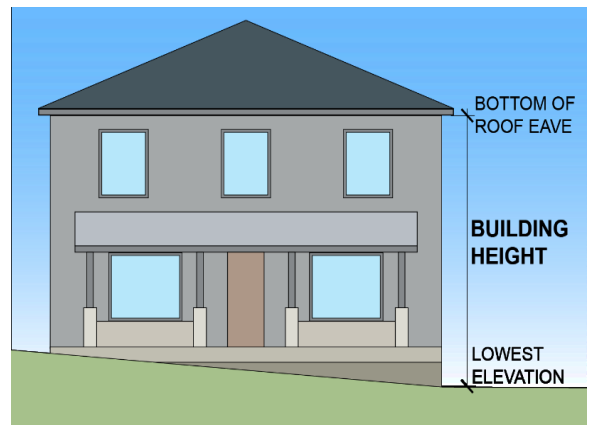
4. Land Uses.

- a. **Land Uses Listed.** The respective section for each zoning district and overlay district identifies the common land uses that are "permitted" or allowed by "special exception." Any land use not listed for a particular zoning district (or not deemed sufficiently similar to a listed use as described in the processes below) shall be prohibited.
- b. **Land Uses Not Listed in UDO.** For land uses not listed, the Administrator shall attempt to determine if the desired land use is similar to a listed land use.
 - i. Administrator Decisions for Unlisted Land Uses.
 - (a) Unlisted Use is Similar to a Listed Use. If the desired land use is determined to be similar to a listed land use listed in the UDO, the respective process and development standards for the similar use shall be followed.
 - (b) Unlisted Use is Not Similar to a Listed Use. If the Administrator determines that the desired land use is not similar to a listed land use, then the desired land use shall be prohibited unless a Use Variance is approved by the BZA.
 - (c) Uncertainty or Disagreement. In the case of uncertainty or disagreement of classifying a land use, the Administrator may refer the request for land use clarification or classification to the BZA for consideration and final decision.
 - ii. Criteria for Classifying Unlisted Land Uses. To determine whether an unlisted land use is similar to a listed use, the Administrator or the BZA shall examine the desired use by the following four (4) criteria:
 - (a) Intensity. Is the unlisted use similar in the amount of activity and type of activity to a listed use?
 - (1) Residential, Public, and Office Uses. Intensity levels are tied to the number of people using a space.

- (2) Commercial Uses. Intensity levels should compare the gross commercial floor area associated with the primary structure as well as the operation of the business, such as hours of operation and anticipated customer volumes.
- (3) Industrial Uses Intensity should compare the amount of noise, noxious exhaust, and public safety hazards generated on the site. In addition, the types of vehicles used, type of storage (indoor or outdoor), and hours of operation should be considered.
- (b) Character. Does the unlisted use have similar physical characteristics, structures, scale, operational hours, or other features similar to a listed use?
- (c) Accessory Uses and Structures. Does the unlisted use have similar potential for accessory uses and/or structures to a listed accessory use? Or if it is an accessory use, is it incidental to, necessary, and/or compatible with a permitted primary use?
- (d) Intent. Is the unlisted use compatible with the purpose of the subject zoning district and consistent with the Comprehensive Plan.

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

- a. Lot Width. Lot width is measured at the front building line.
- b. Setbacks. Any property line abutting a public or private street shall be considered a front property line or yard. All edges of a property line that are considered a front property line or yard shall conform with the front yard setback standards of the applicable zoning district.
 - i. Minimum Front Yard Setback. The minimum front yard setback is measured from the right-of-way and is determined by the Development Standards table for the subject zoning district. If right-of-way is not dedicated by a written and recorded document, the setback shall be measured from the center of road and the minimum front yard setback identified in the development standards for the zoning district shall be increased by twenty (20) feet.
 - ii. Minimum Side Yard Setback. The minimum side yard setback is measured from the property line, and the minimum setback is determined by the Development Standards table for the subject zoning district.
 - iii. Minimum Rear Yard Setback. The minimum rear yard setback is measured from the property line, and the minimum setback is determined by the Development Standards tables for each zoning district.
- c. Building Height. The vertical distance measured from the lowest ground level adjacent to the building to the bottom of the eave. Building height does not include antennas, chimneys, or steeples.



Building Height Measurement

B. Zoning Districts and Overlay Districts.

Permitted Land Uses and Development Standards are included in this chapter for the following zoning types:

1. Agriculture (AG).

- a. **Purpose.** The Agriculture District (AG) intended to preserve and protect agricultural land for continued farming activities and encourage continued agricultural uses as the primary use in this area. This district is designed for commercial and industrial uses directly related to agricultural operations that are compatible with the character of rural/agricultural areas. Residential development is limited and scrutinized in this district in order to provide the opportunity to consider whether it is related to the operation and maintenance of agricultural uses in this district
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (See *Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – Agriculture District (AG)		
ACCESSORY USES <ul style="list-style-type: none"> • *accessory dwelling unit • *agritourism • *home occupation • *home-based business • *rural event venue 	AGRICULTURAL USES <ul style="list-style-type: none"> • farmers market • hobby farming • kennel, home-based business • roadside sales • agricultural crop production • orchard • stable (private) • storage of agricultural products • tree farm • vineyard 	COMMERCIAL USES <ul style="list-style-type: none"> • stable • winery INDUSTRIAL USES <ul style="list-style-type: none"> • bio-diesel production RESIDENTIAL USES <ul style="list-style-type: none"> • farmstead
Special Exception Uses - Agriculture District (AG)		
ACCESSORY USES <ul style="list-style-type: none"> • *non-commercial livestock 	COMMERCIAL USES <ul style="list-style-type: none"> • kennel • processing of agricultural products 	RESIDENTIAL USES <ul style="list-style-type: none"> • dwelling, single-family
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>		

Structure Standards - Agriculture District (AG)			
		Single-family and Two-family Residential	Non-residential
Maximum height of structure	Primary structure	35 feet	35 feet
	Accessory structure	30 feet	50 feet
Minimum living area		1,200 sqft	NA
Lot Standards - Agriculture District (AG)			
Minimum lot width		120 feet	120 feet
Minimum lot area		5 acres	5 acres
Minimum front yard setback		60 feet	60 feet
Minimum side yard setback	Primary structure	40	40
	Accessory structure	10	10
Minimum rear yard setback	Primary structure	40	40
	Accessory structure	10	10
Maximum impervious surface coverage		15%	15%
Utility Standards - Agriculture District (AG)			
Municipal water and sewer required		no	no
Additional Site Development Standards			
The following site development standards may also apply to development in this district. See <i>Chapter 3: Site Development Standards</i> .			
<ul style="list-style-type: none"> • Accessory Structure Standards • Driveway and Access Management Standards • Landscaping and Buffer Standards • Lighting Standards • Parking and Loading Standards 		<ul style="list-style-type: none"> • Sign Standards • Storage Standards • Structure Standards • Trash Receptacle and Dumpster Standards 	

2. Low-density Residential District (R1).

- a. **Purpose.** The Low-density Residential District (R1) is intended to provide area suitable for low-density residential living yet allow a variety of single-family housing types. Development may be comprised of detached units and attached units on one lot or on multiple lots separated by lot lines and a common wall. New development shall contain a high level of street and pedestrian connectivity and be supported by adequate utilities and public services.
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (*See Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – Low-density Residential District (R1)		
ACCESSORY USES <ul style="list-style-type: none"> ● *accessory dwelling unit ● *home occupation ● *solar energy system, accessory ● hobby farming ● roadside sales 	AGRICULTURAL USES <ul style="list-style-type: none"> ● stable (private) COMMERCIAL USES <ul style="list-style-type: none"> ● country club INSTITUTIONAL USES <ul style="list-style-type: none"> ● child care institution 	RESIDENTIAL USES <ul style="list-style-type: none"> ● short-term rental (owner occupied) ● dwelling, single-family ● fair housing facility (small)
Special Exception Uses - Low-density Residential District (R1)		
ACCESSORY USES <ul style="list-style-type: none"> ● *home-based business 	INSTITUTIONAL USES <ul style="list-style-type: none"> ● police, fire, or rescue station 	RESIDENTIAL USES <ul style="list-style-type: none"> ● bed and breakfast ● dwelling, two-family
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>		

Structure Standards - Low-density Residential District (R1)

		Single-family and Two-family Residential	Non-residential
Maximum height of structure	Primary structure	35 feet	35 feet
	Accessory structure	20 feet ¹	20 feet
Minimum living area		1,200 sqft	NA

Lot Standards - Low-density Residential District (R1)

Minimum lot width		160 feet	160 feet
Minimum lot area		21,780 ²	20,000 sqft ²
Minimum front yard setback	Major collectors/highways	50 feet	50 feet
	All other roads	25 feet	25 feet
Minimum side yard setback	Primary structure	10 feet	30 feet
	Accessory structure	5 feet	10 feet
Minimum rear yard setback	Primary structure	20 feet	30 feet
	Accessory structure	5 feet	10 feet
Maximum impervious surface coverage		30%	30%

Utility Standards - Low-density Residential District (R1)

Municipal water and sewer required	no	no
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Additional Site Development Standards

The following site development standards may also apply to development in this district. See *Chapter 3: Site Development Standards*.

<ul style="list-style-type: none"> ● Accessory Structure Standards ● Driveway and Access Management Standards ● Landscaping and Buffer Standards ● Lighting Standards ● Parking and Loading Standards 	<ul style="list-style-type: none"> ● Sign Standards ● Storage Standards ● Structure Standards ● Trash Receptacle and Dumpster Standards
--	---

1 – Accessory structures cannot exceed the height of the primary structure. The total square footage of all accessory structures, excluding fences, cannot exceed 75% of the square footage of the footprint of the primary structure.
 2 – Minimum lot area may be required to be larger to accommodate an on-site sewage disposal system.

3. Medium-density Residential District (R2).

- a. **Purpose.** The Medium-density Residential District (R2) is intended to allow moderately dense residential development and to ensure an adequate mix of single-family, two-family, and three-family housing types available in the community. This district shall be used to encourage compact development patterns with multi-modal connectivity in locations where there are high levels of public infrastructure capacity such as streets and utilities
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (*See Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – Medium-density Residential District (R2)		
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> ● *accessory dwelling unit ● *home occupation ● *solar energy system, accessory ● roadside sales ● short-term rental (owner occupied) 	<p>AGRICULTURAL USES</p> <ul style="list-style-type: none"> ● stable (private) <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> ● country club <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> ● child care institution ● police, fire, or rescue station 	<p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> ● dwelling, multiple-family (3 units) ● dwelling, single-family ● dwelling, two-family ● fair housing facility (small)
Special Exception Uses - Medium-density Residential District (R2)		
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> ● *home-based business 	<p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> ● bed and breakfast ● dwelling, multiple-family (4 units) ● dwelling, multiple-family (5-8 units) 	
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>		

Structure Standards - Medium-density Residential District (R2)

		Single-family and Two-family Residential	Multi-family Residential	Non-residential
Maximum height of structure	Primary structure	35 feet	50 feet	50 feet
	Accessory structure	20 feet ¹	20 feet ¹	20 feet
Minimum living area		900 sqft	700 sqft	NA

Lot Standards - Medium-density Residential District (R2)

Minimum lot width		100 feet	100 feet	100 feet
Minimum lot area		10,890 sqft ²	3,000 sqft/unit ²	10,000 sqft ²
Minimum front yard setback	Major collectors/highways	35 feet	35 feet	35 feet
	All other roads	25 feet	25 feet	35 feet
Minimum side yard setback	Primary structure	15 feet	15 feet	15 feet
	Accessory structure	5 feet	5 feet	5 feet
Minimum rear yard setback	Primary structure	15 feet	15 feet	15 feet
	Accessory structure	5 feet	5 feet	5 feet
Maximum impervious surface coverage		50%	50%	50%

Utility Standards - Medium-density Residential District (R2)

Municipal water and sewer required	yes	yes	yes
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Additional Site Development Standards

The following site development standards may also apply to development in this district. See *Chapter 3: Site Development Standards*.

- | | |
|--|---|
| <ul style="list-style-type: none"> ● Accessory Structure Standards ● Driveway and Access Management Standards ● Landscaping and Buffer Standards ● Lighting Standards ● Parking and Loading Standards | <ul style="list-style-type: none"> ● Sign Standards ● Storage Standards ● Structure Standards ● Trash Receptacle and Dumpster Standards |
|--|---|

¹ – Accessory structures cannot exceed the height of the primary structure. The total square footage of all accessory structures, excluding fences, cannot exceed 75% of the total square footage of the primary structure.
² – Minimum lot area may be required to be larger to accommodate an on-site sewage disposal system.

4. High-density Residential District (R3).

- a. **Purpose.** The High-density Residential District (R3) is established for the high-density residential development with the widest variety of housing options in the community. This district should encourage well-planned compact development patterns in locations where adequate public infrastructure exists.
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (See *Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – High-density Residential District (R3)	
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *home occupation <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • police, fire, or rescue station 	<p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • short-term rental (owner occupied) • dwelling, multiple-family (3 units) • dwelling, multiple-family (4 units) • dwelling, multiple-family (5-8 units) • dwelling, single-family • dwelling, two-family • fair housing facility (small)
Special Exception Uses - High-density Residential District (R3)	
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *home-based business 	<p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • dwelling, multiple-family (9+ units) • manufactured home park
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>	

Structure Standards - High-density Residential District (R3)

		Single-family and Two-family Residential	Multi-family Residential	Non-residential
Maximum height of structure	Primary structure	35 feet	35 feet	50 feet
	Accessory structure	20 feet ¹	20 feet ¹	20 feet
Minimum living area		900 sqft	600 sqft	NA

Lot Standards - High-density Residential District (R3)

Minimum lot width		60 feet	60 feet	60 feet
Minimum lot area		6,500 sqft	2,500 sqft/unit ²	6,500 sqft ²
Minimum front yard setback	Major collectors/highways	35 feet	35 feet	35 feet
	All other roads	25 feet	25 feet	25 feet
Minimum side yard setback	Primary structure	5 feet	5 feet	10 feet
	Accessory structure	5 feet	5 feet	5 feet
Minimum rear yard setback	Primary structure	5 feet	5 feet	10 feet
	Accessory structure	5 feet	5 feet	5 feet
Maximum impervious surface coverage		yes	yes	yes

Utility Standards - High-density Residential District (R3)

Municipal water and sewer required	65%	65%	65%
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Additional Site Development Standards

The following site development standards may also apply to development in this district. See *Chapter 3: Site Development Standards*.

- | | |
|--|---|
| <ul style="list-style-type: none"> ● Accessory Structure Standards ● Driveway and Access Management Standards ● Landscaping and Buffer Standards ● Lighting Standards ● Parking and Loading Standards | <ul style="list-style-type: none"> ● Sign Standards ● Storage Standards ● Structure Standards ● Trash Receptacle and Dumpster Standards |
|--|---|

¹ – Accessory structures cannot exceed the height of the primary structure. The total square footage of all accessory structures, excluding fences, cannot exceed 75% of the total square footage of the primary structure.

² – Minimum lot area may be required to be larger to accommodate an on-site sewage disposal system.

5. Village Mixed Use District (VM).

- a. **Purpose.** The Village Mixed Use District (VM) is intended to recognize the character of Fairland’s downtown and maintain its function as the primary community activity center for the town. This district supports the continued use of existing structures while allowing compatible infill development and redevelopment. The district is mixed-use in nature and supports a variety of retail, entertainment, service, institutional, office, and residential uses that rely primarily on street parking. Preserving the unique physical pattern of the area while ensuring pedestrian connectivity and comfort are a priority
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (See *Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – Village Mixed Use District (VM)		
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *solar energy system, accessory <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *adult day care facility • bank machine/atm • bar/tavern • barber/beauty shop • coffee shop • day care • delicatessen • farmers market • ice cream shop 	<p>COMMERCIAL USES continued...</p> <ul style="list-style-type: none"> • office, design services • office, financial services • office, general services • office, medical • photography studio • recreation center/play center • restaurant • retail (type 1), very low intensity • retail (type 2), low intensity • studio arts • tailor/pressing shop 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • child care institution • church, temple, or mosque • community center • police, fire, or rescue station • post office • school (P-12) <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • short-term rental (owner occupied) • boarding house • dwelling unit (upper floors) • dwelling, multiple-family (3 units) • dwelling, multiple-family (5-8 units) • dwelling, single-family • dwelling, two-family • fair housing facility (small)
Special Exception Uses - Village Mixed Use District (VM)		
<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • automobile oriented business • retail (type 3), medium intensity 	<p>INSITUIONAL USES</p> <ul style="list-style-type: none"> • parking lot, public 	<p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • bed and breakfast
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>		

Structure Standards - Village Mixed Use District (VM)

		Single-family and Two-family Residential	Multi-family Residential	Non-residential
Maximum height of structure	Primary structure	35 feet	35 feet	50 feet
	Accessory structure	20 feet ¹	20 feet ¹	20 feet
Minimum living area		900 sqft	600 sqft	NA

Lot Standards - Village Mixed Use District (VM)

Minimum lot width		60 feet	60 feet	60 feet
Minimum lot area		6,000 sqft ²	2,500 sqft/unit ²	6,000 sqft ²
Minimum front yard setback	Major collectors/highways	35 feet	35 feet	35 feet
	All other roads	25 feet	25 feet	25 feet
Minimum side yard setback	Primary structure	5 feet	5 feet	10 feet
	Accessory structure	5 feet	5 feet	5 feet
Minimum rear yard setback	Primary structure	20 feet	20 feet	10 feet
	Accessory structure	20 feet	20 feet	5 feet
Maximum impervious surface coverage		70%	70%	70%

Utility Standards - Village Mixed Use District (VM)

Municipal water and sewer required	yes	yes	yes
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Additional Site Development Standards

The following site development standards may also apply to development in this district. See *Chapter 3: Site Development Standards*.

- | | |
|--|---|
| <ul style="list-style-type: none"> ● Accessory Structure Standards ● Driveway and Access Management Standards ● Landscaping and Buffer Standards ● Lighting Standards ● Parking and Loading Standards | <ul style="list-style-type: none"> ● Sign Standards ● Storage Standards ● Structure Standards ● Trash Receptacle and Dumpster Standards |
|--|---|

¹ – Accessory structures cannot exceed the height of the primary structure. The total square footage of all accessory structures, excluding fences, cannot exceed 75% of the total square footage of the primary structure.
² – Minimum lot area may be required to be larger to accommodate an on-site sewage disposal system.

6. Neighborhood Commercial District (NC).

a. **Purpose.** The Neighborhood Commercial District (NC) is established to include areas that are close to residential areas and appropriate to meeting their shopping and service needs. Desired uses are small-scale mixed-uses including convenience goods, services, and accessory uses with on-site parking provided. This district is intended to be bikeable and walkable for easy access from nearby residential neighborhoods. Restrictions on maximum lot size and building size are in place to attract the desired types of small businesses within this district

b. General Standards.

- i. All subdivisions require subdivision approval unless exempt (See *Chapter 6: Subdivision Types*).
- ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
- iii. All development may be subject to Drainage Board approval.
- iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.

c. Use and Development Standards.

Permitted Uses – Neighborhood Commercial District (NC)		
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *solar energy system, accessory 	<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • *adult day care facility • bank machine/atm • barber/beauty shop • club or lodge • coffee shop • day care • delicatessen • ice cream shop • office, general services • office, medical • retail (type 1), very low intensity • retail (type 2), low intensity • retail (type 3), medium intensity • studio arts • tailor/pressing shop 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • child care institution • church, temple, or mosque • police, fire, or rescue station
Special Exception Uses - Neighborhood Commercial District (NC)		
<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • retail (type 4), high intensity 	<p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • dwelling unit (upper floors) 	
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>		

Structure Standards - Neighborhood Commercial District (NC)

		Upper Floor Residential	Non-residential
Maximum height of structure	Primary structure	NA	35 feet
	Accessory structure	NA	20 feet ¹
Minimum living area		400 sqft	NA

Lot Standards - Neighborhood Commercial District (NC)

Minimum lot width		NA	50 feet
Lot area	Minimum lot area	NA	5,000 sqft ²
	Maximum lot area	NA	1 acre
Minimum front yard setback	Major collectors/highways	NA	35 feet
	All other roads	NA	25 feet
Minimum side yard setback	Primary structure	NA	20 feet
	Accessory structure	NA	20 feet
Minimum rear yard setback	Primary structure	NA	20 feet
	Accessory structure	NA	20 feet
Maximum impervious surface coverage		NA	65%

Utility Standards - Neighborhood Commercial District (NC)

Municipal water and sewer required	yes	yes
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Additional Site Development Standards

The following site development standards may also apply to development in this district. See *Chapter 3: Site Development Standards*.

- | | |
|--|---|
| <ul style="list-style-type: none"> ● Accessory Structure Standards ● Driveway and Access Management Standards ● Landscaping and Buffer Standards ● Lighting Standards ● Parking and Loading Standards | <ul style="list-style-type: none"> ● Sign Standards ● Storage Standards ● Structure Standards ● Trash Receptacle and Dumpster Standards |
|--|---|

¹ – Accessory structures cannot exceed the height of the primary structure. The total square footage of all accessory structures, excluding fences, cannot exceed 75% of the total square footage of the primary structure.
² – Minimum lot area may be required to be larger to accommodate an on-site sewage disposal system.

7. Low Intensity Industrial District (I1).

- a. **Purpose.** The Low Intensity Industrial District (I1) is intended to provide areas suitable for light production, assembly, warehousing, research and development facilities, and similar land uses. This district is designed to accommodate only those industrial uses completely contained within structures and not involving outdoor storage or operations.
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (See *Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – Low Intensity Industrial District (I1)	
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> ● *solar energy system, accessory <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> ● *adult oriented business ● office, construction trade ● office, design services ● paintball facility ● sports complex (indoors) ● swimming pool 	<p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> ● *wireless communication facility ● assembly ● distribution facility ● equipment rental ● flex-space ● light manufacturing ● research center ● testing lab ● tool and die shop ● transfer station ● utility facility, above ground ● warehouse ● warehouse storage facility ● welding <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> ● government operation (non-office)
Special Exception Uses - Low Intensity Industrial District (I1)	
<ul style="list-style-type: none"> ● NA 	
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>	

Structure Standards - Low Intensity Industrial District (I1)			
		Residential	Non-residential
Maximum height of structure	Primary structure	NA	60 feet
	Accessory structure	NA	35 feet ¹
Minimum living area		NA	NA
Lot Standards - Low Intensity Industrial District (I1)			
Minimum lot width		NA	100 feet
Minimum lot area		NA	1 acre ²
Minimum front yard setback	Major collectors/highways	NA	30 feet
	All other roads	NA	30 feet
Minimum side yard setback	Adjacent to I1 or I2 district	NA	15 feet
	All other districts	NA	60 feet
Minimum rear yard setback	Adjacent to I1 or I2 district	NA	15 feet
	All other districts	NA	60 feet
Maximum impervious surface coverage		NA	85%
Utility Standards - Low Intensity Industrial District (I1)			
Municipal water and sewer required		NA	yes
Additional Site Development Standards			
The following site development standards may also apply to development in this district. See <i>Chapter 3: Site Development Standards</i> .			
<ul style="list-style-type: none"> • Accessory Structure Standards • Driveway and Access Management Standards • Landscaping and Buffer Standards • Lighting Standards • Parking and Loading Standards 		<ul style="list-style-type: none"> • Sign Standards • Storage Standards • Structure Standards • Trash Receptacle and Dumpster Standards 	
¹ – Accessory structures cannot exceed the height of the primary structure. The total square footage of all accessory structures, excluding fences, cannot exceed 75% of the total square footage of the primary structure. ² – Minimum lot area may be required to be larger to accommodate an on-site sewage disposal system.			

8. High Intensity Industrial District (I2).

- a. **Purpose.** The High Intensity Industrial District (I2) is intended to provide areas suitable for industrial manufacturing, production, assembly, warehousing, research and development facilities, and similar land uses. This district is intended to be adequately served by public utilities and infrastructure and accommodate a variety of high intensity uses. Development standards are intended to mitigate the industrial impacts on adjacent land uses.
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (*See Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – High Intensity Industrial District (I2)		
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • *solar energy system, accessory • outdoor storage <p>AGRICULTURAL USES</p> <ul style="list-style-type: none"> • processing of agricultural products • storage of agricultural products <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • farm implement sales <p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • assembly • distribution facility • flex-space • food processing • heavy manufacturing 	<p>INDUSTRIAL USES continued...</p> <ul style="list-style-type: none"> • light manufacturing • liquid fertilizer storage/distribution • radio/TV station • recycling processing • sewage treatment plant • sign painting/fabrication • storage tanks (nonhazardous) • testing lab • tool and die shop • transfer station • utility facility, above ground • warehouse • warehouse storage facility • water treatment plant • welding 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • *wireless communication facility • police, fire, or rescue station • recycling collection point
Special Exception Uses - High Intensity Industrial District (I2)		
<p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • *wind energy system, primary • rendering plant 		
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>		

Structure Standards - High Intensity Industrial District (I2)

		Residential	Non-residential
Maximum height of structure	Primary structure	NA	70 feet
	Accessory structure	NA	60 feet
Minimum living area		NA	NA

Lot Standards - High Intensity Industrial District (I2)

Minimum lot width		NA	20 feet
Minimum lot area		NA	2 acres
Minimum front yard setback	Major collectors/highways	NA	40 feet
	All other roads	NA	40 feet
Minimum side yard setback	Adjacent to I1 or I2 district	NA	20 feet
	All other districts	NA	60 feet
Minimum rear yard setback	Adjacent to I1 or I2 district	NA	20 feet
	All other districts	NA	60 feet
Maximum impervious surface coverage		NA	85%

Utility Standards - High Intensity Industrial District (I2)

Municipal water and sewer required	NA	yes
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Additional Site Development Standards

The following site development standards may also apply to development in this district. See *Chapter 3: Site Development Standards*.

- | | |
|--|---|
| <ul style="list-style-type: none"> ● Accessory Structure Standards ● Driveway and Access Management Standards ● Landscaping and Buffer Standards ● Lighting Standards ● Parking and Loading Standards | <ul style="list-style-type: none"> ● Sign Standards ● Storage Standards ● Structure Standards ● Trash Receptacle and Dumpster Standards |
|--|---|

9. High Impact Industrial District (I3).

- a. **Purpose.** The High Impact Industrial District (I3) is established for specific heavy industrial uses that can have a particularly high impact on adjacent areas. Development standards associated with this district are intended to mitigate the industrial impacts on adjacent land uses.
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (See *Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – High Impact Industrial District (I3)	
<p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • utility facility, above ground 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • government operation (non-office) • jail • juvenile detention facility
Special Exception Uses - High Impact Industrial District (I3)	
<p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • *wind energy system, primary • construction material landfill • sanitary landfill/refuse dump • storage tanks (hazardous) 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • prison
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>	

Structure Standards - High Impact Industrial District (I3)			
		Residential	Non-residential
Maximum height of structure	Primary structure	NA	70 feet
	Accessory structure	NA	60 feet
Minimum living area		NA	NA
Lot Standards - High Impact Industrial District (I3)			
Minimum lot width		NA	300 feet
Minimum lot area		NA	20 acres
Minimum front yard setback	Major collectors/highways	NA	150 feet
	All other roads	NA	150 feet
Minimum side yard setback	Primary structure	NA	100 feet
	Accessory structure	NA	100 feet
Minimum rear yard setback	Primary structure	NA	100 feet
	Accessory structure	NA	100 feet
Maximum impervious surface coverage		NA	65%
Utility Standards – High Impact Industrial District (I3)			
Municipal water and sewer required		NA	yes
Additional Site Development Standards			
The following site development standards may also apply to development in this district. See <i>Chapter 3: Site Development Standards</i> .			
<ul style="list-style-type: none"> • Accessory Structure Standards • Driveway and Access Management Standards • Landscaping and Buffer Standards • Lighting Standards • Parking and Loading Standards 		<ul style="list-style-type: none"> • Sign Standards • Storage Standards • Structure Standards • Trash Receptacle and Dumpster Standards 	

10. Institutional District (IS).

- a. **Purpose.** The Institutional District (IS) is intended to provide areas suitable for public and non-profit uses, adequately served by public utilities and infrastructure. This district is intended for uses that serve the community including churches, hospitals, schools, government buildings, and similar uses either as a single structure or as part of a campus-type development.
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (See *Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – Institutional District (IS)		
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> ● *solar energy system, accessory <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> ● commercial training facility or school ● farmers market ● nursing home ● sports field ● stadium ● waste treatment facility (private) ● water treatment facility (private) <p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> ● *wireless communication facility ● utility facility, above ground 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> ● bus station ● cemetery /mausoleum ● child care institution ● church, temple, or mosque ● community center ● crematory ● government office ● government operation (non-office) ● hospital ● library, public ● municipal airport ● municipal heliport ● museum ● nature center 	<p>INSTITUTIONAL USES continued...</p> <ul style="list-style-type: none"> ● police, fire, or rescue station ● pool, public ● post office ● research farm ● school (P-12) ● trade or business school ● university or college ● waste treatment facility (public) ● water treatment facility (public) ● well, public <p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> ● fair housing facility (large) ● fair housing facility (small) ● nursing home
Special Exception Uses - Institutional District (IS)		
<p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> ● *solar energy system, primary ● *wind energy system, primary 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> ● jail ● recycling collection point 	
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>		

Structure Standards - Institutional District (IS)			
		Residential	Non-residential
Maximum height of structure	Primary structure	NA	35 feet
	Accessory structure	NA	25 feet ¹
Minimum living area		NA	NA
Lot Standards - Institutional District (IS)			
Minimum lot width		NA	60 feet
Minimum lot area		NA	6,000 sqft ²
Minimum front yard setback	Major collectors/highways	NA	35 feet
	All other roads	NA	35 feet
Minimum side yard setback	Primary structure	NA	15 feet
	Accessory structure	NA	15 feet
Minimum rear yard setback	Primary structure	NA	20 feet
	Accessory structure	NA	20 feet
Maximum impervious surface coverage		NA	70%
Utility Standards - Institutional District (IS)			
Municipal water and sewer required		NA	no
Additional Site Development Standards			
The following site development standards may also apply to development in this district. See <i>Chapter 3: Site Development Standards</i> .			
<ul style="list-style-type: none"> ● Accessory Structure Standards ● Driveway and Access Management Standards ● Landscaping and Buffer Standards ● Lighting Standards ● Parking and Loading Standards 		<ul style="list-style-type: none"> ● Sign Standards ● Storage Standards ● Structure Standards ● Trash Receptacle and Dumpster Standards 	
¹ – Accessory structures cannot exceed the height of the primary structure. The total square footage of all accessory structures, excluding fences, cannot exceed 75% of the total square footage of the primary structure. ² – Minimum lot area may be required to be larger to accommodate an on-site sewage disposal system.			

11. Open Space and Parks District (OP).

- a. **Purpose.** The Open Space and Parks District (OP) is established for public open space, parks, trails, recreational areas, and community uses that serve the residents of Fairland.
- b. **General Standards.**
 - i. All subdivisions require subdivision approval unless exempt (See *Chapter 6: Subdivision Types*).
 - ii. All new primary structures require Development Plan approval (except single-family and two-family residential dwellings).
 - iii. All development may be subject to Drainage Board approval.
 - iv. One primary use is permitted per parcel and one primary structure/dwelling is permitted per parcel.
- c. **Use and Development Standards.**

Permitted Uses – Open Space and Parks District (OP)		
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> ● *solar energy system, accessory 	<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> ● country club ● driving range ● farmers market ● golf course ● sports field ● swimming pool 	<p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> ● nature center ● park ● pool, public ● skate park
Special Exception Uses - Open Space and Parks District (OP)		
<p>COMMERCIAL USES</p> <ul style="list-style-type: none"> ● *camp ground and recreational vehicle park ● paintball facility ● sports complex (indoors) ● stadium ● watercraft rental 		
<p><i>* Indicates that special development, operational, and/or procedural standards will apply to the use. See Chapter 4: Standards for Specific Uses.</i></p>		

Structure Standards - Open Space and Parks District (OP)			
		Residential	Non-residential
Maximum height of structure	Primary structure	NA	40 feet
	Accessory structure	NA	20 feet
Minimum living area		NA	N/A
Lot Standards - Open Space and Parks District (OP)			
Minimum lot width		NA	NA
Minimum lot area		NA	NA
Minimum front yard setback	Major collectors/highways	NA	45 feet
	All other roads	NA	45 feet
Minimum side yard setback	Primary structure	NA	15 feet
	Accessory structure	NA	15 feet
Minimum rear yard setback	Primary structure	NA	20 feet
	Accessory structure	NA	20 feet
Maximum impervious surface coverage		NA	70%
Utility Standards – Open Space and Parks District (OP)			
Municipal water and sewer required		NA	no
Additional Site Development Standards			
The following site development standards may also apply to development in this district. See <i>Chapter 3: Site Development Standards</i> .			
<ul style="list-style-type: none"> • Accessory Structure Standards • Driveway and Access Management Standards • Landscaping and Buffer Standards • Lighting Standards • Parking and Loading Standards 		<ul style="list-style-type: none"> • Sign Standards • Storage Standards • Structure Standards • Trash Receptacle and Dumpster Standards 	

C. Overlay Districts.

1. Floodway Overlay District (FWO).

- a. **Purpose.** The Floodway Overlay District (FPO) is established to provide additional development controls that reflect the standards of the Fairland’s Flood Hazard Ordinance and corresponding FEMA Flood Maps.
- b. **General Standards.** The development standards for the underlying zoning district shall apply.
- c. **Use Standards.**

Permitted Uses – Floodway Overlay District (FWO)		
The uses listed as “Permitted Uses” in the underlying zoning district unless specified as a Special Exception Use or a Prohibited Use in this table		
Special Exception Uses - Floodway Overlay District (FWO)		
The uses listed as “Special Exception Uses” in the underlying zoning district, unless specified as a Prohibited Use in this table.		
Prohibited Uses - Floodway Overlay District (FWO)		
These uses are prohibited in this overlay zoning district, regardless of what the underlying zoning district allows.		
<p>ACCESSORY USES</p> <ul style="list-style-type: none"> • accessory dwelling unit • kennel, home-based business • outdoor storage <p>COMMERCIAL USES</p> <ul style="list-style-type: none"> • adult day care facility • camp ground and recreational vehicle park • automobile oriented business • hotel/motel • kennel 	<p>INDUSTRIAL USES</p> <ul style="list-style-type: none"> • junk yard • construction material landfill • distribution facility • equipment rental • heavy manufacturing • light manufacturing • recycling processing • sanitary landfill/refuse dump • warehouse • warehouse storage facility <p>INSTITUTIONAL USES</p> <ul style="list-style-type: none"> • child care institution • recycling collection point 	<p>RESIDENTIAL USES</p> <ul style="list-style-type: none"> • short-term rental (owner occupied) • bed and breakfast • dwelling unit (upper floors) • dwelling, multiple-family (3 units) • dwelling, multiple-family (4 units) • dwelling, multiple-family (5-8 units) • dwelling, multiple-family (9+ units) • dwelling, single-family • dwelling, two-family • fair housing facility (large) • fair housing facility (small) • farmstead • manufactured home park • retirement community

Site Development Standards

A. Applicability of Additional Site Development Standards.

1. **Intent.** It is the intent of these site development standards is to provide for site development needs while also protecting the health, safety, and welfare of the public.
2. **Applicability.** The site development standards in this section shall apply to all parcels, uses, and zoning districts unless otherwise stated. The site development standards included in this chapter shall be met in addition to all other applicable standards within this UDO.
3. **Thresholds Requiring Compliance with All Site Standards.** If any of the following occur, the site and/or development shall comply with all site standards of this UDO, unless otherwise stated:
 - a. New primary structure(s) is constructed;
 - b. New land use(s) or change in land use(s); and/or
 - c. Exterior structural alterations to the primary structure(s), including additions, enlargements, and relocations, or any exterior alterations that require an Indiana Construction Design Release (CDR) (note, internal remodel/renovations that do not alter the exterior of the structure are not considered exterior structure alterations).
4. **Thresholds Requiring Compliance with an Individual Site Standards.**
 - a. If a site standard that is regulated by this section is altered, expanded, added, removed, changed, the site and/or development shall fully comply with all requirements for that specific site standard. If one site standard is altered, it does not require compliance with all site standards unless at least one of the thresholds in *Section 3* above occurs.
 - b. Regular maintenance does not require compliance with the site standards. For example, if a parking lot is resurfaced but does not alter the pavement area, layout, or number of spaces, the site would not be required to comply with the parking standards. However, if a parking area is expanded or changes are made in traffic circulation, all parking areas on the parcel (existing and new) shall comply with all of the parking standards in this UDO.

B. Standards Required.

1. Accessory Structure Standards.

- a. **Purpose.** The purpose of accessory structures standards is to provide safe conditions and orderly development within a site and to protect the health, safety, and welfare of the public.
- b. **Permitted Districts.** Accessory structures shall be permitted in all zoning districts provided all requirements of this UDO have been met.
- c. **Location.**
 - i. An accessory structure shall meet all setback and height requirements as required by the applicable zoning district in *Chapter 2: Zoning Districts*.
 - ii. Accessory structures shall not be constructed within any type of easement, including drainage, access, and utility easements.
 - iii. Accessory structures that require a permit shall be located behind the front façade of the primary structure unless otherwise stated in this UDO.
 - iv. Accessory structures that *do not* require a permit are required to be located behind the rear façade of the primary structure unless otherwise stated in this UDO.
- d. **Subordinate in Nature.**
 - i. An accessory structure shall be ancillary and complementary to the use of the primary structure.
 - ii. Accessory structures shall be subordinate in height, area, bulk, and extent to the primary structure except within the industrial districts.
 - iii. The total cumulative square footage of all accessory structures cannot exceed seventy-five percent (75%) of the footprint of the primary structure except within the industrial districts.
- e. **Permits for Accessory Structures.**
 - i. Accessory Structures that Require a Permit. The following accessory structures are permitted in all zoning districts, require a BP, require an ILP, and shall meet all applicable requirements of the UDO.
 - (a) All Accessory Structures. This includes but is not limited to fences, retaining walls, slabs, pole barns, decks, garages, carports, enclosed patios, above-ground swimming pools, in-ground swimming pools, bath houses, gazebos, shelter houses, cabanas, greenhouses, accessory solar/wind structures/systems (free standing, co-located, and attached), storage sheds, and stables.
 - (b) Signs as required in *Chapter 3: Sign Standards*.
 - (c) Temporary storage containers as required in *Chapter 3: Storage Standards*.
 - (d) Accessory wireless communications facilities, both free-standing and those co-located upon an existing or pre-approved wireless communication facility structure.

- (e) All other accessory structures not specifically included in *Subsection ii* below.
- ii. Accessory Structures that DO NOT Require a Permit. The following accessory structures are permitted in all zoning districts (unless otherwise stated in this UDO) and may be installed without a BP or an ILP. All accessory structures are still required to meet all applicable accessory structure standards and all other requirements of this UDO.
 - (a) Landscape vegetation.
 - (b) Swing sets, children’s treehouses, and poles for basketball nets.
 - (c) Bird baths, bird houses, lamp posts, mailboxes, name plates, and housing for domestic pets (provided it is not fifty (50) square feet or larger and does not constitute a kennel as defined in *Chapter 10: Definitions*).
 - (d) Utility installation for local/home services (including cable, fiber, and Wi-Fi, but excluding solar and wind).
 - (e) Ponds and drainage installations that have a surface area less than twenty-five (25) square feet.
 - (f) Small structures under fifty (50) square feet.
- f. **Fences and Walls.** The following shall apply to all fences and walls unless otherwise regulated within this UDO. These standards do not apply to retaining walls whose purpose is to provide structural support in grading and elevation changes. Additionally, no regulations contained herein shall supersede Indiana Code regarding fences.
 - i. Fence and Wall Placement.
 - (a) No fence or wall shall be constructed or designed so that it creates a traffic hazard or is hazardous or dangerous to persons or animals.
 - (b) Fences and walls shall not be located within any type of easement, including drainage easements, access easements, and utility easements unless an affidavit for encroachment has been executed.
 - (c) Fences and walls do not need to comply with accessory structure setbacks and may be placed up to the property line or on the property line with written approval from the adjoining property owner(s), provided all fences are at least five (5) feet from any public right-of-way and comply with all other standards of this UDO.
 - ii. Fence and Wall Design.
 - (a) Razor wire, barbed wire, sharpened top spikes, and electrified fences (excluding underground pet fence systems) are prohibited unless for agricultural or industrial purposes and uses.
 - (b) Structural supports for any fence shall face inward.
 - iii. Fence and Wall Height.

- (a) Residential Districts. Fences and walls shall not exceed six (6) feet in height in a side yard or rear yard. Fences and walls shall not exceed four (4) feet in height when located in front of the front façade of the primary structure.
- (b) Non-residential Districts. Fences in non-residential districts shall not exceed six (6) feet in height.

g. Swimming Pools.

- i. Swimming pools are subject to the setback requirements of the subject zoning district and must be located behind the front façade of the primary structure.
- ii. Swimming pools shall comply with all applicable state requirements and are subject to all requirements of the Indiana Swimming Pool Code as amended (675 IAC 20-4-7).

2. Driveway and Access Management Standards.

a. Purpose. The purpose of these standards is to ensure adequate installation of driveways and access to public rights-of-way that prevent and reduce the possibility for vehicular conflict and prevent drainage issues as well as damage to the existing right-of-way.

b. Permit and Approvals Required.

- i. All new, expanded, or modified driveways or access points onto alleys, town roads, or INDOT roads must obtain a permit from the appropriate agency and shall coordinate their location with the Administrator.
- ii. All driveways must comply with the applicable drainage ordinance.
- iii. All driveways shall comply with the town standards for design and installation of culverts and mailboxes.

c. **Driveway Separation and Location.** Driveways must be adequately separated from roadway intersections and other driveways and cannot create traffic or safety hazards. Unless approved by the Administrator, the minimum separation between an intersection and any new driveway shall comply with the following:

Table 1: Required Driveway and Intersection Separation	
Road Classification¹	Minimum Separation of Driveway and Intersection^{2, 3}
Local Road	80 Feet
Major Collector/Minor Collector	120 Feet
Principal Arterial or Minor Arterial	150 et
<p><small>1 - Roadway classification shall be in accordance with the <i>Comprehensive Plan</i>.</small></p> <p><small>2 - Measured from the intersection of the roadway pavement (or intersection of the back of curb extended if rounded property corner) at the intersection.</small></p> <p><small>3 - If a driveway cannot meet the separation requirements from an intersection because of the parcel width, one (1) driveway is permitted at the furthest feasible point from the intersection.</small></p>	

- d. **Driveway Location.** The location of new, expanded, or modified driveways must be approved by the Administrator or their designee prior to construction.
- e. **Driveway Standards.**
 - i. Residential Use Standards.
 - (a) Driveways Serving One to Four Dwellings. The following standards shall apply to all private driveways that serve one (1) to four (4) dwelling units:
 - (1) Driveways shall be graded and surfaced with an all-weather paving material, such as asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust.
 - (2) Driveways shall be at least twenty feet (20) feet in length between the primary structure and the nearest edge of sidewalk (or edge of roadway if a sidewalk does not exist).
 - (3) The width of the driveway shall not exceed twenty (20) feet at the right-of-way. Driveways may widen after passing the back edge of the sidewalk or ten (10) feet from the right-of-way, whichever is greater.
 - (4) Shared residential driveways serving two (2) to four (4) dwelling units shall have a twenty (20) foot minimum easement that is approved by the Administrator and then recorded. In addition, a written road maintenance agreement with the parcel owners that access the private driveway must be reviewed and approved by the Administrator and then be recorded.
 - ii. Non-residential Use Standards.
 - (a) Driveways for all other uses shall be graded and surfaced with an all-weather paving material, such as asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust, and must be constructed in accordance with the industrial and commercial road standards as outlined by the applicable standards and specifications.
 - (b) All access easements for all non-residential development shall be recorded, include public access, and be approved by the Administrator.
 - (c) All shared driveways for non-residential uses shall have a written and recorded maintenance agreement with the parcels that access the private driveway and must be approved by the Administrator.
- f. **Public Right-of-way Access Standards.**
 - i. All development shall comply with the Comprehensive Plan.
 - ii. If a parcel that adjoins or includes an existing public road that does not conform to the minimum right-of-way dimension as established by the applicable standards and specifications and/or the Comprehensive Plan, the property owner shall dedicate additional right-of-way width, regardless of if the parcel is subdivided or not, as required to meet this

UDO and/or the *Comprehensive Plan* at the time of the Development Plan process or the Secondary Plat process, whichever is appropriate.

- iii. When connecting to an existing public road, the developer may be required to provide deceleration lanes, acceleration lanes, passing blisters, and/or other improvements to the public road system to mitigate impacts from their development.
- iv. Public and private roads shall align with and connect to existing or planned roads and provide for connections with adjacent property. Proposed roads must extend to the boundary line of the parcel to be developed to provide for normal circulation of traffic within the vicinity unless approved by the Administrator.
- v. Driveways cannot gain access directly from any Arterial or Collector roadway unless no other access is available.
- vi. At the discretion of the Administrator, development must provide a vehicular connection between adjacent lots or parcels to encourage and facilitate circulation without directly accessing public streets. This does not apply to individual residential lots.

3. Landscaping and Buffer Standards.

a. **Purpose.** The purpose of these standards is to:

- i. maintain community character through quality design and visual appearance;
- ii. minimize conflicts between land uses through buffers and screening higher-intensity land uses from lower-intensity land uses; and
- iii. minimize potential nuisances such as dirt, noise, glare, and similar impacts between properties.

b. **General.**

- i. All fences or walls shall comply with all standards of this UDO, including *Chapter 3: Accessory Structure Standards*.
- ii. Plant material included in the current IDNR list of invasive species cannot be used to satisfy any requirements of this section.

c. **Landscape Plan Required.** A landscape plan shall be submitted if Development Plan approval is required.

d. **Planting, Wall, Fence, and Berm Requirements.**

- i. All development shall install required plantings, walls, and/or fences and provide a bufferyard as outlined by *Table 2: Required Plantings, Walls, Fences, and Berms*. Development that requires a fence or wall may be exempt if the adjacent property owner has previously installed a wall or fence that complies with the standards in this section.
- ii. Each property owner is required to install the required bufferyard and plantings on their parcel as it develops, even if the developer on an adjacent parcel has also installed a bufferyard.

- iii. Required bufferyard widths are measured from the property line inward. Bufferyards may include the required front, side, or rear setback outlined in *Chapter 2: Zoning Districts* (bufferyards are not in addition to required setbacks).
- iv. The number of plantings required is stated per one hundred (100) linear feet, as measured along the property line.
- v. Any fraction of a required tree or shrub shall be rounded up to the nearest whole number.
- vi. If the development borders a jurisdictional boundary outside that of this UDO, the plantings, wall, fence, and/or bufferyard requirements used shall be based on the zoning district most comparable to that of this UDO at the discretion and approval of the Administrator.
- vii. If the subject property or adjacent zoning district is a PUD, the plantings, wall, fence, and/or bufferyard requirements used shall be based on the zoning district most comparable to that of this UDO at the discretion and approval of the Administrator.
- viii. Planting requirements shall be applied to all sides of a parcel (front yard, side yard, and rear yard). Fence, wall, and berm requirements do not apply to front yards forward of the primary structure's front façade.
- ix. Plantings are not permitted to be located within drainage/utility easements, beneath utility lines, within rights-of-way, or within alleys.

Table 2: Required Plantings, Walls, Fences, & Berms			
Subject Property Zoning District	Adjacent Zoning District	Minimum Plantings Required per 100 Linear Feet¹	Minimum Required Bufferyard Width
R1, R2, & R3	I1, I2, & I3	<ul style="list-style-type: none"> • 6 Shade Trees, 16 Evergreen Trees, and 18 Shrubs¹ • Wall, Fence, or Berm² 	20 feet
	VM, NC, & IS	<ul style="list-style-type: none"> • 2 Shade Trees, 4 Evergreen Tree, and 6 Shrubs¹ • Wall, Fence, or Berm² 	
VM, NC, & IS	R1, R2, & R3	<ul style="list-style-type: none"> • 6 Shade Trees, 16 Evergreen Trees, and 18 Shrubs¹ • Wall, Fence, or Berm² 	30 feet
	I1, I2, & I3	<ul style="list-style-type: none"> • 2 Shade Trees, 4 Evergreen Tree, and 6 Shrubs¹ 	
I1, I2, & I3	R1, R2, & R3	<ul style="list-style-type: none"> • 8 Shade Trees, 20 Evergreen Trees, and 22 Shrubs¹ • Wall, Fence, or Berm² 	50 feet
	VM, NC, & IS	<ul style="list-style-type: none"> • 6 Shade Trees, 16 Evergreen Trees, and 18 Shrubs¹ • Wall, Fence, or Berm² 	
<p>¹ – Plantings required per 100 Linear Feet (including driveways) ² – Fence or wall: Must be solid and minimum of 6 feet in height; Berm: Minimum 5 feet in height at peak and maximum 3:1 slope that is contained entirely inside the bufferyard.</p>			

- e. **Parking Lot Landscaping.** Parking lot landscaping shall be provided as outlined in *Chapter 3: Parking and Loading Standards*.

f. Landscaping Location.

- i. Plantings may be grouped or clustered to provide a more natural appearance, improve site design, accommodate vehicular and pedestrian access, avoid utility infrastructure, and/or loading and maintenance areas.
- ii. Plantings shall avoid interference with overhead and underground utilities and shall provide a five (5) foot minimum setback from water and sewer lines.
- iii. Landscape materials shall not be planted in rights-of-way or easements without permission from the Administrator and the easement holder unless otherwise required by this UDO.
- iv. Required plantings shall be located within the required bufferyard. If a bufferyard is not required, all plantings shall be located on the outer perimeter of a lot or parcel and shall not have any buildings or structures between the plantings and parcel boundary.
- v. Plantings shall not obstruct driveways, sidewalks, or public road sight distances.

g. Landscaping Substitutions.

- i. Plant types may be arranged and/or substituted to accommodate rights-of-way, drainage easements, and utility easements at the discretion of the Administrator.
- ii. Evergreen trees may be substituted for shade trees at the discretion of the Administrator.

h. Landscaping Installation Requirements.

- i. All plantings must be suitable for local soils, climatic conditions, and the plant's solar exposure.
- ii. In cases where landscaping cannot be completed prior to the issuance of a certificate of occupancy due to weather or similar conditions, a temporary certificate of occupancy may be issued with a commitment the landscaping be installed within one hundred twenty (120) days of the issuance of the certificate.
- iii. At the time of installation, the minimum plant sizes shall include:

Plant Type	Minimum Size
Shade Trees	<ul style="list-style-type: none">• 2" caliper• 8' height
Evergreen Trees	<ul style="list-style-type: none">• 5' height
Shrubs	<ul style="list-style-type: none">• 18" height

i. Landscaping and Bufferyard Maintenance.

- i. The property owner is responsible for the regular maintenance of all landscaping materials to keep them in good condition. All landscape materials shall be alive, healthy, and free from disease and pests. All landscaped areas shall be properly drained, regularly maintained, and free of weeds, dirt, trash, and debris.
- ii. All plant material used to satisfy the requirements of this section that dies or is damaged must be replaced by the property owner within six (6) months to maintain the approved landscape

plan. Failure to maintain compliance with the minimum requirements of this section is a violation of the UDO and subject to the provisions of *Chapter 5: Zoning Administration and Procedures*.

4. Lighting Standards.

- a. **Purpose.** The purpose of these standards is to minimize the intrusion of lighting across property lines and to avoid disrupting the quality of life of residents.
- b. **Lighting Plan Required.** A lighting plan shall be submitted if Development Plan approval is required.
- c. **Exemptions.** The following are exempt from requirements of this section:
 - i. Lighting used for landscaping, low wattage recessed lighting in eaves, low wattage carriage lights, ceiling mounted porch lights, and dusk-to-dawn lights no more than fifteen (15) feet above grade that are shielded downward.
 - ii. 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.
 - iii. All hazard warning lighting required by Federal and State regulatory agencies.
 - iv. All temporary emergency lighting required by local law enforcement, emergency service, and utility departments.
 - v. All traffic control and directional lighting.
 - vi. All underwater lighting used for the illumination of swimming pools and water features is exempt from the lamp type and shielding standards of this UDO.
 - vii. All lighting for temporary events, festivals, and carnivals requires Board of Works review and approval.
- d. **General Lighting Standards.**
 - i. All light fixtures shall be installed in compliance with the National Electrical Code (NEC).
 - ii. If permanent outdoor lighting is provided in any district, it shall be of a design and size that is harmonious with the design of the building, the type of land use, and the type of adjacent land uses. All lighting fixtures within a single development must be consistent in style, design, height, size, and color throughout the development.
 - iii. All lighting must be shielded with opaque material to prevent direct lighting on streets, alleys, and adjacent properties. Furthermore, all lighting elements used to cast light on building facades, features of buildings, or signs must have cutoff luminaires with "down lighting."
 - iv. Lighting fixtures for parking lots shall not exceed twenty-five (25) feet in height and all lighting elements must have cutoff luminaires with "down lighting."
 - v. Lighting from a property shall not exceed one (1) foot-candle (measured at grade) beyond the property line of that property.

- vi. Excessive brightness, flashing lights, and brilliant colors are not permitted, excluding seasonal displays.

5. Parking and Loading Standards.

a. **Purpose.** The purpose of these standards is to require minimal parking standards, minimize risk to the natural environment, and minimize pedestrian and vehicular conflict to ensure public health, safety, and welfare.

b. **Permit Required.** All new parking lots or the expansion of existing parking lots for commercial, industrial, and multi-family residential uses shall require an ILP.

c. Required Parking Spaces.

i. The location and required minimum number of parking spaces shall comply with *Table 3: Minimum Parking Requirements*. The number of spaces required is intended to provide a minimal or low threshold; additional parking is permitted that exceeds these minimums.

ii. Any fraction of a required parking space shall be rounded up to the whole number.

d. Parking Reductions.

i. All development shall comply with the minimum number of handicap spaces required by state and federal regulations.

ii. The required minimum number of spaces for all residential uses, including multi-family dwellings, shall not be reduced without a variance.

iii. For non-residential uses, the Administrator may reduce the minimum number of parking spaces required in *Table 3: Minimum Parking Requirements* if the applicant provides one of the following:

(a) Calculations showing the minimum number of spaces needed by using the most recent version of the Institute of Transportation Engineers (ITE) "Parking Generation."

(b) Documentation based on a reputable source that is approved by the Administrator that the required parking for the specific use exceeds the parking need.

e. Shared Parking Permitted.

i. Where permitted in *Table 3: Minimum Parking Requirements*, shared parking may be provided for separate uses on separate parcels, provided the total number of spaces is not less than the minimum number of spaces required for each use.

ii. Parking for developments with uses that operate at different times may be credited to both uses.

iii. Shared Parking Agreements Required.

(a) Shared parking agreements must be approved by the Administrator.

(b) Any development or parcels with shared parking shall have a written and recorded shared parking agreement that is signed by all property owners. The agreement shall be

perpetual and outline provisions for easements (if applicable), maintenance, snow removal, ownership, and liability.

- (c) If a shared parking agreement expires or otherwise terminates, each use must provide the minimum require parking on-site or through a new shared parking agreement.

Table 3: Minimum Parking Requirements		
Land Use Category	Permitted Location	Minimum Spaces Required <small>(additional spaces may be required at the discretion of the Administrator)</small>
Residential Uses	On-site	Single-family and Two-family: 2 spaces per dwelling unit Multi-family: 1.50 spaces per dwelling unit
Commercial Uses	On-site or Shared Parking	<ul style="list-style-type: none"> • 2.5 spaces per 1,000 sq ft of gross floor area, excluding storage areas; • 1 space per 4 people based on maximum building occupancy; or • 1.5 spaces per employee during largest shift
Industrial Uses	On-site or Shared Parking	<ul style="list-style-type: none"> • 1 space per 1,000 sq ft of gross floor area; or • 1 space per 3 employees during the largest shift
Institutional Uses	On-site or Shared Parking	<ul style="list-style-type: none"> • 2.5 spaces per 1,000 sq ft of gross floor area, excluding storage areas; • 1 space per 4 people based on maximum building occupancy; • 1 space per 4 beds / patient rooms; or • 1.5 spaces per employee during largest shift
Accessory Uses	On-site	<ul style="list-style-type: none"> • As determined by the Administrator based on similar uses, similar number of employees, or similar number of guests

f. General Parking and Loading Design.

- i. All parking areas shall conform to state and federal requirements regarding handicap accessibility and must comply with all applicable ADA requirements.
- ii. Parking spaces and loading areas shall be located and constructed to prevent vehicles from maneuvering in the public right-of-way or backing into a public street, access way, or alley. No individual parking spaces shall gain direct acces onto a public right-of-way.
- iii. All parking spaces, travel aisles, and loading areas shall maintain a setback of ten (10) feet from property lines and rights-of-way, or the width of the required setback for accessory structures, whichever is greater.
- iv. Parking areas, travel aisles, and loading areas, including all driving lanes and parking surfaces for vehicle, boat, RV, or similar use sales and/or storage, shall be graded and surfaced with an all-weather paving material such as asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust.
 - (a) At the written discretion of the Administrator, a gravel surface may be used for a period not exceeding six (6) months after the date of issuing a temporary and conditional certificate of occupancy where the ground conditions are not immediately suitable for permanent surfacing as specified in this section. The gravel surface shall be constructed of a base that is suitable for eventual paving. Performance surety may be required at the discretion of the Administrator to ensure that paving will still occur when necessary.

- v. Parking spaces shall be provided with curbing, bumper guards, or wheel stops along the perimeter of the parking area so that no part of a parked vehicle will extend beyond the boundary of the parking area.
 - vi. In order to minimize curb cuts and points of conflict, any use which fronts upon and utilizes access to a primary or secondary arterial shall provide and utilize a common frontage or access lane for the purpose of access, parking, and loading where feasible.
 - vii. All parking areas and loading areas shall be striped and channelized as appropriate. Parking spaces shall be marked, and travel aisles clearly defined, including directional arrows to guide internal movement and directional signs, as necessary.
 - viii. All uses that transport goods by truck delivery shall provide loading berth(s) that are a minimum of twelve (12) feet by forty-five (45) feet with a fourteen (14) foot height clearance. Loading and unloading berths shall not be located within the front yard and must be a minimum distance of one hundred (100) feet from the nearest residential use.
 - ix. Lighting within parking or loading areas shall be in accordance with *Chapter 3: Lighting Standards*.
- g. **Design.** Parking spaces and aisles shall comply with the following standards:

Table 4: Minimum Parking Space and Aisle Dimensions		
Parking Space Type	Parking Space Width	Parking Space Length
Non-parallel Spaces	10 feet	20 feet
Parallel Spaces	9 feet	22 feet
Handicap Spaces	Comply with all state and federal requirements	
Parking Angle	One-way Traffic Aisle Width	Two-way Traffic Aisle Width
0 Degrees	10 feet	18 feet
30 Degrees	11 feet	20 feet
45 Degrees	13 feet	21 feet
60 Degrees	18 feet	23 feet
90 Degrees	24 feet	24 feet

- h. **Parking Lot Islands and Landscaping.** Parking lot islands and landscaping shall be provided for all parking lots with twenty (20) or more parking spaces in accordance with *Table 5: Parking Lot Islands and Landscaping*.

Table 5: Parking Lot Islands and Landscaping	
Minimum Island Number and Locations	<ul style="list-style-type: none"> ● End of every parking row; and ● At least every 15 spaces (no more than 15 spaces in a row)
Minimum Island Dimensions ¹	<ul style="list-style-type: none"> ● 8 feet by 16 feet; and ● Bordered by a concrete curb on at least 2 sides
Minimum Island Landscaping ²	<ul style="list-style-type: none"> ● 1 canopy tree and 3 shrubs per island; and ● Ground cover, mulch, or stone
<p>1 – Landscape islands that are integrated into a perimeter area shall be considered a landscape island if bordered by parking on at least 1 side and a concrete curb on at least 2 sides</p> <p>2 – Plantings located in islands shall not count towards required plantings in <i>Chapter 3: Landscaping and Buffer Standards</i>.</p>	

- i. **Parking and Loading Area Maintenance.** All parking areas, loading areas, and landscape islands shall be maintained in good condition and free of weeds, dirt, trash, and debris. Vegetation shall be replaced when damaged or no longer living. Visibility shall be maintained, including in the sight triangle.

6. Sign Standards.

- a. **Purpose.** The purpose of these sign standards is to avoid the proliferation of signage; to encourage signs to be compatible with the scale of buildings and the surrounding area; to maintain and enhance the aesthetic environment of the community; to eliminate potential hazards to motorists and pedestrians resulting from sign clutter; and to promote the health, safety, and welfare of the citizens.
- b. **Applicability.** These standards apply to all new, relocated, enlarged signs, and/or structural modifications to any sign in all zoning districts within the jurisdiction, unless otherwise noted. Sign maintenance (as defined below in *Subsection e*) or changing of a sign copy shall not be considered modifying a sign for regulation applicability purposes.
- c. **Permit Required.**
- i. An ILP is required for all permanent signs located, erected, constructed, reconstructed, moved, or structurally altered unless otherwise stated in this section. Temporary signs do not require a permit unless otherwise indicated.
 - ii. All signs located along state-owned right-of-way shall obtain proper sign permits or written authorization from INDOT (if required) prior to seeking approval for an ILP.
- d. **Sign Plan Required.** A sign plan shall be submitted if Development Plan approval is required.
- e. **Sign Inspection, Maintenance, and Removal.**
- i. Inspection. Any sign that requires an ILP may be inspected periodically by the Administrator for compliance with this UDO and other codes of this or other jurisdictions.

- ii. Sign Maintenance.
 - (a) All signs, including the frame, illumination, supporting structures, and all components, shall be professionally installed and be kept in a state of good repair. If failure to maintain a sign is determined by the Administrator, a written notice shall be given to the owner, business operator and/or lessee of the property giving a thirty (30) day notice for repair and compliance. Penalties shall be imposed after the thirty (30) day notice according to *Chapter 5: Zoning Administration and Procedures*.
 - (b) Sign maintenance that replaces any portion of the sign that does not change any dimension, location, or other feature does not require an ILP. If a sign is replaced in whole, an ILP is required.
- iii. Removal of Signs. The Administrator may order the removal of any illegal sign erected or maintained in violation of this UDO or any previous ordinance. Any cost associated with sign removal pursuant to the provisions of this UDO, shall be reimbursed by the owner of said sign. Should said sign not be retrieved within ten (10) days of its removal, it may be disposed of in any manner deemed appropriate by the Administrator.
 - (a) Removal of Permanent Signs. A thirty (30) day written notice describing the violation and ordering either the removal of the sign or requiring the sign to be brought into compliance shall be given to the owner and/or business operator. The Administrator may remove a permanent sign immediately and without notice if the condition of the sign presents an immediate threat to the safety of the public.
 - (b) Removal of Temporary Signs. No notice shall be given for the removal of temporary signs in violation of this UDO.
- iv. Abandoned Signs.
 - (a) A sign shall be considered abandoned if it is located on a parcel with a non-conforming use that has not been in operation for three (3) consecutive months or if the sign has not been adequately maintained or repaired.
 - (b) All signs, their mountings, and related components shall be removed by the owner or lessee of the premises upon which the signs are located when a business is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the Administrator shall give the owner thirty (30) days written notice to remove it. Upon failure to comply with this notice, the Administrator may remove the sign. Any cost associated with sign removal pursuant to the provisions of this UDO shall be reimbursed by the owner of said sign. Should said sign not be claimed and retrieved within fifteen (15) days of its removal, it may be disposed of in any manner deemed appropriate by the Administrator.

f. Sign Illumination.

- i. All permanent signs are permitted to be internally or externally illuminated unless otherwise specified in the UDO; temporary signs shall not be illuminated.
- ii. All illuminated signs must meet National Electrical Code (NEC), as amended, and all lighting requirements outlined in *Chapter 3: Lighting Standards* in addition to the following standards:
 - (a) All illuminated signs shall be located, shaded, or shielded so that the light intensity is not impeding to surrounding properties. (Use the 1-foot candle threshold at the property line.)
 - (b) No sign shall have blinking, flashing, rotating, revolving, or fluttering lights, nor shall any device be utilized which has a changing light intensity, brightness of color, or gives such illusion.
 - (c) The direct or reflected light from a primary light source shall not create a traffic hazard to operators of motor vehicles on public and/or private roadways.
 - (d) All electrical wiring for permanent signs shall be in conduit.
 - (e) An exempt sign may be illuminated according to the provisions of this chapter and still considered exempt but may not be flashing or animated.
- g. **Electronic Variable Message Signs (EVMS).** In addition to the standards for Sign Illumination, all EVMS shall also comply with the following standards:
 - i. Messages displayed on the sign must remain unchanged for at least eight (8) seconds.
 - ii. No sign containing an EVMS as a component shall be located within one hundred fifty (150) feet of any signalized intersection or any property with a residential use or a residential zoning designation. Automatic light intensity sensors to 300 NITS shall be required from dusk to dawn.
 - iii. Drive-thru menu boards that utilize EVMS are exempt from the above EVMS standards but shall comply with all other applicable sign standards.

- h. **Exempt Signs.** The following are exempt from all provisions of the sign standards set forth in this section unless specified otherwise. If any exempt sign contains components that would otherwise be regulated in this section, they are not considered exempt sign unless specified otherwise.

Table 6: Exempt Signs	
Address Signs	Street address sign to provide adequate property identification that does not exceed 2 square feet in total sign structure size
Building or Site Identification Signs	Names of buildings, date of erection, monumental citations, historical interest, commemorative or memorial tablets, and similar identification when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction that are smaller than 2 square feet in total sign structure size
Decorations	Temporary decorations customarily associated with a national, local, or religious holiday and are displayed for less than 30 consecutive days
Flags	Flag of any country, state, unit of local government, institution of higher learning, or similar institutional flags
Non-Visible Signs	Signs that are not visible from any public or private right-of-way or any adjacent parcel
Operational Signs	Operational information such as hours of operations, restroom identification, directional, visitor parking, menus, or similar information and do not exceed 2 square feet in total sign structure size
Political Signs	Political campaign signs in accordance with <i>IC 36-1-3-11</i>
Public Notice, Regulatory, & Safety Signs	Information for the public's interest that are erected by or on the order of a local, state, or federal law or intended to provide a public notice (such as rezoning, government) and regulatory or safety notices (such as no trespassing, directional, ingress/egress, and traffic)) that are smaller than 4 square feet in total sign structure size
Utility Signs	Utility locations, cables, lines, and similar notices for public and private utilities that are smaller than 2 square feet in total sign structure size, except if determined to be a hazard by the Administrator

- i. **Prohibited Sign Types.** The following types of signs are expressly prohibited in all zoning districts. Any sign that is not expressly permitted in this UDO is also considered prohibited.

Table 7: Prohibited Signs	
Animated Signs	Flashing, blinking, fluttering, or using any motion picture, laser, or visual projection of images or copy or that change light intensity or brightness
Emitting Signs	Emit audible sound, odor, or visible matter
Human Signs	Worn or held by a person, unless located outside of the right-of-way and only during business hours
Imitation Signs	Emulate emergency service vehicles, road equipment, or traffic signs (such as Stop, Slow, or Caution)
Moving Signs	Designed to revolve or move in a similar manner by means of electrical or wind power
Obscene Signs	Display or convey obscene matter as defined in <i>IC 35-49-2</i>
Roof Signs	Signs that extend above the roof line or parapet of a building or signs that are mounted to the roof of a structure
Vehicle Signs	Signs placed on vehicles or trailers that are parked on public or private property with the primary purpose of displaying the sign. This does not include vehicles lawfully parked: <ul style="list-style-type: none"> • Overnight during non-business hours at a driver’s residence or business; • While conducting lawful business; and • On a construction site in conjunction with construction operations

- j. **Prohibited Sign Locations.** The following placement standards shall apply to all signs unless otherwise noted in this UDO.

Table 8: Prohibited Sign Locations	
Right-of-Way	Signs within any right-of-way unless authorized by the town, Administrator, and/or INDOT, including signs located on any traffic control device, street sign, tree, utility pole, or similar location
Obstruction	Signs that obstruct any door, fire escape, stairway, or any opening intended to provide entry or exit from any building or structure or that hide from view any traffic or roadway sign, signal, or device
Vision Clearance	Signs that obstruct a sight clearance or be placed within the sight triangle of any intersection or driveway
Setback	Signs (measured from nearest edge) within ten (10) feet of any property line. Signs are permitted to be located within a required front, side, or rear yard setback.

- k.

I. Permitted Temporary Signs.

- i. The following Temporary Signs shall be permitted, provided the respective development standards in *Chapter 2: Zoning Districts* are met.
- ii. An ILP is NOT required.
- iii. EVMS is not permitted for temporary signs unless otherwise specified.
- iv. A total of two (2) temporary signs are permitted per parcel.

Table 9: Permitted Temporary Signs <i>(Total of 2 temporary signs permitted per parcel)</i>			
Sign Type	Permitted Districts	Maximum Size	Duration (whichever is greatest)
Hanging Sign	All Districts	<ul style="list-style-type: none"> • 16 sqft per sign • 5 feet in height 	<ul style="list-style-type: none"> • Property is for sale or lease; • Project is under construction; or • 30 consecutive days but no more than twice in a calendar year
Yard Sign			
Awning Sign	VM, NC, IS, I1, I2, & I3	<ul style="list-style-type: none"> • 32 sqft per sign • 8 feet in height 	<ul style="list-style-type: none"> • Property is for sale or lease; • Project is under construction; or • 30 consecutive days but no more than twice in a calendar year
Banner Sign			
Ground Sign			
Inflatable Sign			
Wall Sign			
Window Sign			
Portable Sign	VM, NC, IS, I1, I2, & I3	<ul style="list-style-type: none"> • 32 sqft per sign • 6 feet in height 	<ul style="list-style-type: none"> • Non-EVMS permitted during business hours • *EVMS Permitted maximum of 2 days within a 6-month period and during business hours

m. Permitted Permanent Signs.

- i. The following Permanent Signs shall be permitted, provided the respective development standards in *Chapter 2: Zoning Districts* are met.
- ii. An ILP is required unless otherwise specified.
- iii. EVMS is not permitted for permanent signs unless otherwise specified.

Table 10: Permitted Permanent Signs			
Maximum Cumulative Area of All Sign Faces¹			
R1, R2, & R3	2 square feet per parcel, except monument signs as permitted below		
VM, NC, & IS	1.5 square feet per 1 linear foot of primary building frontage (200 sqft maximum) ²		
I1, I2, & I3	2 square feet per 1 linear foot of primary building frontage (200 sqft maximum) ²		
Permitted Permanent Signs			
Sign Type	Permitted Districts	Maximum Size	Maximum Number & Placement
Awning Sign	VM, NC, & IS	<ul style="list-style-type: none"> • 50 sq ft sign face, but cannot exceed 50% of awning area 	<ul style="list-style-type: none"> • Must be placed on primary structure
Mailbox Sign	R1, R2, & R3	<ul style="list-style-type: none"> • 1 sq ft per sign face 	<ul style="list-style-type: none"> • Must be placed on a mailbox post
Monument (Ground) Sign	R1 ³ , R2 ³ , & R3 ³	<ul style="list-style-type: none"> • 32 sq ft per sign face • 6 feet in height 	<ul style="list-style-type: none"> • 1 double-faced or 2 single-faced sign per vehicular entrance to a residential subdivision, residential complex, or other development³
	VM, NC, & IS	<ul style="list-style-type: none"> • 50 sq ft per sign face • 8 feet in height • EVMS permitted 	
Pole Sign	VM, NC, IS, I1, I2, & I3	<ul style="list-style-type: none"> • 50 sq ft per sign face • 20 feet in height • EVMS permitted 	<ul style="list-style-type: none"> • 1 per parcel
Projecting Sign	VM, NC, IS, I1, I2, & I3	<ul style="list-style-type: none"> • 12 sq ft per sign face • EVMS permitted 	<ul style="list-style-type: none"> • 1 per primary entrance • Minimum 8.5 feet clearance above grade • Maximum extension of 4 feet beyond supporting structure
Wall Sign	R1, R2, & R3	<ul style="list-style-type: none"> • 1 sq ft per sign face 	<ul style="list-style-type: none"> • 1 per parcel • Must be placed on primary structure
	VM, NC, IS, I1, I2, & I3	<ul style="list-style-type: none"> • 50 sq ft per sign face 	<ul style="list-style-type: none"> • Must be placed on primary structure
Window Sign	VM, NC, IS, I1, I2, & I3	<ul style="list-style-type: none"> • 50 sq ft sign face, but cannot exceed 50% of window area • 2 sq ft sign face if illuminated 	<ul style="list-style-type: none"> • Must be within window on primary structure
<p>1 – Maximum cumulative sign face only includes the sign face and excludes the total sign area/sign structure. See <i>Chapter 10: Definitions</i>.</p> <p>2 – Total square footage is calculated based on the length of the front elevation of the primary structure (that the structure is addressed off of); additional square footage is not permitted for secondary or side streets.</p> <p>3 – Must be located in a dedicated easement or common area dedicated to a homeowner’s association in a residential subdivision.</p>			

7. Storage Standards.

- a. **Purpose.** These storage standards are intended to reduce visual obstruction and nuisance to nearby property owners as well as preventing unsafe conditions to ensure the health, safety, and welfare of residents.
- b. **Stored Vehicles.**
 - i. Location. Stored vehicles, where permitted, shall not encroach on the right-of-way or setbacks required by *Chapter 2: Zoning Districts*. Stored vehicles shall not block or impede an access easement.
 - ii. Inoperable. Automotive vehicles or trailers of any type without plates or in an inoperable condition shall be deemed dead storage and shall be stored within an enclosed building or fully screened with vegetation, berm, masonry wall, fence, or similar year-round screening so it is not visible from any public street or adjacent parcel.
 - iii. Recreational Vehicle (RV) Storage. See *Chapter 10: Definitions* for vehicles defined as a recreational vehicle. A recreational vehicle may only be occupied according to *Chapter 3: Structure Standards*. No RV shall not be connected to any utilities (electric, water, sewage, etc.) or occupied at any time while stored except for the purpose of loading, unloading, or cleaning.
 - (a) Residential RV Storage. No more than one (1) recreational vehicle per parcel that is visible from any public right-of-way, private road/driveway, or adjacent parcel shall be stored outdoors in the R1, R2, or R3 districts.
 - (b) RV Storage in Other Districts. Recreational vehicles shall not be stored in any other district unless allowed as a Permitted Use or Special Exception Use per *Chapter 2: Zoning Districts*.
 - (c) RV Storage Location. All recreational vehicles shall be stored in the rear yard or side yard (must be behind front façade of the primary structure) on a paved surface (not stone), except for temporary parking of the vehicle on a driveway for the purpose of loading, unloading, or cleaning that does not exceed seventy-two (72) hours.
- c. **Temporary Storage Containers.** The Administrator has the flexibility to allow additional containers, placement, and length of time when requested in writing by the applicant and on a case-by-case basis.
 - i. R1, R2, & R3 Zoning Districts. A maximum of one (1) temporary storage container per parcel is permitted if the following conditions are met. A Temporary Use Permit is not required.
 - (a) On-site for a maximum of fourteen (14) consecutive days.
 - (b) Located on the driveway or to the rear or side of the primary structure. Containers shall not be placed in the street without approval of the Administrator.
 - (c) Does not exceed one hundred twenty (120) square feet.
 - ii. All Other Zoning Districts. A maximum of two (2) temporary storage containers per parcel will be permitted if the following conditions are met. A Temporary Use Permit is required.

- (a) On-site for no more than four (4) consecutive months in a calendar year or the duration of construction, whichever is greater.
- (b) Located in the parking lot or to the rear or side of the primary structure.
- (c) Each container does not exceed three hundred and twenty (320) square feet.

8. Structure Standards.

a. **Purpose.** The purpose of these standards is to prevent unsafe conditions while encouraging compatible development to ensure the health, safety, and welfare of residents.

b. General Structure Standards.

- i. All new structures shall require a BP and an ILP, including primary structures; accessory structures; manufactured homes (permanent and temporary occupancy); and temporary structures.
- ii. All new structures shall be built to conform with all standards set forth in this UDO.
- iii. All new structures, excluding accessory structures, shall be oriented towards the highest classification of roadway unless within a Major Residential Subdivision.

c. **Structure Height Exemptions.** The following structures are exempt from the height standards of the underlying zoning district:

- i. Agricultural structures as necessary for its operation;
- ii. Wind turbines;
- iii. Spires or church steeples;
- iv. Cellular towers; and
- v. Industrial appurtenances.

d. **Relocation of Structures.** Structures that are relocated from one parcel to another parcel shall not be moved unless the structure and placement of that structure conforms with the standards of the underlying zoning district and all standards of this UDO.

e. **Temporary Structures.** Temporary construction trailers or similar structure may be permitted on a project site in a non-residential zoning district during the construction period for the use of security, storage, or office space. An Improvement Location Permit (ILP) is required and shall be valid for twelve (12) months. It may be renewed up to two additional six (6) month time periods, if necessary, if construction has not concluded.

f. Manufactured Home Occupancy.

- i. Permanent Occupancy of Manufactured Home. Manufactured homes may be permanently occupied when located in any district where a single-family dwelling is permitted provided the following requirements are met:

- (a) The manufactured home is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section.
 - (b) The development standards for the respective zoning district, including minimum living area and structure width, are met as established in *Chapter 2: Zoning Districts*.
 - (c) The structure is attached and anchored to a permanent foundation in conformance with the appropriate building code and with manufacturer's installation specifications.
 - (d) The entire area between the floor joists of the structure and the underfloor grade is completely enclosed (skirted) in accordance with the terms of the appropriate building code; the manufacturer's installation specifications; and requirements set forth by the Indiana Administrative Building Council.
 - (e) The structure possesses all necessary building, water, and sewage disposal permits prior to placement of the structure upon the lot.
 - (f) The wheels, axles, and hitches are removed.
 - (g) The front door faces the primary street from which it gains access.
 - (h) The structure is covered with an exterior material and roof material customarily used on site-built structures.
 - (i) The manufactured home is no more than five (5) years in age when it is initially placed if outside of a manufactured home park.
- ii. Recreational Vehicle (RV) Occupancy.
- (a) Long-term Occupancy Prohibited. Recreational vehicles are not permitted to be used for long-term residential occupancy (more than fourteen (14) consecutive days unless they are located within an Indiana State Department of Health (ISDH) regulated campground or RV park.
 - (b) Short-term Occupancy of an RV. A recreational vehicle may only be used for recreational purposes outside of an ISDH regulated campground or RV park provided the following conditions are met:
 - (1) The RV is occupied for recreational purposes only (no long-term or permanent occupancy) and shall not exceed fourteen (14) consecutive days;
 - (2) No more than one (1) RV may be occupied on a single parcel;
 - (3) All development standards in *Chapter 2: Zoning Districts* are met;
 - (4) The RV cannot be connected to a municipal water supply or sewerage facilities and must be plugged in to a permanent electrical source (not a generator);
 - (5) No permanent structures shall be attached to the RV;
 - (6) The RV is fully licensed and ready for highway use (defined as being on its wheels or jacking system; is attached to the site only by quick disconnect type utilities and

security devices; and has no permanently or semi-permanently attached additions or structures).

- (c) Temporary Occupancy of an RV During Primary Dwelling Construction or Remodeling. A recreational vehicle may be authorized by the Administrator to be used for temporary occupancy only during the construction or remodeling of a single-family dwelling on the same parcel provided the following requirements are met:
 - (1) A temporary use permit is obtained for placement of the RV and a BP and ILP for the single-family dwelling to be constructed/remodeled on the same parcel has also been issued.
 - (2) Temporary occupancy of the RV is limited to one (1) year and may be renewed once for an additional six (6) month period if construction of the dwelling has started but is not completed.
 - (3) The RV shall be served by the same address, water supply, sewage facilities, and electrical service serving the single-family dwelling under construction. A generator may not be used.
 - (4) The RV shall not be placed on a permanent foundation and permanent structures may not be attached to the RV;
 - (5) All applicable development standards for the underlying zoning district shall be met except for the minimum living area; and
 - (6) Occupancy of the RV is restricted to the owner of the property who is constructing/remodeling the permanent dwelling and shall be discontinued within seven (7) calendar days of the issuance of the certificate of occupancy for the permanent dwelling.
- iii. RV Storage. A recreational vehicle may be stored according to *Chapter 3: Storage Standards*.

9. Trash Receptacle and Dumpster Standards.

- a. **Purpose.** The purpose of this district is to prevent access to and visibility of trash that is stored outside to ensure the health, safety, and welfare of residents.
- b. **Applicability.** These standards apply to all outdoor, non-pedestrian trash receptacles, dumpsters, compactors, or similar non-pedestrian trash containers.
- c. **Location.** All outdoor trash containers governed by this section shall:
 - i. Comply with all development standards outlined in *Chapter 2: Zoning Districts*;
 - ii. Be located on private property on which they serve and in no case shall be in the public right-of-way; and
 - iii. Be in a side yard or rear yard (must be behind the front façade of the primary structure).
- d. **Screening.** Non-pedestrian outdoor trash receptacles and dumpsters must be completely screened with a masonry wall and/or opaque fencing or evergreen vegetation, so it is not visible

- from any public right-of-way or adjacent parcel during any time of the year. Gates must remain closed unless the receptacles are being accessed.
- e. **Temporary Trash Receptacles.** Dumpsters associated with demolition or construction shall remain on-site no longer than one (1) week prior to the beginning of construction or demolition and no longer than one (1) week following the completion of construction or demolition. Temporary trash receptacles shall meet all setback requirements and development standards of the underlying zoning district but do not require screening.
 - f. **Uncontained Trash Collection.** Uncontained trash shall not be permitted to be collected or kept on-site.

Standards for Specific Uses

A. General Provisions.

1. This chapter shall apply to all parcels of land within the jurisdiction unless otherwise stated herein.
2. The development of the uses listed in this chapter shall meet the respective requirements of this chapter as well as all other chapters of this UDO, including the zoning district regulations and development standards.
3. In a district in which the specified use is allowed or permitted by right, the Administrator shall determine that the development standards of this chapter will be met.
4. In a district in which the specified use is allowed by Special Exception, the Administrator and the BZA shall determine that the development standards of this chapter will be met prior to approval of the Special Exception.
5. The uses listed in this chapter shall be permitted as outlined in *Chapter 2: Zoning Districts*.
6. An ILP is required to construct and/or establish all structures as required by this UDO in order to ensure that the structure meets all of the applicable building codes.

B. Establishment of Development Standards for Specific Uses.

Uses With Additional Development Standards
• Accessory Dwelling Unit (ADU)
• Adult Day Care Facility
• Adult Oriented Business
• Agritourism
• Campground & Recreational Vehicle Park
• Home-Based Business
• Home Occupation
• Junkyard
• Manufactured Home Park
• Rural Event Venue (Permanent and Temporary)
• Solar Energy System, Accessory
• Wind Energy System
• Wireless Communication Facility

1. Accessory Dwelling Unit.

- a. **ADU Purpose.** It is the purpose of this section to regulate an accessory residential structure on a parcel where a primary residential structure exists to provide housing options for family members, students, aging residents, in-home health care providers, people with disabilities, and others; promote a variety of housing opportunities in the community; and allow homeowners to benefit from added income and an increased sense of security.
- b. **ADU General Standards.**
 - i. Approval of an accessory dwelling does NOT permit the accessory dwelling to be used as a short-term rental. If an accessory dwelling is used as a short-term rental, the short-term rental use shall comply with all applicable standards of this UDO and be approved as required by this UDO.
 - ii. If an accessory structure (attached or detached) includes a bathroom, kitchen facilities, and/or living area for sleeping, it shall be considered an accessory dwelling unit and shall comply with all applicable standards unless a "Use Affidavit" stating the structure will not be used as a dwelling is filed with the Administrator and recorded with the County Recorder.

c. **Development Standards.**

ADU Structure Standards	
Minimum Area	<ul style="list-style-type: none"> • 400 sq ft
Maximum Area	<ul style="list-style-type: none"> • 800 sq ft or 50% of the primary dwelling unit living area footprint (whichever is less)
Maximum Height	<ul style="list-style-type: none"> • Governed by the zoning district but cannot exceed the height of the primary dwelling
Architecture and Building Materials	<ul style="list-style-type: none"> • Architectural style, form, materials, and colors shall match or be compatible with the style and form of the primary dwelling
Maximum Quantity	<ul style="list-style-type: none"> • 1 ADU per parcel
Permitted Structure Types	<ul style="list-style-type: none"> • Detached or attached to the primary dwelling unit • Lawfully built structure that meets all building code requirements, including all requirements for a single-family dwelling
Prohibited Structure Types	<ul style="list-style-type: none"> • A recreational vehicle, travel trailer, motor vehicle, parts of a motor vehicle, or similar structure • Any structure not intended for permanent human occupancy • Any structure that does not meet all building code requirements for a dwelling or does not meet the use standards for an accessory dwelling unit (including layout and components)
ADU Site Standards	
Address	<ul style="list-style-type: none"> • Addresses for properties with an approved accessory dwelling unit shall be assigned and approved by the addressing entity
Access	<ul style="list-style-type: none"> • Accessory dwelling shall utilize the same driveway that serves the primary residential dwelling • A separate driveway from any public right-of-way shall not be permitted
Location	<ul style="list-style-type: none"> • Only allowed on lots where an existing, lawfully constructed, primary single-family dwelling exists • Must be located behind the front façade of the primary dwelling and comply with all site development standards (including setbacks) of the subject zone district
Layout & Components	<ul style="list-style-type: none"> • An independent and complete dwelling unit with all amenities needed for safe and habitable living, including permanent provisions for sleeping, eating, cooking, sanitation, and ingress/egress (self-sufficient) • Shall not contain more than 1 bedroom • Shall not have accessory structures
Ownership	<ul style="list-style-type: none"> • Accessory dwelling shall be under the same ownership as the primary dwelling • Primary dwelling shall be owner-occupied
Parking	<ul style="list-style-type: none"> • Minimum number and design of parking spaces shall comply with <i>Chapter 3: Parking and Loading Standards</i> • Parking may be shared with the primary dwelling provided the number of spaces complies with <i>Chapter 3: Parking and Loading Standards</i>
ADU Utility Standards	
Water & Sewage Disposal	<ul style="list-style-type: none"> • Governed by requirements of the zoning district

d. **Operational Standards.** RESERVED.

e. **Procedures.** Accessory dwelling units are not required to obtain development plan approval; however, a site plan shall be submitted for review with any building permit application (or prior to occupancy if a building permit is not required) showing compliance with all regulations of this UDO.

2. Adult Day Care Facility.

- a. **Adult Day Care Facility Purpose.** The purpose of the adult day care facility standards is to provide additional assistance families and caregivers to allow residents in need to remain in the community and enable continued caregiving for an impaired individual at home.
- b. **Adult Day Care Facility General Standards.**
 - i. Facility must meet commercial ADA requirements.
 - ii. Must meet or exceed state and federal standards.
- c. **Adult Day Care Facility Development Standards.**

Adult Day Care Structure Standards	
Minimum Area	<ul style="list-style-type: none">• 150sqft per patient
Adult Day Care Site Standards	
Parking	<ul style="list-style-type: none">• 1 space per staff member, plus 2 additional spaces
Fencing	<ul style="list-style-type: none">• A 6-foot-tall privacy fence shall be installed to provide a secure outdoor area in the backyard for patients to enjoy.

- d. **Adult Day Care Facility Operational Standards.**

Adult Day Care Operational Standards	
Staffing Ratio	<ul style="list-style-type: none">• 1 staff member per 4 patients
Hours of Operation	<ul style="list-style-type: none">• Daily 7:00am – 7:00pm

- e. **Adult Day Care Facility Procedures.** An adult day care facility is required to obtain development plan approval, regardless if new construction is occurring.

3. Adult Oriented Business.

- a. **Adult Oriented Business Purpose.** The purpose of the adult business standards is to provide ample reasonable opportunities for these businesses to locate in the jurisdiction while also mitigating impacts to adjacent properties. Adult-oriented businesses require special supervision from the public safety agencies of the jurisdiction in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of the community. The regulations of this UDO are a legitimate and reasonable means of accountability to ensure that operators comply with reasonable regulations and ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- b. **Adult Oriented Business General Standards.** These standards are supplemental to all other local or state regulations regarding adult businesses.
- c. **Adult Oriented Business Development Standards.**

Adult Oriented Business Site Standards	
Separation	<ul style="list-style-type: none"> • A minimum separation of at least one thousand three hundred twenty (1,320) feet shall be provided between all adult oriented businesses and the specific structures and/or uses as specified below. The distance shall be measured with a straight line from the nearest edge of the property line of the adult business to the nearest edge of the property line of the specified use. • Any parcel used as a school, park, church, or place of worship. • Any parcel with a residential use, residential zoning, or platted as a residential subdivision. • Any parcel used as a hotel, motel, transportation depot, or other adult oriented business. • Any parcel used as a licensed day care facility. • Any premise licensed or governed by the alcoholic beverage control regulations of the state.
Screening	<ul style="list-style-type: none"> • A continuous, evergreen landscape buffer or opaque fencing, with a minimum height of six (6) feet, shall be maintained along the side and rear property lines for the purpose of screening the use from view of adjacent properties
Exterior Display	<ul style="list-style-type: none"> • No adult-oriented business shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window, or other opening from public view. • Adult oriented businesses shall comply with all regulations governing signs under <i>Chapter 3: Sign Standards</i>

- d. **Adult Oriented Business Operational Standards.** RESERVED.
- e. **Adult Oriented Business Procedures.** All adult oriented businesses are required to obtain development plan approval, regardless if new construction is occurring.

4. Agritourism.

- a. **Agritourism Purpose.** It is the purpose of this section to allow for the celebration of agriculture, its continued sustainability, and its economic vitality. The regulations set forth in this ordinance allow for and regulate agritourism uses while also taking into consideration the health, safety, and general character of the surrounding neighborhood.
- b. **Agritourism General Standards.** RESERVED.
- c. **Agritourism Development Standards.**

Agritourism Site Standards	
Access	<ul style="list-style-type: none"> • Access shall be approved by the Administrator and the Street/Highway Department
Bufferyards and Fencing	<ul style="list-style-type: none"> • Opaque screening, consisting of an earth berm, evergreen screen, or an obscuring wall or fence shall be provided near the primary public activity areas on those sides abutting or adjacent to an existing residential use. The use of natural landscape materials is encouraged. At a written request of the applicant, the Administrator and/or the BZA may grant relief of the screening requirement in specific cases where cause can be shown that the distance between the agritourism and residential use would not require screening
Lighting	<ul style="list-style-type: none"> • Any exterior lighting installed related to an agritourism use or activity shall be appropriately shielded and directed downwards to minimize light pollution
Trash Receptacles	<ul style="list-style-type: none"> • Trash receptacles shall be provided. If dumpsters are provided, they shall be placed on a hard surface and shall be completely obscured from view by an opaque fence or wall
Agritourism Utility Standards	
Sewage Disposal	<ul style="list-style-type: none"> • Public restroom facilities, temporary or permanent, shall be provided on site and with approval of the Health Department if required • Year-round operations shall have permanent public restroom facilities • Seasonal operations are not required to have permanent public restroom facilities, unless required by the Health Department

d. **Agritourism Operational Standards.**

Agritourism Operational Standards	
Hours of Operation	<ul style="list-style-type: none"> • Hours of operation must be provided in writing by the applicant • Administrator and/or BZA may alter the requested hours of operation for the agritourism uses consistent with the character of the land uses in the vicinity and may require additional conditions to ensure adherence to the established hours of operation
Permitted Uses	<ul style="list-style-type: none"> • Uses be accessory to an active agricultural use on the same site or adjoining site that is under the same ownership • Shall be located, designed, and operated so as not to interfere with normal agricultural practices on and off site. Poor agricultural soils or lands otherwise not suitable for agricultural purposes are recommended for building locations
Prohibited Uses	<ul style="list-style-type: none"> • Rural Event Venue (See <i>Chapter 4: Rural Event Venue</i>) • Motorized off-road vehicle racing or other similar motor vehicle activities • Camping or overnight accommodations • Winery, brewery, or distillery not accessory to an active agricultural use • Temporary festivals or other events open to the public • Other uses that the Administrator and/or BZA determines would disturb the general peace and enjoyment of the rural and/or residential character of the surrounding area due to excessive traffic, noise, smoke, odors, visual clutter, or other nuisances

e. **Agritourism Procedures.**

- i. **Development Plan Required.** A development plan is required to construct and/or establish an agritourism operation in order to ensure that it meets all of the applicable building codes and regulations. A preliminary layout of the development plan shall be submitted at the time of application for special exception approval.
- ii. **Application Narrative.** Prior to the approval of any agritourism activity, a written narrative shall be submitted describing the use in detail, including both agriculturally related and non-agriculturally related products and uses; proposed hours of operation; measures that are to be taken to assure that the operation of the use will take place only in a safe and convenient manner; special events; and other information describing the use and which will assist the Administrator and/or the BZA in determining whether the application meets the requirements.

5. Campground and Recreational Vehicle Park.

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

Campground & RV Park Structure Standards	
Permitted Structures	<ul style="list-style-type: none"> • Temporary, non-permanent lodging structures, such as tents, recreational vehicles (RVs), camping trailers, and similar • Permanent shared facilities normally associated with a campground, such as a bathhouse or emergency shelter • Permanent structures for operation (such as office), maintenance, or storage facilities used in the campsite operations
Prohibited Structures	<ul style="list-style-type: none"> • Permanent or semi-permanent structures used or intended for dwellings or overnight accommodations, such as cabins, lean-tos, etc. • Any permanent structure that is located on an individual campsite
Campground & RV Park Site Standards	
Minimum Development Area	<ul style="list-style-type: none"> • 10 acres
Minimum Setback	<ul style="list-style-type: none"> • Governed by the subject zoning district but shall be at least 25 feet from local roads and 50 feet from all other roads.
Maximum Gross Density	<ul style="list-style-type: none"> • 10 campsites per acre
Minimum Separation of Campsites	<ul style="list-style-type: none"> • 25 feet between campsites
Minimum Campsite Area	<ul style="list-style-type: none"> • 990 sq ft per campsite
Access	<ul style="list-style-type: none"> • An entrance roadway from a public road shall be provided that is at least 24 feet in width • Internal roads must be paved
Internal Circulation	<ul style="list-style-type: none"> • All campsites shall gain access through an internal, private roadway; campsites shall not gain access from any public road • All internal roads shall be at least 10 feet in width for one-lane roads and at least 20 feet in width for two-lane roads • Fire and EMS shall approve site plan for adequate accessibility
Drainage	<ul style="list-style-type: none"> • All areas shall be well-drained and designed to provide sufficient space for camping activities, vehicles, sanitary facilities, and appurtenant equipment • All development shall comply with the applicable stormwater standards
Location	<ul style="list-style-type: none"> • Cannot be located in a floodplain or an area subject to periodic flooding • Cannot be located adjacent to swamps, marshes, railroads, stockyards, industrial sites, or other such locations which would constitute a health or safety hazard

d. **Campground and Recreational Vehicle Park Operational Standards.**

Campground & RV Park Operational Standards	
Duration of Stay	<ul style="list-style-type: none">• Maximum of 180 overnight stays within 12 consecutive months

e. **Campground and Recreational Vehicle Park Procedures.** All campgrounds and RV parks shall be required to obtain development plan approval.

6. Home-based Business (with outside employees).

- a. **Home-based Business Purpose.** The purpose of regulating and limiting commercial activities in residential dwellings or on residentially used parcels is to ensure that they are incidental and accessory to a legal residential dwelling, compatible with surrounding uses, and do not add significant traffic, noise, or other nuisances to the residential areas in which they are located.
- b. **Home-based Business General Standards.** RESERVED.
- c. **Home-based Business Development Standards.**

Home-Based Business Site Standards	
Location	<ul style="list-style-type: none"> • All business activity must be conducted entirely within the primary dwelling unit and/or entirely within a permitted accessory structure on the same parcel as the primary dwelling unit
Access	<ul style="list-style-type: none"> • No additional access points and/or driveways shall be permitted • Adequate measures shall be taken to maintain safety for trucks and vehicles entering the public roadway at slower speeds, including but not limited to, deceleration/acceleration lanes or passing blisters
Outdoor Storage	<ul style="list-style-type: none"> • Display of goods or products for sale is prohibited • All outdoor storage areas or areas used to park equipment or vehicles shall be: • Behind the rear elevation of the primary dwelling unit; and • Within a fully enclosed structure or have a solid fence, masonry wall, or continuous evergreen screen on all sides (excluding driveways) that is a minimum of 6 feet in height to provide screening from adjacent properties. Fences shall comply with all regulations of this UDO
Character	<ul style="list-style-type: none"> • There shall be no evidence on the exterior of the premises that the property is used in any way other than for a residential dwelling. All structures shall retain a residential character • No mechanical equipment shall be used that creates any electrical or other interference, noise, or impacts that are not normally associated with a residential use
Parking	<ul style="list-style-type: none"> • Parking shall comply with <i>Chapter 3: Parking and Loading Standards</i>
Signs	<ul style="list-style-type: none"> • Signs shall comply with <i>Chapter 3: Sign Standards</i>

d. Home-based Business Operational Standards.

Home-Based Business Operational Standards	
Employees	<ul style="list-style-type: none"> • Maximum 2 external employees allowed on site at one time • Does not include the resident(s)
Clients/Customers	<ul style="list-style-type: none"> • Maximum of 10 clients/business-related visitors allowed on site per day • No more than 2 present on the site at one time
Hours of Operation	<ul style="list-style-type: none"> • Business hours shall be limited to 7:00 am to 7:00 pm unless specified otherwise with the special exception approval or through an approved variance

- e. **Home-based Business Procedures.** All home-based businesses are required to obtain development plan approval.

7. Home Occupation (no outside employees).

- a. **Home Occupation Purpose.** The purpose of regulating personal home occupations in residential dwellings is to ensure these activities are incidental and accessory to a legal residential dwelling, compatible with surrounding uses, and do not add traffic, noise, or other nuisances than would be normally encountered within the districts they are located.
- b. **Home Occupation General Standards.** RESERVED.
- c. **Home Occupation Development Standards.**

Home Occupation Site Standards	
Location	<ul style="list-style-type: none"> • All business activity must be conducted entirely within the primary dwelling unit or entirely within a permitted accessory structure upon the same parcel as the primary dwelling unit
Access	<ul style="list-style-type: none"> • No additional access points and/or driveways shall be permitted
Outdoor Storage	<ul style="list-style-type: none"> • Outdoor storage (including equipment parking) or display of goods or products is prohibited
Context	<ul style="list-style-type: none"> • There shall be no evidence on the exterior of the premises that the property is used in any way other than for a residential dwelling. • All structures shall retain a residential character. • No mechanical equipment shall be used that creates any electrical or other interference, noise, or impacts that are not normally associated with a residential use
Parking	<ul style="list-style-type: none"> • Parking shall comply with <i>Chapter 3: Parking and Loading Standards</i>
Signs	<ul style="list-style-type: none"> • Signs shall comply with <i>Chapter 3: Sign Standards</i>
Deliveries	<ul style="list-style-type: none"> • No deliveries or pick-ups shall be allowed other than from commercial parcel delivery services (e.g., USPS, UPS, FedEx, DHL)

- d. **Home Occupation Operational Standards.**

Home Occupation Operational Standards	
Employees	<ul style="list-style-type: none"> • A home occupation shall not have any employees on-site other than the resident(s) of the primary dwelling and legally permitted accessory dwelling.
Clients and Customers	<ul style="list-style-type: none"> • Maximum of 3 clients/business-related visitors allowed on site per day • No more than 1 present on the site at one time

- e. **Home Occupation Procedures.** Home occupations are not required to obtain development plan approval. A site plan for approval showing compliance with all regulations of this UDO shall be provided for review only if a building permit is required.

8. Junkyard.

- a. **Junkyard Purpose.** The purpose of the junkyard standards is to ensure that both the operation and the existing land uses surrounding the operation are protected from the negative impacts that each may cause the other.
- b. **Junkyard General Standards.**
 - i. Upon receiving an appliance, vehicle, or other material, the battery, lubricants, fluids, coolants, refrigerants, and the similar components and shall be removed and recycled or disposed of same in accordance with all applicable state and federal laws regarding disposal of waste and hazardous materials.
 - ii. Combustible material which can be ignited by an ordinary match shall be placed or stored at least ten (10) feet from any fence or structure. No burning of any material shall occur on site.
 - iii. No junkyard shall be used as a dump by the public.
 - iv. No material shall be placed in any junkyard in such a manner that it is capable of being transferred out of the junkyard by wind, water, or other natural causes. The storing of loose paper and the spilling of flammable or other liquids into the ground, streams, or sewers are prohibited.
- c. **Junkyard Development Standards.**

Junkyard Site Standards	
Location	<ul style="list-style-type: none"> • No portion of a junkyard, impound lot, or salvage yard shall be located within an area designated as a special flood hazard area • No portion of a junkyard used for storage of any materials shall be within 500 feet of the property line of an existing residential use or parcel platted for residential use
Storage	<ul style="list-style-type: none"> • All storage of any junk, materials, or similar activity shall be within an enclosed building or fully screened with vegetation, berm, masonry wall, fence, or similar so it is not visible from any public street or adjacent parcel year-round
Fencing	<ul style="list-style-type: none"> • All fencing shall be securely locked unless being actively supervised for ingress or egress
Access	<ul style="list-style-type: none"> • A fire lane of at least 15 feet in width shall be maintained from the main entrance to a public street throughout the junkyard, so that no point of the junkyard shall be more than 200 feet from a fire lane • Internal driveways and fire lanes may be paved or gravel

- d. **Junkyard Operational Standards.** RESERVED.
- e. **Junkyard Procedures.** A development plan is required to construct and/or establish a junkyard in order to ensure that it meets all applicable building codes and regulations. If applicable, the development plan shall be submitted at the time of application for use approval.

9. Manufactured Home Park.

- a. **Manufactured Home Park Purpose.** The purpose of the Manufactured Home Park standards is to provide housing options for residents, ensure a high-quality living environment within a manufactured home park, and assist in providing alternative developments for single-family housing.
- b. **Manufactured Home Park General Standards.** Manufactured home parks are not exempt from the Flood Hazard Ordinance, DNR regulations, FEMA regulations, or any other state/federal regulations.
- c. **Manufactured Home Park Development Standards.**

Manufactured Home Park Structure Standards	
Structure Types	<ul style="list-style-type: none"> • Only manufactured homes are permitted as dwellings within a manufactured home park. No recreational vehicles (RVs), travel trailers, or similar vehicles shall be used as dwellings • No transient or non-permanent manufactured homes or travel trailers shall be located in a manufactured home park (except as allowed in this section) • Coin-operated laundries, recreational rooms, storm shelters, and similar amenities may be permitted in manufactured home parks
Structure Standards	<ul style="list-style-type: none"> • All manufactured homes shall comply with the structure standards in <i>Chapter 3: Manufactured Home Occupancy</i> • The minimum residential living area requirement of the underlying zoning district shall NOT apply
Manufactured Home Park Site Standards	
Minimum Lot Width (Overall Park/Site)	<ul style="list-style-type: none"> • 120 feet or as determined by the zoning district, whichever is greater
Minimum Lot Area (Overall Park/Site)	<ul style="list-style-type: none"> • 10 acres
Minimum Home Site Lot Area	<ul style="list-style-type: none"> • 2,000 sq ft or as determined by the zoning district, whichever is less
Minimum Separation between Any Structures	<ul style="list-style-type: none"> • 20 feet
Storage	<ul style="list-style-type: none"> • Wrecked, abandoned (unoccupied for more than 1 year and/or deemed unsafe by the Building Commissioner), damaged, or dilapidated manufactured homes shall not be kept or stored within the manufactured home park at any time • An open storage area may be provided within the park to store travel trailers, campers, and other recreational vehicles by residents. If open storage is provided, the minimum storage area shall be 200 square feet per home site and shall be fully screened with a solid fence or wall with a gate that is at least 6 feet in height • Campers shall not be occupied or stored on any home site • Each park shall provide either one or more central storage structures available to all manufactured home sites or a single storage structure for each manufactured home site. Such structures shall be waterproof, so they remain relatively unaffected by water and/or weather and are suitable for storage of goods and the usual effects of persons occupying the park
Bufferyards and Fencing	<ul style="list-style-type: none"> • The perimeter of each manufactured home park shall be fully screened with a solid fence or wall that is a minimum of 6 feet in height unless the required bufferyard (see <i>Chapter 3: Landscaping and Buffer Standards</i>) specifies a higher standard
Parking and Loading	<ul style="list-style-type: none"> • All parking areas shall be paved and comply with <i>Chapter 3: Parking and Loading Standards</i>

Lighting	<ul style="list-style-type: none"> Each manufactured home park shall provide streetlights at the entrance and at least every 500 feet along internal roads. Maintenance of all lighting and monthly services fees shall be the responsibility of the park owner All lighting shall comply with <i>Chapter 3: Lighting Standards</i>
Sidewalks	<ul style="list-style-type: none"> Sidewalks that are a minimum of 4 feet in width shall be provided on at least one side of all internal roads A minimum of a 3-foot-wide sidewalk shall be provided to each individual home site from the nearest public sidewalk, street, or parking area. All sidewalk connections shall be paved with a suitable material for use in all weather conditions
Roads	<ul style="list-style-type: none"> Each home site shall have direct access to a public or private roadway Design of all entrances and internal roads, public or private, shall provide for emergency vehicle access and be approved by the Fire Department and EMS All internal roads shall be paved, installed by the applicant, and built to the standards outlined in applicable standards and specifications. All private roads shall be maintained by the property owner
Drainage	<ul style="list-style-type: none"> All drainage shall comply with the applicable drainage ordinance
Community Facility & Storm Shelter	<ul style="list-style-type: none"> At least 1 indoor community facility shall be provided for the park that provides recreational space for the park occupants as well as a storm shelter that meets the minimum requirements in the ICC 500 standard for occupants during severe weather The area of the community facility shall be at least 200 square feet or 1% of the park's gross acreage, whichever is greater
Recreational Area	<ul style="list-style-type: none"> Each park shall provide and maintain a recreational area(s) (such as open space, playground, dry detention areas, etc.) equal in size to at least 20% of the area of the park in a central location(s). Maintenance of all recreational and public areas shall be enforced as allowed by this UDO and all applicable property maintenance ordinances

d. **Manufactured Home Park Operational Standards.**

Manufactured Home Park Operational Standards	
Resident Manager	<ul style="list-style-type: none"> A resident manager or park manager shall be required to oversee that the ordinances and laws regulating the manufactured home park are observed The resident manager or park manager shall reside on-site, and a designated person shall be accessible to contact 24 hours a day and 7 days a week for emergencies
Register of Residents	<ul style="list-style-type: none"> In accordance with <i>IC 16-41-27-31</i>, every manufactured home park shall maintain a current register of all occupants, which shall include, at a minimum, the names of all persons residing in the manufactured home park; the make, type and serial or license number of each manufactured home; and a location of the space occupied The park owner shall provide the list, and any updates, to the Assessor's Office

e. **Manufactured Home Park Procedures.** All campgrounds and RV parks shall be required to obtain development plan approval.

10. Rural Event Venue (Permanent and Temporary).

- a. **Rural Event Venue Purpose.** The purpose of the Rural Event Facility standards is to ensure that the use and establishment of the event facility, either permanent or temporary, remains accessory to the residential or agricultural use of the property and does not have a negative impact on the surrounding agricultural or residential areas and/or uses.
- b. **Rural Event Venue General Standards.**
 - i. Temporary Venues. Short-term activities or events that are not reoccurring, do not have permanent or semi-permanent structures, and/or similar temporary operations shall occur no more than three (3) consecutive days and not more than one (1) time per calendar year. Examples of temporary venues include, but are not limited to, fairs, rural races/rides, one-time weddings, etc.
 - ii. Permanent Venues. Activities or events that are reoccurring and have operations that reflect a permanent business are not limited on the number of consecutive days of operation or number of occurrences per year. Examples of permanent venues include, but are not limited to, wineries, agricultural wedding venues, etc.
- c. **Rural Event Venue Development Standards.**

Rural Event Venue Site Standards	
Minimum Lot Area	<ul style="list-style-type: none"> • 3 acres
Minimum Setbacks	<ul style="list-style-type: none"> • Minimum setbacks for the zoning district apply to all permanent and temporary structures, including tents, canopies, stages, dance floors, and similar
Dust Control	<ul style="list-style-type: none"> • Dust shall be minimized by reducing vehicle speeds on driveways and parking areas. During dry conditions, the application of water or other approved dust controlling measure is required • Parking areas may be gravel or paved and shall comply with all other standards of <i>Chapter 3: Parking and Loading Standards</i>
Lighting	<ul style="list-style-type: none"> • All outdoor lighting associated with the special event shall be turned off by 10:00pm (weekdays) or 11:00pm (weekends) and conform to <i>Chapter 3: Lighting Standards</i>
Rural Event Venue Utility Standards	
Sewage Disposal and Water Supply	<ul style="list-style-type: none"> • The facility shall provide a potable domestic water supply and an on-site sewage disposal/storage or sewer service connection necessary to accommodate the special event that is approved by the County Health Department

d. **Rural Event Venue Operational Standards.**

Rural Event Venue Operational Standards	
Hours of Operation	<ul style="list-style-type: none"> • All events shall be limited to the hours of 8:00am to 10:00pm (weekdays) or 11:00pm (weekends). All events shall comply with all applicable local nuisance and noise ordinances

e. **Rural Event Venue Procedures.**

- i. Development Plan Required. A development plan is required to construct and/or establish a temporary or permanent rural event venue in order to ensure that it meets all of the applicable building codes and regulations. The development plan shall include:
 - (a) A plan for traffic, parking, sewage disposal/storage, and circulation plan.
 - (b) Documentation of all required state and local permits and licenses.
- ii. Findings. In addition, the BZA may make specific findings and may establish conditions relative to:
 - (a) The physical design and operating characteristics of the facility;
 - (b) The intensity of the proposed use and density of the surrounding area;
 - (c) The distance to surrounding sensitive elements, including residents and livestock;
 - (d) The type of sound potentially generated by the facility and what allowances for amplified sound may take place;
 - (e) The allowed number of events per year and the frequency of events;
 - (f) Traffic, parking, and vehicle circulation;
 - (g) Sewage disposal and/or storage; and
 - (h) Compliance with all state and local permits and licenses.

11. Solar Energy Systems (SES), Accessory.

- a. **Accessory Solar Energy System Purpose.** In addition to minimizing impacts on adjacent properties, the purpose of these standards is to allow for energy collection, storage, and distribution that is accessory to another use and intended to be used on-site.
- b. **Accessory Solar Energy System General Standards.**
 - i. Accessory SES are a permitted accessory use in all zoning districts where accessory structures are allowed, subject to certain requirements as set forth in this UDO.
 - ii. Solar Carport SES and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building.
 - iii. Building-integrated SES and roof-mounted SES are permitted on any legally permitted structure, provided the structure is designed to adequately and safely accommodate the SES.
 - iv. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated SES and are regulated as awnings under this UDO.
 - v. Ground-mounted SES shall not count toward the maximum number of accessory structures permitted.

c. **Accessory Solar Energy System Development Standards.**

Accessory Solar Energy System Site Standards	
Height	<ul style="list-style-type: none"> • As allowed by the zoning district but cannot exceed 15 feet for ground-mounted and pole-mounted SES • Height is measured at maximum design tilt
Setbacks	<ul style="list-style-type: none"> • All setbacks, measured at maximum design tilt, are determined by the zoning district except: • Ground-mounted SES. Ground-mounted SES cannot be located in front of the front facade of the primary structure and shall comply with setbacks except as otherwise allowed for building mechanical systems. • Building-integrated SES and roof-mounted SES. • The collector surface and mounting devices may only extend beyond the exterior perimeter of the building on which the system is mounted or built if designed to safely extend beyond the perimeter by a Professional Engineer licensed to practice in the State of Indiana and the minimum setbacks are met. • Exterior piping for solar hot water systems may extend beyond the perimeter of the building on a side or rear yard if the minimum setbacks are met.
Screening & Visibility: Residential Districts	<ul style="list-style-type: none"> • Accessory SES in residential districts shall be designed to minimize visual impacts from the public right-of-way, as described within this section, to the extent that it does not affect the cost or efficacy of the system, consistent with <i>IC 36-7-2-8</i>. • If reflectors are used, the glare impacting adjacent properties should be minimized. • Building-integrated SES are not required to comply with screening and visibility standards. • Roof-mounted systems on a pitched roof that have the same finished pitch as the roof and are no more than 10 inches above the finished roof do not have to comply with aesthetic standards. • Roof-mounted systems on a flat roof that are no more than 5 feet above the finished roof do not have to comply with aesthetic standards
Maximum Impervious Surface Coverage	<ul style="list-style-type: none"> • Maximum impervious surface coverage is determined by the zoning district except: • Ground-mounted SES do not count towards the maximum impervious surface coverage if the soil under the collector is maintained in vegetation and not compacted. • Solar carport SESs in non-residential districts are exempt from the maximum impervious surface coverage

d. **Accessory Solar Energy System Operational Standards.** RESERVED.

e. **Accessory Solar Energy System Procedures.**

- i. Development Plan. Accessory SES are not required to obtain development plan approval but shall submit a site plan for approval with any building permit application showing compliance with all regulations of this UDO.
- ii. Compliance with Applicable Codes. All accessory use solar energy systems shall meet approval of local building code officials, consistent with the current State of Indiana Building Code and the National Electrical Code (NEC), and solar thermal systems shall comply with HVAC-related requirements of the Energy Code.
- iii. Permit Required. All accessory SES are required to obtain a building permit prior to installation.

- iv. **Approved Solar Components.** Electric solar energy system components must have an Underwriters Laboratory (UL), or equivalent listing, and solar hot water systems must have a Solar Rating & Certification Corporation (SRCC) or equivalent rating.
- v. **Utility Notification.** It is recommended that the interconnection application be submitted to the utility prior to applying for required permits. Grid-tied solar energy systems shall comply with interconnection requirements of the electric utility, if applicable. Off-grid systems are exempt from this requirement.

12. Wind Energy Systems.

- a. **Wind Energy Systems Purpose.** The purpose of these regulations is to create a set of basic standards regulating the development, operation, and decommissioning of wind power devices for both commercial and personal use.
- b. **Wind Energy Systems General Standards.**
 - i. Wind energy systems are defined in *Chapter 10: Definitions*, are classified as a mini, small, or commercial wind energy system.
 - ii. The design and construction of all wind energy systems shall meet the following standards:
 - (a) All applicants shall construct, operate, maintain, repair, provide for removal of, modify and/or restore the permitted system in strict compliance with all current applicable local, state, and federal technical and safety-related codes, including, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes and regulations. In the event of a conflict between or among any of the preceding, the more restrictive shall apply.
 - (b) All applicants shall obtain, at their own expense, all permits and licenses required by applicable laws, rules, regulations, and/or codes, and the applicant must maintain the applicable permits and licenses, in full force and effect, for as long as required by the jurisdiction or any other governmental entity or agency having jurisdiction over the applicant.
 - (c) All applicants shall notify the Administrator of any intended modification of a mini, small, or commercial wind energy system and shall make application to modify the height, relocate or rebuild such structure.
 - (d) All wind energy systems shall conform to applicable industry standards of the American National Standards Institute (ANSI) and be approved by a wind certification program recognized by the American Wind Energy Association. All systems that are over twenty-five (25) feet in height must be designed by a Professional Engineer licensed to practice in the State of Indiana. The engineer must certify that the foundation and tower constructed for all structures is within acceptable code and industry standards—given local soil and climate conditions.

c. **Wind Energy Systems Development Standards.**

ALL Wind Energy System Site Standards	
These development standards apply to ALL wind energy systems	
Location	<ul style="list-style-type: none"> • Unless waived with written consent from the owner(s) of each impacted nonparticipating property and/or easement, all wind devices shall comply with all of the following minimum setbacks, with setback measured as a straight line from the vertical centerline of the device base and height measured from the ground elevation at the base of the device to the tip of the blade fully extended upward. • 1.1 times the height of the wind power device to the: <ul style="list-style-type: none"> • Centerline of any runway (public use airport, private use airport, or municipal) • Centerline of any public use highway, street, or road • Centerline of any railroad, easement, or right-of-way • Property line of any nonparticipating property • 1.2 times the height of the wind power device to the nearest edge of the right-of-way or easement for any utility transmission or distribution line • 2 times the height of the wind power device to the property line of any undeveloped land that is zoned or platted for residential use. • 3 times the height of the wind power device to the nearest point on the outer wall of a dwelling located on a nonparticipating property
Height	<ul style="list-style-type: none"> • With respect to the permitting, construction, installation, or siting of any wind power device within the jurisdiction, the jurisdiction may not limit the blade tip height, through a wind power regulation or otherwise, that is more restrictive than the standards of the FAA under 14 CFR Part 77 concerning the safe, efficient use and preservation of the navigable airspace.

Commercial Wind Energy System Development Requirements

These development standards only apply to commercial wind energy systems
(they do not apply to mini or small wind energy systems)

Impact on Communication Signals	<ul style="list-style-type: none"> • All wind power devices must be installed in a manner to minimize and mitigate impacts to: • television signals; • microwave signals; • agricultural global positioning systems; • military defense radar; • radio reception; and • weather and doppler radar
Noise	<ul style="list-style-type: none"> • Unless waived with written consent from the owner(s) of each impacted non-participating property or as otherwise allowed by <i>IC 36-7-4-1109</i>, no wind power devices shall be installed without providing documentation that all devices will operate in a manner such that the sound attributable to the wind power device(s) will not exceed an hourly average sound level of fifty (50) A-weighted decibels, as modeled at the outer wall of an affected dwelling
Lighting	<ul style="list-style-type: none"> • As used in this section, "wind turbine light mitigation technology" means any technology used in connection with a wind power device to shield, limit, or otherwise mitigate the amount, intensity, character, or visibility of light emitted from the wind power device. • Except as otherwise allowed by <i>IC 36-7-4-1109</i> after January 1, 2023, or to the extent permissible under federal law or regulations, all wind power devices must be equipped with a wind turbine light mitigation technology, unless: • The FAA denies the project owner's application to use a wind turbine light mitigation technology; • The wind turbine light mitigation technology application is pending review by the appropriate federal agencies; or • The project owner determines that the use of a wind turbine light mitigation technology is not economically feasible.
Drainage	<ul style="list-style-type: none"> • For all wind power devices that are constructed or installed after June 30, 2022, or as otherwise allowed by <i>IC 36-7-4-1109</i>, all damages to waterways, drainage ditches, field tiles, or other drainage related infrastructure caused by the construction, installation, or maintenance of a wind power device must be completely repaired by the project owner or remedied with the installation of new drainage infrastructure that does not impede the natural flow of water. All repairs are subject to applicable federal, state, and local drainage laws and regulations, must be completed within a reasonable period of time, and: • Completed to the satisfaction of the Administrator; and • Completed as stated in an applicable lease or another agreement with the landowner
Signs	<ul style="list-style-type: none"> • All commercial wind energy systems and their appurtenant structures shall contain a sign(s) no larger than four (4) square feet each that: • Provides the name(s) of the owner(s) and operator(s) of the commercial wind energy systems as well as emergency phone number(s) that are visible from the access point(s) of the site and not lighted, unless lighting is required by applicable law, rule, or regulation. • Provides a warning concerning voltage that is placed at the base of all pad-mounted transformers and substations in a conspicuous location. • No other signage, including advertising, shall be permitted.

d. **Wind Energy Systems Operational Standards.**

Commercial Wind Energy System Operational Standards	
These operational standards only apply to commercial wind energy systems (they do not apply to mini or small wind energy systems)	
Shadow Flickering Modeling	<ul style="list-style-type: none"> • Unless waived with written consent from the owner(s) of each impacted nonparticipating property or as otherwise allowed by <i>IC 36-7-4-1109</i>, no wind power devices shall be installed without providing documentation that: • The project owner has used shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by the wind power device; and • The wind power device(s) has been designed and documentation using industry standard computer modeling is provided that indicates that any dwelling on a nonparticipating property will not experience more than thirty (30) hours per year of shadow flicker under planned operating conditions for the wind power device(s). • After any wind power device is installed or located, the project owner shall work with the property owner of any affected dwelling on a nonparticipating property to mitigate the effects of shadow flicker to the extent reasonably practicable.
Decommissioning and Bonding	<ul style="list-style-type: none"> • Except as otherwise allowed by <i>IC 36-7-4-1109</i>, no wind power devices shall be installed unless the project owner: • Submits a decommissioning and site restoration plan to the Administrator that adequately outlines how the site would eventually be decommission. • Provides estimated decommissioning costs, including reevaluations of these costs at the timelines outlined below, that are calculated by a third party licensed or registered engineer (or by another person with suitable experience in the decommissioning of wind power devices) and agreed upon by the project owner and the permit authority. • The total estimated decommissioning costs shall be net of any estimated salvage value attributable to the wind power device(s) at the time of decommissioning unless the Administrator and the project owner agree to include any such value in the estimated cost. • Posts a surety bond or an equivalent means of security acceptable to the permit authority, including a parent company guarantee or an irrevocable letter of credit but excluding cash, in an amount equal to the estimated cost of decommissioning the wind power device(s) in the following increments. The total amount of the bond or other security posted under this section shall be adjusted due to changes in costs after each reevaluation. • An amount equal to 25% of the total estimated decommissioning costs no later than the start date of the wind power device's full commercial operation. This amount shall be adjusted at the 5th anniversary and 10th anniversary of the start date of the wind power device's full commercial operation based on reevaluations. • An amount equal to 50% of the total estimated decommissioning costs not later than the 15th anniversary of the start date of the wind power device's full commercial operation. • An amount equal to 100% of the total estimated decommissioning costs not later than the 20th anniversary of the start date of the wind power device's full commercial operation. This amount shall be adjusted based on reevaluations at least once every 5 years after the 20th anniversary of the start date of the wind power device's full commercial operation. • Any person or corporation who shall fail to comply with the decommissioning and/or bonding requirements herein shall for each, and every violation of non-compliance be liable for civil penalties to the PC of up to the maximum amount allowed by state law. Each day that the violation exists or continues shall be deemed a separate offense. The PC's attorney shall have the right to commence proceedings for an injunction, to restrain a person from violating this Ordinance, and/or for a mandatory injunction requiring that a structure in violation of this Ordinance be removed. The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedy provided by law.
Liability Insurance	<ul style="list-style-type: none"> • The owner or operator of any commercial wind energy systems shall maintain a current general liability policy covering bodily injury and property damage and names the jurisdiction as an additional insured. The applicant shall provide proof of liability coverage in a form acceptable to the jurisdiction's Attorney that includes dollar amount limits per occurrence, aggregate limits, and deductible amount.

e. Wind Energy Systems Procedures.

- i. Mini or small wind energy system structures that are established to serve an existing agricultural use do not require development plan approval but shall submit a site plan for approval with any building permit application showing compliance with all regulations of this UDO. These structures may not exceed forty-five (45) feet in height and must be situated at least fifty (50) feet from all property lines and overhead utility easements to be exempt from the provisions set forth in this UDO. An ILP is required and must be applied for and approved prior to any site work.
- ii. Applications for the modification of an existing structure that does not increase the overall height, or appearance shall be considered a permitted use if it was legally permitted and/or approved previously.
- iii. If it is determined that the application meets the purpose, intent, and standards of this ordinance, the application shall be approved. If it is determined that the application does not meet the purpose, intent, and/or standards of this ordinance, the application shall be denied with the specific reasons detailed.
- iv. No wind system of any type shall be installed or constructed until the application is reviewed and approved by the Administrator, and a permit has been issued. The jurisdiction may at its discretion delegate or designate other official agencies to accept, review, analyze, evaluate, and make recommendations with respect to the approval, or denial, of proposed wind systems.
- v. Any permit issued for wind system shall not be assigned, transferred, or conveyed without the express prior written notification to the Administrator.

13. Wireless Communication Facility.

- a. **Wireless Communication Facility Purpose.** It is the purpose of this section to allow for the appropriate siting of new wireless communication facilities in the jurisdiction in compliance with current state statute procedures. The regulations set forth in this ordinance allow for and regulate wireless communication facilities while also taking into consideration the health, safety, and general character of the surrounding neighborhood.
- b. **Wireless Communication Facility General Standards.** In accordance with *IC 8-1-32.3* and notwithstanding *IC 36-7-4* or any rules adopted by the BZA, the following provisions apply to all applications submitted under this section:
 - i. Limitation on Fees.
 - (a) The Administrator may not require an applicant to pay a fee associated with the submission, review, processing, or approval of an application unless the payment of the same or a similar fee for applications for permits for similar types of commercial or industrial structures within the applicable jurisdiction.
 - (b) If a fee associated with the submission, review, processing, or hearing of an application, including a fee imposed by a third party that provides review, technical, or consulting assistance to the Administrator, the fee must be based on actual, direct, and reasonable costs incurred for the review, processing, and hearing of the application.
 - (c) A fee described in this section may not include:
 - (1) Travel expenses incurred by a third party in its review of an application; or
 - (2) Direct payment or reimbursement of third-party fees charged on a contingency basis.
 - ii. Non-discrimination. The Administrator or the BZA may not discriminate among communications service providers or public utilities with respect to the following:
 - (a) Approving applications, issuing permits, or otherwise establishing terms and conditions for construction of wireless or wireline communications facilities.
 - (b) Authorizing or approving tax incentives for wireless or wireline communications facilities.
 - (c) Providing access to rights-of-way, infrastructure, utility poles, river and bridge crossings, and other physical assets owned or controlled by the applicable jurisdiction.
 - iii. Fall Zone Limitation. The Administrator or the BZA may not impose a fall zone requirement for a wireless support structure that is larger than the area within which the structure is designed to collapse, as set forth in the applicant's engineering certification for the structure. However, a fall zone requirement that is larger than the area described above may be imposed if the Administrator or the BZA provide evidence that the applicant's engineering certification is flawed. This evidence must include a study performed by a professional engineer.
 - iv. All Other Land Use and Development Standards Apply. These additional rules do not affect the ability of the applicable jurisdiction to exercise other zoning, land use, planning, or other development standards with respect to the siting of new wireless support structures; or

exempt the applicant from complying with applicable laws and ordinances concerning land use.

- v. **Federal Standards Apply.** In reviewing applications and conducting hearings, the Administrator and the BZA shall comply with all applicable provisions of *Section 332(c)(7)(B) of the Federal Telecommunications Act of 1996* as in effect on July 1, 2015, and *Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012* as in effect on July 1, 2015.
 - vi. **Information Not Required.** Neither the Administrator nor the BZA may require an applicant to submit information about or evaluate an applicant's business decisions with respect to the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.
 - vii. **Confidential Materials.** All meetings of the BZA are subject to the Open Door Law in accordance with *IC 5-14-1.5*. However, neither the Administrator nor the BZA may release to the public any records that are required to be kept confidential under Federal or State law, including the trade secrets of applicants, as provided in the Access to Public Records Act (*IC 5-14-3*) and any other applicable laws.
 - viii. **Consolidation of Multiple Applications.** The Administrator shall allow an applicant to submit a single consolidated application to collocate multiple wireless service facilities, or for multiple small cell facilities that are located within the applicable jurisdiction and that comprise a single small cell network. Whenever a consolidated application is approved, the Administrator shall issue the applicant a single ILP for the multiple facilities, or for the small cell network, in lieu of issuing multiple permits for each respective facility.
 - ix. **Conditions for Use of Utility Poles or Towers.** Neither the Administrator nor the BZA may require or impose conditions on an applicant regarding the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.
- c. **Wireless Communication Facility Development Standards.** RESERVED.
- d. **Wireless Communication Facility Operational Standards.** RESERVED.
- e. **Wireless Communication Facility Procedures.**
- i. **Permits Required.** Wireless facilities shall not be constructed, erected, placed, modified, or altered until an ILP has been obtained.
 - ii. **Application Required.** In accordance with *IC 8-1-32.3*, the following procedures shall apply to the application and approval for construction of a new wireless support structure, substantial modification of a wireless support structure, or collocation of wireless facilities on an existing structure.
 - (a) **Complete Application.** To be considered complete, the following information must be submitted with an application for a new wireless support structure, a substantially modified wireless support structure, or collocation of a wireless facility:
 - (1) Applicant Information.

- (a) A statement that the applicant is a person that either provides wireless communications service or owns or otherwise makes available infrastructure required for each service; and
 - (b) The name, business address, and point of contact for the applicant.
- (2) Location.
- (a) The location of the proposed or affected wireless support structure or wireless facility; and
 - (b) Evidence supporting the choice of the location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:
 - (1) Would not result in the same wireless service functionality, coverage, and capacity;
 - (2) Is technically infeasible; or
 - (3) Is an economic burden to the applicant.
 - (c) Construction Plan. A construction plan that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.
 - (d) Findings of Fact. For an application that requires a Special Exception, evidence showing that the application complies with the applicable criteria shall be submitted. The criteria for a Special Exception under *IC 36-7-4-918.2* shall comply with *Chapter 5: BZA Petition Procedures*.
- (b) Review of Application.
- (1) Prompt Review. Upon receipt of an application for a new or significantly modified wireless support structure, the Administrator shall promptly review it for completeness. Within ten (10) business days of receiving the application, the Administrator shall notify the applicant of whether the application is complete and whether a public hearing will be required.
 - (2) Failure to Notify. If the Administrator fails to notify the applicant within ten (10) business days whether the application is complete shall be considered a non-final zoning decision in accordance with *IC 36-7-4-1602(c)*, with the applicant consequently entitled to expedited judicial review of the non-final zoning decision.
- (c) Public Hearing.
- (1) Public Hearing Required. When a public hearing is required for a Special Exception, the BZA shall conduct the hearing and take final action within a reasonable period of time.

- (1) Public Hearing Not Required. When a public hearing is not required, the Administrator shall take final action on the request within a reasonable period of time after the application is filed.
- (2) Deadline for Final Action. For purposes of this section, "reasonable period of time" shall be determined as follows:
 - (a) Collocation Only. If the request involves an application for collocation only, a reasonable period of time is not more than forty-five (45) days from the date that the applicant is notified by the Administrator that the application is complete. An application for collocation only is not subject to a public hearing before the BZA, but the Administrator may review the application for compliance with applicable building code requirements before issuing an ILP.
 - (b) New Wireless Support Structure. If the request involves an application for an ILP to construct a new wireless support structure, a reasonable period of time is not more than ninety (90) days from the date that the applicant is notified that the application is complete. The BZA shall conduct a public hearing on the request and shall make a decision on the request at the meeting at which it is first presented. Decisions made by the BZA after a public hearing conducted in accordance with this section are considered zoning decisions for purposes of *IC 36-7-4* and are subject to judicial review under the *IC 36-7-4-1600 series*.
 - (c) Substantial Modification of a Wireless Support Structure. If the request involves an application for an ILP for substantial modification of a wireless support structure, a reasonable period of time is not more than ninety (90) days from the date that the applicant is notified that the application is complete. The BZA shall conduct a public hearing on the request and shall make a decision on the request at the meeting at which it is first presented. Decisions made by the BZA after a public hearing conducted in accordance with this section are considered zoning decisions for purposes of *IC 36-7-4* and are subject to judicial review under the *IC 36-7-4-1600 series*.
- (3) Additional Time for Application Amendment. If an applicant has requested additional time to amend its application or requested or agreed to a continuance during the review or hearing process, then the period of time prescribed above shall be extended for a corresponding amount of time.
- (4) Failure to Take Action. Failure by the Administrator or the BZA to take final action on a request within a reasonable period of time shall be considered a non-final zoning decision in accordance with *IC 36-7-4-1602(c)*, with the applicant consequently entitled to expedited judicial review of the non-final zoning decision.

Zoning Administration and Procedures

A. General Provisions.

1. Compliance with Procedures and Standards.

- a. All development of land and uses of land shall be carried out in accordance with the following in order to achieve orderly, planned, efficient, and responsible growth:
 - i. All applicable regulations and procedures within this UDO;
 - ii. All requirements outlined in the applicable application packet(s), including submittal deadlines;
 - iii. All rules and procedures established by the PC Rules and Procedures and/or BZA Rules and Procedures, including meeting dates or schedule; and
 - iv. Any additional standards, conditions, or commitments that may have been required by the PC, BZA, legislative body, or other permitting entity as part of other or previous approvals for a parcel.
- b. The regulations of this UDO shall be considered the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the residents of the jurisdiction.
- c. No building permit or improvement location permit shall be issued for any parcel that does not comply with all provisions of this UDO, including all standards and required procedures.
- d. The PC and/or BZA may require a traffic impact study to be completed by the applicant when considering applications for zone map changes, development plans, or other applications if the PC determines traffic analysis is needed.

B. Appeal of Administrative Decision Procedures.

PROCESS AND PROCEDURES FOR APPEALS

(Any decision/interpretation/order/action made by Staff in applying the standards of the UDO)

1 APPLICATION

- Explanation of decision and justification supplied by Staff and Applicant.

2 PUBLIC HEARING

- AFFIRM Staff's decision with or without conditions.
- REVERSE Staff's decision with or without conditions.
- MODIFY Staff's decision with or without conditions.

1. Applicability.

- In accordance with *IC 36-7-4-918.1* and the *BZA Rules and Procedures*, the BZA shall hear and determine appeals as outlined in this section.
- As outlined by *IC 36-7-4-918.1*, the BZA shall hear appeals from and review an appeal to any order, requirement, decision, or determination made by:
 - An administrative official, hearing officer, or staff member under the UDO;
 - Other body (except the PC) in relation to the enforcement of the UDO; or
 - An administrative board or other body (except the PC) in relation to the enforcement of an ordinance adopted under this UDO requiring an ILP or BP.
- Appeals shall be made pursuant to and governed by *IC 36-7-4-1000 thru 36-7-4-1020*.
- Zoning decisions, as outlined in *IC 36-7-4-1016*, cannot be appealed to the BZA and are subject to judicial review by filing a petition for review in the appropriate court in accordance with the *IC 36-7-4-1600 series*. This includes, but is not limited to, final decisions of the BZA, specific decisions of the PC, and those specifically outlined in *IC 36-7-4-1016*.

2. STEP 1: Application Submittal.

- Application Required. The applicant shall submit a complete application for appeal in accordance with the application requirements. The application shall be submitted within thirty (30) days of the decision/interpretation that is the subject of the appeal.
- Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a date for public hearing.

- c. Public Notice by Applicant. Notice of public hearing shall be in accordance with the BZA Rules and Procedures. The Administrator may have the BZA automatically continue the petition to their next regular meeting (or a properly noticed special meeting) without requiring additional notice by the applicant.

3. STEP 2: BZA Public Hearing and Final Decision.

- d. BZA Public Hearing. The BZA shall consider the appeal at a public hearing. The applicant shall be in attendance to present their appeal and address any questions or concerns of the BZA.
- e. Final Decision by the BZA. The BZA may affirm, reverse, or modify the order, requirement, decision, or determination that is the subject of the appeal. The BZA may also add conditions to this decision.
- f. Appeal. The decision of the BZA may be appealed to the Circuit or Superior Court of the applicable jurisdiction.

C. Development Plan Procedures.

PROCESS AND PROCEDURES FOR DEVELOPMENT PLANS

(Administrative approval for the development of property for uses other than single-family or two-family residential prior to obtaining a building permit, in accordance with IC 36-7-4-1400 series)

1 APPLICATION

- Internal review by Administrator.
- Revise and resubmit plans per TAC comments.

2 ADMINISTRATIVE APPROVAL

- Administrator makes final decision (or optional PC consideration at a public meeting).



3 CONSTRUCTION & DEVELOPMENT

1. Applicability.

- In accordance with *IC 36-7-4-1400 series* and the *PC Rules and Procedures*, the PC shall hear and make decisions regarding development plans.
- Development plan approval is not required for single-family, two-family, or agricultural uses (excluding confined feeding operations) unless otherwise stated in this UDO. For all other uses, development plan approval is required for all new primary structures or modifications of a parcel in all zoning districts as required by this UDO.

2. STEP 1: Pre-Application Meeting and Application Submittal.

- Pre-Application Meeting Required. Prior to filing an application for development plan, the applicant shall schedule a required pre-application meeting with the Administrator, which may be held in-person, virtually (video conference), or by phone. This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the requirements and regulations for development.

- b. Application Required. The applicant shall submit a complete application for development plan approval in accordance with the application requirements.
- c. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a file number and create a public file.
- d. Internal Review.
 - i. The Administrator shall forward the plans to the Technical Advisory Committee (TAC) and for technical review and assign a deadline for receiving internal review comments from the TAC. At the discretion of the Administrator, the TAC review can be held in-person, virtually (video conference), by phone, or by email.
 - ii. The Administrator shall compile a written report for the applicant, PC, and the public file with comments from the staff review, TAC, and/or any other reviews, as applicable.
 - iii. After the internal review, the applicant shall make the necessary modifications to the application materials to satisfy the Administrator and resubmit the plans for review.
- e. Public Notice. No public hearing/comment or public notice is required for development plans. Development plans are administratively approved and do not require a public meeting.

3. STEP 2: Final Decision.

- a. Decision by the Administrator.
 - i. Approval. If the revised plans adequately addressed the comments from the internal review and the development plan complies with the standards set forth in this UDO, the Administrator shall approve the plan.
 - ii. Denial. If the revised plans have not adequately addressed the comments from the internal review, the Administrator may require additional internal review and/or the resubmittal of revised plans before reconsidering the plans.
 - iii. Comments Contested – Request Decision by PC.
 - (a) Request Decision by PC. If the revised plans have not adequately addressed the comments from the internal review because the applicant disagrees with the comment(s), the applicant may submit a request for a public meeting before the PC in writing along with an explanation of disagreement. The Administrator shall also have the right to send a development plan to a public meeting of the PC for final consideration. Upon receipt of this written request, the Administrator shall set a date for a public meeting by the PC.
 - (b) Public Notice. Public notice is not required for a development plan decision by the PC.
 - (c) Public Meeting. The PC shall consider the development plan at a public meeting. A public hearing and public comment are not required. The applicant or their representative shall be in attendance to present their plan and address any questions or concerns of the PC.
 - (d) Decision by the PC. The PC shall consider the contested comments before making a final decision on the development plan. The PC shall approve, approve with conditions, or deny the development plan.

- iv. Final Plans. A development plan is not considered final and ready for construction until revised plans have been received and approved by the Administrator per the terms of the Administrator's or PC's decision.
- b. Expiration. In accordance with *IC 36-7-4-1109*, approval of a development plan shall be valid for two (2) years from the date of approval.
- c. Amendment. An amendment to a development plan shall follow the same procedures for a new application as outlined in this section for development plan approval.

4. STEP 3: Construction and Development Process.

- d. Required Permits. After a development plan is approved, the construction of improvements shall occur in accordance with the procedures set forth in *Chapter 8: Construction Procedures*. Construction cannot occur and permits cannot be issued prior to development plan approval.

D. BZA Petition Procedures.

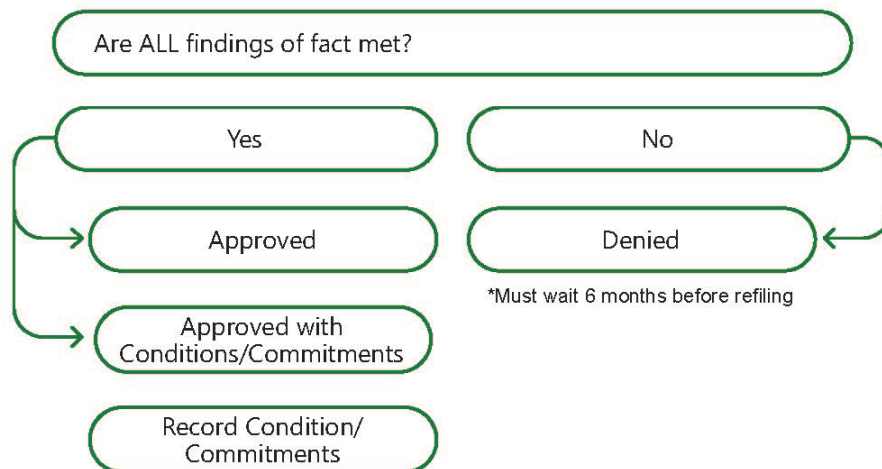
PROCESS AND PROCEDURES FOR BZA PETITIONS

(Special Exceptions, Variances from Development Standards, and Variances of Use)

1 APPLICATION

- Optional Internal review by TAC.

2 BZA PUBLIC HEARING



1. Applicability.

- In accordance with *IC 36-7-4-918.2* for special exceptions, *IC 36-7-4-918.5* for variances from development standards, and the *BZA Rules and Procedures*, the BZA shall hear and make decisions regarding special exceptions, variances from development standards, and variances of use. The BZA may require that impact studies be performed at the expense of the applicant prior to deciding upon a special exception or variance of use.
- Uses permitted by special exception in the subject zoning district may be permitted by the BZA in the districts indicated in accordance with the procedures set forth in this section.
- The BZA may approve a variance from the required development standards in accordance with the procedures set forth in this section.
- The BZA may approve a variance of use in accordance with the procedures set forth in this section.

2. STEP 1: Pre-Application Meeting and Application Submittal.

- Pre-Application Meeting Required. Prior to filing an application for special exception or variance from development standards, the applicant shall schedule a pre-application meeting with the

Administrator, which may be held in-person, virtually (video conference), or by phone. This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the requirements and regulations for development.

- b. Application Required. The applicant shall submit a complete application for a special exception or a variance from development standards in accordance with the application requirements and prepared in accordance with the requirements of this UDO.
- c. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a date for public hearing.
- d. Internal Review.
 - i. The Administrator shall forward the application to the Technical Advisory Committee (TAC) for technical review and assign a deadline for receiving internal review comments from the TAC. At the discretion of the Administrator, the TAC review can be held in-person, virtually (video conference), by phone, or by email.
 - ii. The Administrator shall compile a written report for the applicant, BZA, and the public file with comments from the staff review, TAC, and/or any other reviews, as applicable.
 - iii. After the internal review, the applicant shall make the necessary modifications to the application materials to satisfy the Administrator and resubmit the plans for review.
- e. Public Notice by Applicant. Public notice by the applicant for a public hearing is required and shall be in accordance with the *BZA Rules and Procedures*. In the event the hearing has been properly noticed, but the plans or application materials are not completed per *section d: Internal Review* above, then the Administrator may have the BZA automatically continue the petition to their next regular meeting (or a properly noticed special meeting) without requiring additional notice by the applicant.

3. STEP 2: BZA Public Hearing and Final Decision.

- a. BZA Public Hearing. The BZA shall review the special exception or variance from development standards at a public hearing. The applicant or their representative shall be in attendance to present the application and address any questions or concerns of the BZA.
- b. Basis of Decision by BZA. The BZA shall use the following standards as a basis for their decision:
 - i. **Standards for Evaluation of a Special Exception.** When considering a special exception, the BZA shall find that the following standards have all have been satisfied:
 - (a) The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare;
 - (b) The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
 - (c) The establishment of the special exception will not impede or substantially alter the normal and orderly development and improvement of surrounding property for uses permitted in the district;

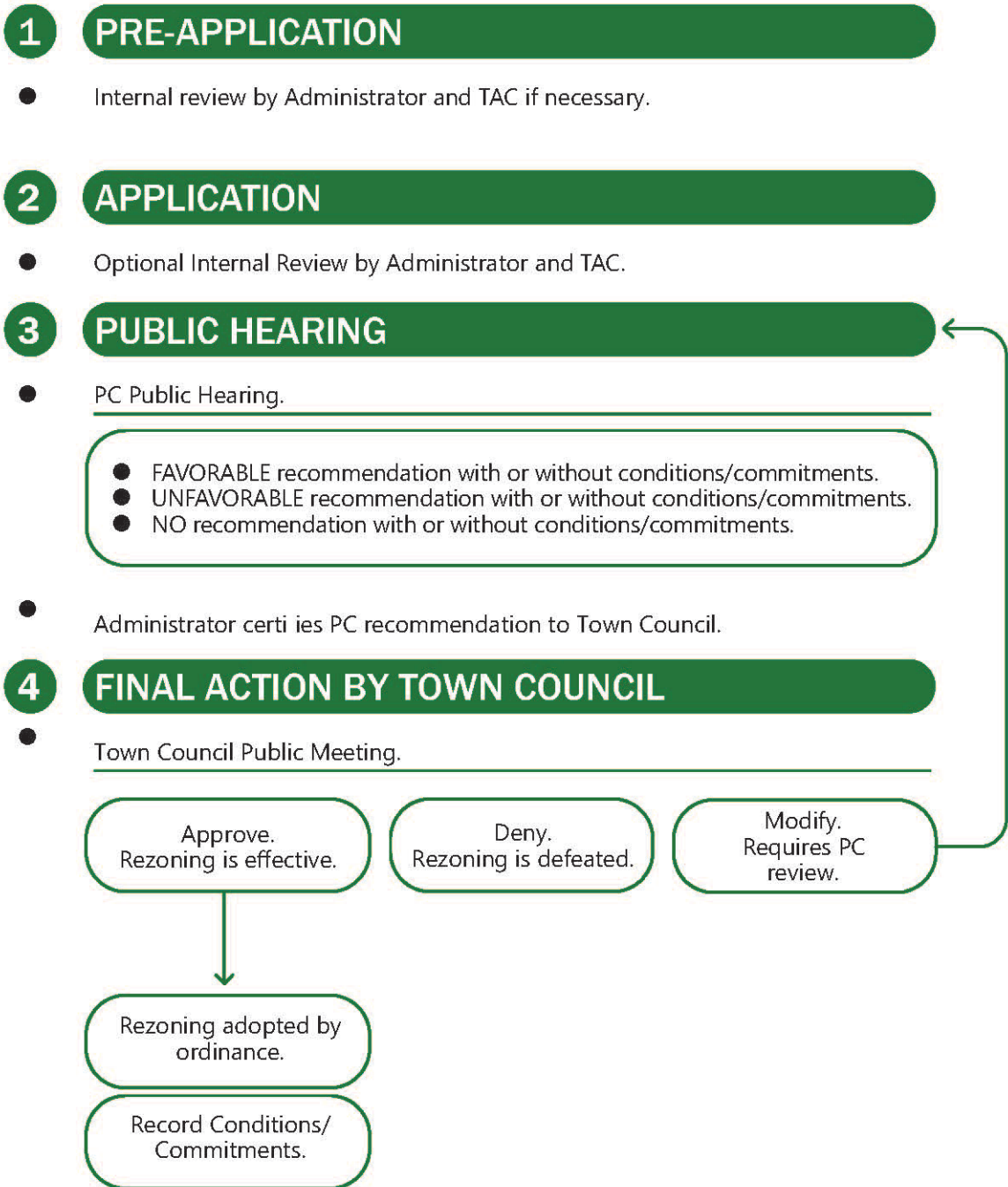
- (d) Adequate utilities, access road, drainage, and other necessary facilities have been or are being provided;
 - (e) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public roadways; and
 - (f) All of the development standards set forth in this UDO that are applicable to such use and associated structures will be met unless the necessary variances have been granted by the BZA.
- ii. **Standards for Evaluation of a Variance from Development Standards.** Per *IC 36-7-4-918.5*, when considering a variance, the BZA shall find that the following standards have all been satisfied:
- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - (c) The strict application of the terms of the ordinance will result in a practical difficulty in the use of the property; and
 - (d) This situation necessitating the variance request shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.
- iii. **Standards for Evaluation of a Variance of Use.** Per *IC 36-7-4-918.4*, when considering a variance of use, the BZA shall find that the following standards have all been satisfied:
- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - (c) The need for the variance arises from some condition peculiar 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; and
 - (e) The approval does not interfere substantially with the *Comprehensive Plan*.
- c. Decision by BZA.
- i. Approval. If the BZA finds that ALL of the standards have been satisfied, it shall approve the request or approve the request with conditions and/or commitments. Approved findings of fact shall be included with any approval decision.
 - ii. Denial. If the BZA does not find that all of the standards have been satisfied, it shall deny the request and approve findings of fact that specify the reason for denial. The proposal cannot be resubmitted for one (1) year unless the Administrator determines there is a substantial change to the application.

- iii. Conditions and/or Written Commitments. Any decision may include conditions and/or written commitments in accordance with *IC 36-7-4-1015* and *Chapter 5: Other Procedures*.
- d. Expiration. Approval of a special exception, variance from development standards, or variance of use shall run with the land, unless any of the following occur:
 - i. Construction of structures, occupancy of existing structures, and/or establishment of the use relevant to the approved special exception or variances has not commenced within two (2) years of approval by the BZA, the approval shall be void;
 - ii. BZA places a condition or written commitment upon the approval that identifies an expiration, but such expiration shall not be less than one (1) year; or
 - iii. The special exception use or variance of use has not been established within two (2) years of approval.
- e. Discontinuance. If a special exception or variance of use is discontinued or abandoned for any reason for more than six (6) months, it shall be deemed a non-conforming use of land. See *Chapter 9: Non-conforming Lots, Structures, and Uses*.
- f. Amendment. A special exception, variance from development standards, or variance of use may only be amended by the BZA by submitting a revised application through the respective application process.

E. Zone Map Change Procedures.

PROCESS AND PROCEDURES FOR ZONE MAP CHANGES

(Can be initiated by the PC, the Town Council, or by property owner)



1. Applicability.

- a. In accordance with *IC 36-7-4-600 series* for zone map changes and the *PC Rules and Procedures*, the PC shall hear and make recommendations to the respective legislative body regarding zone map changes.
- b. Zone map changes may be initiated by the PC, legislative body, or by owners of fifty percent (50%) or more of the area involved in the petition.

2. STEP 1: Pre-Application Meeting and Application Submittal.

- a. Pre-Application Meeting Required. Prior to filing an application for a zone map change, the applicant shall schedule a required pre-application meeting with the Administrator, which may be held in-person, virtually (video conference), or by phone. This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the requirements and regulations for development.
- b. Application Required. The applicant shall submit a complete application for zone map change in accordance with the application requirements and prepared in accordance with the requirements of this UDO.
- c. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a file number and create a public file. The Administrator shall announce the tentative date for public hearing before the PC.
- d. Internal Review.
 - i. The Administrator may forward the application to the Technical Advisory Committee (TAC) for technical review and assign a deadline for receiving internal review comments from the TAC. At the discretion of the Administrator, the TAC review can be held in-person, virtually (video conference), by phone, or by email.
 - ii. The Administrator shall compile a written report for the applicant, PC, and the public file with comments from the staff review, TAC, and/or any other reviews, as applicable.
 - iii. After the internal review, the applicant shall make the necessary modifications to the application materials to satisfy the Administrator and resubmit the plans for review.
- e. Public Notice by Applicant. Public notice by the applicant for a public hearing is required and shall be in accordance with the *PC Rules and Procedures*. In the event the hearing has been properly noticed, but the plans or application materials are not completed per *Subsection d: Internal Review* above, then the Administrator may have the PC automatically continue the petition to their next regular meeting (or a properly noticed special meeting) without requiring additional notice by the applicant.

3. STEP 2: PC Public Hearing and Recommendation by PC.

- a. PC Public Hearing. The PC shall consider the zone map change at a public hearing. The applicant or their representative shall be in attendance to present the application and address any questions or concerns of the PC.

- b. Considerations for Decision. In accordance with *IC 36-4-603*, when considering a zone map change, the PC shall pay reasonable regard to:
 - i. The *Comprehensive Plan*;
 - ii. Current conditions and the character of current structures and uses in each district;
 - iii. The most desirable use for which the land in each district is adapted;
 - iv. The conservation of property values throughout the jurisdiction; and
 - v. Responsible development and growth.
- c. Recommendation by PC to Legislative Body. After consideration, the PC shall make a recommendation to the appropriate legislative body. The PC does not have the final decision on zone map changes.
 - i. Favorable. The PC recommends approval of the proposal to the legislative body.
 - ii. Unfavorable. The PC recommends denial of the proposal to the legislative body.
 - iii. No Recommendation. The PC does not have a recommendation of the proposal to the legislative body.
 - iv. Conditions and/or Written Commitments. Any recommendation may include conditions and/or written commitments in accordance with *IC 36-7-4-1015* and *Chapter 5: Other Procedures*.
- d. Certification of Recommendation. Within ten (10) business days after the PC recommendation, the Administrator shall certify the PC recommendation to the appropriate legislative body.

4. STEP 3: Final Decision.

- a. Decision by Legislative Body (Town Council). Upon receipt of certification of the PC's recommendation, the legislative body shall vote on the proposed zone map change within ninety (90) calendar days. Final action by the legislative body shall be in accordance with *IC 36-7-4-600 series*.
 - i. Approval. If the proposal is adopted by the legislative body, the Administrator shall update the official zoning map accordingly.
 - ii. Denial. If the proposal is denied by the legislative body, the proposal cannot be resubmitted for one (1) year unless the Administrator determines there is a substantial change to the application.
- b. Expiration. Approval of a zone map change shall run with the land unless a condition or written commitment specifies otherwise.
- c. Amendment. A zone map change shall require a new application and only be amended in accordance with the *IC 36-7-4-600 series* for zone map changes. An amendment of an applicable condition or written commitment shall be done in accordance with *IC 36-7-4-1015* and *Chapter 5: Other Procedures*.

F. Other Procedures.

1. Appeals of PC Decision.

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

2. Written Commitments.

- a. Form. A commitment must be substantiated by the form set forth in the PC or *BZA Rules and Procedures* and must specifically identify any persons/group/agency who may enforce the commitment. A commitment must be reviewed by the Administrator before it may be recorded.
- b. Recording. A commitment shall be recorded in the County Recorder's Office by the applicant and takes effect upon the adoption of the proposal by the applicable body to which it relates (even if the commitment is not recorded). Following the recording of a commitment, the applicant shall return a copy of the original recorded commitment to the Administrator for PC's or BZA's file.
- c. Persons Bound.
 - i. Unless it is modified or terminated by the body who approved the commitment (legislative body, PC, or BZA) in accordance with this section, a recorded commitment is binding on the owner of the parcel, all subsequent owners of the parcel, and any other person who acquires interest in the parcel.
 - ii. An unrecorded commitment is binding on the owner of the parcel who makes the commitment. An unrecorded commitment is binding on a subsequent owner of the parcel or a person acquiring an interest in the parcel only if the subsequent owner or the person acquiring the interest has actual notice of the commitment.
- d. Modification or Termination by Legislative Body, PC, or BZA. Except for a commitment modified or automatically terminated in accordance with this section, a commitment may be modified or terminated only by a decision of the legislative body, PC, or BZA who required the commitment (as appropriate) and made at a public hearing after notice of the hearing has been given under the applicable Rules and Procedures.

G. Complaints, Violations, and Remedies.

1. Complaints.

- a. Whenever a violation of this UDO occurs, or is alleged to have occurred, any person may file a written complaint on the form approved by the PC as part of the adopted PC Rules and Procedures.
- b. The complaint shall fully state the causes and basis of the alleged violation and shall be filed with the Administrator.
- c. The Administrator or their designee shall have authority to enter upon property at any time to investigate a written complaint.

2. Investigation of Complaints.

- a. Upon receipt of a complaint that would constitute a violation of the UDO (which shall include adequate information to investigate), the Administrator shall open a violation file and perform an investigation of the property alleged to be in violation within ten (10) calendar days. The Administrator may also refer the matter to the PC, BZA, or the PC attorney for review.
- b. Following this initial investigation, the Administrator shall note the findings of the investigation in the file and determine if there is a violation and provide notice as outlined in *section 5: Notice of Violation* below. If the Administrator determines that no violation exists, the violation file shall be closed.

3. ILP Violations.

- a. Any person or corporation who initiates construction prior to obtaining an ILP, Certificate of Occupancy, Certificate of Completion, or any other permit or authorization required herein, shall pay the fine as set forth in the Fee Schedule.
- b. The owner or tenant of any building, structure, or premises and any other person who participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties prescribed by this section.
- c. No ILP or Certificate of Occupancy shall be issued for any building, structure, or improvement unless the location of the building, structure, or improvement conforms to this UDO.

4. UDO Violations.

- a. No owner or agent of the owner of any parcel of the land located in a proposed subdivision shall transfer, sell, or convey any part of the parcel before a secondary plat of the subdivision has been approved by the PC in accordance with the provisions of these regulations and filed with the Recorder's Office.
- b. In accordance with *IC 36-1-6-2*, if a property is found to be in violation of this UDO, the Administrator or their designee may enter onto the property and take appropriate action to bring the property into compliance. Furthermore, continuous enforcement orders as defined in *IC 36-7-9-2* can be enforced and liens may be assessed.

- c. It shall be the duty of the Administrator to periodically research the applicable County records and perform the other necessary investigations to detect any violations of this UDO.
- d. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by these regulations until the proposed subdivision has been approved by the PC in accordance with these regulations and filed with the County Recorder except as outlined in this UDO.
- e. The Administrator shall enforce these regulations and bring to the attention of the PC Attorney any violations or lack of compliance herewith. The PC Attorney shall take steps necessary under the Indiana Code to civilly enjoin any violation of these regulations.

5. Notice of Violation.

- a. If the Administrator determines that a violation exists, they shall issue a written Notice of Zoning Violation to the legal owner of record, the current occupant/resident, any known mortgagee-in-possession, and any other known person believed to hold a possessory interest in the subject property. The Notice of Zoning Violation shall be provided in the following three (3) ways. If the certified letter is returned undelivered, the other means of notification shall be deemed adequate, and no further notification shall be required.
 - i. Sent by certified mail;
 - ii. Sent by first class mail; and
 - iii. Posted in a conspicuous location at the subject property.
- b. The Notice of Zoning Violation shall:
 - i. Detail the specific nature of the violation;
 - ii. Cite the section(s) of the UDO allegedly violated;
 - iii. State the penalty / fine that has been assessed;
 - iv. State that the Administrator will waive the fine if the violation is resolved through one of the options outlined in *section 6: Options to Remedy a Violation* below;
 - v. Provide options for remedying the violation;
 - vi. Establish a date not more than fourteen (14) calendar days following the date of mailing of the Notice of Zoning Violation, by which resolution of the violation must occur; and
 - vii. Indicate the possible additional fines and penalties that may accrue if the violation remains unresolved.

6. Options to Remedy a Violation. Upon receipt of a Notice of Zoning Violation, the owner of the subject property shall take one of the following actions no later than the deadline established in the Notice:

- a. Option 1: Take Corrective Action.

- i. The owner of the subject property may correct the violation by bringing the property into compliance with the standards of the UDO. Upon correction within the time allotted as stated in the Notice and following a site inspection by the Administrator or their designee confirming compliance, the Administrator shall close the Notice of Zoning Violation case, waive the fine, and notify the person who filed the complaint of the matter via first class mail.
 - ii. At the discretion of the Administrator, a written alternative timeline proposed by the subject property owner may be accepted by the Administrator if there are reasonable circumstances that necessitate additional time, but it shall provide for the full remedy of the zoning violation in a timely and reasonable manner. Examples could include, but are not limited to, paving when asphalt plants are closed for the winter, supply-chain delays in delivering necessary materials, or reasonable lead time to mobilize a contractor. Subsequent deviation from the approved alternative timeline shall result in continuing enforcement activity as prescribed by the UDO.
- b. Option 2: File a Land Use Petition or Appeal
- i. The owner of the subject property may file a land use petition with the PC (zone map amendment) and/or BZA (special exception or variance from development standard). No additional enforcement actions shall be performed, and no additional fines shall be imposed while the petition is pending.
 - ii. If the land use petition is denied, withdrawn, or dismissed and the violation continues, enforcement activity shall continue as prescribed by the UDO.
 - iii. If the land use petition or the appeal is approved, the Administrator shall close the Notice of Zoning Violation case, waive the fine, and notify the owner and person who filed the complaint of the matter via first class mail.
- c. Option 3: File an Appeal of the Administrator's Decision.
- i. The owner of the subject property may file an Appeal of the Administrator's Decision with the BZA to attempt to remedy the violation. Any such petition must be filed in accordance with the applicable procedures by the date indicated on the Notice.
 - ii. As established in *IC 36-7-4-1604*, a petition for judicial review of a BZA decision may be filed only after exhausting all administrative remedies available. Failure to timely object to a zoning decision or timely petition for review of a zoning decision within the period prescribed waives the right to judicial review.
 - iii. Judicial review of a BZA decision is prescribed and limited by *IC 36-7-4-1611*.
- d. Failure to Remedy and Ongoing Enforcement.
- i. If at least ninety (90) days have elapsed from the mailing of a Notice of Zoning Violation and the violation has not been resolved, the Administrator shall record a statement tallying all outstanding fees and fines related to the Notice of Zoning Violation, as provided by *IC 36-1-6-2*. The statement shall include the name of the owner(s) of the parcel of real property on which fees are delinquent; the legal description of the subject property as shown on the records of the County Auditor; and the amount of the delinquent fees.

- ii. The statement shall be recorded with the County Recorder, who shall charge a fee for recording the statement under the fee schedule established in *IC 36-2-7-10*.
 - iii. A lien shall then be placed on the property owner's tax duplicate. The total amount, including any accrued interest and/or recording fees, shall be collected in the same manner as delinquent taxes are collected and shall be distributed to the county general fund.
 - iv. If the violation is not corrected within thirty (30) days following the imposition of a lien as noted above, a lawsuit may be commenced by the designated enforcement entity in a court of general jurisdiction in Shelby County, Indiana, as prescribed in this UDO, *IC 36-1-6*, and by other applicable laws and ordinances.
- e. Penalties and Fines.
- i. Any person who violates or fails to comply with any provisions of this UDO shall be guilty of an ordinance violation.
 - ii. Upon the issuance of the Notice of Zoning Violation, the owner shall be liable for a fine of five hundred dollars (\$500.00). Each violation shall be considered a separate and distinct offense.
 - iii. If the jurisdiction is required to institute legal action to enforce this UDO, or to collect a fine thereunder, the violator shall also be responsible for the jurisdiction's reasonable attorney fees and all costs related to the enforcement or collection.
 - iv. In addition to the initial fine attached to the Notice of Zoning Violation, the owner of the subject property shall be liable for an additional fine of five hundred dollars (\$500.00) per violation if the owner has not initiated one of the options to remedy the violation as outlined in this chapter.
 - v. All fines prescribed by the section for civil zoning violations shall be paid within fourteen (14) calendar days to the Office of the Town Manager. All fine payments shall be remitted to the county general fund. Payment of a fine does not allow the violation to continue or constitute a correction of the violation.
 - vi. Except as otherwise ordered by a court, the Administrator may, at their discretion and as prescribed in this UDO, waive some or all assessed fines following the full and timely correction of a violation.
 - vii. If there is an unresolved violation on a parcel, no permit application or land use petition may be filed unless it is intended to remedy the violation as allowed by this UDO.
- f. Civil Penalties. The seeking of a civil penalty under this chapter does not preclude the PC from seeking alternative and additional relief from a court of competent jurisdiction in the same action or from seeking any other relief provided by law in a separate action for the enforcement of this UDO.
- g. Suit for Injunction. The PC, the BZA, the Administrator, any designated enforcement official, or any person or persons, firm, or corporation, jointly or severally, may institute a suit for injunction in the Circuit or Superior Courts of Shelby County to restrain an individual, corporation, or government unit from violating the provisions of this ordinance. The PC or BZA may also institute the suit for mandatory injunction directing an individual or corporation or a governmental unit to remove a

structure erected in violation of the provisions of this ordinance or the requirements thereof, or to enforce any other provision of this ordinance, and said violation being declared to be a common nuisance and as such may be abated in such a manner as nuisances are now or may hereinafter be abated under existing law.

7. Stay of Work Pending Appeals, Restraining Order, and Enforcement Stay.

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

H. Fee Schedule.

1. **Applicability.** Applications and petitions filed pursuant to the provisions of this UDO shall be accompanied by the applicable fee(s) specified in the adopted Fee Schedule. Fees shall be collected by the Administrator and shall be made payable to the Town of Fairland.
2. **Collection of Fees.**
 - a. Improvement Location Permits and Building Permits. Fees will be calculated during the review process and shall be collected prior to the ILP being issued. Fees associated with re-inspections and additional inspections shall be collected prior to a final inspection or issuance of a certificate of occupancy, as applicable. ILP and BP fees are non-refundable.
 - b. Land Alteration Permit Fees. Fees will be calculated during the review process and shall be collected prior to the LAP being issued. LAP fees are non-refundable.
 - c. PC and BZA Application Fees. Fees for all PC and BZA applications shall be collected at the time the application is filed. Application fees are non-refundable.
 - d. Erroneously Paid Fees. Fee paid in error may be refunded at the discretion of the Administrator.

Subdivision Types

A. Purpose and Intent.

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

B. Minor Residential Subdivisions.

1. Intent.

- a. A minor residential subdivision, as defined in *Chapter 10: Definitions*, is intended to be an expedited process for subdividing three (3) or fewer lots, including the remnant parcel, exclusively for single-family residential use that does not involve the opening or creation of new public rights-of-way or utility main extensions.
- b. The design shall still allow for adequate vehicular and pedestrian access as well as foster connection to adjacent parcels where necessary.
- c. A shared driveway may be required by the PC to provide safe access to streets and to allow for alternative lot layouts.
- d. Parcels may be split by minor plat one (1) time. All subsequent requests to subdivide property that has been part of a minor plat shall require to be subdivided through the major platting process.

2. Development Standards.

Development Standards for Minor Residential Subdivisions	
Permitted Districts	<ul style="list-style-type: none"> • AG, R1, R2, R3, and VM
Minimum Development Size	<ul style="list-style-type: none"> • N/A
Minimum Open Space for Overall Development	<ul style="list-style-type: none"> • N/A
Internal Access Roads and Driveways	<ul style="list-style-type: none"> • No new public rights-of-way are permitted. If public rights-of-way are proposed, it shall be considered a Major Residential Subdivision and follow the applicable process. • A shared private driveway or private roadway may be utilized for internal access and shall comply with <i>Chapter 7: Roads and Driveways</i> and also be constructed to the applicable standards for street function. The shared private driveway or private roadway must be contained within a common area (not an easement) and maintained jointly (with a recorded road maintenance agreement that identifies the party(s) responsible for maintenance)
Sidewalks	<ul style="list-style-type: none"> • Required along perimeter roads that are immediately adjacent to the subject property and shall comply with the applicable Street Design and Construction Standards. • Any part of a planned path or shared trail shall be required and shall comply with the applicable Street Design and Construction Standards. • Maintenance of all sidewalks is the responsibility of the abutting property owner(s)
Development Standards for Individual Lots	<ul style="list-style-type: none"> • All individual lots within the subdivision shall comply with the development standards for the subject zoning district as outlined in <i>Chapter 2: Zoning Districts</i>.
Design Standards for Subdivisions	<ul style="list-style-type: none"> • All applicable design standards for the subdivision shall comply with <i>Chapter 7: Subdivision Design Standards</i>.

C. Major Residential Subdivision.

1. Intent.

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

2. Development Standards.

Development Standards for Major Residential Subdivisions		
Permitted Districts	<ul style="list-style-type: none"> R1, R2, R3, and VM 	
Minimum Development Size	<ul style="list-style-type: none"> 5 acres 	
Minimum Open Space (based on the average lot size per dwelling unit of the entire development area)	Under 6,000 sq ft	30%
	6,000-6,999 sq ft	25%
	7,000-7,999 sq ft	20%
	8,000-14,999 sq ft	15%
	> 15,000 sq ft	10%
Lot/Internal Access	<ul style="list-style-type: none"> All internal streets must be publicly dedicated and be constructed to the applicable street function standards per the applicable Street Design and Construction Standards. All individual driveways shall gain access from an internal road. 	
Sidewalks	<ul style="list-style-type: none"> Required along both sides of all internal road and along both sides of perimeter roads that are immediately adjacent to the subject property. All sidewalks shall comply with the applicable Street Design and Construction Standards Maintenance of all sidewalks is the responsibility of the abutting property owner(s) An alternate internal pathway network may be substituted for sidewalks on one side of a new street at the discretion of the PC. 	
Development Standards for Individual Lots	<ul style="list-style-type: none"> All individual lots within the subdivision shall comply with the development standards for the subject zoning district as outlined in <i>Chapter 2: Zoning Districts</i>. 	
Design Standards for Subdivisions	<ul style="list-style-type: none"> All applicable design standards for the subdivision shall comply with <i>Chapter 7: Subdivision Design Standards</i>. 	

D. Commercial and Industrial Subdivisions

1. Intent.

- a. A commercial or industrial subdivision, as defined in *Chapter 10: Definitions*, is intended to provide development for primarily commercial or industrial uses and other uses as permitted within the subject zoning district.
- b. The layout shall allow for adequate vehicular, pedestrian, and alternative transportation access as well foster connection to adjacent parcels and transportation networks.
- c. Driveway cuts on to arterial streets shall be limited and frontage streets shall be utilized.

2. Process. In order to allow for end-user flexibility, the secondary platting process may be done by full plat, individual lot, individual lot with development plan, or phase/section, as outlined in *Chapter 8: Subdivision Administration and Procedures*.

3. Development Standards.

Development Standards for Commercial and Industrial Subdivisions	
Permitted Districts	<ul style="list-style-type: none"> • VM, NC, I1, I2, and I3
Minimum Development Size	<ul style="list-style-type: none"> • N/A (must meet minimum lot standards in <i>Chapter 3: Site Development Standards</i>)
Minimum Open Space for Overall Development	<ul style="list-style-type: none"> • 15%
Internal Access Roads	<ul style="list-style-type: none"> • Internal streets shall be private and shall be constructed to the applicable street function standards per the applicable Street Design and Construction Standards.
Sidewalks	<ul style="list-style-type: none"> • Required along both sides of all internal roads and along both sides of perimeter roads that are immediately adjacent to the subject property. • All sidewalks shall comply with the applicable Street Design and Construction Standards • Maintenance of all sidewalks is the responsibility of the abutting property owner(s)
Development Standards for Individual Lots	<ul style="list-style-type: none"> • All individual lots within the subdivision shall comply with the development standards for the subject zoning district as outlined in <i>Chapter 2: Zoning Districts</i>.
Design Standards for Subdivisions	<ul style="list-style-type: none"> • All applicable design standards for the subdivision shall comply with <i>Chapter 7: Subdivision Design Standards</i>.

E. Exempt Subdivisions.

1. Intent.

- a. The intent of this section is to establish criteria that allows lot splits to occur that are not otherwise required to go through the other subdivision processes outlined in this UDO.
- b. This exempt subdivision provision shall not be used as a means to bypass the subdivision process outlined in this UDO.

2. Subdivider's Responsibility.

It is the responsibility of the person subdividing land to consult with the Administrator to verify their subdivision exemption eligibility before recording lot splits. Lots created under this provision are not guaranteed to be buildable or guaranteed to qualify for the issuance of a BP or ILP.

3. Applicability.

The following divisions of land are exempt from the provisions of this UDO:

- c. A division of land that is government or court ordered.
- d. A division of land for the transfer of a tract(s) to correct errors in an existing legal description, or the sale/exchange of tracts between adjoining landowners, provided that no additional principal use building sites are created by the division
- e. A division of land by the Federal, State, or local government for the acquisition of right-of-way or an easement.
- f. A division of land into cemetery plots for the purpose of burial of corpses.
- g. A division of land for agricultural uses not involving any new streets or easements of access, provided that the sale or exchange does not create additional residential building sites or is intended for residential development in the future.
- h. A division of land that combines/reconstitutes property lines such that no new building lots are created.
- i. An adjustment/shift of lot lines as shown on a recorded plat provided there is no reduction in the area, frontage, width, depth, or building setback lines of each building site that would place it below the minimum requirements of this UDO.
- j. The sale, exchange, or transfer of land between adjoining property owners which does not result in the change of the present land usage or create an additional building site.

Subdivision Design Standards

A. Purpose.

1. These subdivision design standards are intended to provide predictability to subdividers and property owners while ensuring the residents of Fairland benefit from quality residential neighborhood designs and commercial/industrial development that promotes the public health, safety, and general welfare and supports the goals of the Comprehensive Plan.

B. General Provisions.

1. Conformance to Applicable Rules and Regulations.

- a. The site development standards included in this chapter are intended to be met in addition to all other applicable structure, lot, and/or site standards in other sections of this UDO which shall still apply.
- b. All major and minor subdivisions shall comply with the requirements of this chapter and all other applicable laws, rules, and regulations. Secondary plat approval may be withheld if a subdivision does not comply with all requirements of this UDO and the following:
 - i. All applicable statutory provisions;
 - ii. All requirements of the UDO, zoning map, building codes, fire codes, County Health Department, and all other applicable laws of the appropriate local, state, and/or federal jurisdictions;
 - iii. All regulations of INDOT, if the subdivision or any lot abuts a state highway or connecting public road;
 - iv. All standards and regulations adopted by all Fairland boards, commissions, agencies, and officials (if applicable); and
 - v. All applicable requirements of the applicable Stormwater Ordinance, Flood Hazard Ordinance, Street Design and Construction Standards, and other adopted or approved plans and ordinances, including all public roads, drainage systems, and parks (if applicable).

2. Extension of Infrastructure.

- a. All public improvements and required easements shall be extended to the boundary lines of the parcel being subdivided.
- b. Public roads and easements for water lines, wastewater systems, electric lines, natural gas, telecommunications lines, and others shall be constructed to promote the logical extension of public infrastructure to adjacent parcels.

3. Plats Straddling Municipal Boundaries.

- a. Whenever access to the subdivision requires crossing land in another jurisdiction, the PC may request an affidavit from the subdivider stating that access is legally enabled by the outside jurisdiction.
- b. In general, lot lines shall be laid out so as not to cross municipal boundary lines.

C. Access and Connectivity.

1. General.

- a. All subdivisions of land shall have frontage on and access from an existing public (state, county, or local) road or private driveway as permitted by this UDO.
- b. No subdivision shall prevent an adjacent property from accessing a public road (such as using reserve strips) or create or perpetuate the land-locking of an adjacent parcel.
- c. The extension of roads to the exterior boundary of the subdivision or continuation of public roads between adjacent parcels for the effective movement of traffic, extension of utilities, and/or effective fire protection shall be required, unless the PC determines that such extension is:
 - i. Not feasible due to topography or other physical conditions; or
 - ii. Not necessary or desirable for the coordination of the subdivision based on future development of adjacent tracts.
- d. A partial right-of-way along an exterior boundary line of a subdivision shall be required based on the Thoroughfare Plan, including the extension of arterial or collector roads.
- e. All easements and rights-of-way from a major or minor subdivision or a lot within a major or minor subdivision that provide access to a public road shall be approved by the PC.
- f. All public roads must be located above the 100-year FEMA flood elevation unless approved by the Floodplain Administrator.

2. Subdivision Entrances.

- a. **Minimum Number.** All residential subdivisions shall provide the following minimum number of required entrances onto a public road.
 - i. Less than Twenty-five (25) Residential Units. A minimum of one (1) entrance shall be provided.
 - ii. Twenty-five (25) to Two Hundred (200) Residential Units.
 - (a) A minimum of two (2) entrances shall be provided with access to two (2) separate public roads.
 - (b) If the subdivision only abuts one public road, the subdivision shall be required to provide two (2) entrances onto the one public road.
 - (c) If there is not appropriate distance between entrances and/or other roadways and intersections (as determined by the PC), a single entrance with a median divider is allowed. Each travel lane shall be at least fourteen (14) feet wide excluding curbs and gutters to allow for emergency access if one travel lane is inaccessible. The median shall be at least

twelve (12) feet in width to accommodate a separate left-turn lane if necessary or needed in the future. The median divider shall extend from the intersection with the public road to the first road intersection within the subdivision.

- iii. **More than Two Hundred (200) Residential Units.** The number of separate entrances required, and the location of those entrances shall be determined by the PC.
- iv. **Access Installation.** The timing of the installation of the second/additional point(s) of access shall be established at the time of primary plat consideration.
- b. **Level of Service.** The subdivider shall construct all required and approved traffic mitigation measures to provide adequate roadway capacity and access for the proposed development, such as acceleration lanes, deceleration lanes, or other similar improvements.

3. Pedestrian Access.

- a. If a subdivision is adjacent to a park, state forest/park, school, or other public community facility, the PC may require perpetual unobstructed easements that are at least twenty (20) feet in width in order to facilitate pedestrian access and connectivity. These easements shall be indicated on the primary and secondary plats.
- b. Where future development includes land that has been identified by the *Comprehensive Plan* or other plan as a location for trails, the PC may require the subdivider to construct the trails within their development, whether or not such trails connect to existing trails outside of the development at the time of construction. All trails shall be constructed in accordance with applicable Street Design and Construction Standards.

4. Access to Freeway/Expressway, Arterials, and Collectors.

Where a subdivision borders or contains an existing or proposed freeway/expressway, major/minor arterial, or major/minor collector, the PC may limit direct access of individual lots onto these roads by one or more of the following based on the recommendation of the PC:

- a. **Frontage or Service Roads.** Frontage or service roads that are separated from the arterial or collector by a planting area or grass strip. These roads shall have access at suitable points to the arterial or collector. All frontage or service roads shall be designed to comply with the applicable Street Design and Construction Standards.
- b. **No Access Easement.** A five (5) foot "no-access easement" along a freeway/expressway, arterial, or collector road for parcels that can gain access from an internal, local road.
- c. **Shared Driveway.** A shared private driveway with an adjacent parcel(s) that includes an access easement to a local road.
- d. **Other Treatments.** Other, similar treatments deemed necessary for the adequate preservation of the public roadway functionality, safety, protection of residential properties, and separation of through and local traffic.

D. Blocks and Lots.

1. Lot Arrangement.

- a. Blocks shall comply with the following dimensions unless the PC determines that a longer length will not be detrimental to local traffic flow.
 - i. Blocks. A minimum of four hundred (400) feet but shall not exceed two thousand six hundred (2,600) feet in length.
 - ii. Cul-de-Sacs. A minimum of four hundred (400) feet but shall not exceed eight hundred (800) feet in length.
 - iii. Temporary Dead-End Streets. A minimum of four hundred (400) feet but shall not exceed one thousand (1,000) feet in length.
- b. The PC may require pedestrian ways, easements, and/or cross walks through the center of blocks when deemed essential to provide pedestrian circulation, accommodate utilities and drainage facilities, or provide access to schools, playgrounds, shopping centers, transportation, or other community facilities.
- c. The layout of the lots shall be compatible with the topography and other physical conditions of the land in order to ensure that compliance with the UDO, Building Code, and other local, state, and federal regulations.

2. Lot Dimensions.

- a. Lot dimensions shall comply with the minimum standards of the UDO.
- b. Lots shall be suitable in size and dimensions for the type of development anticipated, and not result in insufficient areas to build on after building setback lines are established in accordance with the UDO.
- c. Side lot lines shall generally be at right angles to public road lines (or radial to curving public road lines) unless a variation from this rule will give a better public road or lot plan.
- d. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing that corner lots have two front yards as outlined in this UDO.
- e. The depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide off-public road parking and loading facilities required for the type of use and development contemplated.

3. Lot Orientation.

- a. The lot line common to the public road right-of-way shall be the front line. All lots shall face the front line.
- b. Wherever feasible, rear lot lines should not abut the side lot line of an adjacent lot.

- c. Double frontage lots, through lots, and reverse frontage lots shall be avoided except where necessary to accommodate perimeter lots (exterior lots) within a subdivision or to overcome difficulties of topography and orientation.

E. Covenants.

- 1. Purpose.** The purpose of the covenants drafted by the subdivider is typically to create a more consistent appearance of structures as well as provide additional control over the activities that take place within the subdivision boundaries to protect the property values.
- 2. General.**
 - a. Covenants are required for all new subdivisions.
 - b. Covenants are generally a combination of restrictions on the use of property and affirmative obligations imposed by the subdivider on the owner of a property within a subdivision.
 - c. These covenants are above and beyond the zoning and subdivision regulations required for the jurisdiction, but restrictions cannot supersede, contradict, or replace town, state, or federal regulations.
 - d. Covenants shall be reviewed by the Administrator or their designee prior to approval of the secondary plat to ensure they do not conflict with the UDO.
 - e. A Homeowners Association (HOA) is required to be established for the administration of the covenants and oversight of the subdivision. Officers of the HOA shall be identified and provided to the Administrator on an annual basis.
 - f. Financial contributions (dues) shall be established in an amount appropriate to ensure that amenities, infrastructure, and common areas under the joint ownership of all property owners within the development will be properly maintained in perpetuity.
- 3. Self-imposed Restrictions.**
 - a. If a subdivider or property owner places restrictions on any land contained within a subdivision that are more restrictive than those required by this UDO, such restrictions shall be indicated or referenced on the secondary plat.
 - b. All restrictive covenants shall be recorded with the County Recorder, and a copy of the recorded covenants with the appropriate stamp from the County Recorder's office shall be provided to the Administrator.
- 4. Required Covenant Language.** See *Chapter 7: Drainage, Stormwater, and Erosion Control* for language that must be in the covenants and on the plat regarding drainage.
- 5. Enforcement.** Only regulations specifically found in the UDO are enforceable by the PC and the Administrator. Restrictive covenants will not be enforced by the PC or the Administrator and must be enforced by the Homeowners Association (or the subject property owners) through the civil courts.

F. Drainage, Stormwater, and Erosion Control.

1. General.

- a. All drainage shall comply with all state requirements and the applicable Stormwater Ordinance. All development is subject to state and local drainage approval and permits.
- b. Maintenance of drainage facilities shall be the responsibility of the subdivider until it is turned over to the Homeowners Association (HOA).
- c. If drainage areas are maintained by a Homeowners Association (HOA) or similar organization and said organization is dissolved, the maintenance and associated costs of any drainage facility shall be shared equally between the property owners within the platted subdivision.
- d. No secondary plat shall be approved until the drainage plan is approved by the Town.

2. Storm Drainage.

- a. The subdivider shall provide the subdivision with an adequate storm water system. The system shall conform to the applicable Stormwater Ordinance. A copy of the analysis shall be submitted to the Administrator with the secondary plat application and shall include with the drainage facility plans.
- b. The plans for the installation of a storm drainage system shall be provided by the subdivider and approved by the Town. The as-built plans for the system shall be filed with the Administrator upon the completion of the storm sewer installation in the electronic format requested.

3. Drainage Easements.

All drainage easements shall be indicated on the primary plat and the secondary plat.

4. Required Covenant Language Regarding Drainage.

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

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

- d. "No sump pump drains, or other drains shall outlet onto the street."

G. Mailboxes for Residential Development.

1. **Applicability.** In accordance with the United States Postal Service (USPS) National Delivery Planning Guide, all new residential development may be required to install centralized mail delivery at the direction of the local USPS Postmaster or the designated local USPS Growth Manager. Centralized delivery shall include the installation of cluster box units (CBU) or neighborhood delivery center (NDC) mailboxes.
2. **Design and Placement.**
 - a. All CBUs and NDCs and their location shall be approved by the local Postmaster or Growth Manager prior to approval of any secondary plat.
 - b. CBUs and NDCs must provide for handicap accessibility.
 - c. Units placed within the right-of-way require approval by the Town.
 - d. All CBUs and NDCs shall require a building permit prior to installation.
 - e. Because of their size, visibility, and exposure to the elements CBUs and NDCs must be aesthetically appealing, durable, and reflect the character of the overall development. While units may be free-standing, the PC may require that they be placed beneath a covered pavilion, a three-sided shelter, or inside a community center.
3. **Installation and Maintenance.** The Town of Fairland shall not be responsible for the installation, maintenance, or replacement of any mailboxes, cluster boxes, or delivery centers. All units shall be installed by the subdivider and maintained and repaired by the property owners and/or homeowner's association.

H. Monuments and Markers.

1. **General.** Monuments shall be installed on all lot corners to the standard as set forth under 865, IAC 1-12-18.

I. Open Space and Amenities.

1. **General.**
 - a. Proposed major subdivisions are required to provide adequate areas for public parks, recreation, amenities, or open space as required by this UDO (see *Chapter 6: Subdivision Types*).
 - b. If a subdivision is not required by this UDO to provide open space and/or amenities, the subdivider may provide them if desired.
 - c. Each open space area or amenity shall be of suitable size, dimension, topography, and general character for the intended use and shall have adequate road and/or pedestrian access to adequately serve the purposes envisioned.

- d. Any open space or amenity shall support the goals of the Comprehensive Plan or other plan, comply with all requirements of this UDO, and comply with all other applicable health, flood control, and regulations of the town or state, as appropriate.
- e. All open spaces and amenities shall be dedicated as common area unless otherwise allowed by this UDO. The common area shall be shown and labeled accordingly on the primary plat and secondary plat.
- f. The phasing of development and open spaces/amenities is allowed, but the minimum open space/amenity shall be proportional to the developed area.

2. Ownership and Maintenance.

- a. If open space areas and amenities are maintained by a Homeowners Association (HOA) or similar organization and said organization is dissolved, the maintenance and associated costs of any maintenance shall be shared equally between the property owners within the platted subdivision
- b. The PC shall require proof of the ownership and maintenance agreement for the common areas (such as HOA covenants).
- c. Unless approved by the PC and the Town Council, the Town shall not assume responsibility for the maintenance and safety of common areas.
- d. If areas or land is being dedicated to an entity other than a Homeowners Association, the respective entity accepting the land shall provide written documentation approving the dedication prior to approval of the secondary plat.

3. Design Standards. If a subdivision requires or voluntarily incorporates open space(s) or amenity(ies), it shall comply with the following standards:

- a. **General Design Standards.** The following apply to all types of open space and amenities:
 - i. All open space or amenity reserved under this UDO shall be accessible with an ADA-accessible sidewalk, footpath, or similar accessible connection from a public right-of-way or a dedicated easement. All easements used to provide access shall be a minimum of twenty (20) feet in width.
 - ii. If sidewalks or paved trails are required and/or provided within the open space or amenity, they shall comply with all ADA requirements and the standards of the applicable Street Design and Construction Standards.
 - iii. No open space shall be used as a reserve strip or prevent future access between adjacent properties and an existing or future public right-of-way.
 - iv. All open spaces and amenities shall be accessible by all residents of the subdivision without a rental fee or any qualifying requirements other than standard operational times (such as outdoor pools are not open during the winter, or a park is closed from dusk to dawn).
- b. **Open Space Standards.**
 - i. Open Space Guiding Criteria. The design of all open spaces shall be guided by the following criteria:

- (a) The preservation of existing natural or historic features that add value to the development or to the Town (such as watercourses and falls, historic sites, and similar irreplaceable assets).
 - (b) The protection of unique topographical features on the site, such as steep slopes.
 - (c) The preservation of wooded areas and individual, healthy trees that are larger than thirty-six (36) inches in diameter or vegetation that is desirable to preserve wetlands or other environmentally sensitive areas, including the ability to protect vegetation during construction and changes of grade.
 - (d) The adaptability of the open space for future trails and/or shared-use paths.
 - (e) The relationship between the proposed open space and neighboring properties.
- ii. Open Space Design Requirements. All open spaces shall:
- (a) Be a minimum of twenty (20) feet in width to allow for maintenance.
 - (b) Not be located within the public right-of-way.
 - (c) Have at least fifty percent (50%) of the park left in a natural or undisturbed state or, if previously disturbed or degraded, restored to a natural state. This may include wetlands, wooded areas, prairies, or similar. Areas with maintained lawn/landscape elements or manicured detention/retention basins are not considered a natural state.
- c. **Neighborhood Park.**
- i. Passive Neighborhood Park. All passive neighborhood parks shall:
- (a) Be a minimum of one (1) acre.
 - (b) Provide at least one (1) open shelter or similar structure that is at least two hundred (200) square feet in area.
 - (c) Provide seating areas throughout the park.
 - (d) Provide maintained lawn/landscape areas that can be used in a passive nature.
 - (e) Provide paved or soft-surface trails throughout the park.
- ii. Active Neighborhood Park. All active neighborhood parks shall:
- (a) Be a minimum area of half (1/2) an acre.
 - (b) Include at least one (1) active recreation feature that meets the needs of the subdivision, such as a playground, sports court/field, indoor recreation center, swimming pool, or other feature approved by the Administrator. All equipment shall be commercial-grade and meet industry design standards.

J. Roads and Driveways.

1. **Purpose.** The road design requirements are intended to:
 - a. Provide for roads that are suitable in location, width, and improvement to accommodate potential traffic;
 - b. Provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation;
 - c. Provide adequate access to police, fire fighting, snow removal, sanitation, road-maintenance equipment;
 - d. Create a convenient traffic network;
 - e. Avoid undue hardships to adjoining properties;
 - f. Accommodate for the particular traffic characteristics of each proposed development; and
 - g. Be properly related to the goals of the Comprehensive Plan.
2. **General.**
 - a. All private and public roads, culverts, drains, bridges, shoulders, drainage improvements and structures, curbs, turnarounds, trails, and sidewalks shall comply with the applicable Street Design and Construction Standards and shall be incorporated into the construction plans required of the subdivider for plat approval.
 - b. Where a proposed public road is an extension of an existing paved public road which exceeds the minimum dimension required by this UDO, the PC may require the subdivider to taper or match the width of the existing paved public road.
 - c. Roads shall be constructed to grades shown on plans, profiles, and cross-sections prepared by a registered Professional Land Surveyor and/or registered Professional Engineer that is licensed to practice in the State of Indiana. Individual projects may warrant additional requirements that are dictated by sound engineering practices as determined by the Town and shall be made conditions of the approval for the primary and/or secondary plat.
 - d. Only trees and/or plantings approved by the PC shall be permitted within the public rights-of-way or easements unless otherwise required or approved by the PC.
3. **Dedication of Public Roads.**
 - a. If a subdivision adjoins or includes an existing public road that does not conform to the minimum right-of-way width as established by the applicable Street Design and Construction Standards, the subdivider shall dedicate additional right-of-way width as required to meet the minimum standards of this UDO.
 - b. All public rights-of-way shall be inspected and approved by the Town prior to being accepted as a public right-of-way by the Town.
4. **Road Classifications.** All public roads shall be planned to meet the goals of the Comprehensive Plan or other plan. All roads shall be functionally classified by the Town.

5. Public Road Layout and Site Design.

- a. Building pads shall be at or above the grades of the public roads, whenever possible.
- b. Grades of public roads shall not exceed six percent (6%) or be less than half percent (0.5%) unless approved by the Town. A combination of steep grades and curves shall be avoided.
- c. Local public roads shall be laid out to follow, where possible, the site topography; shall avoid long, straight stretches that encourage high speeds; shall permit efficient drainage and utility systems; and shall minimize the number of public roads necessary to provide convenient and safe access to property.

6. Public Road Intersections.

- a. All intersections, including minimum radii, shall adhere to the applicable Street Design and Construction Standards.
- b. Right-angle intersections shall be used wherever practical. When local roads intersect arterial or collector roads, the angle of intersection of the road centerlines shall not be less than seventy-five degrees (75°) and the radii as required by the applicable Street Design and Construction Standards shall be increased by at least forty (40) feet.
- c. Proposed new intersections, wherever practicable, should align with any existing intersections on the opposite side of the public road. Intersections with more than four (4) approaches to the intersection should be avoided. Three-legged intersections may be used wherever appropriate, particularly in residential areas.
- d. No intersection shall create a traffic hazard by limiting visibility. Minimum sight distance at intersections (sight triangles) should be determined by a design professional and approved by the Town and PC as part of the primary plat.
- e. Intersections shall be designed with a relatively flat grade wherever practical. Where the grade exceeds six percent (6%), a leveling area shall be provided at the intersection approach with a maximum of two percent (2%) slope for a minimum distance of forty (40) feet, measured from the intersection of the centerline.
- f. At road intersections, property line corners shall be rounded by an arc at thirty (30) feet in radius or larger.

7. Regulatory Road Signs.

- a. The subdivider shall install all required regulatory signs on public roads that comply with the standards established in the Manual on Uniform Traffic Control Devices (MUTCD) and shall be approved by the Town.
- b. The subdivider shall install all required road signs, street signs, and road name signs before the secondary plat is recorded or the issuance of any BPs.
- c. The Town may approve public road name signs, poles, or hardware outside of the MUTCD (Manual on Uniform Traffic Control Devices) regulatory sign standards if decorative signs, poles, and hardware are requested. The Town does not own or maintain decorative signs, poles, or hardware,

and all maintenance and/or replacement shall be the responsibility of the Homeowners Association or all property owners within the subdivision equally if a Homeowners Association does not exist.

- d. Maintenance of all road signs and street signs is the responsibility of the subdivider, or the property owners within the development, until the road is dedicated and accepted for maintenance by the Town.

8. Dead-end Public Road.

- a. **Permanent Dead-End Public Road.** A permanent dead-end public road, if permitted by the PC, shall terminate in a circular right-of-way with a cul-de-sac turn-around and shall comply with the applicable Street Design and Construction Standards. The PC may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. Adequate dedicated area for snow storage shall be provided at the discretion of the Administrator.
- b. **Temporary Dead-end Public Road.** If the adjacent property is undeveloped and the public road must temporarily be a dead-end public road (stub street), the right-of-way shall be extended to the property line and a cul-de-sac or "eyebrow" that conforms with Street Design and Construction Standards shall be provided. A road terminus sign shall be erected by the subdivider that states, "Connection to future development" to make lot owners aware of the future road extension.

9. Public Road Streetlights.

- a. Streetlights shall be installed by the subdivider at their own expense in subdivisions.
- b. All streetlight fixtures shall be approved by the Town.
- c. The Town does not own or maintain streetlight fixtures. Any and all electric bills or fees shall be paid by the Homeowners Association or all property owners within the subdivision equally if a Homeowners Association does not exist.

10. Additional Improvements Required. The subdivider may be required to provide deceleration lanes, acceleration lanes, passing blisters, or other improvements to the public roads within or immediately adjacent to the subdivision if required by the PC to allow for safe and efficient travel.

11. Bridges and Culverts. Bridges and/or culverts required to accommodate site access and circulation shall be approved by the Town and constructed at the full expense of the subdivider without reimbursement from the Town.

12. Limited Access Railroads. A buffer strip of twenty-five (25) feet in depth in addition to the setback required in *Chapter 2: Zoning Districts* shall be provided adjacent to the railroad right-of-way or limited access highway. This buffer strip shall be designated on the plat: "Reserved as buffer. The placement of structures on this land is prohibited."

13. Private Driveways.

- a. Private driveways may serve no more than three (3) parcels. Access to more than three (3) parcels shall be provided with a public road that meets all Town standards for public roads.
- b. All shared private driveways shall have an easement of at least thirty (30) feet in width. An access and maintenance agreement shall be recorded with the County Recorder's and a copy of the recorded agreement filed with the Administrator.

- c. Private driveways shall be graded and surfaced with an all-weather paving material, such as asphalt, concrete, or other material, which will provide equivalent protection against potholes, erosion, and dust.
- d. All private driveways shall be at least twenty (20) feet in length between the garage of the primary structure and the sidewalk or edge of roadway if a sidewalk does not exist in order to provide adequate space for parking without vehicles blocking sidewalk and/or road access.
- e. All private driveways onto a public road (outside of a platted subdivision) shall obtain a driveway permit and shall comply with all Town standards.

Minimum Public Road Design Requirements	
Pavement Width & Curb	
Local Public Roads and Cul-de-Sacs	<ul style="list-style-type: none"> • Residential: 30 feet, which includes a 2-foot barrier or roll curb • Non-Residential: 12-foot per travel lane plus a 2-foot barrier or roll curb
Public Alley	<ul style="list-style-type: none"> • 20 feet (two-way) or 14 feet (one-way) plus 1-foot crushed stone shoulder or optional curb (barrier or roll)
Right-Of-Way Width	
Local Roads	<ul style="list-style-type: none"> • 50 feet¹
Local Road Cul-de-sac	<ul style="list-style-type: none"> • 60-foot radius¹
Collector or Arterial Roads	<ul style="list-style-type: none"> • As determined by the Town
Local Road Pavement Design	
Subgrade Compaction	<ul style="list-style-type: none"> • 90% standard proctor
Flexible Pavement ³	<ul style="list-style-type: none"> • 9-inch base, dense graded aggregate • 3-inch binder (HAC) • 1.5-inch surface (HAC)²
Rigid Concrete Pavement	<ul style="list-style-type: none"> • 6-inch rock base • 6-inch concrete • 520 lb/cubic yard with water/cement ratio less than or equal to 0.53; • Slump test less than or equal to 4 inches • Joint Spacing following Portland Cement design manual • Opening to traffic: Minimum of 7 days at 3,000 PSI; generally, 28 days at 3,500 PSI
<p>1 – Additional right-of-way may be required due to site conditions in order to provide a maximum earthen slope of 3:1.</p> <p>2 – Surface shall not be applied until 80% of the homes are built.</p> <p>3 – Town may require greater standards based on site conditions.</p>	

K. Sidewalks and Trails.

1. Sidewalks.

- a. Sidewalks and/or trails shall be required for residential, commercial, and industrial subdivisions as in *Chapter 6: Subdivision Types*.
- b. Construction shall comply with Street Design and Construction Standards.

Sidewalk and Trail Design Standards	
Minimum Setback from Road	<ul style="list-style-type: none"> • Minimum of 4-foot setback from adjacent curb • Separated from curb by a strip of grass or landscaped area • No trees shall be planted between the sidewalk and road unless approved by the PC
Minimum Width	<ul style="list-style-type: none"> • Sidewalk: 5 feet or the width of connecting sidewalks on adjacent parcels, whichever is greater • Trail: As determined by the Town but no less than 8 feet
Surface	<ul style="list-style-type: none"> • Shall have sufficient slope to drain away from the lot and toward the center of the public road and shall be built to Town standards
Subgrade	<ul style="list-style-type: none"> • Shall be constructed to Town standards
Other Standards	<ul style="list-style-type: none"> • All sidewalks and trails shall comply with all Americans with Disabilities Act (ADA) standards

L. Subdivision Names and Street Names.

1. Subdivision Names.

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

2. Street Names.

- a. Proposed public road names shall be indicated on the primary plat.
- b. The Administrator shall review and consult with the appropriate entities prior to consideration by the PC.
- c. Names shall be sufficiently different in sound and spelling from other road names in the jurisdiction and surrounding areas to prevent confusion.
- d. A road which is (or is planned) as a continuation of an existing road shall have the same name.
- e. The PC shall approve the public road names at the time of primary plat approval.

M. Utilities.

1. **Location.** All existing and proposed utility facilities and/or easements within the subdivision shall be shown on the primary and secondary plat, including water, sewer, electric, and other utilities.
2. **Sanitary Sewer Facilities.**
 - a. **General.** The subdivider shall install public sanitary sewer facilities or an approved on-site sewage disposal system in accordance with the rules, regulations, and standards of Fairland, County Health Department, IDEM, and/or other appropriate state and federal agencies.
 - b. **Public Sanitary Sewer Requirements.** Where a sanitary sewer system is available within three hundred (300) feet of any boundary of a proposed subdivision and easements and rights-of-way are in place to access said system, the subdivision shall connect to the public sanitary sewerage system unless the sewer district/provider does not accept or approve the connection. The subdivider shall be responsible for installing the required infrastructure to serve each lot to the specifications of the provider, and all sanitary sewerage facilities (including the installation of laterals in the right-of-way) shall be subject to the specifications, rules, regulations, and guidelines of the sewer district/provider, Health Officer, participating jurisdiction, and appropriate state agency.
3. **Water Facilities.**
 - a. **General.** All habitable buildings and buildable lots shall be connected to an approved water system (public water provider or private well) capable of providing water for health and emergency purposes, including adequate fire protection, where available.
 - b. **Public Water Supply.** When a public water supply is available within three hundred (300) feet of any boundary of a proposed subdivision, the subdivider and/or water company/provider shall construct and install a system of water mains (including fire hydrants) to be connected to the public water supply unless the water district/provider does not accept or approve the connection. Each lot shall be provided with a connection to the water delivery system. The water delivery system shall be designed and constructed in conformance with the applicable standards and specifications of state or local authorities, and in compliance with the rules and regulations of IDEM.
 - c. **Existing Private Wells.** Any existing homes within the subdivision currently served by a private potable well water supply that will be connected to a new public water supply system shall adhere to the following:
 - i. The existing well and pumping unit shall be abandoned and the well properly plugged, in accordance with the rules and regulations of IDEM and IDNR; or
 - ii. If the homeowner chooses to keep an existing well in service, a physical disconnection (between the existing well supply plumbing and the new public water supply plumbing) must be completed by the homeowner and inspected by the County Health Department. All disconnections of plumbing shall be completed by a plumbing contractor licensed in the State of Indiana and shall be made in accordance with the requirements of the American Backflow Prevention Association (ABPA).

- d. **Fire Protection.** The local fire authority having jurisdiction over the proposed subdivision shall review proposed subdivisions and provide comments on any proposed fire hydrants or other fire suppression systems, including their setting, number, separation, and size of outlets.

Subdivision Administration and Procedures

A. General Provisions.

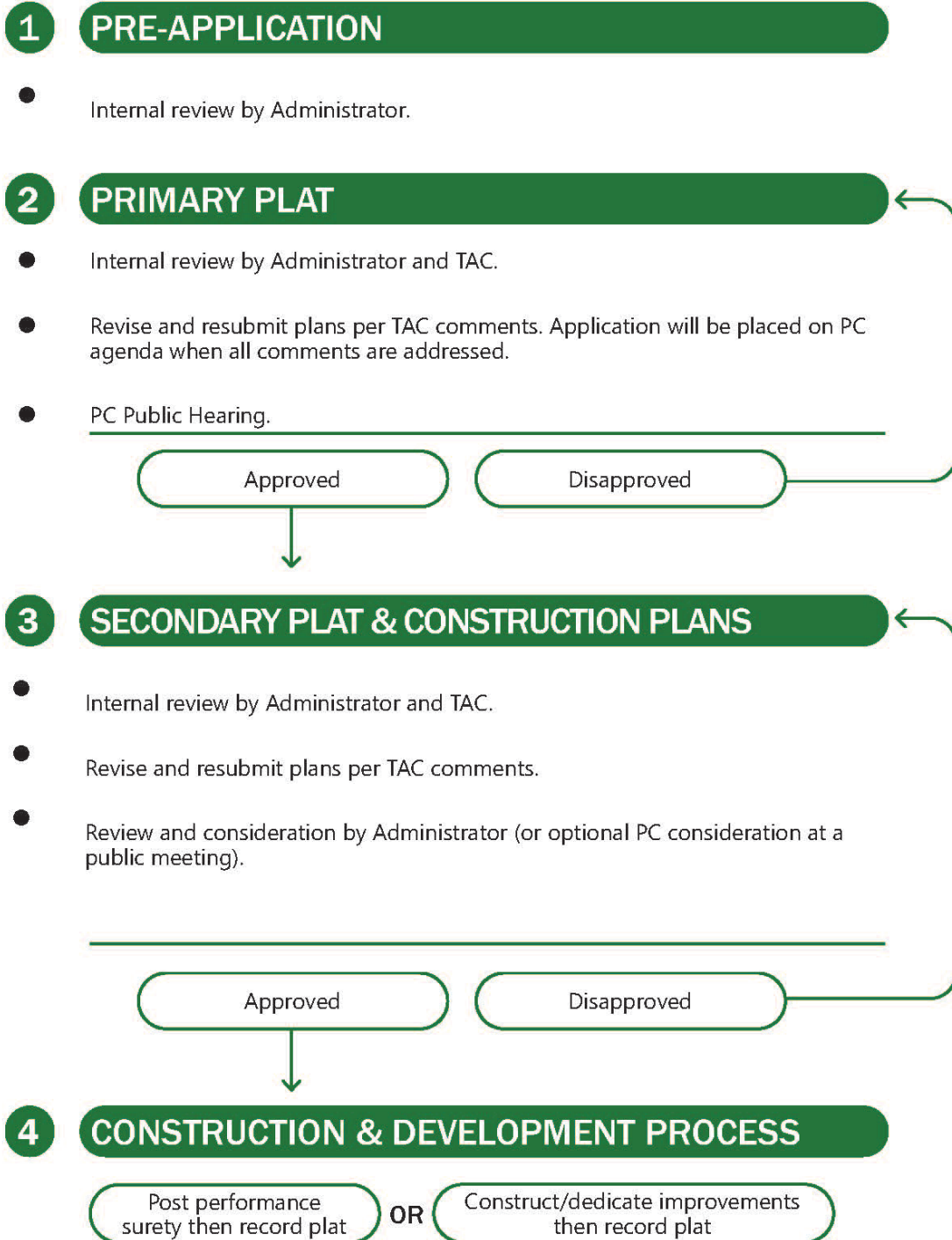
1. Compliance with Procedures and Standards.

- a. All development shall be conducted in accordance with the processes and procedures specified in the UDO in order to achieve orderly, planned, efficient, and responsible growth.
- b. No building permit or improvement location permit shall be issued for any parcel that does not comply with all provisions of this UDO, including all standards and required procedures.
- c. The provisions of this UDO shall be considered the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the residents of the jurisdiction.
- d. The PC or the Administrator shall not have the authority to approve any subdivision as a buildable lot unless it complies with this UDO or if a variance has been granted by the BZA or a waiver has been granted by the PC.

2. **Condominiums Exempt.** Pursuant to *IC 36-7-4-702*, condominiums which are regulated by *IC 32-35*, or as amended, are exempt from the subdivision process.

B. Major Subdivision Procedures.

PROCESS AND PROCEDURES FOR MAJOR SUBDIVISIONS



1. Applicability.

- a. Subdivision Types. The following procedures apply to all subdivisions except for minor residential subdivisions and exempt subdivisions. The applicable subdivisions shall be subject to all requirements of this UDO, including but not limited to, the subject zoning district standards and any additional standards that may have been required by the PC as part of other approvals for the development.
- b. Recorded Plat. No owner or agent may sell or lease any lot within a subdivision before such plat has been approved and recorded in the manner prescribed in this UDO.
- c. Public Road Construction. No public road shall be laid out or constructed until the primary plat and construction documents are approved as outlined in this UDO, except public roads built and maintained by the Town and/or the State of Indiana.

2. STEP 1: Pre-Application Meeting.

- a. General. Prior to filing an application for a major subdivision, the applicant shall schedule a required pre-application meeting with the Administrator, which may be held in-person, virtually (video conference), or by phone. This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the requirements and regulations for development.

3. STEP 2: Primary Plat Application.

- a. Application Required. The applicant shall submit a complete application for primary plat approval in accordance with the application requirements and prepared in accordance with the requirements in *Chapter 8: Document and Drawing Requirements*.
- b. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a docket number and create a public file. In accordance with *IC 36-7-4-705*, within thirty (30) days of receiving a complete application, the tentative date for a hearing before the PC shall be held.
- c. Internal Review.
 - i. The Administrator shall forward the application to the Technical Advisory Committee (TAC) for technical review, as required by the UDO, and assign a deadline for receiving internal review comments from the review committee(s). At the discretion of the Administrator, the TAC review can be held in-person, virtually (video conference), by phone, or by email.
 - ii. The Administrator shall compile a written report for the applicant, PC, and the public file with comments from the staff review, TAC, and any other reviews, as applicable.
 - iii. After the internal review, the applicant shall make the necessary modifications to the application materials to satisfy the Administrator and resubmit the plans for review.
- d. Public Notice by Applicant. Notice of public hearing shall be in accordance with the *PC Rules and Procedures*. In the event the hearing has been properly noticed, but the plans or application materials are not completed per *Subsection c: Internal Review* above, then the Administrator may

- have the PC automatically continue the petition to their next regular meeting (or a properly noticed special meeting) without requiring additional notice by the petitioner.
- e. PC Public Hearing. The PC shall consider the primary plat at a public hearing. The applicant or their representative shall be in attendance to present the application and address any questions or concerns of the PC.
 - f. Decision by the PC.
 - i. Standards for Decision. Prior to approval, the PC shall determine if the primary plat:
 - (a) Complies with the standards of this UDO;
 - (b) Uses all reasonable efforts to mitigate the impact of the proposed subdivision on public health, safety, and general welfare; and
 - (c) Received written verification that water supply and sewage disposal systems that can sufficiently serve the type of proposed subdivision by either the respective utility provider or that such systems will comply with federal, state, and local laws and regulations.
 - ii. Approval. If the PC determines that the primary plat complies with the standards set forth in this UDO, it shall grant primary approval to the primary plat. Within ten (10) days of the hearing, the Administrator shall notify the subdivider of approval in writing or electronic transmission and itemize any changes or revisions deemed necessary by the PC as a term of its approval.
 - iii. Approval with Conditions. In accordance with *IC 36-7-4-702*, the PC may introduce changes or revisions to the proposed plans as a condition of primary approval when necessary to facilitate the best interest and general welfare of the community, including, but not limited to:
 - (a) The manner in which public ways shall be laid out, graded, and improved;
 - (b) A provision for water supply, sanitary sewer facilities, and other utility services; and
 - (c) A provision for other services as specified in this UDO.
 - iv. Disapproval. If the PC disapproves a primary plat, it shall make written findings of fact and the Administrator shall notify the subdivider in writing or electronic transmission within ten (10) days of the hearing, stating the specific reasons for disapproval. The petitioner may then resubmit a revised primary plat that addresses the reason for disapproval.
 - g. Expiration of Primary Plat.
 - i. Approval of a primary plat shall be effective for two (2) years from the date of the PC decision.
 - ii. Failure to receive secondary plat approval for all or part of the plat before this period ends shall invalidate the primary plat approval.
 - iii. Once primary approval has expired, a new application for primary plat shall be submitted in conformance with all applicable ordinances in effect at the time the new application is submitted.

- iv. Upon written request from the subdivider, and no less than thirty (30) days prior to the expiration date of the primary approval, the PC may extend approval of a primary plat up to a maximum of one (1) additional year without further notice, public hearing, or fees.
- v. Any partial secondary plat approval (sections) shall automatically extend the primary plat approval another two (2) years.
- h. Primary Plat Amendment. All amendments to an approved primary plat shall be considered a new primary plat application and follow the respective process.

3. STEP 3: Secondary Plat and Construction Plan Application.

- a. Commercial or Industrial Secondary Plats. A secondary plat that only includes commercial or industrial uses may be done in one (1) of three (3) ways:
 - i. Full Plat. The subdivider may submit the secondary plat for the entire subdivision, then seek to amend only the lot lines on the secondary plat as may be necessary as individual site users are defined. Any changes other than lot lines will constitute an amendment to the primary plat.
 - ii. Individual Lot with Development Plan. The subdivider may submit the secondary plat for an individual lot simultaneously with the application for development plan
 - iii. Phase/Section. The subdivider may submit the secondary plat for a phase or section of lots as laid out on the primary plat which will include all necessary infrastructure serving such lots.
- b. Residential Secondary Plats. A secondary plat that only includes residential uses may be done in one (1) or more phases or sections. The subdivider may submit the secondary plat for a phase or section of lots as laid out on the primary plat which will include all necessary infrastructure serving such lots.
- c. Application Required. The applicant shall submit a complete application for secondary plat approval in accordance with the application requirements and prepared in accordance with the requirements in *Chapter 8: Document and Drawing Requirements*.
- d. Public File. Once the Administrator determines that an application is complete and in proper form, they shall assign a docket number and create a public file. Within thirty (30) days of receiving a complete application, the tentative date for a meeting before the PC shall be held.
- e. Internal Review.
 - i. The Administrator shall forward the application to the Technical Advisory Committee (TAC) for technical review, as required by the UDO, and assign a deadline for receiving internal review comments from the review committee(s). At the discretion of the Administrator, the TAC review can be held in-person, virtually (video conference), by phone, or by email.
 - ii. The Administrator shall compile a written report for the applicant, PC, and the public file with comments from the staff review, TAC, and any other reviews, as applicable.
 - iii. After the internal review, the applicant shall make the necessary modifications to the application materials to satisfy the Administrator and resubmit the plans for review.

- f. Other Approvals Required. Prior to approval of a secondary plat, the applicant shall obtain the following approvals:
 - i. Constructions plan approval for all public improvements that will be dedicated to the Town shall be approved by the appropriate bodies or entities.
 - ii. Drainage approval shall be approved as required.
- g. Decision by the PC. The PC shall consider the secondary plat at a PC meeting. No public hearing or public notice is required for a secondary plat. Secondary plat approval may be granted to a plat only after expiration of the thirty (30) day appeal period of the Primary Plat as provided in *IC 36-7-4-710*.
 - i. Approval. If the PC determines that the secondary plat complies with the standards set forth in this UDO and is in conformance with the primary plat, the PC shall grant secondary approval to the plat. The secondary plat shall not be signed or executed until the construction of the public improvements are approved or performance surety is provided in accordance with *Chapter 8: Construction Procedures*.
 - ii. Disapproval. If the PC disapproves the secondary plat, the PC shall make written findings of fact, and the Administrator shall notify the applicant in writing or electronic transmission within ten (10) days of the decision stating the specific reasons for disapproval. The subdivider may then resubmit a revised secondary plat that addresses the reason for disapproval or appeal the decision to the PC.
- h. Secondary Plat Amendment (Replat).
 - i. If a secondary plat is approved (either recorded or not recorded), an amendment that complies with the exempt subdivision standards (*Chapter 6: Exempt Subdivisions*) and complies with all other standards set forth in this UDO may be approved administratively and without public notice.
 - ii. All other amendments to an approved secondary plat shall be considered a secondary plat application and follow the respective process.

4. STEP 4: Construction of Public Infrastructure and Recording Plat.

- a. Construct Public Improvements or Provide Performance Surety. All public improvements shall be completed, or a performance surety shall be provided in accordance with the procedures set forth in *Chapter 8: Construction Procedures*.
- b. Record Secondary Plat. The plat shall be recorded in accordance with the procedures set forth in *Chapter 8: Construction Procedures*.
- c. Provide Maintenance Surety. A maintenance surety shall be provided in accordance with *Chapter 8: Construction Procedures*.
- d. Dedicate Public Improvements. All required public infrastructure, and improvements shall be dedicated in accordance with *Chapter 8: Construction Procedures*.

- e. Release of Sureties. The applicant may request the maintenance surety be released in accordance with *Chapter 8: Construction Procedures*. The Town Council will not release funds without being requested by the applicant.

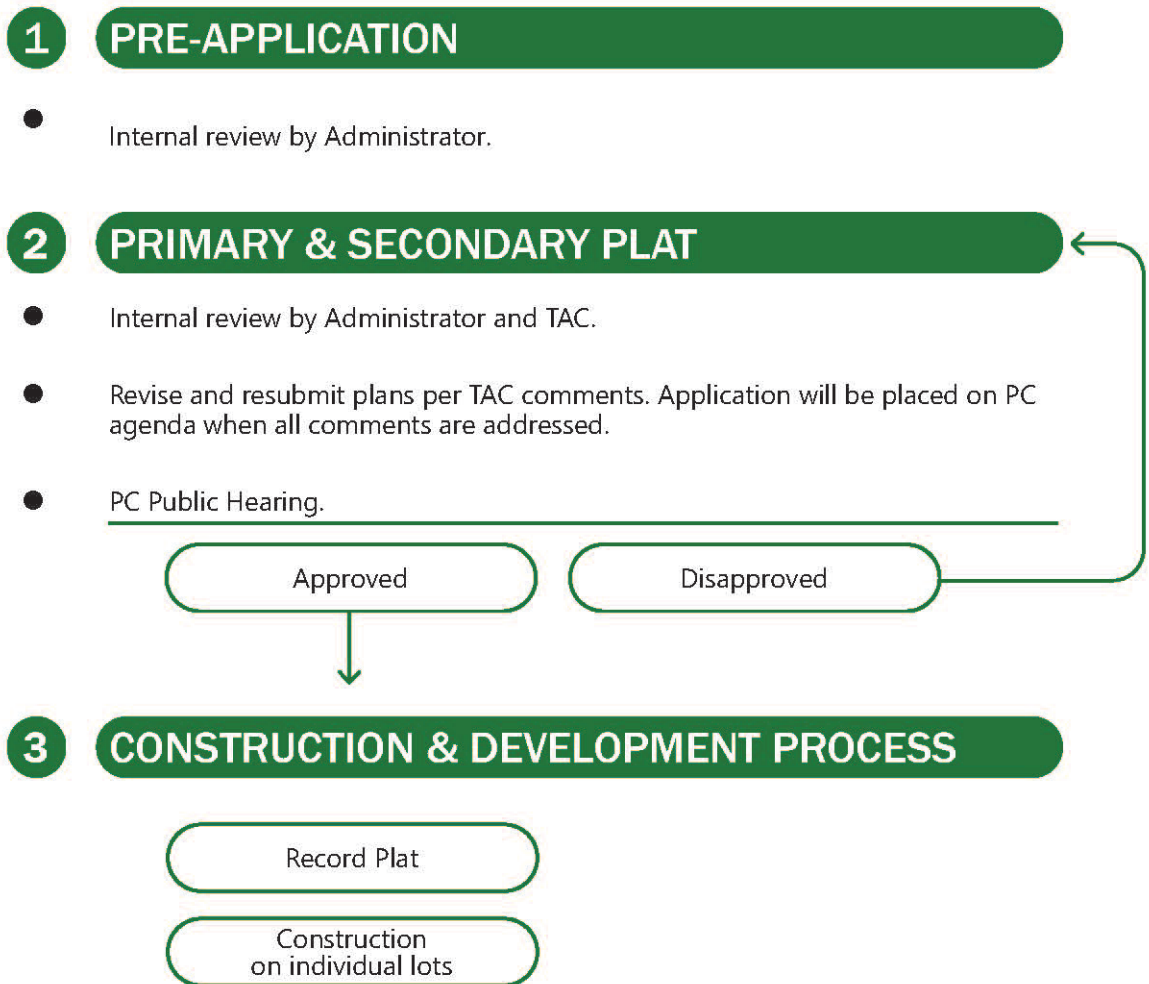
5. STEP 5: Construction on Individual Lots.

- a. Development Plan. Development Plan Development plan approval is not required for single-family, two-family, or agricultural uses (excluding confined feeding operations) unless otherwise stated in this UDO. For all other uses, development plan approval is required for all new primary structures or modifications of property or sites as required by this UDO.
- b. Required Permits. The construction of improvements shall occur in accordance with the procedures set forth in *Chapter 8: Construction Procedures*.

C. Minor Residential Subdivision Procedures.

PROCESS AND PROCEDURES FOR MINOR RESIDENTIAL SUBDIVISIONS

(3 lots or less and now new right-of-way or public improvements)



1. Applicability.

- The minor residential subdivision process is an expedited process for single-family residential subdivisions that:
 - Result in the creation of three (3) or less lots (including the remnant or parent parcel);
 - Does not involve improvements to or new public rights-of-way; and
 - Complies in all other standards within this UDO.

- b. Any residential subdivisions that include new public rights-of-way shall be considered a Major Residential Subdivision.
- c. Further subdivision of a parcel that was previously subdivided with an approved minor plat must proceed through the major residential subdivision procedure outlined in *Chapter 8: Subdivision Administration and Procedures*.
- d. If the Administrator believes that the circumstances warrant the full review and consideration of a major subdivision, then the applicable process may be required.

2. STEP 1: Pre-Application Meeting.

- a. Pre-application Meeting Required. Prior to filing an application for a minor subdivision, the applicant shall schedule a required pre-application meeting with the Administrator, which may be held in-person, virtually (video conference), or by phone. This step gives the applicant the opportunity to discuss the procedures for approval with the Administrator as well as the requirements and regulations for development.

3. STEP 2: Primary and Secondary Plat Application.

- a. Application Required.
 - i. For a minor subdivision, the primary plat and secondary plat shall be combined into one (1) process.
 - ii. The subdivider shall submit a complete application for secondary plat approval in accordance with the application requirements and prepared in accordance with the requirements in *Chapter 8: Construction Procedures*.
- b. **Public File.** Once the Administrator determines that an application is complete and in proper form, they shall assign a docket number and create a public file. In accordance with *IC 36-7-4-705*, within thirty (30) days of receiving a complete application, the tentative date for a hearing before the PC shall be held.
- c. **Internal Review.**
 - i. The Administrator shall forward the application to the Technical Advisory Committee (TAC) for technical review, as required by the UDO, and assign a deadline for receiving internal review comments from the review committee(s). At the discretion of the Administrator, the TAC review can be held in-person, virtually (video conference), by phone, or by email.
 - ii. The Administrator shall compile a written report for the applicant, PC, and the public file with comments from the staff review, TAC, and any other reviews, as applicable.
 - iii. After the internal review, the applicant shall make the necessary modifications to the application materials to satisfy the Administrator and resubmit the plans for review.
- d. **Public Notice by Applicant.** Notice of public hearing shall be in accordance with the *PC Rules and Procedures*. In the event the hearing has been properly noticed, but the plans or application are not completed per *Subsection c: Internal Review* above, then the Administrator may have the PC

automatically continue the petition to their next regular meeting (or a properly noticed special meeting) without requiring additional notice by the petitioner.

- e. **PC Public Hearing.** The PC shall simultaneously consider the primary plat and secondary plat at a public hearing. The applicant or their representative shall be in attendance to present the plan and address any questions or concerns of the PC.

f. Decision by the PC.

- i. Standards for Decision. Prior to approval, the PC shall determine if the primary and secondary plats:
 - (a) Comply with the standards of this UDO;
 - (b) Use all reasonable efforts to mitigate the impact of the proposed subdivision on public health, safety, and welfare; and
 - (c) Received written verification that water supply and sewage disposal systems that can sufficiently serve the type of proposed subdivision by either the respective utility provider or that such systems will comply with federal, state, and local laws and regulations.
- ii. Approval. If the PC determines that the primary and secondary plats comply with the standards set forth in this UDO, the PC shall grant primary and secondary approvals to the plat. Within ten (10) days of the hearing, the Administrator shall notify the subdivider of approval in writing or electronic transmission and itemize any changes or revisions deemed necessary by the PC as a term of its approval.
- iii. Approval with Conditions. In accordance with *IC 36-7-4-702*, the PC may introduce changes or revisions to the proposed plans as a condition of approval when necessary to facilitate the best interest and general welfare of the community, including, but not limited to:
 - (a) The manner in which any shared driveways shall be laid out, graded, and improved; and
 - (b) A provision for water supply, sanitary sewer facilities, and other utility services; and
 - (c) A provision for other services as specified in this UDO.
- iv. Disapproval. If the PC disapproves a plat, it shall make written findings of fact, and the Administrator shall notify the subdivider in writing or electronic transmission within ten (10) days of the hearing stating the specific reasons for disapproval. The petitioner may then resubmit a revised plat that addresses the reason for disapproval.

- 4. **STEP 3: Recording Plat.** The plat shall be recorded in accordance with the procedures set forth in *Chapter 8: Construction Procedures*.

- 5. **STEP 4: Construction on Individual Lots.** The construction of improvements on individual lots shall occur in accordance with the procedures set forth in *Chapter 8: Construction Procedures*.

D. Waiver Procedures.

1. General.

- a. The PC may grant a waiver for a provision in *Chapter 6: Subdivision Types* and/or *Chapter 7: Subdivision Design Standards* when the subdivider can show that practical difficulties and unnecessary hardship would result if strictly adhered to and where, in the opinion of the PC, because of topographical or other conditions particular to the site, a departure may be made without compromising the intent of such provisions. The PC may authorize a waiver pursuant to *IC 36-7-4-702(c)*.
- b. Pursuant to *IC 36-7-4-702(c)*, the standards for subdivisions in *Chapter 6: Subdivision Types* and/or *Chapter 7: Subdivision Design Regulations* may be waived at the discretion of the PC. However, to be approved, the plat must still meet all applicable standards prescribed in the UDO. Variations from the zoning provisions or this UDO require a variance by the BZA (See *Chapter 8: Subdivision Administration and Procedures*).

2. STEP 1: Application.

A petition for a waiver shall be submitted in writing by the subdivider at the time when the primary plat or secondary plat is filed. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

3. STEP 2: PC Decision.

- a. **Public Notice.** All waivers shall be considered during the primary plat or secondary plat approval, no public notice specific to the waiver(s) requested is required.
- b. **Basis for Consideration.** The PC shall not approve waivers unless it finds, based upon the evidence presented to it in each specific case, that:
 - i. Practical difficulties and unnecessary hardship may result from the strict application of this UDO;
 - ii. The purpose and intent of this UDO may be better served by an alternative proposal.
 - iii. The granting of the waiver or waiver of conditions will not be detrimental to the public safety, health, or welfare or injurious to other property;
 - iv. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable to other property;
 - v. The relief sought will not contravene the other provisions of the UDO or the intent of the Comprehensive Plan and/or any other plans; and
 - vi. Where the waiver impacts on the design, construction, or maintenance obligations of public facilities, that the appropriate public agency has reviewed and approved the proposed development in writing or electronic transmission to the PC.
- c. **Written Findings.** The PC shall make written findings of fact on all waiver requests.

- d. **Conditions of Waiver Approval.** The PC may, in approving waivers, require such conditions as will, in its judgment, secure the purposes of said waiver. Such conditions shall be expressly set forth in the order granting the waiver and be in accordance with the PC Rules and Procedures for governing commitments. Violation of any such condition shall be a violation of this UDO and subject to the provisions of *Chapter 5: Complaints, Violations, and Remedies*.
- e. **Waivers Concerning Public Improvements.**
- i. With a favorable recommendation from the TAC, the PC may defer or waive, at the time of secondary approval and subject to any appropriate conditions, the provision for any or all, public improvements that in its judgment are:
 - (a) Not required in the interests of the public health, safety, and general welfare,
 - (b) Inappropriate because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or
 - (c) Inappropriate for other reasons presented to and agreed on by the PC.
 - ii. Any determination to defer or waive the provision of any public improvement must be made in accordance with this section and the reasons for the deferral or waiver shall be expressly made part of the record.
 - iii. Where improvement or installations are deferred as herein provided, the subdivider shall post a separate surety in an amount determined by the jurisdiction guaranteeing completion of the deferred improvements upon demand of the jurisdiction.

E. Construction Procedures.

1. Construct Improvements or Provide Performance Surety.

- a. **General.** Once a primary plat and the associated construction plans have been approved by the Administrator or PC and other required agencies, as appropriate, the construction and development process may commence in one (1) of two (2) ways as follows:
 - i. **Option 1: Construct Improvements then Record Plat.**
 - (a) Secondary Plat Approval. Secondary plat should be approved prior to installing infrastructure. Any construction or installation of infrastructure started or completed prior to approval of the construction plans and/or secondary plat is done at the risk of the applicant. If changes or revisions to the construction plans and/or secondary plat are required, any modifications to construction or installation of infrastructure shall be the responsibility of the applicant.
 - (b) Install Public Infrastructure. All infrastructure shall be installed per the approved construction plans except for the final coat of asphalt on the roadways and required sidewalks.
 - (c) Inspect Public Infrastructure. The improvements shall be reviewed and inspected at the direction of the Town Council throughout the construction process to ensure that they have been completed in a satisfactory manner. This includes, but is not limited to, roads, curbs, gutters, drainage facilities, and any other utilities as required by this UDO or any other applicable ordinance.
 - (1) The Town Council does not inspect infrastructure not owned or managed by the subject entity (such as fire hydrants and electric). All public infrastructure improvements and/or utilities required by this UDO shall be installed prior to recording the plat and any inspections of this infrastructure should be directly coordinated with the respective local providers.
 - (d) Provide Maintenance Surety. The applicant shall post a maintenance surety in accordance with *Chapter 8: Construction Procedures*.
 - (e) Execute and Record Plat. The plat shall be executed and recorded in accordance with *Chapter 8: Construction Procedures*.
 - (f) Install Final Coat of Asphalt and Sidewalks. Sidewalks shall be installed as each lot is developed. Once development has occurred to the satisfaction of the Town Council, the final coat of asphalt for the roadways shall be installed by the applicant.
 - (g) Release Maintenance Surety Funds. Maintenance surety funds shall be released in accordance with *Chapter 8: Construction Procedures*.
 - ii. **Option 2: Post Performance Surety Then Record Plat.**

- (a) Secondary Plat Review. The secondary plat should be reviewed prior to posting performance surety. However, the secondary plat shall not be executed prior to posting performance surety.
- (b) Execute Performance and Escrow Agreement. The applicant shall submit an executed performance and escrow agreement to the Town Council in a form created and approved by the attorney for the Town Council.
- (c) Cost Estimate for Infrastructure Completion. The applicant shall submit a reliable estimate to the Town Council for review and approval of the cost estimate of completing all of the required infrastructure including, but not limited to the roads, public utilities, drainage structures, and all other work or improvements to the subdivision required by this UDO and the performance and escrow agreement.
- (d) Provide Cash Escrow or Irrevocable Evergreen Bond. A cash escrow or irrevocable evergreen bond shall be paid to the Town Council in the required amount to ensure completion of the subdivision improvements in accordance with the executed performance and escrow agreement and in the amount approved by the Town Council. The escrow shall:
 - (1) Be payable to the Town Council;
 - (2) Be in a sum which is at least one hundred twenty-five percent (125%) of the amount estimated to complete the improvements;
 - (3) Be in the form of immediately available cash funds or irrevocable evergreen bond.
 - (4) Be in a format approved by the Town Attorney.
- (e) Execute and Record Plat. Once the performance surety has been posted and accepted to the satisfaction of the Town Council, the secondary plat shall be executed and recorded in accordance with *Chapter 8: Construction Procedures*.
- (f) Install Public Infrastructure. All infrastructure shall be installed per the approved construction plans except for the final coat of asphalt on the roadways and required sidewalks.
- (g) Inspect Public Infrastructure. Once complete, the improvements shall be reviewed at the direction of the Town Council throughout the construction process to ensure that they have been completed in a satisfactory manner. This includes, but is not limited to roads, curbs, gutters, drainage facilities, and any other utilities as required by this UDO or any other applicable ordinance.
 - (1) The Town Council does not inspect infrastructure not owned or managed by the entity (such as fire hydrants and electric). All public infrastructure improvements and/or utilities required by this UDO shall be installed prior to recording the plat and any inspections of this infrastructure should be directly coordinated with the respective local providers.

- (h) Release of Performance Surety Funds. The Town Council shall release all or a portion of the escrow to the applicant after satisfactory completion of all or a part of the improvements and installations of the subdivision after inspection and approval of the Administrator. Any such release shall occur no more frequently than once a month. The Town Council will not release any funds without being requested by the applicant. The performance surety cannot be released in full before providing a maintenance surety.
- (i) Provide Maintenance Surety. The applicant shall post maintenance surety in accordance with *Chapter 8: Construction Procedures*.
- (j) Install Final Coat of Asphalt and Sidewalks. Sidewalks shall be installed as each lot is developed. Once development has occurred to the satisfaction of the Town Council, the final coat of asphalt for the roadways shall be installed by the applicant.
- (k) Release Maintenance Surety Funds. Maintenance surety funds shall be released in accordance with *Chapter 8: Construction Procedures*.

2. Record Secondary Plat.

- a. **Execute Plat.** The plat shall be signed by the President of the PC, the Administrator, and every person having a security interest in the property before being recorded. Signatures may be collected administratively and do not need to be done at a public hearing/meeting.
- b. **Fees.** Prior to recording the plat, the applicant shall pay all applicable development fees to the appropriate bodies.
- c. **Record Plat.**
 - i. The subdivider shall be responsible for recording the executed secondary plat with the Recorder's Office.
 - ii. Once recorded, the subdivider shall provide the Administrator with a copy of the recorded and stamped secondary plat in the format(s) required by the Administrator.
 - iii. All secondary plats must be recorded within two (2) years of being approved. Upon written request, the PC may extend the time limitation for two (2) years if a written request is received prior to the secondary plat expiring. If the applicant fails to record within this time period, the secondary plat shall be invalid.
- d. **Recording Prohibition.** Pursuant to *IC 36-7-4-710*, a plat of a subdivision for the purposes of development may not be filed with the County Auditor, and the County Recorder may not record it, unless it has been granted secondary approval and signed and certified by the required parties. The filing and recording of the plat are without legal effect unless approved by the Administrator.

3. Provide Maintenance Surety.

- a. **General.**

- i. A post construction surety/bond is required for subdivision plats and other projects for which maintenance of the drainage facilities, utilities, sidewalks, and/or roads is ultimately to be taken over by the Town Council.
 - ii. After the final inspection and approval of construction and prior to release of any performance sureties, a post construction surety/bond must be provided and maintained by the project owner for a period of three (3) years. The maintenance surety/bond shall guarantee the storm water facilities, sidewalks (if required), and roads constructed under the permit against design defects and/or failures in workmanship and shall guarantee that the facilities constructed under the permit will be regularly and adequately maintained throughout the maintenance period. Prior to the expiration period, the Town Council will evaluate performance of the bonded facilities and, if not functioning as intended or designed, will require the project owner to fix to the satisfaction of the Town Council. The Town Council also has the authority to collect on the bond and repair or maintain the affected facilities.
 - iii. The Town Council may accept property functioning facilities in accordance with the applicable standards and specifications. Until such time as the Town Council accepts maintenance, the developer must secure the property functioning and maintenance of the facility, and such shall be a condition of secondary plat approval.
 - iv. The amount of the maintenance surety/bond shall be twenty-five percent (25%) of the estimated construction cost of the storm water facilities and roads requiring maintenance, or \$50,000.00, whichever is greater. The construction costs of the facilities requiring maintenance shall be estimated by the project engineer, subject to the approval of the Town Council.
- b. **Form of Maintenance Surety.** Maintenance surety shall be in the form of immediately available cash funds or irrevocable ever green bond that approved by the Attorney for the Town Council.
- c. **Release of Maintenance Surety.**
- i. If a performance surety/bond was provided for the installation of public infrastructure, the applicant can request eighty percent (80%) of the cash funds from the performance surety for the installation of public infrastructure be released by the Town Council and/or returned to the applicant when the final coat of asphalt and sidewalks have been installed on the roadways to the satisfaction of the Town Council. The remaining balance will be applied to the Maintenance Surety.
 - ii. Three (3) years after the maintenance surety is posted, the applicant can request that the Town Council release or return the maintenance surety. The Town Council will not release any funds without being requested by the applicant.
- d. **Use of Funds.**
- i. Any monies received by the Town Council shall be used only for making the required improvements and installations for which the surety was provided in the event the subdivider defaults on the agreement. This money may be used for these purposes without appropriation.

- ii. The improvements and installations for any improvements or installations by the Town Council shall conform to the standards of the UDO and the applicable standards and specifications.

4. Dedication of Public Infrastructure.

- a. **As-builts.** After posting the required maintenance surety, the applicant shall provide:
 - i. As-built drawings for all improvements within the public right-of-way in the format required by the Administrator; and
 - ii. A GIS layer with locations of all public infrastructure, including but not limited to water and sewer line locations, edge of pavement for public roads, lot lines, and parcel boundaries.
- b. **Dedication of Public Infrastructure.** All public infrastructure dedicated to the Town Council shall be approved by the Town Council with a signed Deed of Dedication in the required format. The Town Council shall only maintain public infrastructure after its dedication unless specified otherwise.

5. Obtain Improvement Location Permit (ILP) and Building Permit.

- a. **General.** The Administrator, or their designee, shall be responsible for the issuance of ILPs (building permit) in accordance with *IC 36-7-4-800 series*.
- b. **Authority.** The Administrator, or their designee, shall be responsible for the issuance of ILPs in accordance with the *IC 36-7-4-800 series*.
- c. **Applicability.** An ILP shall be required for the erection, alteration, or modification of all structures within the jurisdiction including, but not necessarily limited to:
 - i. Primary structures;
 - ii. Accessory buildings and structures, as set forth in *Chapter 3: Accessory Structure Standards* and *Chapter 3: Structure Standards*.
 - iii. Signs as set forth in this ordinance;
 - iv. Temporary storage containers as set forth in this ordinance; and
 - v. Wireless communication facilities both free-standing and those co-located upon an existing or pre-approved wireless communication facility.
- d. **Temporary Use Permit.** A temporary use permit may be granted by the Administrator for the construction and use of a permitted temporary use (such as a construction trailer, mobile sales office, vehicle, tent, booth, or other means). Temporary use permits shall not be issued for more than ninety (90) days or the duration of construction, whichever is greater.
- e. **Issuance of Improvement Location Permit (ILP) / Building Permit.**
 - i. No building or other structure shall be erected, moved, added to, or structurally altered unless the Administrator has issued an ILP (which includes building permit). No structural change in use of a building or land shall be made without an Improvement Location Permit issued by the

Administrator. Building permits shall be issued only upon finding that the proposed use complies with the requirements of this UDO or upon written order from the BZA granting an appeal, special exception, variance from development standards, or variance of use.

- ii. All public improvements shall be installed and also inspected by the Town Council (where applicable) in addition to the plat being recorded before an ILP is issued.
- iii. No ILP shall be issued for a structure that is served by a septic system unless a septic permit has been issued by the Shelby County Health Department or the Health Officer has authorized an approved system.
- iv. No ILP shall be issued for any commercial or industrial use without first having obtained any required state agency approvals and/or permits.
- v. Application. The applicant shall submit an application for an ILP in accordance with the required application and complete it in accordance with the format described therein. The filing fee for an ILP shall be paid in accordance with the adopted Fee Schedule. A public record of each ILP shall be retained by the Administrator in accordance with the retention rules established by the State Board of Accounts.
- vi. Inspection(s) Required. All inspection(s) shall be completed for all ILPs that are constructed in compliance with all provisions of the UDO and other applicable codes. No structure shall be occupied or used, in whole or part, for any purpose until a final inspection is completed and approved.
- vii. Expiration.
 - (a) An ILP shall be valid for a period of one (1) year from the date of issuance.
 - (b) An ILP for a manufactured home, accessory structure, or electrical work shall be valid for a period of one (1) year from the date of issuance.
 - (c) The Administrator may grant up to two additional six (6) month time periods at the request of the applicant stating the need for such extension. Once an ILP expires, a new application (including fees) shall be submitted for approval.
- viii. Amendment. An amendment to an approved ILP may be submitted at any time for review and consideration by the Administrator. Additional fees may be assessed if applicable.
- ix. Certificate of Occupancy.
 - (a) It shall be unlawful to use, occupy, or permit the use, or occupancy of any building, or premises, or both, or part thereof, hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use of structure until a certificate of occupancy has been issued by the Administrator. The certificate of occupancy shall state that the proposed use of the building or land conforms to the requirements of this UDO and that the Administrator and/or their designee has inspected the property and attested to that fact.

- (b) A certificate of occupancy shall not be issued until the required driveway has been professionally installed and then inspected by the Administrator.
- (c) No certificate of occupancy shall be issued until all work has been completed and all applicable inspections performed and completed.

F. Other Procedures.

1. Appeals of PC Decisions.

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

2. Commitments.

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

3. Vacations.

- a. **Authority.** Pursuant to *IC 36-7-4-711*, the PC has exclusive authority over the vacation of plats or parts of plats. Vacations may be pursued under either *IC 36-7-4-711* or *IC 36-7-3-10*.

b. Vacation When All Owners Agree.

c. Applicability. As provided in *IC 36-7-3-10*, if all owners of land in the plat agree on a proposed vacation of all or part of the plat, before recording a written instrument to vacate all or part of the plat, the owner(s) must submit the instrument to the PC for approval.

- i. Public Hearing Not Required. The PC may consider and rule on the proposed instrument at a public meeting.
 - (a) The PC shall attach its written decision to the instrument before it is submitted for recording.
 - (b) As provided in *IC 36-7-3-10*, an instrument recorded under this section terminates the effect of the plat or part of the plat declared to be vacated. It also terminates all public rights in the public ways and public places described in the plat or part of the plat. However, a public way that has been improved, or that is part of an improved plat, may be vacated only under *IC 37-7-3-12*. As provided in *IC 36-7-3-16*, platted easements may be vacated in this same manner as public ways and places.
 - (c) If the PC denies a vacation request under this section, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for two (2) years from the date of the PC's denial, as provided in *IC 36-7-3-15*.

d. Vacations When All Owners Are Not in Agreement.

- i. Applicability. As provided in *IC 36-7-4-711*, if not all owners of land in a plat agree on a proposed vacation, one (1) or more of the owners may file with the PC a petition to vacate all of the plat or that part of the plat that pertains to land owned by the petitioner(s).
- ii. Public Hearing. At the PC hearing, all other owners of land in the plat shall be allowed to comment on the petition.
 - (a) Approval. The PC may approve the petition only if it finds that the conditions below are met. The PC may impose reasonable conditions as part of any approval. The PC shall furnish a copy of its approval to the County Recorder for recording.
 - (1) Conditions in the platted area have changed to defeat the original purpose of the plat;
 - (2) It is in the public interest to vacate all or part of the plat; and
 - (3) The value of that part of the land in the plat not owned by the petitioner(s) will not be diminished by the vacation.
 - (b) Denial. If the PC finds that the applicant does not meet the requirements above, it shall deny the petition. If the PC denies a vacation request under this section, it shall not consider another vacation request which requests substantially similar relief concerning the same property for at least two (2) year after the denial, as authorized by *IC 36-7-4-715*.

G. Document and Drawing Requirements.

1. Primary Plat Requirements.

a. General.

- i. The primary plat shall be prepared and sealed/stamped by a Registered Land Surveyor licensed to practice in the State of Indiana.
 - ii. All sheets shall be formatted as 24" x 36," drawn to a convenient scale, and tied to state plane coordinates for horizontal controls.
 - iii. The applicant is responsible for all title searches, recorded easements, recorded commitments, and any other items that may affect development. The applicant shall include a copy of such documents to the PC and also disclose to all buyers.
- b. **Checklist.** The following checklist of items should be provided for a primary plat, preferably on one (1) single sheet:

Primary Plat Checklist

Title Block

- The proposed legal and common name of the project.
- Date of survey, scale, north point, and revision date(s).

Project Information

- A location map with north arrow at a scale of 1" = 400' or less showing the boundaries of the proposed project and the general area where it is located.
- Boundaries of the tract with accurate dimensions and bearings, as determined by an accurate survey conforming with 865 IAC 1-12 in the field, which has been balanced and closed, as well as physically located by monumentation.
- Location and description of all monuments with references by distance to bearings to both quarter section corners, section corners, grant corners, or recorded subdivisions.
- Boundary lines of adjacent tracts of land, showing owners of record and names of adjoining developments.
- Total acreage within the project and the number of lots.
- Existing zoning of the subject property and all adjacent properties.
- Name and address of the owner, developer, and land surveyor and/or engineer.

Existing Site Conditions

(shown for all parcels within the subdivision and all areas within 100 feet of the proposed subdivision)

- Existing contours based in NAVD 1988 datum with vertical intervals of 2 feet if the general slope of the site is less than 2% and vertical intervals of 5 feet if the general slope is greater than 2%. A benchmark, which is easily accessible and re-locatable, shall be shown. The benchmark shall be determined by use of NAVD 88 datum (vertical), which are based on sea level datum.
- Existing buildings/structures and their placement on the lots.
- Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records.
- Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the Comprehensive Plan or other plan, railroad and utility rights-of-way or easements.
- Parks, wooded areas, trails, and cemeteries
- Watercourses, drainage ditches, designated wetlands, and bridges.
- Other data may be added which is considered pertinent by the PC or the Administrator for the subject land.
- The water elevation at the date of the survey of lakes, stream flow, or designated wetlands within the project or affecting it.
- The regulatory flood (100-year flood) elevation based on NAVD 1988.

Proposed Development Information

- Basic layout of the proposed project/subdivision showing lot/block lines, lot/block numbers, and streets that show length, width, depth, and area of all lots.
- Building and thoroughfare (if applicable) setback lines, showing dimensions.
- Utility easements and/or proposed locations for all utilities.
- All lots or blocks/outlots intended for sale or lease designated with boundary lines and identified with letters and in alphabetical order. Lots shall be numbered consecutively within each block.
- Private areas, common areas, or other excluded parcels designated as such and clearly labeled on the plans.
- Note stating: "No buildings, structures, fences, shrubs, or trees shall be placed in the public right-of-way without prior written review and approval by the appropriate agency."
- Internal and perimeter sidewalk system/pedestrian circulation plan, if any.
- Other such information as may be deemed necessary for proper review of the primary plat by the Administrator or PC.

2. Construction Drawing Requirements.

- c. **Checklist.** All information and plans that are required by the applicable standards and specifications shall be provided.
- d. **IDEM.** All required MS4 General Permits and Rule 5 Permits, 327 IAC 15-5, shall be submitted to the Administrator prior to approving a secondary plat.
- e. **Drainage Review.** Drainage plans shall be submitted to the Administrator for review. Drainage plans must be approved before recording the plat.
- f. **As-builts.** After all public improvements are constructed and inspected, the applicant shall provide as-builts for all improvements within the public right-of-way in appropriate digital formats with locations of all public infrastructure as outlined in *Chapter 8: Construction Procedures*.

3. Secondary Plat Requirements.

- a. **General.**
 - i. The secondary plat sheet(s) shall be prepared and sealed/stamped by a Registered Land Surveyor licensed to practice in the State of Indiana.
 - ii. All sheets shall be formatted as 24" x 36," drawn to a convenient scale, and tied to state plane coordinates for horizontal controls.
 - iii. The secondary plat may be deemed to substantially conform to the primary plat if the geometrics of the secondary plat are substantially the same layout. Reductions in the number of buildable lots, the addition of common area(s), and/or the addition or removal of easements to accommodate utilities or drainage are not considered a substantial change in conformity.
 - iv. If any of the following occur, the secondary plat shall not be deemed in conformance with the primary plat unless such changes were a condition of the primary plat approval:
 - (a) The addition, removal, or alteration of road patterns,
 - (b) Substantial change in lot sizes, and/or
 - (c) An increase in the total number of buildable lots.
- b. **Covenants and Restrictions.** Covenants and restrictions shall be submitted to the Administrator prior to being recorded. They shall be recorded separately and not included on the plat.
 - i. Covenants are not enforced by the PC or the Town Council.
 - ii. If there are conflicts between the covenants and the UDO or any other requirements, the more restrictive regulations shall apply.

- iii. Upon secondary plat approval, covenants and restrictions shall be recorded at the County Recorder's office, and an official copy noting the County Recorder's stamp, the date, and time of the recording provided to the Administrator for the public file.
- c. **Checklist.** The following checklist of items should be provided for a secondary plat, preferably on one single sheet:

Secondary Plat Checklist
Project Information
<ul style="list-style-type: none"> • Name of the project/subdivision. • All lots or blocks/outlots intended for sale or lease shall be designated with boundary lines and identified with letters and be in alphabetical order. Lots shall be numbered consecutively within each block. • Private areas, common areas, or other excluded parcels shall be designated as such and clearly labeled on the plans. • Monument sign location, including dedicated easement or dedicated common area. • Easements.
Notes and Endorsements
<ul style="list-style-type: none"> • Note stating monuments shall be set on all lot corners in accordance with <i>865 IAC</i>. • "Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed without the written approval of the Town Council. Property owners must maintain these swales as sodded grassways or other non-eroding surfaces. Water from roofs, parking areas, or other impervious surfaces must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriately sized culverts are installed in accordance with this UDO." • "A property owner altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten (10) days' notice by certified mail to repair said damage, after which time, if no action is taken, the jurisdiction will cause said repairs to be accomplished, and the costs for such repairs will be billed to the affected property owners for immediate payment." • "No sanitary structures, drainage structures, or water line appurtenances shall be located within driveway limits or sidewalks." • "No sump pump drains, or other drains shall outlet onto the street or public sidewalk." • "Dedication Certification. By the Subdivider(s)/applicant(s) and/or any other owner(s) of record, a notarized statement that said Subdivider(s) and/or other landowner(s) is/are the owner(s) of the lands, and the platting of the subdivision is the Subdivider's and/or other owner's voluntary act and deed. The Subdivider(s) and/or owner(s) shall declare in this certificate by description or reference to the plat the purpose of all rights-of-way, easements, and other reservations shown on the plat." • "Plan Commission Certification. Under authority provided by <i>IC-36-7-4</i> enacted by the General Assembly of the State of Indiana, and all acts amendatory thereto, and by an ordinance adopted by the Town Council, this plat is hereby approved by the Fairland Advisory Plan Commission at a meeting held this _____ day of _____, 20__." • Notation of any self-imposed restrictions. • Endorsement by the Plan Commission President and the Administrator. • Endorsement by every person having a security interest in the property that they are subordinating their liens to all covenants, servitudes, and easements imposed on the property. • For any plats with private roads or shared driveways, a note stating that roads not built to the applicable standards cannot and will not be accepted for dedication. • A note stating that an individual erosion control plan is required for each lot in this subdivision prior to the issuance of any building permit or ILP.

Non-conforming Lots, Structures, and Uses

A. General Provisions.

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

B. Non-conforming Lots of Record.

1. Where a lawful lot(s) of record exists at the effective date of adoption or amendment of this UDO that would not be permitted to be created by the regulations imposed by this UDO, the lot may be developed so long as it remains otherwise lawful, provided that:
 - a. The lot must be in separate record with road frontage that is not shared with any existing lot(s) unless an easement exists for this purpose.
 - b. Development conforms with the applicable yard dimensions and development standards/requirements for the zoning district except for lot area and/or lot width.
 - c. All other provisions of this UDO are met or a variance from the BZA is obtained.

C. Non-conforming Structures.

1. General Provisions.

- a. Where a lawful structure(s) exists at the effective date of adoption or amendment of this UDO that could not now be built under the terms of this UDO because of restrictions on area, lot, height, location on the lot, or other requirements concerning the structure, such structure(s) may be continued so long as it remains otherwise lawful, provided that:
 - i. A non-conforming structure may not be enlarged, altered, or added on to in a way that increases its non-conformity unless a variance is obtained from the BZA. However, any structure, or portion thereof, may be altered to decrease its non-conformity.
 - ii. Whenever a legal non-conforming structure on a parcel of real property used for residential purposes is damaged or destroyed, the owner of the parcel shall be permitted to reconstruct, repair, or renovate the non-conforming structure if the reconstruction, repair, or renovation meets the following requirements:
 - (a) The structure will continue to be used for residential purposes.
 - (b) The new foundation of the reconstructed, repaired, or renovated structure may not exceed the square footage of the foundation of the damaged or destroyed structure.
 - iii. If a non-conforming structure or portion of a non-conforming structure is destroyed or damaged by any means where the damage is more than fifty percent (50%) of its fair market value (as determined by assessed value or appraisal provided by the property owner, whichever is greater), it shall not be repaired or rebuilt except as permitted by this UDO or a previously granted variance.
 - (a) The reconstruction must take place within twelve (12) months of when the damage occurred or at the discretion of the Administrator if additional time is needed for reason.

- (b) The structure must be built equal to or less than the square footage as the previous building.
- iv. The requirements in subsections "b" and "c" above concerning the reconstruction, repair, or renovation of a damaged or destroyed legal non-conforming structure do not authorize the reconstruction, repair, or renovation of a damaged or destroyed non-conforming structure that is:
 - (a) Located within a flood plain (as defined in *IC 14-8-2-99*), or
 - (b) Subject to the jurisdiction of a Historic Preservation Commission (per *IC-36-7-11*).
- v. Should such structure be moved for any reason, it shall conform to all the regulations for the district in which it is located after it is moved.
- vi. If any non-conforming structure is abandoned for any reason for more than one (1) year, such structure shall be required to conform with all regulations of this UDO unless a variance(s) is obtained from the BZA.

2. Non-Conforming Signs.

- a. Any sign lawfully existing on the effective date of this ordinance, or amendment thereto that does not conform to all the standards and regulations of this ordinance is considered a legal non-conforming sign.
- b. Signs which existed prior to the time this ordinance was passed and were in conformance with previous ordinances will be legally non-conforming until such time as a major change is made to the sign. Major changes include:
 - i. Change of business entity,
 - ii. Modification to the size, shape, or height,
 - iii. Adding lights or illumination,
 - iv. Adding/moving electronic components,
 - v. Structural alterations, and/or
 - vi. Relocation or moving of the sign
- c. All legal non-conforming signs shall be kept in good repair, safe, neat, clean, and attractive condition. In the event non-conforming signs are not kept in said condition or are demolished by any force whatsoever to the extent of fifty percent (50%) or more of the sign area, said signs shall then be made to conform to this ordinance.
- d. A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the Administrator shall give the owner thirty (30) days written notice to remove it. Upon failure to comply with this notice, the Administrator may remove the sign at cost to the property owner or lessee.

D. Non-conforming Uses of Land.

1. **General Provisions.** Where a lawful use(s) of land exists at the effective date of adoption or amendment of this UDO that would not be permitted by the regulations imposed by this UDO, this use(s) may be continued so long as they remain otherwise lawful, provided that:
 - a. A legally non-conforming use may be continued but shall not be extended, expanded, or changed to another non-conforming use unless a variance of use is obtained from the BZA.
 - b. A non-conforming use may be extended throughout any part of an existing structure if the structure was arranged or designed for such use at the time of adoption or amendment of this UDO, but no such use shall be extended to occupy any land outside such building.
 - c. A legally non-conforming use shall not be enlarged, increased, intensified, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this UDO, except as permitted by the BZA.
 - d. A legally non-conforming use shall not be moved, in whole or in part, to any portion of the lot or parcel that was not occupied by such use at the effective date of adoption or amendment of this UDO.
 - e. If any such legally non-conforming use of land is discontinued or abandoned for any reason for more than six (6) months, any subsequent use of such land shall conform to all regulations of this UDO. There shall be no return to the previous non-conforming use after it is discontinued or abandoned for more than six (6) months unless a variance of use is granted by the BZA.
 - f. No additional structures shall be erected in connection with a non-conforming use of land that do not conform to all requirements of this UDO.
2. **Agricultural Uses.** Consistent with *IC 36-7-4-616*, an agricultural use of land that constitutes an agricultural legally non-conforming use may be changed to another agricultural use of land without losing agricultural non-conforming use status. In addition, an agricultural non-conforming use shall not be restricted or required to obtain a variance of use or special exception so long as an agricultural legally non-conforming use has been maintained for three (3) years in a five (5) year period.

E. Non-conforming Uses and Structures in Combination.

1. **General Provisions.** Where a lawful structure that was occupied by a lawful use exists at the effective date of adoption or amendment of this UDO, and the lawful structure and/or lawful use, would not be permitted by the regulations imposed by this UDO, this combination of use and/or structure may be continued so long as they both remain otherwise lawful, provided that:
 - a. Where non-conforming status applies to a structure and land use in combination, all provisions of *Chapter 9: Non-Conforming Lots, Structures, and Uses* shall apply.
 - b. Where non-conforming status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the use, in which case, both the structure and the use shall be brought into conformance with the provisions of this UDO.

F. Non-conforming Zoning Districts.

- 2. General Provisions.** At the time of adoption or amendment of this UDO, if a zoning district(s) is no longer listed in the text of the UDO, property zoned under this district(s) will continue to be zoned as such until the property is rezoned to a conforming zoning district. The development standards and permitted uses previously associated with the non-conforming zoning district shall still apply until rezoning to a conforming zoning district occurs.

G. Thresholds for Coming Into Compliance.

- 1. General Provisions.** The aesthetics of properties in the community are of importance and certain development standards that are included in this UDO particularly contribute to improving visual appearance. For this reason, the following thresholds are established for nonconforming uses and/or structures to require that certain development standards be brought into compliance.
- 2. Modifications to a Non-conforming Use or Structure.** Compliance with the standards listed in *Section 3* below is required when a non-conforming structure and/or use is modified in any one or more of the following ways:
 - a. A modification to a structure that requires Construction Design Release from the Department of Homeland Security of Indiana; or
 - b. A parking area is expanded or reduced by twenty percent (20%) or more;
- 3. Development Standards that Require Conformance.** When a modification to a non-conforming use or structure occurs as listed in *Section 2* above, the following development standards shall be brought into compliance:
 - a. Parking lot paving per *Chapter 3: Parking and Loading Standards*;
 - b. Parking lot landscaping per *Chapter 3: Parking and Loading Standards* and
 - c. Sign standards per *Chapter 3: Sign Standards*.

Definitions

A. General Provisions.

1. The terms “shall” and “must” are always mandatory. The word “may” is allowed and/or recommended but not required.
2. Words used in the present tense include the future tense.
3. Any words not defined in this UDO shall be defined using the most recent version of the Merriam-Webster Dictionary. If a word or phrase is not defined within this dictionary, the Administrator shall provide a definition.

B. Definitions.

ABANDONED. Abandonment or cessation of the use of the property or structure for a period of six (6) consecutive months, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

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

ACCESSORY DWELLING. See DWELLING, ACCESSORY.

ACCESSORY STRUCTURE. See STRUCTURE, ACCESSORY.

ACCESSORY USE. See USE, ACCESSORY.

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

ADMINISTRATOR. The person(s) appointed or designated by the PC to provide staff support to the PC and the BZA and to enforce the UDO under the supervision of the PC.

ADULT BUSINESS. See SEXUALLY ORIENTED BUSINESS.

AGRICULTURE. See FARM or CROP PRODUCTION.

AGRITOURISM. An accessory activity at a working farm or an agricultural, horticultural, or agribusiness operation where the general public is allowed or invited to visit, participate in, or view, activities for the purposes of enjoyment, education, or active involvement in the activities of the farm or operation. For the purposes of this UDO, agritourism is considered retail.

AGRIVOLTAICS. A solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services. For the purposes of this UDO, this use shall be considered a solar energy system.

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

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

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

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

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

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

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

ASSEMBLY HALL. See STADIUM.

AUDITOR. The Auditor for Shelby County.

AUTOMOBILE. A self-propelled, free-moving vehicle with four (4) wheels, designed for carrying ten (10) passengers or less and licensed by the appropriate state agency as a passenger vehicle.

AUTOMOBILE SALES, NEW. Business that sells or leases new and used vehicles including, but not limited to, automobiles, motorcycles, recreational vehicles (RV), trailers, boats, heavy equipment (such as bulldozers, backhoes, and similar), and similar vehicles.

AUTOMOBILE SALES, USED. Business that sells or leases used vehicles including, but not limited to, automobiles, motorcycles, recreational vehicles (RV), trailers, and heavy equipment (such as bulldozers, backhoes, and similar), and similar vehicles.

AUTOMOTIVE REPAIR. A business that provides service or repair to automobiles, motorcycles, recreational vehicles (RV), trailers, boats, heavy equipment (such as bulldozers, backhoes, and similar), and similar vehicles. All service must occur within an enclosed structure or not be visible from any public right-of-way. Uses include, but are not limited to, tire sales and service, automobile washes, and oil change establishments.

AVERAGE SETBACK. See SETBACK, AVERAGE.

BAR. See TAVERN.

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

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

BERM. An earthen mound designed to provide screening and buffering from undesirable views and adjacent incompatible uses.

BOARDING HOUSE. An establishment that offers rooms for rent, not available to transients, in which meals are regularly provided for compensation for at least three inhabitants. Boarding houses do not include bed and breakfasts, multi-family residential dwellings, hotels, or motels.

BOARD OF ZONING APPEALS (BZA). The Board of Zoning Appeals for the jurisdiction. An officially constituted body whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of the UDO.

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

BREWERY/WINERY/DISTILLERY. A licensed building or property whose primary purpose is to produce and sell alcoholic beverages for distribution and may include accessory commercial facilities such as a tasting room, restaurant, and event facilities. For purposes of this UDO, this use is considered service-oriented retail.

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

BUILDING. See STRUCTURE.

BUILDING HEIGHT. The vertical distance measured from lowest ground level adjacent to the building at the front of the structure to the highest point of the structure, roof, or peak. Building

height does not include cellular towers, antennas, chimneys, steeples, or agricultural/industrial appurtenances.

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

BUILDING LINE. See SETBACK LINE.

BULK SOLID WASTE CONTAINER. A container intended for construction waste material or other refuse, excluding garbage, for the purpose of removing said material from a site.

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

CAMPGROUND AND RECREATIONAL VEHICLE (RV) PARK. A publicly or privately-owned parcel on which two (2) or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes, whether granted gratuitously or by a rental fee. A campground provides overnight occupancy by the owner or their guests in temporary, non-permanent lodging structures, such as tents, recreational vehicles, camping trailers, or similar means. This definition is not intended to include manufactured home parks. Any site with more than one recreational vehicle that is occupied is considered a campground.

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

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

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

CHANGE IN USE. A change from one land use classification to another land use classification. A change in ownership does not constitute a change in use.

CHILD CARE CENTER. A non-residential structure where at least one (1) person (children or adults) receives care from a provider while unattended by a parent, legal guardian, or custodian; for regular compensation; and for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive calendar days per year, excluding intervening Saturdays, Sundays, and holidays This includes both licensed and unlicensed centers as well as child care ministries but excludes child care home (in-home child care).

CHILD CARE HOME (IN-HOME CHILD CARE). A residential structure in which at least six (6) children, but no more than twelve (12) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider while unattended by a parent, legal guardian, or custodian; for regular compensation; and for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive calendar days per year, excluding intervening Saturdays, Sundays, and holidays. For the purposes of this UDO, a child care home includes both licensed and unlicensed providers. For the purposes of this UDO, this use is not considered a home-based business.

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

CLINIC/OUTPATIENT SERVICES. A structure where patients are admitted for examination and treatment on an outpatient basis by physicians, dentists, other medical professionals, psychologists, or social workers and where such examination and treatment require a stay of less than twenty-four (24) hours. This use can include on-site administering of medication but does not include dispensing of medication for off-site use.

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

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

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

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

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

COMPREHENSIVE CARE FACILITY. See NURSING HOME.

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

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

CONTRACTOR FACILITY. A structure(s), area(s), or parcel(s) used for conducting business and/or storing materials and/or equipment for contractors in the construction trades. Outdoor storage is only allowed if expressly permitted by the subject zoning district, see *Chapter 3: Site Development Standards*. For the purposes of this UDO, this use is considered professional services/business offices.

COUNTY. Shelby County, Indiana.

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

CREMATORY (CREMATORIUM). A place where the bodies of the deceased are cremated. This use may include auxiliary uses, such as funeral homes, mortuaries, or cemeteries.

CROP PRODUCTION. The production, storage, keeping, and/or harvesting of plants and crops, including but not limited to forages and sod crops; grains and seed crops; trees and forest crops; fruits; vegetables; nursery or greenhouse plant products (without general retail sales); and lands devoted to a soil conservation or forestry management program; or similar row, field, tree, or nursery crop production without general retail sales.

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

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

DAY CARE, PET. See KENNEL, PUBLIC.

DEED. A legal document conveying ownership of real property.

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

DENSITY, GROSS. The density calculated using all land and areas within the development boundaries.

DENSITY, NET. The density calculated using only includes the developable areas within the development boundaries. Net density would exclude streets, easements, water areas, lands not development due to environmental constraints, parkland, common areas, and other undevelopable areas.

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

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

- Requires approval by the PC (or delegated to the Administrator);
- Includes a site plan;
- Satisfies the development requirements specified in the UDO regulating the development; and
- Contains the plan documentation and supporting information required by the UDO regulating development.

DISTRICT, ZONING. See ZONING DISTRICT.

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

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

DRIVEWAY, COMMERCIAL. A private driveway serving a non-residential use.

DRIVEWAY, PRIVATE. A single, shared private driveway serving no more than four (4) residential parcels. Access to five (5) or more residential parcels shall be provided with a public road.

DUMP. A parcel or portion of a parcel where garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, and other waste, scrap, or discarded material of any kind are disposed of by dumping, burial, burning, or other means.

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

DUPLEX. See DWELLING, TWO-FAMILY.

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

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

DWELLING, MULTI-FAMILY. A structure(s) that is located on a single parcel containing three (3) or more dwelling units, including units that are located on one (1) or more stories.

DWELLING, SINGLE-FAMILY. A dwelling on a single parcel containing one (1) dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards. This definition does not include attached single-family dwellings.

DWELLING, SINGLE-FAMILY ATTACHED. One (1) dwelling on a single parcel with ground-floor outside access, attached to two (2) or more single-family dwellings by common vertical walls without openings between dwellings (the dwelling is built to the lot line where it is attached or touching an

adjacent single-family dwelling through a common or exterior wall). Examples include, but are not limited to, townhomes and patio homes.

DWELLING, SINGLE-FAMILY TEMPORARY. The temporary placement of a manufactured home permitted with a building permit for one (1) of the following purposes:

- Temporary residential occupancy for persons intending to build a permanent residence on the same property;
- Temporary residential occupancy of a manufactured home adjacent to the permanent residence of someone who is able to provide care or in need of care;

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

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

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

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

EASEMENT, PERPETUAL UNOBSTRUCTED. See PERPETUAL UNOBSTRUCTED EASEMENT.

EASEMENT, RENEWABLE ENERGY. See RENEWABLE ENERGY EASEMENT.

EASEMENT, SOLAR ENERGY. See SOLAR ENERGY EASEMENT.

ESTABLISHMENT OF A BUSINESS. Any of the following:

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

EVERGREEN. With regard to performance or other surety, a loan that is continually renewed rather than repaid until released by the legislative body.

EXOTIC ANIMAL. A wild animal that is not native to the United States nor are they domesticated. Exotic animals are not permitted to be kept inside the town limits of Fairland.

FARM. A parcel where the primary use is for crop production, livestock, or aquaculture. See CROP PRODUCTION.

FARMERS MARKET. The seasonal selling or offering for sale at retail of vegetables or produce, animal products, flowers, orchard products, and similar non-animal agricultural products, occurring in a predesignated area, where the vendors are individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

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

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

FLAG LOT. See LOT, FLAG.

FLOOD HAZARD. See the Flood Hazard Ordinance for the jurisdiction.

FLOOR AREA. Area of all floors of all buildings or structures.

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

FLOOR AREA, GROUND. The sum of the gross horizontal areas of all enclosed areas of the first or ground floor of a structure, measured from the outside dimensions of the ground floor of the structure. It does not include any exterior areas such as garage areas, crawl spaces, attic area, porches, patios, etc.

FLOOR AREA, NET. The total gross floor area excluding stairwells, elevator shafts, equipment rooms, interior parking/loading, and any floors below the first or ground floor that are not intended or used for human habitation or service to the public.

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

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

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

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

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

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

GARAGE, PRIVATE. An accessory structure that is incidental to a primary structure and that is used for the parking and storage of vehicles owned and operated by the residents or occupants thereof and that is not a separate commercial enterprise available to the general public. Private garages shall not count towards the minimum living area of a dwelling.

GENERAL RETAIL. See RETAIL, GENERAL.

GRADE. Defined as:

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

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

GREENHOUSE/NURSERY, COMMERCIAL. Land, structures, or a combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for general retail sale or wholesale sale on the premises including products used for gardening and landscaping. For the purposes of this UDO, a commercial greenhouse may include nursery sales without a greenhouse structure.

GROSS FLOOR AREA. See FLOOR AREA, GROSS.

GROUND FLOOR AREA. See FLOOR AREA, GROUND.

GROUP HOME. A non-profit or for-profit providing sheltered care of persons in need of care, support, or supervision, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. Examples include but are not limited to residential treatment facilities, halfway houses, intermediate care facilities, youth homes/shelters, developmentally disabled care, and homeless shelters. For purposes of this UDO, a group home does not include a nursing home or an assisted living facility.

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

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

HAZARDOUS WASTE. A waste or combination of wastes that, because of its quantity; concentration; or physical, chemical, and/or infectious characteristics; may

- cause or significantly contribute to an increase in mortality or increase in serious irreversible, or incapacitating reversible illness; or
- pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HISTORIC STRUCTURE. Any structure that is:

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

HOME OCCUPATION. An accessory use carried out for economic gain by a resident and conducted entirely within the resident's dwelling unit or entirely within an accessory structure upon the same premises as the primary dwelling unit where no clients, guests, customers, or employees (other than the resident(s) of the dwelling) access the premises. For the purposes of this UDO, uses such as a short-term rental, child care, or other business activity where non-residents are accessing the site are not considered a home occupation.

HOME-BASED BUSINESS. An accessory use carried out for economic gain by a resident and conducted entirely within the resident's dwelling unit or entirely within an accessory structure upon the same premises as the primary dwelling unit where limited clients, guests, customers, or employees (other than the resident(s) of the dwelling) access the premises.

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

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

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

IMPERVIOUS SURFACE. A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. Examples of impervious surfaces include buildings, structures, sheds, patios, concrete, and asphalt. For the purposes of this UDO, gravel shall be considered an impervious surface.

IMPROVEMENT LOCATION PERMIT (ILP). An improvement location permit which is written permission issued by the Administrator for the construction, repair, alteration, or addition to a structure that complies with the applicable building codes and the regulations established by this UDO.

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

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

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

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

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

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

JURISDICTION. The Town of Fairland, IN.

KENNEL, PRIVATE. The keeping, breeding, raising, showing, or training of five (5) or more dogs over six (6) months of age for personal enjoyment of the owner or occupant of the property. A private kennel does not include livestock, the sale of any animals, and/or breeding of animals that are sold.

KENNEL, PUBLIC. An establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, and/or sold for a fee or compensation. Any veterinary facility that provides overnight boarding as its primary service or any outdoor housing of animals is considered a public kennel. Dog or pet daycares are considered a public kennel.

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

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

LEGISLATIVE BODY. The Fairland Town Council.

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

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

LIVESTOCK. Animal husbandry activities (breeding and caring for farm animals) for the production of animals and/or animal products that will be consumed by others and/or sold, such as dairies, livestock farming, and similar uses that do not require an IDEM permit. This also includes pastureland and meadows used for livestock rearing as well as harvesting of aquatic animals and organisms. On properties not zoned Agriculture (AG), no more than five (5) hens and no roosters shall be kept on a parcel.

LIVING AREA. The total interior habitable area of a structure on all floors or levels, measured from the interior faces of the exterior walls and does not include unfinished basements, unfinished attics, and attached garages that are not intended for human habitation.

LIVING AREA, MINIMUM. The minimum interior habitable area of a structure on all floors or levels, measured from the interior faces of the exterior walls and does not include unfinished basements, unfinished attics, and attached garages that are not intended for human habitation.

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

LODGE. See CLUB, PRIVATE.

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

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

LOT, FLAG. A lot where the major portion of the parcel has access to a public road or street by means of a narrow strip of land called the "flagpole." See *Chapter 3: Site Development Standards* for minimum lot width, easement width, and frontage. The flagpole portion of the lot shall not be used in determining setbacks or in calculating lot size for zoning and building purposes.

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

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

LOT COVERAGE. That part of the parcel that is covered by impervious surfaces. See also IMPERVIOUS SURFACE.

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

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

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

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

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

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

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

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

MANUFACTURED HOME PARK. As defined in *IC 16-41-27-5*, a manufactured home park or community consists of one (1) or more parcels of land that contain individual lots that are leased or otherwise contracted and are owned, operated, or under the control of one (1) or more persons on which a total of at least five (5) manufactured homes are located for the purpose of being occupied as principal residences. The term includes the following:

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

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

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

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

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

MEDICAL AND DOCTOR OFFICES. Uses whose primary purpose is to provide diagnosis and treatment for medical, dental, and psychiatric outpatient care, where there is no dispensing of medication and patients/clients are not admitted. Uses include doctor office, dentist office, optician office, and similar uses not defined elsewhere in this UDO. For purposes of this UDO, medical offices and clinics are considered professional services/business offices.

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

MINIMUM LIVING AREA. See LIVING AREA, MINIMUM.

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

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

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

MOTEL. See HOTEL.

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

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

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

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

NURSERY. See GREENHOUSE/NURSERY, COMMERCIAL.

NURSING HOME/ASSISTED LIVING FACILITY. A public or private residential facility (short or long-term) which houses patients suffering from disease, disabilities, or advanced age who require

medical service and nursing service rendered by or under the supervision of a registered nurse. For purposes of this UDO, a comprehensive care facility is considered a nursing home.

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

OPEN SPACE, OVERALL DEVELOPMENT. The minimum open space required based on the total or gross density. This includes all land and areas within the development boundaries, including proposed rights-of-way, drainage areas, non-buildable areas, and similar area or features.

OUTPATIENT SERVICES. See CLINIC/OUTPATIENT SERVICES.

OUTDOOR STORAGE. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours that is not within an enclosed structure.

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

PARCEL. See LOT.

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

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

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

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

PERPETUAL UNOBSTRUCTED EASEMENT. An easement that is self-perpetuating, runs with the land, and cannot be revoked or vacated without approval of all easement holders or parties. No structures can be placed within the easement that limit or impede ADA accessibility.

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

PLACE OF WORSHIP. Defined as:

- A church, synagogue, temple, mosque, or other facility or area that is used for prayer by persons of similar beliefs;

- A special-purpose building or area that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

PLAN COMMISSION (PC). The Fairland Advisory Plan Commission.

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

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

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

PLAT COMMITTEE. In accordance with *IC 36-7-4-701(e)*, a subcommittee created by the PC to hold hearings on minor residential subdivisions and re-plats on behalf of the PC in accordance with the *PC Rules and Procedures*.

PLOT PLAN. A scaled, dimensional drawing of a parcel of land showing the actual measurements, the size and location of any existing buildings or any proposed buildings to be erected, the location of the lot in relation to abutting streets, and any other information as required.

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

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

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

PROFESSIONAL SERVICES AND BUSINESS OFFICES. Uses whose primary purpose is to provide professional services or advice that occurs within a business office setting. The majority of people accessing the site are typically employees but can also have customers or clients that access the business. This use does not include adult businesses, service-oriented retail, general retail, or other uses specifically defined within this UDO or separately listed in *Chapter 2: Zoning Districts*. Examples of this use include, but are not limited to, the following:

- Professional service or business offices, such as accounting or advertising, architectural or engineering, attorney or legal, communication or marketing, financial, insurance, investment, professional consulting, real estate, tax, trade association and travel agency services or offices, and similar service or repair that occurs within a business office setting.

- Medical and doctor offices as defined by this UDO.
- Contractor construction office.

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

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

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

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

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

PUD DISTRICT. A zoning district for which a PUD district ordinance is adopted.

PUD DISTRICT ORDINANCE. A zoning ordinance that meets the requirements of *IC 36-7-4-1500 series* and does the following:

- Designates one (1) or more parcels of real property as a PUD district;
- Specifies uses or range of uses permitted in the PUD district;
- Expresses in detailed terms the development requirements that apply in the PUD district;
- Specifies the plan documentation and supporting information that must be supplied before an ILP or BP may be issued for development of real property in the PUD district; and
- Specifies any limitation applicable to a PUD district; and 6) meets the requirements of *IC 36-7-4-1503*.

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

RACE TRACK. See STADIUM.

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

RECREATIONAL VEHICLE (RV). A vehicular-type portable structure without a permanent foundation that can be towed, hauled, or driven and is designed as a temporary living accommodation for recreational and camping purposes. An RV may include, but is not limited to, campers, trailers, and other similar vehicles intended for overnight occupancy. A recreational vehicle shall not be used as a primary residence or for permanent occupancy outside of a campground.

RECREATIONAL VEHICLE PARK. Any parcel upon which two (2) or more sites are located, established, or maintained for occupancy by recreational vehicles for a fee as temporary living quarters for recreation or vacation purposes.

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

RECYCLING FACILITY. A place or area for the acceptance of recyclable materials from the public and may include the storage, separating, and/or processing of recyclable materials.

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

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

RENEWABLE ENERGY EASEMENT. An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

RE-PLAT. Defined as:

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

RESEARCH AND DEVELOPMENT. An establishment engaged in testing, research, analysis, and product development that could include limited light assembly or limited production of components. This type of use occurs within a building that typically resembles an office and/or laboratory setting.

RESTAURANT. Establishment that provides food service with the majority of sales being food (versus alcohol) and is open to all ages. For the purposes of this UDO, a restaurant is considered Service-Oriented Retail.

RETAIL, GENERAL. Uses whose primary purpose is the sale of goods and merchandise to a consumer. General retail does NOT include adult business, professional and business offices, service-oriented retail, automotive and vehicle sales, clinics and outpatient services, or any other uses specifically defined by this UDO or separately listed in *Chapter 2: Zoning Districts*. Examples of general retail include, but are not limited to, the following:

- Department and superstores, such as clothing/apparel/shoes store;
- Specialty retail stores, such as antique store, art gallery, art supply store (including framing services), book/stationary/newspaper store or stand, camera and photography supply store, collectible stores (cards, coins, comics, stamps, etc.), electronic/appliance store, fabrics and sewing supply store, flea market, floor covering store, furniture store, florist, gift store, greenhouse or nursery, hardware store, hobby shop, jewelry store, luggage and leather goods store, music or musical instrument store, office

supply store, optic store (no medical exams), orthopedic supply store, paint store, pet store, sporting goods and recreation equipment store, bicycle and kayak rental/store, religious goods store, toy store, variety store, and video/game store;

- Supermarkets and grocery stores, such as bakery (without dining), candy store, grocery store, and meat or fish market;
- Convenience stores, such as drug store, such as convenience or corner store, drug store, gas station, and pharmacy; and
- Discount stores, such as consignment and thrift store.

RETAIL, SERVICE-ORIENTED. Uses whose primary purpose is to provide or sell a service, entertainment, or experience rather than providing goods and merchandise that do not occur within a business office setting. The majority of people accessing the site are typically customers rather than employees. Service-oriented retail does NOT include automotive and vehicle repair, bed and breakfasts, convenience stores with gas pumps (including gas stations), child care home/day care facility, drive-in theater, hotel or motel, short-term rental, general retail, self-storage, clinics and outpatient services, professional and business offices, adult businesses, and all other uses defined separately by this UDO or separately listed in *Chapter 2: Zoning Districts*. Examples of service-oriented retail use include, but are not limited to, the following:

- hospitality, instructional, and entertainment services, such as art studio, dance, educational support services, employment services, reception halls, gymnastics or martial arts instruction, paintball, travel centers, and banquet/event facilities;
- Food establishments and restaurants (see RESTAURANT), such as quick service and dine-in restaurants;
- service and repair, computer or phone repair, jewelry repair, oil change or car maintenance, and shoe repair;
- personal services, such as bank or credit union, beauty or barber shop, dry cleaning or laundry receiving station (storefront only), fitness center or gym, nail or tanning salon, photography studio, print shop or copy shop, storage units (indoor and outdoor), and tailoring or dressmaking laundromat; and
- parking lots and garages as a primary use.

REZONE. See ZONE MAP CHANGE.

RIGHT-OF-WAY. Defined as:

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

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

ROAD CLASSIFICATIONS. Road classifications are determined by the *Comprehensive Plan*.

ROAD, PRIVATE. A private roadway that serves at least two (2) parcels pursuant to access easements and all requirements of this UDO.

ROAD, PUBLIC. Any vehicular way, which includes the land between the street lines (whether improved or unimproved) and that is:

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

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

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

SALVAGE YARD. See JUNKYARD.

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

SELF STORAGE/MINI-STORAGE FACILITY. A building(s) or area consisting of individual, self-contained units or spaces leased to individuals, organizations, or businesses for self-service storage of personal property, recreational vehicles (RV's), boats, or other similar items.

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

SERVICE-ORIENTED RETAIL. See RETAIL, SERVICE-ORIENTED.

SETBACK. The distance between the foundation of the structure and the edge of pavement for front setbacks or lot line for side and rear setbacks. See *Chapter 2: Zoning Districts* for measurements of front, side, and rear yard setback.

SETBACK, AVERAGE. The average setback of primary structures on the same side of the street that are located within one hundred (100) feet of the property line of the proposed structure.

SETBACK LINE. A line drawn along the required minimum setback.

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

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

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

SEWER. See WASTE WATER.

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

SEXUALLY ORIENTED BUSINESS. An adult entertainment or service business that is part of the sex industry and is a site of erotic performance, erotic paraphernalia sales, and/or other sexually oriented places. Sexually oriented businesses may include an adult bookstore, adult cabaret, adult mini motion picture theater, adult motion picture theater, adult service establishment (IC 12-7-2-1.8), semi-nude model studio, sexual device shop, or a sexual encounter center as defined in this ordinance. The term "sexually oriented business" shall also include adult drive-in theater, adult live entertainment arcade, and adult motion picture arcade.

SHIPPING CONTAINER. See CARGO CONTAINER.

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

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

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

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

SIGN. Any name, number, symbol, identification, description, display, graphic, or illustration which is affixed to, painted on, or is represented directly or indirectly upon a structure or parcel, visible from any public right-of-way which directs attention to an object, product, place, activity, person, institution, organization, or business. This definition includes backlighted plastic panels or strip lighting affixed to any wall or roof where any such panels or lighting serve to identify a business and attract attention rather than to illuminate space for human activity.

SIGN, ABANDONED. A sign that is:

- Associated with an abandoned use;
- Remains after the termination of the business; and/or
- On its immediate premises but not adequately maintained or repaired.

SIGN, AREA. The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure.

SIGN, ELECTRONIC VARIABLE MESSAGE (EVMS). A sign, or component of a sign, such as an electrically or electronically controlled message center, where the characters, letters, or illustrations can be changed or rearranged either in the field, or from a remote location, without physically altering the face or the surface of the sign.

SIGN, FACE. The surface intended for the display of information on the sign.

SIGN, HEIGHT ABOVE GROUND. The vertical measurement from the ground to the top of the sign. The height of all signs shall be measured from the established grade line to the highest point of the sign or its frame/support.

SIGN, ILLUMINATED. Any sign lighted by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.

SIGN, LEGAL NON-CONFORMING. A pre-existing, legally permitted sign, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

SIGN, PERMANENT. A sign attached to structure or the ground in a manner that enables the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign. The use of anchor bolts, ropes, stakes, chains, glue, or similar anchoring are not methods recognized by this ordinance as a permanent foundation.

SIGN, STRUCTURE. The supporting unit of a sign face, including but not limited to frames, braces cabinets, and poles.

SIGN, TEMPORARY. Any sign that is temporarily used for a specific and shorter duration of time and is not affixed to a permanent foundation or structure. A temporary sign is used for the purpose of conveying information, knowledge, or ideas to the public about activities on the premises. These signs are intended to be on-site for the duration of an event (such as property for sale, special events, grand openings, sales, etc.) or a short period of time.

SIGN TYPES. For the purposes of this UDO, the following sign types are defined:

ANIMATED SIGN. Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an "electronic sign," an animated sign produces the illusion of movement by means of electronic, electrical, or electro-mechanical input and/or illumination capable of simulating movement through using the characteristics of one (1) or both of the following classifications:

- Flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds;

- Patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.

AWNING SIGN. A sign that is attached to an awning or other fabric that serves as a structural protective cover over a window or entrance.

BANNER SIGN. A sign made of flexible materials and supported by any combination of staples, tape, wires, ropes, strings, poles, posts or rods or other materials that are not built as a permanent foundation for the sign. Banner Signs include wave banner signs.

HANGING SIGN. A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface, such as a single post or the underside of a ceiling or canopy. Also known as a canopy or swing sign.

INFLATABLE SIGN. Any device which is capable of being expanded by any gas and used on a permanent or temporary basis to attract attention to a product or event. This definition includes both hot and cold-air balloons tethered or otherwise anchored to the ground.

MAILBOX SIGN. A sign that is either mounted under a mailbox or placed on a mailbox surface but does not extend past the mailbox or mailbox supporting structure in any dimension.

MONUMENT (GROUND) SIGN. A freestanding sign in which the bottom edge of the sign is in contact with or is close to the ground. Also known as a ground, site, or pylon sign.

MURAL SIGN. A picture, scene, diagram, text, artwork, or graphic applied on the exterior of a building, wall, or structure. For the purposes of this UDO, a mural is considered a wall sign.

PORTABLE SIGN. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; benches; menu or sandwich board signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business.

BENCH SIGN. A type of portable sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair.

HUMAN SIGN. A type of portable sign held or worn by a human being for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service, activity, or product.

SIDEWALK/SANDWICH BOARD SIGN. A type of portable, temporary freestanding display located on the sidewalk or similar area that is typically adjacent to a roadway or storefront.

VEHICLE SIGN. A type of portable sign that is permanently affixed to the body of, an integral part of, or a fixture of a motor vehicle that is parked or left standing so that it is visible from a public street for a period of more than seventy-two (72) continuous hours for the intent of being used as advertisement. For the purpose of this definition, "permanently affixed" shall mean it is painted directly on the body of a vehicle and/or applied as a decal on the body of a vehicle.

POLE SIGN. A sign anchored directly to the ground or supported by one (1) or more posts, columns, or other vertical structures or supports. The sign is not attached to or dependent for support from any building and the sign area is not in close proximity to the ground. Billboards would be considered Pole Signs.

PROJECTING SIGN. A sign that is wholly or partly dependent upon a building for support and that projects more than twelve (12) inches from that building. Also known as a blade sign.

ROOF SIGN. Any sign partially or fully erected on or above the roof line of a structure.

WALL SIGN. Any sign attached to, erected against, or painted on the wall, façade, or exterior of a structure with the exposed display surface of the sign in a plane parallel (or relatively parallel) to the plane of the structure. See also MURAL.

WINDOW SIGN. Any sign directly attached to the window of a structure or erected on the inside or outside of the window, which at the determination of the Administrator, is legible from any part of a public right-of-way or adjacent property. For purposes of this window sign definition, a “window” is defined as an opening in the wall or roof of a structure that is fitted with glass or other transparent material in a frame to admit light or air and to allow people inside to see out. Also known as a façade sign.

YARD SIGN. Small signs, typically under waist height that are usually supported by metal wire or small stakes driven directly into the ground.

SITE PLAN. A plan for one or more parcels on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures; signs and lighting; berms; bufferyards and screening devices; surrounding development; and any other information that reasonably may be required in order for an informed decision to be made by the approving authority.

SOLAR ACCESS. Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

SOLAR ENERGY. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY EASEMENT. See RENEWABLE ENERGY EASEMENT.

SOLAR ENERGY SYSTEM (SES). A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating. For purposes of this ordinance, an SES is classified as Accessory SES or Primary SES.

ACCESSORY SES. A solar energy system that is an integral part of a primary or accessory building. Accessory SES include Building-Integrated SES, Ground-mounted SES, Pole-mounted SES, Roof-Mounted SES, and Solar Carport SES.

BUILDING-INTEGRATED SES. An accessory solar energy system that is an integral part of a primary or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

GROUND-MOUNTED SES. An accessory solar energy system mounted on a rack that rests on or is attached to the ground.

POLE-MOUNTED SES. An accessory solar energy system mounted on a pole.

ROOF-MOUNTED SES. An accessory solar energy system mounted on a rack that is fastened to or ballasted on a structure roof.

SOLAR CARPORT SES. An accessory solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

GRID-TIED SES. A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

OFF-GRID SES. A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

PHOTOVOLTAIC SES. A solar energy system that converts solar energy directly into electricity.

PRIMARY SES. A solar energy system that is free-standing and serves as the primary land use for the parcel(s) on which it is located. Primary SES include Community-scale SES and Large-scale SES.

COMMUNITY-SCALE SES. A primary solar energy system that covers less than ten (10) acres and converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale.

LARGE-SCALE SES. A primary solar energy system that covers 10 acres or more and converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. It can include collection and feeder lines, substations, ancillary buildings, solar monitoring stations and accessory equipment or structures thereto, that capture and convert solar energy into electrical energy, primarily for use in locations other than where it is generated.

POLLINATOR-FRIENDLY SES. A community- or large-scale solar energy system that meets the requirements of the 2020 Indiana Solar Site Pollinator Habitat Planning Scorecard (as amended) developed by Purdue University or another pollinator-friendly checklist developed by a third-party as a solar-pollinator standard designed for Midwestern eco-systems, soils, and habitat.

SOLAR COLLECTOR. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

SOLAR HOT AIR SYSTEM. A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically mounted collector on a south-facing wall. Can also be referred to as a Solar Air Heat or Solar Furnace.

SOLAR HOT WATER SYSTEM. A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes. Can also be referred to as Solar Thermal.

SOLAR MOUNTING DEVICES. Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

SOLAR-READY DESIGNED STRUCTURES. The design and construction of a building that facilitates and makes feasible the installation of rooftop solar.

SPECIAL EXCEPTION. Permission granted by the BZA in accordance with *IC 36-7-4-918.2* to allow a use, designated as being permitted by special exception in the zoning district, when it is shown that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the UDO.

STABLE, PUBLIC. An accessory structure/building/area in which horses are kept for commercial use including boarding, hire, riding, show, or sale. For the purposes of this UDO, this use shall be considered service-oriented retail.

STADIUM. A place or area (indoor or outdoor) that is primarily used for spectator sports, entertainment (such as concerts, amusement parks, and similar events), expositions, fairgrounds, or similar public gatherings or events. Stadiums may also have accessory uses, such as food vendors or on-site merchandise sales for the event. Examples include, but are not limited to, convention halls, sports arenas, amphitheaters, race tracks, and assembly halls. For the purposes of this UDO, this use does not include institutional uses (such as schools) that include a stadium on the same site or campus as the institutional use or those uses specifically defined as service-oriented retail.

STATE. The State of Indiana.

STORY. That portion of a structure between the surface of a floor and the ceiling immediately above; or if there is a floor above, the portion of a structure between the surface of any floor and the surface of the next floor above. A basement shall not be counted as a story.

STREET. See ROAD.

STREET CLASSIFICATION. See ROAD CLASSIFICATION.

STRUCTURE. A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Furthermore, any enclosed structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind.

STRUCTURE, ACCESSORY. A structure detached from a primary structure (not attached to the foundation of the primary structure) located on the same parcel and customarily incidental and subordinate to the primary structure or use. For purposes of this UDO, a fence is considered an accessory structure.

STRUCTURE, AGRICULTURAL. A structure on agricultural land designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown or raised on the premises, but not including dwellings used for human occupancy.

STRUCTURE, ATTACHED. A structure which has any part of its exterior or bearing wall in common with another building or which is connected to another building by a roof.

STRUCTURE, DETACHED. A structure having no structural connection with another structure.

STRUCTURE, ENCLOSED. A structure with a roof/ceiling and at least two (2) walls.

STRUCTURE, PORTABLE. Any structure not permanently attached to the ground or other permanent structure that is designed to be moved or transported by means of wheels or other mechanisms that are attached to the structure, or the structure is mounted/placed upon.

STRUCTURE, PRIMARY. A structure in which the primary use of the lot or premises on which it is located is conducted, including a structure that is attached to such a structure in a substantial way, such as by a roof. With respect to residential uses, the primary structure shall be the main dwelling.

STRUCTURE, TEMPORARY. A structure that is erected without any foundation or footings and is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. A temporary use usually does not involve the construction or alteration of any permanent structure, although the authorization of the temporary use does not necessarily preclude such construction.

SUBDIVIDER. Any person having an interest in land that is the subject of an application for subdivision. Also, a person submitting an application for subdivision.

SUBDIVISION. The division of a lot or parcel of land into two (2) or more lots, parcels, or other divisions of land for sale, development, or lease. A subdivision includes the division or development of any land, whether by deed, metes and bounds description, or other recorded instrument. Subdivisions are further classified as commercial or industrial subdivision, minor residential subdivision, or major residential subdivision.

SUBDIVISION, COMMERCIAL or INDUSTRIAL. Approval granted by the PC in accordance with *IC 36-7-4-700 series* for the subdivision of a parcel for commercial or industrial development.

SUBDIVISION, EXEMPT. Divisions of existing parcels of land that are exempt from this UDO as determined by the Administrator and outlined in *Chapter 6: Subdivision Types*.

SUBDIVISION, MAJOR RESIDENTIAL. Approval granted by the PC in accordance with *IC 36-7-4-700 series* for any division of a parcel of land for residential development that is not considered a minor residential subdivision or an exempt subdivision.

SUBDIVISION, MINOR RESIDENTIAL. Approval granted by the PC in accordance with *IC 36-7-4-700 series* for a division of a parcel of land for residential development resulting in three (3) lots or less.

SWIMMING POOL. A self-contained body of water at least twenty-four (24) inches in depth used for recreational purposes. Such body of water may exist in a metal tank, plastic lined, or masonry structure located either above-ground or below-ground level. Swimming pools may be either public or private in use. A private pool is considered an accessory structure.

TAC. See TECHNICAL ADVISORY COMMITTEE.

TAVERN. An establishment in which alcoholic beverages are served, primarily by the drink, where food or packaged liquors may also be served or sold.

TECHNICAL ADVISORY COMMITTEE (TAC). A committee that, because of their specialized knowledge and experience in their field of expertise, may review the technical aspects of a project and assist the Administrator, PC, and BZA by providing technical and expert advice with regard to proposed development within the jurisdiction.

TEMPORARY STORAGE STRUCTURE/CONTAINER. A portable storage unit which does not have permanent foundation or footing, and which includes cargo containers, portable storage containers, truck trailers, and bulk solid waste containers. Such structures shall not be considered a building.

THOROUGHFARE PLAN. The portion of the *Comprehensive Plan* which identifies the existing and proposed locations of interstate highways, primary arterials, secondary arterials, feeders, local streets, streets, and rights-of-way within the jurisdictional area, as amended from time to time under *IC 36-7-4-506*.

TOURIST CABINS. See HOTEL.

TRACT. See LOT.

TRANSPARENCY. With regard to a building façade, the percentage of a street-facing building façade that is covered by glazed elements that are clear and non-reflective and may not be painted or tinted.

TRUCK TERMINAL. A freight or relay station for the transfer or exchange of cargo from one vehicle, form of transportation, or party to another. This does not include long-term or permanent storage.

UNIFIED DEVELOPMENT ORDINANCE (UDO). A unified development ordinance combines the jurisdiction's zoning and subdivision control ordinances into a single, legal document that is enabled by *IC 36-7-4-610* and adopted by the legislative body and which may be amended from time to time.

USE. The specific purpose or activity for which land and/or a structure is designated, arranged, intended, or for which it is or may be occupied or maintained.

USE, ACCESSORY. A use that:

- Is clearly incidental and customarily found in connection with a primary structure or use;
- Is subordinate to and serves the primary use;
- Is subordinate in area, extent, or purpose to the primary use served;
- Contributes to the comfort, convenience, or necessity of occupants, business, or industry of the primary use served; and
- Is located on the same parcel as the primary use served.

USE, PRIMARY. The predominant use of any lot or parcel or as determined by the primary structure.

USE, TEMPORARY. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UTILITY. Defined as any agency that, under public franchise or ownership, or under certificate of convenience and necessity, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service; and is a closely regulated enterprise with a franchise for providing a needed service.

UTILITY, PUBLIC. As regulated by *IC 8-1-2*, every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the:

- The conveyance of telegraph and telephone messages;
- The production, transmission, delivery, or furnishing of heat, light, water, or power; or
- Collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. The term does not include a municipality that may acquire, own, or operate any of the foregoing facilities.

UTILITY MAIN EXTENSION. The extension of utility infrastructure for future use by surrounding property owners including, but not limited to, water and sanitary sewer.

VARIANCE. Permission granted by the BZA in accordance with *IC 36-7-4-918.5* to depart from specific development standards for a zoning district within this UDO.

VARIANCE OF USE. Permission granted by the BZA in accordance with *IC 36-7-4-918.4* to allow a specific use that is not otherwise permitted in a zoning district.

VEHICLE, INOPERABLE. As defined by *IC 9-13-2-1*, or any vehicle that is partially disassembled, inoperable, or unlicensed, on any property in location visible from public property or adjoining private property for more than twenty (20) calendar days or on public property without being moved for three (3) calendar days. This shall not include tractors, combines, pickers, disks, plows, or other similar farm machinery that is owned by a farm operator, which is parked in areas zoned AG, and is used for parts replacement for machinery currently being used in the farming operation.

WAIVER. Permission to depart from specific development standards of the subdivision regulations and as specifically identified in the UDO.

WAREHOUSING AND DISTRIBUTION. An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including trans-shipment by boat, rail, air, or motor vehicle. Uses typically breakdown large orders from a single source into smaller orders and consolidation of several orders into a single large order for distribution to several recipients. Retail sales (on-site), assembly, or product processing are not considered distribution or warehousing. This does not include truck terminal.

WHOLESALE BUSINESS. An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, or professional business users, or to other wholesalers. For purposes of this UDO, wholesale businesses are not considered general retail.

WILDLIFE AND NATURE PRESERVE. Open space intended to remain in a predominately natural or undeveloped state to provide possible opportunities for passive recreation.

WIND ENERGY CONVERSION SYSTEM (WECS). A wind energy conversion system where the equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, wind tower, transformer, turbine, vane, wind farm collection system, wire, or other component used in the system.

COMMERCIAL WECS (CWECS). The system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity of more than one hundred (100) kW or a system height of more than eighty (80) feet.

MINI WECS (MWECS). The system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity less than ten (10) kW and a system height of less than forty-five (45) feet. For the purposes of this Ordinance, a roof-mounted structure shall be considered a Mini WECS if it meets the rated capacity and height requirements set forth in this Section. Only one (1) Mini Wind Energy Conversion System may be permitted per principal structure. Mini WECS shall be considered an accessory use in all zoning districts.

SMALL WECS (SWECS). The system by which wind energy is converted to electricity using a wind turbine, tower, support system, blades, and associated control and conversion electronics which has a rated capacity of less than or equal to one hundred (100) kW and a system height of less than eighty (80) feet. Only one (1) SWECS may be permitted per principal structure.

WECS NONPARTICIPATING PROPERTY. A lot or parcel of real property that is not owned by a project owner and the following conditions are met.

The project owner does not seek:

- To install or locate one (1) or more wind power devices or other facilities related to a wind power project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure); or
- To otherwise enter into a lease or any other agreement with the owner of the property for use of all or part of the property in connection with a wind power project;

The owner of the property does not consent:

- To having one (1) or more wind power devices or other facilities related to a wind power project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located; or
- To otherwise enter into a lease or any other agreement with the project owner for use of all or part of the property in connection with a wind power project.

The owner of the property does not participate in a wind power project through:

- A neighbor agreement;
- A participation agreement; or
- Another similar arrangement or agreement with a project owner.

WIND POWER DEVICE. A device, including a windmill or a wind turbine, which is designed to use the kinetic energy of moving air to provide mechanical energy or to produce electricity.

WINDOW. An opening in the wall or roof of a building that is fitted with glass or other transparent material in a frame to admit light or air and allow people to see out.

WIRELESS COMMUNICATION FACILITY. Any towers, poles, antennas, or other structures intended for use in connection with transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions.

YARD. A space on the same parcel as the primary structure that is open, unoccupied, and unobstructed by structures, except as otherwise provided in this ordinance.

YARD, FRONT. A space extending across the full width of the parcel between any structure and the front lot line measured perpendicular to the structure at the closest point to the front lot line.

YARD, REAR. A space extending across the full width of the parcel between the primary structure and the rear lot line and measured perpendicular to the structure to the closest point of the rear lot line.

YARD, SIDE. A space extending from the front yard to the rear yard between the primary structure and the side lot line and measured perpendicular from the side lot line to the closest point of the primary structure.

ZONE MAP CHANGE. Approval granted through the PC and the legislative body in accordance with *IC 36-7-4-608* to change the zoning classification of a particular parcel. Also referred to as a rezone.

ZONING DISTRICT. A specified zoning district within the jurisdictional area or extended jurisdiction for which uniform regulations governing the use, height, size, and intensity of use of structures and land, and open spaces around structures, are herein established.

ZONING MAP. The map or maps that are considered a part of the UDO and delineate the boundaries of zoning districts and any amendments thereto of the jurisdictional area of the PC.