

A vertical mural on the left side of the page. It features stylized, colorful leaves in shades of yellow, green, and purple. Below the leaves, there is a stylized face with large, expressive eyes. The mural is painted on a textured wall, possibly brick.

TOWN OF BARGERSVILLE

Development Code

ADOPTED JULY 19, 2022

townofbargersville.org



TABLE OF CONTENTS

- 1 General Provisions**
- 2 Zoning Districts & Uses**
- 3 Specific Uses**
- 4 Design and Maintenance Standards**
- 5 Improvement Standards**
- 6 Subdivision Regulations**
- 7 Process and Administration**
- 8 Construction Standards & Specifications**
- 9 Storm Water Drainage Manual**
- 10 Definitions**
- A Appendix**

GENERAL PROVISIONS

| | | |
|------|--|---|
| 1.1 | Title | 3 |
| 1.2 | Enactment | 3 |
| 1.3 | Purpose | 3 |
| 1.4 | Scope | 3 |
| 1.5 | Relationship to Other Ordinances or Agreements | 4 |
| 1.6 | Incorporation of Other Documents | 4 |
| 1.7 | Severability | 4 |
| 1.8 | Defined Words | 4 |
| 1.9 | Public Utility Installations | 4 |
| 1.10 | Zoning Map | 5 |
| 1.11 | Ordinance Format/Quick Links | 5 |
| 1.12 | Nonconforming Regulations | 6 |
| 1.13 | Nonconforming Uses | 7 |
| 1.14 | Nonconforming Buildings or Structures | 7 |
| 1.15 | Nonconforming Lots of Record | 8 |
| 1.16 | Repairs and Maintenance | 8 |
| 1.17 | Effective Date; Transitional Provisions | 8 |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

1.1 Title

This Ordinance is known as “The Town of Bargersville Development Code” and may be cited and referred to as the “Development Code,” “Dwelling Code,” “Building Code,” “Zoning Ordinance,” “Subdivision Control Ordinance,” or “Unified Development Ordinance” (referred in this document as “Ordinance”).

1.2 Enactment

This Ordinance is adopted according to the authority of [IC 36-7-4 et seq.](#) If sections of Indiana Code or Indiana Administrative Code referenced in this Ordinance are amended, this Ordinance is amended to refer to the updated section of code.

1.3 Purpose

The provisions of this Ordinance are intended to:

- Protect the lands, water, and other natural resources within the Town by encouraging uses best suited to those resources;
- Promote orderly development in accordance with the Town’s Comprehensive Plan;
- Facilitate economical municipal water and sewer services, adequate traffic capacity, recreational areas, schools, and other public amenities;
- Provide adequate light, air, and healthful conditions in residential, commercial, and industrial areas;
- Promote convenient and safe traffic and pedestrian movement;
- Protect against fire and other dangers; and
- Achieve stability in the expenditure of funds for public improvements and services.

As they are interpreted and applied, the provisions of this Ordinance are the minimum requirements adopted to promote the public health, safety, morals, and general welfare.

1.4 Scope

- A. No building or structure can be used, constructed, altered, or maintained and no new use of land established except in conformity with the provisions of this Ordinance.
- B. After the effective date of this Ordinance, any building or structure used, erected, repaired, altered, or converted, or any use of land established in violation of the provisions of this Ordinance is declared a public nuisance and is subject to enforcement procedures.
- C. Nothing in this Ordinance requires a change in the plans, construction, or use of any building for which a completed application was filed or a permit issued prior to the effective date of this Ordinance. The approved construction must be completed within three years of the effective date of this Ordinance.
- D. The provisions of this Ordinance apply to all buildings, structures, and uses in any zoning district, unless otherwise noted.
- E. The regulations established by this Ordinance are the minimum necessary and apply uniformly to each class or kind of structure, land, or use.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- F. This Ordinance applies to all areas within the incorporated limits of the Town of Bargersville. Land uses and buildings are also subject to all other Ordinances of the Town.

1.5 Relationship to Other Ordinances or Agreements

- A. The regulations of this Ordinance are in addition to any other regulations in effect in the Town of Bargersville. All building, subdividing, and change of uses within any district must satisfy all building, planning, platting, zoning, and other applicable regulations.
- B. If two or more provisions within this Ordinance conflict or are inconsistent with one another, then the most restrictive provision controls. Where graphics or illustrations within the Ordinance conflict with the text of the Ordinance, the text provision controls.
- C. This Ordinance is not intended to abrogate or annul any Ordinance, rule, regulation, permit, easement, covenant, commitment, or private agreement previously adopted, issued, or entered and not in conflict with the provisions of this Ordinance. Where the regulations of this Ordinance are more restrictive or impose higher standards than other ordinances, regulations, easements, covenants, commitments or private agreements, the requirements of this Ordinance govern.

1.6 Incorporation of Other Documents

- A. Improvement Location Permits, development plans, and subdivisions must conform to the principles and standards established by this Ordinance.
- B. The following documents are incorporated, as amended, by cross-reference into this Ordinance:
- The Town of Bargersville Comprehensive Plan
 - The Town of Bargersville Thoroughfare Plan
 - The Town of Bargersville Parks and Recreation Master Plan

1.7 Severability

If any provision of this Ordinance is found to be invalid by any court of competent jurisdiction, that decision does not affect the validity of any portion of the Ordinance except the portion declared invalid.

1.8 Defined Words

Words used in a special sense in this Ordinance are defined (see [Chapter 10 Definitions](#)). All other words have the meaning inferred from their context in this Ordinance or their generally accepted definitions.

1.9 Public Utility Installations

Structures or land used for public utility installations are subject to the provisions of this Ordinance to the extent permitted under Indiana law.

All structures for a public utility installation, including substations, must be effectively landscaped and require approval of a site plan (see [7.1\(G\) Site Plan Review](#)) and improvement location permit (see [7.2\(B\) Improvement Location Permit](#)).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

1.10 Zoning Map

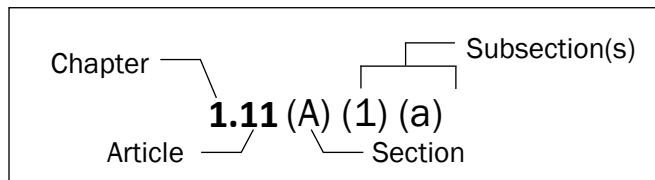
- A. The zoning map for the jurisdiction of the Plan Commission in effect on the date of adoption of this Ordinance is included as part of this Ordinance. The map may be referred to as the “Official Zoning Map” and as the “Zoning Map”.

The Official Zoning Map is located in the office of the Department and may be maintained as an [electronic zoning map](#). Copies of the Official Zoning Map must be labeled as copies and contain the last date of modification. The Official Zoning Map should be revised annually or as the Plan Commission determines necessary.

- B. The following rules apply where uncertainty exists about the exact boundaries of any zoning district shown on the Zoning Map:
1. Zoning district boundaries shown within or parallel to the lines of streets, easements, and rights-of-way are deemed to follow the centerline of the affected street, easement, or right-of-way. At the boundaries of the jurisdiction of the Plan Commission, district boundaries are deemed to include the full width of such streets, easements, and rights-of-way.
 2. Zoning district boundaries indicated as following or being parallel to section or fractional sectional lines, lot lines, or town corporation lines are interpreted as following or paralleling such lines.
 3. Zoning district boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water are interpreted to follow such centerlines.
 4. Zoning district boundaries indicated as approximately following the parcel lines as established by the Town are interpreted to follow such parcel lines.
 5. If the boundary line of a district divides a lot in a manner essentially perpendicular to a street, the district that applies to the larger part of the lot applies to the entire lot.
 6. In the case of uncertainty, the Administrator interprets the intent of the Zoning Map and determines the location of the boundary in question. If the Administrator cannot definitively determine the location of a zoning district boundary, the BZA determines the location of the zoning district boundary.
- C. Unless changed by an amendment to this Ordinance, land annexed into the Town currently zoned for agricultural uses will be designated AG Agricultural District and all other zoning districts will be designated R-1 Low Density Single-Family Residential District. Whenever any right-of-way or other similar area is vacated, the zoning districts adjoining each side of the right-of-way or the area automatically extend to the centerline of such vacation. All areas included in the vacation are then subject to the appropriate provisions of the extended zoning district(s). In the event of a partial vacation, the adjoining zoning district, or zoning district nearest the portion vacated, extends automatically to include all the vacated area.

1.11 Ordinance Format/Quick Links

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



GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

How to Use Hyper-Linked Cross-References.

- Certain aspects of the electronic format of this document allow the user to quickly navigate the document by clicking on hyperlinks and quick access chapter tabs.
- Chapter Titles on the tabs located in the margins will direct the user to that chapter's table of contents.
- Article headings located in the table of contents at the beginning of each chapter will direct the user to that article within the chapter.
- Zoning District names within this document which are colored and emphasized in italics will direct the user to the zoning district's standards in [CHAPTER 2: ZONING DISTRICTS AND USES](#).
- In-line text cross-references to other articles within this document which are colored and emphasized will direct the user to the cross-referenced article.
- Cross-references to documents and websites outside of this document are provided for convenience only. The Town does not guarantee the accuracy of these links.

1.12 Nonconforming Regulations

- A. Upon the adoption of this Ordinance, the Zoning Map, and potentially upon other government action (e.g., acquisition of right-of-way), some buildings, structures, lots and uses may no longer conform to the regulations of their zoning district. This chapter provides the rules, policies, and regulations that apply to these buildings, structures, lots and uses.
- B. Any property, lot, or structure rendered nonconforming solely by the action of a governmental agency modifying any street, is exempt from these nonconformance provisions.
- C. **Legal Nonconforming.** Legal nonconformance is caused by an amendment to this Ordinance and not due to a change to the property, resulting in the property no longer conforming to the standards of the applicable zoning district. When this situation occurs, the property is deemed legal nonconforming and is subject to the terms of this Ordinance.

Illegal Nonconforming. A building, structure, sign, or lot constructed or used without an approved building permit, improvement location permit, or approval from the BZA or Plan Commission is considered illegal nonconforming when it does not conform to this Ordinance. An illegal nonconforming property is subject to enforcement and penalties as set forth in [CHAPTER 7: PROCESS AND ADMINISTRATION](#), and all other applicable state or municipal law. The illegal nonconforming property must be altered to conform with all applicable standards and regulations of this Ordinance.

- D. It is recognized that there exist within zoning districts certain lots, buildings, structures and uses which were lawful before this Ordinance was passed or amended, but are now prohibited, regulated or restricted under the terms of this Ordinance. It is the intent to permit these legal nonconformities to continue until they are removed but not to encourage their survival.
- E. Nonconforming lots, buildings, structures, and uses are declared by this Ordinance to be incompatible with the provisions of the districts in which they are located. It is the intent of this Ordinance that nonconformities not be enlarged, expanded, or extended, except as otherwise permitted in this chapter, nor be used as the reason to add other buildings, structures, or uses prohibited elsewhere in the district.
- F. Nothing in this Ordinance serves as authorization for, or approval of, the continuation of a use that violates the zoning regulations in effect at the time of the adoption of this Ordinance.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

1.13 Nonconforming Uses

- A. A nonconforming use cannot be enlarged or increased, nor extended to occupy a greater area of land or building area than was occupied on the effective date this Ordinance.
- B. No part of any nonconforming use can be moved unless the movement eliminates or reduces the nonconformity.
- C. If a nonconforming use is abandoned for any reason for a period of more than one year, any subsequent use must conform to the requirements of this Ordinance. A nonconforming use is determined to be abandoned if one or more of the following conditions exists:
 - 1. Utilities serving the property – such as water, gas, and electricity – have been disconnected;
 - 2. The property, buildings, and grounds, have fallen into disrepair, as evidenced by broken windows, sagging or missing steps, structural defects, overgrown grass or weeds, and similar conditions;
 - 3. Signs or other indications of the existence of the nonconforming use have been removed;
 - 4. Equipment or fixtures necessary for the operation of the nonconforming use have been removed;
 - 5. Other actions the Administrator deems to constitute an intention on the part of the owner or lessee to abandon the nonconforming use.

1.14 Nonconforming Buildings or Structures

Where a lawful building or structure exists on the effective date of this Ordinance that does not comply with the requirements of this Ordinance because of restrictions such as lot area, lot coverage, width, height, or setbacks, that building or structure may continue to be occupied and used so long as it remains otherwise lawful, subject to the following provisions:

- A. If a nonconforming building or structure is destroyed to more than 50% of its fair market value exclusive of the foundation, it must be reconstructed in conformity with the provisions of this Ordinance. The Administrator may consult with outside sources to determine fair market value. The BZA may permit the reconstruction of the nonconforming building or structure if all the following conditions are met:
 - 1. The prior nonconforming conditions are not increased;
 - 2. All building materials and architectural details conform to the architectural standards found in [CHAPTER 6: SUBDIVISION REGULATIONS](#).
 - 3. The new building or structure is placed on the original foundation, unless the building or structure could be located to reduce the nonconformity on the lot;
 - 4. The application to reconstruct the nonconforming building or structure was filed with the Administrator within 6 months of the date the building or structure was damaged or destroyed; and
 - 5. The reconstruction of the building or structure is not detrimental to adjacent property and the surrounding neighborhood.
- B. If a nonconforming building or structure is moved for any reason and for any distance, it must be moved to a location complying with the requirements of this Ordinance.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

1.15 Nonconforming Lots of Record

- A. If a lot of record does not meet a minimum lot width or minimum lot area requirement, the lot of record may be used for any use permitted in the district in which it is located. Any building or structure constructed on the lot must comply with the required front and rear setbacks and other requirements for the zoning district. However, side setbacks may be reduced up to the percentage to which the lot width relates to the minimum lot width requirement. The nonconforming lot may also be used for special exception uses, if it meets all applicable requirements of this Ordinance for those uses (see [7.1\(H\) Special Exception](#)).
- B. When two or more lots of record have continuous frontage and are under single ownership but do not meet the requirements established for lot width or lot area, the parcels involved are considered one undivided parcel for purposes of this Ordinance. No portion of the parcel can be used or divided in a manner that reduces compliance with lot width and area requirements established by this Ordinance.

1.16 Repairs and Maintenance

The following regulations apply to legal nonconforming structures and uses:

- A. Work may be done for ordinary repairs or replacement of walls, heating, fixtures, wiring, or plumbing under the condition the square footage and volume of usable space does not increase.
- B. If all or part of a structure is declared unsafe or condemned by an authorized official and is not repaired or rebuilt within 6 months of the declaration, the structure loses its nonconforming status. All future improvements must conform to the standards of this Ordinance.
- C. Permits may be required for modifications or alterations of legal nonconforming structures (see [7.2\(B\) Improvement Location Permit](#)).

1.17 Effective Date; Transitional Provisions

- A. This Ordinance comprises a replacement ordinance for the Jurisdiction of the Town of Bargersville, as described in [IC 36-7-4-602\(a\)](#) and in [IC 36-7-4-700](#). Accordingly, the prior Bargersville Zoning Ordinance, which was adopted on or about July 20, 2015, as amended, and the prior Bargersville Subdivision Control Ordinance, which was adopted on or about December 1, 2015, as amended are hereby repealed on the effective date of this Ordinance.
- B. The effective date of this Ordinance is the latest of the following dates:
 1. The final day on which notice of the adoption of the penalty provisions of this Ordinance (see [7.4\(D\) Penalty Schedule](#)) is published under [IC 36-7-4-610\(a\)](#).
 2. The day on which this Ordinance is filed in the Clerk-Treasurer's office under [IC 36-7-4-610\(f\)](#).
 3. August 1, 2022.
- C. This subsection applies to any application for a permit pending before the Department on the effective date of this Ordinance. The Applicant may request the Administrator treat the application as an application filed according to this Ordinance instead of the prior Bargersville Zoning Ordinance. If the Administrator grants the request, the application is then approved or denied by the Department, BZA, Plan Commission, or the Council according to the provisions of this Ordinance.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

ZONING DISTRICTS & USES

| | | |
|------|---|----|
| 2.1 | Establishment of Zoning Districts | 3 |
| 2.2 | Rural Districts Standards and Uses | 4 |
| 2.3 | Residential Districts Standards and Uses | 6 |
| 2.4 | Commercial Districts Standards and Uses | 8 |
| 2.5 | Industrial Development Standards and Uses | 10 |
| 2.6 | Special District Development Standards | 11 |
| 2.7 | Floodplain Regulations | 13 |
| 2.8 | Arterial Corridor Overlay | 39 |
| 2.9 | I-69 Interchange Overlay | 45 |
| 2.10 | Permitted Uses | 47 |
| 2.11 | Permitted Use Table | 49 |
| 2.12 | Use Limitation Notes | 54 |
| 2.13 | Use Descriptions | 61 |

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN
STANDARDS**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

2.1 Establishment of Zoning Districts

The Town of Bargersville is divided into the following zoning districts:

A. Rural Districts

- AG Agricultural
- R-R Rural Residential

B. Residential Districts

- R-1 Low Density Single-Family
- R-2 Moderate Density Single-Family
- R-3 Medium Density Mixed Residential
- R-4 High Density Mixed Residential
- R-5 Multi-Family Residential

C. Commercial Districts

- C-1 Office/Service Business
- C-2 Local Business
- C-3 General Business

D. Industrial Districts

- I-1 Light Industrial
- I-2 General Industrial
- I-3 Technology Industrial

E. Special Districts

- DT Downtown Mixed-Use
- MU Mixed-Use

F. Overlay Districts

- ACO Arterial Corridor Overlay
- IO I-69 Interchange Overlay
- FP Floodplain Overlay

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2.2 Rural Districts Standards and Uses

A. Purpose

1. **AG Agriculture.** The Agriculture District is primarily to accommodate agricultural operations and practices. In addition, the AG District is intended to preserve and maintain the established rural character and agricultural traditions of Bargserville and the surrounding area. It allows agricultural development by reason of location and the availability of resources and infrastructure, while allowing scattered single-family homes at a very low density.
2. **R-R Rural Residential.** The Rural Residential District is intended to protect those features within the rural areas of the Town that are valued by the community and contribute its character. The agricultural context, pastoral setting, natural features, and wildlife habitats are essential components of that rural character. Single-family homes are permitted within this district at low densities, along with uses compatible with the openness of the district and the country setting.

| | AG | RR |
|--------------------------------------|---------|---------|
| B. Lot Requirements | | |
| Maximum Density (units/acre) | 0.5 | 0.5 |
| Minimum Lot Size | 2 acres | 2 acres |
| Minimum Lot Width | 200' | 200' |
| Minimum Lot Frontage/Street Frontage | 200' | 100' |

C. Building Placement Requirements

| | | |
|-----------------------------|------|------|
| Residential Uses | | |
| Minimum Front Setback | 100' | 100' |
| Minimum Street Side Setback | 50' | 50' |
| Minimum Side Setback | 20' | 20' |
| Minimum Rear Setback | 35' | 35' |
| Nonresidential Uses | | |
| Minimum Front Setback | 100' | 100' |
| Minimum Street Side Setback | 50' | 50' |
| Minimum Side Setback | 20' | 20' |
| Minimum Rear Setback | 35' | 35' |

D. Building Requirements

| | | |
|--------------------------|-------|-------|
| Maximum Building Height | 45' | 45' |
| Minimum Living Area (SF) | 1,200 | 1,200 |
| Maximum Lot Coverage | 30% | 30% |

E. Permitted Uses

See [2.10 Permitted Uses](#)

F. Parking Requirements

See [5.3 Parking Standards](#)

G. Architectural Standards

See [6.18 Residential Architectural Standards](#)

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

H. Miscellaneous Provisions

1. Any lot of record zoned AG Agriculture that was within the A-1F District at the time of annexation may be split by minor subdivision (see [6.2\(C\) Minor Subdivisions](#)) provided the resulting parcels, including the lot of record, do not exceed an average density of one dwelling unit per 10 acres. If the resulting density on a lot of record will exceed this density, the parcel must first be rezoned to R-R Rural Residential prior to proceeding with an application for subdivision approval.
 2. New residential dwelling units are required to connect to municipal water and sanitary sewer services. The Town Council may grant a waiver to this requirement (See [6.16 Modifications](#)). Other jurisdictional permits may be required.
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GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2.3 Residential Districts Standards and Uses

A. Purpose

- R-1 Low Density Single-Family District.** The Low Density Single-Family District is intended to accommodate new residential subdivision development at densities of approximately two units per acre, along with related uses.
- R-2 Moderate Density Single-Family District.** Moderate Density Single-Family District is intended to encompass some of the Town's existing single family residential neighborhoods and accommodate new development at densities of about three units per acre.
- R-3 Medium Density Mixed Residential District.** The Medium Density Mixed Residential District is intended to provide wider housing options at densities of up to six units per acre. The R-3 District lends itself to serving as a buffer or transitional zone between lower density residential and non-residential development. Single-family dwellings, small-scale multifamily dwellings, and townhomes are permitted, along with compatible public, quasi-public and institutional uses.
- R-4 High Density Mixed Residential District.** The High Density Mixed Residential District is similar in character and purpose to the R-3 District, but also permits multifamily dwellings. It allows development at higher densities than any other district. Residential densities of up to 12 units per acre are permitted in this district.
- R-5 Multifamily Residential.** The Multifamily Residential District is intended to provide large-scale multifamily housing options at densities of up to 22 units per acre. This district is intended for large apartment complexes with over 100 units with vehicular access to arterial or collector streets. They can either front directly on the arterial or collector street or be located as a transitional land use between non-residential uses and lower density residential zones.

| | R-1 | R-2 | R-3 | R-4 | R-5 |
|---|--------|-------|-------|-------|-------|
| B. Lot Requirements (see Image 2-1) | | | | | |
| Maximum Density (units/acre) | 2.0 | 3.0 | 6.0 | 12.0 | 24.0 |
| Single-Family Detached Dwelling | | | | | |
| Minimum Lot Size (SF) | 12,000 | 9,000 | 6,000 | 4,200 | 3,500 |
| Minimum Lot Width | 80' | 60' | 50' | 35' | 30' |
| Minimum Lot Frontage/Street Frontage | 50' | 50' | 40' | 30' | 30' |
| Minimum Living Area (SF) | 1,800 | 1,600 | 1,400 | 1,200 | 1,000 |
| Two-Family Detached Dwelling | | | | | |
| Minimum Lot Size (SF) | N/A | 6,000 | 3,000 | 2,100 | 1,800 |
| Minimum Lot Width | N/A | 30' | 25' | 18' | 18' |
| Minimum Lot Frontage/Street Frontage | N/A | 25' | 20' | 15' | 12' |
| Minimum Living Area per Dwelling Unit (SF) | N/A | 1,200 | 1,100 | 1,000 | 900 |
| Single-Family Attached Dwelling | | | | | |
| Minimum Lot Size (SF) | N/A | N/A | 2,000 | 1,650 | 1,500 |
| Minimum Lot Width | N/A | N/A | 18' | 18' | 18' |
| Minimum Lot Frontage/Street Frontage | N/A | N/A | 15' | 12' | 12' |
| Minimum Living Area (SF) | N/A | N/A | 1,400 | 1,200 | 1,000 |
| Multifamily Dwelling | | | | | |
| Minimum Lot Size (SF/DU) | N/A | N/A | 1,800 | 1,500 | 1,500 |
| Minimum Lot Width | N/A | N/A | 60' | 50' | 40' |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

| | | | | | |
|--|-----|-----|-----|-----|-----|
| Minimum Lot Frontage/Street Frontage | N/A | N/A | 40' | 35' | 30' |
| Minimum Living Area per Dwelling Unit (SF) | N/A | N/A | (2) | (2) | (2) |

C. Building Placement Requirements

| | | | | | |
|-------------------------------|-----|-----|-----|-----|-----|
| Minimum Front Setback | 25' | 20' | 20' | 15' | 10' |
| Minimum Street Side Setback | 15' | 10' | 7' | 5' | 5' |
| Minimum Side Yard Setback (1) | 10' | 6' | 8' | 5' | 5' |
| Minimum Rear Setback | 20' | 15' | 12' | 10' | 10' |
| Garage Along Street Setback | 25' | 20' | 20' | 20' | 20' |

D. Building Requirements

| | | | | | |
|-------------------------|-----|-----|-----|-----|-----|
| Maximum Building Height | 40' | 35' | 40' | 45' | 55' |
| Maximum Lot Coverage | 35% | 40% | 60% | 70% | 80% |

Notes:

- (1) The side yard setback between attached units within the same building is 0'.
- (2) The multifamily dwelling minimum living area requirement is based upon the type of dwelling unit as follows:
 Efficiency unit – 550 SF; One bedroom unit – 650 SF; Two bedroom unit – 800 SF; Three bedroom unit – 1,000 SF; for each additional bedroom over three – an additional 100 SF

E. Permitted Uses

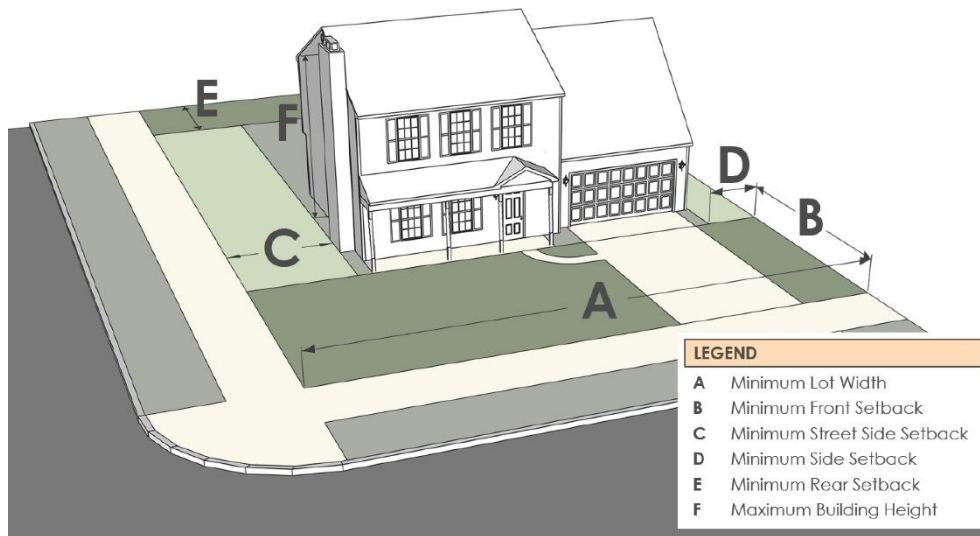
See [2.10 Permitted Uses](#)

F. Parking Requirements

See [5.3 Parking Standards](#)

G. Architectural Standards

See [6.18 Residential Architectural Standards](#)

Image 2-1: Lot and Building Requirements

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2.4 Commercial Districts Standards and Uses

A. Purpose

- C-1 Office/Service Business District.** The Office/Service District is intended to accommodate uses that can provide office and personal services to the residents of Bargersville. The uses permitted in this district are low intensity and an appropriate scale and appearance to be generally compatible with most other uses. Among other purposes, this district may serve as a transitional zone between residential and commercial or industrial districts and between major thoroughfares and residential districts.
- C-2 Local Business District.** The Local Business District is intended to provide for the development of convenience business uses meeting the daily needs of residents living in adjacent residential neighborhoods. This district should be strategically located with access to a minor arterial or collector street.
- C-3 General Business District.** The General Business District accommodates general retail and/or auto-dependent businesses. Uses within the district typically require high visibility, arterial frontage, good access, and ample parking. Uses in this district are intended to be confined to nodes to prevent the creation of commercial strip development with its attendant traffic congestion, unsightly clutter, distractions, and potential incompatibility with adjoining residential uses.

| | C-1 | C-2 | C-3 |
|---|--------|--------|--------|
| B. Lot Requirements | | | |
| Minimum Lot Size (SF) | 20,000 | 10,000 | 40,000 |
| Minimum Lot Width | 100' | 60' | 100' |
| Minimum Lot Frontage/Street Frontage ¹ | 50' | 50' | 50' |
| C. Building Placement Requirements | | | |
| Minimum Front Setback | | | |
| Where abutting a residential district | 25' | 25' | 25' |
| All others | 10' | 10' | 15' |
| Minimum Street Side Setback | | | |
| Where abutting a residential district | 20' | 15' | 20' |
| All others | 10' | 5' | 12' |
| Minimum Side Setback | | | |
| Where abutting a residential district | 10' | 10' | 10' |
| All others | 5' | 5' | 10' |
| Minimum Rear Setback | | | |
| Where abutting a residential district | 20' | 10' | 20' |
| All others | 10' | 0' | 10' |
| D. Building Requirements | | | |
| Maximum Building Height | 35' | 45' | 65' |
| Maximum Lot Coverage | 40% | 80% | 60% |

Notes:

(1) Any lot without street frontage must have an unobstructed access easement at least 25' wide (see [6.23\(E\) Cross-access Easements](#)).

E. Permitted Uses

See [2.10 Permitted Uses](#)

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

F. Parking Requirements

See [5.3 Parking Standards](#)

G. Architectural Standards

See [6.19 Business and Mixed-Use Architectural Standards](#)

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2.5 Industrial Development Standards and Uses

A. Purpose

1. **I-1 Light Industry.** This district is established to accommodate light industrial uses in which all operations, including storage of materials would be confined within a building, and would include warehousing operations. Development in this district requires site plan approval.
2. **I-2 General Industry.** This district is established for all types of industrial uses requiring both enclosed and unenclosed spaces for storage, manufacturing, and fabricating. Development in this district requires site plan approval.
3. **I-3 Technology Industrial.** This district is established for industrial and office uses that focus on engineering or manufacturing technology. Uses may include corporate offices, high tech manufacturing, and research and development facilities. Development in this district requires site plan approval.

| | I-1 | I-2 | I-3 |
|---|--------|--------|--------|
| Maximum Density (units/acre) | N/A | N/A | N/A |
| Minimum Lot Size (s.f.) | 20,000 | 30,000 | 20,000 |
| Minimum Lot Width | 100' | 120' | 100' |
| Minimum Lot Frontage/Street Frontage ¹ | 45' | 60' | 45' |

C. Building Placement Requirements

| | | | |
|--|-----|-----|-----|
| Minimum Front Setback | 20' | 30' | 25' |
| Minimum Street Side Setback | 15' | 20' | 15' |
| Minimum Side Setback | 10' | 10' | 10' |
| Minimum Rear Setback | 10' | 20' | 20' |
| Min. Separation of Primary and Accessory Buildings | 10' | 10' | 10' |

D. Building Requirements

| | | | |
|-------------------------|-----|-----|-----|
| Maximum Building Height | 75' | 75' | 75' |
| Maximum Lot Coverage | 75% | 50% | 75% |

Notes:

(1) Any lot without street frontage must have an unobstructed access easement at least 25' wide (see [6.23\(E\) Cross-access Easements](#)).

E. Permitted Uses

See [2.10 Permitted Uses](#)

F. Parking Requirements

See [5.3 Parking Standards](#)

G. Architectural Standards

See [6.20 Industrial Architectural Standards](#)

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2.6 Special District Development Standards

A. Purpose

1. **DT Downtown Mixed-Use District.** The Downtown Mixed-Use District is established to accommodate developments containing a variety of commercial, office, and residential uses in Bargersville's downtown core. Uses need to be appropriate to downtown and occur at a scale cohesive with the existing urban fabric of downtown. Development in this district requires site plan approval.
2. **MU Mixed-Use District.** This district is established to accommodate developments containing a variety of compatible commercial, office, and residential uses. The uses may be mixed vertically within a building or horizontally in close proximity to each other. Development in this district requires site plan approval.
3. **PUD Planned Unit Development District.** This district is established to encourage large-scale, identity-building developments mixing uses, building types, and building arrangements. Development in this district requires connection to public water and public sewers and site plan approval. See [7.1\(F\) Planned Unit Developments](#) for the approval process and standards for planned unit developments.

| | DT | MU |
|--|---------|---------|
| B. Lot Requirements | | |
| Maximum Density (units/acre) | 22.0 | 15.0 |
| Residential Uses | | |
| Minimum Lot Size (per dwelling unit) | 900 | 1,800 |
| Minimum Lot Width | 30' | 40' |
| Minimum Lot Frontage/Street Frontage ¹ | 25' | 30' |
| Nonresidential Uses | | |
| Minimum Lot Size | No min. | No min. |
| Minimum Lot Width | No min. | No min. |
| Minimum Lot Frontage/Street Frontage ¹ | No min. | No min. |
| C. Building Placement Requirements | | |
| Residential Uses | | |
| Minimum Front Setback | 10' | 10' |
| Minimum Street Side Setback | 7' | 7' |
| Minimum Side Setback ² | 5' | 5' |
| Minimum Rear Setback | 5' | 10' |
| Min. Separation of Primary and Accessory Buildings | 6' | 6' |
| Nonresidential Uses | | |
| Minimum Front Setback | 0' | 0' |
| Minimum Street Side Setback | 0' | 0' |
| Minimum Side Setback | 0' | 0' |
| Minimum Rear Setback | 0' | 0' |
| Min. Separation of Primary and Accessory Buildings | 6' | 10' |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

| | DT | MU |
|---------------------------------|-----|-----|
| D. Building Requirements | | |
| Building Height | | |
| Residential Use | 45' | 45' |
| Nonresidential Use | 40' | 40' |
| Lot Coverage | | |
| Residential Use | 80% | 80% |
| Nonresidential Use | 80% | 80% |

Notes:

(1) Any lot without street frontage must have an unobstructed access easement at least 25' wide (see [6.23\(E\) Cross-access Easements](#)).

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

E. Permitted Uses

See [2.10 Permitted Uses](#)

F. Parking Requirements

See [5.3 Parking Standards](#)

G. Architectural Standards

See [6.19 Business and Mixed-Use Architectural Standards](#)

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2.7 Floodplain Regulations

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

A. Purpose

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

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

B. Methods of Reducing Flood Loss

To accomplish its purposes, these regulations include provisions for:

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

C. Definitions

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

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

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

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

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

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

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

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

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

Building – See "Structure."

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

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

Development means, for floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

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

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

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

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

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

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

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

FEMA means the Federal Emergency Management Agency.

Fill for floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

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

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

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

Flood hazard area means areas subject to the one percent annual chance flood. (See "Special Flood Hazard Area")

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

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

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

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

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

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

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

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

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

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

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

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

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

Historic structure means any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

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

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

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

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

1. **Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
2. **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
3. **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
4. **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
5. **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
6. **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

1. The lowest floor of a building.
2. The basement floor.
3. The garage floor if the garage is connected to the building.
4. The first floor of a structure elevated on pilings or pillars.
5. The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
 - The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
 - At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings must be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.
6. The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

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

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

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

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

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

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

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

Physical Map Revision (PMR) is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

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

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

Recreational vehicle means a vehicle which is:

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

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in [2.7\(D\)\(2\)](#) of this article. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

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

Special Flood Hazard Area (SFHA), synonymous with “areas of special flood hazard” and floodplain, means those lands within the jurisdiction of the Town of Avon subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies as Zones A, AE, A99. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources,

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

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

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

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

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

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

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

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

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

D. General Provisions

1. **Applicability:** This article applies to all SFHAs and known flood prone areas within the jurisdiction of the Town of Bargsville.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. Basis for Establishing Regulatory Flood Data: This section's protection standard is the regulatory flood. The best available regulatory flood data is listed below.
 - a. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Bargersville, delineated as an "AE Zone" on the Johnson County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2007 is determined from the one-percent annual chance flood profiles in the Flood Insurance Study of Johnson County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated August 2, 2007 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone", the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.
 - b. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Bargersville, delineated as an "A Zone" on the Johnson County, Indiana and Incorporated Areas Flood Insurance Rate Map, dated August 2, 2007, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, must be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
 - c. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas is according to the best data available as provided by IDNR, provided the upstream drainage area from the subject site is greater than one square mile.
 - d. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study is utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.
3. Establishment of Floodplain Development Permit. A Floodplain Development Permit is required in conformance with the provisions of this article prior to the commencement of any development activities in areas of special flood hazard.
4. Compliance. No structure can be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this article and other applicable regulations. No land or stream within the SFHA can be altered without full compliance with the terms of this article and other applicable regulations.
5. Abrogation and Greater Restrictions. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, the more stringent restrictions apply.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6. Discrepancy between Mapped Floodplain and Actual Ground Elevations

- a. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles governs.
- b. If the elevation of the site in question is below the base flood elevation, that portion of the site is included in the SFHA and regulated accordingly.
- c. If the elevation (natural grade) of the site in question is above the base flood elevation, that portion of the site is considered outside the SFHA and the floodplain regulations will not be applied. The property owner should apply for a Letter of Map Amendment (LOMA).

7. Interpretation. In the interpretation and application of this article all provisions are considered as minimum requirements; construed in favor of the governing body; and, deemed neither to limit nor repeal any other powers granted under state statutes.

8. Warning and Disclaimer of Liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this article does not create any liability on the part of the Town, the IDNR, or the State of Indiana, for any flood damage that results from reliance on this article or any administrative decision lawfully made.

9. Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance is deemed a violation of this Ordinance and subject to enforcement.

- a. A separate offense occurs each day the violation continues to exist.
- b. The Administrator informs the owner that such a violation is considered a willful act to increase flood damages and therefore may cause suspension of a Standard Flood Insurance Policy.
- c. The Town is not prevented from taking other lawful action to prevent or remedy violations. All enforcement costs, including attorney's fees, accrue to the persons responsible.

D. Administration

1. Designation of Administrator. The Town Council appoints the Administrator to administer and implement the provisions of this section and is referred to as the Floodplain Administrator.

2. Permit Procedures. Application for a Floodplain Development Permit is made to the Floodplain Administrator on forms furnished by the Department prior to any development activities and may include plans describing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, and drainage facilities.

- a. At the application stage the following information is required:
 - A description of the proposed development;
 - Location of the proposed development sufficient to accurately locate property and structures in relation to existing roads and streams;
 - A legal description of the property;

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;
 - A site plan showing existing and proposed improvements and existing and proposed land grades;
 - A letter from a licensed professional surveyor or engineering noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met;
 - Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures with plumbing;
 - Elevation of the top of the lowest floor (including basement) of all proposed structures in Zones A and AE. Elevation should be in NAVD 88;
 - Elevation in NAVD 88 to which any non-residential structure will be floodproofed;
 - Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;
 - Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;
 - Plans showing how any proposed structure will be anchored to resist flotation or collapse;
 - Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88; Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required, and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See [2.8\(D\)\(3\)\(f\)](#) for additional information.)
 - Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
- b. At the construction stage the following information is required: Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it is the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator reviews the elevation certificate. Any deficiencies detected during the review must be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required is cause to issue a stop-work order for the project.
- c. At the completion of construction, the following information is required:
- Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the “as-built” lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

certificate is prepared by or under the direct supervision of a registered land surveyor and certified by the same.

- Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
- Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate is prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

3. Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator is authorized to enforce the provisions of this section. The Floodplain Administrator is authorized to render interpretations of this section consistent with its intent and purpose. Duties and responsibilities of the Floodplain Administrator include:

- a. Enforce the provisions of this ordinance.
- b. Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
- c. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- d. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- e. Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- f. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- g. For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator:
 - Verifies and documents the market value of the pre-damaged or pre-improved structure;
 - Compares the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;
 - Determines and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

improvements and repairs as specified in the definition of “substantial improvement” for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage; and

- Notifies the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in Article 5 of this ordinance are required.
- h. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
- i. Ensure that construction authorization has been granted by IDNR for all development projects subject to 2.8(E)(5) and 2.8(E)(7)(a) of this article and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- j. Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if [2.7\(D\)\(3\)\(i\)](#) is applicable.
- k. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.
- l. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with 2.8(D)(2).
- m. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with 2.8(D)(2).
- n. Make on-site inspections of projects in accordance with [2.7\(D\)\(4\)](#).
- o. Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
- p. Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with plumbing.
- q. Provide information, testimony, or other evidence as needed during variance hearings.
- r. Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with [2.7\(D\)\(4\)](#).
- s. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this article.
- t. Coordinate map maintenance activities and associated FEMA follow-up in accordance with [2.7\(D\)\(5\)](#).
- u. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- v. Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4. Administrative Procedures.

- a. Inspections of Work in Progress. As the work pursuant to a permit progresses, the Floodplain Administrator makes as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- b. Stop Work Orders
 - Upon notice from the Floodplain Administrator, work on any building, structure or premises done contrary to the provisions of this article must immediately cease.
 - The notice is in writing and given to the owner of the property, or to his agent, or to the person doing the work, and states the conditions under which work may be resumed.
- c. Revocation of Permits
 - The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the Ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Ordinance.
- d. Floodplain Management Records.
 - Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance must be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
 - These records are available for public inspection at the Bargersville Town Hall at 24 N. Main Street, Bargersville, IN 46106.
- e. Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

5. Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the Town of Bargersville flood maps, studies, and other data identified in [2.7\(D\)\(2\)](#) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

a. Requirement to Submit New Technical Data

- i. For all development proposals that impact floodway delineations or base flood elevations, the community ensures that technical data reflecting such changes be submitted to FEMA within 6 months of the date such information becomes available. These development proposals include:
 - Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- ii. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions are the responsibility of the applicant.
- iii. The Floodplain Administrator requires a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
- iv. Floodplain development permits issued by the Floodplain Administrator are conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

- b. Right to Submit New Technical Data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission includes appropriate supporting documentation made in writing by the Town Council of the Town of Bargersville and may be submitted to FEMA at any time.

- c. Annexation/Detachment. Upon occurrence, the Floodplain Administrator notifies FEMA in writing whenever the boundaries of the Town of Bargersville have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Johnson County, Indiana, and Incorporated Areas Flood Insurance Rate Map accurately represent the Town of Bargersville boundaries, include within such notification a copy of a map of the Town of Bargersville suitable for reproduction, clearly showing the new corporate limits or the new area for which the Town of Bargersville has assumed or relinquished floodplain management regulatory authority.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6. Variance Procedures.

- a. The BZA hears and decides appeals and requests for variances from requirements of this article.
- b. The BZA hears and decides appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the administration of this article. Any person aggrieved by the decision of the BZA may appeal the decision to the Johnson County Circuit Court.
- c. In acting upon applications, the BZA considers all technical evaluations, relevant factors, standards specified in other sections of this Ordinance, and;
 - The danger of life and property due to flooding or erosion damage.
 - The danger that materials may be swept onto other lands to the injury of others.
 - The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - The importance of the services provided by the proposed facility to the community.
 - The necessity of the facility to a waterfront location, where applicable.
 - The compatibility of the proposed use with existing and anticipated development.
 - The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
 - The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- d. A written report addressing each of the above factors is submitted with the application for a variance.
- e. Variances from the provisions of this ordinance are only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
 - A showing of good and sufficient cause.
 - A determination that failure to grant the variance results in exceptional hardship.
 - A determination that granting the variance does not increase flood heights, increase threats to public safety, add extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- f. No variance for a residential use within a floodway subject to 2.8(E)(5) and 2.8(E)(7)(a) of this article may be granted.
- g. Any variance granted in a floodway subject to 2.8(E)(5) and 2.8(E)(7)(a) of this article requires a permit from IDNR.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- h. Variances to the Provisions for Flood Hazard Reduction of 2.8(E)(2), are granted only when a new structure is located on a lot 0.5 acres or less in size, contiguous to and surrounded by lots with existing structures constructed below the FPG.
- i. Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
- j. Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- k. Variances are only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- l. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- m. Any applicant to whom a variance is granted is given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- n. The Floodplain Administrator maintains the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

E. Provisions for Flood Hazard Reduction

1. Floodplain Status Standards

- a. Floodways (Riverine). Located within SFHAs, established in [2.7\(D\)\(2\)](#), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (IC 14-28-1) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.
 - If the site is in a regulatory floodway as established in [2.7\(D\)\(2\)](#), the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).
 - No action can be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

exemption to the requirement of the Flood Control Act. The Floodplain Development Permit must meet the provisions contained in this article.

- The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) takes precedence.
 - In floodway areas identified on the FIRM, development cannot cause an increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of [2.7\(D\)\(5\)\(a\)](#). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
 - In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, cannot adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
 - For all projects involving channel modifications or fill (including levees) the Town submits the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.
- b. Fringe (Riverine). If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.
- c. SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)
- Drainage area upstream of the site is greater than one square mile:

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

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

Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

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

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

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

d. SFHAs not Identified on a Map

- If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator verifies the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator requires the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- No action can be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
- Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.

2. General Standards

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

- All new construction, reconstruction, or repairs made to a repetitive loss structure, and substantial improvements must be anchored to prevent flotation, collapse or lateral movement of the structure.
- New construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage below the FPG.
- New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
- Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- e. New and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
- f. New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
- g. On-site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during flooding.
- h. Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance must meet the requirements of “new construction” as contained in this ordinance.
- i. Base flood elevation data must be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- j. Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- k. Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3' horizontal to 1' vertical.
- l. Non-conversion agreements are required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
- m. Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities are not permitted in areas of special flood hazard.
- n. Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE must be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume must be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
 - i. The excavation takes place in the same floodplain on the same property on which the authorized fill or structure is located, provided sufficient space exists. If sufficient space does not exist on the same property, the excavation takes place in the same floodplain no further than 1,000' from the site of the authorized fill or structure, provided authorization/permission has been granted by the owners of any property where the excavation is proposed.
 - ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it must not be refilled.
 - iii. The excavation provides for true storage of floodwater but cannot be subject to ponding when not inundated by floodwater.
 - iv. The excavation must be sufficiently stabilized and compacted to remain firm and resist erosion.

**GENERAL
PROVISIONS****ZONING
DISTRICTS****SPECIFIC
USES****DESIGN
STANDARDS****IMPROVEMENT
STANDARDS****SUBDIVISION
REGULATIONS****PROCESS AND
ADMIN****CONSTRUCTION****STORMWATER****DEFINITIONS**

- v. A restrictive covenant stating the approved compensatory cut area (excavation) cannot be altered without approval from the Floodplain Administrator must be executed and recorded in the County Recorder's Office that runs with the property.
- vi. The fill or structure cannot obstruct a drainage way leading to the floodplain.
- vii. The grading around the excavation must be such that the excavated area is accessible to the regulatory floodwater.
- viii. The fill or structure must be of a material deemed stable enough to remain firm and in place during periods of flooding and must include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement. When a structure is placed on fill it must follow additional requirements of [2.7\(E\)\(4\)\(d\)](#) and [2.7\(E\)\(5\)\(d\)](#).
- ix. Plans depicting the areas to be excavated and filled must be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant provides to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

3. Specific Standards - Building Protection Requirement

In addition to the general standards described in [2.7\(E\)\(2\)](#), structures to be located in the SFHA must be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

- a. Construction or placement of a residential structure.
- b. Construction or placement of a non-residential structure.
- c. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.
- d. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
- e. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- f. Reconstruction or repairs made to a repetitive loss structure.
- g. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

4. Specific Standards - Residential Construction.

- a. New construction or substantial improvement of any residential structures must meet provisions described in [2.7\(E\)\(1\)](#) and applicable general standards described in [2.7\(E\)\(2\)](#).
- b. In Zone A and Zone AE, new construction or substantial improvement of any residential structure must have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

movements of floodwaters must be provided in accordance with the standards of [2.7\(E\)\(4\)\(c\)](#). Should fill be used to elevate a structure, the standards of [2.7\(E\)\(4\)\(d\)](#) must be met.

- c. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade must meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls.
 - The bottom of all openings must be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
 - If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG;
 - Doors and windows do not qualify as openings;
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
 - Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
 - ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A residential structure may be constructed on a fill in accordance with the following
 - i. Fill must be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance must be retained in the permit file.
 - ii. Fill must extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - iii. Fill must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3' horizontal to 1' vertical.
 - iv. Fill must not adversely affect the flow of surface drainage from or onto neighboring properties.
 - v. Fill must be composed of clean granular or earthen material.
- e. A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

5. Specific Standards – Non-Residential Construction.

- a. New construction or substantial improvement of any non-residential structures (excludes accessory structures) must meet provisions described in Article 5, Section A and applicable general standards described in [2.7\(E\)\(2\)](#).
- b. In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) must either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters must be provided in accordance with the standards of [2.7\(E\)\(5\)\(c\)](#). Should fill be used to elevate a structure, the standards of [2.7\(E\)\(5\)\(d\)](#) must be met.
- c. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade must meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - The bottom of all openings must be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
 - Doors and windows do not qualify as openings.
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
 - ii. The floor of such enclosed area must be at or above grade on at least one side.
 - iii. The interior portion of such enclosed area cannot be partitioned or finished into separate rooms.
- d. A nonresidential structure may be constructed on a permanent land fill in accordance with the following:
 - i. Must be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance must be retained in the permit file.
 - ii. Must extend 10 feet beyond the foundation of the structure before sloping below the BFE.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- iii. Must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes cannot be steeper than 3' horizontal to 1' vertical.
 - iv. Cannot adversely affect the flow of surface drainage from or onto neighboring properties.
 - v. Must be composed of clean granular or earthen material.
 - e. A nonresidential structure may be floodproofed in accordance with the following:
 - i. A Registered Professional Engineer or Architect certifies the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design takes into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. The certification is provided to the Floodplain Administrator.
 - ii. Floodproofing measures must be operable without human intervention and without an outside source of electricity.
 - f. A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.
6. Specific Standards – Manufactured Homes and Recreational Vehicles.
- a. These requirements apply to all manufactured homes to be placed on a site in the SFHA:
 - i. The manufactured home must be elevated on a permanent foundation such that the lowest floor must be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG must be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in 2.7(E)(4)(c).
 - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 - b. Recreational vehicles placed on a site in the SFHA must either:
 - i. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
 - ii. Meet the requirements for “manufactured homes” as stated earlier in this section.
7. Specific Standards – Accessory Structures
- Within SFHAs, new construction or placement of an accessory structure must meet the following standards:
- a. Must have a floor area of 400 square feet or less.
 - b. Use is limited to parking of vehicles and limited storage.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- c. Cannot be used for human habitation.
 - d. Must be constructed of flood resistant materials.
 - e. Must be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - f. Must be firmly anchored to prevent flotation.
 - g. Service facilities such as electrical and heating equipment must be elevated or floodproofed to or above the FPG.
 - h. Must be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in [2.7\(E\)\(5\)\(c\)](#).
 - i. Cannot have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.
8. Specific Standards – Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.

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

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

Within SFHAs, all newly placed aboveground gas or liquid storage tanks must meet the requirements for a non-residential structure as required in [2.7\(E\)\(5\)](#).

10. Standards for Subdivision and Other New Developments

- a. All subdivision proposals and all other proposed new development must be consistent with the need to minimize flood damage.
- b. All subdivision proposals and all other proposed new development must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals and all other proposed new development must have adequate drainage provided to reduce exposure to flood hazards.
- d. In all areas of special flood hazard where base flood elevation data area not available, the applicant provides a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- e. All subdivision proposals must minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- f. All subdivision proposals must ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- g. Streets, blocks lots, parks and other public grounds must be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains must be included within parks or other public grounds.

11. Standards for Critical Facilities

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

2.8 Arterial Corridor Overlay

A. Purpose and Intent. The Comprehensive Plan identifies certain arterial roadways as important gateways and areas of economic opportunity. Additionally, these streets serve a vital traffic carrying function for Bargersville and surrounding communities. The intent of the Arterial Corridor Overlay District is to establish specific requirements to preserve roadway capacity and safety; ensure that development does not inhibit future improvements to these roadways; minimize individual driveway access; protect property values along the corridors; promote economic development; minimize distractions and establish a high quality and inviting image at the entrances to the community.

B. Applicability

1. Boundaries. The Arterial Corridor Overlay District applies to all property along the entire length and within 500 feet of the centerline on either side of SR 135, SR 37, and CR 144. If any parcel, building, structure, or improvement is only partially located within the Overlay district, then the provisions of this Overlay apply to the entire parcel, building, structure, or improvement, unless otherwise waived by the Plan Commission.
2. Relation to Underlying District. The requirements of this district amend and supersede those imposed on the same lands by the underlying districts.
3. Regulated Development. The regulations of this overlay district apply in the circumstances cited below.
 - a. Construction of any new building or structure;
 - b. Enlargement or expansion of any existing non-residential building or structure by more than 20% of its gross floor area;
 - c. Proposed subdivision of land for non-residential uses; or
 - d. Proposed construction or expansion of a parking lot by more than five spaces.

Farms and single-family homes are exempt from these regulations unless there is a change in use to a non-farm or non-single-family use.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4. The BZA determines if the standards of this Overlay apply to the entire lot or if they may be limited to only improvements proposed after the effective date of this Ordinance. The following factors are considered:
- The extent and location of the proposed improvements (e.g., buildings, parking, landscaping, drainage, etc.) on the parcel.
 - The extent of conflicts in applying the standards of this Overlay with existing and/or planned improvements.
- C. **Uses.** All uses permitted in the underlying zoning district are permitted except the following uses, that are prohibited within the Overlay:
- Adult businesses
 - Bulk storage of petroleum items not used for on-site manufacturing
 - Manufacture, use, or storage of explosives
 - Manufactured home park
 - Manufactured home sales
 - Off-premise signage
 - Penal or correctional institution
 - Retail Sales, Service & Repair, Special Handling
 - Salvage and wrecking
 - Sanitary landfill
 - Self-storage facility
 - Slaughterhouse or rendering plants
- D. **Spatial Requirements.** The minimum requirements for lot area, width, height, and setbacks for the underlying district apply, except as modified in **Table 2-1**.

| TABLE 2-1 ACO DIMENSIONAL REQUIREMENTS | | | | |
|--|------------------|----------|-------------|--------------|
| Yard | Min. Setback (1) | | Min. Height | |
| | Parking (2) | Building | Flat Roof | Pitched Roof |
| Front | 35' | 35' | 14' | 16' |
| Side (3) | 5' | 20' | | |
| Rear (3) | 5' | 20' | | |

Notes:

- Front setbacks along SR 135 are measured from a point 65 feet from the centerline of the street.
- Parking refers to areas devoted to parking, drive aisles, loading facilities, vehicle maneuvering areas, and pads for trash enclosures. Entry drives into the site from the abutting street(s) or driveways/access streets connecting to adjoining properties may cross this setback area.
- Where a side or rear yard in a non-residential district abuts a residential use in a residential district, the parking and building setbacks must be increased to a minimum of 25 feet.

E. **Site Design Standards**

- Landscaping. In addition to the landscape requirements of Chapter 5, the area between the right-of-way line and the parking or building setback line, as applicable, must meet the following requirements:

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- a. Trees must be planted at a rate of at least 1 tree per 20 linear feet of street frontage. At least 20% of the required trees must be evergreens. No more than 30% of any one species can be used.
 - b. Shrubs must be planted at a rate of at least 1 shrub per 10 linear feet of street frontage. The shrub species used must have a mature height of at least 48". At least 20% of the required shrubs must be evergreens. No more than 30% of any one species can be used.
 - c. Clustering of trees and shrubs is encouraged. All areas not containing trees or planter areas must be covered with grass or other living groundcover. To the extent practical, all plant material should be native plant species.
 - d. Existing vegetation may be counted toward the requirements of this section ([5.1\(D\)\(10\) Existing Vegetation and Bonus](#)).
 - e. Detention/retention areas are permitted within the landscape area if they do not hamper the effectiveness of the screening provided by the landscaping. To the extent possible, detention/retention areas should have a natural shape and be integrated with the landscape design.
2. **Signs.** In addition to the signage requirements of Chapter 5, within the Overlay freestanding signs are limited to ground signs with a maximum height of 6 feet. The area surrounding the base of the sign must be landscaped with shrubs, ground cover and/or other materials that complement the sign but do not obstruct visibility of the sign or vehicles entering or exiting adjacent driveways. Electronic changeable message signs may be contained within the ground sign, in accordance with the applicable requirements of Chapter 5.
 3. **Lighting.** Site lighting should be of cohesive design, materials, and color throughout the site. Light standards cannot exceed the building height, or 25 feet, whichever is less. When light standards are within 90 feet of a residential use or district, they cannot exceed a height of 15 feet. All lighting must use concealed or shielded light fixtures.
 4. **Parking.** All parking requirements of Chapter 5 must be met. No more than 20% of all parking spaces may be located within the front yard. All other parking must be in the side or rear yard. However, if a frontage road connecting to the adjoining properties on either side of the subject site is constructed in the front yard parallel to the arterial street, all required parking may be placed in the front yard, if a landscape greenbelt at least 15 feet wide is provided between the parking area and the frontage road. ([5.1\(G\) Parking Lot Landscaping](#))
 5. **Other Site Design Requirements.**
 - a. Outdoor storage may be permitted after special exception approval, if allowed within the underlying zoning district. The outdoor storage area must be in the rear yard and must be screened on all sides with a solid fence, wall, or landscaping (see [5.1\(H\) Screening](#)).
 - b. Loading and unloading areas are prohibited in any yard abutting a street. Loading docks cannot face a street and must be screened to block views from any adjacent street or residential district (see [5.1\(H\) Screening](#)).

F. Building Design Standards

The requirements of this section apply to all residential and non-residential buildings within the Arterial Corridor Overlay District, except single and two-family dwellings that are regulated by [6.18 Residential Architectural Standards](#).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

1. The following exterior materials are permitted within the Overlay: brick, masonry, stone, glass curtain walls or glass block, or exposed aggregate, bush-hammered, sand blasted or similarly finished concrete (including precast concrete panels).
2. At least three exterior materials, colors, or patterns are used on a building façade.
3. Doors, windows, or other architectural features must be used to break large wall planes into smaller components. Building facades oriented to and visible from an adjacent right-of-way cannot have unbroken wall planes longer than 30% of the length of the façade.
4. Permitted roofing materials include architectural shingles, standing seam metal, and rubber membrane (flat roofs only).
5. Pitched roofs must have a minimum pitch of 4 (vertical units): 12 (horizontal units). Flat roofs are permitted if they are surrounded by a parapet in proportion to the supporting walls that conceals roof-mounted mechanical equipment.
6. Rooftop equipment, excluding vents and stairwell accesses, visible at ground level from the centerline of abutting public right-of-way, must be screened from view through use of parapet walls, screens, or other building elements or design features.
7. Drive-through service windows must be placed on the side or rear building facades.
8. Entrances to service bays for vehicle repair businesses must be oriented away from view of any arterial street. Vehicle repair and service uses must take place within a fully enclosed area of the building.
9. Chain-link fences and unpainted or unfinished block walls are prohibited. Walls and fences visible at ground level from a public right-of-way or an adjacent parcel must be architecturally finished (i.e., brick, wood, or textured concrete masonry units).
10. Properties with multiple tenants or multiple structures must provide pedestrian connections between tenants and structures via walks or paths at least 5 feet wide. Where applicable, walks or paths must align with and connect to adjacent properties.

G. Access Management Standards

1. All driveways serving attached single family, multifamily, commercial, office, institutional or industrial uses ("commercial driveways"), must comply with the requirements of this section.
2. Driveway locations must minimize interference with the free movement of traffic, provide adequate sight distance, and provide the most favorable driveway grade.
3. Driveways must be located entirely within the frontage of the premises unless otherwise approved by the Town or INDOT, as applicable. Driveways, turn lanes, or acceleration/deceleration lanes located on adjoining property will not be approved unless the property containing these improvements is dedicated as public right-of-way.
4. The minimum spacing between a commercial driveway and another commercial driveway or street intersection within the Overlay is based upon posted speed limits along the parcel frontage. The minimum spacing indicated in **Table 2-2** is measured from centerline to centerline of the driveways.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

| TABLE 2-2 MINIMUM COMMERCIAL DRIVEWAY SPACING | | |
|--|-----------------|---------------------------|
| Posted Speed Limit (MPH) | Arterial Street | Collector or Local Street |
| 25 | 130' | 90' |
| 30 | 185' | 120' |
| 35 | 245' | 150' |
| 40 | 300' | 185' |
| 45 | 350' | 230' |
| 50 | 395' | 275' |
| 55 | 435' | 300' |

5. To reduce left-turn conflicts, new commercial driveways must be aligned with those across the street, where possible. If alignment is not possible, driveways must be offset from those on the opposite side of the street a minimum of 250 feet along arterial streets and 150 feet along collector and local streets. These standards may be reduced by the Plan Commission where there is insufficient frontage and shared access with an adjacent site is not feasible. Longer offsets may be required depending on the expected inbound left-turn volumes of the driveways.
6. In the case of expansion, alteration, or redesign of an existing driveway where it can be demonstrated that preexisting conditions prohibit adherence to the minimum spacing standards, the Plan Commission may modify the driveway spacing requirements. Modifications should be the minimum relief necessary. Spacing of a full-access driveway cannot be less than 75 feet, measured centerline to centerline.
7. The number of commercial driveways serving a single property is the minimum number necessary to provide reasonable access and access for emergency vehicles, while preserving traffic operations and safety along the public street.
8. Access must be provided for each separately owned parcel. Access may be via an individual driveway, shared driveway, or service drive. More than one driveway may be permitted for property if:
 - a. It has continuous frontage sufficient to satisfy the spacing requirements of **Table 2-2**;
 - b. The Plan Commission determines additional access can be provided without compromising traffic operations along the public street; and
 - c. The Plan Commission determines there are no other reasonable access alternatives such as: shared driveways, connected parking lots, frontage roads, frontage roads or other alternate access routes.
9. Commercial driveways must be designed according to the standards of the Town of Bargersville or INDOT, as applicable.
10. For high traffic generators or commercial driveways along streets experiencing or expected to experience congestion, the Plan Commission may require two egress lanes to provide separate right and left turns out of the site.
11. Where a boulevard entrance is proposed by the applicant or required by the Plan Commission, a curbed island must separate the ingress and egress lanes. The entrance must be designed to accommodate the largest vehicle to use the driveway. The island must have a minimum area of 180 square feet.
12. Where noted above or where the Plan Commission determines reducing the number of access points is beneficial while preserving the property owner's right to reasonable access, a shared commercial driveway, or frontage road connecting two or more properties or uses may be required. Frontage roads

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

may be required near existing traffic signals or at locations having potential for future signalization and along street segments with a relatively high number of crashes or limited sight distance.

13. Shared commercial driveways and frontage roads must be within right-of-way or a recorded access easement. A draft of the access easement must be provided to the Plan Commission for review and approval prior to approval and recording.
14. The Plan Commission may allow temporary access for up to 18 months where the frontage road is not completed if a financial guarantee is provided assuring the elimination of the temporary access upon completion of the frontage road (see [6.32 Surety Standards](#)). Building permits cannot be issued until the financial guarantee has been submitted.
15. Frontage roads are generally parallel to the front property line and may be located either in front of, adjacent to, or behind principal buildings. In considering the most appropriate alignment for a frontage road, the Plan Commission considers the setbacks of existing buildings and anticipated traffic flow for the site. The frontage road should be placed away from the arterial to provide safe, efficient traffic flow and operation. The distance between the roadway traffic and the first internal movement must meet the minimum requirements shown in **Table 2-3**. For sites with high volumes or heavy truck traffic located on high volume roadways, the required distance may be increased to avoid interference with the arterial traffic flow. If no other design alternatives exist, the Plan Commission may permit lesser separation distances if a right-in/right-out entrance is used. Interior driveways must accommodate at least 100 feet of vehicle stacking.

| TABLE 2-3 INTERIOR SEPARATION OF FRONTAGE ROAD FROM ARTERIAL | |
|---|---------------------------|
| Lot Depth | Min. Required Distance |
| More than 1,000' | 200' |
| 500'-1,000' | At least 20% of Lot Depth |
| Less than 500' | 100' |

16. Access Easement. If not located within public right-of-way, the frontage road must be within an access easement at least 40 feet wide permitting traffic circulation between properties. The access easement must meet the requirements of [6.23\(E\) Cross-access Easements](#)).
17. Construction Standards. Frontage roads must have a curb and gutter and be constructed per the Town standards for public streets, except a frontage road may have a minimum pavement width of 24 feet.
18. Parking. The frontage road is intended exclusively for circulation and not as a parking maneuvering aisle. The Plan Commission may require the posting of "no parking" signs along the frontage road. In reviewing the site plan, the Plan Commission may permit temporary parking in the easement area where a continuous frontage road is not yet available if the layout allows removal of the parking for the future extension of the frontage road.
19. Access to Frontage Road. The Plan Commission approves the location of all access points to the frontage road based on the driveway spacing standards listed in **Table 2-2**.
20. Elevation. The required site plan must indicate the proposed elevation of the frontage road at the property line. The Town maintains a record of all frontage road elevations so their grades can be coordinated. Once constructed, the elevation of the frontage road must be provided to the Town for its records (see [6.12 As-Built Drawings Submittal Requirements](#)).

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

21. **Landscaping.** The area between a frontage road and the public right-of-way must be landscaped as specified in [5.1\(F\) Street Frontage Landscaping](#).
22. **Maintenance.** Each property owner is responsible for maintenance of the easement and frontage road.

2.9 I-69 Interchange Overlay

A. General Provisions.

1. **Purpose and Intent.** The Comprehensive Plan identifies the I-69 interchange as an important gateway into the Town. The intent of the I-69 Corridor Overlay District is to establish specific requirements to promote economic development opportunities offered by the interstate and establish a high quality and inviting image at this entrance to the community.
2. **Character Descriptions.** Overall, the property covered by the I-69 Overlay District serves as a prominent gateway into Bargersville. Development within the Overlay should include well-designed roadways, gateway signage, and cohesive signage, lighting, landscaping, and building styles and uses. Technology industries, medical or research-based businesses, and office uses are preferred. Business incubators, co-working spaces, or small maker spaces are also appropriate here. Mixed-use developments should integrate commercial, retail, and residential uses with open space. The property within the I-69 Interchange Overlay is categorized into five areas with distinct character.
 - a. **Area A** is located west of I-69. This area is characterized by a mix of technology-focused light industrial, office, and retail uses. Technology manufacturing, research and development, and headquarters facilities are encouraged in this area. Some retail use is anticipated near the CR 144 interchange.
 - b. **Area B** is located immediately east of I-69 both north and south of CR 144. This area is characterized by retail uses with a focus on higher end destination retail with a regional focus, such as restaurants, hotels, and regional shopping centers. The northeast quadrant of Area B may be developed for medical/institutional uses.
 - c. **Area C** is located east of Area B, north of CR 144. This area is characterized by a mix of retail and mixed-density residential uses. Retail and commercial uses should occur in nodes at major intersections and consist of uses that serve the surrounding residential uses, such as small grocery stores, offices, clinics, and other neighborhood-oriented retail and commercial uses. Residential uses should consist of townhomes and apartments closer to CR 144 transitioning to lower density residential uses abutting the existing residential uses.
 - d. **Area D** is located east of Area B, south of CR 144. This area is characterized by a mix of retail, mixed-density residential, and office uses. The retail uses of Area B will extend into Area D and transition to office and residential uses. Higher residential densities for townhomes and apartments are expected near CR 144 and transition to lower density residential uses moving south toward existing residential uses.
 - e. **Area E** is located south of Area B and west of Area D. This area is characterized by a mix of technical industry and office uses near I-69 and transitioning to mixed-density residential uses and to low-density residential uses moving south toward existing residential uses.

B. Applicability

1. **Boundaries.** The boundaries of the I-69 Interchange Overlay and its areas are illustrated on the Official Zoning Map.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. **Relation to Underlying District.** The requirements of this district amend and supersede those imposed on the same lands by the underlying districts and the Arterial Corridor Overlay.
3. **Regulated Development.** The regulations of this overlay district apply in the following circumstances:
 - a. Construction of any new building or structure,
 - b. Enlargement or expansion of any existing non-residential building or structure by more than 20% of its gross floor area, or
 - c. Proposed subdivisions of land.

Individual single-family homes are exempt from these regulations.

4. The BZA determines if the standards of this Overlay apply to the entire lot or if they may be limited to only improvements proposed after the effective date of this Ordinance. The following factors are considered:
 - a. The extent and location of the proposed improvements (e.g., buildings, parking, landscaping, drainage, etc.) on the parcel.
 - b. The extent of conflicts in applying the standards of this Overlay with existing and/or planned improvements.
- C. **Approval Process.** Due to the integrated, mixed-use nature of this district, proposed developments are approved as Planned Unit Developments (PUD) (see [7.1\(F\): Planned Unit Developments](#)). Proposed PUDs must be at least 20 acres in size. Plats and site plans following an approved PUD do not have a size limitation. Design Review approval is required for all proposed developments within this overlay district.
- D. **Uses.** All uses permitted in the underlying zoning district are permitted except as otherwise excluded or prohibited below.
- a. **Prohibited Uses.** The following uses are prohibited uses within the I-69 Corridor Overlay District:
 - i. Adult businesses
 - ii. Bulk storage of petroleum items not used for on-site manufacturing
 - iii. Manufacture, use, or storage of explosives
 - iv. Manufactured home park
 - v. Manufactured home sales
 - vi. Off-premise signage
 - vii. Penal or correctional institution
 - viii. Retail Sales, Service & Repair, Special Handling
 - ix. Salvage and wrecking
 - x. Sanitary landfill
 - xi. Self-storage facility
 - xii. Slaughterhouse or rendering plants
 - xiii. Truck stops

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- b. **Preferred Uses.** Uses within a proposed PUD should align with the uses associated with the character descriptions in [2.9\(A\)\(2\)](#) above.
- E. **Spatial Requirements.** The spatial requirements specified in the Arterial Corridor Overlay District apply to all parcels within the I-69 Interchange Overlay District regardless of their distance from CR 144.
- F. **Site Design Standards.** The site design standards specified in the Arterial Corridor Overlay District apply to all parcels within the I-69 Interchange Overlay District regardless of their distance from CR 144.
- G. **Building Design Standards.** The building design standards specified in the Arterial Corridor Overlay District apply to all parcels within the I-69 Interchange Overlay District regardless of their distance from CR 144.
- H. **Access Management Standards.** See [2.8\(G\) Access Management Standards](#).

2.10 Permitted Uses

- A. **Applicability.** Buildings, structures, or land must only be used in a manner permitted in the zoning districts where they are located. Buildings or structures must be erected, reconstructed, or structurally altered in compliance with this ordinance.
- B. **Land Use Specified.** Each land use is classified as a permitted, not permitted, or a special exception use for each Zoning District in the use tables of this chapter (the “Use Table”) or elsewhere in this Ordinance.
- C. **Special Exception Uses.** A special exception use requires a greater degree of review because of its potential impact upon the immediate neighborhood and the community. The BZA reviews a special exception petition’s characteristics and impacts to determine its suitability in each location for those Zoning Districts in which it is permitted. Special exception approval is subject to a public hearing and review by the BZA (see [7.1\(H\) Special Exceptions](#)).
- D. **Unlisted or Questionable Land Uses.** If a land use is not specifically listed on the [Permitted Use Table](#), the Administrator determines the land use classification of the use. This determination is appealable to the BZA (see [7.1\(C\) Appeals of Administrative Decisions](#)).
- E. **Primary Use Classifications, Categories & Specific Use Types**
1. **Primary Use Classifications.** All primary land uses in the [Permitted Use Table](#) are organized into one of the following five general land use classifications:
 - Residential Uses
 - Civic, Public & Institutional Uses
 - Commercial Sales, Service & Repair Uses
 - Industrial, Manufacturing & Wholesale Uses
 - Agriculture
 2. **Primary Use Categories and Specific Use Types.** Primary uses are further organized into use categories and specific use types under each general classification. The [Permitted Use Table](#) is organized into the above five general land use classifications, use categories and specific use types.
 3. **Classifications and Categories Are Mutually Exclusive.** The general land use classifications and use categories listed in the [Permitted Use Table](#) are mutually exclusive. For example, the use “Lodging Accommodations,” cannot be classified in a different use category, such as “Group Living,” unless otherwise expressly allowed by this Ordinance.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

F. **Explanation of Table Cell Entries.** Each of the cells on the [Permitted Use Table](#) indicates whether a use is permitted or not and what limitations apply to the specific use. Items listed in the Use Limitations column refer to conditions for a specific use (see [2.11 Use Limitation Notes](#)).

- **Permitted Use (“P”).** A “P” in a table cell indicates the use is permitted in the respective zone district and subject to compliance with the use limitations referenced in the second column of the [Permitted Use Table \(Use Limitation Notes\)](#).
- **Use Not Permitted (blank cell).** A blank table cell indicates the use is not permitted in the zone district.
- **Use Subject to Special Exception Review (“S”).** An “S” in a table cell indicates the use is generally appropriate in the neighborhood context and zone district. Special exception uses may have the potential for limited impacts on adjacent properties or on the established character of the neighborhood context or zone district. “S” uses are subject to BZA public hearing according to Special Exception Review, which grants the BZA the authority to impose conditions on the specified use to mitigate any potential impacts. Such uses must comply with any applicable use limitations noted in the condition column of the [Permitted Use Table Use Limitation Notes](#), as well as the review criteria stated in [7.1\(H\) Special Exceptions](#).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2.11 Permitted Use Table

| P = Permitted Use S = Special Exception | Use Limitation | AG | R-R | R-1 | R-2 | R-3 | R-4 | R-5 | C-1 | C-2 | C-3 | I-1 | I-2 | I-3 | DT | MU | Parking Maximums (except as noted) |
|---|-------------------|----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----|----|---------------------------------------|
| RESIDENTIAL PRIMARY USES | | | | | | | | | | | | | | | | | |
| Household Living | | | | | | | | | | | | | | | | | |
| Dwelling - Single-Family Detached: Standard | | P | P | P | P | P | P | P | | | | | | | S | P | Min. 2 spaces/unit |
| Dwelling - Single-Family Detached: Compact | | | | | S | P | P | P | | | | | | | S | P | Min. 2 spaces/unit |
| Dwelling - Duplex | | | | | S | P | P | P | | | | | | | S | P | Min. 1.25 spaces/unit |
| Dwelling - Bungalow Court | | | | | | S | P | P | | | | | | | P | P | Min. 1.25 spaces/unit |
| Dwelling - Townhouse | | | | | | S | P | P | | | | | | | P | P | Min. 1.25 spaces/unit |
| Dwelling - Apartment Building: Small | | | | | | S | P | P | | | | | | | P | P | Min. 1.25 spaces/unit |
| Dwelling - Apartment Building: Large | | | | | | | | P | | | | | | | P | P | Min. 1.25 spaces/unit |
| Accessory Dwelling Unit | §3.1 | P | P | P | P | P | P | P | | | | | | | S | P | Min. 1 space/unit |
| Live/Work Dwelling | (1) | | | | | | | | | | | | | | P | P | Min. 1.25 spaces/unit |
| Manufactured Home Parks | §3.8 | | | | | | | | | | | | | | | | Min. 2 spaces/unit |
| Residence for Older Adults | | | | | | S | P | P | | | | | | | | | Min. 0.75 spaces/unit |
| Upper Story Residential | | | | | | | | P | | | | | | | P | P | Min. 1 space/unit |
| Group Living | | | | | | | | | | | | | | | | | |
| Assisted Living Facilities | | | | | | S | P | P | | | | | | | S | P | 0.83 spaces/unit |
| Childcare Home | | P | P | P | P | P | P | P | | | | | | | S | S | 0.28 spaces/unit |
| Fraternity, Sorority, or Student Housing | | | | | | | | S | | | | | | | | S | 1.38 spaces/unit |
| Group Residential Facility | | | | | | S | S | S | | | | | | | S | S | 0.28 spaces/unit |
| Nursing Home, Hospice | | | | | | S | S | S | | | | | | | | P | 0.83 spaces/unit |
| Rooming or Boarding House | | | | | | | S | S | | | | | | | S | S | 5.5 spaces/1000 sf GFA |
| CIVIC, PUBLIC, AND INSITUTIONAL PRIMARY USES | | | | | | | | | | | | | | | | | |
| Basic Utilities | | | | | | | | | | | | | | | | | |
| Utility, Major Impact | (2) | | | | | | | | | S | P | S | P | | | | .55 spaces/1000 sf GFA |
| Utility, Minor Impact | (3) | | | | | | | | S | S | P | S | P | S | S | | .55 spaces/1000 sf GFA |
| Community/Public Services | | | | | | | | | | | | | | | | | |
| Cemetery | (4) | P | P | P | P | | | | | | | | | | | | 1.1 spaces/1000 sf GFA |
| Childcare Facilities | §3.4 | | | | | | | | S | S | P | S | | | S | P | 1.1 spaces/1000 sf GFA |
| Community Center | (5) | S | P | P | P | P | P | P | P | P | P | | | | S | P | .55 spaces/1000 sf GFA |

[illegible]

| P = Permitted Use S = Special Exception | Use Limitation | AG | R-R | R-1 | R-2 | R-3 | R-4 | R-5 | C-1 | C-2 | C-3 | I-1 | I-2 | I-3 | DT | MU | Parking Maximums (except as noted) |
|---|-------------------|----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----|----|---------------------------------------|
| Automobile Services, Light | (19), (32) | | | | | | | | | | P | P | | | | S | .55 spaces/1000 sf GFA |
| Automobile Services, Heavy | (20), (32) | | | | | | | | | | S | P | P | | | S | .55 spaces/1000 sf GFA |
| Boat Sales, Rentals, and Repair | (21) | | | | | | | | | | P | P | | | | S | .55 spaces/1000 sf GFA |
| Heavy Vehicle/Equipment Sales and Rentals | (25) | | | | | | | | | | | P | P | | | | .55 spaces/1000 sf GFA |
| Light Vehicle/Motorcycle Sales and Rentals | (36) | | | | | | | | | | P | P | | | | S | .55 spaces/1000 sf GFA |
| INDUSTRIAL, MANUFACTURING, AND WHOLESALE PRIMARY USES | | | | | | | | | | | | | | | | | |
| Communications & Information | | | | | | | | | | | | | | | | | |
| Small Cell Facility | §3.13 | | | | | | | | P | P | P | P | P | | | P | No requirement |
| Telecommunication Towers | §3.24 | | | | | | | | S | | S | S | S | S | | S | No requirement |
| Telecommunication Facilities – All Others | §3.24 | | | | | | | | S | S | S | S | S | S | | S | No requirement |
| Industrial Services | | | | | | | | | | | | | | | | | |
| Chemical Manufacturing and Storage | | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Contractors – General | (31), (33) | | | | | | | | | | | P | P | | | | .55 spaces/1000 sf GFA |
| Contractors – Heavy/Contractor Yard | (31), (33) | | | | | | | | | | | | P | | | | .55 spaces/1000 sf GFA |
| Food Preparation and Sales, Commercial | | | | | | | | | | | P | P | P | | | | .55 spaces/1000 sf GFA |
| Manufacturing | | | | | | | | | | | | | | | | | |
| Manufacturing, Fabricating, & Assembly – General | (26) | | | | | | | | | | | S | P | | | | .55 spaces/1000 sf GFA |
| Manufacturing, Fabricating, & Assembly – Heavy | (26) | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Manufacturing or Refinement of Asphalt, Cement, Gypsum, Lime, or Wood Preservatives | (26) | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Mining, Extraction, & Energy Conservation | | | | | | | | | | | | | | | | | |
| Mineral Extraction | (9) | | | | | | | | | | | | P | | | | No requirement |
| Sand & Gravel Extraction or Sales | (26) | | | | | | | | | | | | P | | | | No requirement |
| Solar Energy Conversion System | §3.15 | | | | | | | | | | | S | | | | | No requirement |
| Wind Energy Conversion System | §3.23 | | | | | | | | | | | S | | | | | No requirement |
| Transportation Facilities | | | | | | | | | | | | | | | | | |
| Airport | (29), (30) | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Helipad & Helipads | (33), §3.6 | | | | | | | | | | | | S | | | | No requirement |
| Mass Transit Facility | (10) | | | | | | | | | | P | P | P | P | S | P | .55 spaces/1000 sf GFA |

| P = Permitted Use S = Special Exception | Use Limitation | AG | R-R | R-1 | R-2 | R-3 | R-4 | R-5 | C-1 | C-2 | C-3 | I-1 | I-2 | I-3 | DT | MU | Parking Maximums (except as noted) |
|--|-------------------|----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----|----|---------------------------------------|
| Rail Distribution Yards | (26) | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Transportation Services | (26) | | | | | | | | | | | S | S | | | | .55 spaces/1000 sf GFA |
| Waste Related Services | | | | | | | | | | | | | | | | | |
| Automobile Parts Recycling Business | | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Composting Facility | (26) | | | | | | | | | | | S | P | | | | No requirement |
| Recycling Center | | | | | | | | | | | | S | P | | | | No requirement |
| Recycling Drop-Off Facilities | | | P | P | P | P | P | P | P | P | P | P | P | P | S | P | .55 spaces/1000 sf GFA |
| Recycling Plant, Scrap Processor | | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Salvage or Junk Yards | (34) | | | | | | | | | | | | S | | | | .55 spaces/5000 sf GFA |
| Solid Waste Facility | (37) | | | | | | | | | | | | S | | | | No requirement |
| Wholesale Storage, Warehouse & Distribution | | | | | | | | | | | | | | | | | |
| Automobile Towing Service Storage Yard | (39) | | | | | | | | | | S | P | P | | | | .55 spaces/1000 sf GFA |
| Bottled Gas Storage & Distribution | | | | | | | | | | | | S | S | | | | .55 spaces/1000 sf GFA |
| Self-Storage Facilities | (22) | | | | | | | | | S | S | P | | | | | .11 spaces/1000 sf GFA |
| Truck Freight Terminal/Distribution Center | (40) | | | | | | | | | | | | S | | | | .28 spaces/1000 sf GFA |
| Vehicle Storage, Commercial | (23) | | | | | | | | | | | | P | | | | .55 spaces/1000 sf GFA |
| Wholesale Trade or Storage, General | (26) | | | | | | | | | | | | P | | | | .55 spaces/1000 sf GFA |
| Wholesale Trade or Storage, Light | | | | | | | | | | | | P | P | | | | .55 spaces/1000 sf GFA |
| AGRICULTURE PRIMARY USES | | | | | | | | | | | | | | | | | |
| Anhydrous Ammonia Storage & Distribution | (29) | | | | | | | | | | | S | S | | | | .55 spaces/1000 sf GFA |
| Aquaculture | (28) | S | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Confined Feeding | | | | | | | | | | | | | | | | | No requirement |
| Farm | | P | P | | | | | | P | P | P | P | P | P | | | No requirement |
| Food Processing Plants | | | | | | | | | | | | S | P | | | | No requirement |
| Grain & Feed Mills | | | | | | | | | | | | S | P | | P | | No requirement |
| Plant Nursery | (43) | P | | | | | | | | | P | S | P | | | | .55 spaces/1000 sf GFA |
| Riding Stables & Academies | (38) | P | S | | | | | | | | | | | | | | No requirement |
| Roadside Produce Stand | (42) | P | S | | | | | | | P | P | | | | | S | .55 spaces/1000 sf GFA |
| Sale Barn for Livestock | | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |
| Slaughterhouse | | | | | | | | | | | | | S | | | | .55 spaces/1000 sf GFA |

2.12 Use Limitation Notes

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- b. Overnight accommodations are prohibited.
 - c. Where a community center includes accessory outdoor recreation or entertainment services facilities within or abutting a residential district, all outdoor lighting must be extinguished when the outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, and by 11:00 p.m. Friday and Saturday.
- (6) Parks and Playgrounds: Where permitted, a park or recreation facility must comply with the following:
- a. Outdoor lighting, except security lighting, must be extinguished when outdoor facilities are not in use, by 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday.
 - b. Any recreation facility not completely enclosed (e.g., basketball or racquet sport courts) must be at least 50 feet from the boundary of a residential district.
- (7) Public and Religious Assembly Uses: In residential districts where permitted, a public or religious assembly use must comply with the following:
- a. The following operations must be terminated by 11:00 p.m.: (i) daily operations of uses and activities accessory to a primary public or religious assembly use, including but not limited to, accessory recreation uses or activities; and (ii) daily operations of other primary uses located on the same zone lot as the public or religious assembly use, including but not limited to, childcare centers or elementary or secondary schools, but not including a primary household living use located on the same zone lot.
 - b. Conference center, club, or lodge use is prohibited.
- (8) Arts, Recreation, and Entertainment, Indoor Uses: In all residential districts where permitted, seating capacity in a permitted Arts, Recreation, and Entertainment, Indoor use is limited to no more than 100 people. Where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.
- (9) Mineral Extraction is prohibited within urban areas as defined in I.C. 36-7-4-1103. A fence at least 6-feet tall is required where the use is accessible to the public. In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen. The use must be located at least 200 feet from a residential use or district.
- (10) Mass Transit Facility: In all residential districts where permitted, the use is limited to a stop or station for the mass passenger transit system; and parking for the use of passengers or employees of the passenger transit provider.
- (11) Parking Garage: Where permitted, a parking garage is limited to enclosed structures or structures enclosed except for portions of the parking structure over 45 feet above grade. Any unenclosed parking deck must have screening walls at least 4 feet in height. All lighting on the unenclosed parking deck must use fully shielded fixtures, not exceeding 6,500 lumens per fixture, and installed to not project glare off the lot.
- (12) Dental/Medical Office or Clinic: In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.
- (13) Medical Clinic – Special Handling: Where permitted, up to 20 patients or clients may stay overnight at any one time in a Medical Clinic – Special Handling use. In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6 feet high at maturity is required to create an effective, year-round screen.
- (14) Animal Sales and Services, Household Pets: Where permitted, an Animal Sales and Services, Household Pets use must comply with the following:

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- a. All sales and services must be for household pets only. Wild or dangerous animal services and sales are prohibited.
 - b. Overnight boarding is permitted within a completely enclosed building. For uses over 20,000 s.f. in GFA dedicated primarily to retail sales, no more than 15% of the GFA can be devoted to overnight boarding.
 - c. The use must be completely enclosed except outdoor animal runs or other areas in which dogs are allowed outside of an enclosed structure off leash (an “outdoor run”). An outdoor run must comply with the following conditions:
 - Outdoor runs are not permitted within 20 feet of a residential structure in a residential district.
 - The outdoor run may operate only between 6:30 a.m. and 9:00 p.m.
 - No more than 25 non-neutered or non-spayed dogs older than 6 months may be kept on the premises at any time.
 - d. Facilities must be constructed, maintained, and operated so animal sounds and smells cannot be discerned on adjacent lots when the outdoor run is not in use.
- (15) Animal Sales and Services, All Others: Where permitted, an Animal Sales and Services, All Others use must comply with the following:
- a. Wild or dangerous animal boarding and breeding services are prohibited.
 - b. No more than 25 non-neutered or non-spayed dogs older than 6 months may be kept on the premises at any time.
 - c. Overnight accommodations are allowed.
 - d. Where located abutting a residential district, a minimum 50-foot-wide landscaped buffer must be provided. The buffer is intended to substantially mitigate potential adverse effects from the animal service use.
- (16) Grocery: Where permitted, a Grocery use must comply with the following:
- a. Accessory outdoor sales and displays, including outdoor sales of fruits or vegetables, must occupy no greater than 1/4 the gross floor area of the structure containing the Food Sales or Market primary use.
 - b. Outdoor storage is prohibited unless enclosed by a fence or wall adequate to conceal such storage from adjacent residential property or public right-of-way.
- (17) Pawn Shop: Where permitted, a pawn shop cannot be established, operated, or maintained within 1,000 feet of another pawn shop.
- (18) Retail Sales, Service, and Repair – Outdoor: Where permitted, only outdoor retail sales are permitted, and outdoor retail repair or service uses are prohibited.
- (19) Automobile Services-Light: Where Automobile Services-Light are permitted, all primary and accessory structures must be set back at least 40 feet from any side or rear lot line abutting a residential district. Automobile wash, laundry, detail, or polishing shops are permitted subject to compliance with the following standards:
- a. All washing activities must occur inside a building.
 - b. Required stacking spaces for waiting vehicles must not be located within a public or private right-of-way and not conflict with maneuvering areas, parking spaces and other activities on the site. Stacking lanes must be designed to prevent vehicle queues from extending beyond the property.
 - c. Wastewater must be recycled, filtered, or cleansed to minimize discharge of soap, wax, and solid matter into public sewers.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- d. For automated drive-through wash facilities, a by-pass lane must be provided to allow by-passing waiting vehicles.
 - e. Overhead doors cannot face any side or rear lot line abutting a residential district. Overhead doors cannot not face a street, except in the following circumstances:
 - i. When the doors of a through-garage are located at the front and rear of a building; or
 - ii. When a garage is located on a corner or through lot; or
 - iii. When determined that a rear overhead door would negatively affect an abutting residential use or district.
 - f. A vehicle wash facility building and any accessory buildings and uses, including vacuums, must be located at least 100 feet from a street right-of-way line and any residential district boundary.
 - g. The property owner or operator must comply with all applicable noise regulations. Air handling equipment must be located on a roof, be equipped with intervening noise reduction baffles, and be in proper working condition.
- (20) Automobile Services, Heavy: Where permitted, an Automobile Services, Heavy use must comply with the following:
- a. All primary and accessory structures must be set back a minimum of 75 feet from any residential district.
 - b. The lot must be enclosed with a solid fence or wall except for street frontage containing the entrance to the use, street frontage of an automobile retail display area, or any portion of a lot line containing a building wall.
 - c. The fence or wall must be constructed high enough to conceal vehicles, equipment, or parts located on the lot; provided the wall or fence does not interfere with vision clearance at the intersections. ([4.10 Vision Clearance Standards](#))
 - d. Permitted fence or wall materials consist of wood, brick, masonry, or other similar durable materials. Salvaged doors, corrugated or sheet metal, and chain link are prohibited fence or wall materials.
- (21) Boat Sales, Rentals, and Repair: Where permitted, a Boat Sales, Rentals, and Repair use must comply with the following:
- a. Outdoor public address or loudspeaker systems are prohibited.
 - b. Accessory uses and activities may include the retail sale and installation of boat accessories, making minor mechanical adjustment, washing, and polishing of boats.
 - d. In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), adjoining residential districts must be protected from the external effects of permitted outdoor boat or equipment display or storage areas and employee or public parking areas by landscape buffers or an opaque fence or wall at least 5 feet high or by other means to achieve the same protection purpose.
 - e. Boats being displayed, serviced, or stored cannot be parked on streets, alleys, public sidewalks, or public landscaped parkways.
 - f. As permitted, boats displayed outside a completely enclosed structure may have individual signs.
- Sales display areas are not considered parking lots for the purposes of this Ordinance (e.g., parking space size requirements, landscaping requirements, etc.).
- (22) Self-Storage Facilities: Where permitted in commercial districts, Self-Storage Facilities cannot have individual entrances to storage units from the exterior of the structure.
- (23) Storage, Commercial: Where permitted, the use must be located at least 500 feet from any residential district.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- (24) Sports and/or Entertainment Arena or Stadium: Where permitted, a Sports and/or Entertainment Arena or Stadium use must be at least 500 feet from a residential district.
- (25) Heavy Vehicle/Equipment Sales and Rentals: Where permitted, a Heavy Vehicle/Equipment Sales, Rentals, and Service use must be located at least 500 feet from the nearest boundary of any residential district existing at the time of application.
- (26) Where permitted, the use must be located at least 500 feet from any residential district.
- (27) Laboratory, Research and Development Services: Where permitted, a Laboratory, Research and Development Services use may include sales facilities limited to non-retail sales and sales activities occupying no more than 20% of the gross floor area of the structure. Such use may include indoor storage space for parts and supplies.
- (28) Aquaculture: Where permitted, the outdoor storage of waste material from fish processing is prohibited.
- (29) A fence at least 6-feet tall is required where the use is accessible to the public (see [4.3 Fences and Walls](#)).
- (30) In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6-feet high at maturity is required to create an effective, year-round screen.
- (31) Building materials and company vehicles must be screened or located so not visible from a perimeter street or adjacent residential use (see [5.1\(H\) Screening](#)).
- (32) Vehicle repair uses must meet the following requirements:
- A minimum 100-foot of lot frontage is required on an arterial or collector street, as designated in the comprehensive plan. Access to the site must be derived from the abutting arterial or collector street.
 - Driveways or access points must be located a minimum of 100 feet from any street intersection and 50 feet from any adjacent residential district boundary line. No drive can be located nearer than 75 feet, as measured along the property line, to any other driveway.
 - Equipment, including hydraulic hoists, pits, lubrication, and other automobile repairing equipment must be located entirely within an enclosed building. Outdoor storage or display of merchandise, such as tires, lubricants and other accessory equipment is not permitted.
 - Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck is permitted only in a designated area. This area must be appropriately screened from public view according to the requirements of [5.1\(H\): Screening](#).
 - All maintenance and repair work must be conducted completely within an enclosed building.
 - In front of each service bay a vehicle queuing space accommodating at least two vehicles must be provided.
 - Storage of gasoline, liquefied petroleum gas, oil, or other flammable liquids or gas above ground is not permitted.
 - Floor drains must not connect to the sanitary sewer system.
 - If the use includes installation of oil or other automotive fluids except for fuel, the applicant must have a pollution protection plan to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the Fire Marshal and MS4 Coordinator.
- (33) The use must be located at least 200 feet from a residential use or district.
- (34) Minimum Front Setback: 50 feet, Minimum Side Setback: 40 feet
- Use must be located at least 200 feet from a residential use.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- Use must be enclosed by an 8-foot-high solid wall or fence.
- (35) Minimum Lot Area: 40 acres
- (36) Light Vehicle/Motorcycle Sales and Rentals: Where permitted, a Light Vehicle/Motorcycle Sales and Rentals use must comply with the following:
- a. Outdoor public address or loudspeaker systems are prohibited.
 - b. Accessory uses and activities may include the retail sale of vehicle accessories, oil, grease, antifreeze, tires, batteries, and other similar products; and providing services of installing the above items, making minor mechanical adjustments, washing, and polishing of vehicles.
 - c. The facility must not include heavy automobile service uses as an accessory or primary use unless permitted as a primary use in the subject zoning district.
 - d. In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), adjoining residential districts must be protected from the external effects of permitted outdoor vehicle or equipment display or storage areas and employee or public parking areas by landscape buffers or an opaque fence or wall at least 5 feet high or by other means to achieve the same protection purpose.
 - e. Vehicles being displayed, serviced, or stored cannot be parked on streets, alleys, public sidewalks, or public landscaped parkways.
 - f. As permitted, vehicles displayed outside a completely enclosed structure may have individual signs.
- (37) A fence at least 6-feet tall is required on all property lines. The fence may be wire mesh or solid.
- (38) The minimum lot area must be 2 acres plus 5,000 square feet per horse over 4 horses.
- The stable must be located at least 100 feet from a residential use or district.
 - In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6-feet high at maturity is required to create an effective, year-round screen.
- (39) Minimum Lot Area: 2 acres
- The use must be located at least 100 feet from a residential use or district.
 - A fence at least 6-feet tall is required where the use is accessible to the public (see [4.3 Fences and Walls](#)).
 - In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6-feet high at maturity is required to create an effective, year-round screen.
- (40) Minimum Lot Area: 5 acres
- Where abutting a residential use, Minimum Front Setback: 50 feet, Minimum Side Setback: 40 feet, Minimum Rear Setback: 40 feet
 - In addition to the buffering requirements of [5.1\(E\) Landscape Buffers](#), where the use abuts a residential use, a 6-foot-wide planter area landscaped with tightly spaced shrubs at least 6-feet high at maturity is required to create an effective, year-round screen.
- (41) Kennels: Where permitted, kennels must comply with the following:
- All principal use activities, other than outdoor dog runs or exercise areas, must be conducted within a totally enclosed building.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- Any dumpsters used by a kennel must be enclosed on all four sides with an opaque fence equipped with a lockable gate and must not be visible from adjacent residential properties. Any disposal of biohazardous waste must be in conformance with State and local requirements.
 - Activities must not generate a noise level greater than 60 decibels for more than 4 hours in any 24-hour period at any property line.
 - Minimum Lot Area: 3 acres.
 - When a kennel is in an agricultural district, the outermost edge of the facility (including the parking area and dog runs) must be at least 500 feet from the property line.
 - When a kennel is in an industrial, business, or mixed-use district, the outermost edge of the facility (including the parking area and dog runs) must be at least 500 feet from the nearest agricultural, residential, or mixed-use zoning district boundary.
- (42) Roadside Produce Stands: Where permitted, roadside produce stands must provide adequate off-street parking and circulation for the scale of the operation. Orange snow fencing or other similar materials are prohibited at stands.
- (43) Retail plant nurseries where plant inventory and related plant products are sold, but the plants are not grown or produced on-site are permitted only in the C3 General Business District.
- (44) Fueling Stations: Where permitted, fueling stations must meet the following requirements:
- a. There is a minimum lot area of one acre and minimum lot width of 150 feet on an arterial street.
 - b. Only one driveway is permitted from each street on a corner lot, unless the Board of Zoning Appeals approves a design standards variance to allow additional driveways to ensure safe and efficient access to the site. Driveways or curb openings must be located at least 100 feet from any intersection and 50 feet from any adjacent residential district boundary line. No drive is located nearer than 75 feet, as measured along the property line, to any other driveway. However, if the property is located within the Arterial Corridor Overlay District, the requirements of that district apply.
 - c. Pump islands must be a minimum of 30 feet from any public right-of-way or lot line. Tanks, propane, and petroleum products must be set back at least 25 feet from any lot line.
 - d. Overhead canopies must be set back at least 20 feet from the right-of-way (measured from the edge of the canopy). The proposed clearance of any canopy is noted on the site plan. The canopy must not exceed 18 feet in height. Lighting in the canopy is to be recessed, fully shielded, and directed downward to prevent offsite glare.
 - e. If the use includes installation of oil or other automotive fluids except for fuel, the applicant must have a pollution protection plan to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the Fire Marshal and MS4 Coordinator.
 - f. If a fueling station use has been abandoned or terminated for more than 12 months, all underground gasoline storage tanks must be removed from the premises, according to State requirements.
 - g. A fueling station may be combined with other uses, such as convenience store, vehicle wash, and/or restaurants; provided all requirements, including parking, are met for each use and the most restrictive requirements applicable to any single use apply.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2.13 Use Descriptions

Residential Primary Uses

Household Living

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



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



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



GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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



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



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

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

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

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

Live/Work Dwelling: A Live/Work Dwelling is a small to medium sized attached or detached structure that consists of one dwelling unit above and/or behind a flexible ground floor space that can be used for service or retail uses. Both the ground-floor flex space and the unit above are owned by one entity. This type is typically located within medium-density neighborhoods or in a location that transitions from a neighborhood into a neighborhood main

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

street. It is especially appropriate for incubating neighborhood-serving retail and service uses and allowing neighborhood main streets to expand as the market demands. Parking is typically located in the rear of the lot behind the building, often in an attached or detached garage.

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

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

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

Upper Story Residential: Dwelling units on upper floors of buildings with non-residential uses at street level.

Group Living

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

Childcare Home: A family home that receives more than three and up to a maximum of eight children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12.

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

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

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

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

Civic, Public, and Institutional Primary Uses

Basic Utilities

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

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

Community/Public Services

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

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

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

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

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

Golf Courses and Country Clubs: Golf courses are any area within the ground set aside for the purposes of playing golf and includes any golf driving range, golf practice area, or putting green. A Country Club includes a location with facilities for outdoor sports and social activities for which members pay a membership fee other than a daily fee, periodically for the use of facilities and services by them.

Hospital, Major: An institution licensed by state law providing short-term health services and medical or surgical care to patients and injured persons. Open 24 hours a day, a Major Hospital contains more than 100 beds and may offer a wide range of services, including emergency care, scheduled surgeries, labor and delivery services, diagnostic testing, lab work, and patient education. Patients may receive inpatient or outpatient care.

Hospital, Minor: An institution licensed by state law providing short-term health services and medical or surgical care to patients and injured persons. A Minor Hospital contains less than 100 beds, may be open 24 hours a day, and may offer services similar to a Major Hospital, but at a much smaller scale.

Library, Museums, and Cultural Facilities: A library is a public facility for the use, but not sale, of literary, musical, artistic, or reference materials. A museum is an institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

Parks and Playground: An area of land designed or reserved for active or passive recreational use, including all natural and man-made open space and landscaping, facilities, playing fields, and buildings that are consistent with the general purposes of recreation, whether such recreational facilities are public operated or operated by other organizations pursuant to arrangements with the public authority owning the public park. Public parks include tot lots, band shells, picnic grounds, pedestrian trails and paths, landscaped buffers, playgrounds, water features, baseball diamonds, football fields, soccer pitches, and similar outdoor sports fields.

Education

Colleges and Universities: Educational institutions that offer specialized instruction in any of several fields of study and/or in several professions or occupations and is authorized to confer various degrees such as the bachelor's degree. University or college uses may be composed of multiple buildings and uses organized on an integrated campus property composed of one or more zone lots and blocks. Education uses may include a variety of uses such as classroom buildings, administrative offices, sports facilities, student housing, research facilities and other related uses operated by the governing board of the institution within the campus or on adjoining zone lots.

Commercial Studios: A commercial operation that includes the sale of, and may include the instruction in, arts and crafts, dance, music and instruments, commercial photography, and other similar commercially oriented operations.

Schools – Elementary, Middle, and High: An institution for the teaching of children; also, physical improvements and structures related to the activity of teaching, as well as associated accessory uses and structures, including maintenance areas, parking athletic fields, outdoor study areas, etc.

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

Public & Religious Assembly

Banquet Facilities and Reception Halls: A building or a portion of a building rented or reserved by individuals, businesses, or groups to accommodate private functions including banquets, weddings, anniversaries, and other similar celebrations. The facilities may include: (1) kitchen facilities for the preparation or catering of food; (2) the sale of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the public; and (3) outdoor gardens or reception facilities.

Club or Lodge: An association of persons organized for a common purpose to pursue common goals, interests or activities characterized by certain membership qualifications, payment of fees or dues, regular meetings and a constitution or bylaws.

Places of Worship: A church, synagogue, temple, mosque, or other facility used for public worship where organized services are held by persons of similar beliefs.

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Commercial Sales, Services, and Repair Primary Uses

Adult Business

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

Arts, Recreation & Entertainment

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

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

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

Parking of Vehicles

Parking Garage: A structure of two or more stories used for the temporary parking or storage of more than four motor vehicles.

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

Eating & Drinking Establishments

Restaurant – Class A (table service): An establishment whose principal business is the sale of edible, prepared food stuffs and/or beverages for consumption on or off the premises. A Class A Restaurants is a restaurant whose principal method of operation includes any two of the following characteristics:

- Customers are provided with an individual menu, are served their food or beverages by wait staff, at the same table items are consumed.
- Cafeteria-type operations where foods or beverages are generally consumed within the restaurant building.
- Carryout service is not the predominant type of service available.

Restaurant – Class B (counter service, no drive-thru): An establishment whose principal business is the sale of edible, prepared food stuffs and/or beverages for consumption on or off the premises. A Class B Restaurant is a restaurant not falling within the classification of Class A Restaurant and having characteristics of offering food service over a counter, having a limited menu of items already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a microwave oven.

Restaurant – Class C (counter service with drive-thru): Similar to a Class B Restaurant, a Class C Restaurant offers food service over a counter and/or through a drive-through facility.

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

Winery and Microbrewery: A facility where wine or beer is sold for consumption onsite or off the premises and may include a restaurant, beverage room, or retail store as accessory uses.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Lodging Accommodations

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

Hotel or Motel: A hotel is a building in which lodging is offered with or without meals principally to transient guests and that provides a common entrance, lobby, halls and stairways. A motel is an establishment consisting of a group of attached or detached living or sleeping accommodations for transient guests with bathrooms and closet space, located on a single lot and where access to the sleeping accommodations is directly from the outside. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture.

Office

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

Medical Clinic – Special Handling: Structures and land where prescription medications are dispensed and/or human patients are admitted for examination and treatment, including substance abuse facilities, where no more than 20 patients are provided with overnight care, meals, and lodging.

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

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Retail Sales, Service & Repair

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

- The retail sale, grooming, or care of domestic or household animals only, and which may include overnight accommodations. The retail sale of domestic animals (e.g., pet store) is permitted.
- The maintaining, raising, harboring and/or boarding of 4 or more dogs, or 6 or more cats, or 6 or more dogs and cats is considered a primary “animal services and sales - household pets only” use.
- Provision of veterinary medicine, dentistry, or surgery services by licensed veterinary practitioners for household or domestic pets only.

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

Appliance Sales and Repair: An establishment primarily engaged in the sale, maintenance, or restoration of household or domestic appliances.

Auction Houses: An establishment involving a sale barn or sale pavilion and its contiguous surroundings where two or more auctions are held within any twelve-month period. Each day goods or real estate are being offered for sale at auction constitutes one auction. For facilities used exclusively for the auctioning of livestock see Sale Barn for Livestock.

Banks and Financial Institutions: An establishment including a chartered bank, saving association, credit union, or industrial loan company, primarily engaged in the business of providing banking and related financial services to customers, but excluding any establishment whose primary purpose is to provide cash advances, pay day loans, pay day advances, and similar services.

Food Catering Service: *An establishment* where food and/or beverages, intended for sale or distribution, are prepared in bulk or individual portions, for service in bulk or individual portions, at another location.

Fueling Stations: A building and premises where the primary use is the supply and dispensation of retail gasoline, diesel fuel, oil, grease, batteries, tires, motor vehicle accessories, and electric vehicle charging stations. and where minor repair services may be provided. This service shall not include major vehicle repair. A parking space served by battery charging station equipment provides transfer of electric energy (by conductive or inductive means) to a battery or other energy source device in an electric vehicle.

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

Kennels: Any premises used to board, breed, sell, train, or treat more than three dogs, cats or other domestic pets who are more than six months old.

Lawn Equipment and Small Engine Sales and Service: An establishment engaged in the retail sale, rental, or mechanical repair of lawn mowers and small engines.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

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

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

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

Vehicle/Equipment Sales Service & Repair

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

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

Boat Sales, Rentals, and Repair: Establishments primarily engaged in the sales, leasing, rental, and related servicing of new and used boats and similar items; excluding dismantling or junk yard.

Heavy Vehicle/Equipment Sales and Rentals: Establishments primarily engaged in the sales, leasing, or rental, and related servicing, of high capacity mechanical devices for moving earth or other materials, and mobile power units including: carryalls, graders, loading and unloading devices, cranes, drag lines, trench diggers, tractors, augers, bulldozers, concrete mixers and conveyors, harvester combines and other major agricultural equipment and similar devices, trucks in excess of one-and-one-half tons or equipment for use in agriculture, mining, industry, business, transportation, building, or construction; or automobile hitches or trailers, house trailers, and recreational vehicles, but excluding commercial wrecking, dismantling, or junk yard.

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

Industrial, Manufacturing, and Wholesale Primary Uses

Communications & Information

Small Cell Facility: A personal wireless service facility (defined by the Federal Telecommunications Act of 1996, as amended) or a wireless facility satisfying the following requirements: (a) each antenna, including exposed elements, has a volume of 6 cubic feet or less; and (b) the primary equipment enclosure located with the facility has a volume of 28 cubic feet or less. The volume of the primary equipment enclosure excludes: electric meters,

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

concealment equipment, telecommunications demarcation boxes, ground based enclosures, backup power systems, grounding equipment, power transfer switches, and cutoff switches.

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

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

Industrial Services

Chemical Manufacturing and Storage: An establishment used for the manufacture or storage of any chemical or chemically reactive products.

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

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

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

Manufacturing

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

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

Mining, Extraction, and Energy Conservation

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

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

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

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

Transportation Facilities

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

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

Mass Transit Facility: A facility for bus or other types of transportation service available to the public that move relatively large numbers of people at one time.

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

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

Waste Related Services

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

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

Recycling Plant, Scrap Processor: A facility at which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal and aluminum cans; waste oil; iron and steel scrap; rubber; organic materials; and/or other products are recycled and treated to return such products to a condition in which they may again be used for production or for retail or wholesale trade. This definition includes, but is not limited to, all uses in the following SIC group: 5093 Scrap and Waste Materials.

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

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

Wholesale Storage, Warehouse & Distribution

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

Bottled Gas Storage and Distribution: A facility where compressed gas is stored in pressurized portable tanks and is the origin or destination point of tanks being transported.

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

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

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

Wholesale Trade or Storage, General: Establishments primarily engaged in one or more of the following activities: Selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, or building trade contractors; to professional businesses; or to other wholesalers. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots; the sale at wholesale and/or storage or warehousing of toxic and/or hazardous materials; providing accessory support services primarily to other businesses (rather than to individuals). Operations with more than 25 percent of sales to retail customers are categorized as “retail sales” rather than as “wholesale trade” uses. This use excludes self-storage facilities.

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Agriculture Primary Uses

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

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

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

Farm: A parcel or collection of parcels with an area of at least 5 acres used for the primary purpose of agriculture, horticulture, floriculture, or viticulture, including accessory facilities for the sale of produce, wine, and dairy products for sale, if most of the products for sale have been produced or grown by the owner of the land on which the facility is located.

Food Processing Plants: A commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to a consumer.

Grain and Feed Mills: An establishment that produces food, including premixes, supplements, and concentrates, for animal (non-human) consumption from grain, grain byproducts, or alfalfa and other ingredients, without cooking.

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

Riding Stables and Academies: A commercial establishment where horses are boarded and cared for, and where instruction in riding, jumping, and showing is offered, and where horses may be hired for riding.

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

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

SPECIFIC USES

| | | |
|------|---|----|
| 3.1 | Accessory Dwelling Unit | 3 |
| 3.2 | Adult Businesses | 3 |
| 3.3 | Bed and Breakfast | 6 |
| 3.4 | Childcare Facilities | 7 |
| 3.5 | Drive-through Facilities | 7 |
| 3.6 | Heliports and Helipads | 8 |
| 3.7 | Home Occupations | 8 |
| 3.8 | Manufactured Home Parks | 10 |
| 3.9 | Outdoor Sales Display | 10 |
| 3.10 | Outdoor Eating Areas | 11 |
| 3.11 | Outdoor Storage | 11 |
| 3.12 | Short-Term Rentals | 12 |
| 3.13 | Small Cell Facilities | 13 |
| 3.14 | Solar Energy Conversion Systems as Accessory Uses | 13 |
| 3.15 | Solar Energy Conversion Systems as Primary Uses | 15 |
| 3.16 | Temporary Uses | 17 |

| | | |
|------|--|----|
| 3.17 | Vehicle Storage | 20 |
| 3.18 | Wind Energy Conversion Systems as Accessory Uses | 20 |
| 3.19 | Wind Energy Conversion as a Primary Use | 21 |
| 3.20 | Wireless Communication Facilities | 23 |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3.1 Accessory Dwelling Unit

- A. An accessory dwelling unit must only be located within a single-family detached dwelling or as a separate dwelling unit on the same lot or parcel with a principal dwelling.
- B. No more than one accessory dwelling is permitted on any lot or parcel.
- C. The accessory dwelling unit must share the same sewage disposal and water supply systems as the principal dwelling unit.
- D. The accessory dwelling unit must be limited to a maximum of 25% of the total living area of the principal dwelling, but not less than 400 square feet.
- E. The accessory dwelling must contain no more than a living area, one bedroom, one bath and a kitchen.
- F. No new access points or driveways may be created or installed on the abutting street for vehicular access to the accessory dwelling unit.
- G. If separate from the principal dwelling unit, the accessory dwelling must meet all setback requirements of the principal dwelling and must not exceed 25 feet high.
- H. A detached accessory dwelling unit must conform to all applicable building design and material requirements applicable to the principal dwelling (see [6.18 Residential Architectural Standards](#)).
- I. The owner must prepare a deed restriction or other legal instrument to be reviewed and approved by the Administrator. Following approval by the Administrator, the instrument must be recorded with the Johnson County Recorder. The instrument must include a statement that the principal dwelling and the attached accessory dwelling will remain in the same ownership, unless the dwellings can be separated onto individual building lots, each of which complies with all relevant lot area, setback, access, and other requirements of the Ordinance, subject to Town approval.

3.2 Adult Businesses

- A. **Intent.** It is recognized that some uses have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, causing a harmful effect upon the adjacent areas. Therefore, the following intents are served by these regulations:
 - 1. This section describes the uses regulated and the specific standards necessary to ensure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses, and to require sufficient spacing from uses considered most susceptible to negative impacts.
 - 2. These provisions are not intended to impose a limitation or restriction on the content of any communicative materials including adult materials protected by the First Amendment to the United States Constitution.
 - 3. It is not the intent of the provisions of this article to restrict or deny access by adults to adult materials protected by federal and state constitutions.
 - 4. It is not the intent of these provisions to deny access by the distributors and exhibitors of adult entertainment to their target market.
 - 5. These regulations do not intend to legitimize any activities prohibited by federal or state law, or by any other Ordinance of the Town of Bargersville.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

B. Regulations

1. An adult business and its accessory structures (including signs) must have a minimum separation of 1,320 feet from another adult business and its accessory structures.
 2. An adult business and its accessory structures must have a minimum separation of 660 feet of any parcel in a Residential District or any parcel used for a residence, public park, school, childcare facility, church, or similar place of worship, public library, government offices, police department or fire department, youth center, or commercially operated school attended by children such as dance schools, gymnastic centers, and the like ("Protected Uses"). The distance between a proposed adult business and any Protected Use is measured in a straight line from the nearest property line upon which the proposed adult business is to be located to the nearest property line of the Protected Use.
 3. Any sign or advertising for the adult business must comply with the provisions of this Ordinance (see [5.4 Signage](#)). No sign or advertising may include photographs, silhouettes, or drawings of any specified anatomical areas or specified sexual activities, or obscene representations of the human form, and may not include animated or flashing illumination.
 4. The entrances to the proposed adult business at both the exterior and interior walls, in a location visible to those entering and exiting the business, must be clearly marked with lettering at least two inches in height stating: "Persons under the age of 18 are not permitted to enter the premises."
 5. No product, picture, or service for sale or gift may be displayed to be visible by a person of normal visual awareness from the nearest adjoining roadway or a neighboring property.
 6. Hours of operation are limited to 9:00 a.m. to 11:00 p.m., Monday through Saturday.
 7. All off-street and on-site parking areas must comply with this Ordinance (see [5.3 Parking Standards](#)), based on the primary use (i.e., retail, assembly, etc.) and must be illuminated at all times (see [5.2 Lighting Standards](#)).
 8. Any booth, room or cubical available in any adult business used by patrons for the viewing of any entertainment shall:
 - a. Be unobstructed by any door, lock, or other entrance and exit control device;
 - b. Have at least one side completely open to a public, lighted aisle so there is an unobstructed view of any occupant at all times from the adjoining aisle;
 - c. Be illuminated such that a person of normal visual acuity looking into the booth, room, or cubical from its entrance adjoining the public lighted aisle can clearly determine the number of people within;
 - d. Have no holes or openings in any side or rear wall unrelated to utility, ventilation, or temperature control services or otherwise required by any governmental Ordinance or authority.
- C. **Conditions of Approval.** Before granting approval for the establishment of any adult business, the BZA may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the adult business necessary for the protection of the public interest. Any evidence, bond, or other performance guarantee may be required as proof that the conditions stipulated in connection are fulfilled.
- D. **Access to Minors.** No person operating an adult business may permit any person under the age of 18 to be on the premises of the business as an employee, customer, or otherwise.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

E. Definitions

1. **Adult arcade.** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration an electronically, electrically, or mechanically controlled still or motion picture machine, projector, video or disc player, or other image producing device is maintained to show images to five or fewer persons per machine at any one time, and where the image is so displayed or distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
2. **Adult bookstore, adult novelty store, or adult video store.** A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration, any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, discs or other video reproduction, slides, or other visual representations which are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or
 - b. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
3. **Adult Business or Sexually Oriented Business.** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude modeling studio, sexual encounter center, or massage parlor; provided, "massage parlor" shall not include a spa, medical facility, athletic club, or similar business where physical therapy and/or massages are offered by a massage therapist licensed to practice in the State of Indiana.
4. **Adult cabaret.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:
 - a. Persons who appear live in a state of nudity or semi-nudity; or
 - b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or
 - c. Films, motion pictures, video cassettes or discs, slides or other video or photographic reproductions which are distinguished or characterized by the depiction of "specified sexual activities" or "specified anatomical areas."
5. **Adult motel.** A hotel, motel, or similar commercial establishment which:
 - a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this type of photographic reproduction; or
 - b. Regularly offers a sleeping room for rent for a period less than 10 hours; or
 - c. Regularly allows a tenant or occupant of a sleeping room to sub-rent the room for a period less than 10 hours.
6. **Adult motion picture theater.** A commercial establishment where, for any form of consideration, films, motion pictures, videos, slides, or other similar photographic reproduction are regularly shown which are

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

consistently distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

7. Specified anatomical area. Means either:

- a. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- b. Less than completely and opaquely covered human genitals, attached pubic hair, buttocks or a female breast below a point immediately above the top of the areola.

8. Specified sexual activity. Means any one of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- b. Sex acts, normal or perverted, actual, or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
- c. Excretory functions as a part of or in connection with any of the activities set forth in 1. or 2. above.

3.3 Bed and Breakfast

- A. A bed and breakfast must be operated according to applicable Johnson County Health Department requirements.
- B. A bed and breakfast must not contain more than five guest rooms plus a common area for use by all guests.
- C. A bed and breakfast establishment must be located only in a detached single-family dwelling, designed, and constructed for single family use, which containing at least 1,500 square feet of livable floor area. For each guest room more than two, an additional 100 square feet of floor area is required.
- D. The bed and breakfast must be the principal residence of the owner, who resides there when the bed and breakfast is in operation. If the owner is not in residence in the dwelling unit for 14 consecutive days or more, the bed and breakfast must be closed until the owner returns.
- E. Meals for guests are limited to breakfast and evening snack and must not be available to members of the public other than the owner's family.
- F. There must be at least one parking space provided for each guest room in addition to the parking spaces required to serve the principal residence.
- G. One sign, not exceeding four square feet, is allowed for identification purposes only. Sign lighting must be external and shielded from view off site. Internally lighted signs are not permitted.
- H. Cooking facilities are prohibited in bed and breakfast guest rooms.
- I. Exterior refuse storage facilities must be screened from view on all sides by a six-foot solid decorative fence or wall (see [5.1\(H\) Screening](#)), or by other screening approved by the Board of Zoning Appeals.
- J. The maximum stay for any guest of a bed and breakfast is 10 consecutive days, not to exceed a total of 30 days in any 12-month period. A guest register accurately showing the names of the guests and the dates and duration of their stays must be maintained by the owner and made available to the Administrator upon request.
- K. In addition to the site plan required by [CHAPTER 7 – PROCESS AND ADMINISTRATION](#), a floor plan of the dwelling unit and the use of each room must also be submitted with the special exception use application.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3.4 Childcare Facilities

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

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

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

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

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

Drop-off and pick-up of children from vehicles is permitted only in driveways and approved parking areas and is not permitted in the public street directly in front of the facility.

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

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

3.5 Drive-through Facilities

- A. The drive up or drive through facility must be attached to a building. An automated teller machine may be in a stand-alone structure with a canopy or roof to protect users from the elements.
- B. The facility must be screened from any adjacent residential district or use (see [5.1\(E\) Landscape Buffers](#)). Lighting must be limited and fully shielded to prevent glare and light trespass.
- C. Drive-through/stacking lanes and parking lot access must be clearly identified and delineated.
- D. A drive-through must have an escape lane to allow a vehicle to pass those waiting to be served. This requirement may be waived if the applicant can demonstrate that such a waiver will not adversely impact public safety or inconvenience patrons (see [6.16 Modifications](#)).
- E. All drive-through service windows must be located on the side or rear of the building to minimize visibility from a public or private street.
- F. Amplified speakers and sound equipment must be located at least 60 feet from any adjoining residential district. Additional landscaping and fencing must be installed between the equipment and the adjoining residential district to minimize associated noise impacts.
- G. Stacking spaces must be provided per each drive through lane per [5.3\(D\)\(1&\) Stacking Requirements for Drive-Through Facilities](#).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3.6 Heliports and Helipads

- A. The proposed heliport and all accessory facilities and equipment must be constructed, operated, and maintained according to the published rules, regulations, and guidelines of the Federal Aviation Administration and the Indiana Department of Transportation, Aviation Programs Division.
- B. The proposed heliport and all accessory facilities and equipment must conform to NFPA Standard 418, Standards for Heliports, 2006 Edition, except for Sec. 9.1.2, exempting certain heliports from the requirement to be equipped with portable fire extinguishers, does not apply. Portable fire extinguishers are required at all heliports, located, and stored in a manner approved by the Fire Marshal.
- C. The use must be located on a lot with a minimum area of 10 acres.
- D. The touchdown and lift-off area (TLOF), as defined in Federal Aviation Administration Advisory Circular 150/5390-2B, or any successor advisory circular, must comply with the following minimum separation distances from:
 - The boundary of any property zoned Industrial Marshal (I-1): 150 feet.
 - The boundary of property in any other zoning district: 300 feet.
 - A building on property, other than property owned by the applicant, zoned Industrial (I-I): 200 feet.
 - A building on property in any other zoning district: 500 feet.
- E. A helicopter must not remain in operation on the ground for longer than necessary for startup/shutdown, loading and otherwise essential ground operations (generally no longer than 5 minutes).
- F. As a condition of special exception approval, the Board of Zoning Appeals may impose limits on:
 - The size and type of rotorcraft permitted to use the facility;
 - The allowable hours of use of the facility;
 - The frequency of helicopter operations permitted at the facility; and
 - The location, design, type, size, and use of any exterior lighting, buildings, fuel storage, or other equipment or facilities associated with the heliport.
- G. The provisions of this section do not apply to emergency operations conducted by law enforcement, public safety agencies, or emergency medical service providers.

3.7 Home Occupations

- A. **Permit.** Application for a home occupation permit is made to the Administrator, with payment of a fee established by the Town Council.

The requirement for a permit is waived if all these conditions apply to the home occupation:

- The proposed home occupation will not employ any persons other than residents of the dwelling;
- The home occupation will not generate customers, clients, or visitors to the home; and
- All other provisions of this section shall be met.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

B. Standards. The following standards must be met for all home occupations:

1. The use must be conducted entirely within the dwelling; a garage or accessory building may be used for a limited amount of storage of items associated with the home occupation, such as product samples for a salesperson.
2. The use must be carried on only by the residents of the dwelling and no more than one other person.
3. The use of the dwelling for a home occupation must be clearly accessory, incidental, and subordinate to the permitted principal residential use, and must not occupy more than 20 percent of the livable floor area of the principal dwelling, and not more than 50 percent any one floor.
4. The appearance of the dwelling must not be altered. The occupation within the dwelling must be conducted so that the premises retains its residential character in use of colors, materials, construction, lighting or the emission of sounds, vibrations or light that carry beyond the premises.
5. No outdoor storage, activities, or displays are permitted, except a wall sign, not exceeding one square foot and not illuminated, may be mounted on the front of the principal dwelling.
6. No combustible, toxic, or hazardous materials may be used or stored on the premises relating to the home occupation.
7. There must be no activity to interfere with radio or television transmission in the area, nor any offensive noise, vibrations, smoke, dust, odors, heat, or glare noticeable at or beyond the property line. The use must not create a nuisance for the public and any surrounding property.
8. Traffic generated by the combined home and home occupation must be compatible with traffic normally expected in a Residential District. Vehicles used in the home occupation or making deliveries must be no larger than utility vehicles commonly used for noncommercial purposes, i.e., pick-up trucks, vans, panel trucks, and parcel package delivery trucks.
9. Retail sales are not permitted, except mail order or internet sales where the product sold is shipped directly to the buyer and no customers visit the home.
10. The home occupation must only be open for customers or clients to visit the home on weekdays within the hours of 8:00 AM to 5:00 PM, excluding holidays recognized by the Town of Bargsville.

C. Other Provisions

1. The Administrator may impose reasonable conditions to ensure compliance with the standards of this subsection and protect surrounding properties from potential nuisance effects associated with the home occupation.
2. A permit for a home occupation is not transferrable to another location or any person other than the original applicant.
3. The home occupation is subject to periodic inspection following reasonable notice to the permittee.
4. Noncompliance. In the event any conditions of this subsection are not met, the Administrator will provide written notice of noncompliance and set a time limit for compliance or correction. If corrective action is not taken within the specified period, the home occupation permit will be revoked and the occupation ceases (see [7.4 Enforcement](#)).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3.8 Manufactured Home Parks

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

Manufactured home parks must be a minimum of 5 acres.

Manufactured homes may be permanently occupied when located within a manufactured home park. Manufactured home parks require site plan approval and must be developed in accordance with the requirements of this Ordinance (see [7.1\(F\) Planned Unit Developments](#)). Manufactured homes for permanent occupancy must meet the standards for the zoning district in which it is located and the following requirements:

- A. An Improvement Location Permit is required for the placement of any manufactured home.
- B. A manufactured home must not be located under overhead electric lines.
- C. Manufactured homes must be skirted before occupancy.
- D. Accessory structures for storage on individual sites must meet setback requirements and require an Improvement Location Permit.
- E. Driveways must be located for convenient access to service entrances and collection points of buildings.
- F. Parking for residents and visitors must be provided on the manufactured home site or in common parking facilities. Parking areas must not interfere with pedestrian walkways.
- G. Sidewalks at least 5 feet wide must be provided along both sides of the street to provide continuous, safe pedestrian circulation. Walkways are encouraged in common areas to connect frequently used public facilities and improve circulation throughout the site.
- H. A storage area of at least 120 square feet must be provided for each dwelling unit. This storage area may consist of a closet area, attic, or in a detached accessory building comply with the provisions of this Ordinance.
- I. Covenants applying to the entire site must be submitted with the site plan application. The covenants must be recorded prior to issuing an Improvement Location Permit for the site. The covenants must contain the following:
 - Each occupant of a manufactured home site must be provided a copy of the recorded covenants.
 - The placement or replacement of a manufactured home must comply with the requirements of this Ordinance.
 - Accessory structures must meet the required setbacks and require an Improvement Location Permit.
 - The manufactured home park owner is responsible for ensuring all sites and common areas are maintained in neat and orderly condition.
 - On-street parking of boats, trailers, semi-trucks, etc. is prohibited.

3.9 Outdoor Sales Display

- A. Any proposed outdoor sales display must be delineated on an approved site plan and in accordance with the following:
 1. The site plan must include the types of merchandise and products, location, landscaping, and other improvements of the outdoor sales display area.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

3.10 Outdoor Eating Areas

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

- A. Town Council approval is required if any portion of the outdoor eating area encroaches into a public sidewalk or right-of-way.
- B. All outdoor eating areas must conform to State and County Health Department regulations and code.
- C. Music and other audio devices must be maintained at a level inaudible 40 feet from the source or 90 decibels or less when measured 6 feet from source.
- D. Outdoor eating areas must not impede pedestrian traffic or force pedestrians into vehicle travel lanes. A 5-foot pedestrian access area must be maintained on the perimeter of the outdoor café and eating area. The pedestrian access area must remain clear of obstructions.
- E. Outdoor eating areas used for more than 7 days in a calendar year are deemed permanent. Permanent outdoor cafes and eating areas require [7.1\(G\) Site Plan Approval](#) to ensure compliance with this Ordinance and compatibility with the surrounding area and Zoning District.

3.11 Outdoor Storage

- C. Outdoor storage is only permitted as a special exception use, accessory to principal uses in the C-3 and I-1 Districts.
- D. The outdoor storage area must be fenced on all sides (see [5.1\(H\) Screening](#)).
- E. Any side that is visible to adjoining properties in a residential district, parking lots or abutting streets must be screened according to the requirements of [5.1\(H\) Screening](#).
- F. If approved as part of the special exception use, the required screening may be comprised of suitable plant material, if determined the alternate materials will provide the same level opacity, screening, and compatibility with adjoining properties as a fence or wall.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3.12 Short-Term Rentals

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

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

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

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

- A. When provided off-street parking must occur only on designated paved portions of the lot, such as driveways.
- B. Rental of the dwelling is done in a manner consistent with the character of the surrounding neighborhood.
- C. The owner provides the renter the following information prior to occupancy and posts this information in a conspicuous location within the dwelling:
 - Notification of the maximum occupancy permitted in the dwelling;
 - The name and telephone number of the contact person who may be reached any time the dwelling is rented;
 - Notification and instructions of the parking locations;
 - A copy of this chapter, as amended; and
 - Notification that a renter may be cited or fined by the Town, in addition to any other remedies available at law, for violating any provisions of this chapter.
- D. The owner's contact person must always be available to accept calls when the dwelling is rented. The contact person must have a key to the dwelling and be capable of being physically present at the dwelling within 3 hours to address issues.
- E. The appearance of the dwelling must not conflict with the residential character of the neighborhood. The dwelling must be properly maintained and kept in good repair, so the use does not detract from the general appearance of the neighborhood.
- F. Renters must not encroach on neighboring properties.
- G. The premises must be maintained free of debris and unwholesome substances. Garbage must be kept in a closed container and disposed of on a regular, weekly schedule.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- H. Renters must not create a nuisance. For purposes of this chapter, a nuisance includes, but is not limited to, any activity that violates the Town noise regulations or fireworks regulations.
- I. Short-term rentals must not be used to house sex offenders; operate a structured sober living home; manufacture, exhibit, distribute, or sell illegal drugs, liquor, pornography, or obscenity; or operate an adult business as defined in [IC 12-7-2-1.8](#).
- J. A short-term rental permit is required prior to the use of any property as a short-term rental. Any change in the use or construction of a dwelling resulting in noncompliance with Town or state standards, as determined by the Administrator, will void the short-term rental permit approval.

3.13 Small Cell Facilities

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

3.14 Solar Energy Conversion Systems as Accessory Uses

- A. Solar energy systems are a permitted accessory use in all zoning districts, subject to the requirements of this article. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

surface parking lots in all districts regardless of the existence of another building. Ground-mounted systems do not count toward the maximum number of accessory structures permitted.

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

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

3.15 Solar Energy Conversion Systems as Primary Uses

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

A. Site Design

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

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

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

and other protected natural resources, topography, electric equipment, and all other characteristics requested by the Town. The site plan should show all zoning districts and overlay districts.

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

3.16 Temporary Uses

Except for garage and yard sales, a permit is required for all uses regulated by this subsection. A permit application and required fee is submitted to the Administrator for each proposed temporary use. The uses in this article are subject to the Town's special event policy and itinerant merchant regulations. Town Council approval is required for any temporary use that encroaches into any public right-of-way.

- A. **Construction Buildings.** Construction buildings and structures incidental to construction work on a lot may be placed according to the following:
1. Construction buildings and structures may only be used for the storage of materials, tools, supplies, and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities related to construction activity on the lot. An enclosed structure for temporary sanitation facilities is required on all construction sites.
 2. No construction building or structure may be used as a dwelling unit.
 3. A permit must be obtained from the Administrator prior to installation of a construction building or structure.
 4. Construction buildings and structures must be removed from the site within 15 days after an occupancy permit is issued for the permanent structure by the Administrator, or within 15 days after the expiration of a building permit issued for construction on the lot.
- B. **Garage and Yard Sales**
1. A garage or yard sale may be conducted on any premises up to three times each calendar year for up to three consecutive days for each sale.
 2. The sale of goods or products purchased exclusively for resale, or the sale of consignment goods and products, is prohibited.
 3. The garage or yard sale must only be conducted between the hours of 8:00 AM and 5:00 PM.
 4. All personal property, goods, and products exhibited during the sale must be removed from the outside and placed within a fully enclosed building at the end of each day of the sale. At the conclusion of the sale, all signs must be removed within 24 hours.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- C. **Sales Offices.** Sales offices or model homes may be placed on a lot according to the following:
1. A permit must be obtained from the Administrator prior to installation or construction. The permit must specify the location of the office and is valid for up to one year. A temporary permit may be renewed by the Administrator for up to two successive one-year periods at the same location, if determined the temporary building is still necessary.
 2. Only transactions related to the development where the temporary building is located may be conducted within the building. General offices for real estate, construction, development, or other related businesses associated with the project are not permitted.
- D. **Seasonal Sales.** The temporary outdoor sale of seasonal goods such as, fireworks, Christmas trees, and landscaping material must meet the following requirements:
1. The duration of the sales activity must be specified in the required license application.
 2. All signs, stands, structures, displays, merchandise, or other physical components associated with the sale must be set back a minimum of 25 feet from the street right-of-way line and all adjoining property lines.
 3. Off-street parking must be provided in an amount determined by the Administrator to be consistent with other similar uses listed in [5.3 Parking Standards](#). All required parking must be on a paved surface.
 4. Hours of operation must not extend later than 9:00 PM.
 5. Outdoor lighting must be approved by the building official and lighting levels must be reduced during nonbusiness hours to provide sufficient light for security purposes but not create glare or light spill onto adjoining streets or properties.
- E. **Sidewalk Sales**
1. A maximum of two events may be held per calendar year for no more than 14 consecutive days for each event, unless otherwise specifically permitted in this subsection. These requirements do not apply to flea markets.
 2. The location of any sign, stand, structure, display, merchandise, or other physical component associated with the sidewalk sale shall not:
 - Obstruct more than 50 percent of the width of the public sidewalk;
 - Obstruct the clear vision triangle, as specified in [4.10 Vision Clearance Standards](#); and
 - Otherwise threaten the health, welfare and/or safety of the public.
 3. All items for sale, signs, stands or temporary structures associated with a sidewalk sale must be removed and placed inside the store upon close of business each day.
- F. **Temporary Storage Units**
1. Registration of Temporary Storage Units
 - a. Prior to the initial delivery of a temporary storage unit, the property owner, occupant of the premises (if not the owner), or storage unit supplier must register the placement of the storage unit with the Administrator unless the storage unit will be removed within 72 hours of its delivery.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

b. Registration requirements:

- i. Completing the required application form and providing the property owner's or occupant's (if not the owner) name, size of the temporary storage unit to be registered, the address where the storage unit will be placed, delivery date, removal date, and a sketch illustrating the location and placement of the storage unit;
- ii. Written approval of the application by the Administrator.
- iii. The effective date of the registration is the date of the application's approval.

2. Placement requirements

- a. Placement of a temporary storage unit on property located within the Town of Bargersville requires registration with the Administrator.
- b. Temporary storage units must only be placed upon or within a driveway or a parking area or, if access exists at the side or rear of the lot, the side or rear yard.
- c. No temporary storage unit may be placed upon or within a street, sidewalk, street right-of-way or lawn area between the edge of pavement and sidewalk.
- d. The temporary storage unit must not be located at the registered address for more than 10 consecutive days, including the days of delivery and removal. If the unit is needed to for cleanup and/or restoration of activities resulting from natural disasters, fire, or remodeling, the unit may be located on the property for up to 90 consecutive days.
- e. Each lot may contain two storage units at once and a maximum of one registration in any 12-month period.
- f. The temporary storage unit must not exceed 200 square feet.
- g. The temporary storage unit must be secured to not endanger the safety of people or property near the unit.
- h. The temporary storage unit must be maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing, or other holes or breaks at all times.
- i. A temporary storage unit must not be used for human occupancy or to store solid waste, business inventory, commercial goods, goods for property other than the property where the storage unit is located, or any other illegal or hazardous material. Upon reasonable notice, the Administrator may inspect the contents of any temporary storage unit at to ensure compliance with these requirements.
- j. Any temporary storage unit not removed at the end of the registration period, may be removed by the Town immediately, without notice, and with the cost of removal assessed against the property where the unit was located.
- k. A sign identifying the storage unit supplier, mounted on the temporary storage unit, does not require a sign permit provided the storage unit complies with this section and all other applicable codes.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3.17 Vehicle Storage

A. Recreational Vehicle Parking and Storage

1. Parking any recreational vehicle on any street, alley, highway, or other public place is not allowed in the Town. A recreational vehicle cannot be used as a dwelling.
2. In any residential or agricultural district, a recreational vehicle may be stored inside a garage or barn or stored outdoors on a paved area located behind the front building façade and outside of the required side yard and rear yard setbacks.
3. A recreational vehicle may be parked on a paved area in the front yard for up to 48 consecutive hours for loading, unloading, cleaning, packing, unpacking, or similar maintenance or preparations.
4. Temporary occupancy of a recreational vehicle for up to 48 hours in any 30-day period may be permitted if the recreational vehicle contains sleeping accommodations, is parked on a paved surface on a lot in a Residential District and is for the use of the owner of that lot or guests of the owner.

B. Storage and Repair of Vehicles

1. The repair, restoration, and maintenance of vehicles in any Residential District must be conducted entirely within an enclosed building, except for activities are completed in less than 24 hours. All this repair must take place on private property and may not be conducted within the public right-of-way.
2. Open storage or parking of all or part of any inoperable motor vehicle, machinery, or equipment, outside of an enclosed garage or building, is not allowed for more than 48 hours. For the purposes of this article, an inoperable motor vehicle includes any motor vehicle incapable of being propelled under its own power, is unsafe for operation on the streets and highways of this state or does not have a current license and registration as required for operation by the Indiana Bureau of Motor Vehicles.
3. Semi-truck tractors and/or semi-truck trailers, bulldozers, earth carriers, cranes or similar equipment or machinery cannot be stored or parked outside a building unless parked for purposes of construction on that lot, except that a semi-truck tractor may be parked in a driveway of a residential district for up to 48 hours in any 30-day period.
4. In the AG District, the owner, tenant, or lessee of any lot may openly store or park semi-truck tractors and/or semi-truck trailers outside of a building for up to 20 days within any 30-day period. Those vehicles must be parked so vision of drivers is not impaired on or entering adjacent streets.

3.18 Wind Energy Conversion Systems as Accessory Uses

- A. Wind energy conversion systems (WECS) are a permitted accessory use in all zoning districts, subject to the requirements of this article. Wind energy conversion systems do not count toward the maximum number of accessory structures permitted. Most of the energy produced by an accessory WECS should be consumed only on the property where it is located.
- B. As accessory uses WECS must be:
 1. Installed on a certified tubular free-standing tower, a lattice tower, or a monopole tower. Towers may be guyed or self-supporting.
 2. Filtered, shielded, or otherwise designed and constructed to not cause electro-magnetic interference.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

3.19 Wind Energy Conversion as a Primary Use

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

- A. As a primary use WECS must meet the requirements below.
 1. WECS must conform to all industry standards. The applicant must submit certificates the wind turbine manufacturers have obtained from Underwriters Laboratories or an equivalent third party.
 2. WECS must be:
 - a. Installed on a certified tubular free-standing tower, a lattice tower, or a monopole tower. Towers may be guyed or self-supporting.
 - b. Filtered, shielded, or otherwise designed and constructed to not cause electro-magnetic interference.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- c. Grounded to protect against lightning strikes.
 - d. Designed with automatic over speed control to render the system inoperable when winds are blowing at higher speeds than the machine's capability.
 - e. Equipped with a redundant breaking system, including both aerodynamic over speed controls and mechanical breaks. Mechanical brakes must be operated in a fail-safe mode. Stall regulation is not a sufficient braking system for over speed protection.
 - f. Designed with and automatic and manual control that will render the system inoperable in case of loss of utility power to prevent the WECS from supplying power to a de-energized electrical distribution grid.
 - g. Designed to meet the requirements for interconnection and operation as mandated by the utility managing the electrical grid where the WECS is connecting. All structures, substations, feeder lines, facilities, and accessory equipment must comply with the National Electrical Code and operate per the electrical utility's service regulations applicable to WECS.
3. Outside of a primary structure, the sound pressure levels from a WECS component must not exceed 32 decibels on the "A" weighted scale. This level may only be exceeded during short-term events such as utility outages or severe windstorms.
 4. The WECS owner and operator must make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.
 5. All lighting, including lighting intensity and frequency of strobe, must adhere to but not exceed the requirements established by the Federal Aviation Administration (FAA) permits and regulations. Except for lighting required by the FAA, lighting must be shielded so that no glare extends beyond the WECS.
 6. At least 20 feet of clearance is required between the ground and the lowest point of the arc of any protruding blades utilized on a WECS. This minimum clearance may be increased to provide additional clearance where oversized vehicles may travel.
 7. The maximum tower height and maximum total height cannot exceed the maximum height permitted by the FAA.
 8. Wind turbines must be setback from property lines and rights-of-way at least 120% of the total height of the structure. A minimum separation of 2,640 feet is required between a wind turbine and any non-applicant primary building. No new structure may be constructed within 800 feet of a wind turbine unless this requirement is waived by the Plan Commission upon a determination that the structure will not affect the WECS performance. Accessory structures associated with the WECS must meet the setbacks for primary structures for the zoning district where they are located.
 9. WECS must be white, light gray, or another non-obtrusive color. Blades may be black to facilitate deicing. Finishes must be matte or non-reflective and meet Federal Aviation Administration color requirements. No advertising or signage is allowed on a WECS.
 10. For all guyed towers, visible and reflective objects (such as plastic sleeves, reflectors, or tape) are required on the guy wire anchor points and along the outer- and innermost guy wires to a height at least 8 feet above the finish grade.
- B. WECS are subject to the Town's stormwater management, erosion, and sediment control provisions and Nonpoint Pollution Discharge Elimination System (NPDES) permit requirements and all applicable local, state,

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

and federal regulatory codes, including the State of Indiana Uniform Building Code, as amended, and the National Electric Code, as amended.

- C. **Site Plan Approval Required.** A WECS requires site plan approval by the Plan Commission. In addition to the site plan requirements of [7.1\(G\) Site Plan Review](#), the application must include a description of the project addressing: the number and type of turbines, generating capacity, tower design and height, blade arc diameter, total height, means of connection with the electrical grid, potential equipment manufacturers, and all related accessory structures. The site plan must show the location of all underground utility lines associated with the WECS project. The manufacturer's engineer or another qualified professional engineer must certify that the turbine, foundation, and tower design are within accepted professional standards given local soil and climate conditions. If there is an existing WECS within one mile of the proposed WECS, a description of the potential impacts on the existing WECS and wind resources on adjacent properties is required.
- D. Several WECS projects may be submitted as a single application and reviewed under joint proceedings, including notices, hearings, reviews, and approvals.
- E. **Modification.** Any physical modification to a WECS that alters the mechanical load, mechanical load path, or major electrical components requires new site plan approval prior to making any physical modifications. Like-kind replacements are considered maintenance and do not require site plan approval.
- F. **Decommissioning.** A decommissioning plan is required to ensure that facilities are properly removed after their useful life.
 - 1. Decommissioning of the system occurs if the project does not produce power for 12 consecutive months. An owner may petition for an extension of this period upon showing of reasonable circumstances causing the delay in the start of decommissioning.
 - 2. The decommissioning plan identifies provisions for removing all structures and foundations to a depth of 48", restoring soil and vegetation, and assurances that financial resources will be available to fully decommission the site.
 - 3. The Plan Commission or Administrator may require the posting of a bond, letter of credit, or other financial surety to ensure proper decommissioning.

3.20 Wireless Communication Facilities

- A. **Required Approvals.** The placement of wireless communications facilities and towers shall meet the following approval requirements:
 - 1. Installation of New Antenna. The installation of new antennas on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the Administrator subject to all requirements of this article. Any new antenna that will add either 10 percent or 25 feet, whichever is less, above the highest point of any existing tower or alternative structure is subject to the provisions of this article for the installation of new towers.
 - 2. Installation of a New Tower. The installation of any new tower is reviewed as a special exception use by the Board of Zoning Appeals.
 - 3. Installation of New Accessory Structures. The installation of new accessory structures, such as equipment buildings, to support the installation of additional antennas on existing towers, or alternative structures may be approved by the Administrator.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN
STANDARDS

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- B. **Removal.** Any tower unused or left abandoned for 12 consecutive months must be removed by the property owner at his/her expense. Regardless of the tower ownership, the property owner is responsible for removal. Upon the request of the Administrator, the operator of any facility to which this section applies must provide documentation of the use of that facility for the purpose of verifying any abandonment.
- C. **Interference with Public Safety Facilities.** No new wireless communications facilities or tower will result in any interference with public safety telecommunications.
- D. **Required Documentation for all Facilities.** In addition to the requirements provided in this Ordinance for receipt of special exception use approval, applications for new towers, new antenna, and new related facilities must include the following. Where the equipment is mounted on an existing building, the comparable information for that structure shall be provided.
1. **Engineer's Report.** A report from a professional engineer licensed in the State of Indiana that:
 - a. Describes the height and design of any new tower and/or antenna including a cross-section, latitude, longitude, and elevation;
 - b. Describes or updates (in the case of new antenna) the tower's capacity, including the type and number of antenna it can accommodate;
 - c. Certifies compliance of the construction specifications with all applicable building codes (including the foundation for the tower, anchors for the guy wires if used, co-location, and strength requirements for natural forces; ice, wind, earth movements, etc.);
 - d. Certifies that the facility will not interfere with established public safety telecommunication facilities; and
 - e. Includes the engineer's seal and registration number.
 2. **Letter of Intent.** A letter of intent committing the tower owner, property owner, antenna owners, and their successors to allow the shared use of the tower.
 3. **Proof of Compliance.** Copies of any required approvals from the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and all other appropriate state and federal agencies.
 4. **Removal Affidavit.** A letter committing all parties, including the property owner and his/her successors, to remove the tower and all related accessory structures, fences, landscaping, and equipment if the tower is abandoned (unused for 12 consecutive months). The removal affidavit must be recorded in the Office of the Johnson County Recorder, with a copy of the recorded affidavit provided to the Administrator.
- E. **Determination of New Tower Need.** Any proposal for a new telecommunications tower will only be approved if the applicant submits verification from a professional engineer licensed in the State of Indiana stating the antennas planned for the proposed tower cannot be accommodated on any existing or approved towers or other structures within a two-mile radius of the proposed tower location due to one or more of the following reasons:
1. **Inadequate Structural Capacity.** The antennas would exceed the structural capacity of the existing or approved tower or other structure.
 2. **Interference.** The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3. Inadequate Height. The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at the height necessary.
 4. Land Availability. Additional land area is not available (when necessary).
- F. **Design Requirements for new Towers and Related Facilities.** All telecommunications facilities must meet the following design requirements:
1. Lighting. Tower lighting must only be installed as required for safety or security reasons or as required by the FAA or other federal or state authority. All ground level security lighting must be oriented inward to not to project onto surrounding properties and must have 90-degree cut-off luminaries (shielded downlighting).
 2. Co-location. All telecommunication towers must be designed, and engineered structurally, electrically and in all respects to accommodate both the applicant's equipment and at least one additional user for every 50 feet in total tower height exceeding 75 feet.
 - a. Each additional user is assumed to have an antenna loading capability equal to that of the initial user.
 - b. Towers must be designed to allow for rearrangement of antennas and to accept antennas mounted at varying heights.
 3. Height. All towers and antenna must conform to all FAA tall structure requirements. The maximum height of all accessory structures is 15 feet.
 4. Signs. Signs for all telecommunications facilities are permitted up to a total of 4 square feet per user and must only be located on the security fence or the wall of accessory equipment buildings within the security fence.
- G. **Site Requirements for New Towers and Related Facilities.** All telecommunications facilities must meet the following site requirements:
1. Vehicular Access. Vehicle access drives may be gravel or paved and must be located within an access easement that is a minimum of 20 feet in width. Any portion of the entrance located in a public right-of-way must meet the applicable public street or road design, construction, and pavement requirements of the jurisdiction responsible for that street.
 2. Site Area. The lot (or lease area) where the tower is located must be large enough to accommodate all future anticipated accessory structures needed by future antenna users. The size of the site must also sufficient to allow the location of one additional tower and associated support facilities.
 - a. The arrangement of the initial tower and the topography of the site is considered in determining the sufficiency of the site area.
 - b. The width of the tower site cannot be less than the height of the tower and the depth of the tower site cannot be less than the tower height. The tower must be placed within the property, so it is no closer to any lot line than 50% of the tower height.
 - c. All tower supporting and stabilizing wires must be located within the site area.
 3. Setback. The required setbacks for related accessory facilities are as follows:

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- a. Side and Rear Setback. The minimum side and rear setback for all buildings and related facilities, including the security fence is 25 feet.
 - b. Front Setback. The minimum front setback for all buildings and related facilities is as specified by this Ordinance for the zoning district where it is located. No part of a wireless telecommunications facility, including the security fence, and any required guide wires or bracing is permitted in any required front setback.
 - c. Additional Setback from Residential Zoning Districts. No tower may be placed closer than 150% of the total height of the tower or 200 feet, whichever is greater, to any surrounding property in a Residential District.
 - d. Additional Landscaping. Landscape screening may be provided in the setback area.
4. Encroachment. No part of any telecommunications facility nor associated lines, cables, equipment, wires, or braces may extend across or over any part of a public right-of-way, sidewalk, or property line.
 5. Fencing. An eight-foot-high security fence must surround the tower and accessory equipment building site. Barbed wire, concertina wire, or sharpened stakes, if used, must be at least six feet above grade. An area 10 feet in width must remain outside of the fence for the purpose of providing the landscape screening described below.
- H. **Landscape Screening**. In addition to the landscaping required in [5.1 Landscape Standards](#), evergreen buffer plantings must be located and maintained around the outermost perimeter of the security fence of all wireless communications facilities. The landscape plan for the site must provide plants in number and design to provide a screen of the fence, all equipment, and the base of the tower, as determined by the Board of Zoning Appeals. A combination of trees and shrubs is encouraged. The maximum spacing of evergreen shrubs is 5 feet on center. The maximum spacing of evergreen trees is 10 feet on center.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN
STANDARDSIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS



| | | |
|------|------------------------------------|----|
| 4.1 | Accessory Buildings and Structures | 3 |
| 4.2 | Building Standards | 5 |
| 4.3 | Fences and Walls | 6 |
| 4.4 | Height Standards | 7 |
| 4.5 | Lot Standards | 8 |
| 4.6 | Performance Standards | 8 |
| 4.7 | Property Maintenance Standards | 9 |
| 4.8 | Excavations or Holes | 10 |
| 4.9 | Setback Standards | 10 |
| 4.10 | Vision Clearance Standards | 12 |
| 4.11 | Yard Standards | 13 |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4.1 Accessory Buildings and Structures

- A. Accessory buildings cannot be erected in any front yard. Parcels 5 acres or larger in the AG and RR Districts are exempt from this requirement. A minimum 10-foot separation is required between accessory buildings and other building.
- B. A detached accessory building or structure may be erected in a rear or side yard if set back at least 10 feet from the rear and 5 feet from the side property lines unless otherwise provided by this Ordinance.
- C. An accessory structure cannot exceed a height of 25 feet unless otherwise exempted by this Ordinance.
- D. An accessory building or accessory structure cannot be constructed on a lot before the principal building or use is constructed on the lot.
- E. Swing sets, playground equipment, garden trellises, well-head covers, flag poles, bird baths, and similar above-ground yard equipment accessory to a residential use are exempt from the provisions of this subsection, except for height limitations.
- F. Buildings and structures accessory to non-residential uses must meet the minimum setback requirements and height limitations for principal buildings in the respective zoning district.
- G. Accessory buildings and structures must use the same public utility connections as the principal building.
- H. **Satellite Dish Antenna:** These regulations apply to satellite dish antenna and other satellite reception devices greater than 2 feet in diameter.

1. General Purposes

- a. These regulations are designed to promote the public health and safety by providing criteria for the placement of these antenna. This ensures that all installations limits endangerment of life and property on the site and surrounding properties due to collapse or destruction.
- b. These regulations are also designed to decrease the potential for urban blight in residential neighborhoods generated by guy wires, poles, cables, and other appurtenances.
- c. These regulations allow satellite dish antenna installations in a manner that: (1) does not unreasonably delay or prevent the installation, maintenance, or use of the antenna; (2) does not unreasonably increase the cost of installation, maintenance or use of the antenna; or (3) preclude reception of an acceptable quality signal.

2. General Requirements

- a. A satellite receiver antenna 2 feet in diameter or less may be installed in any location in accordance with the provisions of [IC 36-7-4-201](#).
- b. Satellite dish antenna greater than 2 feet in diameter may be erected in the R-4 and R-5 residential zoning districts after an improvement location permit is obtained, provided the following criteria are met.
 - The satellite dish antenna is ground mounted.
 - The diameter does not exceed 10 feet.
 - The height does not exceed 12 feet.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- It is located between the rear building line of the principal structure and the required rear yard setback line. In case of a corner lot, the antenna must not be located within the street side yard.
- c. In the R-5 residential district, a satellite dish antenna may be roof mounted provided the diameter is no more than 10 feet, and the height of the antenna is no more than 12 feet. A roof mounted satellite dish antenna must be located at least 10 feet behind the front roofline of the structure. A roof-mounted antenna cannot exceed the maximum height requirement of the zoning district.
- d. Satellite dish antenna may be erected in any non-residential zoning district provided:
 - The diameter must not exceed 12 feet.
 - The height of a ground-mounted antenna must not exceed 25 feet.
 - The height of a roof-mounted antenna cannot exceed 15 feet.
 - A roof-mounted antenna must not exceed the maximum height requirement of the zoning district. A roof mounted satellite dish antenna must be located at least 10 feet behind the front roofline of the structure.
 - A ground-mounted antenna must comply with the yard setback requirements of the district. Antenna must not be in a front yard or open space.
- e. Satellite dish antennas must be installed and maintained in compliance with all applicable building and electrical codes and are subject to the following standards:
 - Satellite dish antennae must be solid in color.
 - Not more than one antenna greater than two feet in diameter is allowed on any lot unless shown on an approved site plan.
 - No advertising, logos, or corporate symbols are permitted on any satellite dish antenna greater than 2 feet in diameter.
- I. **Amateur Radio Standards:** Individual amateur transmitting and receiving antennae and associated support structures owned or operated by licensed amateur radio operators are permitted as accessory structures according to these provisions.
 1. Amateur Radio Club and repeater station antennae and support structures are permitted to the height necessary to maintain reliable communications.
 2. Antenna structures of amateur radio operators licensed by the Federal Communication Commission may not exceed 75 feet above grade. The height is measured vertically and includes the height of the building where the antenna support structure is mounted.
 3. Antennae may be located above the antenna support structure as necessary for effective radio communications.
 4. Upon the Federal Communication Commission licensed operator's cessation of ownership or leasehold rights in the antenna support structure, or on loss of his or her federal amateur radio license (whichever occurs first), the operator must safely remove all antenna support structures within 30 days at no expense to the Town. If the operator fails or refuses to remove the antenna support structure, the owner

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

of the subject lot is responsible for the removal of all such structures. Failure to remove antenna support structures is a violation of this Ordinance and subject to enforcement ([Section 7.4 Administration and Enforcement](#)).

5. On residential lots, antenna support structures must be located between the rear building line of the principal structure and the required rear yard setback line. For a corner lot, the antenna cannot be located within the street side yard.
 6. Nothing in this section affects any existing antenna support structure utilized by any federally licensed amateur radio operator constructed and in place before the passage of this Ordinance.
- J. **Swimming Pools and Hot Tubs:** In addition to conforming to the regulations for accessory structures, all swimming pools and hot tubs must meet the following requirements:
1. Swimming pools cannot be installed without first being issued an Improvement Location Permit according to [7.2\(B\) Improvement Location Permits](#).
 2. Swimming pools or hot tubs cannot be in any required front, side, or rear yard setback or closer to the street than the front façade of the principal structure.
 3. Swimming pools or hot tubs cannot be constructed unless adequate distance from overhead electrical wires is provided according to the current National Safety Code and National Electrical Code.
 4. All swimming pools and hot tubs must be included in the calculation of maximum lot coverage.
 5. All swimming pool construction, including associated decking, fencing, and means of access must conform with the regulations set forth in [675 IAC 20-4](#).

4.2 Building Standards

- A. Every building erected must be located on a lot and in accordance with this Ordinance.
- B. A lot used for single-family residential purposes must have only one principle building devoted to residential use, except as otherwise permitted in this ordinance.
- C. A lot used for multi-family purposes may have more than one principal building devoted to residential use.
- D. A lot in a non-residential district may have more than one principal building devoted to non-residential uses.
- E. The use of any basement for dwelling purposes is prohibited in any zoning district unless the basement meets the most recent and adopted version of the Indiana Residential Code.
- F. Buildings erected as garages or accessory buildings cannot be occupied for dwelling purposes unless it conforms with the requirements of [3.1 Accessory Dwelling Units](#).
- G. Any new single-family dwelling unit must comply with the requirements below. Dwelling units within a manufactured home community are exempt from these requirements.
 1. If the dwelling unit is a new manufactured home, it must be new by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Dept. of Housing and Urban Development, as amended. If the dwelling unit is a used manufactured home, it must be found to be in excellent condition and safe for residential occupancy and provide a letter of label verification from the U.S. Department of Housing and Urban Development Office of Manufactured

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Housing Programs. The dwelling unit must be installed with the wheels removed. All new and used manufactured homes must bear a valid manufactured home certification label (HUD tag).

2. The dwelling unit must comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes adopted by the Town of Bargersville.
3. The dwelling unit must be firmly attached to a permanent continuous foundation constructed on the building site. The foundation wall must have the same perimeter dimensions as the dwelling unit and be constructed as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation must fully enclose the chassis, undercarriage, and towing mechanism.
4. If the dwelling unit is a manufactured home, it must be installed per the manufacturer's instructions and be secured to the building site by an anchoring system complying with applicable regulations of the State of Indiana.
5. The front entry to the dwelling must be located on the ground floor. Permanently attached steps at least three feet in width must be provided where there is an elevation difference greater than eight inches between the first-floor entry of the dwelling unit and the adjacent grade.
6. The exterior finish of the dwelling unit must meet the applicable building design and material requirements of [CHAPTER 6: SUBDIVISION REGULATIONS](#).
7. The dwelling unit must have at least two exterior doors, with one in either the rear or the side of the dwelling unit.
8. **Temporary Dwellings.** A cabin, garage, basement, tent, recreational vehicle, or other temporary structure cannot be used for dwelling purposes in any district. A manufactured home may be used as a temporary dwelling for a period not to exceed six months upon approval of the Administrator who determines the following conditions are met:
 - a. The lot contains the permanent dwelling of the applicant which has become uninhabitable due to damage caused by fire, wind or other natural calamity or emergency.
 - b. The applicant is unable to obtain another dwelling unit as a temporary residence while repairing the damaged dwelling.
 - c. The temporary dwelling is constructed to meet the minimum requirements for the health, safety and welfare of the occupants and the surrounding neighborhood.
 - d. The temporary dwelling is served by sanitary sewer and potable water, approved by the Town.
 - e. The temporary dwelling will be removed within 30 days of the issuance of a certificate of occupancy for the new dwelling.

4.3 Fences and Walls

These standards apply to fences in all Zoning Districts.

- A. Fences cannot be erected or altered in a manner that obstructs the vision of a vehicle driver ([4.10 Vision Clearance Standards](#)). Fences may be built directly along lot lines; however, fences must not encroach into rights-of-way, nor into easements prohibiting the installation of fences.
- B. Fences may be placed in a drainage or utility easement after approval of an encroachment permit. Fences must be offset a minimum of 5 feet from the swale flow-line or any underground pipe without impeding the

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

flow of storm water runoff. The Town of Bargersville Storm Water Utility or its designated representatives are not liable for replacement or repairs of any fence located within a drainage easement. The utility must notify the property owner at least 30 days prior to any repairs unless an emergency requires immediate repairs. The property owner is solely responsible for the cost of removing and replacing the fence encroaching into the easement. The property owner is responsible for maintaining the obstruction-free flow of storm water across their property.

C. Height Limitations:

1. Fence height is measured from the top of the fence to the finish grade adjacent to the fence. Any fence placed upon mound, berm, or masonry wall is measured from the top of the fence to the finish grade at the base of the mound, berm, or wall.
2. Fences located within a required setback for a side yard, street side yard, or rear yard of a residential lot cannot exceed 6 feet in height.
3. Fences located within a required or established front yard of a residential lot cannot exceed 42 inches in height.
4. Open wire mesh fences surrounding tennis courts and baseball diamond backstops may be erected to a height of 16 feet.
5. Fences enclosing an institutional, business, or industrial property, may consist of an open mesh fence not to exceed 10 feet unless otherwise restricted by this Ordinance.
6. Fences for agricultural uses are exempt from these height limitations.

D. Opaque fences must be installed so the finished side of the fence is facing outward (e.g., toward the lot line).

E. Fences for screening of permitted outdoor storage or display areas must comply with [3.9 Outdoor Sales Display](#) or [3.11 Outdoor Storage](#).

F. Property owners should refer to any applicable Declaration of Covenants, Conditions, and Restrictions, which may impose greater restrictions than listed in this chapter. This ordinance does not abrogate any private covenants that may apply to property.

G. Chain link fencing is prohibited in all Zoning Districts except industrial districts. Barbed wire and razor wire are prohibited in all districts, unless otherwise provided in this ordinance. Security fencing around utilities is exempt from these requirements.

H. Fences must be maintained in good condition and operating order.

I. In all Zoning Districts, temporary fences for safety and construction are permitted and are exempted from the standards of this chapter.

4.4 Height Standards

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4.5 Lot Standards

- A. Lots must meet the area and width requirements for the lot's Zoning District.
- B. All Lots must abut on a street, private street, or alley and must have a minimum lot frontage as set forth by the Zoning District.
- C. Encroachment in Right-of-Way. Buildings, structures, vehicle maneuvering areas or off-street parking and loading facilities, except driveways, are not permitted to encroach on public rights-of-way or private street easements.

4.6 Performance Standards

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- L. The performance standards above do not apply to: (1) site construction, maintenance, repair, or alterations of buildings or other improvements on or within the lot per Municipal Code 90.16(H); (2) the operation of motor vehicles; and (3) safety or emergency warning signals or alarms.
- M. Any industrial use must conform to any applicable state and federal government regulations. All relevant federal and state permits or approvals are required prior to issuance of an Improvement Location Permit.

4.7 Property Maintenance Standards

This chapter applies to all Zoning Districts.

- A. All land and exterior areas under roof but not enclosed must be maintained free from:
1. Accumulation of garbage, debris, or blight, including graffiti, tires, broken glass, or anything posing a hazard to public health;
 2. Tarps, plastic sheeting, or similar materials used as screening, fencing, or wall covering;
 3. Abandoned vehicles or inoperable vehicle parts, visible from a right-of-way, except a single inoperable vehicle undergoing minor repair work, not to exceed 72 hours; or lawful commercial activities involving vehicles as allowed by this Ordinance;
 4. Appliances, machinery, freezers, refrigerators, or other household items;
 5. Any object or landscaping that interferes with the use of any sidewalk, street, alley, highway, or visibility of a traffic light or sign in the town;
 6. Landscaping visible from public property that is substantially dead, damaged, or characterized by uncontrolled growth;
 7. Anything posing an imminent hazard to public health and safety;
 8. Any wall or fence missing blocks, boards, or other material, or is otherwise deteriorated to constitute a hazard to people or property; and
 9. Graffiti visible from a public area or right-of-way.

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

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

- The storage does not exceed 10% of the area of the yard, and
 - The storage does not exceed the height of any fence or wall enclosing the storage area.
- B. All premises must be kept free from rodent infestation and other noxious pests.
- C. All premises must prevent the accumulation of stagnant water.
- D. All fences and walls must be safe, structurally sound, and uniform in color, structure, and design. They must not constitute a hazard or be in disrepair. Repair of an existing fence or wall must be made with the same or similar materials.
- E. Occupied buildings must have an adequate number of garbage receptacles maintained in clean condition and good repair. The owner or occupant must arrange for the removal of garbage from the premises.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- F. Vacant lots or land subject to enforcement action for dumping must be secured to prevent future dumping.
- G. Septic tanks, cesspools, and similar conditions must be fully restored to a safe, serviceable condition, or filled with clean fill. Excavations must be maintained in a secure manner to prevent a hazard to public health and safety.
- H. Buildings or structures determined to be unsafe or dangerous as defined in [Municipal Code Chapter 156: Unsafe Building Code](#) must be abated in accordance with the provisions of that code.
- I. Abandoned structures and premises must be maintained and monitored including:
 - 1. Maintenance of the exterior of the building and landscaping with regular removal of all exterior trash, debris, and graffiti; and
 - 2. Prevention of reoccurring criminal activity on the premises. Unsecured buildings and structures must be secured in the following manner:
 - Unsecured doorways and windows must be boarded up using 5/8" or thicker exterior grade plywood, fastened by tamper-proof screws or one-way bolts;
 - All boarding must be painted to match the dominant exterior color of the elevation of the structure; and
 - For commercial buildings, opaque window coverings may be allowed by the Administrator in lieu of boarding provided all windows are maintained and if broken or cracked, are replaced within 48 hours. The Administrator may revoke the use of this alternative when the owner or responsible party fails to maintain the within the specified period.
 - 3. If, after 5 business days from when notice provided, the owner fails to comply, the Administrator is authorized to secure the site as specified in this ordinance. All costs associated with this work will be recovered from the property owner.

4.8 Excavations or Holes

Unprotected, unbarricaded, open, or dangerous excavations, holes, pits or wells that a hazard to the public health, safety or welfare are prohibited. This does not apply to the following:

- A. Properly protected excavations approved by the Town;
- B. Mineral extraction operations; and
- C. Natural or created bodies of water such as ditches, streams, or ponds created and approved by a government agency.

4.9 Setback Standards

These standards apply in all Zoning Districts.

- A. The measurement of any building setback line or building separation is the shortest distance between the building façade and the lot line or right-of-way line, whichever is closest. Where there is no right-of-way line, the building setback line is measured from the building façade to the edge of pavement or the access easement line, whichever is closest. The front yard setback for new lots is measured from the lot line abutting the open space to the building façade.
- B. The minimum building setback lines and minimum building separation requirements are as set forth in this Ordinance (see also [CHAPTER 2: ZONING DISTRICTS](#)).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- C. Minimum Lot Access. The number of driveways/drive cuts/entrances shall be limited to one per lot subject to INDOT standards.
- D. If a minimum building separation requirement is not provided, the minimum building separation requirement is the district's minimum side yard building setback.
- E. Where two or more lots entirely or partially within 200 feet of a subject lot, on the same side of the street and on the same block, are occupied by principal buildings whose existing front setback is less than required by the zoning district, the average of the established setbacks for those buildings shall be the minimum required front setback for the subject lot.
- F. Building setback lines established in a recorded subdivision establish the setback of buildings in such subdivisions, except when such building setback lines may be less restrictive than provided in this Ordinance.
- G. On through lots, the front yard is established by the existing principal buildings in the block.
- H. Projections into Required Setbacks. Certain structures and architectural features may project into the required yard setbacks as follows:
- Arbors, trellises, pergolas, awnings, and canopies attached to the principal building may encroach up to: 5 feet into the front setback, 3 feet into a side setback, and 10 feet into a rear setback.
 - Unroofed and unenclosed balconies, decks, and patios may encroach up to 10 feet into the rear setback.
 - Bay windows and chimneys may encroach up to 3 feet into any setback.
 - Steps to a main floor entry may encroach up to 5 feet into a front setback and up to 3 feet into a street-side setback.
 - Septic systems may encroach into any yard, but a minimum clearance of 10 feet is required from all property lines.
- I. All improvements are subject to [4.10 Vision Clearance Standards](#), unless specifically exempted.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

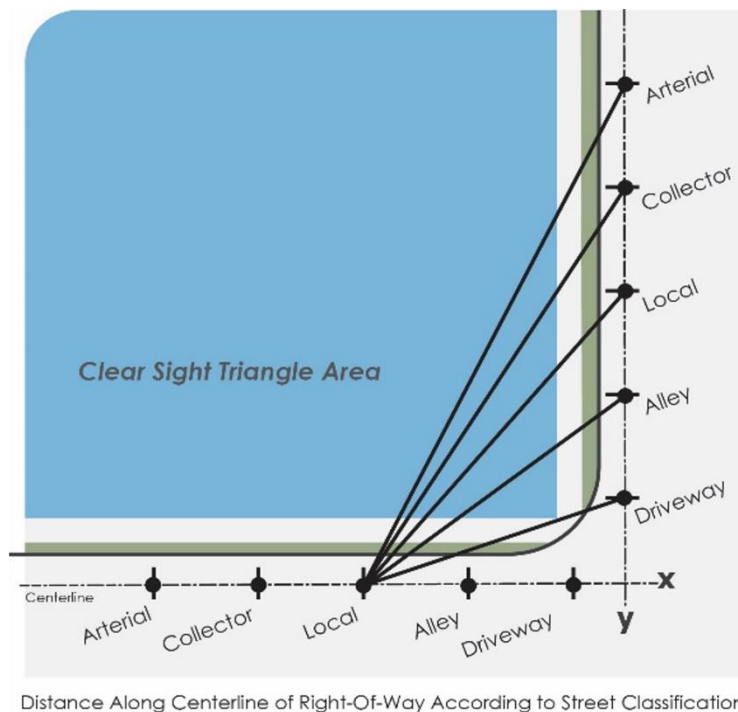
DEFINITIONS

4.10 Vision Clearance Standards

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

| Table 4-1 Vision Clearance | |
|----------------------------|-------------------------------|
| Street Classification | Distance Along ROW Centerline |
| Arterial | 100' |
| Collector | 80' |
| Local | 50' |
| Alley | 40 |
| Driveway | 35' |

Figure 4- 1 Vision Clearance



GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4.11 Yard Standards

- A. Buildings must not be erected, reconstructed, or structurally altered to encroach upon or reduce the yards, lot area, minimum living area, or lot coverage provisions established for the use and the Zoning District or Overlay District in which such building is located.
- B. One-half of an alley abutting the rear or side yard may be included in the required rear or side yard of a lot, respectively, if the alley has not been developed for carrying traffic; however, such alley area must not be included for loading berths.
- C. The yard width and depth of required yards are measured as the shortest horizontal distance from a lot line to the required building setback line. In the case of a standard applying to an established yard, the yard width and depth are measured as the shortest horizontal distance (e.g., ninety degrees) from a lot line to the nearest outside wall of a building or structure.
- D. All required Yards must be maintained as open space and landscaped with grass, trees, shrubs, or in combination with other suitable groundcover materials in compliance with [5.1 Landscape Standards](#), except as otherwise improved in accordance with this Ordinance (e.g., Parking Areas).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS



5.1 Landscape Standards 3

| | |
|--|----|
| A. PURPOSE AND INTENT | 3 |
| B. APPLICABILITY | 3 |
| C. LANDSCAPE PLAN REVIEW | 3 |
| D. LANDSCAPING GENERAL REQUIREMENTS..... | 4 |
| E. LANDSCAPE BUFFERS..... | 7 |
| F. STREET FRONTAGE LANDSCAPING..... | 13 |
| G. PARKING LOT LANDSCAPING | 15 |
| H. SCREENING | 16 |

5.2 Lighting 17

| | |
|---|----|
| A. PURPOSE AND INTENT | 17 |
| B. APPLICABILITY | 17 |
| C. EXCEPTIONS | 17 |
| D. PROHIBITIONS..... | 17 |
| E. GENERAL LIGHTING STANDARDS..... | 18 |
| F. MULTI-FAMILY RESIDENTIAL, BUSINESS AND INDUSTRIAL STANDARDS..... | 18 |
| G. SIGN LIGHTING | 19 |
| H. LIGHTING PLANS | 19 |

5.3 Parking Standards 20

| | |
|---|----|
| A. PURPOSE AND INTENT | 20 |
| B. GENERAL REQUIREMENTS..... | 20 |
| C. REQUIRED OFF-STREET PARKING..... | 21 |
| D. DESIGN STANDARDS | 22 |
| E. PARKING OPTIONS | 24 |
| F. PARKING AS A PRINCIPAL USE | 25 |
| G. OFF-STREET LOADING REQUIREMENTS..... | 26 |

5.4 Signage 27

| | |
|---|----|
| A. PURPOSE AND INTENT | 27 |
| B. EXEMPT SIGNS | 27 |
| C. PROHIBITED SIGNS..... | 27 |
| D. SIGN PLANS AND SIGN PROGRAM..... | 28 |
| E. REVIEW OF SIGN APPLICATIONS FOR PERMANENT SIGNS..... | 29 |

| | |
|--|----|
| F. GENERAL PROVISIONS FOR SIGNS | 29 |
| G. TEMPORARY SIGNS | 32 |
| H. PERMANENT SIGN LIGHTING AND CHANGING MESSAGE DISPLAYS | 34 |
| I. PERMANENT SIGN TYPES..... | 36 |
| J. PERMITTED PERMANENT SIGNS BY ZONING DISTRICT..... | 44 |
| K. SIGN MAINTENANCE | 45 |
| L. NONCONFORMING SIGNS | 45 |
| M. SIGN VIOLATIONS..... | 45 |
| N. SIGN REGULATION TABLES | 46 |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

5.1 Landscape Standards

A. Purpose and Intent

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

B. Applicability

These regulations apply to development in all zoning districts except for detached single-family and two-family dwellings not located in a subdivision. Plantings and landscaping features required by this Ordinance are subject to inspection to verify continued compliance with these regulations.

C. Landscape Plan Review

1. Landscape plans must be shown on a separate drawing at the same scale as the required site plan. The plans must indicate all existing or proposed utilities and easements to ensure the proposed landscaping is not affected by, nor interferes with utilities. The plans must include:
 - a. All proposed landscaping with circles indicating the anticipated plant size at maturity.
 - b. A table listing all proposed plants including the scientific name, common name, quantities, and size at planting.
 - c. Calculations illustrating how the plan complies with the requirements of this chapter.
 - d. Existing natural and man-made landscape features and proposed buildings and structures.
 - e. All existing trees (8-inch caliper or greater) located in portions of the site that will be built upon or otherwise altered. Trees must be labeled "To Be Removed" or "To Be Saved" on the plan. Existing trees located outside of areas to be disturbed may be illustrated as a tree mass.
 - f. Measures to protect existing trees to be saved must be noted on the plans.
 - g. Contours shown at two-foot intervals.
2. Review. Landscaping plans are subject to Plan Commission or Administrator review and approval.
3. Modifications. The Plan Commission may modify the requirements of this section under any of the following circumstances:
 - a. Existing vegetation or topographic features make compliance with requirements unnecessary or difficult to achieve.
 - b. The application of requirements will result in a significant loss of existing vegetation, or natural or cultural features.
 - c. Modification of requirements will clearly result in a superior design that could not be otherwise achieved.
4. Additional Conditions. The Plan Commission or Administrator may impose conditions on landscaping as part of site plan review.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

5. Performance Guarantee. To ensure that all landscaping is installed as shown on the plan and in conformance with the requirements of this chapter, the Plan Commission may require the applicant to provide a financial guarantee, as provided in [6.32 Surety Standards](#).

D. Landscaping General Requirements

1. Landscape Plan Required. A landscape plan must be submitted as a part of all site plan and permit applications unless the Administrator determines compliance with the provisions of these regulations can be demonstrated without the use of a landscape plan. A landscape plan may be combined with other required application materials if compliance with these regulations can be demonstrated in the combined materials.
2. Required Plant Materials. Tree and shrub species used to meet the requirements of this Ordinance must be from the [Approved Plant List](#). Plants listed on the [Prohibited Plant List](#) cannot be used to fulfill any requirement of this Ordinance. All plant material must be hardy to central Indiana, suitable for the site, free of disease and insects, and conform to the American Standard for Nursery Stock (ANSI Z60.1-2004). The use of native plants is strongly encouraged. The Administrator may authorize alternative species or cultivars that meet the intended purpose, are not invasive or hazardous, and are equally hardy.
3. Minimum Living Materials. Within required landscaping areas, a minimum of 60% of the surface area must be covered by living materials, not gravel, stone, or other non-living materials.
4. Soil Condition and Planting Beds
 - a. Landscaping required by this Ordinance must be planted in uncompacted soil at least 2 feet in depth.
 - b. Stone mulch is not permitted in required landscape areas or planting bed except as part of a storm water best management practice in accordance with the Storm Water Specifications Manual.
 - c. Landscaped areas must be protected from vehicular encroachment by curbs or wheel stops. Curbs must be provided with openings to accommodate surface collection of storm water runoff in vegetated swales and detention facilities.
5. Minimum Plant Sizes at Installation. Unless otherwise specifically noted, the minimum plant size at the time of installation of landscaping required by this Ordinance is according to [Table 5-1: Minimum Plant Sizes](#).

Table 5-1: Minimum Plant Sizes

| PLANT MATERIAL TYPE (ASNS TYPES) | MINIMUM SIZE |
|--|------------------|
| Deciduous/ Overstory Shade Tree (Type 1 or Type 2) Single Trunk | 2 in. caliper |
| Multi-Trunk | 10 ft. in height |
| Evergreen/Coniferous Tree | 6 ft. in height |
| Ornamental/ Understory Tree Single Trunk | 1.5 in. caliper |
| Ornamental/ Understory Tree Multi-trunk | 6 ft. in height |
| Large Shrub – Deciduous (Type 2 or 3) | 24 in. in height |
| Large Shrub – Evergreens (Types 4, 5 or 6) | 30 in. in height |
| Small Shrub – Deciduous (Type 1) | 18 in. in height |
| Small Shrub – Evergreens (Type 1, 2 or 3) | 24 in. in spread |
| Ground cover | 3 in. in height |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6. Plant Material Clearance. Except for buffer yard plantings, trees and shrubs cannot be placed closer than 3 feet to any lot line. A minimum 5-foot clear area is required around fire hydrants, valve vaults, hose bibs, manholes, hydrants, and fire department connections. Plants must have a minimum 5-foot separation from underground utilities. Any landscaping placed within an easement is done at the owner's risk. Should the plant material need to be removed to access the easement, the owner is responsible for the costs of removing and replacing the plants.
7. Plant Material Spacing. Plant materials may be grouped but must be located within the landscape area to which it will be credited. The Administrator may authorize adjustments to these spacing requirements when necessary due to topography, drainage, utilities, or obstructions, provided the total amount of required landscaping is not reduced.
8. Species Variation. No one species of tree may make up more than 35% of the total number of trees. No one species of shrub may make up more than 35% of the total number of shrubs.
9. Protection of Vision Clearance Areas. All landscaping must comply with [4.10 Vision Clearance Standards](#).
10. Existing Vegetation Credit and Bonus
 - a. If existing vegetation meets the intent of the screening requirements, preserved existing vegetation may be credited for landscape materials required by this Chapter. Credit will not be given for existing vegetation listed on the [Prohibited Plant List](#).
 - b. If any vegetation fulfilling a requirement of this Ordinance dies or is removed, replacement plant materials must be installed in accordance these standards. Existing vegetation used to meet a requirement of this chapter must be protected during construction by a fence erected around the area encompassing an area 1 foot beyond the drip line of the vegetation. The enclosed area must be protected from any land disturbing activity, including placing materials within this protected area.
 - c. Preservation of trees and surrounding vegetation will be given credit toward fulfilling landscaping requirements in this Article as follows:
 - i. Existing trees and surrounding vegetation may be credited only one time towards any one buffer, screen, or other landscape area requirement.
 - ii. Existing trees and surrounding vegetation must be located within the required landscape area to which it will be credited.
 - iii. Existing trees that conform to these standards and are proposed to be used for credit must generally have location, species, caliper, and drip line indicated on the required landscape plan.
 - iv. Existing trees will be credited as fulfilling a requirement based upon the tree size and provided that the minimum width of the surrounding landscape area is according to the criteria and the quantities of [Table 5-2: Existing Tree Credits](#).
 - v. In the event an existing tree that was given credit is removed or dies within 3 years of the Improvement Location Permit issuance date, replacement trees must be planted per [Table 5-2: Existing Tree Credits](#). If the site cannot accommodate the number of replacement trees required, the Administrator may authorize an alternate location for the planting of the replacement trees within the Town as close to the site as feasible.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Table 5-2: Existing Tree Credits

| EXISTING TREE SIZE (INCHES) | MINIMUM WIDTH OF SURROUNDING LANDSCAPE AREA (FEET) | NUMBER OF TREES CREDITED | NUMBER OF TREES TO BE PLANTED TO REPLACE AN EXISTING TREE |
|--------------------------------|--|-----------------------------|---|
| Over 36 DBH | 15 | 10 | 10 |
| 24 to 36 DBH | 15 | 8 | 8 |
| 12 to 24 DBH | 10 | 6 | 6 |
| 8 to 12 DBH | 8 | 4 | 4 |
| 4 to 8 | 5 | 2 | 4 |
| 2.5 to 4 | 5 | 1 | 2 |

11. Native Vegetation and Natural Landscaping Areas.

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

12. Rain Gardens, Bioswales and Storm Water Management Features. Areas included in rain gardens or vegetated site features created to meet storm water management requirements of the Storm Water Specifications Manual may be counted towards any required interior site or parking lot landscaping, and if vegetated to meet the requirements for any landscaped buffers may count towards those buffer requirements. Where rain gardens or vegetated site features serving a storm water management purpose are installed, a sign not exceeding one square foot should be installed indicating the area should not be mowed.**13. Retention and Detention Facilities.** Landscaping must be provided around the perimeter of all retention and detention basins. Such landscaping must consist of trees, shrubs, and emergent plantings in a quantity, species, and arrangement that will maintain an ecologically functional environment. Per the Storm Water Specification Manual, tall plantings in the aquatic bench are desirable to keep waterfowl from the site. Retention and detention basins should be designed to resemble natural landforms, whenever possible. Such landscaping must be integrated with the littoral zone of emergent vegetation around the pond perimeter with the safety bench. Trees, shrubs, and upland plantings are to be located above the normal water line; emergent or wetland plantings are to be located below the normal water line. Vegetation must be established on all side slopes to prevent erosion. A storm water management easement and operation and maintenance agreement are required for each facility, clearly marking inlet/outlet structures and easements for inflow/outflow piping. Trees or deep-rooted vegetation must not be planted in any easement with storm drainage pipe. Vegetation must not obstruct inlet/outlet structures and inflow/outflow piping area.GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

14. Alternative Landscaping. The Administrator may approve an alternate landscape plan that does not meet the specific requirements stated in this if the Administrator determines that the alternative plan:
- Is consistent with the purposes of this chapter;
 - Does not include invasive vegetation;
 - Does not include a reduction of tree planting requirements;
 - Provides equal or superior buffering of adjacent properties from anticipated impacts of the proposed development; and
 - Provides equal or superior visual appearance of the property when viewed from the street;
15. Installation and Delay of Installation Due to Season
- Landscaping material used to meet the requirements of this Ordinance must be installed in accordance with the planting procedures established by the ANSI A300 Tree Care Operations: Standard Practices for Tree, Shrub and Other Woody Plant Maintenance.
 - Landscaping material must be installed prior to issuing a Certificate of Occupancy. The Administrator may authorize a delay in installation up to 120 days due to periods of adverse weather, availability of plant material, or conflicts between construction scheduling and proper planting conditions. As a condition of authorizing a delay in installation, a surety or other guarantee, may be required, in a form acceptable to the Town, in the estimated amount of the installation. During any delay in installation, site management must comply with all applicable provisions for sediment and erosion control.
16. Maintenance
- All landscaping required by this Ordinance must always be maintained. Dead, missing, or damaged landscaping, or landscaping that supports less than 50% healthy leaf growth or shows dead branches over a minimum of 50% of the normal branching pattern must be replaced with healthy, live plants by the end of the growing season to maintain compliance with this Ordinance.
 - The owner is responsible for the maintenance, repair, and replacement of all required landscaping, screening, and curbing.
 - Fences, walls, and other barriers must be maintained in good repair. All barriers that are damaged, broken, or with failing paint must be repaired, replaced or refinished.
 - Tree topping is prohibited. Tree topping is the practice of removing whole tops of trees, large branches or trunks from the tops of trees, leaving stubs or lateral branches that are too small to assume the role of a terminal leader.

E. Landscape Buffers

- General Standards
 - A buffer zone is required along common property lines between abutting land uses for the conditions described below. On properties with multiple owners, it is preferred that the buffer be located on private lots within a landscape easement rather than in a common area around the perimeter of the site. The owner's association must have the right to maintain or replace the required landscaping within the landscape easement if the property owner fails to do so.
 - A buffer area is not required along a public right-of-way.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

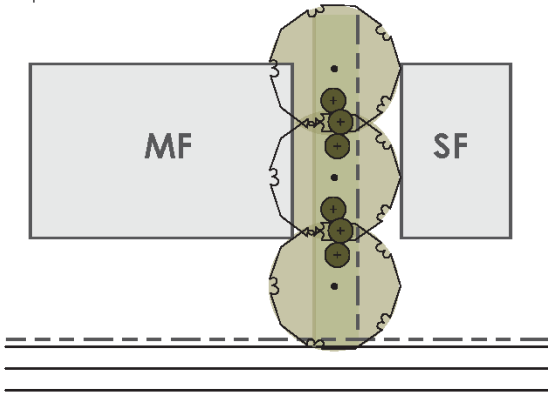
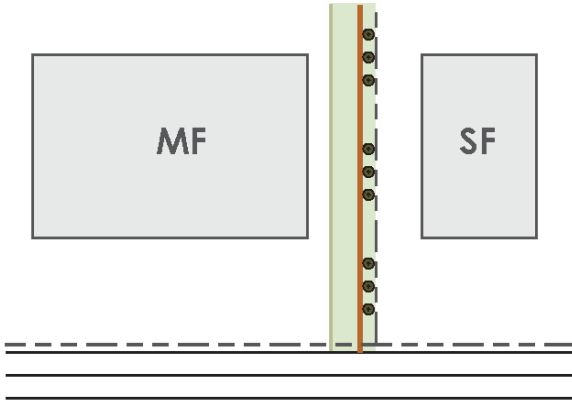
CONSTRUCTION

STORMWATER

DEFINITIONS

- c. The buffer area must contain natural landscape materials such as grasses, ground cover, shrubs, and trees. Parking or impervious surfaces are prohibited within the buffer area. Plant spacing should be designed to minimize sound, light, and noise impacts.
- d. If the adjacent property is undeveloped, the Plan Commission may allow the installation of the buffer to be deferred until the adjacent property is developed. A performance guarantee is required to ensure the buffer is installed when the adjoining property is developed. ([See 6.32 Surety Standards](#))
- e. Except for access drives or private streets, determined by the Plan Commission or Administrator to be necessary to provide safe access to a property, a building, structure, or parking lot cannot encroach into a required buffer area.

Table 5-3: Landscape Buffer Requirements

| Large-Scale Multi-Family Residential Use Abutting Single-Family Residential Use Where an Apartment Building: Large use abuts an R1, R2, or R3 district, a landscape buffer must be provided using either Option 1 or Option 2 below. | |
|---|--|
| OPTION 1 | OPTION 2 |
| <p>20 feet minimum buffer width</p> <p>Plantings at a rate of 1 shade tree or evergreen tree and 5 large shrubs per 25 linear feet of shared border.</p> | <p>15 feet minimum buffer width</p> <p>An opaque wall or fence at least 6 feet tall placed at least 3 feet inside the property line of the proposed development and plantings at a rate of 3 medium shrubs per 25 linear feet of shared border must be provided between the fence or wall and the property line.</p> |
| <p>Option 1</p>  | <p>Option 2 Wall / Fence</p>  |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

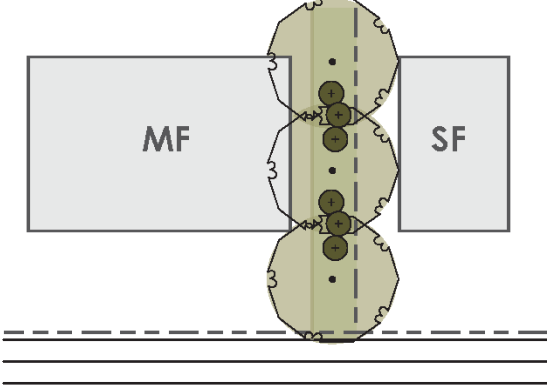
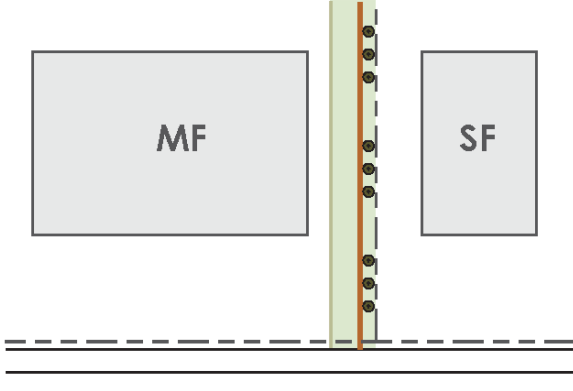
CONSTRUCTION

STORMWATER

DEFINITIONS

Small- Scale Multi-Family Residential Use Abutting Single-Family Residential Use

Where an Apartment Building: Small use abuts an R1, R2, or R3 district, a landscape buffer must be provided using either Option 1 or Option 2 below.

| OPTION 1 | OPTION 2 |
|--|---|
| <p>15 feet minimum buffer width</p> <p>Plantings at a rate of 1 shade tree or evergreen tree and 5 large shrubs per 25 linear feet of shared border.</p> | <p>8 feet minimum buffer width</p> <p>An opaque wall or fence at least 6 feet tall placed at least 3 feet inside the property line of the proposed development and plantings at a rate of 3 medium shrubs per 25 linear feet of shared border must be provided between the fence or wall and the property line.</p> |
| <p>Option 1</p>  | <p>Option 2 Wall / Fence</p>  |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

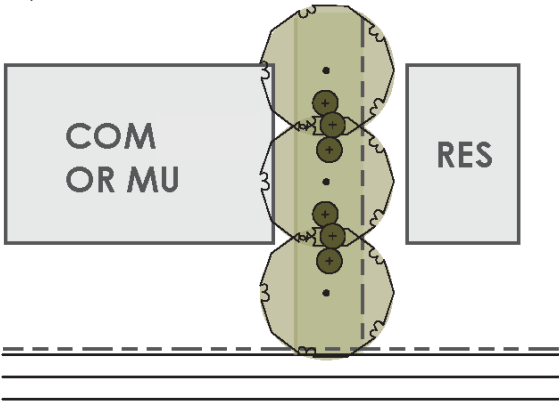
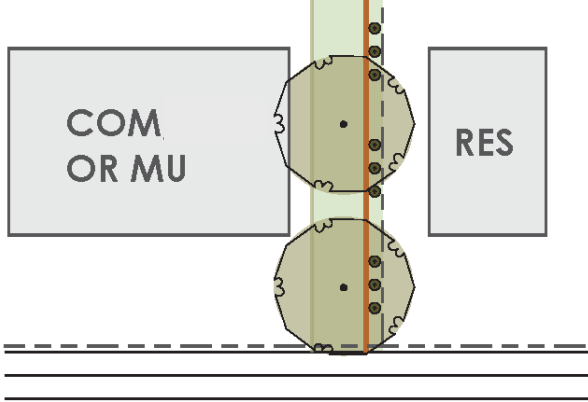
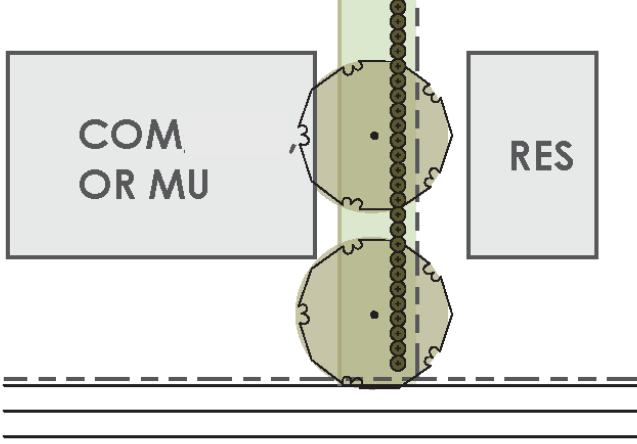
CONSTRUCTION

STORMWATER

DEFINITIONS

Commercial or Mixed-Use Abutting Residential Use

Where a commercial use or mixed-use abuts a residential use, a landscape buffer must be provided using either Option 1 or Option 2 below.

| OPTION 1 | OPTION 2 |
|--|--|
| <p>15 feet minimum buffer width</p> <p>Plantings at a rate of 1 shade tree or evergreen tree and 3 large shrubs per 25 linear feet of shared border.</p> | <p>3 feet minimum buffer width</p> <p>An opaque wall, fence or dense (at least 75% opacity) vegetative screen at least 6 feet tall and plantings at a rate of 1 shade tree per 35 linear feet of shared border.</p> <p>If a fence or wall is provided, it must be placed at least 3 feet inside the property line of the proposed development and plantings at a rate of 3 medium shrubs per 25 linear feet of shared border must be provided between the fence or wall and the property line.</p> |
| <p>Option 1</p>  | <p>Option 2 Wall / Fence</p>  <p>Option 2 Vegetative Screen</p>  |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

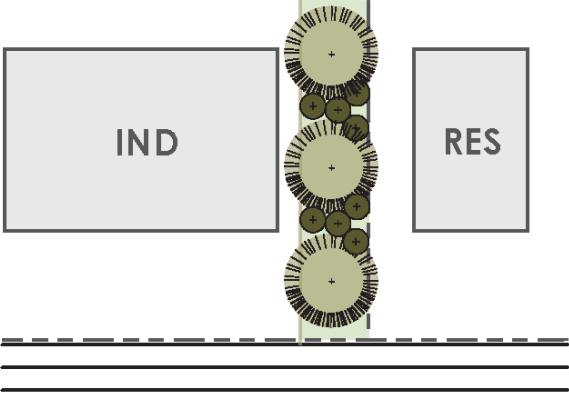
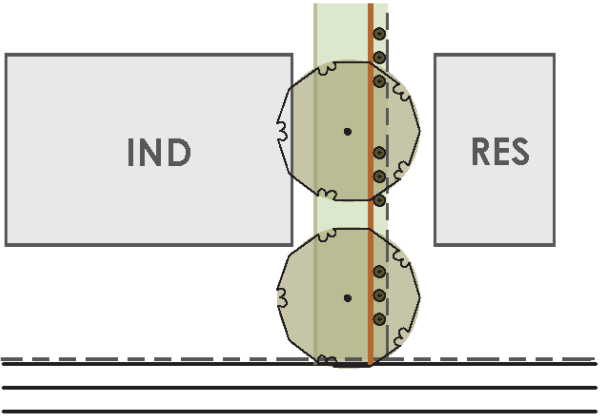
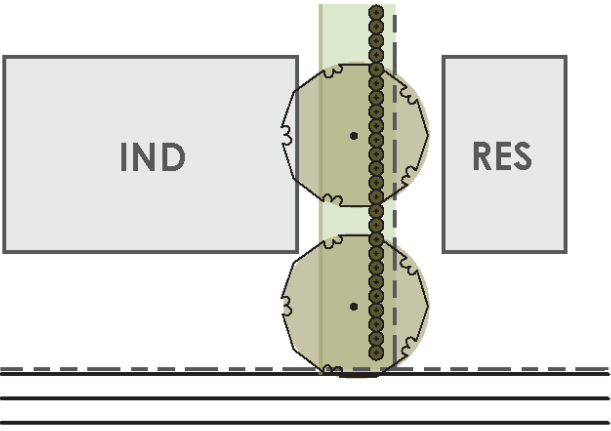
CONSTRUCTION

STORMWATER

DEFINITIONS

Industrial Use Abutting Residential Use

Where an industrial district, building, or project abuts a residential district or a lot containing any use listed as a residential use on the Permitted Use Table, a landscape buffer must be provided using either Option 1 or Option 2 below.

| OPTION 1 | OPTION 2 |
|--|---|
| <p>15 feet minimum buffer width</p> <p>Plantings at a rate of 1 evergreen tree and 4 large shrubs per 25 linear feet of shared border.</p> | <p>3 feet minimum buffer width</p> <p>An opaque wall, fence or dense (at least 100% opacity) vegetative screen at least 8 feet tall and plantings at a rate of 1 shade tree per 35 linear feet of shared border.</p> <p>If a fence or wall is provided, it must be placed at least 3 feet inside the property line of the proposed development and plantings at a rate of 3 medium shrubs per 25 linear feet of shared border must be provided between the fence or wall and the property line.</p> |
| <p>Option 1</p>  | <p>Option 2 Wall / Fence</p>  <p>Option 2 Vegetative Screen</p>  |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

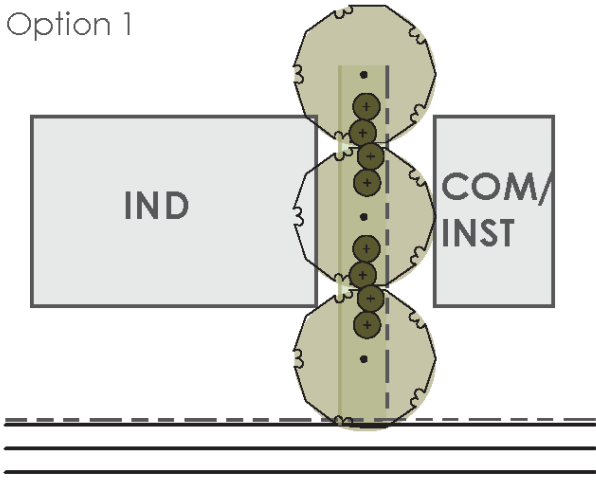
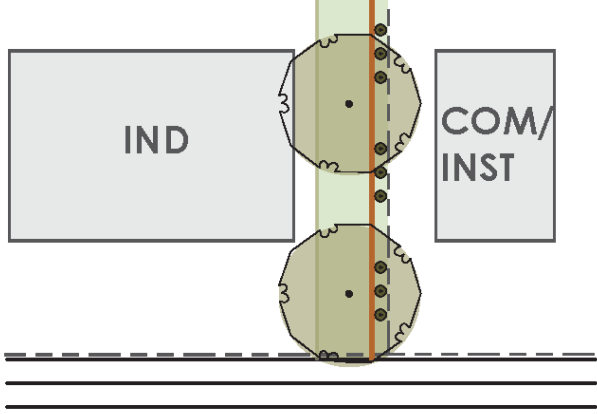
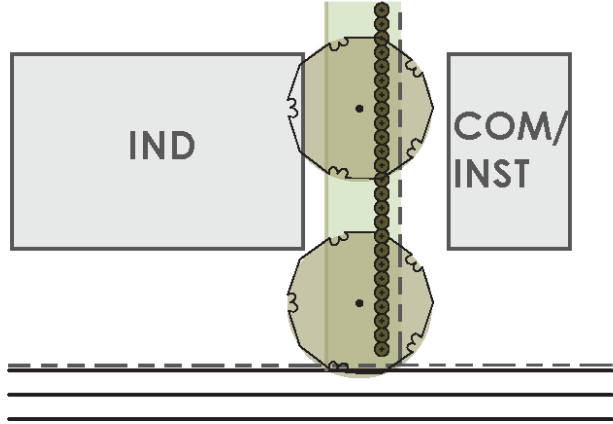
CONSTRUCTION

STORMWATER

DEFINITIONS

Industrial Use Abutting Commercial Use

Where an industrial district, building or project abuts a commercial or industrial use, a landscape buffer must be provided by using either Option 1 or Option 2 below.

| OPTION 1 | OPTION 2 |
|--|--|
| <p>10 feet minimum buffer width</p> <p>Plantings at a rate of 1 shade tree or evergreen tree and 4 large shrubs per 30 linear feet of shared border.</p> | <p>3 feet minimum buffer width</p> <p>An opaque wall, fence or dense (at least 50% opacity) vegetative screen at least 6 feet tall and plantings at a rate of 1 shade tree per 40 linear feet of shared border.</p> <p>If a fence or wall is provided, it must be placed at least 3 feet inside the property line of the proposed development and plantings at a rate of 3 medium shrubs per 25 linear feet of shared border must be provided between the fence or wall and the property line.</p> |
| <p>Option 1</p>  | <p>Option 2 Wall / Fence</p>  <p>Option 2 Vegetative Screen</p>  |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

F. Street Frontage Landscaping

1. In all districts, the front yard and street side yard must be landscaped with at least 1 shade tree per 35 feet of street frontage ([Figure 5-1](#)) and must be planted within 25 feet of the right-of-way ([Figure 5-2](#)). If overhead electric distribution lines are present, ornamental trees with a maximum mature height of 15 feet must be planted at a rate of at least 1 ornamental tree per 20 feet of street frontage.

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

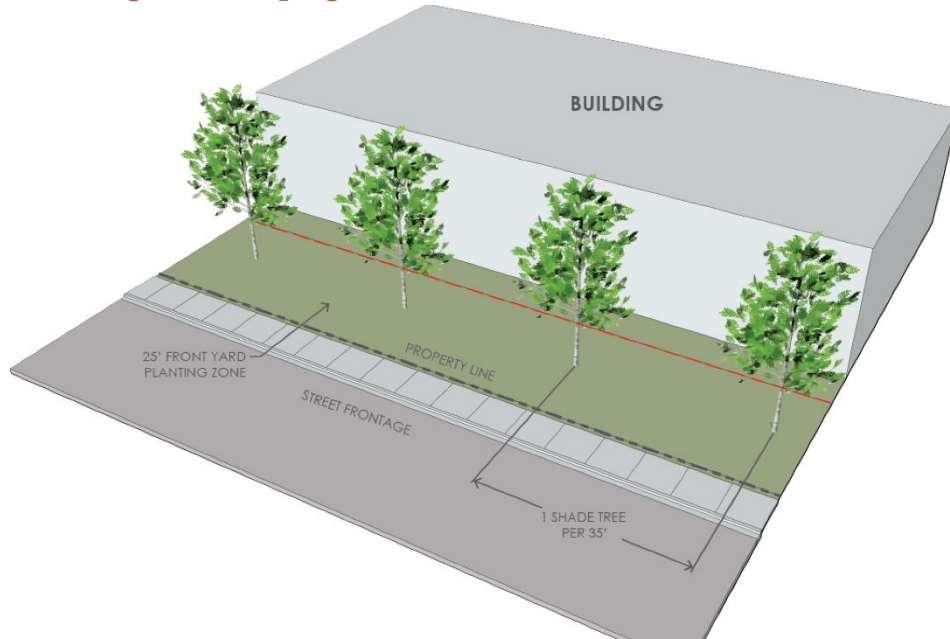
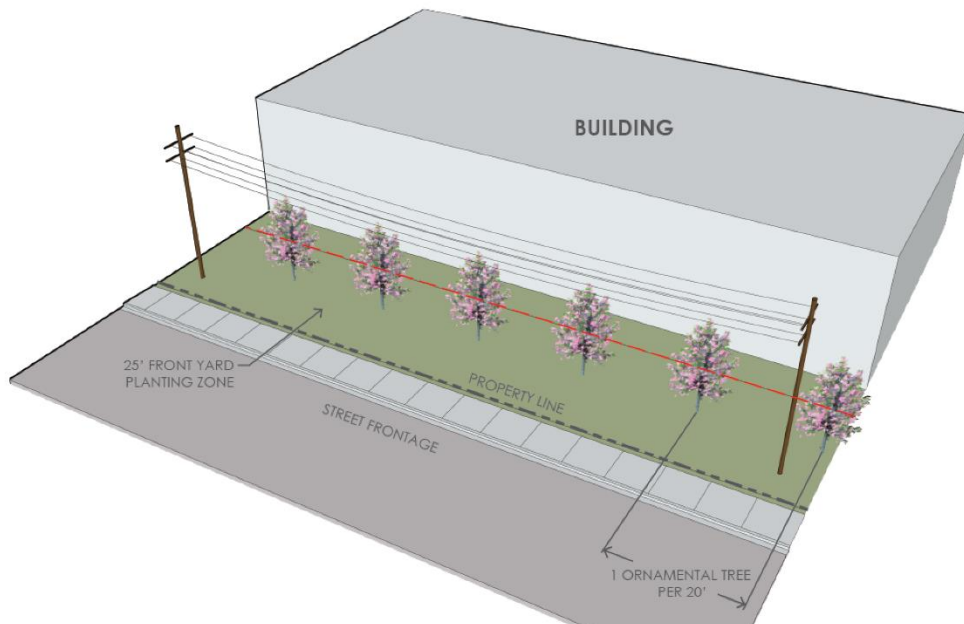


Figure 5-2: Street Frontage Landscaping Placed in Front Yard when Overhead Power Lines are Present



GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

For lots with a front yard less than 5 feet deep or where the sidewalk extends from the back of curb to the lot line, tree wells may be installed in the right-of-way to accommodate the required frontage trees ([Figure 5-3](#) and [Figure 5-4](#)). For tree wells adjacent to sidewalks measuring 5 feet wide or less, the tree well opening must be covered with a tree grate or surrounded by a fence or wall at least 18 inches in height. The opening in a tree grate for the trunk must be expandable or otherwise accommodate the mature diameter of the tree.

Figure 5-3: Street Frontage Landscaping in Tree Well

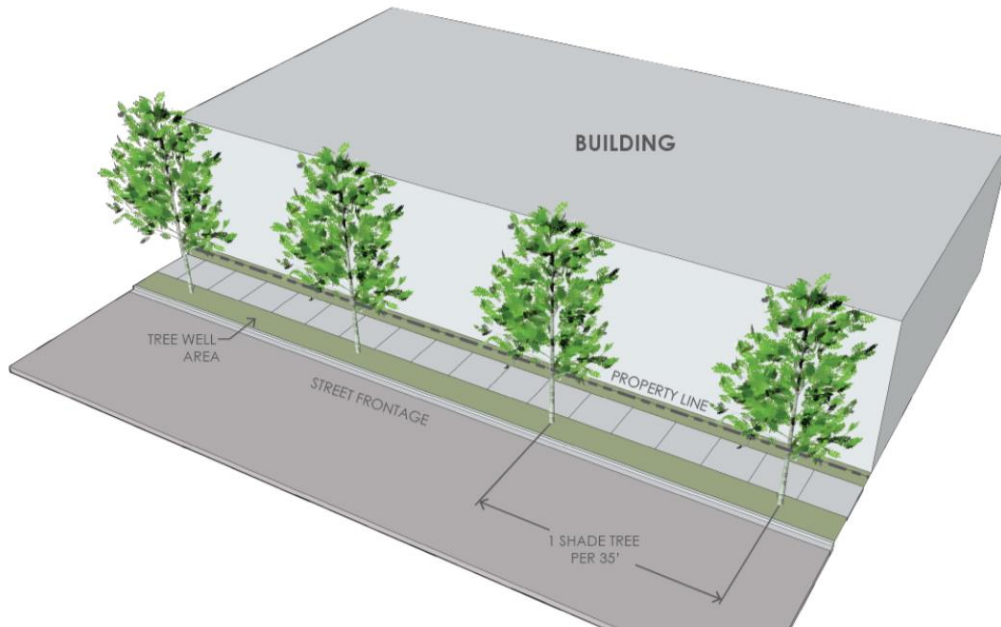
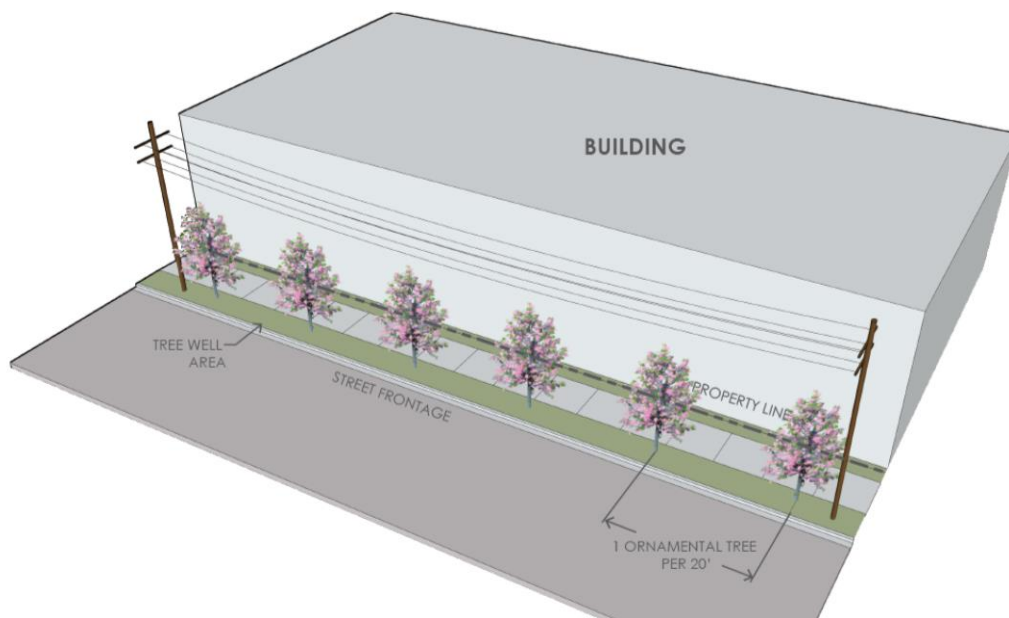


Figure 5-4: Street Frontage Landscaping in Tree Well when Overhead Power Lines are Present



GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

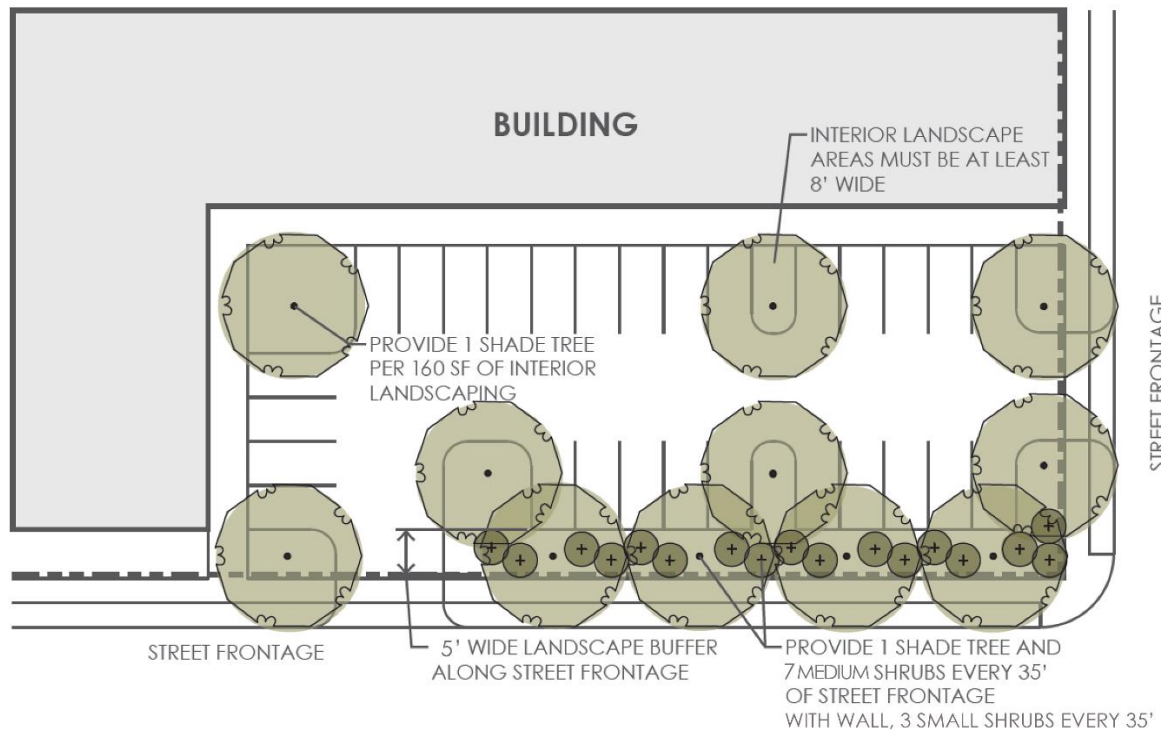
2. All planting in the public right-of-way may be counted toward fulfilling the requirements of this chapter.
3. On lots adjacent to a landscaped median in the right-of-way, 50% of the vegetation in the median that meets a street frontage and front yard landscaping requirement may be credited towards the landscaping requirements of this section.
4. Where the rear yard of a residential lot abuts or is within 50' of an existing public right-of-way, perimeter landscaping must be provided within a landscape area at least 15' wide abutting the right-of-way planted at a minimum rate of 2 shade trees, 3 evergreen trees, 1 ornamental tree, and 15 shrubs per 100 lineal feet. The required landscaping may be placed within a landscape easement on the lot or within a common area abutting the right-of-way.
5. Where the rear yard of a non-residential lot abuts or is within 50' of an existing public right-of-way perimeter landscaping must be provided within a landscape area at least 10' wide abutting the right-of-way planted with a minimum of 3 shade trees, 4 evergreen trees, and 25 shrubs per 100 lineal feet. This requirement also applies where the street side yard of a non-residential lot adjoins an outdoor storage area located on the lot.

G. Parking Lot Landscaping

Parking lots must provide at least the following landscaping unless otherwise required by this Ordinance.

1. Street Frontage Landscaping. In addition to required Street Frontage Landscaping, where a parking lot is within 50' of a street a landscape area at least 5' wide must be provided between the parking lot and the street planted with 7 medium-sized shrubs per 35 linear feet of landscape area provided. If an opaque fence or wall is installed, the shrub requirement is reduced to 3 small shrubs per 35 linear feet planted on the street side of the fence or wall.

Figure 5-5: Parking Lot Landscaping



GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. Interior Landscaping. Any parking lot with 20 or more parking spaces must provide interior landscaping. A landscape island at least 160 square feet in area must be provided per 20 parking spaces or fraction thereof. The islands should be distributed evenly throughout the parking lot with no more than 20 parking spaces in a row between islands. Landscape islands must be at least 8' wide and planted with one shade tree per 160 square feet of interior landscape area. Trees must be planted at least 3' from the edge of the curb or pavement.

H. Screening

1. Applicability. Screening is required around all trash dumpsters, around a staging or loading/unloading areas, and around outdoor storage areas; screening is required, even if the surrounding area or adjacent properties are not developed.
2. Requirements
 - a. Unless otherwise permitted in accordance with this section, a screen consists of a solid, sight-obscuring fence or wall meeting the following specifications:
 - i. Six feet high.
 - ii. Enclosed on all sides and not contain openings, other than an access gate, which always remains closed when not being used. A screen around a staging or loading/unloading area may provide an opening that does not contain an access gate.
 - iii. Constructed of masonry, treated wood or other material approved by the Plan Commission or Administrator and must be durable, weather resistant, rust proof and easily maintained.
 - iv. Trash dumpsters require a masonry enclosure. The enclosure and gates must be protected by bollards or other means to prevent vehicle damage.
 - b. If approved by the Plan Commission or Administrator, a screen may consist of berms and/or landscaping as a substitute for a fence or wall. The alternate design must provide the same degree, or enhanced screening as required by this section.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

5.2 Lighting

A. Purpose and Intent

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

- It is the intent of this chapter to:
- Discourage excessive lighting.
- Minimize glare and light trespass
- Create a safe environment in hours of darkness.
- Regulate the type of light fixtures, lamps, and standards.

B. Applicability

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

C. Exceptions

The following are exempt from the regulations of this chapter.

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

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

D. Prohibitions

The following actions are prohibited:

1. The use of any mercury vapor lamp or low-pressure sodium lamp.
2. The use of laser source light or other similar high-intensity light for outdoor advertising.
3. The operation of searchlights and floodlights for advertising purposes.
4. The use of any lighting source on towers is prohibited except as required by the Federal Aviation Administration.
5. Neon tubing, LED strip lights, and other such lighting cannot be used to outline site elements such as buildings, walls, fences, or windows.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

E. General Lighting Standards

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

F. Multi-Family Residential, Business and Industrial Standards

1. All light fixtures must be positioned so that no light emitting surface is visible from a residential lot or right-of-way when viewed at ground level. Internally illuminated signs or electronic signage is exempt from this standard.
2. Light meter readings must not exceed 0.1 foot-candles at the lot lines of any residential use and 0.3 foot-candles at the lot lines of any non-residential use.
3. Lights on poles, stands, or mounted on a building must have a shield, adjustable reflector, and non-protruding diffuser.
4. Canopy structures must have lights with diffusers which are recessed, and which do not extend below the surface of the canopy.
5. Lighting under awnings and canopies must only illuminate a front building façade, a sign under an awning or canopy, or the sidewalk, but must not illuminate the awning or canopy itself.
6. Except for security lighting, parking facility lighting must be turned off or dimmed by at least 30% within 30 minutes of closing of the last business or no later than 11:00 p.m.
7. Outdoor sports or recreational facilities must not be illuminated after 11:00 p.m., except to conclude a scheduled recreational or sporting event in progress prior to 11:00 p.m.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

G. Sign Lighting

1. Light fixtures used to illuminate a billboard, other than a monument sign or an internally illuminated sign, must be mounted on top of or above the sign structure and must comply with the shielding requirements of this chapter.
2. Light fixtures used to illuminate ground mounted or monument signs may be illuminated with a ground mounted or bottom mounted light fixture, provided the light fixture is fully shielded and all light output is directed onto the sign surface.
3. Lamps used for the internal illumination of wall signs must be turned off at 11:00 p.m. or when business closes.

H. Lighting Plans

A lighting plan for proposed outdoor lighting must include:

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

5.3 Parking Standards

A. Purpose and Intent

The purpose of these regulations is to establish standards for off-street parking and loading of motor vehicles, ensure adequate parking and access are provided in a safe and convenient manner, and to afford reasonable protection for adjacent land uses from light, noise, air pollution and other effects of parking areas. These regulations are designed to alleviate congestion of streets by establishing minimum requirements for on-site parking, access, storage, loading, and/or unloading. Off-street parking and loading facilities must be provided and maintained for all buildings, structures, or premises according to the provisions of this chapter.

B. General Requirements

1. Applicability of Parking Requirements

- a. When the intensity of use of any building, structure, or premises is increased through the addition of dwelling units, floor area, or other unit of measurement, additional parking and loading facilities must be provided for the increase based on the requirements.
- b. Whenever the existing use of a building, structure, or premises changes or converts to a new use permitted by this Ordinance, parking and loading facilities must be added, if needed, to comply with the parking requirements.
- c. When additional parking is required, the following standards apply:
 - i. If the added parking or loading area comprises less than 50 percent of the existing area used for parking or loading, only the added parking or loading facilities are required to conform to the parking requirements.
 - ii. If the added parking or loading area comprises 50 percent or more of the existing area used for parking or loading, the entire parking or loading area must be brought into conformance with the parking requirements.
- d. Nothing in this Ordinance prevents the voluntary establishment of off-street parking or loading facilities serving existing uses if the parking requirements are met.
- e. On-street parking is permitted, subject to the rules and conditions of the jurisdiction with authority over the street. Unless otherwise provided in this article, on-street parking does not count toward off-street parking requirements.

2. Limitations on Parking Areas

- a. Required off-street parking facilities can only be used for the parking of passenger vehicles or light trucks for patrons, occupants, or employees of specified uses. Parking facilities cannot be used for storage, display, sale, repair, dismantling, or wrecking of any vehicle, equipment, or material. Inoperable vehicles cannot be stored in an off-street parking area for more than 24 hours, except for areas approved for outdoor storage of vehicles.
- b. Parking on residential properties is restricted to passenger vehicles and no more than one commercial truck or van with a maximum capacity of three tons capacity (manufacturer's rating).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

C. Required Off-Street Parking

1. Except for certain residential uses, there are no minimum required parking spaces. Instead, the owner provides parking spaces based upon the number employees, expected level of customer traffic, or actual counts at similar establishments. Consideration is given to the presence of convenient municipal off-street parking or on-street spaces located adjacent to the site and if walk-in trade is reasonable due to pedestrian connections to adjacent residential neighborhoods or employment centers.
2. The Town has established a maximum number of parking spaces permitted for each use. In determining the maximum number of off-street parking spaces permitted, the following instructions apply:
 - a. Off-street parking requirements are calculated based on gross square footage of the use to which the parking is accessory, or as otherwise provided on the [Permitted Use Table](#).
 - b. If the calculation of required parking spaces results in a fraction, the fraction is rounded up to the next unit and counted as one additional space.
 - c. For uses not specified on the [Permitted Use Table](#), the maximum number of parking spaces permitted is determined by the Administrator, based on requirements for similar uses, the gross square footage of the use, and the relationship between the size of the use and the number of persons served or employed.
3. The maximum parking space requirements of this section cannot be exceeded unless approved by the Plan Commission as part of site plan review. In approving excess parking spaces, the Plan Commission determines the parking is necessary to accommodate the use on a typical day. Additional parking spaces approved by the Plan Commission must incorporate pervious paving materials to the extent practical and as subsurface conditions allow.
4. The minimum aisle width for angled parking is:

| ANGLE OF PARKING SPACE | MINIMUM AISLE WIDTH |
|------------------------|---------------------|
| 30 degree | 14 feet |
| 45 degree | 18 feet |
| 90 degree | 22 feet |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

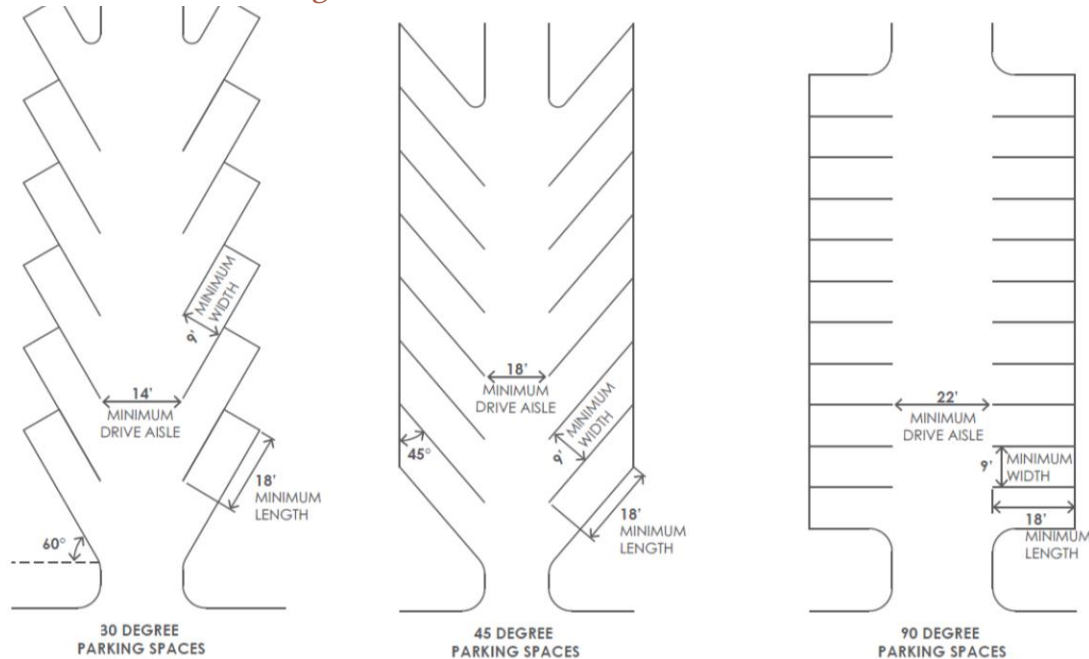
SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Figure 5-6: Dimensions for Parking

D. Design Standards

Off-street parking areas must be developed according to the standards of this section.

1. **Dimensions and layout.** Each off-street parking space must open directly upon an aisle or driveway to provide safe and efficient vehicular access to the parking spaces aisles or driveways must remain unobstructed and always allow for the passage of emergency vehicles.

Off-street parking spaces must be at least 9 feet wide and 18 feet long with a vertical clearance of 7 feet. Parallel parking spaces must be at least 8 feet wide and 22 feet long. Parking spaces are exclusive of access drives, aisles, ramps, columns, and work area.

2. **Parking Surface.** Driveways and drive aisles must be surfaced with asphalt, concrete, or similar material to provide a durable and dustless surface. Gravel driveways and drive aisles are prohibited, unless approved by the Administrator for temporary uses or agricultural operations, including seasonal roadside stands. Pervious parking spaces are encouraged to reduce post-construction storm water runoff rates, volumes, and pollutant loads. The Administrator may approve the use of permeable surfaces such as pervious concrete, porous asphalt, permeable interlocking concrete pavers, and concrete or plastic grid pavers.
3. **Curbing.** Curbs and gutters built per the Town's Construction Standards are required around the perimeter of all parking facilities and landscape islands within the parking facilities to prevent a parked vehicle from extending beyond the parking area onto a street right-of-way or adjacent property and to protect landscaped areas.
4. **Residential Driveways.** A residential dwelling unit is limited to one driveway with a maximum width of 20 feet measured at the right-of-way line. In addition, residential driveways must be located at least 75 feet from a street intersection unless otherwise approved by the Administrator.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

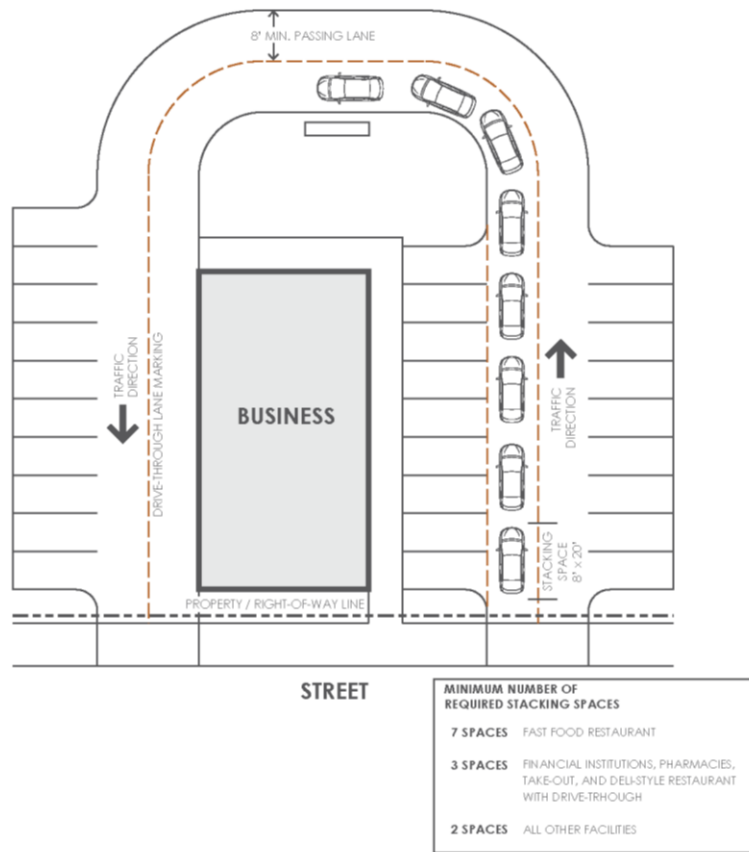
5. Drainage or Runoff. Parking areas must be graded and drained, so water does not flow onto adjacent property or public sidewalks. Runoff generated by parking areas must be collected in appropriate drainage facilities per the Bargersville storm water standards.
6. Striping of Parking. Parking areas must be striped and maintained to identify each parking space.
7. Lighting. Parking lot lighting must comply with the standards of [5.2: Lighting](#).
8. Landscaping. Off-street parking areas must be landscaped in accordance with [5.1\(G\): Parking Lot Landscaping](#).
9. Accessible Parking. Accessible parking must be provided pursuant to the [Americans with Disabilities Act \(ADA\) of 1990](#), as amended, for any building or use initiated after the effective date of this Ordinance.
10. Accessibility. Off-street parking or loading facilities must be designed with vehicular access to a street or alley in a manner that least interferes with traffic movement on that street or alley. Vehicle maneuvering space for parking and loading must be located on the subject property. Properties deriving access to SR 135, SR 37, or CR 144 must comply with [2.8\(G\) Access Management Standards](#).
11. Location of Parking and Loading. Off-street parking and loading spaces must be provided on the same lot as the use served, except as otherwise provided in this Ordinance.
12. Stacking Requirements for Drive-Through Facilities. The following requirements apply to uses with drive-through facilities.
 - a. General Requirements:
 - i. Drive-through lanes and required stacking spaces must not interfere with parking space maneuvering aisles, parking drive aisles, loading spaces, internal site circulation, designated fire lanes or site access points.
 - ii. Drive-through lanes and stacking spaces must be designed to prevent vehicles from stacking in the right-of-way ([Figure 5-7](#)).
 - iii. No stacking space may occupy any portion of a right-of-way.
 - iv. A stacking space does not constitute a parking space.
 - v. All drive-through and stacking lanes must be delineated with pavement markings or otherwise distinctly delineated, as approved by the Administrator.
 - b. A stacking space must be at least 8 feet wide and 20 feet long with direct forward access to a service window or station of a drive-through facility.
 - c. A lane at least 8 feet wide parallel to a drive-through lane must be provided around the drive-through facility to allow vehicles to exit the drive-through lane and circumvent the stacking lane. This lane may be part of the site's overall circulation plan.
 - d. Noted below are the minimum number of required stacking spaces, excluding the position at the service window or ordering station.
 - Fast food restaurant: 7 stacking spaces
 - Financial institutions, pharmacies, takeout, and deli-style restaurant with drive-through 3 stacking spaces per service window
 - All other facilities: 2 stacking spaces per service window

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Figure 5-7: Stacking Requirements

E. Parking Options

1. **Credit for On-Street Parking.** Wherever on-street parking is provided in the improvement of a street, credit toward off-street parking requirements may be granted for every parking space provided. On-street parking is subject to approval by the Administrator and specifically not permitted in the following areas:
 - a. On an expressway or arterial street.
 - b. Within 20 feet of a corner.
 - c. Within 5 feet of each side of a driveway or alley.
 - d. Within a fire hydrant zone or other emergency access zone.
2. **Shared Parking.** Groups of users requiring parking spaces may create a shared parking facility if all the criteria below are met. Approval by the Plan Commission is required.
 - a. Off-site, off-street parking facilities are within 600 feet of the property.
 - b. Safe and convenient pedestrian uses must be provided between the parking facilities and uses.
 - c. Interior vehicle access must connect the properties sharing the parking facilities.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- d. A written reciprocal parking agreement or similar document with a minimum duration of 20 years, signed by all property owners involved is required. It must include provisions for: easements (if applicable), maintenance, snow removal, ownership, and liability. The agreement must be recorded in the County Recorder's office with a copy provided to the Department. When the reciprocal parking agreement expires or terminates, the uses for which the parking was provided are considered non-conforming. Continuation or expansion of the uses is prohibited unless the use is brought into compliance with the parking regulations of this chapter.
3. Deferred Parking. When development of a site will occur in phases, the Plan Commission may defer some of the required parking until it is needed if:
 - a. A site plan shows all required parking but identifies those spaces that will not be constructed until needed.
 - b. Any area designated for deferred parking must be maintained in a landscaped appearance. Parking lot landscaping required for the deferred spaces can be installed when the deferred parking area is constructed.
 - c. Construction of all or a portion of the deferred parking spaces may be initiated by the owner or required by the Town based on actual parking needs.

F. Parking as a Principal Use

The Board of Zoning Appeals may approve parking as a principal use of property as a special exception in according to this section.

1. Site Plan. A site plan is filed with the BZA as part of the special exception application. The site plan must indicate:
 - a. All individual uses to be served by the parking, including the location, use, and number of parking spaces required for each use;
 - b. The location of buildings, parking areas, and access points on all adjacent properties;
 - c. The site layout drawn to scale and dimensioned of proposed entrance and exit driveways, accel/decel lanes, parking spaces, setbacks, drainage facilities, structures, buildings, landscaping, and buffer screening; and
 - d. Location, size, and design of proposed lighting, pavement, and signs.
2. Setbacks and Access. Proposed parking facilities shall meet the setback requirements for principal buildings.
3. Legal Encumbrance. Parking as a principal use is encumbered by an instrument approved by the Town that links the parking facilities to the uses served. The instrument specifies and binds the time period to the anticipated life of the building or use the parking facility serves. The instrument is filed with the improvement location permit files of the Department and recorded in the office of the Johnson County Recorder.
4. Changes to Site Plans. Any change to a site plan resulting from conditions imposed by the BZA is made to the plans and submitted to the Administrator prior to issuing the permit. Other changes, such as modifying the number of parking spaces, altering the layout, or placing or removing a structure, requires approval of a new site plan. Minor changes (see [7.1\(G\)\(9\) Minor Changes to Approved Site Plans](#)) are approved by the Administrator. Changes other than minor changes are approved by the BZA.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

G. Off-Street Loading Requirements

1. Uses Requiring Loading Areas. Buildings used for manufacturing, storage, warehousing, retail sales, or other uses involving the receipt or distribution of materials or merchandise must provide adequate space for loading and unloading services to avoid undue interference with streets, alleys, and parking spaces.
2. Loading Area Design Requirements
 - a. Loading and unloading spaces must be paved, located to the side or rear of a building, and be at least 10 feet wide by 50 feet long, with 15-foot height clearance.
 - b. Loading spaces and maneuvering space for loading spaces cannot use any portion of a public right-of-way, private street, or access easement.
 - c. Required loading spaces do not count toward required off-street parking spaces.

3. Number

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

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

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

5.4 Signage

A. Purpose and Intent

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

B. Exempt Signs

The following signs are exempt from this article:

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

C. Prohibited Signs

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

D. Sign Plans and Sign Program

1. **Comprehensive Sign Programs.** A comprehensive sign program is required for all projects consisting of multi-tenant buildings, nonresidential complexes with multiple buildings, or large-scale mixed-use developments. A comprehensive sign program provides design compatibility for all signs and integrates sign design with the architecture of the buildings. The comprehensive sign program must set design standards including: sign types, placement, size, design, colors, materials, textures, and method of illumination, as well as provide for the safe navigation for vehicles and pedestrians. If a sign subject to the comprehensive sign program complies with all the requirements of this chapter, it may be approved administratively. In determining approval, the Administrator must not base any approval on the message content of a sign.
2. **Master Sign Plans.** The Plan Commission may approve a master sign plan as an alternative to the requirements set forth in [5.4\(l\) Permanent Sign Types](#) for the following uses and developments:
 - Multiple-tenant commercial, office, or employment uses.
 - A multiple-building complex for a single commercial or employment use in a project exceeding 40 net acres.
 - Stand-alone office/employment buildings exceeding 100,000 square feet.
 - Indoor or outdoor entertainment and recreation uses.
 - Auto malls.
 - Hospitals.
 - Hotels and commercial lodging having at least 150 guest rooms and a full-service restaurant or conference and meeting rooms.
 - Regional retail shopping malls.
 - a. **Conditions.** The Plan Commission may attach conditions as necessary to assure the signs covered by the master sign plan will not be materially detrimental to persons or property in the vicinity. In making its determination, the Plan Commission must not base any condition on the message content of a sign.
 - b. **Evaluation Criteria.** Master sign plans are evaluated on the following criteria:
 - i. **Placement.** Signs must be placed where they are visible and legible. Consideration is given to a sign's location relative to traffic movement and access points, site features, other structures, and orientation relative to viewing distances and angles. Wall signs may be approved on building walls other than the wall of the space occupied by the tenant in commercial centers where tenants have little or no visibility from the street.
 - ii. **Quantity.** The number of signs approved within any development must be sufficient for internal traffic and navigation for vehicles and pedestrians.
 - iii. **Size.** Signs must be no larger than necessary for visibility and legibility. A master sign plan must not contain a freestanding sign exceeding any maximum height standard permitted by this chapter by more than 50%. A master sign plan must not contain a wall sign exceeding any maximum sign area standard permitted by this chapter by more than 25%.
 - iv. **Design Features and Materials.** Sign design themes and materials must be compatible with the architecture, colors, and materials of the project.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- v. Development Standards. The Plan Commission may not reduce any sign development standard to less than 50% of any minimum standard, nor increase any sign development standard by more than 100% of the maximum standard. The Plan Commission must not base any decision on the message content of a sign.
- vi. Amendments. The Administrator may approve minor amendments to a master sign plan involving non-communicative activity, where such changes are determined to have little or no visual impact and are consistent with the intent of the original approval.

E. Review of Sign Applications for Permanent Signs

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

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

F. General Provisions for Signs

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

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

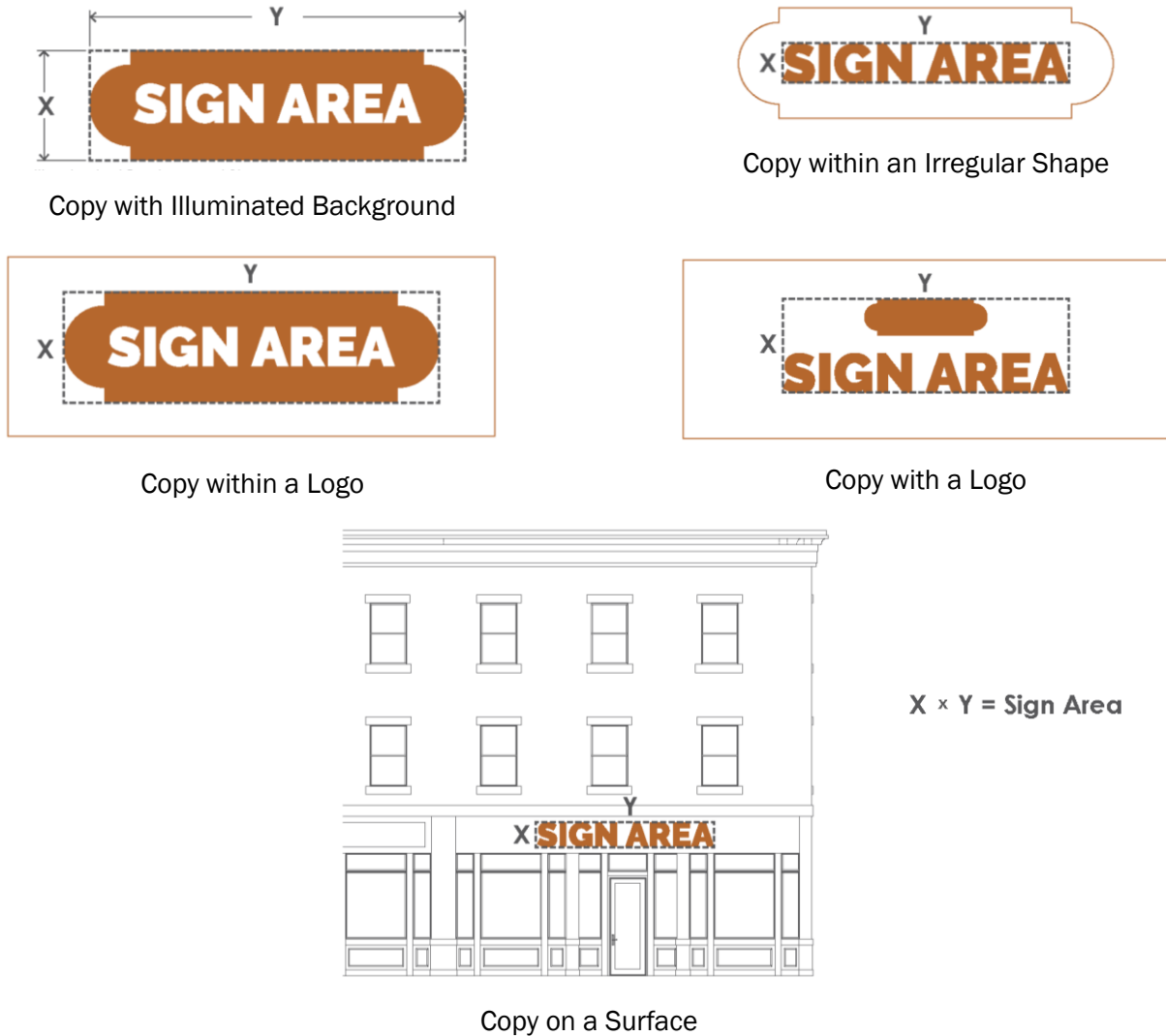
5. Signs on Public Property. Except as required by state law or otherwise permitted by this chapter, a sign installed or placed on public property is deemed illegal, forfeited to the public, and subject to confiscation. In addition to other remedies in this Ordinance, the Town has the right to recover the cost of removal and disposal of the sign from the owner or person placing such sign.
6. Placement of Signs
 - a. An encroachment permit from the Town is required prior to installing a permanent sign projecting into or over the public right-of-way.
 - b. The lowest portion of any sign extending over an area intended for pedestrian use must be at least 8 feet above finished grade.
 - c. The lowest portion of any sign extending over an area intended for vehicular use must be at least 14 feet above the finished grade.
 - d. Any sign placed on a sidewalk or other public right of way must comply with this chapter and applicable provisions of the Americans with Disability Act.
 - e. Signs are prohibited within sight visibility triangles, except for appropriately placed traffic control device signs.
7. Flag Brackets and Stanchions. For each principal structure on a parcel, up to 2 flag brackets or stanchions may be attached or placed for the display of flags.
8. Measurement of Sign Area. The area of a sign is measured or calculated as follows (*Figure 5-8*):
 - a. Background panel signs. Sign copy on a panel or area distinctively colored or constructed as a background is measured as the area contained within the sum of the geometric shapes enclosing both the sign copy and the background.
 - b. Background surface signs. The area of a sign consisting of copy mounted as individual letters or graphics against a wall or building surface, that is not altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest geometric shapes enclosing each word, graphic or discrete visual element in the total sign.
 - c. Illuminated background signs. The area of a sign with copy on an illuminated surface is measured as the entire illuminated surface containing sign copy.
 - d. Double-faced signs. If a sign has 2 display faces, and the interior angle between the 2 faces is 30 degrees or less, the sign area is one sign face only. If the 2 faces are different sizes, the larger sign face is used. If the sign has 2 display faces and the interior angle between the 2 faces is greater than 30 degrees, then the sign area is the sum of the areas of the 2 sign faces.
 - e. Multi-faced signs. If a sign has 3 or more faces, the sign area is equal to 50% of the aggregate area of all sign faces.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Figure 5-8: Sign Area

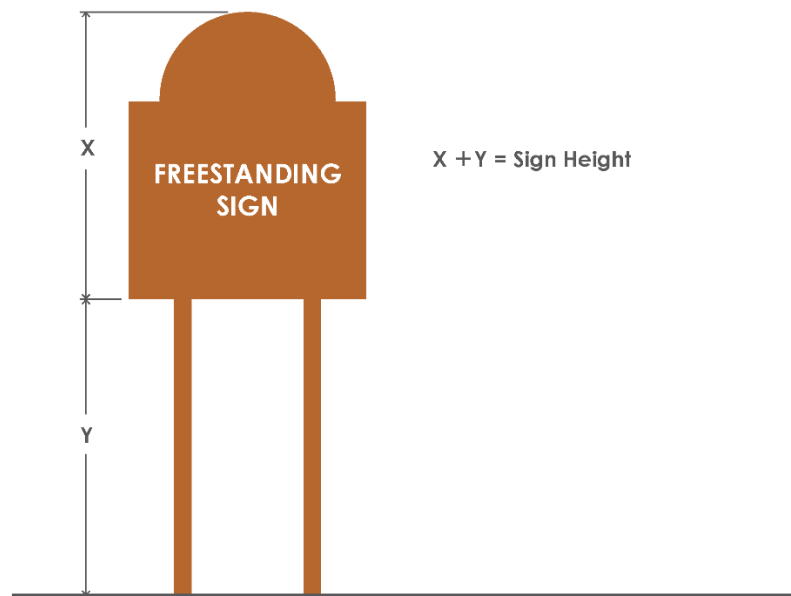
9. **Measurement of Sign Height.** The height of a freestanding sign is measured as the vertical distance from the average finished grade below the sign to the top edge of the highest portion of the sign ([Figure 5-9](#)). Any mounding or excavating solely for the purposes of increasing the height of the sign is included in this measurement. The maximum height limit excludes architectural embellishments less than 36 inches at the base of the sign and less than 18 inches at the top of the sign. For the purposes of this section, average finished grade below the sign is the lower of (a) the lowest elevation where the base of the sign meets ground level; or (b) the top of the curb of the nearest public street adjoining the property; or (c) the grade of the land at the principal entrance to the lot.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Figure 5-9: Sign Height

10. Signs must provide at least 6 feet horizontal clearance and 12 feet overhead clearance from electrical conductors and from communications equipment or lines. Signs and their supporting structures must not interfere with surface and underground utilities or drainage systems.
11. The Administrator or Building Commissioner may order the repair of signs declared a nuisance, and, with or without notice, may remove a structurally unsafe sign if it presents an immediate peril to the public health or safety.
12. Replacement of a tenant sign panel containing the same design as the original on an approved sign structure with removable panels does not require a permit. Any tenant panel that is vacant or missing must be replaced within 30 days.
13. When a tenant vacates a building suite, the fascia of the wall sign band must be repaired to its surrounding texture and color within 45 days of sign removal.

G. Temporary Signs

A **Temporary Sign** is not permanently attached to the ground, a building or another structure and is designed to be displayed temporarily. Unless otherwise provided in this article, temporary signs must meet the criteria below. A temporary sign may be displayed as a ground sign, wall sign, or a window sign.

1. **General Criteria for Temporary Signs.** A temporary sign is unlawful unless it meets the criteria established for the Zoning District where it is located as described in [Table 5-4](#). The general criteria and limitations in this section do not apply to A-Frame and T-Frame signs, banner signs, flying banner signs, flags, and umbrella signs.
2. **A-Frame Signs and T-Frame Signs.** **A-Frame Signs** are portable, stand-alone signs comprised of two separate panels or faces joined at the top and spread apart at the bottom to form a base upon which the sign stands.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

A T-Frame Sign. Is a portable, stand-alone sign comprised of one single double-sided panel joined at the bottom to a spread apart base upon which the sign stands

3. A-Frame signs and T-Frame signs are unlawful unless they meet the criteria and limitations set forth in [Table 5-5: Temporary Signs](#).
 - a. A-Frame signs and T-Frame signs are permitted in all Zoning Districts but may be placed in single-family residential districts only in conjunction with non-residential uses.
 - b. A-Frame Signs and T-Frame Signs must be located adjacent to the parcel or business advertised, supported by a base sufficient to withstand wind gusts, and maintained in good condition.
 - c. A-Frame Signs and T-Frame Signs must be placed at grade level and not in medians, across the street from the business being advertised, or on multi-use pathways.
 - d. The purchase and placement of A-Frame signs and T-Frame signs is not a substantial capital investment in the advertised business. Modification of the regulations resulting in further restriction or prohibition makes the signs illegal nonconforming signs that must comply with the new regulations.
4. **Banner Signs.** **Banner Signs** are temporary signs of fabric, plastic, paper or other light pliable material not enclosed in a rigid frame. Banner signs are permitted in all Zoning Districts but may be placed in single-family residential districts only in conjunction with non-residential uses. Banner signs must meet the criteria and limitations in [Table 5-5: Temporary Signs](#).
5. **Flying Banner Signs.** **A Flying Banner** is a portable, stand-alone sign comprised of light fabric that moves with the wind, can turn 360°, and is supported by a pole structure and a base. Flying banner signs must meet the criteria and limitations in [Table 5-5: Temporary Signs](#).
 - a. Flying banner signs are permitted in all Zoning Districts but may be placed in single-family residential districts only in conjunction with non-residential uses.
 - b. Flying banner signs must be located adjacent to the parcel or business advertised, supported by a base sufficient to withstand wind gusts, and maintained in a professional manner.
 - c. Flying banner signs must be placed at grade level and must not be placed in medians, across the street from the business being advertised on multi-use pathways.
6. **Sign Walkers.** **A Sign Walker** is a person waving "sales theme signs" with arrows at entrances to major highways or at corners of high traffic intersections directing customers to a sale. Also called sign twirlers, sign holders, human billboards. Sign walkers are permitted in all Zoning Districts. Sign walkers must comply with state law and meet the following criteria and limitations:
 - a. Sign walkers must be located:
 - At grade level.
 - 30 feet from a street or driveway intersection measured from the back of the curb or edge of pavement if no curb exists.
 - 5 feet from the street measured from the back of curb or edge of pavement if no curb exists.
 - Sign walkers must yield right-of-way to pedestrians, bicycles and others on the sidewalks.
 - b. Sign walkers must not be located:
 - In medians.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- In parking aisles or stalls.
 - In driving lanes or driveways.
 - On multi-use pathways.
 - Where less than 4 feet clear passage is provided on a sidewalk or pathway.
 - On fences, planters, other signs, vehicles, utility facilities, or any structure.
 - Within 20 feet from any other sign walker.
 - In a manner that results in sign walkers physically interacting with motorists, pedestrians, or bicyclists.
- c. The sign must be displayed only when the business is open to conduct business and always held, worn, or balanced.
- d. The following are prohibited:
- Any form of illumination, including flashing, blinking, or rotating;
 - Animation on the sign;
 - Mirrors or other reflective materials; or
 - Attachments including balloons, ribbons, speakers.
7. Temporary Residential Subdivision Signs. Temporary residential subdivision signs are permitted in single-family residential districts for each builder in a recorded subdivision plat. Temporary residential subdivision signs must meet the criteria and limitations set forth in the [Table 5-5: Temporary Signs](#).
8. Offsite Temporary Signs on Private Property. Offsite temporary signs are permitted in all Zoning Districts on unimproved lots or parcels of 10 acres or more subject to criteria and limitations set forth in [Table 5-5: Temporary Signs](#).

H. Permanent Sign Lighting and Changing Message Displays

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

1. General Lighting Standards. The illumination of signs must meet all regulations of the lighting standards in [5.2 Lighting](#).
 - a. Except for changing message displays and marquee signs, any flashing, blinking, reflective, animated, or rotating lights, or signs with intermittent or varying intensity of illumination are prohibited.
 - b. Exposed light sources are prohibited except for marquee signs. Light sources must be shielded to prevent light trespass onto adjacent properties.
 - c. Exposed neon tube type illumination can only be used in Commercial Districts, subject to administrative approval of a comprehensive sign program or master sign plan. Exposed neon tubing must be appropriately sized. Exposed neon tube type illumination is prohibited in all other Zoning Districts.
2. Sign Illumination
 - a. Permanent Sign on a Parcel in a Residential District. Except for an identification sign at the entrance of a residential subdivision, a permanent sign located on a parcel in a residential district cannot be separately or specially illuminated, unless otherwise specified in this chapter.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- b. Permanent Sign on a Parcel in a Nonresidential District. A permanent sign on a parcel in a nonresidential district may be illuminated by internal illumination, internal indirect (halo) illumination, or lit by external indirect illumination, unless otherwise specified in this chapter.
 - c. Internal illumination. Outdoor internally illuminated signs must be constructed with an opaque background and translucent letters or other graphical elements, or with a colored background and lighter letters or graphics.
 - d. External Indirect Illumination. Externally lit signs must be illuminated only with steady, stationary, and shielded light sources directed solely onto the sign. Light bulbs or tubes (excluding neon) used for illuminating a sign must not be visible from the adjacent public rights-of-way and residential properties.
 - e. Illumination of Signs adjacent to Single Family Residential Uses. Signs located within 50 feet of a single-family district cannot be internally illuminated.
3. Manual Changing Message Displays. One-half the area of a freestanding monument or marquee sign may be a manual changing message display, subject to the criteria and limitations of this chapter.
4. Electronic Changing Message Displays. An **Electronic Changeable Message Sign** is a portion of a sign where copy and images are changed electronically, including a sign with a fixed or changing display/message composed of a series of lights that is changed through electronic means. The entire sign face of a freestanding monument, tower sign, and freeway sign may be an electronic changing message display if located within a Zoning District where allowed and subject to the following operational limitations.

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

- a. Display. An electronic changing message display may be in full color.
- b. Minimum Display Time. An electronic changing message display must not change more than once every 8 seconds.
- c. Transition Method. An electronic changing message display must change by an instant change method.
- d. Illumination Levels. An electronic changing message display must incorporate automatic dimming technology that adjusts to ambient light conditions. Displays must have a brightness level no greater than 0.3-foot candles above ambient light conditions.
- e. Maintenance. An electronic changing message display that ceases to operate in its normal programmed manner must be repaired or disconnected within 48 hours of the initial malfunction.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

I. Permanent Sign Types

The following types of permanent signs are allowed in one or more Zoning Districts, as more specifically set forth below.

Figure 5-10: Sign Types



Sign Type Legend

- | | |
|----------------------|--|
| (1) Projecting signs | (5) Wall signs for non-residential tenant offices and suites |
| (2) Suspended signs | (6) Door signs |
| (3) Historic markers | (7) Wall-mounted cabinet signs |
| (4) Window signs | (8) Unit & building identification signs |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS



Sign Type Legend

- | | |
|---|-------------------------------|
| (9) Projecting roof signs | (14) Painted wall signs |
| (10) Awning signs | (15) Onsite traffic signs |
| (11) Street address signs | (16) Drive-through lane signs |
| (12) Wall sign at entrance to restaurants | (17) Monument signs |
| (13) Umbrella signs | |



Sign Type Legend

- | | |
|--|--|
| (18) Wall signs at entrances to dwelling units | (20) Multifamily residential entry signs |
| (19) Street address signs | (21) Directory signs |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS



Sign Type Legend

- | | |
|---|-------------------|
| (22) Freeway signs | (18) Canopy signs |
| (23) Development gateway and entry signs | (19) Tower signs |
| (24) Wall signs at service and delivery entrances | |

1. Street Address Signs

- A sign permit is not required for Street Address Signs.
- Each single-family dwelling unit must be clearly identified by a street address for first responders to locate the dwelling unit. The street address sign is a maximum of 3 square feet in sign area.
- Each multi-family dwelling unit must be clearly identified by a street address sign for first responders to locate the unit. The street address sign may be externally illuminated. The street address sign or unit and building identification signs is a maximum of 6 square feet in sign area.
- Each location of a business or non-residential use must be clearly identified by a street address for first responders to locate. The street address sign may be externally or internally illuminated. The street address sign is a maximum of 6 square feet in sign area.

2. Unit and Building Identification Signs

- A sign permit is not required for Unit and Building Identification Signs.
- Each multi-family dwelling unit must be clearly identified by a unit and building identification sign for first responders to locate unit, unless the unit or building has a street address sign that is specific to that unit. The unit and building identification sign may be externally illuminated and is a maximum of 6 square feet in sign area.
- Each location of a business or non-residential use must be identified by a unit and building identification sign for first responders to locate the unit. The unit and building identification sign may be externally illuminated and is a maximum of 6 square feet in sign area.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3. Wall Signs in Residential Uses

A **Wall Sign** is any sign attached parallel to a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

- a. Each single-family dwelling unit may have one permanent wall or ground sign not exceeding 3 square feet in size and not exceeding 2 feet in height if placed as a ground sign. This sign is allowed in addition to the required Street Address Sign for a single-family dwelling unit.
- b. Each individual dwelling unit in a multi-family dwelling unit may have one permanent wall or ground sign not exceeding 3 square feet in size and not exceeding 2 feet in height if placed as a ground sign.

4. Wall Signs in Non-Residential Uses

- a. Design. Wall signs must fit proportionally with building massing and architectural features of the elevation.
- b. Length. The length of a wall sign must not exceed 80% of the horizontal length of the exterior building elevation of a tenant suite.
- c. Height. The height of a wall sign is 80% of the vertical dimension of the sign band or wall space on which the sign is placed.
- d. Placement. Wall signs must maintain a minimum clearance between the top of the sign and the top of the parapet wall equal to half of the vertical dimension of the largest letter in the sign. Top floor signage located on multi-story buildings may span floor plates.
- e. Wall Signs on building elevations abutting property designated for residential use in the Comprehensive Plan must:
 - Not be illuminated;
 - Not exceed 16 square feet in sign area; and
 - Be installed no higher than 14 feet above grade.
- f. Wall Sign Area: Buildings One-Story in Height. Wall signs on a building one-story in height must conform to the following criteria:
 - i. Each tenant suite is permitted a wall sign which may be located on any exterior wall of the tenant or user suite.
 - ii. Each tenant suite is limited to a wall sign with a sign area no greater than the total sign allowance area defined below for: (i) the longest building elevation of the tenant or user suite facing the street, or (ii) the length of the building elevation of the tenant suite where its principal entrance is located.
 - iii. For buildings set back 75 feet or less from the right-of-way, the sign allowance area is 1 square foot of sign area for each lineal foot of the building elevation adjacent to the suite. For buildings set back more than 75 feet from the right-of-way, the sign allowance area is 1.5 square feet of sign area for each lineal foot of building elevation adjacent to the suite.
 - iv. Buildings with at least two building elevations facing streets and/or main private circulation drives are permitted double the sign allowance area. Signs may be located on more than two elevations if the maximum allowance is not exceeded. In no event can the double sign allowance area be used on a single elevation.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- v. Approval is required through a comprehensive sign program and/or a master sign plan if the building is a multi-tenant building.
- g. Wall Sign Area: Buildings Two Stories in Height. Wall signs on multiple floors of a building two stories in height must conform to the following criteria.
 - i. Individual tenant signs located on the first floor of a building 2 stories in height are subject to the same criteria as tenant signs for a building one-story in height, as set forth in [5.4\(F\)\(4\)\(f\)](#) above.
 - ii. Individual tenant signs and building signs located on the second floor of a building 2 stories in height is 32 square feet in sign area. Individual tenant signs and any building signs may be placed on any approved sign band or wall space on the second floor. The maximum wall sign area, including all tenant signs and building signs, must not exceed 50% of the lineal building elevation on the second floor.
 - iii. Buildings with at least 2 building elevations facing streets and/or main private circulation drives are permitted double the sign allowance area. Signs may be located on more than 2 elevations if the maximum allowance is not exceeded. The double sign allowance area cannot be used on a single elevation.
 - iv. Approval is required through either a comprehensive sign program or a master sign plan.
- h. Wall Sign Area: Buildings Three or More Stories in Height. Wall signs located on buildings 3 or more stories in height are limited to the first floor and top floor and must conform to the following criteria.
 - i. Individual tenant signs located on the first floor are subject to the same criteria as tenant signs for a building one story in height, as set forth in [5.4\(F\)\(4\)\(f\) - Wall Sign Area: Buildings One-Story in Height](#) above.
 - ii. The sign area for a wall sign on the top floor is not counted against the sign allowance area of a wall sign on the first floor. Wall signs located on the top floor are limited to either: (a) 1 building sign and 1 tenant sign, or (b) 2 tenant signs. A wall sign located on the top floor must adhere to the criteria contained in [Table 5-7: Top Floor Sign Area and Height Standards for On-Premise Wall Signs](#). The maximum sign area for a wall sign on the top floor cannot be increased through a comprehensive sign program or master sign plan.
 - iii. Buildings with 2 building elevations facing streets and/or main private circulation drives are permitted double the sign allowance area. Signs may be located on more than 2 elevations if the maximum allowance is not exceeded. The double sign allowance area be used on a single elevation.
 - iv. Approval is required through either a comprehensive sign program or a master sign plan.
- 5. Wall Signs for Non-Residential Uses in Residential Zoning Districts
 - a. Design. Wall signs must fit proportionally with building massing and architectural features of the elevation.
 - b. Length. The length of a wall sign must not exceed 80% of the horizontal length of the exterior building elevation of a tenant suite.
 - c. Height. The height of a wall sign must not exceed 80% of the vertical dimension of the sign band or wall space on which the sign is placed.
 - d. Placement. Wall signs must maintain a minimum clearance between the top of the sign and the top of the parapet wall equal to half of the vertical dimension of the largest letter in the sign. Top floor signage located on multi-story buildings may span floor plates.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- e. Wall Signs on building elevations abutting property designated for residential use in the Comprehensive Plan must:
 - Not be illuminated;
 - Not exceed 16 square feet in area; and
 - Be installed no higher than 14 feet above grade.
6. Wall Sign Area: Buildings One or More Stories in Height. Wall signs must only be located on one floor of a single-story or multi-story building and must meet the following criteria.
 - a. Each tenant suite is permitted a wall sign with a minimum sign area of 32 square feet on any exterior wall of the tenant suite on the first floor of the one-story building.
 - b. Each tenant suite is limited to a total wall sign area no greater than the total sign allowance area, defined below for (i) the longest building elevation of the tenant suite facing the street, or (ii) the length of the building elevation of the tenant suite where the principal business entrance is located.
 - c. For buildings set back 75 feet or less from the right-of-way, the sign allowance area is 1 square foot of sign area for each lineal foot of the building elevation adjacent to the suite. For buildings set back more than 75 feet from the right-of-way, the sign allowance area is 1.5 square feet of sign area for each lineal foot of building elevation adjacent to the suite.
 - d. A tenant suite with 2 or more building elevations facing streets and/or main private circulation drives is permitted twice the sign allowance area. The double sign allowance cannot be used on a single elevation.
 - e. If the top floor of a multi-story building is chosen for the allowable wall signs, the top floor wall signs are limited to either (i) 1 building sign and 1 tenant sign, or (ii) 2 tenant signs. A wall sign on the top floor must adhere to the criteria contained in [Table 5-7: Top Floor Sign Area and Height Standards for On-Premise Wall Signs](#). The maximum sign area for a wall sign on the top floor cannot be increased through a comprehensive sign program or master sign plan.
 - f. Approval is required through a comprehensive sign program or master sign plan.
7. Painted Wall Signs. In business districts, painted wall signs are permitted on any exterior building wall of the tenant suite. The sign area of a painted wall sign must be included in the sign allowance area. Painted wall signs may be indirectly illuminated with lighting fixtures that are decorative and architecturally compatible with the building.
8. Wall Signs at Entrances to Non-Residential Tenant Offices or Suites. Each non-residential tenant suite may have one permanent wall sign not to exceed 3 square feet in area. This allowed sign is in addition to any required street address sign and unit and building identification sign. A sign permit is not required for this type of sign.
9. Wall Signs at Entrances to Restaurants. In addition to any other wall sign allowance, a restaurant is allowed one wall sign installed within 10 feet of its main entrance. The wall sign is 6 square feet in area and 6 feet in height. The wall sign may be internally or externally illuminated.
10. Wall Signs at Service and Delivery Entrances. In addition to any other wall sign allowance, a service or delivery entrance is allowed one permanent wall sign installed within 10 feet of its entrance. The wall sign is 6 square feet in area and 6 feet in height. The wall sign may be internally or externally illuminated.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

11. Window Signs. A **Window Sign** is any sign that is placed inside a window or upon the windowpanes or glass either inside or outside the building and is visible from the exterior of the structure. Window signs are permitted in all Zoning Districts but may be placed in single-family residential districts only in conjunction with non-residential uses as a permanent wall sign. The window sign cannot cover more than 25% of the window area. Window signs may be internally illuminated. A sign permit is not required for a window sign.
12. Door Signs. Door signs are permitted provided that the door sign does not cover more than 25% of the door area. Door signs must not be illuminated. A sign permit is not required for a door sign.
13. Wall-Mounted Cabinet Signs. A **Cabinet Sign** is a three-dimensional enclosed structure which includes all messages and copy with a single or double sign faces. Permanent wall-mounted cabinet signs are allowed in non-residential districts and must be stylized in shape to reflect the shape of the image printed on the sign face or the molded sign face, with embossed sign copy or sign copy in relief. This provision does not apply to canopy signs for service islands regulated in [Canopy Signs for Service Islands](#). This provision does apply to projecting signs and projecting roof signs.
14. Projecting Signs. A **Projecting Sign** is a double-faced sign attached to a building or wall and extending perpendicular to the face of the building or wall not more than 48 inches. In business districts, permanent projecting signs are allowed when affixed to the exterior building wall of the tenant suite. The allowable sign area must be included in the maximum sign area allowed in [5.4\(F\) – General Provisions for Signs](#) and when combined with any other sign area, must not exceed the maximum sign area. Projecting signs may be internally or indirectly illuminated. Lighting fixtures must be decorative and architecturally compatible with the building. Projecting signs must be stylized in shape to reflect the shape of the image printed on the sign face. Fixtures used to affix the projecting sign to building walls must be decorative and architecturally compatible with the building.
15. Projecting Roof Signs. A **Roof Sign** is erected and constructed wholly on and over the roof of a building and supported by the roof structure. In business districts, permanent projecting roof signs are allowed subject to the same criteria set forth above for projecting signs. However, the height of a projecting roof signs must not exceed the height of a roofline or parapet by more than 25% of the overall height of the sign. The Planning Commission may approve heights greater than the 25% through a comprehensive sign program, master sign plan, or a design review application, when the proposed plan or application demonstrates that the projecting roof sign is incorporated into the building's architecture. A projecting roof sign incorporated into the building's architecture must not exceed the height of the building's roofline or parapet by more than 30% of the overall sign height.
16. Suspended Signs. A **Suspended Sign** is suspended from a roof overhang of a covered porch or walkway, which identifies the tenant of the adjoining space. In business districts, one permanent suspended sign is allowed for each permitted tenant building elevation. The sign must be suspended from a roof overhang of a covered porch or walkway adjacent to the exterior building wall of the tenant. The sign area is a maximum of 6 square feet. The size of the suspended signs is not included in the maximum sign area set forth in [5.4\(F\) General Provisions for Signs](#). Suspended signs may be indirectly illuminated. Lighting fixtures must be decorative and architecturally compatible with the building.
17. Drive-Through Lane Signs. A **Drive-Through Lane Sign** is oriented to occupants of vehicles using a drive-through lane at an establishment offering transactions through a window, with or without ordering capability. No more than 2 drive-through lane signs are allowed for each drive-through lane serving a business establishment. The signs may be either a wall mounted sign or a ground sign. The signs must be no larger than 50 square feet and 7 feet high. A drive-through ground sign must be constructed with a solid base.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

18. **Freestanding Sign: Monument Signs.** A **Freestanding Sign** is erected or mounted on its own self-supporting structure or base detached from any supporting elements of a building, wall, or fence. A **Monument Sign** is not attached to or painted on a building, but which is mounted on a wall or structure and permanently attached to the ground. Permanently attached means that the supporting structure of the sign is attached to the ground by a concrete foundation. Monument sign structure bears no visible freestanding poles.
- For a nonresidential use in a residential district, one onsite monument sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. One additional monument sign is permitted for each additional 300 feet of street frontage. The maximum size of a monument sign is 32 square feet and 8 feet high. Monument signs must be set back at least 10' feet from the right-of-way.
 - In Business, Industrial, and Mixed-use Zoning Districts, one onsite monument sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. One additional monument sign is permitted for each additional 300 feet of street frontage. The height of a monument sign must be no greater than 12 feet to the top of design embellishments, and the sign face must be located between 2 feet and 10 feet above grade with design embellishments added to the top, sides, or bottom of the sign. The maximum area of a monument sign is 60 square feet. Monument signs must be set back a minimum of 10 feet from the right- of-way. Monument signs must maintain a minimum spacing of 100 feet from any other monument sign on the same street frontage.
19. **Freestanding Sign: Tower Signs.** A **Tower Sign** is a freestanding sign greater than 8 feet and not more than 15 feet in height. In Business Zoning Districts for retail centers exceeding 40 acres, and in the Industrial and Mixed-use Zoning Districts for sites that abut a freeway and exceed 40 acres, one onsite tower sign is permitted for each 500 feet of street frontage, provided the total number of all freestanding signs, including monument signs, must not exceed one sign per 300 feet of street frontage. The maximum height of a tower sign is 15 feet. The maximum sign area of a tower sign is 80 square feet. The maximum sign area of a tower sign may be increased by an additional 20 square feet for the identification of tenants or occupants of suites 5,000 square feet or less. Tower signs must be set back a minimum of 10 feet from the right-of-way. Tower signs must maintain a minimum spacing of 300 feet from any other freestanding sign on the same street frontage.
20. **Freestanding Sign: Onsite Traffic Directional Signs.** In the Business, Industrial, and Mixed-use Zoning Districts, **Onsite Traffic Directional Signs** are permitted as necessary to assist in movement of vehicular traffic on a property for the safety of pedestrian and vehicle traffic. The maximum sign area of an onsite traffic directional sign is 3 square feet, and the maximum height of onsite traffic directional sign is 3 feet. An onsite traffic directional sign must be set back at least 25 feet from the right-of-way and not be located within the required perimeter landscape area. Onsite traffic directional signs are not counted as part of a maximum or total sign area for any use and do not require a sign permit.
21. **Freestanding Sign: Residential Subdivision Entry Signs.** A **Development Gateway and Entry Sign** is placed at the street entrance to a single family subdivision, multiple family development, planned unit development, office park or similar consolidated development, identifying the name of the subdivision or development. A residential subdivision entry sign at the principal entries to residential subdivisions may have one entry sign on each side of the street. For entrances with a median, the entry sign may be placed in the median. The maximum sign area of the residential subdivision entry sign is 25 square feet, and the maximum height is 8 feet. The residential subdivision entry sign must be set back a minimum of 10 feet behind the right-of-way. A residential subdivision entry sign must be indirectly illuminated. The residential subdivision entry sign must be incorporated into the design of an entry wall, which must be architecturally compatible with other subdivision improvements. Residential subdivision entry sign structures require approval by the Plan

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

22. **Freestanding Sign: Multi-Family Complex Entry Signs.** A multi-family complex entry sign at the principal entries to a multi-family complex may have one entry sign on each side of the street. The maximum sign area of a multi-family complex entry sign is 32 square feet, and the maximum height is 8 feet. The multi-family complex entry sign must be set back a minimum of 10 feet behind the right-of-way. A multi-family complex entry sign must be indirectly illuminated. A multi-family complex entry sign structure must be architecturally compatible with the complex.
23. **Freestanding Sign: Directory Sign.** A **Directory Sign** shows the locations of tenants in a multi-tenant commercial, office, or employment complex, or tenants in a multi-family residential project. In the business, Industrial, and Mixed-use Zoning Districts, one directory sign is permitted for every 4 commercial tenants or uses. The maximum sign area of the directory sign is 40 square feet, and the maximum height of the directory sign is 8 feet. A directory sign must only be installed onsite within landscape islands or pedestrian areas.
24. **Awning Signs.** An **Awning Sign** is painted, installed, attached, applied to, or located directly on an awning. In Business Districts, an awning sign may be located on the valance of an awning. Graphics must be permanently affixed to the awning and may be silkscreened, painted, cutout lettering heat color transfer, pressure sensitive vinyl films, sewn applique signs, etc. An awning sign may be indirectly illuminated or backlit. An awning sign must not obstruct sidewalks, accessible paths of travel, or the visibility of other signs. Lighting fixtures must be decorative and architecturally compatible with the building.
25. **Marquee Signs.** A **Marquee Sign** is painted, installed, attached, applied to, or located directly on a marquee. In business districts, a marquee sign may be located on a marquee that is approved by the Plan Commission as part of a design review application, a comprehensive sign program or master sign plan. A marquee sign must only be located at the primary entrance of the tenant suite to which it is appurtenant. The colors, materials, and design of a marquee sign must complement the design of the building it serves. A marquee sign may be internally or indirectly illuminated. Marquee signs must not be visible from adjacent residential properties. A marquee sign may include a manual changing message display. Sign copy must be changed manually. Electronic or mechanical sign copy change is prohibited. A marquee sign must not obstruct sidewalks, required accessible paths of travel, or the visibility of other signs. Lighting fixtures must be decorative and architecturally compatible with the building.
26. **Canopy Signs for Service Islands.** A **Canopy Sign** is mounted permanently on or under a service island canopy. Each service island can have up to 2 canopy signs per service island. The maximum sign area of a canopy sign is 12 square feet. No part of the sign must project from a canopy wall by more than 6 inches. The height cannot exceed 80% of the vertical dimension of the canopy wall. The sign area of a canopy sign does not count against the maximum sign area allowed for wall signs on the parcel.
27. **Historic Markers.** A **Historic Marker** commemorates a historic person or event, or identifying a historic place, structure, or object. One historic marker per parcel is allowed. The maximum sign area of a historic marker is 6 square feet. A sign permit is not required for a historic marker.

J. Permitted Permanent Signs by Zoning District

The permanent sign types allowed by Zoning District and the applicable permitting plan, program, or other review process are set forth below in [Table 5-8: Permitted Permanent Signs by Zoning District](#). Refer to each sign type for criteria and limitations as specified in [Section 5.4\(l\): Permanent Sign Types](#).

| | | | | |
|-------------------------|-------------------|---------------|----------------------|-----------------------|
| GENERAL PROVISIONS | ZONING DISTRICTS | SPECIFIC USES | DESIGN & MAINTENANCE | IMPROVEMENT STANDARDS |
| SUBDIVISION REGULATIONS | PROCESS AND ADMIN | CONSTRUCTION | STORMWATER | DEFINITIONS |

K. Sign Maintenance

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

L. Nonconforming Signs

1. If a non-conforming sign becomes an abandoned sign, it must be removed after notice to the property owner, unless the property owner establishes sufficient facts to refute the presumption of abandonment. An **Abandoned Sign** is a sign not operated or maintained for 180 calendar days or longer. An abandoned sign includes a sign on which is advertised a business that is no longer doing business on the parcel where the sign is located. An abandoned sign includes a sign for a purpose for which the purpose has lapsed. The following conditions shall be considered as the failure to operate or maintain a sign:
 - (1) the sign displays advertising for a product or service which is no longer available,
 - (2) the sign displays advertising for a business which is no longer licensed, or
 - (3) the sign is blank.
2. If a property or development is expanded or modified to add new signage, all nonconforming signs must be removed or rebuilt to comply with the provisions of this chapter.
3. Sign faces may be replaced on non-conforming signs.
4. Changes to a property that add or alters existing signage is prohibited until all non-conforming signs are removed or rebuilt in conformance with this chapter. Existing signage not conforming to the restrictions on cabinet signs or raceways need not be brought into conformance if demonstrated to the Administrator that the signage permitted by this chapter is not structurally feasible.

M. Sign Violations

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

N. Sign Regulation Tables

Table 5-4: Temporary Signs: General Criteria and Limitations

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

Notes:

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Table 5-5: Temporary Signs

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

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Table 5.6: Temporary Residential Subdivision Signs

| STANDARD | PRINCIPAL ENTRY(IES) | MODEL HOME(S) | PERIMETER SUBDIVISION OPEN SPACE | OFFSITE TEMPORARY SIGNS ON PRIVATE PROPERTY |
|---|---|---|---|--|
| Maximum Number of Signs | 1 per entry | 1 or more | 1 per street frontage | 1 |
| Maximum Sign Area | 32 SF ⁵ | 96 SF ⁵ | 32 SF ⁵ | 32 SF |
| Maximum Width | N/A | N/A | N/A | N/A |
| Maximum Height | 8 feet | 12 feet | 8 feet | 8 feet |
| Minimum Setback/ Distance from Roadway ³ | 10 feet (5 feet if less than 32 SF) | 10 feet (5 feet if less than 32 SF) | 10 feet (5 feet if less than 32 SF) | 10 feet |
| Maximum Width of Public Sidewalk the Sign May Obstruct | 0 feet | 0 feet | 0 feet | 0 feet |
| Maximum Distance of Sign from Premises ² | N/A | N/A | N/A | N/A |
| Minimum Distance from an Access Drive or Street Intersection | N/A | N/A | N/A | N/A |
| Minimum Spacing from any Other Sign (temporary sign or permanent sign) ⁴ | N/A | N/A | N/A | 100 feet |
| Duration | 3 years or until the model home is permanently closed, whichever is first | 3 years or until the model home is permanently closed, whichever is first | 3 years or until the model home is permanently closed, whichever is first | 1 year |
| Allowed on Public Sidewalk / Right-of-Way | No | No | No | No |
| Permission of Owner Required | Yes | Yes | Yes | Yes |
| Allowed within a Sight Visibility Triangle | No | No | No | No |
| Lighting or Illumination Allowed | No | No | No | No |
| Permit Required | Yes | Yes | Yes | Yes |
| Movement Allowed | No | No | No | No |

Notes:

1. The combined total number of A-Frame, T-Frame, and flying banner signs cannot exceed 4 per business.
2. Signs may be allowed at the perimeter of a multiple-tenant commercial/office complex or employment park, but only pursuant to an approved sign plan.
3. Setbacks do not apply to a banner sign displayed on a wall, a wall sign, or signs affixed to a temporary construction fence.
4. Not applicable to signs displayed on flagpoles.
5. The maximum aggregate sign area of all temporary residential subdivision signs is 256 SF.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Table 5-7: Top Floor Sign Area and Height Standards for On-Premise Wall Signs

| FACING STREET TYPE | SIGN HEIGHT (FEET) FROM FINISH FLOOR LEVEL TO TOP OF SIGN* | MAXIMUM ALLOWABLE SIZE OF SIGN FACE (SQ. FT.) |
|--------------------|--|--|
| Local/Collector | 40+ | Per Code; or 1% of the area of the elevation to which it is attached, whichever is greater |
| Arterial | 40+ | Per Code; or 1% of the area of the elevation to which it is attached, whichever is greater |
| Freeway | 40+ | Per Code; or 1% of the area of the elevation to which it is attached, whichever is greater |

*Unless approved signage spans floor plates

Table 5-8: Permitted Permanent Signs by Zoning District

| SIGN TYPE | RESIDENTIAL DISTRICTS | NONRESIDENTIAL USES IN RESIDENTIAL DISTRICTS | BUSINESS DISTRICTS | INDUSTRIAL DISTRICTS | MIXED-USE DISTRICTS |
|---|-----------------------|--|--------------------|----------------------|---------------------|
| 1. Street Address Signs | Yes | Yes | Yes | Yes | Yes |
| 2. Unit and Building Identification Signs | Yes | Yes | Yes | Yes | Yes |
| 3. Wall Signs at Entrances to Dwelling Units | Yes | Yes | Yes | Yes | Yes |
| 4. Painted Wall Signs | No | No | Yes | No | Yes |
| 5. Wall Signs at Entrances to Non-residential Tenant Offices and Suites | No | No | Yes | Yes | Yes |
| 6. Wall Signs at Entrances to Restaurants | No | No | Yes | Yes | Yes |
| 7. Wall Signs at Service and Delivery Entrances | No | No | Yes | Yes | Yes |
| 8. Window Signs | No | Yes | Yes | Yes | Yes |
| 9. Door Signs | Yes | Yes | Yes | Yes | Yes |
| 10. Wall-Mounted Cabinet Signs | No | No | Yes | Yes | Yes |
| 11. Projecting Signs | No | No | Yes | No | Yes |
| 12. Projecting Roof Signs | No | No | Yes | No | No |
| 13. Suspended Signs | No | No | Yes | No | Yes |
| 14. Drive-Through Lane Signs | No | No | Yes | Yes | Yes |
| 15. Freestanding Sign: Monument Signs | No | Yes | Yes | Yes | Yes |
| 16. Freestanding Sign: Tower Signs | No | No | Yes | Yes | Yes |
| 17. Freestanding Sign: Freeway Signs | No | No | Yes | Yes | Yes |
| 18. Freestanding Sign: Onsite Traffic Signs | No | No | Yes | Yes | Yes |
| 19. Freestanding Sign: Residential Subdivision Entry Signs | Yes | No | No | No | No |

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

| SIGN TYPE | RESIDENTIAL DISTRICTS | NONRESIDENTIAL USES IN RESIDENTIAL DISTRICTS | BUSINESS DISTRICTS | INDUSTRIAL DISTRICTS | MIXED-USE DISTRICTS |
|---|-----------------------|--|--------------------|----------------------|---------------------|
| 20. Freestanding Sign: Multi-Family Complex Entry Signs | Yes | No | Yes | No | No |
| 21. Freestanding Sign: Directory Signs | No | No | Yes | Yes | Yes |
| 22. Awning Signs | No | No | Yes | No | Yes |
| 23. Umbrella Signs | No | No | Yes | No | Yes |
| 24. Canopy Signs for Service Islands | No | No | Yes | Yes | Yes |
| 25. Historic Markers | Yes | Yes | Yes | Yes | Yes |

Yes = Allowed

No = Prohibited

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

SUBDIVISION REGULATIONS

| | | |
|------|--|----|
| 6.1 | Establishment of Controls | 3 |
| 6.2 | Subdivision Types | 3 |
| 6.3 | Approval Process Overview | 3 |
| 6.4 | Sketch Plan Review Procedure | 4 |
| 6.5 | Sketch Plan Submittal Requirements | 4 |
| 6.6 | Primary Plat Approval Procedure | 5 |
| 6.7 | Primary Plat Submittal Requirements | 7 |
| 6.8 | Construction Plan Approval Procedure | 9 |
| 6.9 | Construction Plan Submittal Requirements | 10 |
| 6.10 | Secondary Plat Approval Procedure | 10 |
| 6.11 | Secondary Plat Submittal Requirements | 12 |
| 6.12 | As-Built Drawings Submittal Requirements | 13 |
| 6.13 | Commercial and Industrial Subdivisions | 14 |
| 6.14 | Re-Subdivision of Land | 14 |
| 6.15 | Vacation of Plats | 15 |
| 6.16 | Modifications | 15 |

| | | |
|------|--|----|
| 6.17 | Design Principles and Standards | 16 |
| 6.18 | Residential Architectural Standards | 16 |
| 6.19 | Business and Mixed-Use Architectural Standards | 19 |
| 6.20 | Industrial Architectural Standards | 21 |
| 6.21 | Block Standards | 21 |
| 6.22 | Drainage Standards | 22 |
| 6.23 | Easement Standards | 22 |
| 6.24 | Monument and Marker Standards | 28 |
| 6.25 | Open Space and Amenity Standards | 29 |
| 6.26 | Pedestrian Network Standards | 30 |
| 6.27 | Street and Right-of-Way Standards | 31 |
| 6.28 | Street Standards | 36 |
| 6.29 | Street Light Standards | 37 |
| 6.30 | Street Sign Standards | 38 |
| 6.31 | Utility Standards | 38 |
| 6.32 | Surety Standards | 38 |
| 6.33 | Appeal | 41 |
| 6.34 | Plat Certificates and Deed of Dedication | 41 |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6.1 Establishment of Controls

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

6.2 Subdivision Types

This article establishes the process for subdividing land to ensure conformity to the standards of this Chapter. Subdivision applications will generally be considered favorably by the Plan Commission and Administrator. There are four types of subdivisions: exempt subdivisions, administrative subdivisions, minor subdivisions, and major subdivisions. Subdivisions of all types are permitted in all zoning districts except in the AG Agriculture District where minor subdivisions and major subdivisions are prohibited.

- A. **Exempt Subdivisions.** Exempt subdivisions are one of the following types of land division:
1. A division of land for the sale or exchange of tracts to correct errors in an existing legal description, provided that no additional lots are created by the division.
 2. A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property.
 3. A division of land for the acquisition of street right-of-way or easement.
 4. A division of land for the sale or exchange of tracts between adjoining landowners, provided no additional lots are created by the division and the lots meet the minimum standards of the zoning district of the land's location.
 5. A division of land into cemetery plots for the purpose of burial of corpses.
- B. **Administrative Subdivisions.** This process applies to proposed adjustments to property lines when no new lots are created or when parcels are merged. The following situations qualify:
1. Adjusting lot lines where the resulting lots conform to the standards of this Ordinance. When the existing lots currently do not conform, the adjustment should not increase nonconformance.
 2. Combining common ownership lots to lessen the total number of buildable lots.
 3. Adjusting lot lines to address issues of property line encroachment or buildings across property boundaries.
- C. **Minor Subdivisions.** A minor subdivision results in four or fewer lots (including the parent parcel) and does not involve the creation of new interior streets, adjustments to design standards, or the creation of common areas.
- D. **Major Subdivisions.** A major subdivision is any subdivision other than an exempt subdivision, administrative subdivision, or a minor subdivision.

6.3 Approval Process Overview

- A. The approval process varies based upon the type of subdivision.
1. Exempt Subdivision. No approval is required for exempt subdivisions.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. **Administrative Subdivision.** Approval of an administrative subdivision is a one-step process involving the approval of a secondary plat. The approval or disapproval of an administrative subdivision is delegated to the Administrator.
 3. **Minor Subdivision.** Approval of a minor subdivision is a one-step process involving the approval of a secondary plat. The approval or disapproval of a minor subdivision is delegated to the Administrator. The Plan Commission may approve a waiver allowing the creation of more than four lots if the other requirements for a minor subdivision are met.
 4. **Major Subdivision.** Approval of a major subdivision is a two-step process including the approval of a primary plat and a secondary plat. The approval or disapproval of a primary plat is delegated to the Plan Commission. After a primary plat approval, a property is eligible for secondary plat approval. The approval or disapproval of a secondary plat is delegated to the Administrator.
- B. **Appeal.** If the applicant does not agree with the approval conditions or disapproval of a subdivision by the Administrator, the applicant may file a petition of appeal to the Plan Commission. Appeals must be filed in writing at least 10 days before the next Plan Commission meeting.
- C. **Requirement for Site Plan Approval.** Primary plat approval will not be granted unless a site plan addressing the entire parent parcel is approved prior to or simultaneously with the primary plat. Secondary plat approval will not be granted unless a detailed site plan is approved prior to or simultaneously with the secondary plat.

6.4 Sketch Plan Review Procedure

- A. **Purpose.** The sketch plan review helps minimize development planning costs, avoid misinterpretation, identify required approvals, discuss checkpoint agency and technical reviews, identify the need for modifications or variances, and ensure compliance with the requirements of this Ordinance.
- B. **Application Requirements.** Sketch plan review is required for major subdivisions and recommended for the other types of subdivisions. The applicant files: (1) an application provided on forms provided by the Department, (2) a sketch plan, (3) all applicable fees, and (4) any supplemental information required by the Administrator.
- C. **Review Process.** The Administrator reviews the application for completeness and sends a copy to the Town Engineer for review. The Administrator may send the application to other members of the Technical Advisory Committee for their review and comment. Within 20 days of the submittal, the Administrator reviews the proposal, assembles comments from the Town Engineer and other reviewers, and meets with the applicant to discuss the proposed subdivision and possible modifications required to comply with the requirements of this Ordinance.

6.5 Sketch Plan Submittal Requirements

- A. The Sketch Plan must include at least the following items:
 1. Location of the property, name of the subdivision, lot, section, township, range and county, graphic scale, north arrow, and date.
 2. Name, address, and telephone number of the owner and the professionals responsible for the design of the subdivision, its public improvements, and surveys. If the application is made by an owner's authorized agent, a consent form signed by the owner and notarized must accompany the application.
 3. Citation of the last instrument conveying title to each parcel of property involved in the proposed subdivision.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4. Location of property lines drawn at a scale of no more than 1" = 100', existing easements, pipelines, transmission lines, burial grounds, railroad rights-of-ways, water courses, floodplains, floodway, wetlands and boundaries of wooded areas, and individual trees 8" or more in diameter within areas to be impacted by site disturbing activities.
5. Location, width, and names of all existing or platted streets or other public ways within or immediately adjacent to the tract.
6. Names of adjoining property owners within 600 feet of any perimeter boundary of the subdivision.
7. Location, sizes, elevations, and slopes of existing sewers, water mains, culverts, and other underground structures within and adjacent to the tract.
8. Existing permanent buildings and utility poles on or adjacent to the site and utility easements.
9. Topography at two-foot contour intervals unless otherwise approved by the Administrator.
10. The approximate location and widths of proposed streets.
11. The approximate location, dimensions, and areas of proposed lots and parcels proposed to be set aside for parks or other common areas.
12. Preliminary designs for water, sanitary, and storm water systems.

B. Supplemental Information

1. Existing covenants or zoning commitments recorded on the property.
2. Whenever a sketch plan covers only a part of an applicant's contiguous property, the applicant submits a plan showing the proposed subdivision and the future street and infrastructure layout for the remaining property.
3. A vicinity map showing streets and other general development of the surrounding area.
4. A report from Johnson County Soil and Water Conservation District indicating limitations of the soils within the proposed subdivision regarding building development, road construction, drainage, erosion control, or other information to assist in the review of the subdivision.
5. An area map showing the total drainage area containing the proposed subdivision.

Sketch Plan Process



6.6 Primary Plat Approval Procedure

- A. **Submission Dates.** Applications must be filed according to the schedule of meetings and filing deadlines and in the format specified by the Department.
- B. **Application Requirements.** Following the sketch plan review, the applicant files: (1) an application provided on forms provided by the Department, (2) a primary plat, (3) all applicable fees, and (4) supplemental information required by the application or Administrator.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- C. **Compliance.** Primary plats must be substantially similar to the sketch plan as reviewed.
- D. **Phasing.** A primary plat may include all or only a part of a larger overall development. However, a primary plat must include the entire parent tract being subdivided unless otherwise deemed unnecessary by the Administrator or Plan Commission. This requirement seeks to avoid the creation of remainder parcels not complying with this Ordinance or inhibiting orderly development.
- E. **Placement on the Plan Commission Agenda.** The Administrator reviews the application for completeness. Applications determined to be in proper form are numbered and docketed for a public hearing by the Plan Commission.
- F. **Review of Complete Applications.** The Technical Advisory Committee may review any primary plat prior to the Plan Commission's consideration. The Administrator may submit a written report to the Plan Commission stating facts concerning the characteristics of the area involved in the primary plat, surrounding land uses, public facilities available to service the area, or other pertinent facts. The report may also contain the Administrator's opinions concerning the primary plat proposal and a report from members of the Technical Advisory Committee. A copy of the report is made available to the applicant and the public.
- G. **Preliminary Drainage Approval.** Before the public hearing, the applicant is encouraged to obtain preliminary approval from the Storm Water Utility Board. If preliminary drainage approval has not been secured prior to the public hearing, the Plan Commission may condition approval of the plat on obtaining drainage approval from the Storm Water Utility Board.
- H. **Public Hearing Notice.** A public hearing by the Plan Commission is required for all primary plats. Notification of the public hearing must comply with the Plan Commission's Rules of Procedure. A certificate of mailing issued by the U.S. Postal Service is evidence notice has been given. A date stamped photograph of the public notice sign at the subject property also constitutes evidence of notice.
- I. **Public Hearing and Plan Commission Action.** The Plan Commission will hold the public hearing and review the application and supporting information and act on the application according to this Ordinance, Indiana law, and the Plan Commission's Rules of Procedure.
- J. **Written Commitments.** The Plan Commission or Administrator may require the applicant to prepare written commitments concerning the primary plat prior to formal action on the application. If written commitments are part of the primary plat approval, they must be recorded in the office of the Johnson County Recorder within 90 days of primary plat approval. A copy of the recorded commitments must be provided to the Department within 30 days of being recorded.
- K. **Effect of Approval.** Approval of a primary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for approvals, such as a secondary plat, detailed site plan, improvement location permit, building permit, or certificate of occupancy.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- L. **Effective Period of Primary Approval.** Unless extended, the approval of a primary plat is valid for a period of 3 years. At the end of this time, primary approval is null and void, and the applicant is required to resubmit a new application beginning with sketch plan review and subject to all the zoning restrictions and subdivision regulations in effect at the time of resubmission. Prior to the expiration of the approval period, the applicant may submit a written request to extend the approval period. The Plan Commission may extend the approval of a primary plat in increments of up to 12 months beyond an expiration date without further notice and public hearing.

6.7 Primary Plat Submittal Requirements

- A. **Preparation.** The primary plat is prepared by a land surveyor licensed by the State of Indiana at a scale of no more than 1" = 100' and the sheets must be numbered in sequence if more than one sheet.
- B. **General.** The primary plat includes:
1. A vicinity map showing the location of the site and surrounding property and streets, the names of adjoining streets, and the names of all adjoining property owners and adjoining developments.
 2. Legal description of the subject property.
 3. The names and addresses of: (a) the owners of the land being subdivided, (b) the applicant, if other than the owner, and (c) the consultants involved in the preparation of the plat. If the application is made by someone other than the owner, a consent form signed by the owner and notarized must accompany the application.
 4. Signature, seal, and certification of a land surveyor registered in the State of Indiana.
 5. The date of the plat, approximate true north point, and scale.
- C. **Existing Conditions**
1. Topography in two-foot contour intervals unless otherwise approved by the Administrator.
 2. The location, bearings, and dimensions of all boundary lines of the property to be expressed in feet and tenths of a foot with references to section, township, and range lines or corners.
 3. The location of existing streets, walkways, easements, pipelines, transmission lines, water bodies, streams, and other pertinent features such as swamps, jurisdictional wetlands, flood plains, floodways, railroads, buildings, parks, cemeteries, drainage ditches, bridges, boundaries of wooded areas, and individual trees 8" or more in diameter within areas to be impacted by site disturbing activities.
 4. Location and size of existing water, storm water, and sanitary sewer systems.
 5. The location and width of all existing rights-of-ways.
 6. The locations, dimensions, and areas of all existing lots.
 7. Designated wetland areas.
 8. A soil survey map showing the soil limitations based upon the intended usage of the development land.
- D. **Site Improvements**
1. Names of the subdivision and all new streets.
 2. Indication of the use of any lot (single-family, two-family, multifamily, townhouse) and all non-residential uses proposed by the applicant.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3. The location and width of proposed streets, alleys, other public ways, rights-of-ways, easements, and building setback lines.
 4. Proposed changes in streams, lakes, floodplains, etc.
 5. Proposed location of surface and subsurface drains.
 6. Proposed location of storm sewers, storm water management facilities, and sanitary sewers. If the Town Council permits a private sewage system, a statement from the County Health Department confirming private septic system can be used on the property.
 7. A statement concerning the location and size or capacity of utilities to be installed.
 8. Building and structures to be removed or relocated.
 9. The locations, dimensions, and areas of all proposed lots.
 10. Building setback line with dimensions.
 11. Legends and notes.
 12. Blocks must be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name must be numbered or lettered consecutively throughout the several additions.
 13. All lots in each block must be consecutively numbered and the area of each lot indicated. Outlots must be lettered in alphabetical order. The location and dimensions of all property proposed set aside for common areas, park, or playground use, or other public or private reservation including conditions of the dedication.
 14. Topography in two-foot contour intervals unless otherwise approved by the Administrator.
 15. Sufficient data acceptable to the Town Engineer determining the location, bearing, and length of all lines and the location of all proposed monuments.
- E. **Supplemental Information.** The Plan Commission, Town Engineer, or Administrator may require the following information:
1. Landscape Plan.
 2. Traffic Impact Analysis.
 3. Sanitary Sewer Analysis.
 4. Existing covenants or zoning commitments recorded on the property.
 5. Proposed covenants and restrictions if they are cross-referenced or incorporated on the plat or if they establish or grant rights related to the plat (e.g., easements).
 6. Recorded deed, instrument number, and date recorded.
 7. Additional information necessary to evaluate the proposal.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Preliminary Plat Review Process



6.8 Construction Plan Approval Procedure

- A. **Submission Dates.** Construction plan approval occurs after primary plat approval and prior to secondary plat approval. Applications must be filed according to the schedule of meetings and filing deadlines in the format specified by the Department. Applications for construction plan approval may be filed concurrently with applications for secondary plat approval.
- B. **Submission Procedure and Requirements.** The applicant files: (1) an application provided on forms provided by the Department, (2) detailed construction plans and specifications, (3) the outside plan review agreement, (4) all applicable fees, and (5) supplemental information required by the Administrator. Plans are submitted in electronic format as specified by the Town.
- C. **Compliance.** Construction plans must be substantially similar to the approved primary plat.
- D. **Review of Complete Applications.** The Administrator reviews the application for completeness. Applications determined to be in proper form are docketed for review by the Technical Advisory Committee. The Technical Advisory Committee members review the plans and provide comments on modifications needed for the plans to comply with the requirements of this Ordinance, written commitments made regarding the property, and any other development requirements. These comments are provided to the Administrator and the applicant and are made available to the public.
- E. **Revised Plans.** The applicant revises the plans as needed and resubmits them to the Administrator. The Administrator determines if the revised plans need to go to any of the Technical Advisory Committee members for review. When the Administrator determines the plans comply with all applicable development standards, the plans and specifications are approved by the Administrator. Construction Plan approval is required prior to starting work on any improvements.
- F. **Written Commitments.** The Administrator may require the applicant to prepare written commitments concerning the construction plans prior to formal action on the application. If written commitments are part of the plan approval, they must be recorded in the office of the Johnson County Recorder within 90 days of plan approval. A copy of the recorded commitments must be provided to the Department within 30 days of being recorded.
- G. **Approved Plans.** After approval of construction plans and before the installation of improvements, a preconstruction meeting is scheduled with the Administrator. Three sets of approved construction plans and

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

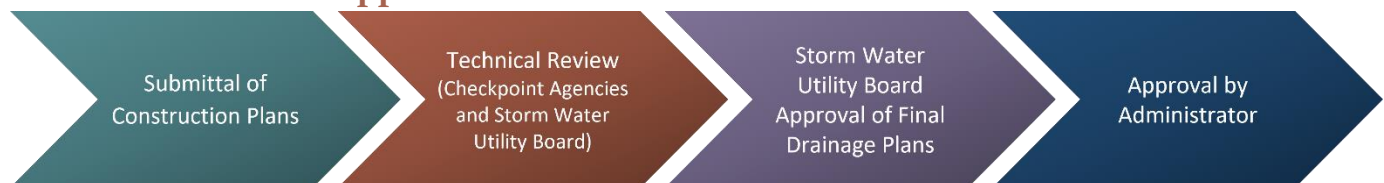
specifications are stamped “**APPROVED Town of Bargersville.**” The stamped plans are the only official plans approved for construction.

6.9 Construction Plan Submittal Requirements

Construction plans are drawn at a scale of no more than 1" = 50' unless otherwise approved by the Administrator. The plans show:

- A. Profiles showing existing and proposed elevations along centerlines of all streets at 50-foot intervals including low points. Exact radii of all curves, lengths of tangents, and central angles of all streets.
- B. Where steep slopes exist, the Administrator may require cross-sections of all proposed streets at 100-foot stations.
- C. Plans and profiles showing the locations and typical cross-section of street pavements including curbs and gutters, sidewalks, drainage facilities and easements, rights-of-ways, manholes, and catch basins; the locations of street trees, street lighting standards, and street and traffic signage; the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas, or other underground utilities or structures.
- D. Location, size elevation, and other appropriate description of any existing facilities or utilities including existing streets, sewers, drains, water mains, easements, water bodies, streams, wetlands, flood plains, and other pertinent features such as railroads, buildings, or features noted on the Official Map or Comprehensive Plan, at the point of connection to proposed facilities and utilities within the subdivision, and each tree with a diameter of 8 inches or more within areas of land disturbing activity.
- E. The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high and low water elevations of such lakes or streams. All elevations are referred to the United States Coast and Geodetic Survey datum plane. If the subdivision borders a lake, river or stream, the distances and bearings of a meander line established at least 20 feet back from the ordinary high-water mark of such waterways.
- F. Topography in one-foot contour intervals unless otherwise approved by the Administrator. All data provided is the latest applicable United States Coast and Geodetic Survey data.
- G. All specifications and references required by the Town's construction standards and specifications, including a site grading plan for the entire subdivision.
- H. Title, name, address, and signature of the professional engineer and/or surveyor, and date, including revision dates.

Construction Plans Approval Process



6.10 Secondary Plat Approval Procedure

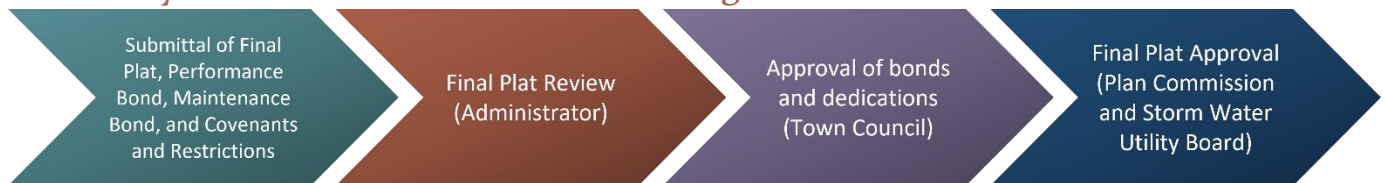
- A. **Submission Dates.** Secondary plat approval occurs after approval of the primary plat and construction plans. Applications must be filed according to the schedule of meetings and filing deadlines in the format specified



by the Department. Applications for secondary plat approval and construction plan approval may be filed concurrently. Secondary plat applications may be submitted within the time provided for appeal under [IC 36-7-4-708](#). However, approval of a secondary plat will not be granted until 30 days after the approval of a primary plat.

- B. **Submission Procedure and Requirements.** The applicant files: (1) an application provided on forms provided by the Department, (2) a secondary plat, (3) all applicable fees, and (4) supplemental information required by the Administrator. Plans may also be submitted in an electronic format acceptable to the Town.
- C. **Compliance.** The secondary plat must be substantially similar to the approved primary plat.
- D. **Review of Complete Applications.** The Administrator reviews the application for completeness. The Technical Advisory Committee may review any secondary plat prior to approval. The Administrator reviews the secondary plat and notifies the applicant in writing of revisions or changes needed for approval.
- E. **Approval.** The applicant revises the secondary plat as needed and resubmits it to the Administrator. The Administrator determines if the revised plat needs reviewed by any of the Technical Advisory Committee members. When the Administrator determines the plat complies with the requirements of this Ordinance, the plat is approved by the Administrator.
- F. **Effect of Approval.** Approval of a secondary plat does not authorize the development, construction, alteration or moving of any structure. The approval allows the filing and processing of applications for permits including an improvement location permit, building permit, and a certificate of occupancy.
- G. **Signing of Plat.** Unless otherwise approved by the Administrator, a secondary plat will not be signed until: (i) streets, curbs, gutters, sanitary sewers, fire hydrants, storm sewers and like infrastructure are constructed per the Town's Construction Standards, and maintenance sureties for public improvements are secured according to this Ordinance; or (ii) performance sureties are secured assuring the installation of public improvements (see [6.32 Surety Standards](#)).
- H. **Recording of Secondary Plat.** No secondary plat or amendment of a subdivision will be recorded until the plat is approved and signed according to this Ordinance. Upon approval, the applicant must record the signed secondary plat within 90 days of plat approval. The applicant must record the plat, covenants, and any applicable homeowner association documents in the Office of the Recorder of Johnson County, Indiana, within 30 days of receiving the fully signed plat. The applicant must provide electronic copies of the recorded plat and associated documents to the Department within 30 days of being recorded.

Secondary Review of Final Plat with Bonding



GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

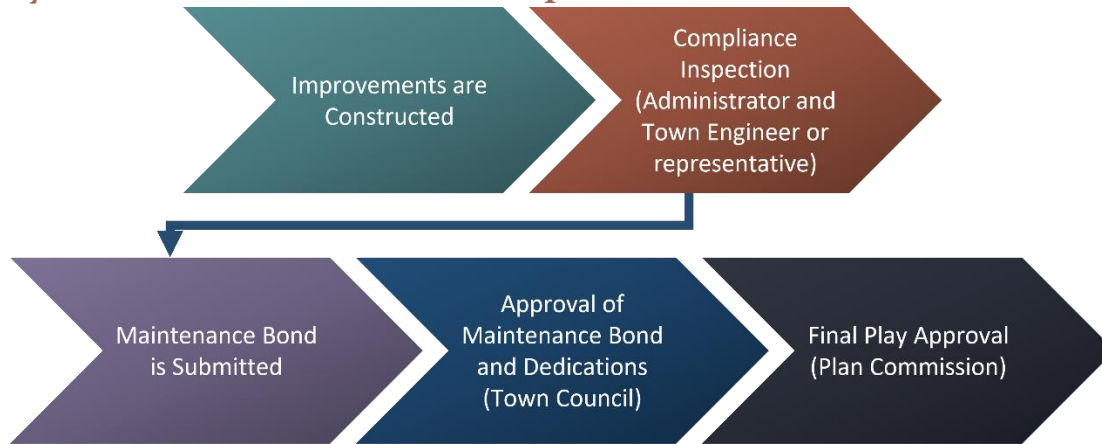
PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Secondary Review of Final Plat with Completed Construction



6.11 Secondary Plat Submittal Requirements

- A. **Preparation.** The secondary plat is prepared by a land surveyor licensed by the State of Indiana at a scale of no more than 1"=50'. A scale of 1"=100' may be used to make the drawing no larger than 18"x23" so the plat may be inserted in the plat books of the County Recorder without folding.
- B. **General.** The secondary plat includes:
1. Proposed name of the subdivision.
 2. Names and addresses of the owners and consultants involved in the preparation of the plat.
 3. Title, scale, north arrow, and date.
 4. Accurate boundary lines, with dimensions and angles, to provide a survey of the tract.
 5. Accurate distances and direction to the nearest established street corners or official monuments. Reference corners must be accurately described on the plan.
 6. Accurate locations and names of all existing and recorded streets intersecting the boundaries of the tract.
 7. Accurate metes and bounds description of the boundary.
 8. Source of title to the land to be subdivided as shown by the books of the Office of the Recorder of Johnson County, Indiana.
 9. Complete curve notes for all curves included in the plan.
 10. Street lines and street names with accurate dimensions in feet and hundredths of feet, with angles to street and lot lines.
 11. Lot and block numbers and dimensions.
 12. Accurate locations and limitations of easements.
 13. Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use.
 14. Building setback lines and dimensions.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

15. Building pad elevations. For building pads near flood hazard areas, the Flood Protection Grade elevations for buildings.
 16. Location, type, material, and size of all monuments and lot markers.
 17. Plat certificates and deeds of dedication, as set forth in [6.34 Plat Certificates and Deed of Dedication](#).
 18. Notation of any self-imposed restrictions and locations proposed building lines if required by the Plan Commission, according to this Ordinance.
 19. Monuments erected or to be erected, corner, and other points are noted by representation or by legend; metal monuments must indicate type of metal, and diameter, length, and weight per lineal foot of the monuments.
 20. Contain a statement to the effect that the Town Council, Plan Commission, or Board of Zoning Appeals may enforce subdivision covenants concerning public easements (e.g., drainage and utility easements).
- C. **Supplemental Information.** The Administrator may require the following information:
1. A financial surety for public improvements according to this Ordinance.
 2. A copy of the covenants and restrictions if they are cross-referenced or incorporated on the plat or if they establish or grant rights related to the plat (e.g., easements).

6.12 As-Built Drawings Submittal Requirements

- A. **Preparation.** After improvements installed on a site are approved by the Town, as-built drawings must be prepared and certified by a surveyor or engineer licensed by the State of Indiana. The applicant provides one PDF digital copy, one CAD digital copy (.dwg format version 2004 or higher) or other file type compatible with the Town's GIS software, one mylar copy, and one hard copy set of as-built drawings in accordance with these standards. The names for the files should allow someone unfamiliar with the consulting firms naming conventions to determine the content of the file. The .dwg files must use the NAD83, Indiana State Plane Coordinate System, East Zone projection using U.S. Survey feet. The vertical datum for the files must be NAVD 88. All pertinent drawing elements must reside in the primary drawing file. There cannot be any cells, nodes, blocks, or reference files (x-refs) attached to the drawing.
- B. **As-Built Plan Contents.** As-built plans must contain:
1. Grades for the following locations:
 - a. Major drainage swales and percent of slope.
 - b. Lot corner and grade brakes.
 - c. Pad grades.
 - d. Street grades along the centerline and curb (Maximum 50 ft. spacing).
 - e. Street sag and crest points.
 - f. Paved swales, if any, at 50 ft. intervals.
 - g. Lakes or ponds at the top of bank, normal pool, safety ledge, bottom, and spillway.
 - h. Locations of sidewalk ramps.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. Sanitary sewer system plans and profiles, including:
 - a. Invert elevations and percent of slope.
 - b. Top of casting elevations.
 - c. Lateral locations based on distances along main from manholes.
 - d. Locations of each manhole or structure.
 - e. Designate any material changes from approved construction plans. Where plans show alternates, indicate the alternate constructed.
3. Storm sewer plans and profiles, including:
 - a. Invert elevations and percent of slope.
 - b. Top of casting elevations.
 - c. Location of pipe and structures.
 - d. Designate any material change from design plans. Where plans show alternates, indicate the alternate constructed.
4. Street plans and profiles, including:
 - a. Grades.
 - b. All low and high points.
 - c. All percent of slope.
 - d. Any deviation of alignment.
 - e. Grades and dimensions on accel and decel lanes, if applicable.

6.13 Commercial and Industrial Subdivisions

- A. **Review.** It is recognized that commercial and industrial subdivisions face unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis when reviewing non-residential subdivisions is on the street layout, block arrangement, and infrastructure design.
- B. **Process.** The initial secondary plat is expected to show the street and block layout. Then, as prospective buyers express interest in lots sized to their required specifications, the applicant submits for approval to amend the recorded secondary plat. Approval of the re-plat follows the procedural requirements for a secondary plat. Improvements built following an approved set of construction plans associated with a previously approved secondary plat do not have to be rebuilt if changes in design standards and specifications have been adopted by the Town.

6.14 Re-Subdivision of Land

Any change affecting the street layout, area reserved for public use, or a lot line of an approved secondary plat must be approved by the Plan Commission as a major subdivision unless the proposed change qualifies as an exempt subdivision, administrative subdivision, or minor subdivision. The Administrator may refer any case to the Plan Commission for review and approval.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6.15 Vacation of Plats

The procedure to vacate a recorded secondary plat follows the requirements of Indiana Code (see [IC 36-7-4-711](#)). The vacation of a secondary plat cannot be used to vacate rights-of-way or easements. Rights-of-way are vacated following the requirements of [IC 36-7-3-12](#). Easements are vacated following the requirements of [IC 36-7-3-16](#).

6.16 Modifications

A. **General.** The Plan Commission or Town Council may approve modifications if they do not conflict with the intent and purpose of this Ordinance.

B. **Authority**

1. Town Council. The Town Council may modify or waive construction and utility standards.
2. Plan Commission. The Plan Commission may modify or waive submittal requirements or subdivision standards in this Chapter.
3. Board of Zoning Appeals. Plats must meet all applicable standards prescribed in this Ordinance unless the Board of Zoning Appeals grants a development standards variance (see [7.1\(l\) Variances](#)).

C. **Procedures**

The applicant submits a written petition for modification with the primary plat application. The petition must clearly state the conditions requiring the modification and provide proposed findings of fact for the approval.

If modifications are required for exempt, administrative, or minor subdivisions, the modification must be approved by Plan Commission prior to approval of the subdivision. If modifications require Town Council approval, the modification must be approved by the Town Council prior to subdivision approval.

D. **Decision Criteria.** When evaluating petitions for modifications, the Plan Commission or Town Council considers whether:

1. The proposed modification results in a development that enhances the use or value of area properties,
2. The proposed modification is not injurious to the public safety, health, or welfare,
3. The strict application of the Ordinance standard results in a development less desirable when compared to the proposed development,
4. The proposed development is consistent and compatible with other development located in the area, and
5. The modification is consistent with the purpose and intent of the Comprehensive Plan and this Ordinance.

E. **Conditional Approval**

In approving a modification, the Plan Commission or Town Council may require conditions to comply with requirements of this Ordinance. The Plan Commission or Town Council may require written commitments to be recorded in the Johnson County Recorder's Office. A copy of the recorded written commitments must be provided to the Administrator before any future approvals for the project will be granted.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6.17 Design Principles and Standards

- A. **Conformance.** When reviewing plat applications, the Plan Commission or Administrator, as applicable, determines if the plat conforms to the principles and standards required in this Chapter.
- B. **Natural Design.** When subdividing land, regard must be shown for natural features such as wooded areas, watercourses, historic sites, or similar conditions which, if preserved, add attractiveness and value to the proposed development.
- C. **Environmental Protection.** Consideration is given to preventing air and stream pollution, proper treatment and disposal of refuse and other waste, and the elimination of other blighting characteristics.
- D. **Sanitary Sewers and Public Water Supply.** Subdivisions are required to have public sanitary sewers and public water supply. Only the Town Council is authorized to waive this requirement.
- E. **Layout.** The subdivision layout cannot be injurious to the health, safety or welfare of the community.
- F. Improvement location permits, site plans, and subdivisions must conform to the principles and standards established by this Ordinance.
- G. All site plans and subdivisions must conform to the Town of Bargersville Construction Standards and Specifications (“Construction Standards”), See [CHAPTER 8 - CONSTRUCTION STANDARDS](#).
- H. The applicant is responsible for installing all required public improvements at the applicant’s expense without reimbursement, unless otherwise agreed upon in writing by the Town Council. The applicant is required to maintain all public improvements and provide for snow removal on streets and sidewalks until the public improvements are accepted by the Town.

6.18 Residential Architectural Standards

- A. **Architectural Standards for Small-Scale Residential Dwellings**
 1. **General Provisions.** The purpose of these design standards ensures quality construction for developments and create variation and interest in the built environment. These standards apply to all residential buildings containing one to four dwelling units located on a parcel or within a subdivision containing five or more dwelling units.
 - a. Front facades, street side facades, and rear facades of residential buildings must be articulated to avoid flat building facades. These variations in the façade plane may be achieved through:
 - Projections or recessions created by (a) one offset at least 4’ deep and a minimum height equivalent of one story or (b) two offsets at least 2’ deep and a minimum height equivalent of one story.
 - Front-load garage doors recessed at least 2’ behind the front façade of the building or 4’ behind the posts of the front porch.
 - A covered porch at least 40 SF in area on the front facade or street side facade.
 - A sunroom or screened porch at least 64 SF in area on the street side facade or rear facade.
 - An exterior fireplace chase extending at least 18” from the building facade, finished in masonry material, and extending above the roofline.
 - A bay window projecting at least 12” from the wall.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

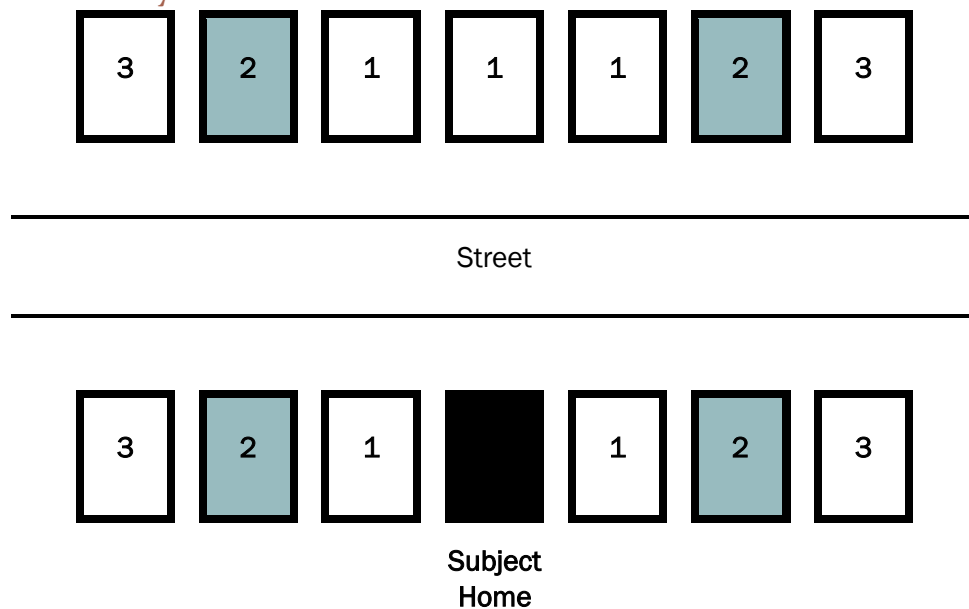
CONSTRUCTION

STORMWATER

DEFINITIONS

- A second-floor cantilever projecting at least 12" over the first floor for at least 30% of the length of the building facade.
 - A covered patio or covered porch, as a projection or recession, at least 120 SF in area.
- b. At least 3 exterior color, materials, or patterns must be used on each building facade. A well-chosen selection of contrasting trim and accent colors can draw attention to architectural details. Care should be taken in selecting a color palette that accents the building's architecture while being harmonious in the context of the surrounding neighborhood.
2. Architectural Diversity Standards Along Streetscapes. To improve the architectural diversity along a streetscape, homes of the same elevation and color scheme are not permitted next to or directly across the street from each other. Additionally, the home color scheme may not be repeated for two homes on either side of the subject home and the five homes directly across the street from the subject home. [Figure 6-1](#) illustrates this requirement.

Figure 6-1: Anti-Monotony Standards



- Lots indicated with the number 1 must use a different elevation and color scheme than the subject property, however, they may use the same trim color as the subject property.
- Lots indicated with the number 2 must use a different color scheme than the subject property, however, they may use the same trim color and brick or stone color as the subject property. These lots may use the same building elevation as the subject property.
- Lots indicated with the number 3 may use the same elevation and color scheme as the subject property.

In determining if a building elevation meets these standards, the reviewer evaluates differentiation in the colors of the (a) siding, (b) siding accents, (c) trim, (d) front door, (e) shutters, and (f) brick or stone.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3. **Perimeter Lot Enhancements.** These standards are intended to improve the appearance at the interface between new residential developments and existing perimeter streets. Long, straight lines of homes, berming, or landscaping parallel to perimeter streets is discouraged. Homes facing the perimeter street and variation in the distance between homes and perimeter streets is encouraged.
 - c. For purposes of this section, a perimeter lot includes lots abutting a perimeter street or a common area abutting a perimeter street. If a lot abutting a common area is not within the viewshed from the perimeter street, then the perimeter lot standards do not apply.
 - d. Homes of the same elevation and color scheme are not permitted next to each other. Additionally, the home color scheme may not be repeated for two homes on either side of the subject home. In [Figure 6-1](#), the homes located on the same side of the street as the subject lot illustrate this requirement.
 4. **Corner Lot Enhancements.** Corner lot side facades adjacent to the street must have similar architectural design and detailing as the front façade. Additionally, landscape plantings of at least 1 shade tree, 1 ornamental or evergreen tree, and 5 shrubs may be installed in lieu of the architectural detailing.
- B. Architectural Standards for Non-Residential Uses in Residential Districts.** All non-residential uses in a Residential District must comply with the following:
1. To ensure compatibility of non-residential uses with surrounding residential uses in residential districts, all non-residential uses must use exterior building materials, roof line treatments and roofing materials compatible and consistent with the residential character and building materials of the surrounding residential area.
 2. Loading spaces or loading docks must not face a street.
 3. Loading spaces or loading docks facing a side or rear lot line of an adjoining residential district must be screened from view from the residential district (see [5.1\(H\): Screening](#)).
- C. Architectural Standards for Multi-Family Dwellings.** All new multifamily buildings containing five or more dwellings must comply with the following:
1. Design detailing must continue completely around the building consistent with the intended architectural style. Detailing elements include, but are not limited to, number and style of windows, window placement, trim detailing, roof design, and exterior materials.
 2. Permitted exterior materials include Exterior Insulation and Finish System (E.I.F.S.), synthetic stucco, masonry materials, wood, fiber cement siding, and polymeric cladding. Aluminum and vinyl siding are prohibited.
 3. At least 75% of each building façade, excluding windows and doors, must be masonry materials or fiber cement siding.
 4. Each building façade must utilize at least 2 different exterior building materials (excluding window, door, and roofing materials), colors, or patterns.
 5. **Windows:** A building façade must incorporate a minimum of one window (a minimum of 15 square feet) per dwelling unit located along the building façade. Required windows may be located anywhere on the building façade, as architecturally appropriate. All windows must have shutters matching the size of the window or casing at least 3 ½ inches in width. Windows in a building façade of a masonry material must have a casing or sill of natural or masonry material. Windows in a building façade of a non-masonry material must be trimmed to match the architectural style of the building.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6. Roof Design.

- a. The roof pitch of the main roof must be at least 6:12. Elements such as porches, bays, walkways, may have a lower roof pitch. Lower roof pitches may occur on rear elevations if concealed by side roof elements.
- b. The roof overhangs must be at least 11 inches, as measured prior to the installation of masonry materials.
- c. The roof form and pitch design of a building must include, where appropriate, varied pitches and ridge levels according to the intended architectural style of the building and the building façade projections.

7. Streetscape Diversity

Building elevations of similar floor plans must have variety in style, massing, use of materials, and detailing of elements. The same elevation may occur as buildings are grouped together if each building plan has a minimum of 2 different elevation styles.

If more than 1 building is proposed, then the building(s) must be located so no more than 2 buildings are in a straight, unbroken line. An unbroken line includes an offset in the building setback at least 1/3 the height of the adjacent building.

- D. The Plan Commission may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

6.19 Business and Mixed-Use Architectural Standards

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

- A. Buildings and structures within a single development should have complementary architectural themes.
- B. All roof or ground mounted mechanical equipment must be completely enclosed. Ground-mounted enclosures must be landscaped on all sides not facing the building being served according to [5.1\(H\): Screening](#).
- C. Each building façade visible from a street or oriented to an adjoining residential or agricultural district must be:
 - 100% masonry materials, excluding window, door, roofing, fascia, and soffit materials; or
 - Incorporate 2 or more building materials, excluding window, display window, door, and roofing materials, provided 60% of the building façade is masonry materials.
 - For all other building facades, up to 25% of the façade, exclusive of windows (including faux windows and glazing), doors and loading berths, may be covered with metal, fiber cement siding, polymeric cladding, E.I.F.S., stucco, or vinyl exterior building materials.
 - The exterior building material selection for all building façades must be further enhanced with: (i) the use of multiple colors, multiple textures (e.g., rough, smooth, striated, etc.); or (ii) the addition of architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.).
 - Loading spaces, loading docks, or oversized service doors are prohibited on building façades facing public streets. However, if all building façades are determined to be facing public streets, then loading

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

spaces, loading docks, or oversized service doors may be permitted on the façade least visible from a public street if screened according to [5.1\(H\): Screening](#).

- D. All building façades visible from an adjacent lot or street must be constructed with the same building material quality and level of architectural detail on all building façades (e.g., 360-degree architecture).
- E. All building façades must have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated, cornice or molding. Building façades 90 feet or greater in length must have offsets at intervals no greater than 60 feet apart. Buildings less than 10,000 square feet in gross floor area must have offsets at no more than 40-foot intervals. Offsets can project or recess. They must extend the entire vertical plane of the building façade. The offset must be at least 4 feet in depth and at least 20% of the overall building façade length. Architectural elements (e.g., arcades, columns, piers, etc.) meeting the offset requirements may be used to fulfill this requirement.
- F. Gutters and downspouts must be visually integrated with the architectural style of the structure. The color of gutters and downspouts should complement or be consistent with the building materials.
- G. Pitched roof designs must have a main roof with a minimum 5:12 pitch, contain 3 or more roof slope planes, and be covered with high quality roofing materials such as natural clay tiles, slate, concrete tiles (with natural texture and color), high quality standing seam metal roofing, wood shakes or shingles (with adequate fire protection), three-dimensional asphalt or fiberglass shingles.
- H. Metal roofs must have a low-gloss finish to reduce glare.
- I. Flat roof designs must be edged by a parapet wall with an articulated, three-dimensional cornice or molding. Parapet walls must be fully integrated into the building's architectural design to create seamless transitions between the main building mass and roof-mounted architectural elements. Modulation or variation of the roofs and/or roof lines is required to eliminate the appearance of box-shaped buildings. Flat roofs are prohibited for one-story buildings unless otherwise approved by the Plan Commission after consideration of the building architecture, context, and sensitivity to the character of the area.
- J. All visible vents, attic ventilators, turbines, flues, and other visible roof penetrations must be painted to match the color of the roof or flat black; and oriented to minimize their visibility from adjacent lots and streets.
- K. Building entrances must be clearly defined and articulated by multiple architectural elements such as lintels, pediments, pilasters, columns, awnings, porticos, and other design elements appropriate to the architectural style and details of the building. The location, orientation, proportion, and style of doors must complement the style of the building.
- L. Window designs must be compatible with the style, materials, color, details, and proportion of the building. The number of window panes, the number of window openings, window trim and other design elements to accent the windows must be consistent and complementary to the architectural style of the building.
- M. Window trim and other design elements to accent the windows are required for all windows. Acceptable design elements include shutters, keystones, masonry arches, awnings, decorative stone frames, masonry rowlock frames, or other trim or design elements as approved by the Plan Commission or Administrator.
- N. Fixed or retractable awnings are permitted if they complement the building's architectural style, material, colors, and details. Awnings must be made of a non-reflective material kept in good repair. Awnings used to comply with the architectural design requirements of this Ordinance cannot be removed unless the building façade otherwise complies with the architectural design requirements without the awnings.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- O. The support structures for gasoline service station canopies must be wrapped in material(s) complementing the principal building and the canopy roof materials must match the color and texture of the principal building. To reduce the visual impact of the canopy, the clearance between the underside of the canopy and ground cannot exceed 16 feet and the canopy fascia cannot be more than 30 feet wide.
- P. The Plan Commission may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

6.20 Industrial Architectural Standards

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

- A. Buildings and structures within a single development should have complementary architectural themes.
- B. All roof or ground mounted mechanical equipment must be completely enclosed. Ground-mounted enclosures must be landscaped on all sides not facing the building served according to [5.1\(H\): Screening](#).
- C. Each building façade visible from a street or oriented to an adjoining residential district, must have at least 60% masonry materials on the building façade (exclusive of window and doors).
- D. Building façades 90 feet or greater in length, must have offsets at intervals no greater than 60 feet apart. Offsets can project or recess. They must extend the entire vertical plane of the building façade. The offset must be at least 12 inches in depth and be at least 20% of the overall building façade length. Architectural elements (e.g. arcades, columns, pilasters, etc.) meeting the offset requirements may be used to fulfill this requirement.
- E. Loading spaces, loading docks or oversized service doors are prohibited on a façade visible from a public street.
- F. If materials other than masonry materials are used on any building façade, then the building façade must be enhanced with: (i) the use of multiple colors and textures (e.g., rough, smooth, striated, etc.); or (ii) the addition of architectural elements (e.g. quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.)
- G. The Plan Commission may adjust or waive the above requirements to allow a cohesive design consistent with the architectural style of the building and the intent of these regulations.

6.21 Block Standards

- A. **Dimensions.** Block length and width within bounding streets must be sufficient to accommodate the lot sizes required by the zoning district and to provide convenient access, circulation, and safety of vehicular and pedestrian traffic.
- B. **Length.** The maximum block length is 800'. This requirement does not apply to blocks containing lots abutting the boundary lines of the parent track of a subdivision. In granting modifications to allow blocks longer than 800', the Plan Commission may require crosswalks and traffic calming measures where useful to facilitate pedestrian circulation.
- C. **Depth.** Residential blocks must have sufficient depth to accommodate two tiers of lots, except where reverse frontage lots bordering on a freeway, arterial street or floodplain are used.
- D. **Shape.** Blocks should fit easily into the overall design of the subdivision and their design must reflect consideration of lot layout, configuration, traffic flow, and public areas.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6.22 Drainage Standards

A drainage system is required for proper drainage of new developments. The system must be designed and constructed per [CHAPTER 9: STORM WATER DRAINAGE MANUAL](#).

6.23 Easement Standards

This article applies to all development.

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

D. Easement Certificate

1. When a secondary plat is being recorded, the applicant may print an easement certificate on the secondary plat, the content of which has been approved by the Administrator or Town Council.
2. If a Declaration of Covenants, Conditions, and Restrictions is included or cross-referenced on the secondary plat, an easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

E. Cross-access Easements

1. Easement Instrument Specifications. When required by this Ordinance, each property owner (“grantor”) must execute a cross-access easement instrument in favor of the adjoining property owner (“grantee”). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the public the right to utilize the easement for purposes of accessing adjoining parking facilities.
 - c. Prohibit the parking of vehicles within the easement.
 - d. Prohibit any person from placing any obstruction within the easement.
 - e. Be binding on all heirs, successors, and assigns to the properties where the easement is located.
 - f. Be enforceable by each party to the easement and by the Town.
 - g. Specify any other specially affected persons and classes of specially affected persons that are entitled to enforce the easement.
 - h. Provide for modification or termination in the manner stipulated in this Ordinance.
 - i. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
 - j. Include a metes and bounds description of the easement.
 - k. Be signed by an authorized representative of each property owner granting the easement and by an authorized representative of each property owner accepting the easement.
2. Cross-access Easement Certificate. When a secondary plat is being recorded, the applicant may print the following cross-access easement certificate on the plat: “There are shown on this instrument areas designated as ‘Cross-Access Easement’ or abbreviated as ‘C-A.E.’ Such easements are established in favor of the adjoining property owner (‘grantee’) and grant the public the right to enter the easement for purposes of accessing adjoining parking facilities. These easements prohibit any person from parking vehicles within the easement and prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the Town may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the Bargersville Development Code, or its successor ordinance.”

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

F. Private Street Easements

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

their lot. These easements prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the Town may enforce the provisions of the easement. [] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the Bargersville Development Code, or its successor ordinance.”

- b. In addition, the secondary plat must include the following language: “The subdivider expressly covenants and warrants on behalf of itself and all future owners of lots within this subdivision that because the streets are private all maintenance, repairs and replacement now and forever must be undertaken at the expense of the lot owners according to the terms and conditions set forth in the owners association bylaws and articles. The subdivider, and their successors and assignees, hereby waive all rights to petition a governmental entity to be responsible for the maintenance and ownership of such private streets. No governmental entity has any duty or responsibility to maintain, repair or replace any private street.”
- c. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- d. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the Private Street easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

G. Shared Driveway Easements:

1. Easement Instrument Specifications. When required by this Ordinance, each property owner (“grantor”) must execute a shared driveway easement instrument in favor of the adjoining property owner (“grantee”). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the adjoining property owners the right to access the easement to maneuver vehicles
 - c. Specify the adjoining property owners’ financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
 - d. Prohibit any person from placing any obstruction within the easement.
 - e. Be binding on all heirs, successors, and assigns to the properties where the easement is located.
 - f. Be enforceable by the parties to the easement and the Town.
 - g. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
 - h. Provide for modification or termination in the manner stipulated in this Ordinance.
 - i. Be cross-referenced to the most recently recorded deeds to the properties where the easement is to be established.
 - j. Include a metes and bounds description of the easement.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- k. Be signed by an authorized representative of each property owner of record granting the easement and by an authorized representative of each property owner accepting the easement.

2. Shared Driveway Easement Certificate

- a. When a secondary plat is being recorded, the applicant may print the following shared driveway easement certification the plan: “There are shown on this instrument areas designated as ‘Shared Driveway Easement’ or abbreviated as ‘S.D.E.’ Such easements are hereby established in favor of the adjoining property owners (‘grantee’) and grant the grantee the right to enter the easement for purposes of maneuvering vehicles. The easement prohibits the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the Town may enforce the provisions of the easement. [] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the Bargersville Development Code, or its successor ordinance.”
- b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the shared driveway easement certificate must be clearly separate from, and not incorporated into, the Declaration of Covenants, Conditions, and Restrictions.

H. Subdivision Sign Easements

- 1. Easement Instrument Specification. When required by this Ordinance, the property owner (“grantor”) must execute a subdivision sign easement instrument in favor of the subdivision’s homeowners’ association (“grantee”). The instrument must:
 - a. Specify the docket numbers of the complete applications and/or the project numbers of the permits associated with the easement.
 - b. Grant the grantee the right to alter, repair, maintain, or remove the improvements.
 - c. Prohibit any person from placing any obstruction in front of, altering, removing, or otherwise impairing the improvements within the easement.
 - d. Be binding on all heirs, successors, and assigns to the property where the easement is located.
 - e. Be enforceable by the grantee and the Town.
 - f. Specify other specially affected persons and classes of specially affected persons entitled to enforce the easement.
 - g. Provide for modification or termination of the easement in the manner stipulated in this Ordinance.
 - h. Be cross-referenced to the most recently recorded deed to the property where the easement is to be established.
 - i. Include a metes and bounds description of the easement.
 - j. Be signed by an authorized representative of the property owner granting the easement and by an authorized representative of the grantee accepting the easement.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. **Conflict.** Subdivision sign easements must be exclusive of drainage and utility easements. Improvements within such an easement must comply with [4.10 Vision Clearance Standards](#).

3. **Subdivision Sign Easement Certificate**

- a. When a secondary plat is being recorded, the applicant may print the following subdivision sign easement certificate on the plat: “There are shown on this instrument areas designated as ‘Subdivision Sign Easement’ or abbreviated as [‘_____’]. Such easements are hereby established in favor of the [_____] Homeowners’ Association (‘grantee’) and grant the grantee the right to enter the easement for purposes of altering, repairing, maintaining, or removing the improvements. These easements prohibit the property owner or any other person from placing any obstruction in front of, altering, removing, or otherwise impairing the improvements within the easement. These easements are binding on all heirs, successors, and assigns to the property where they are located. The grantee or the Town may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement may only be modified or vacated in the manner stipulated in the Bargersville Development Code, or its successor ordinance.”
- b. The dedication and acceptance of easements shown on a recordable instrument must be accomplished via a Certificate of Dedication signed by the property owner, and a Certificate of Acceptance signed by the grantee or its agent.
- c. If a Declaration of Covenants, Conditions, and Restrictions is included on the secondary plat, then the subdivision sign easement certificate must be clearly separate from, and not incorporated into the Declaration of Covenants, Conditions, and Restrictions.

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

1. **Permitted Activities.** The following activities are permitted:

- a. Removal of invasive species (e.g., bush honeysuckle), where appropriate, including the use of professionals to apply herbicides or identify and remove such invasive species;
- b. Removal of an overabundance of combustible material (e.g., dead, fallen trees, and leaves);
- c. Removal of vines growing on and up a tree;
- d. Removal of hazardous, exotic and invasive species and/or dead, hazardous and at risk trees;
- e. Planting of native trees;
- f. Removal of trees directed to be removed by municipal, county, state or federal agencies or departments or by a public utility;
- g. Installation of minor improvements such as identification signs; provided such are designed and installed in a manner that does not removed or damage any trees to the greatest extent possible; and
- h. Installation, mowing, and maintenance of access easements paved or unpaved trails, or utility and drainage improvements; provided, however, that any such improvements and easements must be as narrow or small as reasonably possible with no blanket easements.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. Prohibited Activities. The following activities are prohibited:
 - a. Mowing any portion of existing, naturally vegetated areas;
 - b. Dumping of leaves or other debris;
 - c. Seeding, including grass seed, prairie mix seed, sod or the planting of any type of vegetable garden;
 - d. The construction of permanent structural improvements including, but not limited to: pools, sheds, garages, fences, playground equipment, tree houses, fire pits, and other permanent or semi-permanent structures; and
 - e. Active recreational activities that adversely impact the natural characteristics of the preservation area, including the placement of playground equipment, paving for basketball or tennis courts or swimming pools.
3. All maintenance activity must be completed according to industry standards using the latest ANSI Z133.1 and A-300 approved practices and methods.
4. Signs identifying a “Tree Preservation Area” must be posted every 1,000 feet near the perimeter of all Tree Preservation Easements. Such signs must state “Natural Preservation Area. No mowing or spraying. Restricted Area.”
5. Any person or entity causing damage or destruction or that violates the provisions of this easement is responsible for replacing removed or damaged trees with trees (a minimum of 3 inches in caliper) of an equivalent caliper to the removed or damaged vegetation, and to return the damages areas of the easement to its original natural state.

6.24 Monument and Marker Standards

A. General Standards

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

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- B. **Monument Standard.** Monuments must be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of 4 inches by 4 inches by 30 inches, set vertically in place. They must be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross.
- C. **Monument Locations.** Monuments must be set:
1. At the intersection of lines forming angles in the boundary of the subdivision,
 2. At least 2 monuments must be set on each side of a straight section of a street and on lot corners near each end of the street,
 3. At least 2 monuments must be set on any straight line over 400 feet in length and on lot corners near each end of the line, and
 4. Any location a bearing changes.
- D. **Marker Standard.** Markers must consist of iron pipes or steel bars at least 30 inches long, and not less than 5/8 inch in diameter.
- E. **Marker Locations.** Markers must be set on boundaries not covered by required monument locations, including:
5. At the beginning and ending of all curves along street lot lines,
 6. At all points where lot lines intersect curves, either front or rear,
 7. At all angles in lot lines, and
 8. At all other lot corners not established by a monument.

6.25 Open Space and Amenity Standards

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

B. Minimum Open Space

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

| Zoning District | Minimum Open Space Required |
|-----------------|-----------------------------|
| R-1 | 5% |
| R-2 | 8% |
| R-3 | 10% |
| R-4 | 12% |
| R-5 | 15% |

2. Exemption. Residential developments with a gross density of 0.33 dwelling units per acre or less are exempted from providing open space under this article.
3. Plantings. Open space must be supplemented with tree plantings according to the minimum lot landscaping requirements of [5.1 Landscaping Standards](#).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- C. **Access.** A public way, crosswalk, or easement not less than 15 feet in width must be provided for access to required open space.
- D. **Connectivity.** Open space should be placed adjacent to or connected to existing or proposed open space located within the development and/or on adjoining properties. The Town's goal is an interconnected open space network throughout the town, not islands of green space within individual subdivisions. (See [Town of Bargersville Parks and Recreation Master Plan](#)). Open space should be located within reasonable walking distance to the uses it serves, except when the open space is used to preserve existing features.
- E. **Open Space Ownership.** The ownership and maintenance of open space, common areas, and amenities must be documented and recorded to protect them from future development and to make sure they are properly maintained.
- F. **Open Space and Development Amenity Improvements**
 - 1. **Approval.** Open space and amenity improvements (e.g., fencing, walls, mounds, pathways, playgrounds, amenities) must be installed according to a site plan reviewed and approved by the Administrator, according to [7.1\(G\): Site Plan Review](#).
 - 2. **Timing of Installation.** Open space and amenity improvements must be installed within 12 months of the issuance date of the first building permit in the secondary plat containing the open space and amenity improvements.
- G. **Qualifying Site Features**
 - 1. A maximum of 50% of required open space may come from: wetlands, third party regulated utility easements existing prior to the development of the property (e.g., gas or oil pipelines) and equivalent land, as determined by the Plan Commission or Administrator.
 - 2. Detention and retention areas may only qualify as open space if they are located and designed for public use and benefit as an amenity to the development, such as providing active or passive recreation opportunities accessible to the residents of the neighborhood,
 - 3. Tree preservation areas, as set forth in [5.1 Landscaping Standards](#), may qualify towards required open space if placed within common areas or recorded protective easement such as a landscape easement, tree preservation easement, or conservation easement.
 - 4. Required perimeter buffer yards and external street frontage landscaping areas do not qualify toward the required open space.
- H. **Amenity Center Construction Timing.** Amenity center facilities must be installed or constructed the earlier of: (1) the sale of 75% of the total lots in the subdivision, (2) upon construction of 65% of the primary structures, or (3) upon construction of 95% of the primary structures within any given phase of the subdivision.

6.26 Pedestrian Network Standards

- A. **Applicability.** All developments must have a pedestrian network of sidewalks and/or asphalt pathways for pedestrian transportation and recreation.
- B. **General Standards**
 - 1. All concrete sidewalks, asphalt pathways, and crosswalk improvements must be constructed per the Town's Construction Standards ([CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#)) and comply with requirements of the [Americans with Disabilities Act \(ADA\)](#), as amended.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. Curb ramps for handicapped accessibility must be provided at all intersections of streets, alleys, and drives (excluding individual residential driveways) and comply with ADA requirements. Curb ramps are not permitted in driveways.

C. Internal Pedestrian Network Standards

1. Sidewalks must be at least 5 feet wide. When abutting a curb, sidewalks must be at least 6 feet wide.
2. Sidewalks are required on both sides of internal streets in all developments.
3. When a proposed development abuts an existing development or pathway, connection to the sidewalks or pathways is required.
4. Connector sidewalks must be provided from the sidewalk or path adjacent to the street to the front entrance of all non-residential structures. Where the sidewalk intersects driving lanes or parking aisles within the parking facility, then crosswalks and ramps must be installed according to ADA requirements.

D. Perimeter Pedestrian Network Standards. Developments must participate in the establishment or improvement of the pedestrian network along streets adjacent to their perimeter according to the following:

1. Where a proposed site plan or subdivision abuts an existing right-of-way, multi-use pathways must be provided along the perimeter streets according to the Thoroughfare Plan and constructed per the Town's Construction Standards ([CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#)).
2. Required multi-use pathways should be located within the right-of-way. Pathways located outside the right-of-way must be located within an access easement approved by the Administrator or Town Council.

6.27 Street and Right-of-Way Standards

- A. **Applicability.** Proposed developments must allocate adequate areas for new streets in conformity with [CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#) and the Thoroughfare Plan.
- B. **Thoroughfare Plan.** The Bargersville Thoroughfare Plan, as amended, (the "Thoroughfare Plan") is declared to be a part of this Ordinance. The Thoroughfare Plan is available for review in the office of the Clerk/Treasurer and in the office of the Department.
- C. **Compliance with Thoroughfare Plan.** In addition to meeting requirements of the Americans with Disabilities Act (ADA), developments abutting or adjoining streets designated on the Thoroughfare Plan must conform to the requirements of the Thoroughfare Plan regarding: The dedication of rights-of-way; building setback lines; and any other development or design standards in the Thoroughfare Plan or this Ordinance.
- D. **Dedication of Right-of-way.** Developments adjoining or including existing streets not conforming to the minimum right-of-way dimensions established in the Thoroughfare Plan, must dedicate enough additional right-of-way along the streets to meet the requirements of the Thoroughfare Plan. If the development only contains property on one side of the street, then sufficient right-of-way must be dedicated to bring the half right-of-way up to the dimensions required in the Thoroughfare Plan.
 1. Passing Blister. Where a passing blister is required and inadequate right-of-way exists to install the passing blister, then the developer must make a good faith effort to acquire property sufficient for the installation of the passing blister. If the property owners where the passing blister is to be installed refuses to sell the property, then the developer must provide the Administrator copies of all surveys, appraisals, and written offers made by the developer to the property owners, and correspondence from the property owners.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. Acceleration and Deceleration Lanes. Where an acceleration lane and/ or deceleration lane is required and the development does not contain street frontage needed to install the lane, then the developer must make a good faith effort to acquire property sufficient for the installation of the acceleration lane and/or deceleration lane. If the property owners where the acceleration lane and/or a deceleration lane is to be installed refuses to sell the property, then the developer must provide the department copies of all surveys, appraisals, written offers made by the developer to the property owners, and correspondence from the property owners.
3. Eminent Domain. The installation of passing blisters, acceleration lanes, and deceleration lanes is vital to the health, safety, and welfare of the motoring public. The Town may, but is not obligated to, begin eminent domain proceedings according to [IC 32-24](#): Eminent Domain for the acquisition of public right-of-way sufficient for the installation of the passing blister, acceleration lane and/or deceleration lane upon receipt of documentation illustrating the developer's failure to acquire the needed property. Upon completion of the eminent domain proceedings, the developer reimburses the Town the price paid by the Town for the right-of-way acquisition, including professional and legal expenses, any condemnation and relocation within the acquired right-of-way. The Developer then installs the passing blister, acceleration lane and/or deceleration lane according to the Town's Construction Standards ([CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#)).

E. Private Streets

1. Private streets are prohibited unless approved by the Town Council.
2. If approved by the Town Council, private streets must conform to the street and right-of-way standards of this Ordinance and be constructed according to the Town's Construction Standards.
3. Private streets must be established within access easements complying with [6.23\(E\): Cross-Access Easements](#).
4. When a private street easement appears on a secondary plat, a private streets certificate (see [6.23\(F\) Private Street Easements](#)) must be printed on the plat. Unplatted easements for private streets must have the same language included on a recorded easement instrument.
5. Financial sureties are required according to [6.32 Surety Standards](#) and the Town's Construction Standards.
6. When the term right-of-way is used in this chapter, it also applies to private street easements in the context of this chapter only.

F. Design Principles

1. Street and alley layout must provide access to all lots and parcels of land within a development. Streets must be laid out on the parent parcel:
 - a. In a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.
 - b. In an orderly and logical manner.
 - c. With concern for connectivity to adjacent parcels.
 - d. With concern for pedestrian and vehicular safety.
 - e. To provide reasonably direct access to the primary circulation system.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

2. Streets should adjust to the contour of the land to produce useable lots and streets of reasonable gradient. Consideration must be given to natural features, such as existing wooded areas, streams and creeks, historic locations, or similar conditions that, if preserved, will add attractiveness and value to the community.
3. Streets must align and connect with existing or planned streets and provide for connections with adjacent property. Where appropriate, proposed streets must extend to the boundary line of the premises to provide for normal circulation of traffic within the vicinity. Regard must be given to the Thoroughfare Plan and Comprehensive Plan. Cul-de-sacs are discouraged and are only permitted where street continuation is prevented due to topography or other physical condition, or unless the Plan Commission finds such extension is unnecessary for the coordination of development within the development or between the development and adjoining property.

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

1. Street and Right-of-Way Widths. Widths of streets and minimum rights-of-way widths must conform to the Thoroughfare Plan and [CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#).
2. Construction. Street improvements, must be designed, constructed, and installed according to [CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#).
 - a. Streets and alleys must be completed as shown on approved plans, profiles, and cross-sections.
 - b. Streets must be graded, surfaced, and improved to the dimensions required by the cross-sections and the work must be performed in the manner prescribed in the [Indiana Department of Transportation's Standard Specifications](#).
 - c. Where parkways or special types of streets are involved, the Plan Commission may apply special standards to be followed in their design.
3. Cul-de-sac Design. Cul-de-sacs must conform to the following standards:
 - a. The maximum Length of a cul-de-sac is 600 feet, measured along the centerline from the center of the circle to the intersection of the nearest through street.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

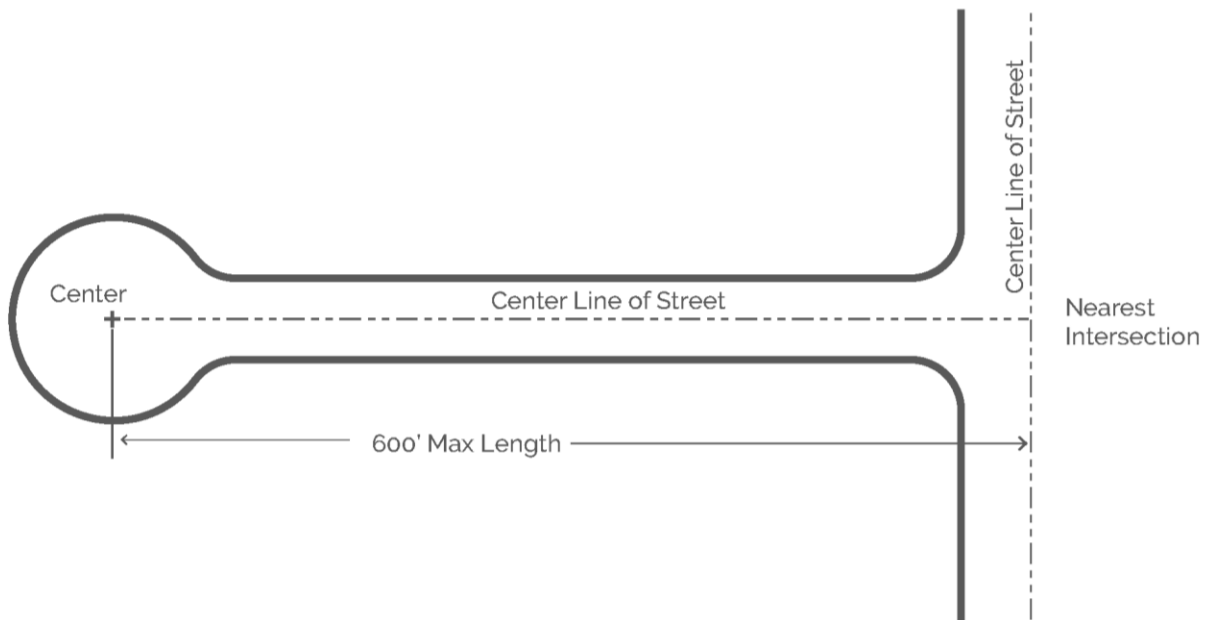
SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Figure 6-2: Measurement of Cul-de-sac Length

- b. The cul-de-sac terminus must be designed according to [CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#).
- c. A clear area 20 feet wide and 10 feet deep adjacent to the paved street and located opposite the cul-de-sac entrance must be provided to accommodate snow removal. This clear area must be free of above ground improvements (e.g., driveways, mailboxes, fire hydrants, landscaping, and public utility installations), unless otherwise approved by the Administrator.
- d. A temporarily dead-ended street is permitted if a street is proposed to be extended but is not yet constructed. An adequate easement or right-of-way for a turn-around must be provided if the dead-end street extends 150 feet or more in length. If an easement is used it must automatically vacate to the abutting property owners when the street is extended.
- e. The Plan Commission or Administrator may require a pathway or sidewalk to connect a cul-de-sac to an adjacent cul-de-sac or street to provide reasonably direct connection between likely pedestrian destinations. Such connection must be constructed according to [6.26 Pedestrian Network Standards](#) and located within an easement or common area.
4. **Alleys.** Alleys must be constructed according to the [CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#), unless otherwise approved by the Town Council.
5. **Intersections.** Street intersections must be designed and improved according to [6.17 Design Principles and Standards](#). Lot line corners must be rounded by arcs with minimum radii in accordance [6.17 Design Principles and Standards](#).
6. **Access Points.** The following standards apply to access points for a development. The Plan Commission, Town Council, or Administrator may approve access points if, due to the size of the development, or appropriate to improve traffic circulation:

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- a. Only one street, driveway or point of vehicle access is permitted from a development onto an arterial or collector.
 - b. The primary access for a multifamily development must be from an arterial or collector, if available, and at least two access points must be provided for adequate accessibility for emergency vehicles and school busses.
 - c. Direct access from a residential driveway to any arterial or collector is discouraged unless it is the lot's only means of access.
7. **Traffic Control Devices.** Traffic control devices must comply with the current edition of the Indiana Manual on Uniform Traffic Control Devices.
8. **Subsurface Drainage.** Subsurface drainage for streets must be designed according to [CHAPTER 8: CONSTRUCTION STANDARDS AND SPECIFICATIONS](#).
- H. **Delay of Surface Layer.** Installation of the surface layer of asphalt may be delayed with permission of the Town up to the earlier of: (1) one year or (2) until 80% of the lots within a section have been issued a building permit. A separate performance bond covering the cost of installing the surface layer of asphalt is required prior to approving the delayed installation.
- I. **Fire Hydrants.** Fire hydrants must be provided throughout the development as determined by the Bargersville Fire Department.
- J. **Acceptance of Improvements.** Before any financial surety (see [6.32 Surety Standards](#)) covering a street installation is released, the Plan Commission, Town Council, or Administrator may request core borings for thickness determination. The developer must engage the services of an independent testing laboratory to take cores at locations selected by the Town. The results of the testing must be provided to the Administrator for review and approval.
- K. **Rail Corridors.** The following regulations apply to all property abutting a current or former railroad property line, ("Rail Corridor"):
- 1. The Administrator will work with owners of property adjacent to a rail corridor should any question of development arise. Any new development proposal adjacent to a rail corridor requiring an improvement location permit or site plan review must be brought to the attention of the Administrator, who will address this section with the applicant. The Administrator will then inform the Director of the Parks Department and Town Council of the proposed development.
 - 2. For any activity requiring an improvement location permit, the Administrator will work with owners of property adjacent to a rail corridor regarding setback, landscaping and any other development standards deemed appropriate for the future development of the rail corridor and for the property owner. For new development proposals adjacent to a rail corridor requiring an improvement location permit or site plan review, the Administrator will work with the applicant to determine how the rail corridor will be used regarding setback, landscaping and any other development standards deemed appropriate by the Administrator.
 - 3. The Town will work with any rail corridor property owner that can show best title as determined by a court of law with the intent of protecting the rail corridor right-of-way for the use as presented in the Thoroughfare Plan in a way that is beneficial to all.
 - 4. Any agreement must be approved by the Council and incorporated into the Town's plan approval process.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6.28 Street Standards

A. Principles. In designing a street system, the applicant is guided by the following principles:

1. Adequate vehicular and pedestrian access must be provided to all parcels.
2. Street connections into and from adjacent areas may be required.
3. Local street patterns must provide reasonable direct access to the primary circulation system.
4. Interior circulation systems and land development patterns cannot conflict with the efficiency of bordering arterial routes.
5. Elements in the local circulation system should be designed with the least amount of interruptions possible in order to function effectively and safely.
6. Planning and construction of streets must clearly relate to their local function.
7. Local streets are designed to discourage excessive speeds.
8. Pedestrian-vehicular conflict points should be minimized.
9. The number of intersections should be minimized.
10. Local streets are designed to minimize impacts to significant topographic features.

B. Standards

1. Current INDOT Standards, Guides, and Manuals are followed as design standards unless otherwise specified in this Ordinance.
2. Only one street, driveway or point of vehicle access is permitted from a subdivision onto a collector street or road or an arterial street or road for a subdivision of 50 or fewer lots. Two or more streets, driveways, or points of vehicle access are required by the Plan Commission for subdivisions with over 50 lots to improve the safety and traffic circulation in the area.
3. Subdivisions with over 50 lots must include streets with a boulevard design if a second entrance is not feasible due to the character of the land, provided the internal street geometrics provides two access points at its termination inside the development. Stub streets must be provided for any future undeveloped land.
4. Subdivisions with over 100 lots must provide internal circulation routes which provide redundant or alternative access to multiple entrances.
5. Half streets are not permitted.
6. All street names and lot addresses are coordinated through the 911 Coordinator for the County and local Postal Service. No street names may be used which will duplicate or be confused with names of existing streets, unless considered exceptions by the Plan Commission. The streets, which are logical extensions, continuations of, or alignment with any existing streets, either constructed or appearing on any validly recorded plat, must bear the names of such existing streets. Street addresses must be provided for every lot conforming to the town and 911 coordinator's addressing standards.
7. Rights-of-way and paving for proposed streets must be extended to the boundary lines of the proposed subdivision so a connection can be made to all adjacent properties unless such extension is not feasible because of topography or other physical conditions, or unless, in the Plan Commission's opinion, such

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

extension is not necessary or desirable for the coordination with existing streets or the most advantageous development of adjacent tracts.

8. Subdivisions cannot be designed to create or perpetuate the land-locking of adjacent undeveloped land. Connectivity must be considered and planned.
9. A temporarily dead-end street is permitted in any case where a street is proposed to be and should logically be extended but is not yet constructed. A stub street with a dead-end sign is provided in this case terminate in a temporary cul-de-sac with a minimum street radius of 50 feet or hammerhead turnaround unless otherwise waived by the Plan Commission.
10. In subdivisions that adjoin or include existing streets that do not conform to the minimum right-of-way dimensions as established by this Ordinance, the subdivider dedicates additional width along either one or both sides to ensure conformance, provided the area to be used for widening is owned by the subdivider or under the subdivider's control.
11. Refer to [4.10 Vision Clearance Standards](#) for line-of-sight design requirements on corner lots.

6.29 Street Light Standards

- A. Street lights must be installed at all intersections, development entrances, and along internal streets as required by the provisions of this Article. The Plan Commission may direct street lights at other locations if it determines they are necessary to provide vehicular or pedestrian safety.
- B. Street lights providing the illumination necessary for vehicular and pedestrian safety at all intersections within the development must be installed per the [Town's Construction Standards](#) and the public utility providing the lighting. The Plan Commission may reduce the number of intersections required to have street lighting. The provision of street lights at major intersections involving Collectors or Arterials within the development cannot be waived.
- C. Lighting between intersections must be accomplished by:
 1. Installing street lights at the midpoint of the block or every 15 lots, whichever provides the shorter spacing between street lights,
 2. Installation of dusk-to-dawn lights on the street-side of each home with such lights maintained in good operating condition by the property owner in perpetuity, or
 3. A combination of the above options.
- D. If the Town has established a street light standard along the street where the entrance is located, the development must install the same lighting standard. Luminares must be shielded to prevent glare on residential properties.
- E. Decorative street lights may differ from the Town's Construction Standards if approved by the Town Council. Decorative street lights must be installed at the expense of the developer and maintained by the property owners' association. An agreement between the Town and the property owner's association is required establishing that the property owner's association is responsible for replacing the decorative street lights and poles when the original street lights installed are lost or damaged. If the Town or public utility providing the lighting must replace a street light, it is not obligated to use a decorative street light.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

6.30 Street Sign Standards

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

6.31 Utility Standards

- A. This article applies to all development including, subdivisions, improvement location permits and site plans.
- B. Public sanitary sewer and water hook-ups are required for development in all Zoning Districts. Private septic systems must be approved by the Town Council.
- C. Utilities must be installed underground in designated utility easements or rights-of-way.
- D. Prior to approval of the primary plat or site plan, the applicant must provide proof that each utility provider has the capacity and ability to serve the property.
- E. Development must provide for the collection of all sanitary sewage discharges by the installation of sanitary sewers. These sewers must be tied into a public sanitary sewer system and constructed within right-of-way and/or dedicated sewer and utility easements. When a public sanitary sewer is not available, the Town Council may approve a septic sewer system on an individual lot provided it is constructed to the requirements of the County Health Department.
- F. Development must provide a complete water main supply system connected to a municipal or a community water supply system approved by the County Health Department. When a municipal or community water supply is not available, the Town Council may approve an individual water supply on each lot provided it is constructed to the requirements of the County Health Department.

6.32 Surety Standards

- A. As a condition of approval of a subdivision, site plan, special exception, or planned development, a financial guarantee may be required to assure the installation the improvements such as streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
- B. A bond, irrevocable letter of credit, or other guarantee acceptable to the Town ("financial surety") must be executed prior to issuing an Improvement Location Permit for single site developments or recording a secondary plat prior to the completion of improvements.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

C. Construction/Performance Surety

1. A performance surety to the Town must include any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility to be dedicated to the Town. On-site and off-site improvements shown on the approved plans must be covered by the performance surety.
2. The performance surety must:
 - a. Be 120% of the estimated costs determined by the Town to be sufficient to complete the improvements in compliance with this Ordinance and the Town's Construction Standards;
 - b. Provide surety satisfactory to the Town;
 - c. Run to and be in favor of the Town;
 - d. Specify the time for the completion of all improvements; and
 - e. Be on a form approved by the Council.
3. Performance sureties must be effective from the date of approval to begin construction of the project and must not terminate until released by the Town Council. The performance surety must not be released until the Department certifies the improvements have been installed according to the intent of the approved construction plans.
4. A dedicated account is created in a form acceptable to the State Board of Accounts to hold and accumulate all funds paid pursuant to the provisions of this Article. Funds appropriated from the account must only be used for the completion of infrastructure improvements approved by the Town and which had not been completed after having been initiated.
5. The Town may consider alternative forms of ensuring the proper completion of improvements to be dedicated to the Town or for the benefit of the public.
6. Upon completion of all improvements and installations as required by this ordinance, the subdivider furnishes appropriate documentation indicating that required improvements and installations have been constructed, installed, and completed in compliance with the provisions of this ordinance, the requirement of the Plan Commission and the provisions of other applicable ordinances of the Town of Bargersville. The Plan Commission prescribes procedures for determining whether all improvements, installations, and lot improvements have been constructed and completed as required by this ordinance.
7. Upon acceptance of required improvements or installation, the accepting agency or department of the Town of Bargersville provides a completion letter to the subdivider that officially accepts maintenance responsibility, subject to the terms of the required maintenance guarantees.
8. Two months prior to the expiration of the performance or maintenance guarantee, the Town Council determines if the public improvements have been installed consistent with applicable standards and special conditions or requirements, if any, established by the Town Council in approving the plat. If the improvements have not been installed to the satisfaction of the Town Council, the Council notifies the subdivider of their intent to secure the funds pledged by the performance or maintenance guarantee, or at their discretion, to grant one (1) extension for a period up to twelve (12) months, and the subdivider files with the Town Council a new performance or maintenance guarantee within the extension period. The Council may upon proof of difficulty, grant one (1) additional extension of the completion date for a maximum period of up to twelve (12) additional months, provided that the performance or maintenance guarantee submitted for this extension period meets all other requirements herein and the extension has been requested in writing prior to the expiration of the first extension.

**GENERAL
PROVISIONS****ZONING
DISTRICTS****SPECIFIC
USES****DESIGN &
MAINTENANCE****IMPROVEMENT
STANDARDS****SUBDIVISION
REGULATIONS****PROCESS AND
ADMIN****CONSTRUCTION****STORMWATER****DEFINITIONS**

9. **Failure to Complete Public Improvements.** In cases where a performance guarantee has been posted and the required public improvements have not been installed within its terms, or if the Council finds upon inspection that any of the improvements have not been constructed according to the approved construction plans, then the Council may thereupon declare the performance guarantee to be in default and cause all public improvements to be installed according to secondary approval regardless of the extent to which development has occurred at that point in time.
10. **Release or Reduction of Performance Guarantee.** A performance guarantee may be reduced upon actual acceptance of public improvements and any conditions imposed on the plat and then only by the amount originally estimated for the completion of said public improvements. The Town Council cannot accept required public improvements, nor reduce a performance guarantee, until the subdivider has submitted a certificate attesting to satisfactory completion and the subdivider's engineer or surveyor has provided the Council with certified "as built" construction plans of the public improvements including the utilities, indicating location, dimensions, materials, and other information required by the Council and reviewed by the Town Engineer or representative. Upon certification and evidence of satisfactory completion, the Administrator recommends acceptance to the Town Council and the Town Council accepts the applicable public improvements for maintenance according to established procedures.
11. **Temporary Public Improvements.** The subdivider must build and pay all costs for temporary public improvements required by the Town Council and must maintain the same for the period specified. Prior to construction of any temporary public facility or improvement, the subdivider files with the Town Council a separate suitable performance guarantee for temporary facilities, which insures that the temporary facilities will be properly constructed, maintained, and removed (except for turnaround at ends of the peripheral stub streets intended for connection into adjacent future subdivisions).

D. Maintenance Surety

1. When the improvements are completed and accepted by the Town, the performance surety may be released. For 3 years after the date of improvements were accepted by the Town or applicable agency, the developer must make all repairs to the improvements which may become necessary due to improper workmanship or materials. Such maintenance does not include any damage to improvements resulting from forces or circumstances beyond the control of the developer.
2. The developer must provide a maintenance surety to the Town for any street, sidewalk, pathway, storm sewer, erosion control, drainage facility, or any other facility dedicated to the Town. On-site and off-site improvements shown on the approved plans must be covered by the maintenance surety.
3. The maintenance surety must:
 - a. Run to and be in favor of the Town;
 - b. Be in a sum of not less than 25% of the performance bonds amount;
 - c. Provide surety satisfactory to the Town;
 - d. Warrant the workmanship and materials used in the installation of the improvements
 - e. Include a certification from the developer that all improvements have been made according to the approved plans.
4. Maintenance sureties are effective from the date of acceptance and must not terminate until the Public Works Department certifies inspection and approval of the improvements.

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

- E. **Waiver of Required Public Improvements.** The Town Council may defer or waive at the time of primary approval, subject to the appropriate conditions, the provision of any or all such public improvements as in its judgment, are not requisite in the interest of the public health, safety, and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities.
- F. **Use of Funds.** Any funds received from the performance and maintenance guarantees can only be used for making improvements, installations or repairs that were guaranteed by a bond or irrevocable letter of credit.

6.33 Appeal

Any person aggrieved by action of the Plan Commission may invoke any legal, equitable, or special remedy in an action brought under this section. Actions may be filed in any court having jurisdiction"

6.34 Plat Certificates and Deed of Dedication

The following forms must be used:

A. Plan Commission Certificate

Under authority provided by IC 36-7, enacted by the general assembly of the State of Indiana, and all acts amendatory thereto, and an ordinance adopted by the Town Council of the Town of Bargersville, Johnson County, Indiana, this plat was given approval by the Bargersville Advisory Plan Commission, as follows:

Approved by the Administrator of the Department of Development of the Town of Bargersville, Johnson County, Indiana, pursuant to the Bargersville Development Code, on the ____ day of _____, ____.

Bargersville Plan Commission

By: _____

(Name), Director, Department of Development

(SEAL)

B. Town Council Certificate

This plat and the acceptance of any public rights-of-way dedicated herein is hereby approved on the ____ day of _____, 20__, by the Town Council of the Town of Bargersville, Indiana.

(Name), Member

(Name), Member

(Name), Member

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

C. Registered Land Surveyor's Certificate

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

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

(Name)

(SEAL)

D. Engineer's Certificate

I, _____, hereby certify that I am a Registered Professional Engineer or Land Surveyor, as the case may be, licensed in compliance with the laws of the State of Indiana, and that I have inspected during their construction and installation all improvements and installations required for this subdivision, designated specifically as _____, and that such required improvements and installations have been made and installed according to the specifications heretofore approved therefore.

(Name)

(SEAL)

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

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

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

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

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

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

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

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

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

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

State of Indiana

Johnson County

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

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

(SEAL)

F. Easement Certificate: Each Secondary Plat submitted for approval must include easement certificates, where appropriate and according to [6.23 Easement Standards](#).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

PROCESS & ADMIN

7.1 Process ————— 3

| | | |
|----|---|----|
| A. | General Provisions | 3 |
| B. | Administrative Determination | 3 |
| C. | Appeals of Administrative Decisions | 4 |
| D. | Commitments | 5 |
| E. | Design Review Process | 6 |
| F. | Planned Unit Developments..... | 8 |
| G. | Site Plan Review..... | 13 |
| H. | Special Exception | 20 |
| I. | Variances..... | 21 |
| J. | Waiver of Subdivision Standards | 23 |
| K. | Waiver of Development Standards | 23 |
| L. | Zoning Map Amendments (Rezones) | 24 |
| M. | Zoning Text Amendments | 25 |
| N. | Certificate of Compliance | 26 |

7.2 Permits ————— 27

| | | |
|----|---------------------------------------|----|
| A. | Certificate of Occupancy. | 27 |
| B. | Improvement Location Permit | 27 |
| C. | Short-Term Rental Permits | 28 |
| D. | Sign Permit and Applications | 29 |
| E. | Temporary Use and Events Permits..... | 29 |

7.3 Administration ————— 30

| | | |
|----|------------------------------------|----|
| A. | General Administration..... | 30 |
| B. | Board of Zoning Appeals | 30 |
| C. | Floodplain Administrator | 30 |
| D. | Plan Commission | 31 |
| E. | Director of Development | 32 |
| F. | Technical Advisory Committee | 33 |
| G. | Town Council | 34 |
| H. | Zoning Administrator | 34 |

7.4 Enforcement 34

| | | |
|----|---|----|
| A. | Enforcement Authority | 34 |
| B. | Violation | 35 |
| C. | Enforcement Options | 35 |
| D. | Penalty Schedule | 36 |
| E. | Citations for Zoning Violations..... | 36 |
| F. | Stop Work Orders | 36 |
| G. | Municipal Action to Enforce Compliance | 37 |
| H. | Correcting Immediate Public Risk Violations | 38 |
| I. | Administrative Enforcement | 39 |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

7.1 Process

A. GENERAL PROVISIONS

1. **Purpose.** This chapter outlines the procedure for approvals, permits, administration, and enforcement, as set forth in this Ordinance.
2. **Application.** Application and informational packets may be obtained through the Department and/or online through [the Town's website](#).
3. **Fees.** A schedule of fees for applications, permits, and other purposes required by this Ordinance is established by the Town Council and kept in the office of the Administrator. Until all applicable fees, charges and expenses have been paid in full, no final action can be taken on any application or permit. This requirement applies not only to fees due for the specific application or permit, but also to fees and fines owed relative to any previously issued permit or violation of this Ordinance. Any person initiating construction of a structure before obtaining an improvement location permit or other required permit must pay twice the amount of the current permit fee.
4. **Public Meetings.** Applications requiring public meetings are filed according to the adopted schedule of meeting and filing dates and subject to the rules of procedure of the applicable hearing body.
5. **Permits and Licenses Void if in Conflict.** Any permit or license issued in conflict with the provisions of this Ordinance are considered null and void from the date of issue.

B. ADMINISTRATIVE DETERMINATION

1. **Purpose.** The interpretation authority established by this Ordinance recognizes that the provisions of this Ordinance, though detailed, cannot address every specific situation to which they may have to be applied. Many such situations can be addressed by an interpretation of the specific provisions of this Ordinance considering the general and specific purposes for which those provisions have been enacted. The interpretation authority established is an administrative, not legislative, authority. It is not intended to add to or change the essential content of this Ordinance. It is intended only to allow authoritative application of content to specific cases.
2. **Applicability.** Any person having a legal or equitable interest in property that gives rise to the need for an interpretation may file an application for an administrative determination. Interpretations based on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion will not be entertained. The Administrator may render interpretations of the provisions of this Ordinance and of any rule or regulation issued according to it ("Administrative Interpretation" or "Administrative Determination") by written order, subject to the procedures, standards, and limitations of this Ordinance.
3. **Application Procedures**
 - a. **Application:** Applications for interpretations of this Ordinance are filed according to the requirements of this article.
 - b. **Action on Application:** Within 10 working days of the submission of a completed application, the Administrator provides the applicant a determination in writing, stating the specific precedent, reasons, and analysis upon which the determination is based. Failure of the Administrator to act within 10 working days is deemed a decision denying the application.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- c. **Records:** Records of all applications for determinations are kept on file in the office of the Administrator and may be recorded in the Office of the Johnson County Recorder at the Director's discretion.
 - d. **Appeal:** Appeals of interpretations rendered by the Administrator are made according to [7.1\(C\): Appeals of Administrative Decisions](#).
4. **Decision Criteria.** The following standards are considered when issuing determinations:
 - a. A use will not be permitted in a zoning district unless evidence is presented that demonstrates:
 - The use is consistent with the purpose and intent of the zoning district;
 - The use will comply with the general regulations established for the zoning district; and
 - The use is like other uses permitted in the zoning district and is more similar to those uses than to uses permitted in a more restrictive zoning district.
 - b. If a proposed use is most like a use permitted only as a special exception in the zoning district where it is proposed to be located, the use requires special exception approval according to [Article 7.1 Special Exceptions](#).
 5. **Effect of Favorable Interpretations.** A determination permitting a proposed use does not authorize the establishment of a use nor the development, construction, alteration, or moving of any building or structure, but only authorizes the preparation, filing, and processing of applications for any permits and approvals that may be required by this Ordinance and other Town ordinances such as a building permit, a certificate of occupancy, a primary or secondary plats, or site plan approval.
 6. **Limitations on Interpretations.** A determination is limited to the circumstance for which it was issued. It does not authorize any allegedly similar circumstance for which a separate determination is needed, unless otherwise provided for in the determination.

C. APPEALS OF ADMINISTRATIVE DECISIONS

1. Application Procedures

- a. **Right of Appeal.** The BZA reviews appeals of any decision, interpretation, or determination made by the Administrator or any other administrative official or board with responsibilities enforcing and interpreting this Ordinance. The procedures in this article apply to all appeals of administrative decisions, unless otherwise required by local or Indiana law.
- b. **Stay of Enforcement.** If an appeal to an enforcement action is filed according to this article, the Administrator takes no further enforcement action on the matter pending the BZA's decision, except for unsafe circumstances presenting an immediate danger to the public.
- c. **Application.** The applicant submits an administrative appeal application within 30 days of the decision, interpretation, or determination, along with supporting information, including:
 - Original Submittals: Copies of all materials which the decision being appealed was based.
 - Written Decisions: Copies of any written decisions that are the subject of the appeal.
 - Appeal Basis: A letter describing the reasons for the appeal noting specific sections of this Ordinance or other applicable standards upon which the appeal is based.

2. **Public Notice.** Notification for the scheduled public hearing regarding the appeal request must be completed consistent with the schedule of meeting and filing dates and the BZA's Rules of Procedure.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3. **Public Hearing.** At a regularly scheduled meeting, the BZA reviews the administrative appeal application and supporting information.
 - a. Representation: The applicant or applicant's representative must be present at the meeting to present the appeal.
 - b. Testimony: At the meeting, the BZA will consider a report from the Administrator and enforcing party, testimony from the applicant, and testimony from witnesses and interested parties.
 - c. Procedures: The conduct of the hearing follows the BZA's Rules of Procedure.
4. **Decision Criteria.** The following standards are considered by the BZA when reviewing appeals of administrative determinations:

A use will not be permitted in a zoning district unless evidence is presented that demonstrates:

- The use is consistent with the purpose and intent of the zoning district;
- The use will comply with the general regulations established for the zoning district; and
- The use is like other uses permitted in the zoning district and is more similar to those uses than to uses permitted in a more restrictive zoning district.

If a proposed use is most like a use permitted only as a special exception in the zoning district where it is proposed to be located, the use requires special exception approval according to [7.1\(H\) Special Exceptions](#).

5. **BZA Action.** The BZA may affirm, affirm with modifications, reverse, or continue the appeal.
 - a. Affirm: If the BZA finds the administrative decision was consistent with the provisions of this Ordinance, the BZA affirms the determination.
 - b. Affirm with Modifications: If the BZA determines the proper interpretation is not consistent with the administrative decision nor the interpretation requested by the applicant, the BZA will affirm the determination with modifications.
 - c. Reverse: If the BZA finds the administrative decision was inconsistent with the provisions of this Ordinance, the BZA reverses the determination.
 - d. Continuances: The appeal may be continued based on a request by the Administrator or applicant, an indecisive vote, or a determination by the BZA that additional information is required before action is taken on the request. The continuing of applications follows the BZA's Rules of Procedure.
6. **Commitments.** The BZA may require the property owner to make written commitments concerning the use or development of the property (see [7.1\(D\): Commitments](#)).

D. COMMITMENTS

1. **Applicability.** An applicant may be required to make a commitment to the Plan Commission, BZA, or Administrator as a condition of approval of a rezoning proposal, a primary plat, a site plan, a plat vacation, special exception, or variance.
2. **Form.** Commitments must be in writing, in a recordable form approved by the Town, and signed by the owner(s) of the real estate.
3. **Expiration.** A commitment may contain terms stating the commitment automatically terminates: (i) if the property's zoning classification is changed; (ii) if the commitment's use is changed; or (iii) otherwise

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

according to the rules of procedure of the Plan Commission or BZA. If not otherwise provided, commitments remain in effect until otherwise modified or terminated per [7.4\(D\) Modification of Commitments](#).

4. **Recording.** The applicant must record the commitments in the Office of the Recorder of Johnson County, Indiana, within 14 days of the approval of the application. The applicant must return a copy of the recorded commitments to the Department within 14 days of recording. New applications for approvals or permits for the property will not be processed until a copy of the recorded commitments is provided to the Department.
5. **Enforcement.** The Plan Commission, BZA, Town, owners of real estate adjoining the subject real estate, all owners of real estate within the area included in the application who were not applicants for approval, and others specifically designated in the commitments are entitled to enforce the commitments according to [IC 36-7-4-1015](#), or as otherwise provided by applicable law.
6. **Modification of Commitments.** A commitment may be modified or terminated only by a decision of the applicable body to which the commitment was made. The decision is made at a public hearing by the Plan Commission, BZA, or Town Council after notice has been provided according to the Rules of Procedure. The modification or termination of the commitments is not effective until: (i) written in a form approved by the Town Attorney; (ii) approved by the Plan Commission, BZA, or Town Council; (iii) executed by the current property owner of the real estate; and, (iv) recorded in the Office of the Recorder of Johnson County, Indiana. The applicant is responsible for recording the commitments per [7.1\(D\)\(4\): Recording](#).

E. DESIGN REVIEW PROCESS

1. **Purpose.** The purpose of the Design Review process is to ensure the compatibility of new development or construction with the existing development of the surrounding neighborhood.
2. **Applicability.** Unless otherwise waived in writing by the Administrator, the Design Review process is required as part of the site plan review process for applications located within the Downtown District, within a corridor overlay district, or on an infill site. An infill site is one where the proposed development is located on vacant or underutilized land substantially enclosed by other buildings and developments. An individual single-family detached dwelling unit is exempt from this requirement.
3. **Application Procedures.** All applications for design review must include the documentation and supporting information set forth in [7.1\(G\): Site Plan Review](#). Other information necessary to support a thorough review of the project may be requested in writing by the Plan Commission or Administrator. Within 5 business days of the application submittal, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. The Administrator in writing may waive or relax any of the documentation required which is irrelevant or unnecessary for a thorough review of the development.
 - a. **Landscape Plan:** A landscape plan according to [5.1: Landscape Standards](#), is required as part of any site plan and must detail perimeter areas, buffer yards, common areas, entryways, and any other open space as considered appropriate by the Plan Commission or Administrator. Landscape plans for a detailed site plan must be site or lot specific showing compliance with parking area, buffer yard, and on-site or foundation requirements.
 - b. **Open Space and Amenity Plan:** A statement of the nature and extent of all existing and proposed open space and amenities must be provided either on the submitted landscape plan or in writing, along with any necessary explanatory materials or graphics, as part of any site plan.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- c. **Lighting Plan:** A lighting plan according to [5.2: Lighting Standards](#), is required as part of any site plan.
 - d. **Sign Plan:** A sign plan according to [5.4: Signage](#) may be required with the any site plan submission; however, all signs are subject to approval and obtaining a sign permit ([7.2\(D\): Sign Permit and Applications](#)) before erection.
 - e. **Building Elevations:** Drawings of proposed buildings must be filed in connection with the detailed site plan submission. The buildings must be drawn to scale and include the following:
 - Address of the property and graphic scale.
 - Proposed name of the development.
 - Elevations for each building facade (360 degree).
 - Specifications or samples of the type and color of exterior materials to be used for all wall, window, roof, and other architectural features.
 - A separate true color rendering, or other realistic depiction, of the proposed building, including any areas designated for signage.
 - Details of any exterior architectural lighting.
4. **Decision Criteria.** In addition to the criteria identified in [7.1\(G\): Site Plan Review](#), site plans submitted as part of the Design Review process are reviewed for compatibility of the proposed development with the surrounding neighborhood on the following requirements:
- Massing of the Building form,
 - Building scale,
 - Location and treatment of entryways, including porch heights,
 - Surface materials, finishes, and textures,
 - Size of Building footprint,
 - Eave heights,
 - Building silhouette,
 - Spacing between Buildings,
 - Setbacks from Street property lines,
 - Proportions of Windows, bays, doorways, etc.
 - Shadow patterns from massing and features, and
 - Landscaping.
5. **Commitments.** The Plan Commission or Administrator may require the property owner to make written commitments concerning the use or development of the property (see [7.1\(D\): Commitments](#)).

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

F. PLANNED UNIT DEVELOPMENTS

1. Application Procedures

- a. Applicability. These regulations apply to Planned Unit Development District (PUD) proposals and to any proposed amendment to an existing Planned Unit Development that would affect either the text of the PUD Ordinance or the Ordinance's referenced exhibits.
 - b. Required Approvals. A Planned Unit Development District requires the following approvals:
 - Ordinance and Concept Plan (collectively, "PUD Ordinance") (see [7.1\(F\)\(12\) PUD Ordinance Requirements](#)).
 - Site Plan (see [7.1\(G\): Site Plan Review](#)).
 - Approval of Primary Plat and Secondary Plat, if applicable.
 - c. Application Process:
 - i. Sketch Plan Conference: A sketch plan conference with the Administrator is required before the filing of any PUD application. This conference is held to allow the applicant to discuss characteristics of the development in relation to adopted Town policies. The conference allows the Administrator to review PUD procedures, development standards, and policies with the applicant. A draft of the proposed PUD Ordinance is required for the Sketch Plan conference. The applicant is encouraged to incorporate the Administrator's comments into the proposal prior to filing the application. The Sketch Plan conference is intended only for discussion purposes; neither the applicant nor the Plan Commission is bound by any decision made during the conference.
 - ii. Who May File: Applications may be filed by a petition signed by the Property owners of the real estate involved in the petition, or the property owner's authorized agent. If an authorized agent, then a consent form signed by the property owner must accompany the application.
 - iii. Filing Deadline: Applications must be filed according to the schedule of meeting and filing deadlines.
 - iv. Forms of Filing: An applicant submits a completed application to the Administrator on forms provided by the Department with documentation and required supporting information in the format specified by the Department. The Administrator establishes the number of copies of complete applications and supporting documentation required to be filed.
 - v. Docketing by Administrator: Within 5 business days of the application submittal, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Applications determined to be in proper form according to the guidelines established must be numbered and docketed by the Administrator.
 - vi. Neighbor Meeting: Applicants requesting approval of a PUD Ordinance and any amendments, are encouraged to host a neighbors' meeting and submit a written report to the Administrator summarizing the meeting prior to the Plan Commission public hearing. Applicants must invite to the neighbor meeting at least the interested parties required to receive mailed notice of the Plan Commission public hearing.
2. **Public Notice**. Notification for the public hearing must be completed consistent with the requirements of the Plan Commission's Rules of Procedure.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3. **Plan Commission Public Hearing.** At a public hearing, the Plan Commission reviews the application and supporting information.
 - a. Representation. The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any Plan Commission questions.
 - b. Testimony. The Plan Commission considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
 - c. Procedures. The conduct of the public hearing follows the requirements of the Plan Commission's Rules and Procedure.
4. **Decision Criteria.** In reviewing the PUD application, the Plan Commission and Town Council consider the extent to which the proposed PUD:
 - a. Meets the requirements, standards and stated purpose of the PUD regulations;
 - b. Departs from the zoning and subdivision regulations applicable to the property and why such departures are in the public interest;
 - c. Meets the purposes of the Comprehensive Plan and other policies and objectives of the Town;
 - d. Provides public services, manages circulation and traffic, establishes common open space, and enhances the community as a whole;
 - e. Is compatible with adjacent properties and does not diminish their value;
 - f. Enhances the physical development, tax base, and economic well-being of the Town;
 - g. Preserves ecological, natural, historical, architectural, and human-made resources to the extent possible; and
 - h. Reflects responsible development and growth and will not damage the public health, safety, and general welfare.
5. **Plan Commission Action.** Following the public hearing, the Plan Commission may either forward the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation according to Indiana Code; or continue the request to a subsequent Plan Commission meeting. The application may be continued by the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to acting on the request. The continuing of applications and any potential additional legal notice must be consistent with the Plan Commission's Rules and Procedure.
6. **Commitments.** The Plan Commission may require the property owner to make written commitments concerning the use or development of the property (see [7.1\(D\): Commitments.](#))
7. **Certification.** The Plan Commission certifies its recommendation to the Town Council according to Indiana Code. The Administrator forwards the Plan Commission certification, the application and supporting information, any Department reports regarding the application, and an ordinance to the Town Council for consideration.
8. **Town Council Action.** The Town Council reviews the rezoning application and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the Town Council fails to act within 90 days of the Plan Commission's certification, and the applicant has not otherwise withdrawn the request or

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

requested additional consideration by the Plan Commission, the rezone ordinance becomes effective or be defeated with the provisions of [IC 36-7-4-608](#). The Town Council may also seek modifications or additions to any written commitments permitted by this Ordinance.

9. **Effect of Approvals of PUD Ordinance.** A PUD Ordinance becomes effective after its approval by the Town Council and is recorded by the Town in the Office of the Recorder of Johnson County, Indiana. The Zoning Map is amended accordingly. The use and development of the property are then governed by the PUD Ordinance, subject to review and approval of subsequent permits and approvals as required by this article and Ordinance, and any other regulatory processes which may be required prior to beginning construction within the PUD.
10. **Site Plan Approval.** Site plan approval, as set forth in [7.1\(G\): Site Plan Review](#), is required for all PUDs. Site plans must conform to the approved PUD Ordinance and this Ordinance. An application for site plan approval must be filed within 18 months of PUD Ordinance approval. If needed, applicants may seek a time extension of up to 18 months from the Town Council.
11. **Permits.** No permit of any kind will be issued within a PUD except according to the approved site plan, and after acceptance by the Town of all required guarantees for improvements according to this Ordinance.
12. **PUD Ordinance Requirements.** PUD Ordinances and supporting data must include the following documentation. The Administrator in writing may waive or relax any of the requirements listed which are irrelevant or unnecessary for a thorough review of the development.
 - a. PUD Ordinance: The PUD Ordinance must follow a standard format adopted by the Town for PUD Ordinances.
 - b. Concept Plan: A drawing of the PUD ("Concept Plan") must be included at a scale at least 1"=100', or at a scale the Administrator considers appropriate.
 - i. General Concepts: The concept plan must show in general terms the following: major circulation; location and dimensions of buildings, structures, and parking facilities; open space areas; recreation facilities; and other details indicating the character of the proposed development.
 - ii. Detailed Concepts: The concept plan must include in detailed terms the following:
 - A site location map showing the project location and other development projects in the vicinity.
 - The name of the development, with the words "Concept Plan".
 - Boundary lines and acreage of each land use component.
 - Existing easements, including location, width, and purpose.
 - Existing land use on abutting properties.
 - Other conditions on the site and adjoining land: topography (at two-foot contours) including any embankments or retaining walls; use and location of buildings, railroads, power lines, towers, and other influences; name of any adjoining subdivision.
 - Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, pathways and bridges and other drainage structures.
 - Proposed public improvements: collector and arterial streets and other major improvements planned by the public for future construction on or adjacent to the tract.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- Existing utilities on the tract.
 - Any land on the tract within the floodway and floodway fringe as shown on the Flood Insurance Rate Maps.
 - Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, existing structures, and other significant features such as significant isolated trees.
 - Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.
 - Map data such as north point, graphic scale, and date of preparation.
- c. Written Statement of Character: A written statement of character of the PUD must provide an explanation of the character of the PUD and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement must include:
- i. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies affecting the land in question.
 - ii. Development phasing indicating building phases, including the area, density, use, public facilities, and open space to be developed with each phase, and projected dates for beginning and completion of each phase. Each phase must be described and mapped.
 - iii. General details of the proposed uses:
 - Residential uses must indicate gross area, architectural concepts (narrative, sketch, or representative photo), and number of dwelling units for each residential component;
 - Nonresidential uses must indicate specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.
 - iv. Preliminary feasibility reports for the infrastructure and facilities, including:
 - Streets
 - Street lighting
 - Sidewalks and pathways
 - Sanitary sewers
 - Water supply system
 - Other utilities
 - Storm water management
 - Schools
- d. Development Amenities and Open Space: The PUD Ordinance must include a statement of recreational amenities and open space. Such statements must designate and convey active and/or passive recreational areas according to the following:
- i. Recreational amenities and open space must be allocated to the property in proportion to the uses assigned in the PUD and be located within reasonable walking distance to those uses; however,

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

when preserving existing features, the recreational amenities do not need to be in proximity to the use.

- ii. If the PUD Ordinance provides for development in stages, then amenities and open space must be provided in each stage in proportion to that stage, unless otherwise indicated and approved in the PUD Ordinance.
- iii. Amenities must be conveyed in one of the following forms:
 - To a municipal or public corporation;
 - To a not-for-profit corporation or entity established to benefit the owners and tenants of the PUD. All conveyances must be structured to ensure the grantee has the obligation and the right to effect maintenance and improvement of the amenities and the duty of maintenance and improvement is enforced by the owners and tenants of the PUD; or
 - To owners other than those specified in subsections (i) and (ii) above, and subject to restrictive covenants describing and guaranteeing the amenities, its maintenance and improvement, running with the land for the benefit of residents of the PUD or adjoining property owners or the community.
- e. Traffic Impact Study: A Traffic Impact Study may be required at the discretion of the Administrator, the Plan Commission, or Town Council. If a Traffic Impact Study is required, it must be prepared by a registered professional engineer and must evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to beginning the study, an applicant meets with the Administrator to determine the appropriate scope for the study.
- f. Additional Materials: The Administrator informs the applicant in writing of any additional information, documents, or data necessary to support a thorough review of the proposed development.

13. PUD Ordinance Amendments

- a. Changes requiring an amendment to a PUD Ordinance include altering the concept or intent of the initial PUD, as determined by the Administrator, which include:
 - i. Increases in density or intensity.
 - ii. Changes in the proportion or allocation of land uses.
 - iii. Changes in the list of approved uses.
 - iv. Changes in the locations of uses outside of the parameters set forth by the PUD Ordinance.
 - v. Changes in functional uses of open space constituting an intensification of use of the open space.
 - vi. Changes in the final governing agreements which conflict with the concept plan approval.
- b. The procedure for amending an approved PUD Ordinance (“text amendment”) is the same as the procedure for the adoption of the initial PUD Ordinance.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

G. SITE PLAN REVIEW

1. **Purpose.** The site plan review requirements provide a consistent and uniform method for reviewing proposed site plans to ensure compliance with the standards of this Ordinance, other applicable ordinances, standard engineering practices, and state and federal laws. The procedures of this chapter are further intended to:
 - Achieve efficient use of land;
 - Protect natural resources on the site and in the vicinity of the site;
 - Minimize adverse impacts on nearby properties; and
 - Encourage cooperation between the Town and applicant to advance the Town's land use objectives.

2. **Applicability**

Applications for improvement location permits must contain a site plan and other information required for a complete and thorough review of the application. Within 5 business days of the application submittal, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. The level of review depends upon the scope and scale of the proposed project.

- a. **Level A** site plans are reviewed by the Administrator and include:

- Single-family detached dwellings
- Single-family attached dwellings
- Multi-family attached dwellings up to 6 units per building
- Manufactured or mobile homes
- Residential building additions
- Detached residential accessory buildings 200 sf or larger
- Garages or carports
- Conversion of occupancy classification per State Building Code
- Parking lots up to 10 spaces
- Exterior alterations to structures
- Signs
- Swimming pools
- Awnings
- Non-residential building additions up to 2,000 sf
- Non-residential accessory buildings and structures
- New non-residential principal buildings and developments
- Non-residential building additions greater than 2,000 sf

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- b. **Level B** site plans are reviewed and approved by the Plan Commission and include:
 - Multifamily developments or buildings containing 7 units or more
 - Structures other than buildings (including towers and antennas)
 - Parking lots containing more than 10 spaces
- c. The Administrator determines what level site plan review is required by the proposed project. The Administrator may defer Level A approvals to the Plan Commission. The Plan Commission may delegate Level B approvals to the Administrator. For example, the Plan Commission may approve a large multi-family development and delegate the review and approval of the individual buildings within the development to the Administrator.
- d. Expiration of Permits
 - i. **Initiation of Work.** Work described in any improvement location permit and its associated site plan must begin within 180 days of the date the ILP was issued.
 - ii. **Completion of Construction.** An improvement location permit expires if the work described in an ILP is not completed within 12 months of the date the ILP for a Level A site plan was issued or within 18 months of the date the ILP for a Level B site plan was issued. Upon expiration of the ILP, the permit is cancelled by the Administrator who provides written notice of the cancellation to the permit holder. The notice also informs the permit holder that future work cannot proceed until a new ILP is issued.
 - iii. **Extension of Time.** Prior to the expiration of the ILP, the permit holder may submit a written request for an extension of time. For a Level A site plan, the Administrator may grant one extension of time up to six months. For a Level B site plan, the Plan Commission may grant one extension of time up to 18 months. An extension will only be approved if the development encountered unforeseen difficulties beyond the control of the permit holder and the project will proceed within the extended period. If these provisions are not fulfilled or the extension has expired prior to construction, the ILP expires.
- e. **Construction Compliance.** The ILP only covers the use, arrangement, and construction specifically proposed in the approved site plan associated with the ILP. Any other use, arrangement, or construction not authorized by the ILP is a violation of this Ordinance.

3. Level A Site Plan Approval Application Procedures

- a. The applicant submits:
 - A complete ILP application form,
 - A **Level A** site plan,
 - A written description of the proposed project or use,
 - Payment of the application fee, and
 - Any additional information required for a complete review of the application
- b. The Administrator reviews the application for compliance with this Ordinance and other applicable Town standards. The Administrator may forward the application to the Technical Advisory Committee

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

for their review and comment. The Administrator provides all review comments to the applicant and notes areas of non-compliance with the Town requirements.

- c. The applicant may submit revised comments in response to the comments received.
- d. When a site plan has been reviewed and found in compliance with Town requirements, the Administrator may approve, or approve with conditions, the application. Applicants not complying with Town requirements will not be approved.
- e. Upon approval, copies of the application and plan, signed by the Administrator, are maintained on file at the Town, with a copy provided to the applicant.
- f. Approved Site Design
 - i. Following approval of the site plan, the Administrator issues an Improvement Location Permit. The applicant is responsible for obtaining all other applicable county, state or federal permits before issuance of a building permit.
 - ii. The property owner is responsible for maintaining the property according to the approved site plan on a continuing basis. Any property owner who fails to maintain the property according to the approved site plan is in violation of this Ordinance.
 - iii. Commitments may be imposed on site plan approval to ensure compliance with the requirements of this Ordinance.
 - iv. A performance guarantee may be required, according to 6.32: Surety Standards, to ensure completion of required improvements as specified in the ILP and shown on the approved site plan.

4. Level B Site Plan Approval Application Procedures

- a. The applicant submits:
 - A complete ILP application form,
 - A **Level B** site plan,
 - A written description of the proposed project or use,
 - Payment of the application fee, and
 - Any additional information required for a complete review of the application
- b. The Administrator forwards the application to the Technical Advisory Committee for their review and comment. If applicable, outside consultants prepare a review of the site plans and provide written comments to the Administrator prior to action being taken to approve or deny the application. Costs related to this review are paid by the applicant in accordance with the policy established by the Town. The Administrator provides all review comments to the applicant, noting areas of non-compliance with the Town requirements.
- c. The applicant may submit revised plans in response to the comments. Revised plans must be submitted in sufficient time, as determined by the Administrator, prior to a scheduled meeting. Revised plans submitted without adequate time for review will not be considered.
- d. When a site plan has been reviewed and determined to be complete, the Administrator places it on the Plan Commission agenda. Incomplete applications will not be docketed. The Plan Commission reviews the ILP application, site plan, and recommendations from staff, consultants and reviewing

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

agencies. The Plan Commission may approve, deny, approve with conditions, or table action on the application.

- e. The applicant is required to obtain all other necessary agency permits from the Town of Bargersville and any other county, state, or federal agency with jurisdiction. The Plan Commission may approve a site plan conditioned on obtaining necessary permits, if proof of application for required permits is submitted.
- f. Each action taken for a site plan review, along with the reasons for that action, are recorded in the minutes of the Plan Commission meeting. Upon approval, copies of the application and plan, signed by the Administrator, are maintained on file at the Town, with a copy provided to the applicant.
- g. Approved Site Design
 - i. Following approval of the site plan, the Administrator issues an Improvement Location Permit. The applicant is responsible for obtaining all other applicable county, state, or federal permits before issuance of a building permit.
 - ii. The approved construction must commence and be completed within the time periods specified in [7.1\(G\)\(d\): Expiration of Permits](#).
 - iii. The property owner is responsible for maintaining the property according to the approved site plan on a continuing basis. Any property owner who fails to maintain the property according to the approved site plan is in violation of this Ordinance.
- h. Commitments may be imposed on site plan approval to ensure compliance with the requirements of this Ordinance.
- i. A performance guarantee may be required, in accordance with [6.32: Surety Standards](#), to ensure completion of required improvements as specified in the ILP and shown on the approved site plan.

5. Decision Criteria

Site plan approval is granted when the proposed plan meets all applicable standards of this Ordinance as outlined below:

- a. The site plan complies with, all applicable requirements of this Ordinance and all other applicable laws and regulations.
- b. The site is designed to minimize hazards to adjacent property and to reduce the negative effects of traffic, noise, smoke, fumes, and glare to the maximum extent.
- c. Unless a more specific design standard is established by this Ordinance, all uses and structures must comply with the following design standards:
 - i. Traffic Circulation. Access points and vehicular and pedestrian circulation routes are designed to promote safe and efficient circulation in and around the site. The number, spacing, and alignment of existing and proposed access points are considered relative to their impact on traffic movement on abutting streets and adjacent properties.
 - ii. Storm Water. Storm water systems are designed to not adversely affect neighboring properties or public storm water drainage systems. Where possible, storm water shall be removed from all roofs, canopies and paved areas should be captured by surface drainage systems.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- iii. Landscaping. Where possible, existing landscape should be preserved by minimizing unnecessary tree and soil removal.
 - iv. Buffering. Landscape buffering is provided where potentially incompatible uses abut one another, according to **5.1(E): Landscape Buffers**.
 - v. Lighting. Lighting is designed to minimize glare on adjacent properties and public streets. As a condition of plan approval, reduction of lighting during nonbusiness hours may be required.
 - vi. Utility Service. All utility services are provided underground, unless impractical.
 - vii. Exterior Uses. Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas are located and screened to have minimal negative effect on adjacent properties (see **5.1(H): Screening**).
 - viii. Emergency Access. All buildings and structures are readily accessible to emergency vehicles.
 - ix. Water and Sewer. Water and sewer installations comply with all Town, county, and state specifications and requirements.
 - x. Signs. Permitted signs are located to avoid the creation of distraction and visual clutter.
- d. **Building Design.** New or substantially remodeled buildings are reasonably compatible in appearance with or enhance the established general character of other buildings in the immediate vicinity. The requirements of **7.1(E): Design Review Process** are met regarding building design and materials.
6. **Possible Action.** The Plan Commission or Administrator may approve, approve with conditions, deny, or continue the application.
7. **Commitments.** The Plan Commission or Administrator may require the property owner to make written commitments concerning the use or development of the property (see **7.1(D): Commitments**).
8. **Site Plan Requirements**

Site plans must contain the information listed below. The Administrator may waive requirements for a **Level A** site plan and the Plan Commission may waive requirements for a **Level B** site plan if it is determined the requirement not apply to the property or use in question.

| Table 7.1 Site Plan Submittal Requirements | | |
|--|---------|---------|
| Required Elements | Level A | Level B |
| Site conditions, including existing drainage courses, floodplains, lakes, streams, wetlands, and woodlands | X | X |
| Proposed lot lines, lot dimensions, property lines, setback dimensions, structures, and other improvements on the site | X | X |
| All existing and proposed easements | X | X |
| Building and Structure Details: | | |
| Location, height, and dimensions of proposed buildings or structures | X | X |
| Building floor plans and total floor area | X | X |
| Details on accessory structures | | X |
| Size, height and method of shielding for all site and building lighting | | X |
| Location of all freestanding signs, with setbacks | X | X |
| Size, height, and lighting of all proposed signs | | X |
| Building façade elevations for all sides, drawn to scale | | X |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Table 7.1 Site Plan Submittal Requirements

| Required Elements | Level A | Level B |
|--|----------------|----------------|
| Description of exterior building materials | X | X |
| Location, height, and outside dimensions of all outside storage areas | X | X |
| Location, height, and materials of all proposed fences and walls | | X |
| Access and Circulation: | | |
| Dimensions, curve radii and centerlines of existing and proposed access points, roads and road rights-of-way or access easements | X | X |
| Dimensions of acceleration, deceleration, and passing lanes | | X |
| Opposing driveways and intersections within 250 feet of site | | X |
| Cross section details of proposed roads, driveways, parking lots, and non-motorized paths illustrating materials and thickness | | X |
| Dimensions of parking spaces, landscaped islands, circulation aisles, and loading zones | X | X |
| Calculations for required number of parking and loading spaces | X | X |
| Designation of fire lanes | X | X |
| Traffic regulatory signs and pavement markings | | X |
| Location of existing and proposed sidewalks/pathways within the site or right of way | X | X |
| Proof that required permits have been submitted to the county or state, as applicable | | X |
| Landscape Plans: | | |
| General location and canopy outline of all existing woodlands, with an identification of trees to be removed and trees to be preserved | X | X |
| Description of methods to preserve existing trees | | X |
| Location of existing and proposed lawns and landscaped areas, including percentage of lot area | X | X |
| Landscape plan, including location and type of all proposed shrubs, trees, and other live plant material, according to <i>Section 14-8</i> | | X |
| Notation of required greenbelts, buffers and screening and calculation of required plants | X | X |
| Location and area calculations for all required common open space | | X |
| Information Concerning Utilities, Drainage, and Related Issues | | |
| Location of existing and proposed septic systems or sanitary sewers | X | X |
| Location and size of existing and proposed well sites, water service, and fire suppression systems | X | X |
| Fire service features on site, including fire hydrants and fire connections mounted on buildings | X | X |
| Stormwater drainage and retention/detention calculations | X | X |
| Site grading, drainage patterns, and other storm water management measures | X | X |
| Storm water retention and detention ponds, including grading, side slopes, depth, high water elevation, volume, and outfalls | | X |
| Location of underground storm sewers and drains | X | X |
| Size, slope, and elevation data for all storm sewers | | X |
| Location of above and below ground gas, electric and telephone lines, existing and proposed | | X |
| Sedimentation control measures | X | X |

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Table 7.1 Site Plan Submittal Requirements

| Required Elements | Level A | Level B |
|--|----------------|----------------|
| Location of transformers and utility boxes | X | X |
| Site lighting, including locations and details for lighting fixtures | | X |
| Waste receptacle enclosure location and details, if required | | X |
| Locations and storage containment details for any hazardous materials or chemicals, if applicable | | X |
| Additional information required for Residential Development | | |
| The number and location of each type of residential unit | | X |
| Density calculations by type of residential unit (DU/acre) | | X |
| Garage and/or carport locations and details, if proposed | | X |
| Mailbox clusters | | X |
| Location, dimensions and elevations of common building(s) (e.g., recreation, laundry, etc.), if applicable | | X |
| Location and size of recreation and open space areas and an indication of type of recreation facilities proposed for recreation area | | X |
| Other Information | | |
| Any required permits by other Town, County, State, or Federal agencies or proof that permit applications have been submitted | X | X |
| Other information required by the Plan Commission or Administrator to demonstrate compliance with this Ordinance, including environmental studies, traffic impact studies or similar information | X | X |

9. Changes to Approved Site Plans

- a. **Authority Plan Review.** Any proposed change to an approved Level A site plan may be approved by the Administrator. The Administrator may refer approval of the proposed change to the Plan Commission.
- b. **Minor Changes.** Minor changes to an approved Level B site plan may be approved by the Administrator without requiring a resubmittal to the Plan Commission. The applicant must notify the Administrator of any proposed amendment prior to making the change on the site. The Administrator determines if the proposed amendment is a minor change: one consistent with the basic design and conditions of the original approval. Minor changes include:
 - i. Reduction in building size or increase in building size up to 5% of the total approved floor area.
 - ii. Movement of buildings or other structures by no more than 10 feet.
 - iii. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - iv. Changes in building materials to a comparable or higher quality.
 - v. Changes required or requested by county, state, or federal regulatory agencies to conform with other laws or regulations.
 - vi. Other minor changes determined by the Administrator to be consistent with the approved plan and the uses included in the plan.
- c. **Plan Commission Review.** Modifications other than minor changes require review and approval of the Plan Commission.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

H. SPECIAL EXCEPTION

1. Application Procedures

- a. Application: Applications must be filed according to the schedule of meeting and filing deadlines in the format specified by the Department. An applicant submits a completed application to the Administrator on forms provided by the Department with the filing fee and the required supporting information. The Administrator establishes the number of copies of complete applications and supporting documentation required to be filed.
- b. Action by the Administrator: Within 5 business days of the application submittal, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Applications determined complete are docketed for a hearing by the BZA.
- c. Investigation of Application: At the Administrator's discretion, the Technical Advisory Committee may review an application for special exception prior to the BZA's consideration.

2. Public Notice. Notification for the scheduled public hearing regarding the special exception request must be completed consistent with the schedule of meeting and filing dates and the BZA's Rules of Procedure.

3. Public Hearing. At a regularly scheduled meeting, the BZA reviews the special exception application and supporting information.

- a. Representation: The applicant or applicant's representative must be present at the meeting to present the application.
- b. Testimony: At the meeting, the BZA considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
- c. Procedures: The conduct of the hearing follows the BZA's Rules of Procedure.

4. Decision Criteria. The BZA may approve a special exception upon a determination that the proposed use:

- a. Is consistent with the vision, goals, and objectives of the Comprehensive Plan.
- b. Complies with the requirements of this Ordinance.
- c. Is compatible with the character of the general vicinity.
- d. Can be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage systems, refuse disposal, water and sewers, and schools.
- e. Does not create circumstances detrimental to people, property, or the general welfare by producing excessive traffic, noise, smoke, fumes, glare, odor, or other conditions incompatible with the uses permitted in the zoning district. and
- f. Allows orderly development of the surrounding property for uses permitted in the district.

5. BZA Action. Following the public hearing, the BZA may approve, approve with conditions, deny, or continue the application. The application may be continued by the BZA based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the BZA that additional information is required prior to acting on the request. The continuing of applications and any potential additional legal notice must be consistent with the BZA's Rules and Procedure.

6. Commitments. The BZA may require the property owner to make written commitments concerning the use or development of the property (see [7.1\(D\): Commitments.](#))

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

7. **Conditions of Approval.** Reasonable conditions may be imposed on the approval of a special exception use to protect the public health, safety, and general welfare, ensure adequate public services can be provided, enhance compatibility with adjacent conforming land uses or activities, and protect natural resources.
8. **No Presumption of Approval.** The listing of a special exception on the Permitted Use Table does not constitute a presumption of approval. Each special exception is evaluated on an individual basis regarding compliance with the standards and whether the use is appropriate at the location and in the manner proposed.
9. **Resubmittal of Special Exception Application.** A special exception application denied by the BZA cannot be resubmitted for 12 months from the date of the denial, except when new evidence or information regarding changing circumstances or other relevant factors is submitted that might alter the decision. The Administrator determines if the new information constitutes a substantive change.
10. **Limitations of Approval.** Approval only authorizes the special exception use at the premises where the approval was granted. It is not conditioned upon the property owner or operator of the approved use.
11. **Effect of Approval.** The approval of a special exception does not authorize the development, construction, alteration, or moving of any building or structure. The approval authorizes the filing and processing of applications for permits or approvals required, such as approval of a site plan, improvement location permit, building permit, and certificate of occupancy.
12. **Existing Use.** An existing use listed as a special exception located in a zoning district where such special exception may be permitted is a conforming use if the use meets the minimum lot area requirements of the zoning district. Any expansion of the special exception involving the enlargement of buildings, structures, and land area is subject to the requirements and procedures described in this Ordinance.
13. **Expiration.** Approval of a special exception use expires 36 months after it is granted unless construction is complete, or commencement of the use has occurred. Prior to the expiration of the initial approval, the applicant may request in writing to the Administrator an extension of the approval period. The BZA may extend the approval 12 months or more upon finding there are no new conditions requiring reconsideration of the special exception use.

I. VARIANCES

1. **Application Procedures.** The applicant files:
 - a. A variance application,
 - b. Property owner consent if the applicant is someone other than the property owner,
 - c. The applicable filing fee,
 - d. A site plan drawn to scale showing the layout of the property and all features relevant to the request,
 - e. A statement of intent describing the details of the variance being requested and stating how the request is consistent with the decision criteria and proposed findings of fact. The statement should include any written commitments being made by the applicant, and
 - f. A copy of the most current property deed.
2. **Action by the Administrator:** Within 5 business days of the application submittal, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Applications determined complete are docketed for a hearing by the BZA.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3. **Public Notice.** Notification for the scheduled public hearing regarding the variance request must be completed consistent with the schedule of meeting and filing dates and the BZA's Rules of Procedure.
4. **Public Hearing.** At a public hearing scheduled consistent with the schedule of meeting and filing dates, the BZA reviews the variance application and required supporting information.
 - a. Representation. The applicant and/or applicant's representative must be present at the public hearing to present the complete application and address the decision criteria.
 - b. Testimony. The BZA will consider a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
 - c. Procedures. The presentation of reports and testimony and all other aspects of the public hearing must be consistent with the BZA's Rules of Procedure.
5. **Decision Criteria.** In acting on all variance requests, the BZA must use decision criteria to approve or deny variances consistent with the requirements of Indiana Code:
 - a. Variances of Use. A variance of land use may be approved upon determining:
 - i. The use will not be injurious to the public health, safety, morals, and general welfare of the community.
 - ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - iii. The need for the variance arises from some condition particular to the property involved.
 - iv. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property.
 - v. The use does not interfere substantially with the Comprehensive Plan.
 - b. Variances of Development Standards. A Variance of development Standard may be approved only upon determining:
 - i. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - iii. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property.
6. **BZA Action.** The BZA may approve, approve with conditions, deny, or continue the application according to [IC 36-7-4-918.4](#) and [IC 36-7-4-918.5](#). The BZA will not consider an application that is substantially similar to a variance application denied within the prior 12 months. The application may be continued by the BZA based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the BZA that additional information is required prior to action being taken on the request. The continuing of all applications and any potential additional legal notice must be consistent with the BZA's Rules of Procedure.
7. **Commitments.** The BZA may require the property owner to make written commitments concerning the use or development of the property (see [7.1\(D\): Commitments](#)).

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

8. **Effect of Approval.** Approval of a variance does not authorize the development, construction, alteration or moving of any building or structure. The approval authorizes the filing and processing of applications for permits or approvals required, such as approval of a site plan, improvement location permit, building permit, and certificate of occupancy.
9. **Acknowledgement of Variance.** Approval of a variance must be recorded in an acknowledgement of variance instrument prepared by the Administrator. The instrument must specify the granted variance and any commitments made or conditions imposed in granting of the variance. The applicant must record the instrument in the Office of the Recorder of Johnson County, Indiana, within 14 days of the variance approval. The applicant must return a copy of the recorded instrument to the Department within 14 days of recording. New applications for approvals or permits for the property will not be processed until a copy of the recorded instrument is provided to the Department.
10. **Compliance and Violations.** A permit will not be issued unless it complies with an approved variance, conditions of approval, and commitments. Violations of an approved variance, conditions of approval, and commitments are subject to enforcement procedures.

J. WAIVER OF SUBDIVISION STANDARDS

In connection with a site plan, primary plat, or secondary plat, the Plan Commission may approve a request for a waiver of the provisions in [CHAPTER 6: SUBDIVISION REGULATIONS](#) if the intent and purpose of the design standards benefit from an alternative proposal while upholding the intent and purpose of this Ordinance (see [6.16: Modifications](#)).

K. WAIVER OF DEVELOPMENT STANDARDS

In connection with a site plan, primary plat, or secondary plat, a request for a waiver of the dimensional and quantitative standards of up to 35% for the provisions in [CHAPTER 2: ZONING DISTRICTS](#), [CHAPTER 4: DESIGN AND MAINTENANCE STANDARDS](#) and [CHAPTER 5: IMPROVEMENT STANDARDS](#) may be approved consistent with the following requirements:

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

A waiver request form for each waiver sought must be included in the application. For items where final approval has been delegated to staff, the Administrator has the authority to grant waivers. In all other circumstances, the Plan Commission may grant the waiver after a public hearing.

In granting the waiver, the Plan Commission or Administrator may impose conditions necessary to secure the purposes of this article. The applicant retains the right to petition the Board of Zoning Appeals for a variance from development standards (see [7.1\(l\) Variances](#)).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

L. ZONING MAP AMENDMENTS (REZONES)

1. **Application Procedures.** Proposals to amend the Zoning Map may be initiated by the Plan Commission, the Town Council, or through an application signed by property owners of at least 50% of the land involved.
 - a. Legislative Body Initiation. The Administrator prepares the application for Zoning Map amendment if the Plan Commission or Town Council initiates the application. The Administrator serves as the representative of the applicant for such proposals.
 - b. Property Owner Initiation. Property owners requesting a Zoning Map amendment are the applicants and are responsible for preparing the application.
 - a. Pre-Filing Conference. A pre-filing conference with the Administrator is required prior to filing an application. The applicant is encouraged to incorporate the Administrator's comments into the application before filing.
 - b. Filing Deadline. Applications are filed according to the schedule of meeting and filing deadlines in the format specified by the Department.
 - c. Forms of Filing. The applicant submits a completed application to the Administrator on forms provided by the Department with supporting information and the application fee. The Administrator establishes the number of copies of the application required for filing.
 - d. Application Requirements for Property Owner Initiated Applications
 - i. If an application is filed by a property owner's authorized agent, a consent form signed by the property owner must accompany the application.
 - ii. A copy of the most current property deed.
 - iii. A list obtained from the Town GIS Department of adjoining property owners required to be served public notice according to the Plan Commission Rules of Procedure.
 - iv. Supporting Information
 - A conceptual site plan showing all features relevant to the application.
 - A vicinity map showing the use and zoning of all properties within 500 feet of the proposed Zoning Map amendment.
 - A narrative stating the reasons for the zoning change, including a detailed description of any proposed development. The narrative should include any written commitments made by the applicant.
2. **Action by the Administrator:** Within 5 business days of the application submittal, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Applications determined complete are docketed for a hearing by the Plan Commission.
3. **Public Notice.** Notification for the public hearing must be completed consistent with the requirements of the Plan Commission's Rules of Procedure.
4. **Plan Commission Public Hearing.** At a public hearing, the Plan Commission reviews the application and supporting information.
 - a. Representation. The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any Plan Commission questions.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- b. **Testimony.** The Plan Commission considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
 - c. **Procedures.** The conduct of the public hearing follows the requirements of the Plan Commission's Rules and Procedure.
- 5. **Decision Criteria.** In reviewing the change of zoning application, the Plan Commission and Town Council consider:
 - a. The Comprehensive Plan;
 - b. Current conditions and the character of current structures and uses in each district;
 - c. The most desirable use for which the land in each district is adapted;
 - d. The conservation of property values throughout the jurisdiction; and
 - e. Responsible development and growth.
- 6. **Plan Commission Action.** Following the public hearing, the Plan Commission may either forward the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation according to Indiana Code; or continue the request to a subsequent Plan Commission meeting. The application may be continued by the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to acting on the request. The continuing of applications and any potential additional legal notice must be consistent with the Plan Commission's Rules and Procedure.
- 7. **Commitments.** The Plan Commission may require the property owner to make written commitments concerning the use or development of the property (see [7.1\(D\): Commitments.](#))
- 8. **Certification.** The Plan Commission certifies its recommendation to the Town Council according to Indiana Code. The Administrator forwards the Plan Commission certification, the application and supporting information, any Department reports regarding the application, and an ordinance to the Town Council for consideration.
- 9. **Town Council Action.** The Town Council reviews the rezoning application and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the Town Council fails to act within 90 days of the Plan Commission's certification, and the applicant has not otherwise withdrawn the request or requested additional consideration by the Plan Commission, the rezone ordinance becomes effective or be defeated with the provisions of [IC 36-7-4-608](#). The Town Council may also seek modifications or additions to any written commitments permitted by this Ordinance.

M. ZONING TEXT AMENDMENTS

- 1. **Application Procedures.** Applications are filed according to the schedule of meeting and filing deadlines. Proposals to amend the text of this Ordinance may be initiated by the Plan Commission or submitted to the Plan Commission by the Town Council. The Administrator prepares the amendment application and serves as the representative of the applicant.
- 2. **Action by the Administrator:** Within 5 business days of the application submittal, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Applications determined complete are docketed for a hearing by the Plan Commission.

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

3. **Public Notice.** Notification for the public hearing must be completed consistent with the requirements of the Plan Commission's Rules of Procedure.
4. **Plan Commission Public Hearing.** At a public hearing, the Plan Commission reviews the application and supporting information.
 - a. Representation. At the public hearing the Administrator presents the application and addresses any Plan Commission questions.
 - b. Testimony. The Plan Commission considers a report from the Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
 - c. Procedures. The conduct of the public hearing follows the requirements of the Plan Commission's Rules and Procedure.
5. **Decision Criteria.** In reviewing the proposed request, the Plan Commission and Town Council consider:
 - a. The Comprehensive Plan;
 - b. Current conditions and the character of current structures and uses in each district;
 - c. The most desirable use for which the land in each district is adapted;
 - d. The conservation of property values throughout the jurisdiction; and
 - e. Responsible development and growth.
6. **Plan Commission Action.** Following the public hearing, the Plan Commission may either forward the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation according to Indiana Code; or continue the request to a subsequent Plan Commission meeting. The application may be continued by the Plan Commission based on a request by the Administrator, applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to taking action on the request. The continuing of applications and any potential additional legal notice must be consistent with the Plan Commission's Rules and Procedure.
7. **Certification.** The Plan Commission certifies its recommendation to the Town Council according to Indiana Code. The Administrator forwards the Plan Commission certification, the application and supporting information, any Department reports regarding the application, and an ordinance to the Town Council for consideration.
8. **Town Council Action.** The Town Council reviews the application and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the Town Council fails to act within 90 days of the Plan Commission's certification, the ordinance becomes effective or be defeated with the provisions of [IC 36-7-4-607](#).

N. CERTIFICATE OF COMPLIANCE

1. **Purpose.** A Certificate of Compliance ("CofC") serves as written confirmation by the Town that a property or use complies with this Ordinance.
2. **Applicability.** An application for a CofC may be filed according to this article. A CofC may: (i) be required by this Ordinance; (ii) serve as written confirmation by the Town that a property or use complies with this Ordinance; or (iii) serve as a written verification of a property's zoning. The Administrator may provide a CofC for:

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- a. A change in use (e.g., change from residential to commercial use).
 - b. Exterior building or site improvements that would not otherwise require an Improvement Location Permit or site plan approval.
 - c. Conditions of approval associated with an approval of the BZA, Plan Commission or Town Council.
 - d. Other similar circumstances as may be determined by the Administrator.
3. **Application Procedures.** An applicant submits a detailed written request to the Administrator with supporting information. Within 10 days, applications, requests, plans, and specifications filed by an applicant must be checked by the Administrator for compliance with this Ordinance. If the Administrator is satisfied that the property, plans, and information provided in the application conforms to the requirements of this Ordinance and other applicable laws and ordinances, the Administrator issues a Certificate of Compliance to the applicant.
4. **Effect.** A CofC does not authorize the establishment of a use nor the development, construction, alteration, or moving of any building or a structure. A CofC certifies compliance of an existing property, use and/or improvements made according to an approved permit on the date issued. The filing and processing of applications for any permits and approvals may be required by this Ordinance and other Town ordinances including, a building permit, a certificate of occupancy, primary and secondary plats, or site plan approval, for proposed improvements or uses.
5. **Limitations.** A CofC is limited only to the circumstance for which it was issued and at the time it was issued. The CofC does not authorize any allegedly similar circumstance requiring a separate review or certificate or a change in circumstances, unless otherwise provided for in the CofC.
6. **Records of Certificate of Compliance.** Every CofC issued according to this article is kept on file in the office of the Department. Copies are provided upon request to anyone having a proprietary or tenancy interest in the building or land affected.

7.2 Permits

A. CERTIFICATE OF OCCUPANCY.

No building or structure erected or altered after the date of adoption of this Ordinance can be occupied or used unless a certificate of occupancy has been issued for that building or structure upon completion of construction. A certificate of occupancy constitutes certification that the building, structure, use, parking, landscaping, and all other required improvements fully comply with the provisions of the Ordinance and any conditions imposed on the approval.

B. IMPROVEMENT LOCATION PERMIT

An Improvement Location Permit issued by the Administrator is required prior to beginning construction on structures or establishing a use on any land.

1. Except for variances approved by the Board of Zoning Appeals or an order of a court, an improvement location permit will not be issued for the erection, alteration, or use of any building or structure, or for the use of any land unless it complies with all provisions of this Ordinance and any conditions of approval imposed on the building, structure, or use. Within 5 business days of the permit application, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Within 10 business days of the permit application, the Administrator will issue a

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

permit for applications meeting the permit requirements or notify the applicant of the areas where the permit application does not comply with the permit requirements.

2. A record of all improvement location permits is kept on file in the office of the Administrator.
3. Vacant land cannot be used, and existing uses of land or buildings cannot be changed to a different class of use, unless an improvement location permit is first obtained for the new or changed use. Uses resulting in an increase in parking spaces require an Improvement Location Permit.

C. SHORT-TERM RENTAL PERMITS

1. **Cross-Reference.** See [Article 3.12: Short-term Rentals](#) for short-term rental standards.
2. **Application.** Applications for a short-term rental permit are made by the property owner on forms published by the Department and include appropriate filing fees and documentation. An owner must submit a separate permit application for each property requiring a permit.
3. **Supporting Documentation.** Applications must be accompanied by the following information. The Administrator may waive or relax any of the requirements listed deemed irrelevant or unnecessary for a thorough review of the application.
 - a. The owner's name, street address, mailing address, email address, and telephone number. If the owner is a corporation or partnership, the owner's state of incorporation or organization, proof of good standing, and the owner's names, the addresses of the short-term rental(s), and the telephone numbers of the owner's principal officers or partners.
 - b. If a property manager is used, the property manager's name, street address, mailing address, email address, and telephone number.
 - c. A short description of how each of the owner's short-term rentals on the property are marketed or advertised including the advertised occupancy limits and whether the short-term rental is a single-family home or a dwelling unit within a single-family home, multi-family dwelling, condominium, cooperative, or time share.
4. **Permit Issuance.** Within 5 business days of the permit application, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Within 20 business days of the permit application, the Administrator will issue a permit for applications meeting the permit requirements or notify the applicant of the areas where the permit application does not comply with the permit requirements.
5. **Permit Duration.** A short-term rental permit expires one year after the date it is issued.
6. **Permit Fee.** A non-refundable fee described in the fee schedule adopted by the Town Council must accompany each short-term rental permit application.
7. **Permit Transferability.** If an owner sells all or part of a permitted property, the short-term rental permit is not transferable to the new owner.
8. **Permit Violation.** Each short-term rental transaction completed without a short-term rental permit constitutes a separate violation.
9. **Permit Revocation.** If three or more citations for ordinance violations are issued to an owner for a permitted property within a calendar year, the Administrator may revoke the short-term rental permit for up to one

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

year after the date the permit is revoked. An owner may apply for a short-term rental permit when the revocation period has ended and all outstanding fines for ordinance violations are paid.

D. SIGN PERMIT AND APPLICATIONS

1. **Permits Required.** Except as otherwise provided in this chapter, it is unlawful for any person to erect, construct, enlarge, move, or convert any sign without first obtaining a sign permit from the administrator.
2. **Application.** Application for a permit is made to the Administrator on forms provided by the Department with permit application fee and required information to assure compliance with this Ordinance. Within 5 business days of the permit application, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Within 10 business days of the permit application, the Administrator will issue a permit for applications meeting the permit requirements or notify the applicant of the areas where the permit application does not comply with the permit requirements.
3. **Effect of Sign Permit Issuance.** Permits issued in accordance with this chapter do not authorize unlawful signs.
4. **Nullification.** A sign permit becomes null and void and the permit fee forfeited if the authorized work has not been completed 6 months of the date the permit was issued.
5. **Fee Waiver.** Service and charitable organizations, legally established as tax exempt not-for-profit entities, are only required to pay one annual permit fee for the use of portable temporary signs.

E. TEMPORARY USE AND EVENTS PERMITS

1. **Application.** Applications for a Temporary use and/or event permit, according to [3.16 Temporary Uses](#), must be made in writing on forms provided by the Department at least 30 days prior to the scheduled event. Within 5 business days of the permit application, the Administrator will inform the applicant if the submittal is complete or if additional information is needed to process the request. Within 10 business days of the permit application, the Administrator will issue a permit for applications meeting the permit requirements or notify the applicant of the areas where the permit application does not comply with the permit requirements.
2. **Supporting Documentation.** Applications must include (i) a written statement describing the requested use, operations plan, traffic control, and the proposed period and (ii) a sketch plan showing the locations of proposed activity areas in relation to property lines and existing buildings and structures, pedestrian and vehicular circulation on the site, and parking facilities.
 - a. If a permit for encroaching into any right-of-way is required, a copy of the encroachment request must be submitted with the temporary use/event permit application.
 - b. If alcohol is sold or consumed, then proof of appropriate permits from the State of Indiana, Alcohol and Tobacco Commission is required. If cooking or eating is involved in a temporary event, outdoor café, or some other eating area, then proof of review and approval from the County Health Department must be required with the application.
3. Temporary uses and events must also comply with the Town's **special event policy**.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

7.3 Administration

A. GENERAL ADMINISTRATION

The decision-making bodies and officials identified in this Chapter have the responsibility for implementing and administering this Ordinance.

A. Meeting Schedule

The Administrator maintains an annual schedule of meeting and filing dates for the Technical Advisory Committee, Plan Commission, and BZA. Modifications of filing dates are considered if determined reasonable by the Administrator. The existence of this calendar does not prohibit special meetings or changes of meeting dates by the Technical Advisory Committee, Plan Commission, or BZA. The schedule of meeting and filing dates must be made available in the office of the Department.

B. Fee Schedule

Filing fees for applications and petitions are set forth in the fee schedule. The fee schedule is established by resolution of the Council. Copies of the Fee Schedule are available in the office of the Department.

B. BOARD OF ZONING APPEALS

The Bargserville Board of Zoning Appeals, established according to [IC 36-7-4-900](#) et seq. has the powers and duties described below:

1. To approve, approve with modifications, or deny any application for a variance from the development standards of this Ordinance.
2. To approve, approve with modifications, or deny any application for a use variance.
3. To grant, grant with modifications, or deny any application for a special exception.
4. To hear and decide an appeal from any order, requirement, decision, or determination made by the Administrator or staff in the administration or enforcement of this Ordinance.
5. To hear and decide an appeal from any order, requirement, decision, or determination made by any administrative board, other than the Plan Commission, in the administration or enforcement of this Ordinance.
6. To enforce the provisions of this Ordinance.
7. To adopt Rules of Procedure for the administration of the BZA's duties.

C. FLOODPLAIN ADMINISTRATOR

1. **Floodplain Administrator.** The Director and/or designated staff of the Department, is designated as the Floodplain Administrator.
2. **Authority.** The Floodplain Administrator is authorized and directed to enforce and implement the provisions of the Floodplain Regulations.
3. **Duties.** The Floodplain Administer will, in connection with the implementation of this Ordinance and in accordance with Indiana law:

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- a. Review floodplain development permits to assure the permit requirements of this Ordinance have been satisfied.
- b. Inspect and inventory damaged structures in the Special Flood Hazard Area (SFHA) and complete substantial damage determinations.
- c. Ensure that required construction authorization has been granted by the Indiana Department of Natural Resources for development subject to the Flood Plain Regulations.
- d. Ensure that all necessary federal or state permits have been received prior to issuance of an Improvement Location Permit.
- e. Maintain improvement location permit records involving building additions and improvements to residences located in the Floodway.
- f. Maintain related permits and information for buildings constructed subject the Flood Plain Regulations.
- g. Utilize and enforce map revisions issued by the Federal Emergency Management Agency (FEMA) for the currently effective SFHA maps.
- h. Review certified plans and specifications for compliance.
- i. Verify required certifications of the actual elevation of the lowest floor for new or substantially improved buildings.
- j. Verify required certifications of the actual elevation of the floodproofing for any new or substantially improved buildings.
- k. Notify adjacent communities and the State's floodplain coordinator prior to any alteration or relocation of a watercourse and submit copies of the notifications to the Federal Emergency Management Agency.
- l. Assure that maintenance is provided within the altered or relocated portion of the altered watercourse, so the flood-carrying capacity is not diminished.

D. PLAN COMMISSION

The Bargersville Plan Commission, being previously established according to [IC 36-7-4-200 et seq.](#) has the following powers and duties in connection with the implementation of this Ordinance.

1. To initiate amendments to the text of this Ordinance and to the Zoning Map according to the procedures and standards for amendments set forth in [7.1\(L\): Zoning Map Amendments \(Rezones\)](#) and [7.1\(M\): Zoning Text Amendments](#).
2. To review all proposed amendments to this Ordinance and make recommendations to the Town Council according to the procedures and standards for amendments set forth in [7.1\(L\): Zoning Map Amendments \(Rezones\)](#) and [7.1\(M\): Zoning Text Amendments](#).
3. To review all Planned Unit Development petitions and make recommendations to the Town Council for the adoption of the petitions according to the procedures and standards for Planned Unit Developments set forth in [7.1\(F\): Planned Unit Developments](#).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4. To render final decision regarding secondary review of all Planned Unit Development Petitions according to the procedures and standards for Planned Unit Development set forth in [7.1\(F\): Planned Unit Developments](#);
5. To initiate amendments to the Bargersville Thoroughfare Plan, to adopt, reject, or amend proposals to amend or partially repeal the text of the Bargersville Thoroughfare Plan, and to make recommendations on such matters to the Bargersville Town Council.
6. To review, approve, approve with modifications, or deny all subdivision applications according to the procedures and standards for subdivision approval set forth in the [CHAPTER 6 – SUBDIVISION REGULATIONS](#).
7. To approve, approve with modifications, or deny all applications for waivers from the subdivision regulations, according to the procedures and standards for plat approval set forth in [CHAPTER 6 – SUBDIVISION REGULATIONS](#).
8. To approve, approve with modifications, or deny all site plans according to the procedures and standards for site plans set forth in [7.1\(G\): Site Plan Review](#).
9. To supervise and adopt rules for the administration of the affairs of the Plan Commission.
10. To record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission.
11. To prepare, publish, and distribute reports, ordinances, and other material related to the Plan Commission activities as authorized by law or this Ordinance.
12. To exercise all powers conferred on it by law, local ordinance or rule including to invoke any legal, equitable, or special remedy for the enforcement of state planning and zoning laws or this Ordinance.

E. DIRECTOR OF DEVELOPMENT

1. **Administrative Officer.** It is the duty of the Director of the Department of Development (the “Director”) to enforce and implement the provisions of this Ordinance, receive applications required by this Ordinance, issue permits, and furnish the prescribed certificates.
2. **Duties.** The Director and/or the Director’s designees, in connection with the implementation of this Ordinance and in accordance with Indiana law will:
 - a. Maintain a Council approved Comprehensive Plan and the Unified Development Ordinance, as authorized under Indiana law.
 - b. Maintain rules of procedures for holding meetings, holding public hearings, and enforcing the Comprehensive Plan and the Unified Development Ordinance.
 - c. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission and BZA.
 - d. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission and BZA. All such records must be open to public inspection during the Department’s normal hours of business.
 - e. Maintain a permitting process and seal used to certify official or approved documents. Keep careful and comprehensive records of applications, permits issued, certificates issued, inspections made,

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

reports rendered, and of notices or orders issued. Retain on file copies of all documents in connection with building work if any part of the structure to which they relate remains existence.

- f. Examine premises for which permits have been issued and make necessary inspections to see that the provisions of the law are within compliance.
- g. Enforce laws relating to the construction, alteration, use, occupancy, location, and maintenance of structures and land, except as may be otherwise provided for in local or Indiana law.
- h. Issue notices or orders necessary for enforcing compliance with the laws or preventing a violation of provisions of this Ordinance.
- i. Determine the appropriate categories of land uses not specifically listed on the Permitted Uses Table.
- j. Render interpretations of the provisions of this Ordinance.
- k. Approve or deny sign permit applications.
- l. Review applications for Improvement Location Permits for compliance with the standards of this Ordinance.
- m. Issue Improvement Location Permits for Special Exceptions after approval by the Board.
- n. Other duties set forth here or that may be delegated by the Plan Commission, BZA, or Council.

F. TECHNICAL ADVISORY COMMITTEE

The Technical Advisory Committee is hereby created and vested with the review authority set forth below in connection with the implementation of this Ordinance:

1. **Membership.** The Technical Advisory Committee is comprised of the following members.
 - a. Bargersville Zoning Administrator
 - b. Bargersville Building Commissioner
 - c. Bargersville Director of Public Works
 - d. Bargersville Community Fire Department Fire Marshal
 - e. The Administrator may also invite representatives of the Bargersville Police Department, the School Corporation, representatives of the major utility companies, representatives of Plan Commission appointed committees, and representatives of Johnson County for applications or as necessity demands.
2. **Review Authority**
 - a. To review and evaluate applications for waivers and make recommendations to the Plan Commission, according to the procedures and standards for waivers set forth in the Subdivision regulations.
 - b. To review and evaluate all site plans, and make recommendations to the Plan Commission, according to the procedures and standards for site plan review set forth in [7.1\(G\): Site Plan Review](#).
 - c. To take such other actions as delegated by the Plan Commission that may be desirable and necessary to implement the provisions of this Ordinance.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

G. TOWN COUNCIL

The Town Council has the following powers and duties connected to the implementation of this Ordinance.

1. As certified by the Plan Commission to approve, reject, or amend all or part of the Comprehensive Plan.
2. To initiate amendments to this Ordinance and to adopt, reject, or amend proposals to amend or partially repeal the text of this Ordinance as set forth in [7.1\(M\): Zoning Text Amendments](#).
3. To adopt, reject, or amend proposals to amend the zoning map according to the procedures and standards for amendments set forth in [7.1\(L\): Zoning Map Amendments \(Rezoning\)](#).
4. To adopt, reject, or amend a Planned Unit Development Ordinance according to the procedures and standards for amendments set forth in [7.1\(F\): Planned Unit Developments](#).
5. To approve, approve with modifications, or deny all applications for waivers from the Construction Standards, according to the procedures and standards set forth in [6.16: Modifications](#).
6. To take such other actions not exclusively delegated to other bodies, which may be desirable and necessary to implement the provisions of this Ordinance.

H. ZONING ADMINISTRATOR

1. **Zoning Administrator.** The Director and/or designated staff of the Department, is designated as the Zoning Administrator.
2. **Authority.** The Zoning Administrator is authorized and directed to enforce and implement the provisions of this Ordinance.
3. **Duties.** The Zoning Administrator will, in connection with the implementation of this Ordinance and in accordance with Indiana law:
 - a. Determine the appropriate categories of land uses not specifically listed on the Permitted Uses Table.
 - b. Determine if a proposed home occupation use is compatible as a home occupation.
 - c. Approve or deny sign permit applications.
 - d. Review applications for Improvement Location Permits for compliance with the performance standards of this Ordinance.
 - e. Issue Improvement Location Permits for Special Exceptions after approval of the BZA.
 - f. Inspect properties for compliance with the provisions of this ordinance.
 - g. Take enforcement actions to bring violations into compliance with the requirements of this Ordinance, including investigating complaints, issuing stop work orders, and revoking sign permits.

7.4 Enforcement

A. ENFORCEMENT AUTHORITY

The Town of Bargersville, including the Director, Council, Plan Commission, BZA, Building Commissioner, Fire Marshal, and their delegates are designated to enforce the provisions, regulations, and intent of this Ordinance, according to [IC 36-7-4-100, et. seq.](#), as amended.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

B. VIOLATION

1. Violation of any of the provisions of this Ordinance is considered a common nuisance and may be abated as nuisances are abated under existing law. Violations may include, but are not limited to:
 - a. The erection, demolition, or conversion of any structure, building, or sign without the required approvals,
 - b. The use of any land or premises used in violation of any provisions of this Ordinance, or
 - c. Failure to comply with any condition, requirement, or commitment established with the approval of a variance, special exception, site plan, planned unit development, certificate of compliance, or other development approval under this Ordinance.
2. Any person who violates or resists the enforcement of any provisions of this Ordinance is subject to judgment for each offense. Each day a violation exists constitutes a separate offense. A violation exists until corrected. Correction may include:
 - a. Stopping an unlawful practice;
 - b. Removal of a building, structure, or improvement;
 - c. Faithful or otherwise-approved restoration or replacement of a building, structure, site or natural feature;
 - d. Any other remedy specified in this Ordinance; and/or
 - e. Other remedy acceptable to the Town.
3. The owner of property violating this Ordinance is responsible for all enforcement costs related to the violation. This includes costs of any remedy, fines, and enforcement costs (including reasonable attorney's fees, hours worked, photocopying charges, mileage, and other costs incurred directly or indirectly by the Town). The respondent only pays for enforcement costs clearly relating to the violation. In all instances, the amount paid by the respondent is determined by a court of jurisdiction or through a compromise agreement between the parties involved.

C. ENFORCEMENT OPTIONS

1. **Options for Enforcement.** The Town has the following options to enforce the provisions of this Ordinance:
 - a. Issue a notice to correct violations. The notice to correct may be sent to the owner, tenant, or occupant who commits a violation of this ordinance. It may be issued through personal service, First Class U.S. Mail, or by placement of the notice in a conspicuous place on the property. A notice to correct informs the violator of:
 - i. Date of the notice to correct;
 - ii. Date and place the violation was observed;
 - iii. Name and address of the property owner or responsible party;
 - iv. Section number in violation;
 - v. The nature of the violation;
 - vi. Name, business address, phone number, and email of the person issuing the notice;
 - vii. Action necessary to correct the violation;

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- viii. Actions available to the Town to remedy violations; and
 - ix. That a notice of correction serves as the only notice of civil violation, and no further notice will be required by the Town.
- b. Issue a stop work order under [7.4\(E\): Stop Work Orders](#).
 - c. Enter onto property and take action to bring that property into compliance with this Ordinance, according to [IC 36-1-6-2](#) and [7.4\(F\): Municipal Action to Enforce Compliance](#) or [7.4\(G\): Correcting Immediate Public Risk Violations](#).
 - d. Initiate enforcement through an administrative proceeding before the BZA, according to [IC 36-1-6-9](#) and [7.4\(G\): Correcting Immediate Public Risk Violations](#).
 - e. To bring a civil action in any court having jurisdiction, according to [IC 34-28-5-1](#) and [7.4\(H\): Administrative Enforcement](#).
- 2. **Exercise of Options.** The Town's exercise of the options specified in this section, including the imposition of any penalties for an Ordinance violation, are not prerequisites for taking any other action against an alleged violator of this Ordinance, nor do they prohibit the Town from taking any further action.
 - 3. **Warnings.** Before exercising any of the Town's options under this section, the Administrator may issue a warning to a person alleged to be in violation of this Ordinance and give the person at least 10 days but not more than 60 days to remedy the alleged violation.

D. PENALTIES

- 1. **Maximum Penalties.** The maximum civil penalty for the first violation of a provision of this Ordinance is a fine of \$2,500. The maximum civil penalty for the second or subsequent violation of a provision of this Ordinance (other than a provision that regulates parking) is a fine of \$7,500.
- 2. **Subsequent Violations.** The penalties listed above for subsequent violations apply whenever the responsible party commits an additional violation of the same provision within 12 months of the first violation, regardless of whether the additional violation is on the same property as the first violation.

E. STOP WORK ORDERS

- 1. **Occurrence of Violation.** If the Administrator finds that a violation is occurring or has occurred on a construction site, the Administrator may place a stop work order on any land/property improvement process.
- 2. **Procedure.** Stop work orders must be a written letter stating the nature of the violation and requiring the work and any other illegal activity to stop immediately until the matter is resolved. If someone other than the property owner occupies the property, a copy of the stop work order must be provided to the occupant. This letter must be posted in a conspicuous place and be delivered or mailed to the property owner.
- 3. **Reasons.** Reasons for a stop work order may include:
 - a. Not complying with any element of the development standards or any regulation of the Ordinance.
 - b. Not obtaining a permit or approval prior to the construction or installation of any improvement requiring a permit or approval by this Ordinance.
 - c. Not completing structures or other site improvements consistent with any approved improvement location permit, variance, special exception, site plan, or other approval.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

- d. Not meeting the commitments imposed upon the approval of a special exception, variance, rezoning, site plan, subdivision plat, or other approval, whether recorded or not.
 - e. Not meeting the conditions of a PUD Ordinance or other rezoning, or any written commitment imposed upon an approval, whether recorded or not.
 - f. Illegal use or expansion of use of structures, or structures and land in combination.
4. **Appeals.** Any stop work order may be appealed to the BZA. Upon the resolution of the violations to the satisfaction of the Administrator or the BZA, the stop work order is lifted and construction activity may resume.

F. MUNICIPAL ACTION TO ENFORCE COMPLIANCE

1. **Entry into Property.** According to [IC 36-1-6-2\(a\)](#), if violation of a provision of this Ordinance exists on real property, the Administrator may have employees or contractors of the Town enter the property and take appropriate action to bring the property into compliance with the Ordinance.
2. **Notice Requirement.** Before the Town takes action to bring a property into compliance, anyone holding a substantial interest in the property must be given at least 10 days but not more than 60 days to bring the property into compliance. Notice must be served on such persons in person or by first class mail. In addition, continuous enforcement orders (as defined in [IC 36-7-9-2](#)) may be enforced, and liens may be assessed, without the need for additional notice.
3. **Expenses Constitute a Lien.** Whenever the Administrator takes action to bring compliance under this section, the resulting expenses incurred by the Town constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the Johnson County Recorder. The lien is superior to all other liens except liens for taxes and does not exceed:
 - \$10,000 for real property that: (a) contains one or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings, or (b) is unimproved; or
 - \$20,000 for all other real property not described in subdivision (1).
4. **Issuance of Bill to Owner.** According to [IC 36-1-6-2\(b\)](#), the Administrator may issue a bill to the owner of the real property for all expenses incurred by the Town in bringing the property into compliance, including administrative costs and removal costs. According to [IC 36-1-6-2\(c\)](#), a bill issued under this section is delinquent if the owner of the property fails to pay the bill to the Clerk-Treasurer within 30 days after the bill is issued.
5. **Collection of Fees and Penalties.** According to [IC 36-1-6-2\(d\)](#), the Clerk-Treasurer's office may prepare a list of delinquent fees and penalties enforceable under this section, including:
 - a. the names of the owners of each lot or parcel of real property on which fees or penalties are delinquent;
 - b. a description of the premises, as shown on the records of the Johnson County Auditor; and
 - c. the amount of the delinquent fees or penalties.
6. **Preparation and Recording of Instrument.** The Clerk-Treasurer's office may then prepare an instrument for each lot or parcel of real property on which fees or penalties are delinquent. The instrument is recorded with the Johnson County Recorder, who charges a recording fee under the fee schedule established in [IC 36-7-2-10](#).

GENERAL
PROVISIONSZONING
DISTRICTSSPECIFIC
USESDESIGN &
MAINTENANCEIMPROVEMENT
STANDARDSSUBDIVISION
REGULATIONSPROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

7. **Placement of Lien on Tax Duplicate.** According to [IC 36-1-6-2\(f\)](#), the amount of a lien is placed on the tax duplicate by the Johnson County Auditor. The total amount, including any accrued interest, is collected in the same manner as delinquent taxes are collected and is disbursed to the general fund of the Town.
8. **Enforcement of Lien against Subsequent Owner.** According to [IC 36-1-6-2\(g\)](#), a fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the Town must notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than 15 days after the date of the notice. If payment is not received within 180 days after the date of the notice, the amount may be considered a bad debt loss.
9. **Release of Lien.** According to [IC 36-1-6-2\(h\)](#), the Town releases:
 - a. Liens filed with the Johnson County Recorder after the recorded date of conveyance of the property; and
 - b. Delinquent fees incurred by the seller;
 upon receipt of a written demand from the purchaser or a representative of the title insurance company or agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.
10. **Removal of Lien from Tax Duplicate.** According to [IC 36-1-6-2\(i\)](#), the Johnson County Auditor removes the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner, upon receipt of a copy of the written demand under Subsection I.

G. CORRECTING IMMEDIATE PUBLIC RISK VIOLATIONS

1. **General Requirements.** If a condition violating a provision of this Ordinance presents an immediate risk to public health, safety, or welfare or to property in the Town, the Administrator may opt to have employees or contractors of the Town enter the property and take immediate action to bring the property into compliance. The Administrator is not required to provide prior notice to the property owner or other person responsible for the violation.
2. **Immediate Public Risks.** Immediate public risk violations may include:
 - a. Obstructions. Signs, structures, landscaping, or other materials placed in an easement, sight visibility triangle, or rights-of-way in violation of this Ordinance;
 - b. Distractions. Any sign, structure, landscaping, or other material located on private property that serves to distract or inhibit operators of motor vehicles on adjacent public ways, pedestrians, or other members of the public; and
 - c. Other Threats. Any other immediate threat to public welfare as determined by the Town Manager or the BZA, based upon the advice and recommendation of the Administrator.
3. **Seizure of Materials.** Any sign, structure, landscaping, or other material constituting an immediate public risk violation may be seized by the Administrator in a manner resulting in the least damage to the material or the property on which it is located. The Town is not required to retain seized landscaping or other materials that are damaged, deteriorated, or in a condition preventing use for the purpose the product was intended or manufactured.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4. **Notice of Violation.** The Administrator provides notice to the owner of the property, as listed in the records of the Johnson County Auditor, where the violation was located, or any discernible appropriate owner of materials placed within a public way in violation of this Ordinance, by placing a notice in a conspicuous place on the property and mailing a letter to that property owner. All notice letters are sent to the property owner via certified mail within 24 hours of the seizure. Any notice posted on the property must be posted at the time the material is seized. The letter and posted notice must include:
 - a. A description of the materials seized;
 - b. A citation of the sections of this Ordinance that were violated and the characteristics of the violation that posed an immediate threat to public welfare;
 - c. The address and phone number of the Administrator and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized items; and
 - d. Instructions describing how, where, and when the seized items may be claimed.
5. **Storage and Retrieval of Seized Materials.** The Administrator stores any sign, structure, landscape materials or other items seized in a secure location for a period of no less than 30 days from the date notice was mailed to the property owner. The property owner may claim the seized property following its seizure upon the payment of the fine specified in Section 7.4(D)(2) and the establishment of a Memorandum of Agreement between the property owner and Administrator regarding the future use of the item in a manner consistent with this Ordinance.
6. **Liability.** Neither the Administrator, the Town, nor any other official or entity involved in the seizure is liable for any damage to the seized materials or the property from which they were taken.

H. ADMINISTRATIVE ENFORCEMENT

1. **Provisions that Restrict or Prohibit Actions Harmful to the Land, Air, or Water.** According to [IC 36-1-6-9](#), the Town may opt to enforce any provision of this Ordinance that restricts or prohibits actions harmful to the land, air, or water, through an administrative proceeding before the BZA. The BZA must find that the violation has been proved by a preponderance of the evidence. Upon finding a violation, the BZA may assess a civil penalty within the limits set forth in [7.4\(D\) Penalties](#).
2. **Appeal to Court.** According to [IC 36-1-6-9\(e\)](#), a person who is assessed a civil penalty under this section may appeal the BZA's order imposing the penalty to the Johnson Circuit or Superior Court. An appeal under this section must be filed not more than 60 days after the date on which the BZA enters the order.
3. **Payment of Civil Penalty.** Unless a person who is assessed a civil penalty under this section files an appeal, the person must pay the penalty to the Town in a manner authorized by the Clerk-Treasurer. Whenever a person liable for a civil penalty under this section fails to deliver payment to the Town within 75 days after the date on which the administrative body enters the order imposing the penalty, the Clerk-Treasurer reports the circumstances to the Administrator for the initiation of appropriate judicial proceedings against the person.
4. **Effect of Administrative Process.** An Ordinance violation processed under this section does not constitute a judgment for the purposes of [IC 33-37](#). An ordinance violation costs fee may not be collected from the defendant under [IC 33-37-4](#).

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS



Chapter 8

CONSTRUCTION STANDARDS

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORM WATER

DEFINITIONS



Chapter 9

STORM WATER DRAINAGE

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORM WATER

DEFINITIONS

DEFINITIONS

| | |
|-----------------------|----|
| Rules of Construction | 3 |
| Aa | 3 |
| Bb | 4 |
| Cc | 5 |
| Dd | 6 |
| Ee | 6 |
| Ff | 6 |
| Gg | 7 |
| Hh | 7 |
| Ii | 7 |
| Jj | 8 |
| Kk | 8 |
| Ll | 8 |
| Mm | 9 |
| Nn | 9 |
| Oo | 10 |
| Pp | 10 |
| Qq | 11 |
| Rr | 11 |
| Ss | 12 |
| Tt | 13 |
| Uu | 14 |
| Vv | 14 |
| Ww | 14 |
| Xx | 14 |
| Yy | 14 |
| Zz | 15 |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Rules of Construction

In the application and interpretation of this Ordinance, the following rules apply:

- A. The specific controls the general.
- B. The phrase “used for” includes arranged for, designed for, intended for, maintained for, and occupied for.
- C. A building or structure includes any of its parts.
- D. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions “and,” “or” or “either...or,” the conjunction is interpreted as follows:
 - 1. “And” indicates that all the connected items, conditions, provisions, or events apply.
 - 2. “Or” indicates the connected items, conditions, provisions, or events may apply singly or in any combination.
 - 3. “Either...or” indicates that the connected items, conditions, provisions, or events apply singly, but not in combination.
- E. Words used in the present tense include the future tense.
- F. Words used in the singular number include the plural and the plural includes the singular, unless the context clearly indicates the contrary.
- G. The word “must” is always mandatory and not discretionary. The word “may” is permissive.
- H. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text controls.
- I. Terms not defined in the Ordinance have the meaning customarily assigned them.

Aa

Accessory building. A detached, subordinate structure, the use of which is incidental to, customarily associated with, and related to the principal structure or use of the land and is located on the same lot as the principal structure or use.

Accessory use. A use customarily incidental to, subordinate to, and supportive of the principal use of the parcel.

Administrator. The officer appointed by and/or delegated the responsibility for the administration of this Ordinance by the Plan Commission and the Town Council.

Advisory Plan Commission. See **Plan Commission**.

Agriculture. The use of land for agricultural purposes with the intent of selling any products produced by this activity. Agricultural uses include farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture,

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

and animal and poultry husbandry, along with necessary accessory uses. Agricultural use does not include the operation or maintenance of a commercial stockyard, slaughterhouse, feed lot or feeding of garbage or offal to swine or other animals.

Alley. A minor private or public thoroughfare which is not a street but affords a secondary means of access to abutting property, is generally used for service purposes, and is not intended for general traffic circulation.

Appeals Board. The Town of Bargersville Board of Zoning Appeals.

Applicant. Any person, firm, partnership, joint venture, association, corporation, group, or organization who may apply for any permit, approval or decision required by this Ordinance.

Architectural detail. That portion of a building containing any architectural projection, relief, cornice, column, change of building material or window or door opening.

Architectural feature. A prominent or significant part or element of a building, structure, or site.

Bb

Basement. A room or rooms, or any part of a room having a floor level more than 48 inches below grade. Except when used for business purposes, a basement is not be counted as a story in height or floor area measurement if the vertical distance between the basement floor and the average level of the finished grade is greater than the distance between the average level of the finished grade and the basement ceiling.

Berm. A man-made, formed earth mound of definite height and width used for landscaping, screening, and buffering purposes.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

Board. The Town of Bargersville Board of Zoning Appeals.

Bond. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Town Council.

Buffer. That portion of a lot set aside with adequate natural or planted vegetation to accomplish visual and sound screening to separate a potentially incompatible zoning district from an abutting zoning district.

Buffer landscaping. Portion of a lot set aside with adequate natural or planted vegetation to accomplish visual and sound screening to separate a potentially incompatible zoning district from an abutting zoning district.

Building. Any structure attached to the ground which has a roof and walls or roof supports and which is designed for the shelter, housing or enclosure of persons, animals or property of any kind.

Building code. The Indiana State Building Code, as amended.

Building height. The vertical distance from the average finished grade to the highest point of the roof for a flat roof; the midpoint between the eaves and ridge line for a gambrel, gable, or hip roof; to the deck line of a mansard roof; or to an equivalent point on any other roof.

Building line. (See “Setback”)

Building official. The person, officer, or official whom the Bargersville Town Council has designated as its agent for enforcing, in conjunction with the Zoning Administrator, the regulations of this Ordinance relating to building construction and permitting.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Building permit. A certificate issued by the Administrator of the Commission permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, or convert any building or structure within its jurisdiction, or cause the same to be done.

Building, principal. The primary building containing the principal use of a lot.

Cc

Caliper. A standard trunk diameter measurement for trees, taken 6 inches above the finished grade for trees with a diameter of 4 inches or less, and 12 inches above the finished grade for larger sizes.

Certificate. The signed and attested document which indicates that a subdivision has been granted secondary approval by the Commission after proper public notice of its hearing.

Certificate of occupancy. A permit authorized and issued by the Zoning Administrator indicating that the use or the building or land in question is in conformity with this Ordinance, or that a legal variance has been approved.

Checkpoint agency. A public agency or organization called upon by the Commission to provide expert counsel regarding a specific aspect of community development or required by law to give its assent before subdivision may take place.

Co-location. The placement and arrangement of multiple providers' antennas and equipment on a single support structure or equipment area.

Commission. See **Plan Commission**.

Common Area. An area held in common ownership by an owners' association, not located in rights-of-way, and not located on individually owned private property.

Comprehensive plan. The inclusive physical, social, and economic plans and policies in graphic and verbal statement forms for the development of the Town prepared and adopted by the Commission and Council pursuant to State law and including any part of such plan and/or policies separately adopted and any amendment to such plan and/or policies, or parts thereof.

Condominium. The division of building(s) and the related land into horizontal property interests meeting the requirements of and controlled by Indiana statutes for condominiums as prescribed by the Indiana Code 32-1-6-1 through 32-1-6-31.

Construction plans(s). The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision according to the requirements of this Ordinance as a condition of the approval of the plat.

Council. The Town Council of the Town of Bargersville, Indiana

County. Johnson County, Indiana.

County health officer. See **Health Department and County health officer**.

County recorder. The County Official empowered to record and file land description plats.

County surveyor. The County Official so designated by the laws of the State of Indiana to maintain information such as benchmarks, USGS Topo Maps, Flood Zone Maps, Survey Records, historical aerial photography, legal drain information such as legal descriptions and watershed maps, and annexation descriptions for each city and town. The Surveyor maintains a Legal Survey Record Book for all legal surveys within the county.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Cul-de-sac. A short, dead-end street terminating in a vehicular turnaround area.

Dd

Deck. An open structure at least 12 inches above the ground which may be attached to a building and is commonly used for outdoor leisure activities.

Density. The total number of residential dwelling units to be located on a parcel of property divided by the total acreage of the property.

Department. The Town of Bargersville Department of Development.

Designated officials. Those officials of the Commission designated in this Ordinance as required signatories for the execution of secondary plat approval.

Disturbed area. That area of the land's surface disturbed by any work or activity upon the property by means including, but not limited to, grading; excavating; stockpiling soil, fill, or other materials; clearing; vegetation removal; removal or deposit of any rock, soil, or other materials; or other activities which expose soil. "Disturbed area" does not include the tillage of land that is zoned for agricultural use.

Drainage board. The Johnson County Drainage Board for legal drains and the Storm Water Utility Board for land within Town limits.

Drive in or drive through facility. An accessory use for a business (such as banks, restaurants, dry cleaners, or pharmacies) where the delivery of customer services is done, usually from within the building via a service window, while patrons are in their motor vehicles.

Drives, private. Vehicular streets, and driveways paved or unpaved which are wholly within private property except where they intersect with other streets within public rights-of-way.

Dwelling unit. A permanent building, or any part of a permanent building, having cooking and sanitary facilities, designed, or used exclusively for residential occupancy by one family as a single housekeeping unit, but not including hotels/motels, trailer coaches, recreational vehicles, tents or portable buildings.

Ee

Easement. A grant of one or more rights by a property owner to and/or for specific persons, the public, corporations, utilities, or others.

Ff

Family. One or more persons related by blood, marriage, or legal adoption; or two or more unrelated persons occupying a dwelling unit and living as a single housekeeping unit. The term "family" does not include any fraternity, sorority, club, hotel, organization, or institutional group.

Feasibility report. A written report prepared by a professional engineer or land surveyor pertaining to the suitability of the site for various types of water and sewage systems; for drainage retention or detention; and the subsoil conditions for various methods of street construction.

Fence. A barrier or partition of wood, masonry, stone, metal or similar manufactured material or combination of materials, used to prevent or control entrance, confine within, mark a boundary or act as a screen.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Final plat. A map establishing real estate interests for recording with the county recorder prepared by an Indiana Registered Surveyor, drawn in accordance with the requirements of [CHAPTER 6 – SUBDIVISION REGULATIONS](#). This is also referred to as a secondary plat.

Floor area.

- A. **Floor area, gross. (GFA)** The sum of all gross horizontal areas of the several floors of a building or buildings, measured from the outside dimensions of the structure or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.
- B. **Floor area, usable.** That area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers, measured from the interior faces of the exterior walls. Areas used principally for the storage or processing of merchandise, for hallways, stairways, and elevator shafts, or for utilities or sanitary facilities is be excluded from this computation.

Frontage. The linear distance where a property line is coterminous with a street right-of-way line.

Frontage street. Any street to be constructed by the developer or any existing street where development takes place on both sides.

Gg

Grade. The slope of a street, ditch, swale, pipe, other public way, and other applicable development features specified in percentage (%) terms.

Grade, natural. The elevation of the ground level in its natural state, before construction, filling, or excavation.

Grade, finished. The average elevation at ground level at the front wall of the building after construction and grading is complete.

Greenbelt. A landscaped area or vegetative strip that provides aesthetic relief, typically along a roadway.

Hh

Health Department and Johnson County Health Officer. The agency and that person designated by Johnson County to administer the health regulations within the County's jurisdiction.

Home occupation. A vocational activity conducted as an accessory use in a dwelling unit by a member or members of the resident family, which is clearly accessory and incidental to the principal residential use of the dwelling.

Household pets. Companion animals commonly kept as pets, whose primary value is personal enjoyment including, but not limited to, dogs, cats, birds, fish, turtles, rodents (bred, such as gerbils, rabbits, hamsters, or guinea pigs) and lizards (non-poisonous). Wild, vicious, or exotic animals are not be considered household pets.

Ii

Improvements. Any change in use, major exterior remodeling of a structure or grounds, addition to a structure or parking area, or interior remodeling of over 30 percent of the gross floor area of a structure.

Improvement location permit. A permit signed by the Zoning Administrator stating that a proposed improvement complies with the provisions of this Ordinance and all other applicable Ordinances.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Indiana Code. The latest edition with any amending supplements of the Indiana Statutes Code Edition (abbreviated as IC herein) which codifies all Indiana statutes for reference purposes.

Interested parties. Those parties who are the owners of property, to whom notice must be given for a particular proceeding

Jj

Junk. Any unlicensed and inoperable motor vehicles and inoperable machinery, appliances, products, or merchandise with parts missing, or scrap metals or other scrap materials that are damaged, deteriorated or in a condition which prevents its use for the purpose for which the product was intended or manufactured.

Kk

Ll

Loading space. An off-street portion of a parcel designated for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel.

Local street. A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

Lot. A legally described and recorded parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings or utilized for a principal use and its accessory uses, together with such yards and open spaces as are required by this Ordinance.

- A. **Lot, Corner.** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting a curved street is considered a corner lot if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.
- B. **Lot, Interior.** Any lot other than a corner lot.
- C. **Lot, Mew.** A lot served by an alley or street fronting an open space or common area. The front yard setback for a mew lot is measured from the narrowest property line abutting the open space or common area.
- D. **Lot, Through.** An interior lot having frontage on two streets that are approximately parallel.

Lot area. The total horizontal area within the lot lines of the lot, excluding any road right-of way or easement dedicated for street purposes.

Lot coverage. The percentage of the lot occupied by buildings, including accessory buildings.

Lot depth. The horizontal distance between the front and rear lot lines, measured along the midpoint between the side lot lines.

Lot improvement. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Lot line.

- A. **Lot line, front.** The line separating a lot from the abutting street or street right-of-way. For a corner lot, a line separating the narrowest street frontage of the lot from the street, unless otherwise determined by the Administrator.
- B. **Lot line, rear.** The line opposite the front lot line. In the case of a lot that is pointed at the rear, the rear lot line is an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line and wholly within the lot.
- C. **Lot line, side.** Any lot line other than the front, street side, or rear lot line. A side lot line separating a lot from another lot is an interior side lot line.
- D. **Lot line, street side.** A lot line, other than a front lot line or a rear lot line, that abuts a street. A street side lot line does not include lot lines that abut an alley.

Lot of record. A parcel of land separately described on a plat or metes and bounds description recorded in the office of the Johnson County Recorder on the effective date of this Ordinance.

Lot width. The horizontal distance between the side lot lines, measured at the two points where the front setback line intersects the side lot lines.

Mm

Manufactured home. A factory-built, single-family structure, transportable in one or more sections, which is built on a permanent chassis in compliance with the National Manufacture Home Construction and Safety Standards Act (42 U.S.C., sec. 4301) and designed to be used as a single-family dwelling with or without a permanent foundation when connected to the required utilities. The term “manufactured home” includes “mobile home.” Recreational vehicles and modular homes are not included in this definition.

Manufactured home community. A parcel or tract containing spaces for three or more manufactured homes with required improvements that are leased for the long-term placement of manufactured homes as year-round residences on a non-recreational basis, which may also include services and facilities for the residents.

Master plan. See **Comprehensive plan**.

Mixed Use. Two or more uses within the same building through superimposition or adjacency, or in multiple buildings by adjacency, or at a close proximity.

Model home. A dwelling unit used initially for display purposes which typifies the kind of units that will be constructed in the subdivision.

Modular home. A factory-fabricated, transportable building unit that is not a manufactured home, placed upon a permanent foundation, and joined to make a single residential structure.

Nn

Nonconforming lot. A lot that was legally established and in existence at the time this Ordinance or any amendment was adopted but which does not conform to the current area and width requirements of the district in which it is located.

Nonconforming building or structure. A building or structure that was legally established at the time this Ordinance or any amendment was adopted and which does not conform to the current regulations of the district in which it is located.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Nonconforming use. A use of a building, structure or land that was legally established and operating at the time this Ordinance or any amendment was adopted and which is no longer permitted in the district in which it is located.

Oo

Official map. The map(s) established by the Town Council pursuant to law showing the existing and proposed streets, highways, parks, drainage systems and set-back lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the Town Council or additions thereto resulting from the approval of subdivision plats by the Commission and the subsequent filing of such approved plats.

Open space. An area of land unoccupied by buildings, structure, storage, or parking areas, except for recreational structures and which is generally for the purpose of active or passive recreation, environmental protection, preservation of scenic views or similar purposes. Open space does not include street rights-of-way or easements or required yards.

Ordinance. The Town of Bargersville Development Code.

Overlay district. A special purpose zoning district that encompasses all or a portion of one or more underlying zones and imposes additional requirements beyond those required by the underlying zone.

Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under this Ordinance.

Pp

Parcel. A separate division of land legally described and of record to show the actual boundaries of the property.

Parking lot. A ground-level open area or plot of ground, usually improved, used for the temporary storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

Parking space. A defined off-street space of adequate size for parking a vehicle with room for opening doors on both sides and maneuvering.

Perimeter street. Any existing street to which the parcel of land to be subdivided abuts on only one side.

Person. Any person, firm, or corporation, public or private, the State of Indiana and its agencies or political subdivisions, and the United States of America, its agencies and instrumentality, and any agent, servant, officer, employee of any of the above.

Plan Commission. The Town's Plan Commission as established according to Indiana law, also known as the Advisory Plan Commission or the Commission.

Planned unit development (PUD). A tract or parcel of land developed as a unit under single ownership or unified control that is unique and incorporates one or more of the following: a variety of uses, varied density of development, dedicated open space, preservation of significant natural features, reduced lot sizes or similar attributes that typically would not be easily achieved under conventional zoning districts.

Plat. A map indicating the subdivision or re-subdivision of land filed or intended to be filed for record with the County Recorder.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Porch. A horizontal surface consisting of a deck, slab or other similar construction, covered and attached to a main building and designed for outdoor seating, shelter from the elements or as a means of entry to the building.

Primary plat. The preliminary drawing or drawings, described in this Ordinance, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

Primary approval. An approval (or approval with conditions imposed) granted to a subdivision by the Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in this Ordinance (per I.C. 36-7-4-700 series: Subdivision Control).

Principal use. The primary use of any lot.

Principle structure. A structure that accommodates the primary use of the site. Standards recognized by the Indiana Administrative Building Council are used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

Public improvement. Any drainage ditch, street, highway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the Town Council may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which Town Council responsibility is established. All such improvements must be properly bonded.

Public right-of-way. The publicly owned land in which any street, road, alley or pedestrian/bicycle way or other special purpose way or utility installation is constructed or reserved for public use.

Public sanitary sewer. A municipal sewer system, including collection and treatment facilities, established by a developer or the municipality to serve new or existing development.

Public water supply. A municipal water supply system including new and existing wells, and/or surface water sources and intakes, treatment facilities, and distribution lines established by a developer or the municipality to serve new or existing development.

Qq

Rr

Recreational vehicle. Any type of vehicle used temporarily or periodically for recreational or leisure pursuits. Examples include, but are not limited to, travel trailers, motor homes, boats, special purpose automobiles, floats, rafts, trailers, detachable travel equipment of the type adaptable to light trucks, personal watercraft and other vehicles or equipment of a similar nature, as well as any trailer used to transport them.

Registered land surveyor. A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered professional engineer. An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Residential District. The AG, R-R, R-1, R-2, R-3, R-4 and R-5 Districts.

Restrictive covenants. The limitations of various kinds on the usage of lots within a subdivision which are proposed by the developer or subdivider.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Right-of-way. A strip of land occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for another special use. The usage of the term "right- of-way" for land platting purposes means that every right-of-way hereafter established and shown on a secondary plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening, or special landscaping, or any other use involving maintenance by the Town Council must be dedicated to public or utility use by the developer or subdivider on whose plat such right-of-way is established.

Ss

Sale or lease. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, intestate succession, or other written instrument.

Screen or screening. A visual barrier that surrounds a potentially offensive activity.

Secondary approval. The stage of application for formal approval of a secondary plat of a subdivision which, if approved and signed by the designated officials, may be submitted to the County Recorder for filing.

Secondary plat. The map, drawing, or plan described in this Ordinance of a subdivision and any accompanying material submitted to the Commission for secondary approval, and which if approved and signed by the designated officials, may be submitted to the County Recorder for filing.

Setback. The minimum required horizontal distances measured from front, side, and rear lot lines which describe an area beyond which the main walls of a principal building may not extend. A "setback line" is the line established by the minimum horizontal distance for each yard. See "Yard" definitions.

Shade tree. A tree in a public place, street, special easement, or right-of-way adjoining a street as provided in this Ordinance.

Sign permit. A permit reviewed, approved, and issued by the Zoning Administrator for the Town of Bargersville to erect a sign.

Sketch plan. An informal, informational drawing, as described in this Ordinance, preparatory to the drawing of the primary plat to enable the developer or subdivider to save time and expense in reaching a general agreement with the Commission as to the form of the plat and conformance to the objectives of this Ordinance.

Soil survey. The National Cooperative Soil Survey prepared by the U.S. Department of Agriculture, Soil Conservation Service in cooperation with Purdue University.

Special exception use. Those uses of land and structures which are not essentially incompatible with the other uses permitted in a zoning district, but which possess characteristics of operation or locational qualities that may require individual review and restriction.

State law. Such legislative acts of the State of Indiana as they affect this Ordinance.

Steep Slopes. Slopes equal to or steeper than 12%. The percent slope is measured as a 6 foot fall or greater in any 50 foot distance.

Storm Water Utility Board. The board responsible for the review and approval of all drainage related aspects of development within the limits of the Town.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Story, half. An uppermost story, lying under a sloping roof, having an area of at least 200 square feet, with a clear height of seven feet six inches. For the purposes of this Ordinance, the usable floor area of a half story is only that area having at least four feet clear height between floor and ceiling.

Street. The space or area between lot lines, abutting upon a right-of-way and designed as a way for vehicular traffic, however designated, and including those illustrated in the Comprehensive Plan.

Street classification. The hierarchy of street types denoting their relative function and traffic carrying capability.

1. Arterial. A connected network of continuous routes serving intra- and interstate travel, as well as interurban travel. Arterials accommodate high traffic volumes generally at higher speeds. Access to abutting land is subordinate to moving through traffic. The following streets are classified as “arterials”:
 - SR 135
 - SR 37
 - CR 144
2. Collector. Those streets which collect traffic from local streets and channel it to arterial streets. Collector streets carry moderate traffic volumes and primarily provide for local traffic movements with a minor amount of through traffic. While traffic movement remains their primary function, collectors do provide for a higher degree of land access than arterials.
3. Local. A street that provides direct access to adjacent land and access to higher street classifications. All streets not otherwise classified are "local."

Street right-of-way width. The distance between property lines measured at right angles to the centerline of the street.

Street, private. Any vehicular access not dedicated to the public that has been platted and recorded as a private street.

Street, public. A right-of-way dedicated to the Town or other governmental entity and owned by the city or other governmental entity for public purposes.

Structural alterations. Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

Structure. Anything constructed, erected, or placed which requires location on or in the ground or is attached to something having a location on the ground, including without limitation, buildings, manufactured homes, gazebos, play structures, decks, towers, fences, and swimming pools.

Subdivider. Any person or legal entity who participates as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease of a development.

Subdivision. The division of any parcel of land into two or more parcels or lots or the combination of two or more smaller parcels or lots into one lot for the purpose of transfer or ownership, leasing, or development.

Tt

Technical Review Committee. A committee comprised of persons with technical knowledge of various municipal, county, state and federal regulations and standards regarding development responsible for working with developers or subdividers in reviewing technical aspects of plans and other development projects and making

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

technical findings for the Commission for their consideration in reviewing said plans. The committee consists of the Administrator and appropriate checkpoint agencies.

Temporary improvement. Improvements built and maintained by a developer or subdivider during construction of the subdivision and intended to be replaced by a permanent improvement prior to release of the performance bond or turn-around improvements at the ends of stub streets intended to be replaced when the adjoining area is developed and the through street connection made.

Thoroughfare plan. See **Official map**.

Town. The Town of Bargersville, Indiana.

Uu

Usable Living Area. The floor area of a dwelling unit, measured from the outside dimensions of the building's exterior walls, exclusive of unfinished basements, open porches, breezeways, terraces, garages, and exterior stairways.

Vv

Variance, development standard. A variation, authorized by the Board of Zoning Appeals, from the strict requirements of the Zoning Ordinance relative to building, lot area or width, setbacks, height, parking, or other dimensional provisions of the Ordinance.

Variance, use. A specific approval, authorized by the Board of Zoning Appeals, to conduct a principal use on a lot or parcel that is otherwise not permitted within the zoning district in which the property is located.

Ww

Wetlands. Those areas that are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Xx

Yy

Yard. An open space on the same lot with a building or structure, unoccupied and unobstructed between the building and the nearest lot line, except as otherwise provided (see also "building line").

1. **Yard, front.** The yard extending across the full width of the lot, the depth of which is the shortest horizontal distance between the front lot line and the front setback line.
2. **Yard, rear.** The yard extending the full width of the lot, the depth of which is the shortest horizontal distance between the rear lot line and the rear setback line.
3. **Yard, side.** The yard between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the shortest horizontal distance from the side lot line and the side setback line.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

4. *Yard, street side.* The yard between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the shortest horizontal distance from the side lot line abutting a street and the side setback line.

Zz

Zoning Administrator (or Administrator). The person designated by the Bargersville Town Council as the Town's agent for administration of these regulations.

Zoning Ordinance (or Ordinance). The Development Code of the Town of Bargersville, Indiana.

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS



Appendix A - Approved Plant List_____ **3**

APPROVED TREE SPECIES..... 3

APPROVED SHRUB SPECIES..... 7

APPROVED ORNAMENTAL GRASS SPECIES 10

APPROVED GROUNDCOVER AND VINE SPECIES 11

Appendix B - Prohibited Plant List_____ **12**

PROHIBITED PLANT SPECIES..... 12

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Appendix A - Approved Plant List

Approved Tree Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native | Approved Street Tree | Use Under Utility Lines |
|--|--------------------------------|-------------|-------------|--------|----------------------|-------------------------|
| <i>Abies concolor</i> | White Fir | 70' | 30' | No | | |
| <i>Acer griseum</i> | Paperbark Maple | 25' | 35' | No | Yes | Yes |
| <i>Acer miyabei</i> | Miyabe Maple | 40' | 35' | No | | |
| <i>Acer nigrum/saccharum</i> subsp. <i>nigrum</i> | Black Maple | 90' | 25' | Yes | Yes | |
| <i>Acer palmatum</i> 'Osakazuki' | Osakazuki Japanese Maple | 25' | 15' | No | | |
| <i>Acer rubrum</i> | Red Maple | 90' | 70' | Yes | Yes | |
| <i>Acer saccharum</i> | Sugar Maple | 75' | 50' | Yes | Yes | |
| <i>Acer x freemanii</i> | Freeman Maple/Hybrid Red Maple | 60' | 40' | Yes | Yes | |
| <i>Aesculus flava</i> | Yellow Buckeye | 75' | 50' | Yes | | |
| <i>Aesculus glabra</i> | Ohio Buckeye | 40' | 40' | Yes | | |
| <i>Aesculus x carnea</i> | Red Horse Chestnut | 40' | 35' | No | | |
| <i>Amelanchier arborea</i> | Downy Serviceberry | 25' | 20' | No | Yes | Yes |
| <i>Amelanchier laevis</i> | Allegheny Serviceberry | 40' | 40' | Yes | | |
| <i>Amelanchier</i> spp. | Serviceberry | 25' | 20' | Yes | | Yes |
| <i>Amelanchier x grandiflora</i> 'Autumn Brilliance' | Autumn Brilliance Serviceberry | 25' | 25' | No | Yes | Yes |
| <i>Asimina triloba</i> | Pawpaw | 30' | 25' | Yes | | Yes |
| <i>Betula alleghaniensis</i> | Yellow Birch | 75' | 65' | Yes | | |
| <i>Betula nigra</i> | River Birch | 70' | 60' | Yes | | |
| <i>Betula populifolia</i> | Gray Birch | 40' | 20' | Yes | | |
| <i>Carpinus betulus</i> 'Fastigiata' | Common Hornbeam | 40' | 30' | No | Yes | |
| <i>Carpinus caroliniana</i> | American Hornbeam | 30' | 30' | Yes | Yes | Yes |
| <i>Carya cordiformis</i> | Bitternut Hickory | 80' | 50' | Yes | | |
| <i>Carya glabra</i> | Pignut Hickory | 80' | 40' | Yes | | |
| <i>Carya illinoensis</i> | Pecan | 100' | 70' | Yes | | |
| <i>Carya laciniosa</i> | Shellbark Hickory | 80' | 60' | Yes | | |
| <i>Carya ovalis</i> | Red Hickory | 80' | 70' | Yes | | |
| <i>Carya ovata</i> | Shagbark Hickory | 90' | 70' | Yes | | |
| <i>Carya pallida</i> | Sand Hickory | 100' | 70' | Yes | | |
| <i>Carya texana</i> | Black Hickory | 50'-100' | 45' | Yes | | |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Approved Tree Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native | Approved Street Tree | Use Under Utility Lines |
|--|--------------------------|-------------|-------------|--------|----------------------|-------------------------|
| <i>Carya tomentosa</i> | Mockernut Hickory | 80' | 60' | Yes | | |
| <i>Catalpa speciosa</i> | Northern Catalpa | 70' | 50' | Yes | | |
| <i>Celtis laevigata</i> | Sugarberry | 70' | 60' | Yes | | |
| <i>Celtis occidentalis</i> | Hackberry | 80' | 60' | Yes | Yes | |
| <i>Cercis canadensis</i> | Eastern Redbud | 30' | 20' | Yes | Yes | Yes |
| <i>Chionanthus virginicus</i> | Fringetree | 20' | 15' | Yes | | Yes |
| <i>Cladrastis lutea</i> | Yellowwood | 50' | 55' | Yes | | |
| <i>Cornus alternifolia</i> | Pagoda Dogwood | 25' | 20' | Yes | | Yes |
| <i>Cornus florida</i> | Flowering Dogwood | 30' | 35' | Yes | | Yes |
| <i>Cornus kousa</i> | Kousa Dogwood | 30' | 30' | No | | |
| <i>Cornus mas</i> | Cornelian Cherry Dogwood | 25' | 20' | No | Yes | Yes |
| <i>Cotinus coggygria</i> | Smoketree | 15' | 15' | No | | Yes |
| <i>Crataegus phaenopyrum</i> | Washington Hawthorn | 30' | 30' | No | Yes | |
| <i>Crataegus punctata</i> | Dotted Hawthorn | 25' | 25' | Yes | | Yes |
| <i>Crataegus viridis</i> | Green Hawthorn | 35' | 35' | Yes | Yes | |
| <i>Cuprocyparis leylandii</i> | Leyland Cypress | 70' | 15' | No | | |
| <i>Diospyros virginiana</i> | Persimmon | 60' | 35' | Yes | | |
| <i>Euonymus atropurpurea</i> | Eastern Wahoo | 20' | 25' | Yes | | Yes |
| <i>Fagus grandifolia</i> | American Beech | 80' | 80' | Yes | | |
| <i>Fagus sylvatica</i> 'Tricolor' | Tricolor Beech | 30' | 30' | No | | |
| <i>Ginkgo biloba</i> | Ginkgo (male) | 80' | 40' | No | Yes | |
| <i>Gleditsia triacanthos</i> var. <i>inermis</i> | Thornless Honeylocust | 80' | 50' | Yes | Yes | |
| <i>Gymnocladus dioica</i> | Kentucky Coffeetree | 100' | 40' | Yes | Yes | |
| <i>Hamamelis virginiana</i> | Witchhazel | 15' | 15' | Yes | | Yes |
| <i>Juglans cinerea</i> | Butternut | 60' | 60' | Yes | | |
| <i>Juglans nigra</i> | Black Walnut | 100' | 100' | Yes | | |
| <i>Juniperus virginiana</i> | Eastern Red Cedar | 65' | 25' | Yes | | |
| <i>Koeleruteria paniculata</i> | Goldenrain Tree | 50' | 35' | No | | |
| <i>Larix laricina</i> | Eastern Larch (Tamarack) | 80' | 30' | Yes | | |
| <i>Liquidambar styraciflua</i> | Sweetgum | 60' | 40' | Yes | Yes | |
| <i>Liriodendron tulipifera</i> | Tulip Tree | 150' | 50' | Yes | Yes | |
| <i>Maackia amurensis</i> | Amur Maackia | 30' | 30' | No | Yes | |
| <i>Magnolia acuminata</i> | Cucumber Magnolia | 70' | 35' | Yes | | |

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

Approved Tree Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native | Approved Street Tree | Use Under Utility Lines |
|----------------------------|------------------------------|-------------|-------------|--------|----------------------|-------------------------|
| Magnolia stellata | Star Magnolia | 20' | 15' | No | | Yes |
| Magnolia tripetala | Umbrella Magnolia | 30' | 30' | Yes | | |
| Magnolia x soulgiana | Saucer Magnolia | 25' | 30' | Yes | | Yes |
| Malus 'Adams' | Adams Crabapple | 25' | 25' | No | | Yes |
| Malus 'Centurion' | Centurion Crabapple | 25' | 20' | No | | Yes |
| Malus coronaria | Wild Sweet Crabapple | 25' | 25' | Yes | Yes | |
| Malus floribunda | Japanese Flowering Crabapple | 25' | 25' | No | | Yes |
| Malus ioensis | Prairie Crabapple | 30' | 35' | Yes | | Yes |
| Malus sargentii | Sargent Crabapple | 10' | 15' | No | | Yes |
| Morus rubra | Red Mulberry | 50' | 40' | Yes | | |
| Nyssa sylvatica | Black Gum | 50' | 30' | Yes | | |
| Ostrya virginiana | Hophornbeam | 45' | 40' | Yes | Yes | |
| Oxydendrum arboreum | Sourwood | 50' | 25' | Yes | | |
| Picea abies | Norway Spruce | 60' | 30' | No | | |
| Picea omorika | Serbian Spruce | 60' | 20' | No | | |
| Picea pungens 'Glaucous' | Colorado Blue Spruce | 60' | 20' | No | | |
| Pinus banksiana | Jack Pine | 50' | 30' | Yes | | |
| Pinus strobus | Eastern White Pine | 80' | 40' | Yes | | |
| Pinus sylvestris | Scotch Pine | 50' | 30' | No | | |
| Pinus virginiana | Virginia Pine/Scrub Pine | 30' | 20' | Yes | | |
| Platanus acerifolia | Columbia London Planetree | 80' | 65' | No | Yes | |
| Platanus occidentalis | Sycamore | 90' | 70' | Yes | | |
| Populus balsamifera | Balsam Poplar | 100' | 70' | Yes | | |
| Populus deltoides | Cottonwood | 80' | 60' | Yes | | |
| Prunus americana | American Plum | 25' | 20' | Yes | | Yes |
| Prunus cerasifera | Purple-Leaf Plum | 20' | 20' | No | | Yes |
| Prunus maakii | Amur Chokecherry | 25' | 20' | No | | Yes |
| Prunus pendula | Weeping Higan Cherry | 25' | 25' | No | | |
| Prunus pensylvanica | Pin Cherry/ Fire Cherry | 40' | 30' | Yes | | |
| Prunus serotina | Wild Black Cherry | 80' | 60' | Yes | | |
| Prunus serrulata 'Kwanzan' | Kwanzan Cherry | 25' | 25' | No | | |
| Pseudotsuga menziesii | Douglas Fir | 80' | 20' | No | | |
| Ptelea trifoliata | Hoptree | 25' | 15' | Yes | | Yes |

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

Approved Tree Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native | Approved Street Tree | Use Under Utility Lines |
|------------------------------------|--------------------------------|-------------|-------------|--------|----------------------|-------------------------|
| <i>Pyrus coronaria</i> | Wild Sweet Crabapple | 30' | 30' | Yes | | |
| <i>Quercus alba</i> | White Oak | 100' | 90' | Yes | Yes | |
| <i>Quercus bicolor</i> | Swamp White Oak | 90' | 70' | Yes | Yes | |
| <i>Quercus coccinea</i> | Scarlet Oak | 70' | 50' | Yes | | |
| <i>Quercus ellipsoidalis</i> | Northern Pin Oak | 70' | 60' | Yes | | |
| <i>Quercus falcata</i> | Southern Red Oak | 80' | 50' | Yes | | |
| <i>Quercus imbricaria</i> | Shingle Oak | 60' | 50' | Yes | Yes | |
| <i>Quercus lyrata</i> | Overcup Oak | 60' | 60' | Yes | | |
| <i>Quercus macrocarpa</i> | Bur Oak | 80' | 80' | Yes | | |
| <i>Quercus marilandica</i> | Blackjack Oak | 35' | 25' | Yes | | |
| <i>Quercus michauxii</i> | Swamp Chestnut Oak | 60' | 50' | Yes | | |
| <i>Quercus muehlenbergii</i> | Chinkapin Oak | 60' | 70' | Yes | | |
| <i>Quercus pagoda</i> | Cherrybark Oak | 110' | 50' | Yes | | |
| <i>Quercus palustris</i> | Pin Oak | 70' | 60' | Yes | | |
| <i>Quercus prinus</i> | Chestnut Oak | 70' | 70' | Yes | | |
| <i>Quercus robur f. fastigiata</i> | English Oak | 60' | 20' | Yes | Yes | |
| <i>Quercus rubra</i> | Northern Red Oak | 70' | 60' | Yes | Yes | |
| <i>Quercus shumardii</i> | Shumard Oak | 60' | 40' | Yes | | |
| <i>Quercus stellata</i> | Post Oak | 50' | 50' | Yes | | |
| <i>Quercus velutina</i> | Black Oak | 60' | 60' | Yes | | |
| <i>Rhus glabra</i> | Smooth Sumac | 20' | 15' | Yes | | Yes |
| <i>Rhus typhina</i> | Staghorn Sumac | 25' | 30' | Yes | | |
| <i>Salix amygdaloides</i> | Peachleaf Willow | 70' | 60' | Yes | | |
| <i>Salix nigra</i> | Black Willow | 60' | 60' | Yes | | |
| <i>Salix sericea</i> | Silky Willow | 12' | 12' | Yes | | |
| <i>Sassafras albidum</i> | Sassafras | 60' | 40' | Yes | | |
| <i>Sophora japonica</i> | Scholar Tree | 75' | 75' | No | | |
| <i>Syringa reticulata</i> | Ivory Silk Japanese Tree Lilac | 25' | 15' | No | Yes | Yes |
| <i>Syringa vulgaris</i> | Common Lilac | 20' | 15' | No | | |
| <i>Taxodium distichum</i> | Bald Cypress | 70' | 45' | Yes | | |
| <i>Thuja occidentalis</i> | American Arborvitae | 40' | 15' | Yes | | |
| <i>Thuja plicata</i> | Western Arborvitae | 70' | 25' | Yes | | |
| <i>Tilia americana</i> | Basswood | 80' | 50' | Yes | | |

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

Approved Tree Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native | Approved Street Tree | Use Under Utility Lines |
|---------------------------------------|---------------------------|-------------|-------------|--------|----------------------|-------------------------|
| <i>Tilia cordata</i> | Littleleaf Linden | 50' | 40' | No | Yes | |
| <i>Tilia tomentosa</i> | Silver Linden | 50' | 40' | No | Yes | |
| <i>Tsuga canadensis</i> | Canadian Hemlock | 70' | 35' | Yes | | |
| <i>Ulmus thomasii</i> | Rock Elm/Cork Elm | 80' | 50' | Yes | | |
| <i>Ulmus alata</i> | Winged Elm | 50' | 40' | Yes | Yes | |
| <i>Ulmus americana</i> 'New Harmony' | New Harmony American Elm | 70' | 60' | No | Yes | |
| <i>Ulmus americana</i> 'Princeton' | Princeton American Elm | 70' | 60' | No | Yes | |
| <i>Ulmus americana</i> 'Valley Forge' | Valley Forge American Elm | 70' | 60' | No | Yes | |
| <i>Ulmus rubra</i> | Slippery Elm | 60' | 50' | Yes | | |
| <i>Zelkova serrata</i> | Japanese Zelkova | 80' | 75' | No | Yes | |

Approved Shrub Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native |
|-----------------------------------|---------------------------------|-------------|-------------|--------|
| <i>Abelia x grandiflora</i> | Glossy Abelia | 6' | 6' | No |
| <i>Aesculus parviflora</i> | Bottlebrush Buckeye | 12' | 15' | Yes |
| <i>Amelanchier canadensis</i> | Serviceberry | 25' | 20' | Yes |
| <i>Aronia arbutifolia</i> | Red Chokecherry | 10' | 6' | Yes |
| <i>Aronia melanocarpa</i> | Black Chokeberry | 6' | 6' | Yes |
| <i>Aruncus dioicus</i> | Goat's Beard | 6' | 4' | Yes |
| <i>Buddleia davidii</i> | Butterfly Bush | 6' | 6' | No |
| <i>Buxus microphylla</i> | Littleleaf Boxwood | 4' | 4' | No |
| <i>Buxus</i> spp. | Glencoe or Green Velvet Boxwood | 4' | 4' | No |
| <i>Callicarpa dichotoma</i> | Beautyberry | 6' | 6' | Yes |
| <i>Calycanthus floridus</i> | Carolina Allspice | 12' | 12' | Yes |
| <i>Caryopteris x clandonensis</i> | Bluebeard | 3' | 3' | No |
| <i>Ceanothus americanus</i> | New Jersey Tea | 4' | 6' | Yes |
| <i>Cephalanthus occidentalis</i> | Buttonbush | 12' | 8' | Yes |
| <i>Chaenomeles speciosa</i> | Flowering Quince | 10' | 15' | No |
| <i>Clethra alnifolia</i> | Summersweet Clethra | 6' | 5' | Yes |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Approved Shrub Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native |
|---|------------------------------|-------------|-------------|--------|
| <i>Comptonia peregrina</i> | Sweet Fern | 4' | 8' | Yes |
| <i>Cornus amomum</i> | Silky Dogwood | 10' | 10' | Yes |
| <i>Cornus sericea</i> | Redosier/Red Stemmed Dogwood | 10' | 8' | Yes |
| <i>Corylus americana</i> | American Hazlenut | 10' | 15' | Yes |
| <i>Cotinus coggygria</i> | Smoke Bush | 15' | 15' | Yes |
| <i>Cotoneaster divaricatus</i> | Spreading Cotoneaster | 6' | 8' | No |
| <i>Daphne x burkwoodii</i> | Daphne Burkwood | 4' | 4' | No |
| <i>Deutzia gracilis</i> | Slender Deutzia | 3' | 4' | No |
| <i>Elaeagnus commutata</i> | Silverberry | 10' | 6' | Yes |
| <i>Euonymus americanus</i> | Strawberry Bush | 6' | 6' | Yes |
| <i>Euonymus atropurpureus</i> | Eastern Wahoo | 20' | 15' | Yes |
| <i>Forsythia x intermedia</i> | Border Forsythia | 10' | 15' | No |
| <i>Fothergilla gardenii</i> | Fothergilla | 3' | 4' | Yes |
| <i>Fothergilla major</i> | Large Fothergilla | 10' | 9' | Yes |
| <i>Fothergilla 'Mount Airy'</i> | Mount Airy Fothergilla | 5' | 5' | Yes |
| <i>Fothergilla x intermedia 'Blue Shadow'</i> | Blue Shadow Fothergilla | 6' | 6' | Yes |
| <i>Hamamelis virginiana</i> | Witchhazel | 15' | 15' | Yes |
| <i>Heptacodium miconioides</i> | Seven-son Flower | 20' | 10' | No |
| <i>Hibiscus syriacus</i> | Rose-of-Sharon | 12' | 12' | No |
| <i>Hydrangea aborescens</i> | Smooth Hydrangea | 5' | 5' | Yes |
| <i>Hydrangea quercifolia</i> | Oak Leaf Hydrangea | 10' | 8' | Yes |
| <i>Ilex glabra</i> | Inkberry | 12' | 12' | Yes |
| <i>Ilex verticillata</i> | Winterberry | 12' | 12' | Yes |
| <i>Ilex x meserveae</i> | Blue Holly | 8' | 8' | No |
| <i>Itea virginica</i> | Virginia Sweetspire | 6' | 14' | Yes |
| <i>Juniperus aquamata 'Blue Carpet'</i> | Blue Carpet Juniper | 1' | 5' | Yes |
| <i>Juniperus aquamata 'Blue Star'</i> | Blue Star Juniper | 3' | 4' | Yes |
| <i>Juniperus communis</i> | Common Juniper | 10' | 12' | Yes |
| <i>Juniperus horizontalis 'Plumosa'</i> | Andorra Juniper | 18' | 5' | Yes |
| <i>Kalmia latifolia</i> | Mountain Laurel | 10' | 10' | Yes |
| <i>Kerria japonica</i> | Japanese Kerria | 6' | 9' | No |
| <i>Kolkwitzia amabilis</i> | Beautybush | 10' | 10' | No |
| <i>Ligustrum vicaryi</i> | Golden Privet | 12' | 13' | No |
| <i>Lindera benzoin</i> | Spicebush | 12' | 12' | Yes |

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

Approved Shrub Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native |
|----------------------------------|--------------------------|-------------|-------------|--------|
| Lonicera involucrata | Twinberry | 10' | 10' | Yes |
| Myrica pensylvanica | Bayberry | 12' | 12' | Yes |
| Persicaria polymorpha | Knotweed | 5' | 4' | No |
| Physocarpus opulifolius | Ninebark | 8' | 6' | Yes |
| Physocarpus opulifolius 'Diablo' | Diablo Ninebark | 8' | 8' | Yes |
| Prunus glandulosa | Flowering Dwarf Almond | 5' | 4' | No |
| Rhamnus alnifolia | Alder-leaved Buckthorn | 3' | 3' | Yes |
| Rhododendron carolinianum | Carolina Rhododendron | 5' | 10' | No |
| Rhododendron catawbiense | Catawba Rhododendron | 10' | 20' | No |
| Rhododendron PJM hybrids | PJM Rhododendron | 6' | 5' | No |
| Rhodotypos scandens | Jetbead | 4' | 3' | No |
| Rhus aromatica 'Gro Low' | Gro Low Fragrant Sumac | 3' | 8' | No |
| Rhus copallinum | Shining Sumac | 15' | 20' | Yes |
| Rhus glabra | Smooth Sumac | 15' | 15' | Yes |
| Ribes alpinum 'Green Mound' | Alpine Currant | 3' | 3' | No |
| Rosa glauca/rubrifolia | Redleaf Rose | 8' | 7' | No |
| Rosa knockout | Knockout Roses | 4' | 4' | No |
| Salix eleagnos | Rosemary Willow | 10' | 8' | No |
| Sambucus canadensis | American Elderberry | 12' | 12' | Yes |
| Sambucus racemosa | American Red Elderberry | 12' | 15' | Yes |
| Shepherdia argentea | Buffaloberry | 8' | 8' | Yes |
| Staphylea trifolia | Bladdernut | 12' | 12' | Yes |
| Stephanandra incisa | Cutleaf Stephanandra | 3' | 4' | No |
| Symphoricarpos x chenaultii | Snowberry | 6' | 8' | No |
| Syringa patula | Miss Kim Lilac | 8' | 10' | No |
| Syringa x chinensis | Chinese Lilac | 15' | 15' | No |
| Taxus x media | Yew | 6' | 12' | Yes |
| Viburnum lentago | Nannyberry | 15' | 12' | Yes |
| Viburnum dentatum | Arrowwood Viburnum | 15' | 15' | Yes |
| Viburnum ferreri | Fragrant Viburnum | 10' | 10' | No |
| Viburnum lantana | Wayfaring Tree | 10' | 10' | No |
| Viburnum nudum v. cassinoides | Smooth Witherod Viburnum | 10' | 10' | Yes |
| Viburnum opulus | European Cranberry | 12' | 12' | No |
| Viburnum plicatum | Doublefile Viburnum | 10' | 10' | No |
| Viburnum prunifolium | Blackhaw Viburnum | 15' | 12' | Yes |

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

Approved Shrub Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native |
|----------------------------------|-------------------------|-------------|-------------|--------|
| Viburnum rufidulum | Rusty Blackhaw Viburnum | 15' | 12' | No |
| Viburnum sieboldii | Siebold Viburnum | 30' | 12' | No |
| Viburnum x burwoodii | Burkwood Viburnum | 10' | 10' | No |
| Viburnum x judii | Judd Viburnum | 10' | 10' | No |
| Weigela florida | Old Fashioned Weigela | 10' | 12' | No |
| Weigela florida 'Wine and Roses' | Wine and Roses Weigela | 5' | 6' | No |
| Yucca filamentosa | Yucca | 5' | 5' | Yes |

Approved Ornamental Grass Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native |
|-------------------------------------|-------------------------------|-------------|-------------|--------|
| Caerulea arundinacea 'Windspiel' | Grass Molinia Moor | 7' | 4' | Yes |
| Carex buchananii | Leatherleaf Sedge | 2.5' | 3' | Yes |
| Carex morrowii 'Ice Dance' | Ice Dance Sedge | 1' | 2' | Yes |
| Carex morrowii 'Variegata' | Variegated Japanese Sedge | 1.5' | 1' | No |
| Chasmanthium latifolium | Northern Sea Oats | 5' | 3' | Yes |
| Clamagrostis x acutiflora | Feather Reed Grass | 5' | 2' | Yes |
| Festuca glauca | Blue Fescue | 1' | 1' | No |
| Juncus effusus | Common Rush/Soft Rush | 4' | 4' | Yes |
| Liriope muscari | Lily Turf | 1.5' | 9" | No |
| Panicum virgatum | Switch Grass | 6' | 3' | No |
| Pennisetum alopecuroides | Fountain Grass | 5' | 5' | Yes |
| Pennisetum alopecuroides 'Hamein' | Dwarf Fountain Grass | 2' | 1.5' | No |
| Sesleria autumnalis | Autumn Moor Grass | 1' | 1' | No |
| Schoenoplectus acutus | Hardstem Bulrush | 6' | 4' | Yes |
| Schoenoplectus pungens | Common Threesquare | 4' | 3' | Yes |
| Sisyrinchium angustifolium | Blue-Eyed Grass | 2' | 1' | Yes |
| Spartina pectinata 'Aureomarginata' | Variegated Prairie Cord Grass | 6' | 4' | Yes |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Approved Groundcover and Vine Species

| Scientific Name | Common Name | Max. Height | Max. Spread | Native |
|---|--------------------------|-------------|-------------|--------|
| Aegopodium 'Variegatum' podagraria | Bishop's Weed | 2' | 4' | No |
| Ajuga reptans | Bugleweed | 10" | 2' | No |
| Arctostaphylos uva-ursi | Bearberry | 8" | 1' | Yes |
| Asarum canadense | Wild Ginger | 1' | 1.5' | Yes |
| Asarum europaeum | Wild Ginger | .5' | 1.5' | No |
| Asclepias incarnata | Swamp Milkweed | 5' | 3' | Yes |
| Celastrus scandens | American Bittersweet | 20' | 6' | Yes |
| Convallaria majalis | Lily of the Valley | 1' | 1' | Yes |
| Cotoneaster dammeri | Cotoneaster Bearberry | 2' | 1' | No |
| Epimedium x rubrum | Barrenwort | 2' | 4' | No |
| Galium odoratum | Sweet Woodruff | 1' | 2' | No |
| Helleborus spp. | Hellebore | 1.5' | 1.5' | Yes |
| Iris cristata | Crested Dwarf Iris | 9" | 1' | Yes |
| Liatris pycnostachya | Prairie Blazing Star | 5' | 2' | Yes |
| Liatris spicata 'Kobold' | Kobold Blazing Star | 2.5' | 1' | Yes |
| Lobelia cardinalis (incl. hybrid cultivars) | Cardinal Flower | 4' | 2' | Yes |
| Lonicera sempervirens | Coral Honeysuckle | 15' | 6' | Yes |
| Lonicera x heckrottii | Everblooming Honeysuckle | 15' | 6' | Yes |
| Parthenocissus quinquefolia | Virginia Creeper | 50' | variable | Yes |
| Phlox paniculata 'Katherine' | Summer Phlox | 2.5' | 2' | Yes |
| Phlox paniculata 'David' | Summer Phlox | 4' | 3' | Yes |
| Phlox paniculata 'Shortwood' | Summer Phlox | 4' | 3' | Yes |
| Vernonia fasciculata | Prairie Ironweed | 4' | 3' | Yes |
| Waldsteinia fragarioides | Barren Strawberry | 0.5' | 1' | Yes |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Appendix B - Prohibited Plant List

Prohibited Plant Species

| Scientific Name | Common Name | Reason |
|----------------------------------|----------------------------|-----------------------------------|
| Acer campestre | Hedge Maple | Invasive |
| Acer ginnala | Amur Maple | Invasive |
| Acer negundo | Box Elder | Weak Wood; Aggressive |
| Acer platanoides | Norway Maple | Invasive |
| Acer saccharinum | Silver Maple | Weak Wood; Aggressive |
| Acer tartarium | Tartarian Maple | Invasive |
| Achyranthes japonica | Japanese Chaff Flower | Highly Invasive |
| Ailanthus altissima | Tree of Heaven | Invasive; Suckers; Weak Wood |
| Alliaria petiolate | Garlic Mustard | Invasive |
| Alnus glutinosa | Black Alder | Invasive |
| Ampelopsis brevipedunculata | Porcelain Berry | Invasive |
| Artemisia vulgaris | Mugwort | Highly Invasive |
| Arthraxon hispidus | Small Carpgrass | Highly Invasive |
| Arundo donax | Giant Reed | Invasive |
| Azolla pinnata | Mosquito Fern | Prohibited Plant Species |
| Berberis thunbergii | Japanese Barberry | Invasive |
| Berberis vulgaris | Common Barberry | Invasive |
| Bromus inermis | Smooth Brome | Invasive |
| Buddleia davidii | Butterfly Bush | Invasive |
| Butomus umbellatus | Flowering Rush | Invasive/Prohibited Plant Species |
| Cardamine impatiens | Narrowleaf Bittercress | Invasive |
| Carduus acanthoides | Plumeless Thistle | Invasive |
| Carduus nutans | Musk Thistle | Invasive |
| Caulerpa taxifolia | Mediterranean Killer Algae | Prohibited Plant Species |
| Celastrus orbiculatus | Asian Bittersweet | Invasive |
| Centaurea biebersteinii | Spotted Knapweed | Invasive |
| Cirsium arvense | Canada Thistle | Invasive/Noxious Weed |
| Cirsium vulgare | Bull Thistle | Invasive |
| Clematis terniflora | Sweet Autumn Virginsbower | Invasive |
| Conium maculatum | Poison Hemlock | Invasive |
| Convolvulus arvensis | Field Bindweed | Invasive |
| Coronilla varia/Securigera varia | Crown vetch | Invasive |
| Cynanchum louiseae | Black Swallow-Wort | Invasive |
| Cynanchum rossicum | Pale Swallow-Wort | Invasive |
| Daucus carota | Queen Anne's Lace | Invasive |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

Prohibited Plant Species

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

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

Prohibited Plant Species

| Scientific Name | Common Name | Reason |
|------------------------------------|------------------------|-----------------------------------|
| Ligustrum ovalifolium | California Privet | invasive |
| Ligustrum sinense | Chinese Privet | Invasive |
| Ligustrum vulgare | Common Privet | Invasive |
| Limnophila sessiliflora | Asian Marshweed | Invasive/Prohibited Plant Species |
| Lonicera japonica | Japanese Honeysuckle | Invasive |
| Lonicera maackii | Amur Honeysuckle | Invasive |
| Lonicera morrowii | Morrow's Honeysuckle | Invasive |
| Lonicera spp. | Bush Honeysuckle | Invasive |
| Lonicera tatarica | Tartarian Honeysuckle | Invasive |
| Lonicera x bella | Bella Honeysuckle | Invasive |
| Lysimachia nummularia | Creeping Jenny | Invasive |
| Lysimachia nummularia | Moneywort | Invasive |
| Lythrum salicaria | Purple Loosestrife | Invasive/Prohibited Plant Species |
| Maclura pomifera | Osage-Orange | Invasive Tendencies; Weak Wood |
| Melilotus spp. | Sweet Clover | Invasive |
| Microstegium vimineum | Japanese Stiltgrass | Invasive |
| Miscanthus sinensis | Chinese Maiden Grass | Invasive |
| Miscanthus x gigantea | Miscanthus Hybrid | Invasive |
| Monochoria hastata | Arrowleaf | Prohibited Plant Species |
| Monochoria vaginalis | False Pickerelweed | Prohibited Plant Species |
| Morus alba | White Mulberry | Invasive |
| Myriophyllum aquaticum | Parrot Feather | Invasive/Prohibited Plant Species |
| Myriophyllum spicatum | Eurasian Watermilfoil | Invasive/Prohibited Plant Species |
| Najas Minor | Brittle Naiad | Invasive/Prohibited Plant Species |
| Nymphoides peltate | Yellow Floating Hearts | Invasive/Prohibited Plant Species |
| Ornithogalum umbellatum | Star-of-Bethlehem | Invasive |
| Ottelia alismoides | Duck Lettuce | Invasive/Prohibited Plant Species |
| Pastinaca sativa | Wild Parsnip | Invasive |
| Paulownia tomentosa | Princess Tree | Invasive |
| Phalaris arundinacea | Ribbon Grass | Invasive |
| Phellodendron amurense | Amur Cork Tree | Invasive |
| Phragmites australis | Reed Grass | Invasive |
| Phragmites australis ssp australis | Common Reed | Invasive |
| Polygonum cuspidatum | Japanese Knotweed | Invasive |
| Polygonum perfoliatum | Mile-A-Minute | Invasive |
| Potamogeton crispus | Curly-Leaved Pondweed | Invasive/Prohibited Plant Species |
| Pueraria lobate | Kudzu | Invasive/Pest Species |

**GENERAL
PROVISIONS**

**ZONING
DISTRICTS**

**SPECIFIC
USES**

**DESIGN &
MAINTENANCE**

**IMPROVEMENT
STANDARDS**

**SUBDIVISION
REGULATIONS**

**PROCESS AND
ADMIN**

CONSTRUCTION

STORMWATER

DEFINITIONS

Prohibited Plant Species

| Scientific Name | Common Name | Reason |
|-------------------------------------|--------------------------|-----------------------------------|
| Pyrus calleryana | Callery Pear | Invasive |
| Pyrus species | Ornamental Pear | Weak Branching/ Invasive |
| Quercus acutissima | Sawtooth Oak | Invasive |
| Ranunculus ficaria | Lesser Celandine | Invasive |
| Rhamnus cathartica | Common Buckthorn | Invasive |
| Rhodotypos scandens | Jetbead | Invasive |
| Robinia pseudoacacia | Black Locust | Shallow, Invasive Roots |
| Rosa multiflora | Multiflora Rose | Invasive/Prohibited Plant Species |
| Rubus phoenicolasius | Wineberry/Wine Raspberry | Invasive |
| Sagittaria sagittifolia | Arrowhead | Prohibited Plant Species |
| Salix species | Willow | Invasive Roots; Weak Wood |
| Salvinia auriculata/biloba/herzogii | Giant Salvinia | Prohibited Plant Species |
| Salvinia molesta | Giant Salvinia | Prohibited Plant Species |
| Saponaria officinalis | Bouncing bet/Soapwort | Invasive |
| Sicyos angulatus | Bur Cucumber | Noxious Weed |
| Sonchus arvensis | Perennial Sow Thistle | Noxious Weed |
| Sorbus spp. | Mountain Ash | Susceptible to Pests and Diseases |
| Sorghum alnum | Sorghum alnum | Noxious Weed |
| Sorghum halapense | Johnson Grass | Invasive/Noxious Weed |
| Sparganium erectum | Exotic Bur-reed | Prohibited Plant Species |
| Spiraea japonica | Japanese Meadowsweet | Invasive |
| Torilis arvensis | Spreading Hedgeparsley | Invasive |
| Torilis japonica | Japanese Hedgeparsley | Invasive |
| Trapa natans | Water Chestnut | Invasive/Prohibited Plant Species |
| Typha angustifolia | Narrow-leaved Cattail | Invasive/Prohibited Plant Species |
| Typha x glauca | Hybrid Cattail | Invasive |
| Ulmus Americana | American Elm | Dutch Elm Disease |
| Ulmus pumila | Siberian Elm | Invasive; Susceptible to Disease |
| Viburnum opulus var. opulus | European Cranberry-Bush | Invasive |
| Viburnum trilobum | Highbush Cranberry | Invasive |
| Vicia cracca | Vetch | Invasive |
| Vinca Major | Large-leaved Periwinkle | Invasive |
| Vinca Minor | Periwinkle | Invasive |
| Wisteria Sinensis | Chinese Wisteria | Invasive |

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS

GENERAL
PROVISIONS

ZONING
DISTRICTS

SPECIFIC
USES

DESIGN &
MAINTENANCE

IMPROVEMENT
STANDARDS

SUBDIVISION
REGULATIONS

PROCESS AND
ADMIN

CONSTRUCTION

STORMWATER

DEFINITIONS