WESTFIELD-WASHINGTON TOWNSHIP

UNIFIED DEVELOPMENT ORDINANCE

WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT
2728 EAST 171ST STREET, WESTFIELD, INDIANA 46074 | www.westfield.in.gov

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CHAPTER 2: BASIC PROVISIONS

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2.1 Title

A. **Title:** This ordinance shall be formally known as the "Westfield-Washington Township Unified Development Ordinance," and may be cited and referred to as the "Zoning Ordinance," "Subdivision Control Ordinance," or Unified Development Ordinance" (herein referred to as this "Ordinance").

B. **Repealer:** This Unified Development Ordinance is hereby incorporated by reference into the Code of Ordinances, City of Westfield, Indiana, and hereby replaces and repeals all prior Zoning Ordinances, Subdivision Control Ordinances, and Building Codes for the Township including, but not limited to: The Westfield-Washington Township Comprehensive Zoning Ordinance of 1977, as amended by Ordinance Number 95-8, the Comprehensive Zoning Ordinance of Westfield-Washington Township, Ordinance No. 1977-202, as amended, the Zoning Ordinance of the Town of Westfield, Indiana, Ordinance Number 1965-1, as amended, the Improvement Location Permit Ordinance of the Town of Westfield, Indiana, Ordinance Number 1965-2, as amended, the Building Code of the Town of Westfield, Indiana, Ordinance Number 95-20, as amended, and the Subdivision Control Ordinance of the Town of Westfield, Indiana, Ordinance Number 1965-3, as amended, passed by the Board of Trustees of the Town of Westfield, Indiana, Hamilton County, Indiana, in June 1965.

C. **Location of Ordinance:** In accordance with Indiana law, copies of this Ordinance shall be maintained on file in the office of the City's Clerk/Treasurer and the Department, and kept on file for public inspection as required by Indiana law. The office of the Clerk/Treasurer and the Department shall keep additional copies of this Ordinance for the purpose of sale or distribution.

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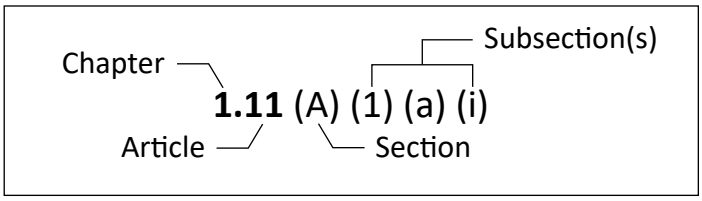
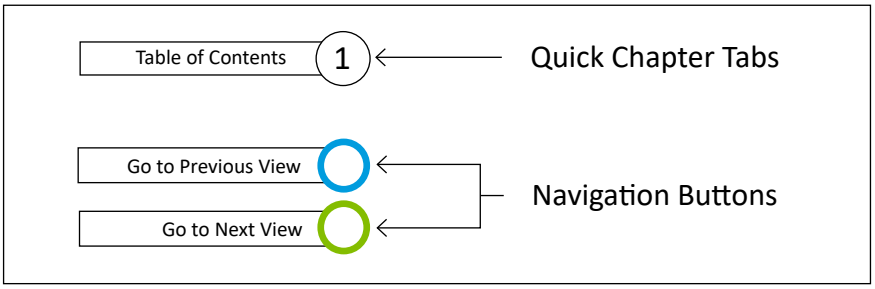
2.2 Ordinance Format / Quick Links

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



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

1. Electronic Format: If used in the electronic format, certain aspects of this document allow the user to quickly navigate the document by clicking on hyperlinks and quick access chapter tabs.
2. Quick Chapter Tab Links: Clicking on the Chapter Title in the tabs located in the right margin will direct the user to that chapter's table of contents.
3. Chapter Table of Contents: The Article headings located in the table of contents at the beginning of each Chapter may be clicked to direct the user to that Article within the Chapter.
4. Navigation Buttons: The "Go to Previous View" and "Go to Next View" buttons allow the user to navigate forward and backward to pages previously viewed.
5. Zoning Districts: *Zoning District* names that appear within this document are *colored and emphasized in italics* and may be clicked to direct the user to the Zoning District's standards in *CHAPTER 4: ZONING DISTRICTS* of this Ordinance.
6. Article Cross-Reference: In-line text cross-references to other Articles within this document are *colored and emphasized in italics*. Clicking on the emphasized text will direct the user to the cross-referenced Article.
7. Hyperlink Cross-Reference: This document includes cross-references to documents and websites outside of this document. These links are provided for convenience only and the City does not guarantee the accuracy of these links or its content, nor that the links will work all the time. These cross-references are colored and underlined. Clicking on the text in the emphasized cross-reference will direct the user to the document or link.



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2.3 Authority and Purpose

A. **Authority:** This Ordinance is adopted by the City pursuant to its authority under the laws of the State of Indiana, I.C. 37-7-4 et seq. as a Unified Development Ordinance, combining the Zoning and Subdivision Control Ordinances into a single book and code title. Whenever codes cited in this Ordinance refer to Indiana Code ("I.C." or "Indiana Code") or Indiana Administrative Code ("I.A.C.") which has been amended or superseded, then this Ordinance shall be deemed amended in reference to the new or revised code.

B. **Jurisdiction:** This Ordinance shall apply to all land within Washington Township and all land incorporated into the City, to the extent permitted under federal and Indiana law, except for those areas incorporated into another city or town.

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

1. Adequate Facilities: To secure adequate light, air and convenience of access; and provide safety from fire, flood, and other dangers.
2. Public Safety: To promote the public health, safety, convenience, and general welfare of the community.
3. Future Development: To plan for the future development of the community to the end that:
   a. The community grows with adequate public ways, utilities, health, education, and recreation facilities;
   b. The needs of agriculture, industry, and business be recognized in future growth;
   c. Residential areas provide healthful surroundings for family life; and
   d. The growth of the community is commensurate with and promotes the efficient and economical use of public funds.

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

2.4 Interpretation & Application

A. **Compliance:** No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, enlarged or used, nor shall any piece of land be used, nor shall any existing use be expanded except when in full compliance with all provisions of this Ordinance and the permits and certificates required by this Ordinance have been lawfully issued. See also *CHAPTER 9: NONCONFORMING REGULATIONS* and *CHAPTER 10: PROCESSES & PERMITS*.

B. **Conflicting Requirements:** The provisions of this Ordinance shall be the minimum requirements for the protection of the health, safety, comfort,

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convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment. If two or more provisions within this Ordinance are in conflict or are inconsistent with one another, then the provision which is most restrictive shall control.

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

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

E. **Defined Words:** Words used in a special sense in this Ordinance are defined in *Article 12.1 Definitions*. All other words shall have the meaning inferred from their context in this Ordinance or their ordinarily accepted definitions.

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

1. The particular and specific provisions of this Ordinance shall supersede any general requirements that are established by it.
2. The words "shall" and "will" are always mandatory requirements and not discretionary. The word "may" is permissive. The word "should" is a preferred and discretionary requirement.
3. Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.
4. The phrase "used for" includes "arranged for, designed for, intended for, maintained for, or occupied for."
5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
6. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and, or," or "either

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. . . or," the use of the conjunction is defined as follows:

a. "And" means that all the connected items, conditions, provisions, and events apply together and not separately.

b. "Or" means that the connected items, conditions, provisions, or events apply separately or in any combination.

c. "Either . . . or" means that the connected items, conditions, provisions, or events shall apply separately but not in combination.

7. The word "includes" does not limit a term to the specified examples, but is intended to extend the term's meaning to all other instances or circumstances of like kind or character.

8. The word "Township" means Washington Township, the word "City" means the City of Westfield, the word "County" means Hamilton County, Indiana, the word "State" means the State of Indiana, and the word "Department" means the City of Westfield Economic and Community Development Department.

2.5 Building Code

A. **Title:** This Article shall be known as the "City Building Code" and may be formally cited as the "Building Code of Westfield, Indiana."

B. **Purpose:** The City Building Code is intended to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in design and construction of buildings and structures.

C. **Applicability:** The City Building Code shall regulate the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, maintenance, electricity, plumbing, heating, ventilation and air conditioning of all public and private buildings or structures within the Jurisdiction of the Plan Commission. The Department administrates the issuance of Building Permits, the collection of fees therefore, and penalties for the violation thereof, as set forth herein.

D. **Permit Required:** No persons, firms, or corporations shall erect, construct, enlarge, alter, move, remove, improve, convert, or demolish any building or structure within the Jurisdiction of the Plan Commission, or cause the same to be done, until first having obtained a separate permit (see *Article 10.8 Improvement Location Permit*) for each such building or structure from the Department, who may require plans thereof, together with a statement of materials to be used. Such permit shall be posted on or near the structure during the entire duration of construction and shall be the original card issued by the Department.

E. **Content of Building Code:** Certain documents, copies of which are on file in the Office of the Department and the Office of the City's Clerk-Treasurer, being marked and designated as INTERNATIONAL BUILDING CODE, INTERNATIONAL FIRE CODE, 2006 EDITION AS ADOPTED BY REFERENCE IN INDIANA CODE AND ALL AMENDMENTS TO THE INDIANA FIRE SAFETY

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LAWS AND BUILDING LAWS; NATIONAL ELECTRICAL CODE AND INDIANA AMENDMENTS; UNIFORM PLUMBING CODE AND INDIANA AMENDMENTS; INTERNATIONAL MECHANICAL CODE AND INDIANA AMENDMENTS; INDIANA BUILDING CODE CHAPTER 11; ACCESSIBILITY; AND INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS AND INDIANA AMENDMENTS; THE INDIANA ENERGY CONSERVATION RULES FOR NEW CONSTRUCTION AND THE INDIANA SWIMMING POOL RULES shall be and the same are hereby adopted as the City's Building Code for regulation, the erection, construction, enlargement, alteration, repair, moving, removal, maintenance, fire prevention and safety, electricity, plumbing, heating, ventilation and air conditioning of all public and private buildings and structures within the Jurisdiction of the Plan Commission as set forth herein; and all rules and regulations as provided by the Fire Safety Division of the Indiana Homeland Security as above referenced to, as now on file in the offices referred to and are hereby adopted including all amendments by the Fire and Building Safety Commission and made a part hereof as if fully set out in this Ordinance.

2.6 Public Utility Installations

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

B. All structures for a Public Utility Installation, including substations, shall be effectively landscaped and shall require approval of a Development Plan (see *Article 10.7 Development Plan Review*) and Improvement Location Permit (see *Article 10.8 Improvement Location Permit*).

2.7 Mineral Extraction Exempt

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

2.8 Zoning Map

A. **Official Zoning Map:** The zoning map for the Jurisdiction of the Plan Commission in effect on the date of adoption of this Ordinance is hereby included as part of this Ordinance. The map may be known and referred to as the "Official Zoning Map" and as the "Zoning Map".

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

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on them. A fee may be established for the purchase of Official Zoning Map copies.

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

D. **Determination and Interpretation of District Boundaries:** The following rules shall apply where uncertainty exists as to the exact boundaries of any Zoning District as shown on the Zoning Map:

1. Zoning District boundaries shown within or parallel to the lines of Streets, easements, and Rights-of-way shall be deemed to follow the centerline of the affected Street, easement, or Right-of-way.
2. Zoning District boundaries shown within or parallel to the lines of Streets, easements, and Rights-of-way at the boundaries of the Jurisdiction of the Plan Commission shall be deemed to include the full width of such Streets, easements, and Rights-of-way.
3. Zoning District boundaries indicated as following or being parallel to section of fractional sectional lines, Lot Lines, or City corporation lines shall be construed as following or paralleling such lines.
4. Zoning District boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
5. Zoning District boundaries indicated as approximately following the parcel lines as established by the County Office of Transfer and Mapping shall be construed to follow such parcel lines.
6. In the case of uncertainty, the Director shall interpret the intent of the Zoning Map and determine the location of the boundary in question. If the Director cannot definitively determine the location of a Zoning District boundary, then the Board of Zoning Appeals may then determine the location of the Zoning District boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this Ordinance.

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

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

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2.9 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
14-47	1412-ZOA-02	11/10/14	11/11/14	Article 3.5(C)(11), (12)

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3.1 General Administration

A. **Fee Schedule:** Filing fees for applications and petitions filed pursuant to this Ordinance are set forth in the Fee Schedule. The Fee Schedule is established by resolution of the Council. Copies of the Fee Schedule shall be available in the office of the City Clerk/Treasurer and in the office of the Department.

1. Impact Fees: The Road and Street Improvement Impact Fee and Parks and Recreation Impact Fee (collectively, the "Impact Fees") applicable to the Jurisdiction of the Plan Commission and found in the Westfield Code of Ordinances; Chapter 40, as amended, are hereby incorporated by reference into this Ordinance.

2. Exemptions: Fees may be waived in accordance with the Westfield Code of Ordinances; Chapter 2-436 et seq., as amended.

B. **Schedule of Meeting and Filing Dates:** The Department shall maintain an annual Schedule of Meeting and Filing Dates for the Technical Advisory Committee, Plan Commission, and Board of Zoning Appeals. Modifications of filing dates are contemplated if determined reasonable by the Department. The existence of this calendar shall not be interpreted as prohibiting special meetings or changes of meeting dates by the Technical Advisory Committee, Plan Commission, or Board of Zoning Appeals. The Schedule of Meeting and Filing Dates shall be made available in the office of the Department.

C. **Summary of Authority:** The decision-making bodies and officials described herein, without limitation upon such authority as each may possess by local and Indiana law, each has responsibility for implementing, and administering this Ordinance in the manner described herein.

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3.2 Board of Zoning Appeals

A Board of Zoning Appeals (the "Board") is hereby established with membership and appointment provided in accordance with Indiana law and all acts now or hereafter amendatory thereto. The power and duties of the Board are defined by Indiana law and are generally described below.

A. **General Duties:**

1. The Board shall adopt rules and regulations ("Rules of Procedure of the Board") as it may deem necessary to effectuate the provisions of this Ordinance.
2. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Department and shall be a public record.

B. **Appeals of Administrative Decisions:**

1. Any decision of the Director in enforcement or application of this Ordinance may be appealed to the Board by any person claiming to be adversely affected by such decision.
2. The Board shall hear and determine appeals from and review any order, requirement, decision or determination made by the Director in the enforcement of this Ordinance (see also *Article 10.3 Appeals of Administrative Decisions*).
3. In exercising its powers, the Board may reverse or affirm wholly or partly, or may modify the order, requirements, decisions or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the Director from whom the appeal is taken.
4. Every decision of the Board shall be subject to review pursuant to I.C. 36-7-4-1016.

C. **Special Exceptions:** The Board shall approve or deny all special exceptions in accordance with this Ordinance, but only in the particular situations specified herein. The Board may impose reasonable conditions as a part of its approval (see also *Article 10.11 Special Exceptions*).

D. **Variances of Use:** The Board shall approve or deny variances of land use in accordance with this Ordinance (see also *Article 10.14 Variances*).

E. **Variances of Development Standards:** The Board shall approve or deny variances from the development standards of this Ordinance in accordance with this Ordinance (see also *Article 10.14 Variances*).

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

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3.3 Common Council

The powers and duties of the Common Council of the City of Westfield, Hamilton County, Indiana (the "Council"), with regard to this Ordinance are defined by Indiana law and generally described below.

A. **Duties:** Duties should be interpreted as activities that are obligations and generally include:

1. Plans and Ordinances: Adopt, reject, or amend the Comprehensive Plan, any other plans, the Zoning Ordinance, and the Subdivision Control Ordinance (collectively, the Unified Development Ordinance) as certified and submitted by the Plan Commission.
2. Plan and Ordinance Amendments: Adopt, reject, or amend proposals to amend or partially repeal the text of the Comprehensive Plan, any other plans, the Unified Development Ordinance as certified and submitted by the Plan Commission.
3. Zoning Map Amendments: Adopt, reject, or amend proposals to amend the Official Zoning Map certified by the Plan Commission (see also *Article 10.15 Zoning Map Changes (Rezones)*).
4. Planned Unit Developments: Adopt, reject, or amend proposals for Planned Unit Development Districts as certified by the Plan Commission (see also *Article 10.9 Planned Unit Development Districts*).
5. Fee Schedule: Adopt, reject, or amend proposals to adopt or amend a Fee Schedule (see also *Article 3.1 General Administration*).
6. Other Duties: All additional duties as established by Indiana law.

B. **Powers:** Powers should be interpreted as activities that are optional and may be initiated by the Council and include:

1. Plan and Ordinance Amendments: Initiate amendments to the text of the Comprehensive Plan, any other plans, the Unified Development Ordinance.
2. Zoning Map Amendments: Initiate amendments to the Zoning Map.
3. Other Powers: To take such other actions not delegated to other bodies that may be desirable and necessary to implement the provisions of this Ordinance and all additional powers as permitted by Indiana law.

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3.4 Director of the Department

A. **Administrative Officer:** It shall be the duty of the Director of the Economic and Community Development Department (the "Director") to enforce and render interpretations of the provisions of this Ordinance and receive applications required by this Ordinance, issue permits, and furnish the prescribed certificates.

B. **Department Duties:** The Director, and/or their designee, shall in connection with the implementation of this Ordinance and in accordance with Indiana Law:

1. Maintain a Council approved Comprehensive Plan and this Ordinance, as authorized under Indiana law.
2. Maintain rules of procedures for holding meetings, holding public hearings, and enforcing the Comprehensive Plan and this Ordinance.
3. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission.
4. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission. All such records shall be open to public inspection during the Department's normal hours of business.
5. Maintain a permitting process and seal used to certify official or approved documents. Keep careful and comprehensive records of applications, of permits issued, of certificates issued, or inspections made, or reports rendered, and of notices or orders issued. Retain on file, copies of all documents in connection with building work so long as any part of the building or structure to which they relate may be in existence.
6. Examine premises for which permits have been issued, and shall make necessary inspections to see that the provisions of law are complied with.
7. Enforce laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings, structures and land, except as may be otherwise provided for in local or Indiana law.
8. Issue such notices or orders as may be necessary for the purpose of enforcing compliance with law or for the purpose of preventing a violation of provisions of this Ordinance.
9. Other duties set forth herein or that may be delegated by the Plan Commission or Council.

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3.5 Floodplain Administrator

A. **Floodplain Administrator:** The Director and/or designated staff of the Department, is hereby designated as the Floodplain Administrator.

B. **Authority:** The Floodplain Administrator is hereby authorized and directed to enforce and implement the provisions of the *Floodplain Overlay District (FOD)* set forth herein.

C. **Duties:** The Floodplain Administer shall, in connection with the implementation of this Ordinance (see also *Article 5.5 Floodplain Overlay District (FOD)*) and in accordance with Indiana Law:

1. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
2. Inspect and inventory damaged structures in the Special Flood Hazard Area (SFHA) and complete substantial damage determinations.
3. Ensure that required construction authorization has been granted by the Indiana Department of Natural Resources for development subject to *Article 5.5 Floodplain Overlay District (FOD)*.
4. Ensure that all necessary federal or State permits have been received prior to issuance of an Improvement Location Permit.
5. Maintain Improvement Location Permit records involving building additions and improvements to residences located in the Floodway.
6. Maintain related permits and information for buildings constructed subject to *Article 5.5 Floodplain Overlay District (FOD)*.
7. Utilize and enforce Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by the Federal Emergency Management Agency (FEMA) for the currently effective SFHA maps.
8. Review certified plans and specifications for compliance.
9. Verify required certifications of the actual elevation of the Lowest Floor for new or substantially improved buildings.
10. Verify required certifications of the actual elevation to which any new or substantially improved buildings have been floodproofed.
11. Notify adjacent communities and the State's floodplain coordinator prior to any alteration or relocation of a Watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.
12. Assure that maintenance is provided within the altered or relocated portion of said Watercourse so that the flood-carrying capacity is not diminished.

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3.6 Plan Commission

The powers and duties of the Westfield-Washington Township Advisory Plan Commission (the "Plan Commission") are defined by Indiana law and are generally described below. The Plan Commission may delegate its authority to the Department or a committee to perform ministerial acts exempt where final action of the Plan Commission is necessary.

A. **Duties:** Duties should be interpreted as activities that are obligations and generally include:

1. Adopt and maintain a Council approved Comprehensive Plan and Unified Development Ordinance as authorized under Indiana law.
2. Adopt and maintain rules and procedures for holding meetings ("Rules of Procedure of the Plan Commission"), holding public hearings, and administrating and enforcing the Comprehensive Plan, and Unified Development Ordinance.
3. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission.
4. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission.
5. Certify and submit recommendations to the Council including new versions of and revisions to the Comprehensive Plan, Unified Development Ordinance, and Zoning Map (see also *Article 10.15 Zoning Map Changes (Rezones)*).
6. Certify and submit recommendations to the Council for adopting a Planned Unit Development District (see also *Article 10.9 Planned Unit Development Districts*).
7. Approve or deny plats or replats of Subdivisions (see also *Article 10.12 Subdivision*).
8. Approve or deny requests for waivers pursuant to this Ordinance (see also *Article 7.3 Principles and Standards of Design*).
9. Approve or deny Development Plans and amendments to Development Plans (see also *Article 10.7 Development Plan Review*).
10. Enforce regulations and procedures of the Comprehensive Plan and Unified Development Ordinance to the extent of the local resolutions, ordinances, and Indiana law.
11. Other duties as permitted by Indiana law.

B. **Powers:** Powers should be interpreted as activities that are optional to be initiated and include:

1. Distribute copies of summaries of the Comprehensive Plan or this Ordinance to the general public and development community.
2. Other powers as permitted by Indiana law.

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3.7 Technical Advisory Committee

The powers and duties of the Westfield-Washington Township Technical Advisory Committee ("TAC") are as generally described below.

A. **Establishment of Membership:** The Technical Advisory Committee is hereby created and shall consist of members, as invited by the Director, which may include utility agencies, County departments, City departments and other agencies or consultants deemed appropriate by the Director.

B. **Jurisdiction and Authority:** The Technical Advisory Committee has the following powers and duties in connection with the implementation of this Ordinance:

1. To review and evaluate applications for variances or waivers and make recommendations to the Board of Plan Commission, pursuant to the procedures and standards for variances or waivers set forth herein.
2. To review and evaluate Development Plans and site plans, and make recommendations to the Board or Plan Commission as may be appropriate, pursuant to the procedures and standards set forth herein.
3. To take such other actions as delegated by the Director, Council, Plan Commission, Board, or other bodies which may be desirable and necessary to implement the provisions of this Ordinance.

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3.8 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
14-47	1412-ZOA-02	11/10/14	11/11/14	Article 3.5(C)(11), (12)

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CHAPTER 4: ZONING DISTRICTS

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4.1 Establishment of Districts

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

A. Agricultural Districts:
1. *AG-SF1: Agriculture / Single-family Rural District*
2. *AG-SF1-I: Agriculture / Single-family Westfield District*

B. Single-family Districts:
1. *SF1: Single-family Large Lot District*
2. *SF2: Single-family Low Density District*
3. *SF3: Single-family Medium Density District*
4. *SF4: Single-family High Density District*
5. *SF5: Single-family High Density District (villages)*

C. Multi-family Districts:
1. *SFA: Single-family Attached District*
2. *MF1: Multi-family Low Density District*
3. *MF2: Multi-family Medium Density District*

D. Business Districts:
1. *GO: General Office District*
2. *GO-PD: General Office / Planned Development*
3. *LB: Local and Neighborhood Business District*
4. *LB-H: Local Business / Historical District*
5. *GB: General Business District*
6. *SB-PD: Special Business / Planned Development*

E. Industrial Districts:
1. *EI: Enclosed Industrial District*
2. *EI-PD: Enclosed Industrial / Planned Development*
3. *OI: Open Industrial District*
4. *OI-PD: Open Industrial / Planned Development*

F. [reserved for future]:
1. *[reserved for future use]*
2. *[reserved for future use]*
3. *[reserved for future use]*
4. *[reserved for future use]*
5. *[reserved for future use]*

G. Overlay Districts: See *CHAPTER 5: OVERLAY DISTRICTS*.

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4.2 AG-SF1: Agriculture / Single-family Rural District

A. **Purpose and Intent:** The purpose of this district is to accommodate agricultural land uses and large-lot Single-family Dwellings.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Lot Area:** Three (3) acres

D. **Minimum Lot Frontage:** 250 feet

E. **Minimum Building Setback Line:**

1. Front Yard:
   a. Expressways/Arterials: 100 feet
   b. On all other Streets: 80 feet
2. Side and Rear Yard: 30 feet

F. **Minimum Lot Width:** 100 feet

G. **Maximum Building Height:** Two and one-half (2 ½) stories (see also *Article 6.6 Height Standards*)

H. **Minimum Living Area (Ground Floor):**

1. Single-story: 1,350 square feet
2. All others: 800 square feet

I. **Subdivisions:** A Major Subdivision shall not be permitted in this district.

J. **Development Plan Review:** Required except for Single-family Dwellings, Agricultural Uses, and associated Accessory Uses.

K. **Agriculture-Related Buildings:** See also *Article 6.1 Accessory Use and Building Standards* and *Article 6.4 Building Standards*.

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Quick Cross-References:	
Article 6.1 Accessory Use and Building Standards	*Article 8.6 Open Space and Amenity Standards*
Article 6.3 Architectural Standards	*Article 10.8 Improvement Location Permit*
Article 6.8 Landscaping Standards	*Article 10.7 Development Plan Review*
Article 6.9 Lighting Standards	*Article 10.8 Improvement Location Permit*
Article 6.14 Parking and Loading Standards	*Article 10.12 Subdivision*

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4.3 AG-SF1-I: Agriculture / Single-family Westfield District

A. **Purpose and Intent:** The purpose of this district is to accommodate Single-family Dwellings not in a Subdivision and that have been annexed into the corporate limits of the City and served by public sanitary sewer and water.

B. **Permitted Uses:** The following uses shall be permitted:

1. Single-family Dwelling
2. Religious Institutions
3. Home Businesses
4. Residential Facility
5. Public Safety and Service Uses

C. **Minimum Lot Area:** 20,000 square feet

D. **Minimum Lot Frontage:** 100 feet

E. **Minimum Building Setback Lines:**

1. Front Yard: 50 feet
2. Side Yard: 12 feet
3. Rear Yard: 30 feet

F. **Minimum Lot Width:** 85 feet

G. **Maximum Building Height:** Two and one-half stories (2 ½) (see also *Article 6.6 Height Standards*)

H. **Minimum Living Area (Ground Floor):**

1. Single-story: 1,350 square feet
2. Two-story: 800 square feet
3. Tri-level: 800 square feet (Basement and first level)
4. Story and one-half: 800 square feet

I. **Development Plan Review:** Required for Major Subdivisions.

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Quick Cross-References:	
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Article 6.3 Architectural Standards	*Article 10.8 Improvement Location Permit*
Article 6.8 Landscaping Standards	*Article 10.7 Development Plan Review*
Article 6.9 Lighting Standards	*Article 10.8 Improvement Location Permit*
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4.4 SF1: Single-family Large Lot District

A. **Purpose and Intent:** The purpose of this district is to accommodate large-lot Single-family Dwellings and uses where public sanitary sewer and water are available.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Lot Area:** 30,000 square feet

D. **Minimum Lot Frontage:**

1. Lots in Subdivisions: 60 feet
2. All other Lots: 100 feet

E. **Minimum Building Setback Lines:**

1. Front Yard:
   a. Expressways/Arterials: 100 feet
   b. Collectors: 80 feet
   c. Local and Private Streets: 50 feet
2. Side Yard: 20 feet
3. Rear Yard: 30 feet

F. **Minimum Lot Width:** 100 feet

G. **Maximum Building Height:** Two and one-half (2 ½) stories (see also *Article 6.6 Height Standards*)

H. **Minimum Living Area (Ground Floor):**

1. Single-story: 2,000 square feet
2. Two-story: 1,200 square feet
3. Tri-level: 1,200 square feet (Basement and first level)
4. Story and one-half: 1,200 square feet (lower and main levels)

I. **Development Plan Review:** Required for Major Subdivisions.

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Quick Cross-References:

Article 6.1 Accessory Use and Building Standards	*Article 8.6 Open Space and Amenity Standards*
Article 6.3 Architectural Standards	*Article 10.8 Improvement Location Permit*
Article 6.8 Landscaping Standards	*Article 10.7 Development Plan Review*
Article 6.9 Lighting Standards	*Article 10.8 Improvement Location Permit*
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4.5 SF2: Single-family Low Density District

A. **Purpose and Intent:** The purpose of this district is to accommodate low density, Single-family Dwellings with available public sanitary sewers.

B. **Permitted Uses:** See *CHAPER 13: USE TABLE*.

C. **Minimum Lot Area:**

1. Subdivision Lot: 15,000 square feet
2. All other Lots: Three (3) acres

D. **Minimum Lot Frontage:**

1. Subdivision Lot: 50 feet
2. All other Lots: 250 feet

E. **Minimum Building Setback Lines:**

1. Front Yard:
   a. Subdivision Lot: 30 feet
   b. All other Lots: 80 feet; 100 feet along Expressway or Arterial
2. Side Yard:
   a. Subdivision Lot: 12 feet
   b. All other Lots: 30 feet
3. Rear Yard:
   a. Subdivision Lot: 30 feet
   b. All other Lots: 30 feet

F. **Minimum Lot Width:**

1. Subdivision Lot: 100 feet
2. All other Lots: No minimum

G. **Maximum Building Height:** Two and one-half (2 ½) stories (see also *Article 6.6 Height Standards*)

H. **Minimum Living Area (Ground Floor):**

1. Single-story: 1,200 square feet
2. Two-story: 800 square feet
3. Tri-level: 800 square feet (Basement and first level)
4. Story and one-half: 800 square feet

I. **Development Plan Review:** Required for Major Subdivisions.

Quick Cross-References:	
Article 6.1 Accessory Use and Building Standards	*Article 8.6 Open Space and Amenity Standards*
Article 6.3 Architectural Standards	*Article 10.8 Improvement Location Permit*
Article 6.8 Landscaping Standards	*Article 10.7 Development Plan Review*
Article 6.9 Lighting Standards	*Article 10.8 Improvement Location Permit*
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4.6 SF3: Single-family Medium Density District

A. **Purpose and Intent:** The purpose of this district is to accommodate medium density, Single-family Dwellings with available public sanitary sewer and water.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Lot Area:** 12,000 square feet

D. **Minimum Lot Frontage:** 50 feet

E. **Minimum Building Setback Lines:**

1. Front Yard: 20 feet
2. Side Yard: 10 feet
3. Rear Yard: 30 feet

F. **Minimum Lot Width:** 80 feet

G. **Maximum Building Height:** 25 feet (see also *Article 6.6 Height Standards*)

H. **Minimum Living Area (Ground Floor):**

1. Single-story: 1,200 square feet
2. Two-story: 800 square feet
3. Tri-level: 800 square feet (Basement and first level)
4. Story and one-half: 800 square feet

I. **Development Plan Review:** Required for Major Subdivisions.

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Quick Cross-References:

Article 6.1 Accessory Use and Building Standards	*Article 8.6 Open Space and Amenity Standards*
Article 6.3 Architectural Standards	*Article 10.8 Improvement Location Permit*
Article 6.8 Landscaping Standards	*Article 10.7 Development Plan Review*
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4.7 SF4: Single-family High Density District

A. **Purpose and Intent:** The purpose of this district is to accommodate higher density Single-family Dwellings with available State-approved water and sewer facilities for land with at least one-eighth (1/8) of its perimeter contiguous to the corporate limits of the City.

B. **Minimum Lot Area:** 9,000 square feet

C. **Minimum Lot Frontage:** 40 feet

D. **Minimum Building Lines:**

1. Front Yard: 25 feet
2. Side Yard: 8 feet
3. Rear Yard: 25 feet

E. **Minimum Lot Width:** 50 feet

F. **Maximum Building Height:** 25 feet (see also *Article 6.6 Height Standards*)

G. **Minimum Living Area (Ground Floor):**

1. Single-story: 1,000 square feet
2. Two-story: 750 square feet
3. Tri-level: 750 square feet (Basement and first level)
4. Story and one-half: 750 square feet

H. **Development Plan Review:** Required for Major Subdivisions.

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Quick Cross-References:	
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Article 6.3 Architectural Standards	*Article 10.8 Improvement Location Permit*
Article 6.8 Landscaping Standards	*Article 10.7 Development Plan Review*
Article 6.9 Lighting Standards	*Article 10.8 Improvement Location Permit*
Article 6.14 Parking and Loading Standards	*Article 10.12 Subdivision*

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4.8 SF5: Single-family High Density District (villages)

A. **Purpose and Intent:** The purpose of this district is to accommodate unincorporated towns or villages within the Jurisdiction of the Plan Commission which are presently platted, but not served by public sanitary sewer.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Lot Area:** 7,000 square feet

D. **Minimum Lot Frontage:** 40 feet

E. **Minimum Building Setback Line:**

1. Front Yard: 20 feet
2. Side Yard: 8 feet
3. Rear Yard: 20 feet

F. **Minimum Lot Width:** 40 feet

G. **Maximum Building Height:** 25 feet (see also *Article 6.6 Height Standards*)

H. **Minimum Living Area (Ground Floor):**

1. Single-story: 800 square feet
2. Two-story: 650 square feet
3. Tri-level: 650 square feet (Basement and first level)
4. Story and one-half: 650 square feet

I. **Development Plan Review:** Required for Major Subdivisions.

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Article 6.3 Architectural Standards	*Article 10.8 Improvement Location Permit*
Article 6.8 Landscaping Standards	*Article 10.7 Development Plan Review*
Article 6.9 Lighting Standards	*Article 10.8 Improvement Location Permit*
Article 6.14 Parking and Loading Standards	*Article 10.12 Subdivision*

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4.9 SFA: Single-family Attached District

A. **Purpose and Intent:** The purpose of this district is to accommodate Attached Single-family Dwellings for individuals who desire maintenance-free living (e.g., where grass mowing, property maintenance, snow removal are commonly maintained and owned by a homeowners' association).

B. **Permitted Uses:** The following uses shall be permitted: Duplex Dwelling, Triplex Dwelling, Quadraplex Dwelling, and Development Amenities.

C. **Minimum Lot Area:** No minimum

D. **Minimum Lot Frontage:** No minimum

E. **Maximum Density:** Four (4) Dwelling Units per acre

F. **Maximum Dwellings:** Four (4) per building

G. **Maximum Project Size within District:** Thirty (30) acres

H. **Minimum Building Setback Lines:**

1. Front Yard:
   a. Expressways: 50 feet
   b. Primary Arterials: 35 feet
   c. Secondary Arterials: 25 feet
   d. Collectors, Local and Private streets: 20 feet
2. Buildings with more than one adjacent unit shall stagger the Front Building Setback Line for each unit by at least four (4) feet.

I. **Minimum Distance Between Structures:**

1. Structures with no vinyl exterior siding: 25 feet
2. Structures with any vinyl exterior siding: 30 feet

J. **Project Perimeter Setback:** No structure shall be erected above the projected 1:2 Proximity Slope line from the perimeter of the project.

K. **Maximum Building Height:** 35 feet (see also *Article 6.6 Height Standards*)

L. **Minimum Living Area:** A minimum of seventy-five percent (75%) of the Dwelling Units within a project shall be 1,500 square feet or greater.

1. Single-story: 1,300 square feet
2. Story and one-half: 1,600 square feet (lower and main levels)
3. Two-story: 1,800 square feet (lower and main levels)

M. **Development Plan Review:** Required.

Quick Cross-References:	
Article 6.1 Accessory Use and Building Standards	*Article 8.6 Open Space and Amenity Standards*
Article 6.3 Architectural Standards	*Article 10.8 Improvement Location Permit*
Article 6.8 Landscaping Standards	*Article 10.7 Development Plan Review*
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4.10 MF1: Multi-family Low Density District

A. **Purpose and Intent:** The purpose of this district is to accommodate the development of low-density Attached Single-family Dwellings and Multi-family Dwellings to encourage a variety of residential types within the community and provide diverse housing opportunities.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Location:** The following criteria shall be considered in order for a property to be zoned to this Zoning District. The property should:

1. Be located within the corporate limits of the City;
2. Not be located within one-half (0.5) mile of another Multi-family Zoning District; and
3. Be contiguous to an existing developed parcel.

D. **Maximum Density:** Six (6) Dwelling Units per acre

E. **Maximum Number of Dwelling Units:** Forty-eight (48) per project/district

F. **Minimum Living Area:** 1,000 square feet

G. **Minimum Road Frontage:**

1. Duplex: 50 feet
2. All other: 70 feet

H. **Minimum Building Setback Lines:**

1. Front Yard: 20 feet
2. Side Yard: 20 feet
3. Rear Yard: 20 feet

I. **Minimum Lot Width:**

1. Townhouse: 45 feet
2. All other: 50 feet

J. **Maximum Building Height:** 35 feet (see also *Article 6.6 Height Standards*)

K. **Minimum Distance Between Buildings:** 20 feet

L. **Development Plan Review:** Required.

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Quick Cross-References:	
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Article 6.8 Landscaping Standards	*Article 6.14 Parking and Loading Standards*
Article 6.9 Lighting Standards	*Article 10.7 Development Plan Review*
Article 6.14 Parking and Loading Standards	*Article 10.8 Improvement Location Permit*
Article 6.17 Sign Standards	*Article 10.12 Subdivision*

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4.11 MF2: Multi-family Medium Density District

A. **Purpose and Intent:** The purpose of this district is to: (i) accommodate medium density Multi-family Dwellings; and (ii) provide housing alternatives within the community.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Location:** The following criteria shall be considered in order for a property to be zoned to this district. The property should:

1. Be located within the corporate limits of the City;
2. Not be located within three quarters (0.75) of a mile of another Multi-family Zoning District; and
3. Be contiguous to an existing developed parcel.

D. **Maximum Density:** Ten (10) Dwelling Units per acre

E. **Maximum Dwelling Units per Structure:** Ten (10)

F. **Maximum Number of Dwelling Units:** One hundred and fifty (150) per project or district (e.g., Development Plan)

G. **Minimum Living Area:** 650 square feet

H. **Minimum Road Frontage:** 70 feet

I. **Minimum Building Setback Lines:**

1. Front Yard: 30 feet
2. Side Yard: 12 feet
3. Rear Yard: 20 feet

J. **Project Perimeter Setback:** No structure shall be erected above the projected 1:3 Proximity Slope line from the perimeter of the project.

K. **Maximum Building Height:** 45 feet (see also *Article 6.6 Height Standards*)

L. **Minimum Distance Between Buildings:** 20 feet

M. **Development Plan Review:** Required.

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Quick Cross-References:	
Article 6.3 Architectural Standards	*Article 8.6 Open Space and Amenity Standards*
Article 6.8 Landscaping Standards	*Article 6.14 Parking and Loading Standards*
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4.12 GO: General Office District

A. **Purpose and Intent:** The purpose of this district is to accommodate general office developments conducted within buildings so constructed that no noise, dust, or dirt is audible or visible beyond the confines of the building.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Lot Area:** 3 acres

D. **Minimum Lot Frontage:** 250 feet

E. **Minimum Building Setback Lines:**

1. Front Yard: 60 feet
2. Side Yard:
   a. Abutting a Residential District: 60 feet
   b. All other: 20 feet
3. Rear Yard:
   a. Abutting a Residential District: 60 feet
   b. All other: 20 feet

F. **Maximum Building Height:** 50 feet (see also *Article 6.6 Height Standards*)

G. **Minimum Ground Area:** No minimum

H. **Maximum Lot Coverage:** Eighty percent (80%)

I. **Development Plan Review:** Required.

J. **Exemption:** Any residence which was located in this Zoning District as of December 1990 and is converted into offices is exempt from the standards of this Article. Such exemption does not apply to additions or exterior modifications which increase the size of the structure.

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4.13 GO-PD: General Office / Planned Development

A. **Purpose and Intent:** The purpose of this district is to accommodate the development of land for offices, Single-family Dwellings and low density Multi-family Dwellings, when such lands are developed in a coordinated and comprehensive manner.

B. **Permitted Uses:** The following uses shall be permitted; however, business uses shall not exceed twenty percent (20%) and Multi-family Dwellings shall not exceed thirty percent (30%) of a single development's gross acreage:

1. All uses permitted in the *GO: General Office District*, as set forth in *CHAPTER 13: USE TABLE*.
2. Single-family Dwellings, developed in accordance with the standards applicable to the *SF4: Single-family High Density District*.
3. Multi-family Dwellings, developed in accordance with the standards applicable to the *MF1: Multi-family Low Density District*.

C. **Minimum Lot Area:** 30 acres

D. **Minimum Lot Frontage:** 500 feet

E. **Minimum Building Setback Lines:**

1. Front Yard: 100 feet
2. Side Yard:
   a. Abutting a Residential District: 60 feet
   b. All other: 20 feet
3. Rear Yard:
   a. Abutting a Residential District: 60 feet
   b. All other: 20 feet

F. **Maximum Building Height:** 40 feet (see also *Article 6.6 Height Standards*)

G. **Minimum Building Size:** No minimum

H. **Maximum Lot Coverage:** Eighty percent (80%)

I. **Development Plan Review:** Required.

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4.14 LB: Local and Neighborhood Business District

A. **Purpose and Intent:** The purpose of this district is to accommodate local and neighborhood-oriented developments that provide retail services, convenience shopping, and professional services to meet the daily needs of the community and where all uses are conducted within buildings.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Lot Area:** No minimum

D. **Minimum Lot Frontage:** 50 feet

E. **Minimum Building Setback Lines:**

1. Front Yard: 60 feet; however, the Front Yard may be reduced to the average setback of legally established buildings where an existing Front Yard setback is already established by two or more existing, legally established buildings within the same Block and within three hundred (300) feet in either direction of the proposed building.

2. Side Yard: 15 feet
   a. Adjacent to Residential District: 60 feet; however, if the Side Yard abuts an Alley, then the Side Yard setback shall be 40 feet from the Alley's edge of pavement of Right-of-way line, whichever is greater.

3. Rear Yard: 20 feet
   a. Adjacent to Residential District: 60 feet; however, if the Rear Yard abuts an Alley, then the Rear Yard setback shall be 40 feet from the Alley's edge of pavement or Right-of-way line, whichever is greater.

F. **Maximum Building Height:** 45 feet (see also *Article 6.6 Height Standards*)

G. **Project Perimeter Setback:** No structure shall be erected above the projected 1:3 Proximity Slope Line.

H. **Building Size Requirements:**

1. Minimum Business Size: 800 square feet
2. Maximum Business Size: 30,000 square feet
3. Maximum Aggregate of all Buildings (within a single development): 90,000 square feet

I. **Development Plan Review:** Developments may be either: (i) a freestanding individual building; or (ii) an integrated development without outlots and containing more than one (1) business in one (1) or more buildings.

J. **Development Plan Review:** Required.

Quick Cross-References:	
Article 6.3 Architectural Standards	*Article 8.6 Open Space and Amenity Standards*
Article 6.8 Landscaping Standards	*Article 6.14 Parking and Loading Standards*
Article 6.9 Lighting Standards	*Article 10.7 Development Plan Review*
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4.15 LB-H: Local Business / Historical District

A. **Purpose and Intent:** The purpose of this district is to provide for the needs of local business in the central business district of the City and also to provide for the preservation, restoration, adaptive use and/or reconstruction of properties and historic buildings in the district.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **General Requirements and Guidelines:**

1. Commercial Buildings: Structures to be remodeled or altered to be utilized for business purposes shall retain original design and features of the existing structure. Materials used for restoration and repair for windows, doors, exterior siding, roofing and other exterior needs shall replicate to the extent possible the existing materials utilized in the period of initial construction.

2. Exterior Modifications: Exterior modifications for porches, overhangs, chimneys and room additions shall be compatible in design of the original structure or like structures. Wood products and white and earth tone colors shall be utilized to the extent possible.

3. Residential Buildings: New Single-family and Multi-family Dwellings to be located in this Zoning District shall be of a design and constructed with materials to be contemporary with existing structures. Modifications to existing Principal and Accessory Buildings shall also be compatible with the period of original construction utilizing white, earth tones or historical colors and emphasis on wood exteriors.

4. Guidelines: An Applicant requesting a Building Permit shall provide three (3) copies of the specifications and design for all renovation, restoration or new construction and signage to the Department. The Department will provide information to all Applicants on the type of facilities that are being encouraged and the materials for construction that the Plan Commission has endorsed in the historical district.

D. **Development Plan Review:** Required for new buildings or the substantial alteration of an existing building, which shall include the restoration, rehabilitation, or adaptive use of a building.

E. **Exemption:** All requirements or conditions pertaining to Building Setback Lines, Lot Area, parking requirements and loading and unloading berths may be waived by the Plan Commission without a variance based upon the general purpose and intended use of the facility to be restored or rehabilitated.

Quick Cross-References:	
Article 6.3 Architectural Standards	*Article 8.6 Open Space and Amenity Standards*
Article 6.8 Landscaping Standards	*Article 6.14 Parking and Loading Standards*
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4.16 GB: General Business District

A. **Purpose and Intent:** The purpose of this district is to accommodate the general business needs of the community. This district is intended to be more comprehensive than the *LB: Local and Neighborhood Business District*, by permitting a broader range and greater intensity of uses.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Lot Area:** No minimum

D. **Minimum Lot Frontage:** 80 Feet

E. **Minimum Building Setback Lines:**

1. Front Yard: 60 feet; however, in established areas shall be the average setback of established buildings within the same Block and within three hundred (300) feet in either direction of the proposed building.
2. Side Yard: 20 feet; however, in established areas where it is customary that businesses abut one another, the Side Yard Building Setback Lines may be reduced.
   a. Abutting a Residential District: 60 feet
3. Rear Yard: 20 feet

F. **Minimum Lot Width:** No minimum

G. **Maximum Building Height:** 60 feet (see also *Article 6.6 Height Standards*)

H. **Minimum Building Size:** No minimum

I. **Development Plan Review:** Required.

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4.22 SB-PD: Special Business / Planned Development

A. **Purpose and Intent:** The purpose of this district is to provide for the needs of general planned business development and multi-family uses.

B. **General Standards:** Developments in this district shall be subject to the requirements and standards of the *LB-PD and GB-PD: Business / Planned Development*, except where other requirements and standards for this Zoning District are specifically set forth.

C. **Permitted Uses:** The following uses shall be permitted:

1. All uses permitted in the *LB: Local and Neighborhood Business District*, as set forth in *CHAPTER 13: USE TABLE*.
2. All uses permitted in the *GB: General Business District*, as set forth in *CHAPTER 13: USE TABLE*.
3. Multi-family Dwellings, developed in accordance with the standards applicable to the *MF1: Multi-family Low Density District*.

D. **Development Plan Review:** Required.

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4.23 LB-PD and GB-PD: Business / Planned Development

A. **Purpose and Intent:** The purpose of these districts is to allow commercial development to occur in a compatible design where the overall supporting services, including streets and utilities, can be provided in a proper manner to accommodate the needs of businesses. Outlots should be compatible in general exterior design, coloration, and use of materials to that of the development's primary structure(s).

B. **General Requirement:** Outlots shall not exceed twenty-five percent (25%) of the development's gross acreage.

C. **Minimum Tract Requirements:**

1. GB-PD: 10 acres
2. LB-PD: 5 acres
3. Where GB-PD and LB-PD are proposed within the same development, then 10 acres shall be the minimum tract size.

D. **Permitted Uses:** All uses permitted in the *LB: Local and Neighborhood Business District* shall be permitted in the LB-PD District. All uses permitted in the *GB: General Business District* shall be permitted in the GB-PD District.

E. **Minimum Road Frontage:** (required on Street of primary frontage)

1. GB-PD: 660 feet
2. LB-PD: 330 feet

F. **Minimum Setback Lines:**

1. Front Yard:
   a. GB-PD: 60 feet
   b. LB-PD: 30 feet
2. Side Yard: 15 feet
3. Rear Yard: 20 feet

G. **Minimum Lot Width:** No minimum

H. **Minimum Number of Structures:** No minimum

I. **Minimum Building Size:** No minimum

J. **Development Plan Review:** Required.

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4.24 EI: Enclosed Industrial District

A. **Purpose and Intent:** The purpose of this district is to accommodate industrial uses that conduct their operations entirely within enclosed buildings.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Tract Requirements:** 3 acres

D. **Minimum Lot Frontage:** 70 feet

E. **Minimum Building Setback Lines:**

1. Front Yard:
   a. Expressways or Arterials: 100 feet
   b. All other: 40 feet
2. Side Yard: 20 feet
3. Rear Yard: 20 feet

F. **Minimum Lot Width:** No minimum

G. **Maximum Building Height:** 60 feet (see also *Article 6.6 Height Standards*)

H. **Minimum Building Size:** No minimum

I. **Performance Standards:** Shall comply with *Article 6.15 Performance Standards*.

J. **Development Plan Review:** Required.

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4.25 OI: Open Industrial District

A. **Purpose and Intent:** The purpose of this district is to accommodate industrial uses that require both indoor and outdoor areas for manufacturing, fabricating, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes.

B. **Permitted Uses:** See *CHAPTER 13: USE TABLE*.

C. **Minimum Tract Requirement:** 3 Acres

D. **Minimum Lot Frontage:** 70 feet

E. **Minimum Building Setback Lines:**

1. Front Yard:
   a. Expressways or Arterials: 100 feet
   b. All others: 40 feet
2. Side Yard: 20 feet
3. Rear Yard: 40 feet

F. **Minimum Lot Width:** No minimum

G. **Maximum Building Height:** 60 feet (see also *Article 6.6 Height Standards*)

H. **Minimum Building Dize:** No minimum

I. **Performance Standards:** Shall comply with *Article 6.15 Performance Standards*.

J. **Development Plan Review:** Required.

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4.26 EI-PD: Enclosed Industrial / Planned Development

A. **Purpose and Intent:** The purpose of this district is to accommodate enclosed industrial uses developed in a coordinated and comprehensive manner (e.g., industrial parks).

B. **Permitted Uses:** All uses permitted in the *EI: Enclosed Industrial District* shall be permitted. See *CHAPTER 13: USE TABLE*.

C. **Minimum Tract Requirement:** 20 acres

D. **Minimum Lot Frontage:** 200 feet

E. **Minimum Building Setback Lines:**

1. Expressways or Arterials: 100 feet
2. All other setbacks: 40 feet

F. **Maximum Building Height:** 60 feet (see also *Article 6.6 Height Standards*)

G. **Minimum Building Size:** No minimum

H. **Maximum Lot Coverage:** Eighty percent (80%)

I. **Performance Standards:** Shall comply with *Article 6.15 Performance Standards*.

J. **Development Plan Review:** Required.

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4.27 OI-PD: Open Industrial / Planned Development

A. **Purpose and Intent:** The purpose of this district is accommodate open industrial uses developed in a coordinated and comprehensive manner (e.g., industrial parks).

B. **Permitted Uses:** All uses permitted in the *OI: Open Industrial District* shall be permitted. See *CHAPTER 13: USE TABLE*.

C. **Minimum Tract Requirement:** 20 acres

D. **Minimum Lot Size:** No minimum

E. **Minimum Lot Frontage:** 200 feet

F. **Minimum Building Setback Lines:**

1. Expressways or Arterials: 100 feet
2. All other setbacks: 40 feet

G. **Maximum Building Height:** 60 feet (see also *Article 6.6 Height Standards*)

H. **Minimum Building Size:** No minimum

I. **Maximum Lot Coverage:** Eighty percent (80%)

J. **Performance Standards:** Shall comply with Article *6.15 Performance Standards*.

K. **Development Plan Review:** Required.

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4.28 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
19-13	1905-ZOA-01	08/12/19	08/13/19	Article 4.6(C); Article 4.6(F)
19-40	1909-ZOA-02	09/23/19	09/25/19	Article 4.10(G)(2); Article 4.10(I)(1); Article 4.12(E)(2)(a); Article 4.13(E)(2)(a)

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5.1 Overlay Districts

A. **Establishment:** The Overlay Districts noted herein have been established to add additional and unique development standards which help the community accomplish its goals and address development in context sensitive areas of the community. For the purpose of this Ordinance, these districts have been established for the general uses as provided within each Overlay District.

B. **District Boundaries:** The Overlay District boundaries shall be noted on the Zoning Map. If any Lot, building, structure or improvement is only partially located within the overlay district, then the provisions of that overlay shall apply to all of such Lot, building, structure or improvement.

C. **Default Underlying Zoning District:** The development and design standards of the underlying Zoning District shall apply within the Overlay Districts unless otherwise stated or provided therein.

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5.2 US Highway 31 Overlay District

A. **Purpose and Intent:**

1. It is the purpose of the United States Highway 31 Overlay District (the "US31 Overlay") to promote the public health, safety, comfort, convenience and general welfare by providing for consistent and coordinated treatment of the properties bordering US Highway 31.

2. US Highway 31 is a limited access highway and an important entrance corridor to the community. It is the further purpose of the US31 Overlay to preserve the aesthetic qualities of those bordering properties through:

   a. The promotion of coordinated development in the US31 Overlay.
   b. The establishment of basic standards for structures constructed on the properties within the US31 Overlay which permit innovative site designs and at the same time encourage efficient land usage.
   c. The establishment of Lot development standards which will encourage substantial capital investments for the development of those properties.

B. **Applicability:**

1. The boundaries of the US31 Overlay are hereby established for an area of one thousand three hundred and twenty (1,320) feet on either side of the Unite States Highway 31 right-of-way line in Washington Township, Hamilton County, extending from 146th Street to 216th Street.

2. The provisions of this Article shall apply to any petition, application, Development Plan or Improvement Location Permit for real estate within the US31 Overlay.

C. **Permitted Uses:** All uses permitted in the underlying Zoning District, as set forth in *Article 13.2 Use Table*, shall be permitted except as otherwise excluded and prohibited in the Use Table for the US31 Overlay.

D. **Minimum Lot Size:** Except as otherwise provided, 217,800 square feet.

1. If a Lot was recorded prior to November 1, 1989, and said Lot does not contain the minimum area required by this Ordinance for Lots in the US31 Overlay, the, notwithstanding the minimum Lot Size requirements for Lots in the US31 Overlay, said Lot ("Undersize Lot") may be used for any use permitted in the US31 Overlay provided:

   a. At the time or recordation of the Undersized Lot or on the record date, the Undersize Lot met the requirements for minimum Lot Size then in effect for a Lot in the underlying Zoning District.
   b. The Property Owner of the Undersize Lot does not own any adjoining vacant Lot (not separated by a Street, Right-of-way or easement) which, if combined with the Undersized Lot, would create a Lot which conforms to the minimum Lot Size requirements of this Article.
   c. All other applicable regulations of the US31 Overlay can be met.

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E. **Height and Area Requirements:**

1. Maximum Building Height: The maximum height shall not exceed fifty percent (50%) of the depth of the Front Yard. For purposes of this computation, where access to the Lot is by a Frontage Road or which is between the Lot and U.S. 31, the width of such Frontage Road shall be added to the depth of the Front Yard.
2. Minimum Building Height: 14 feet, to the highest point of the roof for a building with a flat roof; 23 feet to the lowest eaves for a building with a gable, hip or gambrel roof.
3. Minimum Front Yard:
   a. US Highway 31: 90 feet
   b. All others: 60 feet
   c. Determination of Front Yard: For purposes of applying the requirements of this Article, the front yard of each Lot in the US31 Overlay, including any Corner Lot, shall be deemed to be any Lot Line of the Lot which abuts the Right-of-way of US Highway 31 or any other Street or highway. Private Parking Areas may be located in the Front Yard so long as the nearest curb of any such Parking Area is not less than twenty (25) feet distant from the Principal Building(s).
4. Minimum Side Yard: 45 feet
5. Minimum Rear Yard: 45 feet
6. Minimum Aggregate of Side Yard: 90 feet
7. Minimum Lot Width: Shall be equal to or exceed one-half (0.5) the depth of the Lot.
   a. If a Lot was recorded prior to November 1, 1989, and said Lot does not meet the minimum Lot Width requirement for Lots in the US31 Overlay, then, notwithstanding the minimum Lot Width requirements for Lots in the US31 Overlay, said Lot may be used for any use permitted in the US31 Overlay provided:
      i. At the time or recordation of said Lot or the record date, said Lot met the requirements for minimum Lot Width then in effect for the underlying Zoning Districts.
      ii. The Property Owner of said Lot does not own any adjoining vacant Lot (not separated by a Street, Right-of-way or interfering easement) which, if combined with said Lot, would create a Lot which conforms to the minimum Lot Width requirements of this Article.
      iii. All other applicable regulations of the US31 Overlay can be met.
8. Minimum Aggregate Gross Floor Area: Multi-family, Commercial/ Business and Industrial uses: 15,000 square feet (excluding Basement).
9. Maximum Lot Coverage:
   a. If all buildings on the Lot contain an aggregate Gross Floor Area of less than 25,000 square feet, then thirty-five percent (35%) of the Lot.

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b. If all buildings on the Lot contain an aggregate Gross Floor Area of between 25,000 square feet and 74,999 square feet, then forty-five percent (45%) of the Lot.
c. If all buildings on the Lot contain an aggregate Gross Floor Area of between 75,000 square feet and 150,000 square feet, then fifty-five percent (55%) of the Lot.
d. If all buildings on the Lot contain an aggregate Gross Floor Area in excess of 150,000 square feet, sixty-five percent (65%) of the Lot.

F. **Loading Berth Requirements:** Shall be as specified in the underlying Zoning District, except that no loading or unloading berth or bay may be visible from US Highway 31; elsewhere in the development, such bays shall be completely screened by landscaping or other screening.

G. **Landscaping:** That portion of the Front Yard between the Front Lone Line and a line which is thirty (30) feet ("Greenbelt Distance") from and parallel to the Front Lot Line shall be landscaped in accordance with *Article 6.8 Landscaping Standards* and shall be unoccupied except by steps, walks, terraces, access driveways, lamp posts, signs and other similar structures (excluding a private Parking Area) permitted by this Ordinance to be placed in a Front Yard. Where access to the Lot is by way of a Frontage Road which is between the Lot and the US Highway 31, then the Greenbelt Distance shall be reduced by one-half (0.5) of the width of such Frontage Road; provided, however, that the Greenbelt Distance shall in no event be less than fifteen (15) feet. Inclusive of this landscaped portion of the Front Yard, a minimum of twenty percent (20%) of the Lot surface area shall be landscaped.

H. **Outside Storage of Refuse:** No outside, unenclosed storage of refuse shall be permitted on any Lot. All refuse shall be contained in completely enclosed facilities; no refuse containers or enclosures shall be visible from US Highway 31.

I. **Utility Screening:** All heating, ventilating, communication and like equipment for any facility shall be completely screened from view in a manner that is homogenous with the balance of the building.

J. **Architecture:** In addition to any provisions that apply to the underlying Zoning District, the architectural plan of any building proposed to be built in the US31 Overlay must exhibit pleasing scale and proportion and demonstrate compatibility with other buildings and structures in the same and adjacent developments. A minimum of three (3) materials shall be used for building exteriors, and must include stone or brick. Buildings shall be designed with a minimum of eight (8) external corners to eliminate box buildings. Sloped roofs of one hundred (100) feet or more must include a gable, dormer or other change in roof plane.

K. **Frontage Roads:** All Frontage Road intersections within this corridor shall be placed a minimum of five hundred (500) feet from the Right-of-way of US Highway 31 and shall otherwise conform to all INDOT Standards.

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L. **Exemption:** Any alterations to existing buildings or development of additional structures for businesses existing prior to the adoption of Ordinance No. 89-15 (December 11, 1989), or Ordinance No. 00-17 (August 14, 2000), as may be applicable to a subject property, shall be exempt from this Article; however, if an existing business ceases to operate and/or the facility becomes a new type of business, then it shall be subject to the provisions of this Article.

M. **Disclaimer on Rezoning:** The US31 Overlay criteria and standards do not change the zoning of land. The provisions of the US31 Overlay apply to all zoning classifications and to land uses that are designated as nonconforming.

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5.3 State Highway 32 Overlay District

A. **Purpose and Intent:**

1. The purpose of this Article (the "SR32 Overlay") is to preserve and enhance: (i) the aesthetic qualities of the highway corridor by regulating building architecture, building placement and building orientation, landscaping, design of Detention Areas and transitions between the corridor and adjacent uses; and (ii) the transportation functionality and safety of the highway by limiting access, regulating building setbacks, providing for alternative transportation, and providing for the future development/redevelopment of the corridor into an "employment corridor" as contemplated in the Comprehensive Plan.
2. Several figures are referenced within this Article. These figures are intended to illustrate the specific subjects of the paragraphs in which they are referenced and may not illustrate a structure that fully complies with all standards of this Ordinance.

B. **Applicability:** This Article shall apply in the following instances:

1. This SR32 Overlay is hereby established for an area with six hundred (600) feet of the State Highway 32 right-of-way line or the edge of pavement, whichever results in a greater distance from the State Highway 32 centerline.
2. This Article shall apply to any development within the SR32 Overlay.
3. To the extent the provisions of this Article conflict with the provisions established elsewhere within this Ordinance, then the provisions of this SR32 Overlay shall supersede and apply.

C. **Exceptions:** This Article shall not apply to the following geographic areas:

1. The area identified as "Downtown" in FIGURE 5.3(1): EXCEPTION AREAS.
2. The area identified as "Eagletown" in FIGURE 5.3(1): EXCEPTION AREAS.
3. The area identified as "Jolietville" in FIGURE 5.3(1): EXCEPTION AREAS.
4. The platted area of Sandpiper Lakes Subdivision.

D. **Administrative Waiver for Existing Developments:** The Director is hereby authorized to determine whether the standards of this Article shall apply to the entire Lot or if the standards of this Article may be limited only to the proposed improvements for Lots that were developed or improved prior to the effective date of this Article. The following factors shall be taken into consideration:

1. The extent and location of the proposed improvements (e.g., drainage, landscaping, parking, buildings) on the Lot.
2. The extent of conflicts in applying the standards of this Article with existing and/or planned improvements.

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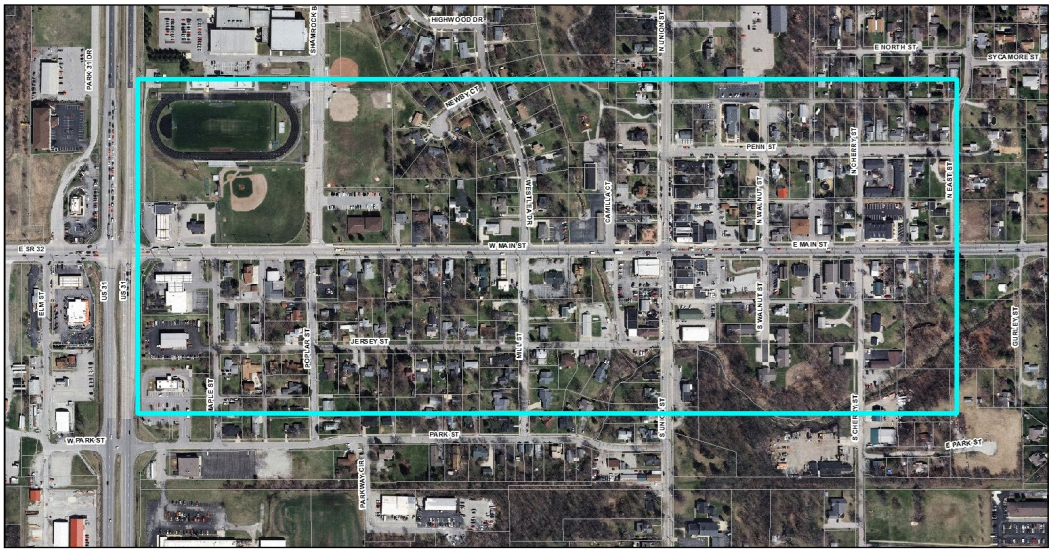
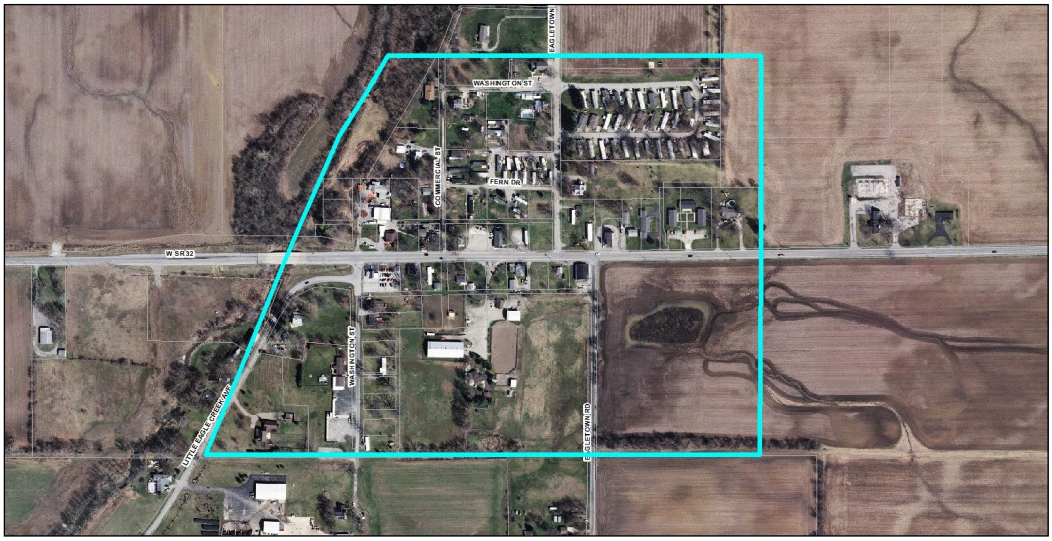
FIGURE 5.3(1): EXCEPTION AREAS

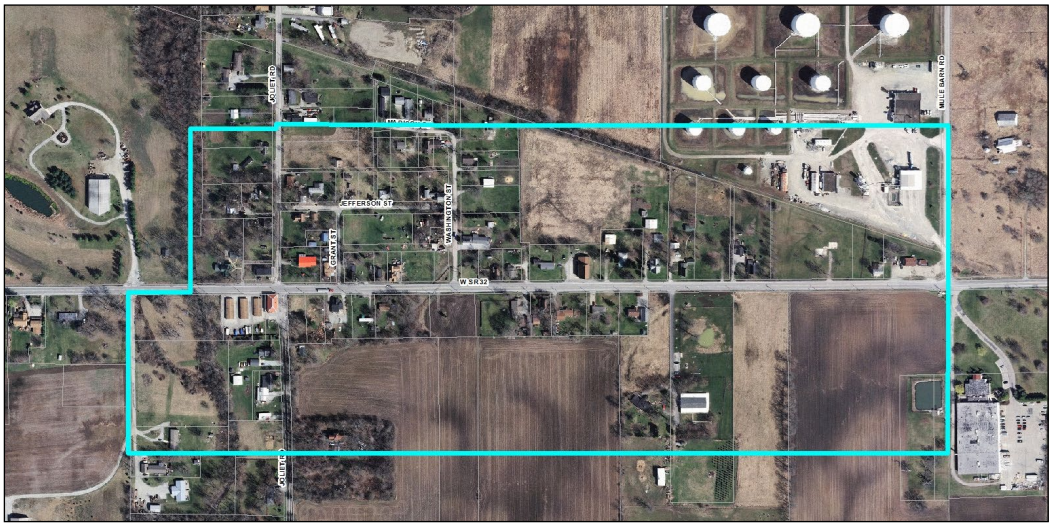
DOWNTOWN



EAGLETOWN



JOLIETVILLE



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E. **Permitted Uses:**

1. All uses permitted in the underlying Zoning District shall be permitted except as otherwise excluded and prohibited in the Use Table for the SR32 Overlay, as set for in *CHAPTER 13: USE TABLE*.

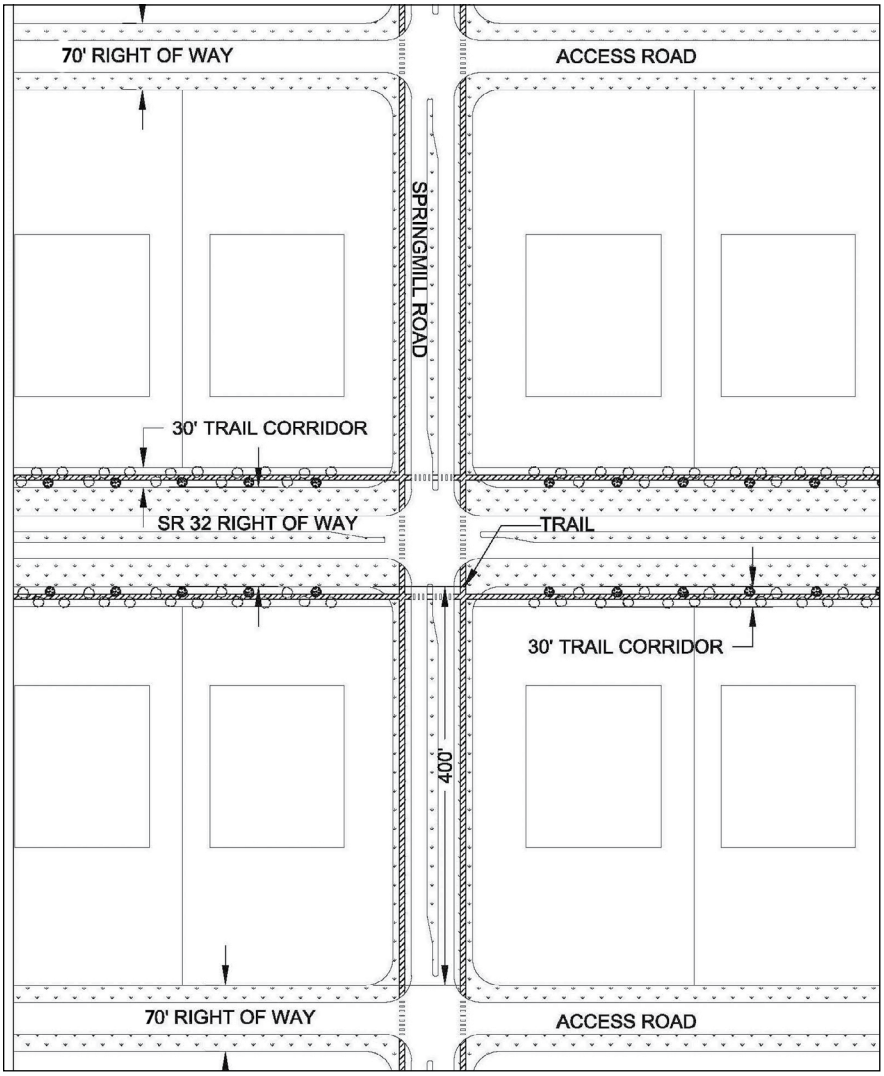
2. No part of a Self-Storage Facility, except for administrative offices, shall be permitted to locate, either: a) within three hundred (300) feet of the State Highway 32 right-of-way line, or b) between the State Highway 32 right-of-way line and the access road required by *Article 5.3(F) Access Control Requirements*, whichever is greater.

F. **Access Control Requirements:**

1. The purpose of this section is to make the closing of all private curb cuts along State Highway 32 possible by establishing a common access road to provide access to and through Lots abutting State Highway 32.

2. New curb cuts shall not be permitted unless specifically approved by the Council and the Indiana Department of Transportation prior to installation.

FIGURE 5.3(2): ACCESS ROADS



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3. Access roads in substantial compliance with the design plan included in FIGURE 5.3(2): ACCESS ROADS shall be provided for Lots along State Highway 32 unless the Council approves the development of a Lot without providing the normally required access road, and shall be dedicated as Right-of-way.
4. Approval of an illustrative concept plan showing vehicular drive cuts as part of a zoning petition shall not constitute approval of curb cuts by the Council.
5. In those cases where tracts can be accessed via a connection to an Arterial, Collector, Frontage Road or an adjoining Parking Area, new curb cuts shall not be permitted on State Highway 32.
6. All developments shall provide for vehicular and pedestrian interconnectivity between neighboring uses, Parking Areas and developments in order to encourage and facilitate east/west vehicular movements without directly accessing State Highway 32. Cross access easements shall be provided to ensure continued access and connectivity between and through uses along the State Highway 32 corridor.
7. Any existing curb cuts along State Highway 32 shall be vacated and eliminated as a condition of any discretionary approval for use or development of land on which such curb cuts are present, if an alternative vehicular access is available.

G. **Setback Requirements:** The following setback requirements regulating the distance from State Highway 32 that buildings may be constructed shall supersede all other setback standards of this Ordinance.

1. Maximum Setback: The Established Front Yard on Lots abutting State Highway 32 or the Trial Corridor, as defined herein, shall be a maximum of one hundred and twenty (120) feet from the State Highway 32 right-of-way line or the edge of pavement, whichever results in a greater distance from the State Highway 32 centerline.
2. Minimum Setback: The Established Front Yard on Lots abutting State Highway 32 or the Trail Corridor, as defined herein, shall be a minimum of thirty (30) feet from the State Highway 32 right-of-way line or the edge of pavement, whichever results in a greater distance from the State Highway 32 centerline. Signs shall be located a minimum of thirty (30) feet from the State Highway 32 right-of-way line.

H. **Accessory Buildings:** No Accessory Building shall be erected in the Established Front Yard. For the purpose of this Article only, an Accessory Building shall not include the following: (i) if provided for public use and enjoyment: fountains, gazebos, picnic shelters, benches, public restrooms, drinking fountains, utility installations, bike racks, decorative walls and fences (not to exceed an average height of four (4) feet), hardscape amenities, landscaping, pavement, curbs and other similar improvements; or (ii) Monument Signs.

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I. **Building Height Requirements:**

1. Maximum Building Height: No maximum
2. Minimum Building Height: Eighteen (18) feet
3. Multiple Stories: Multiple stories are encouraged, but not required.

J. **Building Size Requirements:** The Gross Floor Area requirements set forth below are intended to create a certain massing for buildings located within the corridor. Although it is contemplated some buildings may be acceptable with square footages below the minimum set forth herein, decisions to lower the requirement shall be considered on a case-by-case basis. In instances where the requirement set forth herein is lowered, enhanced architectural or site features (e.g., pergolas, outdoor seating, landscaped amenities) may be required.

1. Minimum Gross Floor Area: Five Thousand (5,000) square feet
2. Maximum Gross Floor Area: No maximum

K. **Architectural Design Requirements:**

1. General Design Theme Standards: Architectural variation is encouraged. These architectural requirements are intended to provide consistent architectural quality among buildings and other improvements within the corridor. All structures shall be thoughtfully designed in a manner that visually and functionally complements the existing topography.

FIGURE 5.3(3): BUILDING MODULATION

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2. Building Elevation:

   a. All Building Façades shall have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated, three-dimensional cornice as illustrated in FIGURE 5.3(3): BUILDING MODULATION.

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

FIGURE 5.3(4): FAÇADE OFFSET

   c. Buildings shall be constructed with the same building material quality and level of architectural detail on all Building Façades (e.g., 360 degree architecture).

   d. Openings:

      i. Design elements of the Building Façade shall be organized such that openings (including windows, doors, loading berths, faux windows and architectural or painted elements resembling openings) line up horizontally and vertically with other openings, as illustrated in FIGURE 5.3(5): DESIGN BALANCE.

FIGURE 5.3(5): DESIGN BALANCE

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ii. Openings in a Building Façade shall be arranged in a balanced, relatively uniform fashion (see FIGURE 5.3(6): BALANCE OF OPENINGS).

iii. Exceptions may be permitted if openings are organized in an aesthetically pleasing manner and constitute an essential artistic design element appropriate for the building type, scale, orientation, location and site.

FIGURE 5.3(6): BALANCE OF OPENINGS

e. Gutters and Downspouts: Shall be visually integrated with the architectural style of the structure. The color of gutters and downspouts shall be selected to complement or to be consistent with the building materials.

f. Roof:

i. Pitched Roofs:

(a) Pitched roofs shall be simply and symmetrically pitched and only in the configuration of gables and hips, with pitches ranging from 4:12 to 14:12 (see FIGURE 5.3(7): ROOF PITCHES).

(b) If standing seam panels are used then they shall be: (1) gray, black, dark blue, dark green, barn red or dark brown; and (2) made of a nonreflective material.

(c) Modulation of the roofs and/or roof lines shall be required in order to eliminate the appearance of box-shaped buildings, as illustrated in FIGURE 5.3(8): PITCHED ROOF - ROOF LINE MODULATION.

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FIGURE 5.3(7): ROOF PITCHES

HIP ROOF

GABLE AND HIP ROOF

GABLE ROOF

FIGURE 5.3(8): PITCHED ROOF - ROOF LINE MODULATION

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ii. Flat Roofs:

(a) Flat roofs are permitted if edged by a parapet wall with an articulated, three-dimensional cornice as illustrated in FIGURE 5.3(9): ARTICULATED CORNICE.

FIGURE 5.3(9): ARTICULATED CORNICE

(b) Parapet walls shall be fully integrated into the architectural design of the building to create seamless design transitions between the main building mass and roof-mounted architectural elements (which may include screening elements for roof-mounted equipment).

(c) Modulation or variation of the roofs and/or roof lines shall be required in order to eliminate the appearance of box-shaped buildings. Buildings shall comply with at least one of the following:

(1) A building with a flat roof shall have varying roof height sections, as illustrated in FIGURE 5.3(10): FLAT ROOF VARIATION. A varied roof section shall have a minimum roof height difference of five (5) feet from an adjacent roof section. The maximum horizontal roof line length without variation shall be sixty percent (60%) of the total length of the Building Façade's roof line.

FIGURE 5.3(10): FLAT ROOF VARIATION

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(2) A roof line modulation shall include a vertical change in the visible roof line of at least four (4) feet, with a minimum aggregate modulation length of forty percent (40%) of each Building Façade, as illustrated in FIGURE 5.3(11): FLAT ROOF - ROOF LINE MODULATION. The maximum horizontal roof line length without modulation shall be sixty (60) feet, or forty (40) feet for Buildings with a Gross Floor Area less than ten thousand (10,000) square feet.

FIGURE 5.3(11): FLAT ROOF - ROOF LINE MODULATION

iii. Dormers and cupolas shall be designed with appropriate details, proportion and style consistent with the overall building composition and roofed with symmetrical gable, hip or barrel roofs (see FIGURE 5.3(12): DORMERS AND CUPOLAS).

FIGURE 5.3(12): DORMERS AND CUPOLAS

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

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g. Main Entrances:

i. All buildings shall be designed with a main entrance and at least two (2) window openings associated with the main entrance.

FIGURE 5.3(12): WINDOW OPENINGS

ii. Building entrances shall be clearly defined and articulated by multiple architectural elements such as lintels, pediments, pilasters, columns, awnings, porticos and other design elements appropriate to the architectural style and details of the building as a whole.

FIGURE 5.3(13): ENTRANCE ARTICULATION

lintel

pediment

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iii. The location, orientation, proportion and style of doors shall complement the style of the building.

h. Windows:

i. All window designs shall be compatible with the style, materials, color, details and proportion of the building. The number of window panes, the number of window openings, window trim and other architectural design elements designed to accent the windows shall be consistent with and complementary to the architectural style of the building (see FIGURE 5.3(14): WINDOW DESIGNS).

FIGURE 5.3(14): WINDOW DESIGNS

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ii. Window trim and other architecture design elements designed to accent the windows shall be required for all windows. Acceptable design elements include shutters, keystones, masonry arches, awnings, decorative stone frames, masonry rowlock frames, as illustrated in FIGURE 5.3(15): WINDOW ACCENTS, or other such trim or design elements as approved by the Plan Commission or Director (see FIGURE 5.3(15): WINDOW ACCENTS).

FIGURE 5.3(15): WINDOW ACCENTS

i. <u>Awnings:</u>
   i. Fixed or retractable awnings are permitted if they complement the building's architectural style, material, colors and details, as illustrated in FIGURE 5.3(16): AWNINGS.
   ii. Awnings shall be made of a nonreflective material.
   iii. All awnings shall be kept in good repair.
   iv. Awnings used to comply with the architectural design requirements of this Article shall not be removed unless the Building Façade would otherwise comply with such architectural design requirements without such awnings.

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FIGURE 5.3(16): AWNINGS

j. Drive-thrus and Fueling Stations: This section shall apply to: (i) Lots adjacent to the State Highway 32 right-of-way line or the Trail Corridor, as defined herein; and (ii) Lots where the Lot Line may not abut the State Highway 32 right-or-way line or Trail Corridor, but where the Lot is located in a manner that no significant structures can reasonably be constructed between the Lot and the State Highway 32 right-of-way line or Trail Corridor.

   i. Drive-thru windows and lanes shall not be permitted in between the State Highway 32 right-of-way line or the Trail Corridor and the Building Façade nearest to said right-of-way line (e.g., Established Front Yard) or Trail Corridor.

   ii. Vehicular fuel pumps and canopies shall be setback a minimum of thirty (30) feet farther from the State Highway 32 right-of-way line than the Established Front Yard of the

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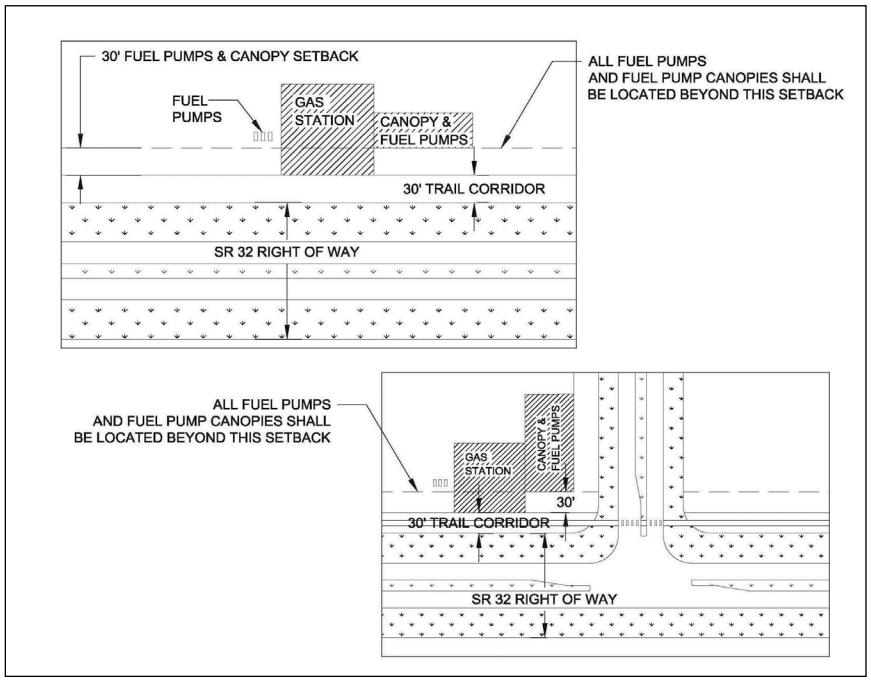
Principal Building to which fuel pumps or canopies are appurtenant or associated as illustrated in FIGURE 5.3(17): FUEL PUMP/CANOPY LOCATION.

FIGURE 5.3(17): FUEL PUMP/CANOPY LOCATION



k. Building Materials:
   i. Masonry Materials shall be the preferred and primary exterior building material used on buildings within the corridor.
   ii. Masonry Materials shall be used to create a wainscot or brick-wrap effect around buildings.
   iii. A minimum of sixty percent (60%) of each Building Façade, exclusive of windows (including faux windows and glazing), doors and loading berths, shall be covered with Masonry Materials.
   iv. No more than twenty-five percent (25%) of each Building 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.
   v. In order to create an aesthetically pleasing appearance and to create an appearance of high-quality, visually interesting architecture, increased and enhanced use of Masonry Material and other architectural ornamentation shall be required around building entrances and on Building Façades visible from State Highway 32.

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

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L. **Trail Corridor Requirement:**

1. Purpose: The purpose of this section is to establish an alternative transportation corridor along both sides of State Highway 32 by requiring an alternative transportation trail and various other amenities to be installed along State highway 32 on all Lots abutting State Highway 32.
2. Requirement: A linear green space (the "Trail Corridor") along each side of State Highway 32 that contains the alternative transportation trail mentioned herein shall be provided. The following improvements shall be prohibited within the Trail Corridor, unless otherwise approved by the City: Detention Areas, Retention Areas, Monument Signs.
3. Public Property: It is the policy of the City that the Trial Corridor (as defined herein) and the improvements therein will be owned and maintained by the City. It is the policy of the City to have the real estate within the Trail Corridor acquired, pledged, contracted or granted prior to the development of adjacent Lots.
4. Trail Corridor Design Standards:
   a. Trail Corridor Width: The Trail Corridor shall be a minimum width of thirty (30) feet parallel and immediately abutting the State Highway 32 right-of-way line or the edge of pavement, whichever results in a greater distance from the State Highway 32 centerline.
   b. Alternative Transportation Trail Design: The trail improvements shall be installed in substantial compliance with FIGURE 5.3(18): TRAIL CORRIDOR DESIGN and shall be a minimum of eight (8) feet in width and constructed of asphalt material in compliance with the City's Construction Standards (see also *Article 7.3 Principles and Standards of Design*). Construction of the trail with a meandering design is encouraged.
   c. Inter-connectivity: All developments along State Highway 32 shall provide for alternative transportation inter-connectivity between neighboring uses, developments and the Trail Corridor in order to encourage and facilitate alternative transportation movements without directly accessing State Highway 32. Cross access easements and connections to the alternative transportation trail referenced above shall be appropriately provided to ensure continued alternative transportation access and connectivity between and through uses along the Trail Corridor (see also *Article 8.3 Easement Standards*).
5. Trail Corridor Plantings: The primary landscaping materials used within the Trail Corridor shall be shade trees, ornamental trees, shrubs, Groundcover and grass.
   a. A minimum of three (3) shade trees and one (1) ornamental tree shall be provided per every one hundred (100) linear feet of Trail Corridor along State Highway 32. Installation of plantings on both sides of the alternative transportation trail referenced above is encouraged. All trees shall be a minimum of two and one-half (2.5) inches in caliper at the time of planting.

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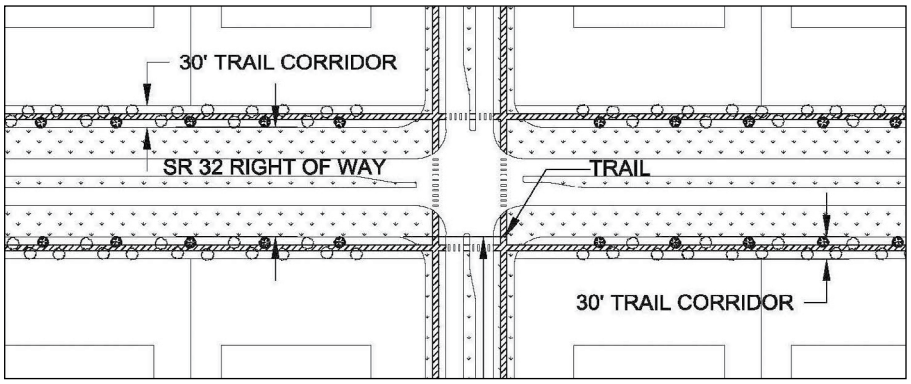
b. Shade trees planted with the Trail Corridor shall be spaced a minimum of fifteen (15) feet and no more than forty (40) feet apart.
c. Landscaping required within the Trail Corridor shall be counted toward meeting the requirements of *Article 6.8 Landscaping Standards*, as if the Trail Corridor were a part of the adjacent Lot being developed.

6. Trail Corridor Mounds/Berms: The construction of intermittent, undulating mounds or berms within the Trail Corridor is encouraged, but not required. If mounds or berms are installed, then they should be designed in a manner that complements other improvements in the vicinity and in no event shall such mounds or berms be installed in a manner that unsafely inhibits vehicular line of sight (see also *Article 6.19 Vision Clearance Standards*) or use of the alternative transportation trail.

FIGURE 5.3(18): TRAIL CORRIDOR DESIGN



M. **Miscellaneous Requirements:**

1. Loading Berths:

a. Loading berths shall be oriented in a manner so they are not visible from State Highway 32 and in a manner that minimizes their visibility from other Rights-of-way and adjacent properties.
b. The use of loading berth enclosures shall be utilized where appropriate in order to accomplish the design objectives of this subsection.
c. All loading berths shall be adjacent to the Principal Building and located entirely within the Side or Rear Yard.
d. Loading berths shall be screened to the extent reasonably necessary by installing solid, opaque walls or fences (chain link fences or a variation thereof shall not be permitted). Mounds or berms may also be utilized, or utilized in combination with walls or fence enclosures, to provide screening. Special attention shall be given to accomplish the design objectives herein for visibility of loading berths from adjacent properties and Rights-of-way.
e. Loading berth walls and fences shall be softened by installing the following adjacent to such screens, except no landscaping shall be required adjacent to access and delivery doors or gates:
   i. One (1) ornamental or evergreen tree every thirty (30) feet.
   ii. Five (5) shrubs every thirty (30) feet.

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2. Mechanical Equipment:
   a. Screening of mechanical equipment, satellite dishes and other similar improvements shall be completely and permanently screened from view of Rights-of-way and adjoining properties.
   b. When attached to the ground, screening methods shall include a mound/berm or an opaque wall or fence enclosure of a material that matches or complements the Principal Building to which it is appurtenant.
   c. When roof-mounted, screening methods shall include parapet walls, enclosures or other similar architectural treatment that matches or complements the Principal Building to which it is appurtenant.
3. Walls and Fencing:
   a. The following wall and fence types are permitted within the 32 Overlay Zone: Masonry Material, decorative metal (wrought iron, or wrought iron in appearance) or finished wood (stained or painted). In areas requiring security, decorative metal fencing with a spiked or curved top profile or razor/concertina/barbed wire mounted inside a solid fence or wall is recommended. This type of fence shall only be permitted with the express written approval of the Director and may not be permitted in all cases based on the visibility of the fence.
   b. The following wall and fence types are prohibited in areas visible from outside the Lot on which such walls or fences are installed: nonsolid and/or unfinished wood, chain link (with or without slats), nondecorative corrugated metal, electrified fences and razor/concertina/barbed wire.
   c. Walls and fencing shall not be located in an Established Front Yard.
   d. If walls or fencing consists of the same building materials as used on the Principal Building to which they are appurtenant, then they shall be permitted to extend into a Side Yard in a manner that is flush with the Front Building Façade of the Principal Building.
   e. If walls or fencing do not consist of the same building materials as used on the Principal Building to which they are appurtenant, then they shall not be permitted to extend into a Side Yard in a manner that is flush with the Front Building Façade of the Principal Building. Instead such walls or fencing shall be setback a minimum of an additional eight (8) feet from the Established Front Yard.

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5.4 Economic Development District (EDD) Overlay

A. **Purpose and Intent:** The purpose of this Article (the "EDD Overlay") is to protect the City and its taxpayers where the City and its taxpayers have been obligated to finance public works projects ("Public Improvements") within an Economic Development Area ("EDA").

1. Public Improvements in an EDA are intended to facilitate new development that otherwise may not occur or that may otherwise be delayed without the Public Improvements.
2. New development creates additional taxable assessed value and real property taxes. The additional real property taxes generated within an EDA are necessary to finance Public Improvements and eventually lower the tax rates for other City taxpayers.
3. The funding of Public Improvements to increase assessed value, and the generation of tax revenue to pay for the Public Improvements has been, and will continue to be, a compelling governmental interest of the City because an increase in the City's tax base will continue to be a benefit for all of the City and its citizens.
4. The use of land in an EDA by property owners who are exempt from paying real property taxes ("Tax Exempt Uses") fails to satisfy the primary purpose of an EDA when the EDA was established because a Tax Exempt Use benefits from the Public Improvements without contribution to the tax base that pays for the Public Improvements.

B. **Applicability:** This Article shall apply to all property and to any petition, application, land use, development or improvements and petition within an Economic Development Area, as established by the City, and as may be amended from time to time in accordance with Indiana law.

C. **Development Standards:** The development and design standards of the underlying Zoning District, as set forth by this Ordinance, shall otherwise apply to property within an EDD Overlay.

D. **Restriction of Use:** The use of land within an EDD Overlay that results in the real estate being exempt from payment of all or part of the real property taxes (a "Tax Exempt Use") shall be permitted only as a Special Exception (see also *Article 10.11 Special Exceptions*). All other uses that are permitted in the underlying Zoning District shall be permitted.

E. **Exceptions from Restriction of Use:** The following shall be exempt from this Article and shall otherwise be permitted within an EDD Overlay:

1. A Tax Exempt Use that is occupying (e.g., leasing from a third party) land or a building that is otherwise owned by a property owner not exempt from payment of all or part of the subject real estate's real property taxes and the occupation by the Tax Exempt Use does not cause the real estate to become exempt from payment of any real property taxes.
2. Public Safety and Services Uses.

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5.5 Floodplain Overlay District (FOD)

A. **Applicability:**

1. This Article shall apply to all Special Flood Hazard Areas and known Flood Prone Areas, as defined herein, within the Jurisdiction of the Plan Commission (the "FOD").
2. No Building shall hereafter be located, extended, converted or structurally altered within this Overlay without full compliance with the terms of this Article and other applicable regulations.
3. No land or stream within this Overlay shall hereafter be altered without full compliance with the terms of this Article and other applicable regulations.

B. **Purpose and Intent:** It is the purpose of this Article 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. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
2. Require uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
6. Make federally subsidized flood insurance available for structures and their contents in the Jurisdiction of the Plan Commission by fulfilling the requirements of the National Flood Insurance Program.

C. **Definitions:** *Article 12.1 Definitions* shall apply. In addition, words used in a special sense to apply only in the context of this Article are defined below.

1. Base Flood: 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 IDNR and FEMA. The Base Flood is also known as the "Regulatory Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".
2. Base Flood Elevation (BFE): The elevation of the Base Flood.
3. Building Addition: Any walled and roofed expansion to the perimeter of an existing Building in which the addition is connected by a common load-bearing wall other than a firewall.

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4. Construction, New: Any Building or Building Addition for which the Start of Construction commenced after the Effective Date of Initial Floodplain Management Regulations.
5. Critical Facility: A facility for which even a slight chance of flooding may pose too great of a public safety risk that include, but are not limited to: Educational Institutions; Nursing Homes; Hospitals; Public Safety and Service Uses; and installations which produce, use or store hazardous materials or hazardous waste.
6. Effective Date of Initial Floodplain Management Regulations: August 15, 1975.
7. Elevated Building: A Building without a Basement with the Lowest Floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also known as chain walls), pilings, or columns (posts and piers).
8. Elevation Certificate: A certified statement that verifies a Building's elevation information.
9. FBFM (The Flood Boundary and Floodway Map): The official map on which FEMA or FIA has delineated the areas of flood hazards and regulatory floodway.
10. FEMA: The Federal Emergency Management Agency.
11. FIA: The Federal Insurance Administration.
12. FIRM: The Flood Insurance Map published by FEMA that delineates the areas of special flood hazard and risk premium zones.
13. FIS (The Flood Insurance Study): The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the Base Flood.
14. Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
15. Flood Prone Area: Any land area acknowledged by the City or County as being susceptible to inundation by water from any source.
16. Floodplain Administrator: The Director or his/her designee. See also Article 3.5 Floodplain Administrator.
17. Floodplain Management: 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.
18. Floodplain Management Regulations: This Ordinance, health regulations, special purpose ordinances, and other applications of police power

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which control development in Flood Prone Areas. This term describes federal, State, County or City regulations in any combination thereof, which provide standards for preventing and reducing Flood loss and damage. Floodplain Management Regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

19. Floodproofing (or dry floodproofing): A method of protecting a Building that ensures that the Building, 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.
20. Floodproofing Certificate: A form, which must be certified by a registered professional engineer or architect, used to certify compliance for nonresidential Buildings as an alternative to elevating Buildings to or above the FPG.
21. Floodway: The channel of a river or stream and those portions of the Floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the Base Flood of any river or stream.
22. FPG (Flood Protection Grade): The elevation of the Base Flood plus two (2) feet at any given location in the SFHA.
23. Fringe: Those portions of the Floodplain not a Floodway.
24. Historic Structures: Any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
25. IDNR: The Indiana Department of Natural Resources.
26. Letter of Final Determination (LFD): A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study.
27. Letter of Map Change (LOMC): A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter, and include: Letter of Map Amendment (LOMA); Letter of Map Revisions (LOMR); and Letter of Map Revision based on Fill (LOMA-F), as further defined below:
    a. Letter of Map Amendment (LOMA): An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
    b. Letter of Map Revision (LOMR): An official revision to the currently effective FEMA map issued by FEMA and that changes flood zones, delineations, and elevations.

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c. Letter of Map Revision Based on Fill (LOMR-F): An official revision by letter to an effective NFIP map that provides FEMA's determination concerning whether a Building or Lot has been elevated on fill above the Base Flood Elevation (BFE) and excluded from the SFHA.

28. Lowest Floor: The lowest elevation described among the following:

a. The top of the lowest level of the Building.
b. The top of the Basement floor.
c. The top of the garage floor, if the garage is the lowest level of the Building.
d. The top of the first floor of a Building elevated on pilings or pillars.
e. The top of the floor level of any enclosure, other than a Basement, below an Elevated Building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
   i. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two (2) openings (in addition to doorways and windows) in a minimum of two (2) exterior walls; if a structure has more than one (1) enclosed area, each shall have openings on exterior walls;
   ii. The total net area of all openings shall be at least one (1) square inch for every one (1) square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
   iii. Such enclosed space shall be usable solely for the parking of vehicles and access to the Building.

29. Manufactured Home Park, Existing: A Manufactured Home Park for which the construction of Buildings and facilities for servicing the Manufactured Homes (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 before the Effective Date of Initial Floodplain Management Regulations.

30. Manufactured Home Park, Extension of an Existing: The preparation of additional sites by the construction of facilities for servicing additional Manufactured Homes.

31. Manufactured Home Park, New: A Manufactured Home Park for which the construction of Buildings and facilities for servicing the Manufactured Homes (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 Initial Floodplain Management Regulations.

32. Market Value: The value of the Building, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market Value can be established by independent

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certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

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

34. NFIP (National Flood Insurance Program): The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

35. NGVD (National Geodatic Vertical Datum): The National Geodatic Vertical Datum of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the Floodplain.

36. Physical Map Revision (PMR): An official republication of a FEMA map to effect changes to the Base 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 BFE or SFHAs.

37. Repetitive Loss: Flood-related damages sustained by a Building on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeds twenty-five percent (25%) of the Market Value of the Building before the damage occurred.

38. Special Flood Hazard Area (SFHA): Those lands within the Jurisdiction of the Plan Commission subject to inundation by the Base Flood. The SFHAs are generally identified as Zone A, Zone AE, Zone A1-A30, Zone Zone AH, Zone AR, Zone A99, or Zone AO on the Hamilton County, Indiana and Incorporated Area Flood Insurance Rate Map (FIRM) dated November 19, 2014, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency (FEMA) with the most recent date.

39. Start of Construction: The issuance date of an Improvement Location Permit (provided the Actual Start of Construction was within one hundred and eighty (180) days of the permit's issuance date).

40. Start of Construction, Actual: The first placement of permanent construction of a Building, such as: pouring a slab or footings; installation of piles; construction of columns; or any work beyond the stage of excavation; or the placement of a Manufactured Home on a foundation. For a Substantial Improvement, the Actual Start of Construction shall be 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. Permanent construction shall not include: land preparation (i.e., clearing, grading and filling); the installation of

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streets and/or walkways; excavation for a Basement, footings, piers, foundations; or the erection of temporary forms; the installation on the property of Accessory Buildings.

41. Substantial Damage: Damage of any origin sustained by a Building whereby the cost of restoring the Building to it's before damaged condition would equal or exceed fifty percent (50%) of the Market Value of the Building before the damage occurred.

42. Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a Building, the cost of which equals or exceeds fifty percent (50%) of the market Value of the Building before the Start of Construction of the improvement. Substantial Improvement shall include Buildings that have incurred Repetitive Loss or Substantial Damage regardless of the actual repair work performed, but does not include imrprovements to correct existing violations of State or local health, sanitary, or safety code requirements or any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a Historic Structure.

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

44. Zone: A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

45. A zone: Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to Buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM.

    a. Zone A: Areas subject to inundation by the Base Flood. No Base Flood Elevation or depths are shown because detailed hydraulic analyses have not been performed.
    b. Zone AE and A1-A30: Areas subject to inundation by the Base Flood determination by detailed methods. Base Flood Elevations are shown within these zones (Zone AE is on new and revised maps in place of Zones A1-A30).
    c. Zone AO: Areas subject to inundation by one-percent (1%) annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
    d. Zone AH: Areas subject to inundation by one-percent (1%) annual chance shallow flooding (usually areas of ponding) where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

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e. Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

f. Zone A99: Areas subject to inundation by the Base Flood, but which will ultimately be protected upon completion of an under construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress towards completion. No Base Flood Elevations or depths are shown.

46. Zone B, C, and X: Areas identified as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems (Zone X is used on new and revised maps in place of Zones B and C).

D. **Basis for Establishing Base Flood Data:** This Article's protection standard is the Base Flood and the best available regulatory flood data is listed below.

1. The BFE and Floodplain limits for the studied SFHAs within the Jurisdiction of the Plan Commission shall be as delineated on the one-percent annual chance flood profiles in the FIS of Hamilton County, Indiana and Incorporated Areas dated November 19, 2014, and the corresponding FIRM dated November 19, 2014, as well as any future updates, amendments, or revisions, prepared by FEMA with the most recent date.

2. The BFE and Floodplain limits for each of the SFHAs within the Jurisdiction of the Plan Commission, delineated as an "A Zone" on the Hamilton County, Indiana and Incorporated Areas FIRM dated November 19, 2014, as well as any future updates, amendments, or revisions, prepared by FEMA with the most recent date, shall be according to the best data available as provided by IDNR; provided the upstream drainage area from the subject site is greater than one (1) square mile. Whenever a party disagrees with the best available 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 IDNR for review, subsequently approved.

3. In the absence of a published FEMA map, or absence of identification on a FEMA map, the BFE and Floodplain limits of any Watercourse in the Jurisdiction of the Plan Commission known as Flood Prone Areas shall be according to the best data available as provided by IDNR; provided the upstream drainage area from the subject site is greater than one (1) square mile.

4. Upon issuance of a Letter of Final Determination (LFD), any more

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restrictive data in the new (not yet effective) mapping / study shall be utilized for permitting and development purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

E. **Discrepancy Between SFHA and Actual Ground Elevations:** If there is a discrepancy between the SFHA on the FIRM and the actual ground elevations, then the elevation provided on the profiles shall govern.

1. If the elevation of the site in question is below the BFE, then that site shall be included in the SFHA and regulated accordingly.
2. If the elevation (natural grade) of the site in question is above the BFE and not located within the Floodway, then that site shall be considered outside the SFHA and the regulations of this Article shall not apply. The Floodplain Administrator shall advise the Property Owner to apply for a LOMA.

F. **Improvement Location Permit Required:** An Improvement Location Permit is required prior to the commencement of any development activities in the SFHA (see also *Article 10.8 Improvement Location Permit*).

1. Permit in Floodway: The Floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified Floodway, then this section shall apply.
   a. IDNR Permit: Prior to any action by the Floodplain Administrator the Applicant shall apply for a permit for construction in a Floodway. Pursuant to I.C. 14-28-1, a permit from IDNR for construction in a Floodway is required prior to the issuance of a Building Permit for any land preparation activity, excavation, deposit, construction, or Obstruction Activity located in the Floodway.
      i. Exception: The construction of improvements or additions to a lawfully existing residence that are not Substantial Improvements (see I.C. 14-28-1-26) do not require a permit for construction in the Floodway from IDNR; however, please note that if fill is needed to elevate a Building Addition above the existing grade, then prior approval for the fill is required from IDNR.
   b. Improvement Location Permit: No action shall be taken by the Floodplain Administrator on an improvement Location Permit until a permit or letter of authorization (when applicable) has been issued by IDNR granting approval for construction in the Floodway. Once a permit for construction in a Floodway or letter of authorization has been issued by IDNR, then the Floodplain Administrator may issue the Improvement Location Permit once determined the provisions of this Article have otherwise been met. The Improvement Location Permit may not be less restrictive than IDNR's permit for construction in a Floodway; however, it may be more restrictive if otherwise required by this Ordinance.
   c. Floodway Capacity: No Development shall be allowed, which acting

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alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the Floodway. This adverse affect is defined as an increase in the elevation of the BFE of at least fifteen-hundredths (0.15) of one (1) foot as determined by comparing the BFE under the project condition to that under the natural or pre-Floodway condition as proven with hydraulic analyses.

d. Channel Modifications: For all Development involving channel modifications or fill (including levees) the City shall submit the data and request that FEMA revise the Base Flood data per mapping standard regulations found at 44-CFR § 65.12.

2. Permit in Fringe: If the site is located in an identified Fringe, then the Floodplain Administrator may issue an Improvement Location Permit provided the provisions of this Article are otherwise met.

3. Permit in SFHAs without Established BFE and/or Floodways/Fringes: If the site is in an identified Floodplain where the limits of the Floodway and Fringe have not yet been determined, then this section shall apply.

   a. Drainage area upstream of the site is greater than one (1) square mile: If the drainage area upstream of the site is greater than one (1) square mile, then the following shall apply:

      i. IDNR Review: The Floodplain Administrator shall require the applicant to forward the Improvement Location Permit application, along with all pertinent plans and specifications, to IDNR for review and comment. No action shall be taken by the Floodplain Administrator until either a permit for construction in a Floodway permit (including letters of authorization) or a floodplain analysis/regulatory assessment citing the BFE and the recommended FPG has been received from IDNR.

      ii. Improvement Location Permit: Once the Floodplain Administrator has received the property permit for construction in a Floodway permit (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, then the Floodplain Administrator may issue the Improvement Location Permit once determined the provisions of this Article have otherwise been met. The Improvement Location Permit may not be less restrictive than IDNR's permit for construction in a Floodway; however, it may be more restrictive if otherwise required by this Ordinance.

   b. Drainage area upstream of the site is less than one (1) square mile: If the drainage area upstream of the site is less than one (1) square mile, then the Floodplain Administrator shall require the Applicant to provide, as part of the Improvement Location Permit application, an engineering analysis showing the limits of the Floodplain and BFE for the site.

   c. Cumulative Effect: The total cumulative effect of the proposed

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Development, when combined with all other existing and anticipated Development, will not increase the Base Flood more than fourteen-hundredths (0.14) of one (1) foot and will not increase flood damages or potential flood damages.

4. Application: Applications shall be in accordance with *Article 10.8 Improvement Location Permit* and shall also include:
   a. A description of the proposed development.
   b. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing streets and streams.
   c. A site plan showing existing and proposed development locations and existing and proposed land grades.
   d. Elevation of the top of the planned lowest floor (including basement) of all proposed Buildings in NAVD 88 or NGVD.
   e. Elevation in NAVD 88 or NGVD to which any nonresidential Building will be floodproofed.
   f. 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 IDNR for approval and then to FEMA as a LOMA.
5. Elevation Certificate: The Applicant shall submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the Lowest Floor or floodproofed elevation, as built, after the establishment/placement of the Lowest Floor and before framing continues to include any approved floodproofing. The certification shall be prepared by or under the direct supervision of a registered land surveyor, professional engineer or architect and certified by the same. The Floodplain Administrator shall review the Lowest Floor and floodproofed elevation on the certification. The Applicant shall correct deficiencies detected by such review before any further work is permitted to proceed. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the Applicant's risk.
6. As-Built Certification: Upon completion of construction, a FEMA elevation certificate, which depicts all finished construction, is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, a FEMA floodproofing certificate is required to be submitted by the Applicant to the Floodplain Administrator.

G. **General Overlay Standards:** The following standards shall apply:

1. Anchoring: Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. These standards shall be in addition to and consistent with applicable State requirements for resisting wind forces.
   a. New Construction and Substantial Improvements shall be anchored

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to prevent flotation, collapse or lateral movement of the Building.

b. Manufactured Homes shall be anchored to prevent flotation, collapse, or lateral movement.

2. Minimizing Damage: New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG. New Construction and Substantial Improvements shall be constructed by methods and practices that minimize flood damage.

3. Utilities: New and replacement equipment and systems shall comply with the following:

   a. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at or above the FPG, or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
   b. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
   c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
   d. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

4. Improvements to Buildings: Any alteration, repair, reconstruction or improvements to a Building in compliance with this Ordinance shall meet the requirements for New Construction, as set forth in this Article.

5. Parking and Pedestrian Surfaces: Parking Areas, Driveways, and sidewalks shall be constructed with permeable materials.

6. Excavation: Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or Building below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of one (1) to one (1)) due to the fill or Building.

   a. The excavation shall take place in the Floodplain and in the same Lot in which the authorized fill or Building is located.
   b. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the Floodplain provided that the excavated volume will: (i) be below the BFE; (ii) be in the same Lot in which the authorized fill or Building is located; (iii) be accessible to the Base Flood water; (iv) not be subject to ponding when not inundated by flood water; and (v) not be refilled.
   c. Excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.

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d. The fill or building shall not obstruct a drainage way leading to the Floodplain.
e. The grading around the excavation shall be such that the excavated area is accessible to the Base Flood Water.
f. The fill or Building shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent Property Owners against any increased runoff or drainage resulting from its placement.
g. Plans depicting the areas to be excavated and filled shall 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 shall provide to the Floodplain Administrator a certified survey of the excavation comply with this Article.

H. **Building Protection Requirement:** In addition to the General District Standards above, all Buildings shall be protected from flood damage below the FPG in accordance with this section.

1. Applicability: This Building Protection Requirement section shall apply to the following:

a. Construction or placement of any Building having a Gross Floor Area greater than four hundred (400) square feet.
b. Substantial Improvement to any existing Building.
c. Reconstruction or repairs made to a Building with Substantial Damage or to a Repetitive Loss Building.
d. Installing or parking a Recreational Vehicle on-site for more than one hundred and eighty (180) days.
e. Installing a Manufactured Home on a new site or a new Manufactured Home on an existing site. This does not apply to returning the existing Manufactured Home to the same site it lawfully occupied before it was removed to avoid flood damage.
f. Addition or improvement made to any existing Building with a previous addition or improvement constructed since the effective date of this Ordinance.

2. Residential Buildings: New Construction or Substantial Improvement of any Residential Building (or Manufactured Home) shall have the Lowest Floor at or above the FPG. If solid foundation perimeter walls are used to elevate a Building, then openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with this Article.

3. Nonresidential Buildings: New Construction or Substantial Improvement of any nonresidential Building shall have either the Lowest Floor elevated to or above the FPG, or be floodproofed to or above the FPG. If solid foundation perimeter walls be used to elevate a Building, then openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with this Article.

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a. A Zones: Nonresidential Buildings located in all "A Zones" may be floodproofed in lieu of being elevated if it complies with the following:
   i. A registered professional engineer or architect shall certify that the Building has been designed so that below the FPG, the Building and attendant utility facilities are watertight and capable of resisting the effects of the Base Flood. The Building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.
   ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

4. Elevated Buildings: New Construction or Substantial Improvements of Elevated Buildings shall have the Lowest Floor at or above the FPG. Elevated Buildings with fully enclosed areas formed by foundation and other exterior walls below the FPG shall 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. Designs must meet the following minimum criteria:
   a. Provide a minimum of two (2) openings located in a minimum of two (2) exterior walls (having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area).
   b. The bottom of all openings shall be no more than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
   c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
   d. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
   e. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
   f. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
   g. Openings are to be a minimum of three (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.
   h. The Property Owner shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of this Ordinance. Periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of

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the Hamilton County Recorder.

i. The Property Owner shall be required to execute and record with the Building's deed a nonconversion agreement declaring that the area below the Lowest Floor (where the interior height of the enclosure exceeds six (6) feet) or the detached Accessory Building shall not be improved, finished or otherwise converted; the City will have the right to inspect the enclosed area. The nonconversion agreement shall be recorded in the office of the Hamilton County Recorder.

5. Buildings on Fill: A Building may be constructed on a permanent land fill in accordance with the following:

   a. The fill shall be placed in layers no greater than one (1) foot deep before compacting to ninety-five percent (95%) of the maximum density obtainable with either the Standard or Modified Proctor Test method, which shall be retained in permit file.
   b. The fill shall extend ten (10) feet beyond the foundation of the Building before sloping below the BFE.
   c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal units to one (1) vertical unit.
   d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
   e. The top of the Lowest Floor shall be at or above the FPG.
   f. Fill shall be composed of clean granular or earthen material.

6. Manufactured Homes and Recreational Vehicles: Manufactured Homes and Recreational Vehicles to be installed or substantially improved on a site for more than one hundred and eighty (180) days shall meet one (1) of the following requirements:

   a. General Requirements: These requirements apply to all Manufactured Homes to be placed on a site: (i) outside a Manufactured Home Park; (ii) in a New Manufactured Home Park; (iii) in an Expansion to an Existing Manufactured Home Park; or (iv) in an Existing Manufactured Home Park on which a Manufactured Home has incurred Substantial Damage as a result of a Flood:

      i. The Manufactured Home shall be elevated on a permanent foundation such that the Lowest Floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

         (a) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall 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 by this Article for Elevated Buildings.

         (b) Flexible skirting and rigid skirting not attached to the frame

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or foundation of a Manufactured Home are not required to have openings.

b. Existing Manufactured Home Park with No Substantial Damage: These requirements apply to all Manufactured Homes to be placed on a site in an Existing Manufactured Home Park that has not been substantially damaged by a Flood:
   i. The Manufactured Home shall be elevated so that the Lowest Floor of the Manufactured Home chassis is supported by reinforced piers or other foundation elevations that are no less than thirty-six (36) inches in height above grade and be 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 shall 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 by this Article for Elevated Buildings.
   iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a Manufactured Home is not required to have openings.

c. Recreational Vehicles: Recreational Vehicles shall:
   i. Be on site for less than one hundred and eighty (180) days;
   ii. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
   iii. Meet the above requirements of this section for Manufactured Homes.

7. Accessory Buildings: Relief to the elevation or Floodproofing standards of this Article may be granted for Accessory Buildings that meet the following requirements:
   i. Shall be less than four hundred (400) square feet.
   ii. Shall not be used for human habitation.
   iii. Shall be constructed of flood resistant materials.
   iv. Shall be constructed and placed on the Lot to offer the minimum resistance to the flow of floodwaters.
   v. Shall be firmly anchored to prevent flotation.
   vi. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
   vii. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required by this Article for Elevated Buildings.

8. Above Ground Gas or Liquid Storage Tanks: All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

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9. Subdivisions/Development: Subdivisions and other Development proposals (including Manufactured Home Parks), which are greater than fifty (50) Lots or five (5) acres, within this Overlay shall:
   a. Be consistent with the need to minimize flood damage.
   b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
   c. Have adequate drainage provided to reduce exposure to flood hazards.
   d. Provide BFE data.
   e. Minimize development in the SFHA and/or limit density of development permitted in the SFHA.
   f. Ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
10. Critical Facility: Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall 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 FPG shall be provided to all critical facilities to the extent possible.

I. **Standards for Flood Prone Areas:** All development in known Flood Prone Areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required by this Article.

J. **Variances:** Variances from this Article may be considered, subject to this section, and in accordance with *Article 10.14 Variances*.

1. Variance Conditions:
   a. No Variance shall be permitted for a residential use within: (i) a Floodway; or (ii) SFHA without established BFE where the drainage area upstream of the site is greater than one (1) square mile.
   b. Any variance granted in a Floodway shall require a permit from IDNR.
   c. Variances to the General Overlay Standards of this Article may only be granted when a new Building is to be located on a Lot of one-half (0.5) acre or less in size that is contiguous to and surrounded by Lots with existing Buildings constructed below the FPG.
   d. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
2. Review Considerations: In considering a Variance from this Article, the Board (see also *Article 3.2 Board of Zoning Appeals*) shall consider all technical evaluations, all relevant factors, and:
   a. The danger of life and property due to flooding or erosion damage.
   b. The susceptibility of the proposed facility and its contents to flood

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damage and the effect of such damage on the individual owner.

c. The importance of the services provided by the proposed facility to the community.
d. The necessity to the facility of a waterfront location, where applicable.
e. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
f. The compatibility of the proposed use with existing and anticipated development,
g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
h. The safety of access to the property in times of flood for ordinary and emergency vehicles.
i. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
j. 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.

3. Decision Criteria: in addition to the decision criteria set forth in *Article 10.14 Variances*, the Board may only approve a Variance of this Article upon finding:

   a. The variance is the minimum necessary, considering the flood hazard, to afford relief.
   b. A showing of good and sufficient cause.
   c. A determination that failure to grant the variance would result in exceptional hardship.
   d. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
   e. The repair or rehabilitation of a Historic Building, if applicable, will not preclude the Building's continued designation as a Historic Building and the variance is the minimum to preserve the historic character and design of the Building.

4. Written Notice of Variance Approval: Any applicant to whom a variance of this Article is granted shall be given written notice by the Director that specifies the difference between the FPG 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.

5. Written Notice of Variance Approval that allows the Lowest Floor of a Building to be built below the FPG: Any applicant to whom a variance of this Article is granted that allows the Lowest Floor of a Building to be built below the FPG be given written notice by the Director stating that:

   a. The issuance of the variance to construct a Building below the FPG

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will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

b. Such construction below the FPG increases risks to life and property.

6. Record of Variances:

a. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

b. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

c. A copy of written notices, which may be a part of the Acknowledgement of Variance (see also *Article 10.14 Variances*), shall be recorded by the Floodplain Administrator in the Office of the Hamilton County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

K. **Warning and Disclaimer of Liability:** The degree of flood protection required by this Article 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 City, County, or administrative decision made lawfully thereunder.

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5.6 Planned Unit Development (PUD) District

A. **Authority:** This Article shall allow all Zoning Districts to be zoned to a Planned Unit Development District ("PUD District").

B. **Applicability:** The PUD District is an overlay district that shall default to an underlying Zoning District. The land designated in a PUD District shall be a tract of land under single ownership or control.

C. **Purpose and Intent:** The PUD District is intended to:

1. Encourage flexibility and innovation in the development of land in order to promote its most appropriate use.
2. Improve the design, character and quality of new developments.
3. Encourage a harmonious and appropriate mix of uses.
4. Facilitate the adequate and economic provision of streets, utilities and municipal services.
5. Preserve the natural environmental and scenic features of the site.
6. Encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features.
7. Mitigate problems which may be presented by specific site conditions.

D. **Standard Criteria:** A PUD District shall comply with the provision of this Ordinance. In addition, a proposed PUD District should include concepts and development and design standards that generally offer the following advantages over a standard Zoning District:

1. Address the policies included in the Comprehensive Plan specific to the neighborhood so as to encourage consistency with the community's vision as presented in the Comprehensive Plan.
2. Use design to provide compatibility between areas of different land uses and development intensities within the PUD District.
3. Buffer different types of land uses and development intensities outside of the PUD District from those within the PUD District so as to increase compatibility or minimize any adverse impact which new development may have on existing or zoned development.
4. Enhance the appearance of neighborhoods by conserving areas of natural beauty, and natural green spaces and provide enhance amenities and open space.
5. Promote and protect the environmental integrity of the site and its surroundings and provide suitable design responses to the specific environmental constraints of the site and surrounding area.
6. Promote architecture that complements the surroundings.
7. Counteract urban monotony and congestion on streets.

E. **Permitted Uses:** All land uses permitted by this Ordinance may be permitted by a PUD District. Permitted uses shall be specified and set forth in the

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adopted PUD District Ordinance.

F. **Standards:** Unless alternative development, design or construction standards are proposed as part of the PUD District Ordinance, then the standards applicable to the PUD District shall be those applicable to the underlying Zoning District. If the PUD District Ordinance is silent on a particular land use, development or design standard, or other applicable specification, then the standards of the underlying Zoning District, as amended, shall apply.

G. **Amendments to Unified Development Ordinance:** Unless the PUD District Ordinance has specified alternative development, design or construction standards, an amendment to the text of this Unified Development Ordinance shall apply equally to PUD Districts.

H. **PUD District Format:** A PUD District shall include a PUD District Ordinance and Concept Plan (see also *Article 10.9 Planned Unit Development Districts*). The PUD District Ordinance shall follow a standard format adopted by the City for PUD District Ordinance. The PUD Ordinance shall incorporate the Concept Plan and establish an underlying Zoning District, permitted land uses, development and design standards, and other applicable specifications which shall govern the development of the PUD District.

I. **Procedures:** The procedures for the establishment and administration of a PUD District are set forth in *Article 10.9 Planned Unit Development Districts*.

J. **Review Considerations:** In their consideration of a PUD District, the Department in its report to the Plan Commission, the Plan Commission in its recommendation, and the Council in its decision, shall consider as many of the following as may be relevant to the specific proposal:

1. The extent to which the proposed PUD District meets this Ordinance's purposes and intent of a PUD District, the Comprehensive Plan, and any other adopted planning policies, objectives or regulations of the jurisdiction.
2. The extent to which the proposed PUD District departs from the underlying Zoning District(s) and other regulations that are otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.
3. The proposal will not be injurious to the public health, safety, and general welfare.
4. The physical design proposed by the PUD District and the extent to which it makes adequate provision for:
   a. Public services;
   b. Adequate control over vehicular traffic;
   c. Protection of designated permanent Open Space; and
   d. Furthering the amenities of light, air, recreation and visual appeal.
5. The relationship and compatibility of the proposed PUD District to the

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adjacent properties and neighborhood.

6. The desirability of the proposed PUD District in relation to the community's physical development, tax base and economic well-being.
7. The development proposed by the PUD District will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services or improvements that are proposed by the developer as a part of the project approval.
8. The development proposed by the PUD District preserves significant ecological, natural, historical, and architectural resources to the extent possible.

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5.7 Wellhead Protection District (WPD) Overlay

A. **Purpose and Intent:** The purpose of this Article (the "WPD Overlay") is to protect the community's public water supply because:

1. The safety and potability of the community's water supply requires that property near well fields used to supply water for public purposes be subject to regulations designed to prevent development that is injurious to the public water supply;
2. Commercial and industrial uses, if unregulated, have an immediate probability of permitting the introduction of toxic substances into the water supply;
3. Local water utilities, in compliance with Indiana Department of Environmental Management mandates for community public water systems, are presently establishing well field protection programs as a first step towards protecting their public water supply well fields;
4. All public water supplies within the Jurisdiction of the Plan Commission are totally dependent on groundwater as the source for public water supplies; and
5. Future development in the community is dependent on the availability of a safe and dependable supply of drinking water.

B. **Applicability:** This Article shall apply to all property, except for single and multi-family residential uses connected to municipal sanitary and storm sewers, within a Wellhead Protection Zone, as defined below.

1. Establishment of Wellhead Protection Zone: The following properties are hereby designated as Wellfield Protection Zones:
   a. Zone 1:
      i. Property within a one (1) year time-of-travel to a public water supply well or wellfield, as defined by a modeled delineation performed in compliance with 327 IAC 8-4-1.
      ii. Property within one thousand (1,000) feet of a public water supply well.
   b. Zone 2:
      i. Property within a five (5) year time-of-travel to a public water supply well or wellfield, as defined by a modeled delineation performed in compliance with 327 IAC 8-4-1.
      ii. Property within three thousand (3,000) feet of a public water supply well.
2. Requirement for Review: No building, structure, premises, or part thereof within a Wellhead Protection Zone shall be constructed, erected, enlarged, extended, or relocated except in conformity with these regulations and for uses permitted by this Ordinance until the proposed development and land use has been reviewed and approved by the Department, in accordance with this Article.

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C. **Development Plan Review:** Except as otherwise exempted below, a development plan and description of the proposed land use for property within a Wellhead Protection Zone shall be submitted to the Department for review and either approval, disapproval, or approval with conditions.

1. Exceptions: The following shall be exempt from the above requirement:

   a. Zone 1: Any land use, in the ordinary course of their business, that has, or will have, less than the threshold amount of one (1) gallon of liquids in the aggregate or six (6) pounds of water soluble solids.

   b. Zone 2: Any land use, in the ordinary course of their business, that has, or will have, less than the threshold amount of one hundred (100) gallons of liquid in the aggregate or six hundred (600) pounds of water soluble solids in the aggregate.

   c. Exempt Substances: In determining thresholds, the following substances shall be exempted:

      i. Reasonable quantities of substances used for routine building and yard maintenance stored inside a facility.

      ii. Liquids required for normal operation of a motor vehicle in use in that vehicle.

      iii. Substances contained within vehicles for bulk deliveries to the site.

      iv. Beverages and food at restaurants, supermarkets, convenience stores, and other retail food establishments.

      v. Uncontaminated public water supply water, groundwater and/or surface water.

      vi. Substances, which are packaged in pre-sealed containers, sold at retail establishments.

      vii. Substances utilized for the production and treatment of public water supply.

      viii. Substances, which due to their inherent chemical or physical properties, that are determined to pose no significant threat to groundwater quality.

2. Review Criteria: In addition to meeting the other requirements of this Ordinance, development within a Wellhead Protection Zone may be approved upon the determination that the proposed development:

   a. Will prevent potential ground water contaminants associated with human activity from interfering with each community public water supply system's ability to produce drinking water that meets all applicable federal and State drinking water standards after undergoing conventional ground water treatment, as employed by the public water supply system. These treatment processes include, but are not limited to aeration, detention, pressure filtration, and disinfection.

   b. Will not unreasonably endanger the quality of groundwater in a designated wellhead protection area. An unreasonable risk includes, but is not limited to, the inappropriate storage, handling, use and/

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or production of metals, inorganic compounds, volatile organic compounds or other substances listed in 40 CFR Part 355, or defined by the County Code, "Hazardous Material Emergencies" within a wellhead protection area.

c. Complies with the standards and prohibitions of this Article.

d. Complies with the other applicable requirements and approvals of this Ordinance.

3. Investigation of Petitions: The Department, in coordination with the Public Works Department, may solicit comments from the County Health Department, the County Surveyor's Office, and/or the applicable water utility serving the development.

4. Documentation and Supporting Information: All requests for review shall include the documentation and supporting information set forth herein. Other information as deemed necessary to support a thorough review of the development may be requested in writing by the Director. The Director, in its sole discretion, may, in writing, waive or relax any of the documentation required which is not relevant or is deemed unnecessary for a thorough review of the development.

   a. Narrative Report: A narrative description of the site including:

      i. Any existing uses, setbacks, available sewage disposal facilities, and a brief history of the site (including any former uses, historical environmental concerns, abandoned wells, underground storage tanks, septic systems, etc.).

      ii. Description of the proposed operations, including chemical/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures.

      iii. Methods and locations of receiving, handling, storing and shipping chemicals/products and wastes.

      iv. Spill or release response measures and reporting.

      v. Description of slopes near containment vessels and waste storage areas.

   b. Site Plan: A site plan drawn to scale, which shall include:

      i. A vicinity map (USGS quadrangle preferred).

      ii. All existing and proposed structures.

      iii. Paved and nonpaved areas.

      iv. Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing).

      v. Floor drain locations and outlets.

      vi. Chemical/product storage locations.

      vii. Waste storage locations.

      viii. Liquid transfer areas.

      ix. Site surface water bodies (streams, rivers, ponds).

      x. Underground storage tanks ("USTs") (and associated piping).

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xi. Above ground storage tanks ("ASTs") (and associated piping).
xii. Slope and contours of finished grade at 2-foot intervals or less.
xiii. Regulated drains.
xiv. Any and all easements.
xv. Proposed containment area detail drawings, including area, heights, materials, specifications, if applicable.

D. **Development Standards and Prohibitions:** The following shall apply to development within a Wellhead Protection Zone.

1. Public Sanitary Sewer: All development, except for Single-family Dwellings with sewage flows under 750 gallons per day, shall be connected to a Public Sanitary Sewer.

2. Floor Drains: Floor drains, if present, shall: (i) be approved to be connected by the Public Works Department or appropriate utility agency, in order to be connected to sanitary sewers; or (ii) be routed to a temporary holding area for removal.

3. Surface Water Storage: No surface impoundments, pits, ponds or lagoons shall be established except for:

   a. Storm water Detention and Retention Areas; or
   b. Recreation, landscaping, or public water supply purposes.

4. Detention and Retention Areas (Zone 1): Detention and Retention Areas in Zone 1 shall be constructed in a manner that provides an effective barrier to the migration of potential ground water contaminants into ground water, as demonstrated by sealing the bottom of the structure with clay or other approved low permeability material. Detention and Retention Areas shall be designed and certified by a professional engineer licensed by the State of Indiana.

5. New Storage Areas (Zone 1): The following restrictions apply to new storage areas in Zone 1:

   a. No above ground storage of liquid and/or petroleum of greater than one thousand (1,000) gallons in aggregate shall be permitted.
   b. No storage of water-soluble solids of more than six thousand (6000) pounds per container in any one (1) containment area shall be permitted.
   c. No new underground storage tanks (USTs) shall be permitted.

6. Above Ground Storage: All above ground storage of liquids in excess of forty (40) gallons for more than twenty-four (24) hours shall provide secondary containment which meets the following requirements:

   a. Containment must be capable of containing one hundred and ten percent (110%) of the volume of the tank or tanks.
   b. Shall be constructed to meet at least one of the following:
      i. Designed to prevent and control the escape of the contaminant(s) into ground water for a minimum of 72 hours before removal; or
      ii. Designed and built with an outer shell and a space between the

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tank wall and outer shell that allows and includes interstitial monitoring.

c. The secondary containment structure shall be properly maintained and shall be free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the structure.

d. Secondary containment systems shall be designed so that the intrusion of precipitation is inhibited or that stormwater is removed to maintain system capacity.

7. Fuel Dispensing Facilities (Zone 1): The following requirements apply to existing fuel dispensing facilities and associated underground storage tanks (USTs) which are to be replaced or upgraded within Zone 1:

   a. All USTs shall be doubled walled.
   b. All USTs shall include the following three methods of release detection:
      i. Inventory control as defined in 40 CFR 280.43(a).
      ii. Monthly 0.2 in-tank leak test as defined in 40 CFR 280.43(d).
      iii. Interstitial monitoring of a double walled approved UST as defined by 40 CFR 280.43(g).
   c. Connected piping shall include all three of the following methods of release detection:
      i. Inventory control.
      ii. Continuous detection for three (3) gallons per hour line leak, as specified in 40 CFR 280.44(a) except that automatic shutoff is required at ninety-five percent (95%) tank capacity.
      iii. Double walled line which is continuously monitored to detect the presence of liquid in the interstitial space and provided an alarm as specified in 40 CFR 280.44(c) via 40 CFR 280.43(g).

8. Fuel Dispensing Facilities (Zone 2): In Zone 2, the requirements of 40 CFR Part 280 apply to all existing, registered USTs that are replaced or upgraded and USTs installed at new fuel dispensing facilities. In addition, the construction standards of 40 CFR Part 280, applicable to nonpetroleum USTs, shall be applicable to the following in Zone 2:

   a. Such a tank that is covered by State or federal hazardous waste regulations; and
   b. Heating oil tanks for on-site use.

9. Injection Wells: All Class V Injection Wells (including but not limited to dry wells, large-capacity cesspools, motor vehicle waste disposal wells, or other injection wells as defined at 40 CFR 146) shall be prohibited with the exception of the following:

   a. Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump, if noncontact.
   b. Cooling water return flow wells used to inject water previously used for cooling, if noncontact.

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c. Barrier recharge wells used to replenish the water in an aquifer or to improve ground water quality, provided the injected fluid does not contain potential ground water contaminants.
d. Wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power, if noncontact.

10. Bulk Delivery Transfer Area: The transfer area for bulk delivery of liquids shall be required to accommodate and contain a release that occurs during loading and unloading of a tank as follows:
    a. The liquid transfer area shall be constructed in a manner to prevent a release in the transfer area from reaching the ground water; and
    b. The portion of the liquid transfer area intended to contain releases shall be maintained so that it is free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardizes the integrity of the area.
11. Disposal of Solid Waste: No disposal of Solid Waste, as defined by 329 IAC 10-2-174, or other hazardous materials as defined by 40 CFR Part 355, or defined by the County Code, "Hazardous Material Emergencies" shall be permitted.
12. Excavation Activities: The following requirements apply to all excavation activities associated with the removal of sand and gravel materials:
    a. If the extraction of sand and gravel involves the removal of materials below the normal groundwater level, then the work shall be performed by means of a dragline, floating dredge, or an alternative "wet" excavation method.
    b. There shall be no de-watering of site utilized for sand and gravel extraction.
    c. No form of solid waste (as defined at 329 IAC 10-2-174) or any other form of waste material of any kind, including but not limited to construction/demolition debris, shall be used on the site. Clean natural earth fill materials may be used without restriction as to origin or placement on-site.
    d. All fuels, oils, lubricants, hydraulic fluids, petroleum products, or other similar materials on site shall have appropriate secondary containment, as specified by this Article.

E. **Abandonment or Vacation of Wells or Wellfields:** Any person that is required to abandon or vacate a well or wellfield within the Jurisdiction of the Plan Commission, shall first apply for a permit to do so with the Public Works Department. The Property Owner abandoning or vacating a well must follow 312 IAC 13-10 to properly secure the well and wellfield.

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F. **Table Summary of Prohibitions:** Below is a summary of the permitted and restricted activities within a Wellhead Protection Zone. Please refer to the text above for greater detail of the below summary:

Land Use	Wellhead Protection Zone	
	Zone 1 (1-Year Time of Travel)	Zone 2 (5-Year Time of Travel)
Sanitary land fills	prohibited	
On-site sewage disposal (commercial facilities)	prohibited	
Sand and gravel mining	permitted, "wet" excavation only and filled with clean fill	
Surface impoundments	prohibited (exceptions for stormwater, recreation, etc.)	
Detention and Retention Areas	permitted, if lined	permitted
New ASTs (>1,000 gallons)	prohibited	permitted with secondary containment at 110% volume
New ASTs (<1,000 gallons)	permitted with secondary containment at 110% volume	
Existing ASTs	permitted with secondary containment at 110% volume	
Storage of water soluble solids	prohibited in excess of 6,000 lbs.	permitted; shall prevent ground release and be maintained
New USTs	prohibited	permitted; requirements of 40 CFR Part 280 apply
Existing USTs	permitted if double-walled, includes leak detection and release detection on connection piping	permitted; requirements of 40 CFR Part 280 apply
Class 5 injection wells	prohibited	
Liquid transfer areas	permitted; shall prevent ground release and be maintained	

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5.8 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
14-47	1412-ZOA-02	11/10/14	11/11/14	Article 5.5(C), (H)(9)
17-10	1704-ZOA-01	05/08/17	05/08/17	Article 5.3(E)

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CHAPTER 6: DEVELOPMENT STANDARDS

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6.1 Accessory Use and Building Standards

A. **Permitted Use:** Accessory Buildings shall be permitted in all Zoning Districts in accordance with this Article. Accessory Uses shall be permitted in each Zoning District when determined by the Director that the use is incidental to the permitted and primary use, and that the use is consistent and compatible with the intent of the Zoning District in which it is located. Accessory Uses shall be conducted in accordance with the Article.

B. **General Standards:**

1. Accessory Uses such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, bird baths, and structures of a like nature are permitted in any required Front, Side or Rear Yard, and with the issuance of a permit as may be required.
2. Accessory Buildings shall be subordinate in height, width, length and bulk to the Principal Building on the same Lot.
3. Accessory Buildings shall be constructed in a manner that does not substantially alter the character of the vicinity in which such buildings are to be located.
4. Accessory Buildings shall be held under the same ownership and maintenance as the Principal Building.
5. Accessory Uses or Buildings such as large ground microwave antenna dishes shall not be permitted in an Established Front Yard or an Established Side Yard; however, a satellite receiver antenna which is two (2) feet in diameter or less may be installed in any location in accordance with the provisions of IC 36-7-4-201.1.
6. Windmills for the generating of electric power are not permitted in any Residential District except *AG-SF1: Agriculture / Single-family Rural District* without receiving approval as a Special Exception (see also *Article 10.11 Special Exceptions*).
7. The standards of this Ordinance shall not prevent the use of a temporary construction building to be utilized for the storage of tools, materials, and other equipment during the period of construction.
8. Carports shall be consistent in design, appearance and materials with the Principal Building. Carports for Single-family Dwellings shall be attached to the Principal Building.

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

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

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1. Lots in Subdivisions:
   a. Front Setback: No Accessory Building may be erected closer than ten (10) feet from the Established Front Yard.
   b. Side and Rear Setbacks:
      i. An Accessory Building of two hundred (200) square feet or less shall be a minimum of two and one-half (2.5) feet from the Side and Rear Lot Lines and shall be located outside of all easements.
      ii. An Accessory Building over two hundred (200) square feet shall meet the minimum Side and Rear Yard Building Setback Lines of the underlying Zoning District, except as otherwise established by this Article.
2. Lots Not in Subdivisions:
   a. Front Setback: Accessory Buildings shall be located at least seventy-five (75) feet from all Rights-of-way. No Accessory Building may be erected in the Established Front Yard of a Principal Building.
   b. Side and Rear Setbacks: Accessory Buildings shall meet the minimum Side and Rear Yard Building Setback Lines of the underlying Zoning District, except as otherwise established by this Article.

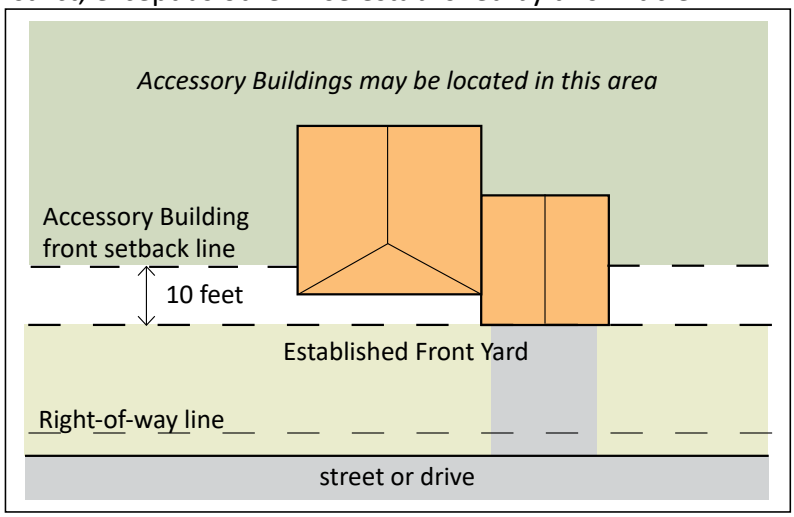

FIGURE 6.1(1): ACCESSORY BUILDING LOCATION

E. **Timing:**
1. No Accessory Building shall be constructed until the construction of the Principal Building on the same Lot has been commenced.
2. No Accessory Building shall be occupied/utilized unless the Principal Building on the same Lot is first legally occupied for a permitted use within the applicable Zoning District.
3. The construction of an Accessory Building shall be completed:
   a. Within one (1) year of the issuance of a Building Permit, in the event that such permit is obtained individually; or
   b. Within one (1) year of the completion of construction of the Principal Building, in the event that the Accessory Building's Building

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Permit is obtained at the same time that the Building Permit for the construction of the Principal Building is obtained.

F. **Maximum Accessory Building Height:** Eighteen (18) feet

G. **Swimming Pools:**

1. Swimming pools shall be constructed on the same parcel as the Principal Building to which they are accessory.
2. Swimming pools shall not be constructed in the Established Front Yard.
3. Swimming pools shall be required to meet the same minimum Building Setback Line as the Principal Building to which they are accessory.
4. Access to residential pools shall be restricted to one (1) of the following means (in accordance with I.A.C., Title 675, Article 14-4.3-296):
   a. Walls or fencing not less than four (4) feet high and completely surrounding the pool and deck area with the exception of self-closing and latching gates and doors, both capable of being locked.
   b. Other means not less than four (4) feet high and deemed impenetrable by the Director at the time of construction and completely surrounding the pool and deck area when the pool is not in use.
   c. A combination of subsections (a) and (b) that completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors which are capable of being locked. This applies to subsections (a), (b) and (c) only.
   d. A power safety pool cover that:
      i. Shall provide a continuous connection between the cover and the deck area, so as to prohibit access to the pool when the cover is completely drawn over the pool;
      ii. Shall be mechanically operated such that the cover cannot be drawn open or retracted without the use of a:
         (a) key; or
         (b) key and switch; or
         (c) touch pad with a personal access code;
      iii. Is installed with track, rollers, rails, guides, or other accessories necessary to accomplish items (i) and (ii), in accordance with the manufacturer's instructions; and
      iv. Shall bear an identification tag indicating that the cover satisfies the requirements of ASTM F 1346-19 (Reapproved 2003), Standards Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, Pennsylvania 19428-2959 for power safety pool covers.

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

1. Garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas, loading areas and other similar facilities shall be completely and permanently screened from view of Rights-of-way and where possible, adjoining properties.
2. Enclosures shall not be located in an Established Front Yard or in any required Side or Rear Yard.
3. Screening methods shall include a solid enclosure on all sides not less than six (6) feet in height above grade or two (2) feet above the receptacle, whichever is greater. The solid enclosure shall be a Masonry Material that matches or complements the Principal Building.
4. Enclosures shall be constructed of a Masonry Material that matches or complements the Principal Building, as illustrated in FIGURE 6.1(2): DUMPSTER ENCLOSURES.

FIGURE 6.1(2): DUMPSTER ENCLOSURES

5. Enclosures shall be equipped with opaque gates, as illustrated in FIGURE 6.1(2): DUMPSTER ENCLOSURES, that shall not be oriented towards residential properties or the Right-of-way, where possible.
6. Enclosures shall have separate pedestrian access openings that are configured to conceal the dumpster from view for daily access to dumpsters for waste disposal. Pedestrian access openings shall be substantially similar to those illustrated in FIGURE 6.1(3): DUMPSTER MAN-DOORS.
7. Enclosures, which include swinging, moveable doors, shall be kept closed at all times when said doors are not in active use.

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8. Landscaping shall be provided around enclosures in accordance with *Article 6.8 Landscaping Standards*.

FIGURE 6.1(3): DUMPSTER MAN-DOORS

I. **Agriculture-Related Accessory Buildings and Uses:**

1. Regulated as Principal Buildings: Accessory Buildings for the following uses shall be exempt from Section (B)(2) General Standards, (D) Building Location, and (F) Maximum Accessory Building Height of this Article: Agricultural Uses, Agritourism Uses, Equestrian Facilities, Private Stables, and Nurseries. Rather, Accessory Buildings for these uses shall meet the maximum Building Height and minimum Building Setback Line standards of the underlying Zoning District, except as otherwise set forth below. See also *Article 6.4 Building Standards*.

2. Stables: In addition to the applicable standards of this Article and those of the applicable Zoning District set forth in *CHAPTER 4: ZONING DISTRICTS*, the following shall apply to Stables:

   a. Minimum Side and Rear Yard Building Setback Line: 150 feet; however, there shall also be a Building Separation of two hundred (200) feet from an existing Dwelling Unit on an adjacent Lot (at the time of installation of the Stable). If the abutting Property Owner executes and records a notarized consent to a reduced setback, then the Building Setback Line may be reduced along that shared Lot Line, but in no instance may the setback be less than thirty (30) feet.

J. **Home Businesses:** See *Article 6.7 Home Business Standards*.

K. **Outside Storage and Display:** See *Article 6.12 Outside Storage and Display*.

L. **Outdoor Café and Eating Areas:** See *Article 6.13 Outdoor Café and Eating Areas*.

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6.2 Adult Entertainment Establishment Standards

A. **Definitions:** *Article 12.1 Definitions* shall apply. In addition, words used in a special sense to apply only in the context of this Article are defined below.

1. Adult Booth: Any area of an adult entertainment establishment set off from the remainder of such establishment by one (1) or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
2. Adult Cabaret: Any commercial establishment that as a substantial or significant portion of its business features or provides and of the following:
   a. Persons who appear nude or semi-nude.
   b. Live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
   c. Films, motion pictures, video or audio cassettes or discs, slides, computer displays, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.
3. Adult Entertainment Establishment: An Adult Cabaret, Adult Store, or Adult Theater.
4. Adult Material: Any of the following, whether new or used:
   a. Books, magazines, periodicals, or other printed matter, or digitally stored materials.
   b. Films, motion pictures, video or audio cassettes or discs, slides, computer displays, or other visual representations or recordings of any kind, that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.
   c. Instruments, novelties, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities, or that depict or describe specified anatomical areas.
5. Adult Store: Any commercial establishment (a) that contains one (1) or more adult booths; (b) that as a substantial or significant portion of its business offers for sale, rental, or viewing any adult materials; or (c) that has a segment or section devoted to the sale or display of adult materials.
6. Adult Theater: Any commercial establishment that as a substantial or significant portion of its business features or provides films, motion pictures, video or audio cassettes or discs, slides, or other visual

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representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

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

8. Nude or State of Nudity: A state of dress or undress that exposes to view (i) less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.

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

10. Residential Property: Any Lot or other tract of land zoned any of the following Zoning Districts: AG-SF1, AG-SF1-I, SF1, SF2, SF3, SF4, SF5, SFA, MF1 and MF2. Also, any Lot other tract of land zoned in any of the following Zoning Districts and used for residential purposes: GO, GO-PD, LB, LB-H, LB-PD, GB, GB-PD, SB-PD, EI, EI-PD and OI-PD or any PUD.

11. Semi-Nude: A state of dress or undress in which clothing covers no more than the human genitals, anus, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices or by other minor accessory apparently such as hats, gloves, and socks.

12. Specified Anatomical Areas: Any of the following:
   a. Less than completely and opaquely covered human genitals; pubic region; buttocks; anus; or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed.

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

13. Specified Sexual Activities: Any of the following:

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

B. **Location Standards:**

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

2. Permitted Zoning Districts: Adult Entertainment Establishments shall only be permitted in the *OI: Open Industrial District*.

3. Minimum Separation Requirements: No Adult Entertainment Establishment shall be located, established, maintained or operated on any Lot that has a property line within:

a. One thousand (1,000) feet of the property line of any other Lot on which any other Adult Entertainment Establishment is located, established, maintained, or operated;
b. Five hundred (500) feet of the property line of any other Lot on which a Protected Use is located, established, maintained, or operated;
c. Five hundred (500) feet of the property line of any residential district or residence; or
d. One thousand (1,000) feet of a right-of-way line of any federal or State highway.

4. Measurement: For the purposes of this Article, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the Lot on which the Adult Entertainment Establishment is located to the nearest point on a property line of (i) any residential property or (ii) any Lot on which a Protected Use or other Adult Entertainment Establishment, as the case may be, is located, established, maintained, or operated, or (iii) the right-of-way line of any federal or State highway.

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5. Limited Exception: An Adult Entertainment Establishment lawfully operating under these regulations and under the City's adult use licensing ordinance shall not be deemed to be in violation of the location restrictions set forth herein solely because (i) a Protected Use subsequently locates within the minimum required distance of the Adult Entertainment Establishment, (ii) a business that sells or dispenses alcoholic beverage subsequently locates within the same building as the Adult Entertainment Establishment, or (iii) property within the minimum required distance of an Adult Entertainment Establishment subsequently becomes residential property. This subsection shall not apply to an Adult Entertainment Establishment at a time when an application for an "adult entertainment license" under the City's adult use license has previously expired, has been revoked, or is at that time under suspension.

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

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6.3 Architectural Standards

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

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

C. **Single-family Districts (Residential Uses):** All new Single-family Dwellings located in a Major Subdivision shall comply with the following:

1. Perimeter Lots: A minimum of one (1) of the following two (2) design objectives shall be met for Dwellings on Perimeter Lots. For purposes of this section, a Perimeter Lot shall include Lots abutting: (a) an External Street or alternative transportation corridor bearing a designation on the Thoroughfare Plan; or (b) a Common Area abutting an External Street or alternative transportation corridor bearing a designation on the Thoroughfare Plan. If a Lot abutting a Common Area is not within the view shed (without regard to landscaping and mounding) from the Subdivision's External Street or alternative transportation corridor frontage, then the Perimeter Lot standards shall not apply.

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

      i. If the Front Building Façade of a Dwelling is oriented toward the External Street, then the External Street Frontage Landscaping Requirements of *Article 6.8 Landscaping Standards* shall not be required between the Dwelling's Lot and the External Street.

      ii. If a Frontage Road is utilized, then it shall be constructed in accordance with the City's Construction Standards for a "Residential Frontage Road" (see *Article 7.3 Principles and Standards of Design*).

   b. Rear/Side Building Façade Enhancements: Dwellings on a Perimeter Lot with a side or rear Building Façade oriented toward an External Street or alternative transportation corridor shall utilize qualifying characteristics and/or architectural features in accordance with the following:

      i. Minimum Requirement:

         (a) A rear Building Façade oriented towards an Arterial Street shall incorporate a minimum of seven (7) total points from the list of qualifying characteristics and/or architectural features.

         (b) A rear Building Façade oriented towards a Collector Street or alternative transportation corridor shall incorporate a minimum of five (5) total points from the list of qualifying

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characteristics and/or architectural features.

(c) A side Building Façade oriented towards an External Street or alternative transportation corridor shall incorporate a minimum of four (4) total points from the list of qualifying characteristics and/or architectural features.

ii. Qualifying Characteristics: All qualifying characteristics listed below are worth one (1) point unless indicated otherwise.

(a) Single-story Dwelling.

(b) The closest Building Façade of the Dwelling from the Right-of-way line of the External Street or alternative transportation corridor bearing a designation on the Thoroughfare Plan is greater than two hundred and fifty (250) feet (1 point); or five hundred (500) feet (2 points).

(c) The angle of the rear or side Building Façade of the Dwelling, as oriented toward the External Street, is greater than thirty (30) degrees (in which case, the standards of the Perimeter Lot standards of this section apply to the Building Façade most visible from the External Street).

(d) The Dwelling is buffered from the External Street with enhanced landscaping that includes a Common Area or landscaping area along the entire rear or side Lot Line which is a minimum of fifty (50) feet in depth and includes a solid planting screen consisting of a minimum of eight (8) evergreen trees, three (3) shade trees, three (3) ornamental trees and twenty-five (25) shrubs per one hundred (100) lineal feet. In addition, a minimum five-foot (5') tall mound shall be required. (2 points)

iii. Architectural Features: All architectural features listed below are worth one (1) point unless indicated otherwise.

(a) Main Roof Design (a maximum of two (2) points from this subsection may qualify):

(1) Two (2) or more dormers.

(2) Twelve (12) inch overhangs around the entire Dwelling, as measured prior to the installation of Masonry Materials.

(3) A minimum roof pitch of 8:12 around the entire Dwelling.

(4) Two (2) or more gables.

(b) Exterior Materials (exclusive of trim) (only one feature from below may be counted):

(1) One hundred percent (100%) Masonry Materials around the entire Dwelling, as architecturally appropriate (i.e., exception for areas above the main roof line) (2 points).

(2) Full first floor Masonry Materials around the entire Dwelling (exclusive of openings). If the Dwellings includes a walk-out basement (or basements with daylight windows without the use of window wells), then full Masonry Material around the entire Dwelling to the top

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height of the basement (e.g., wainscot on the front and side Building Façades and on the entire height of the exposed basement wall on the rear Building Façade).

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

(c) Façade Projections or Recessions (a maximum of three (3) points from this subsection may qualify):

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

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

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

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

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

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

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

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

(d) Windows (exclusive of doors) (a maximum of two (2) points from this subsection may qualify):

(1) Decorative shutters on all windows of the Dwelling, as architecturally appropriate.

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

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

(4) Bay window (a minimum of six (6) feet wide) (shall not quality as a point if the bay window is used to meet subsection (2) above).

(5) Minimum five and one-half inch (5.5") wide trim around all windows of the Dwelling. Alternative decorative window trim detailing (i.e., arches, cornices, crossheads, ornate moldings, pediments) may be considered by the

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Director if the trim otherwise results in a comparable visual contrast that enhances the architectural interest of the Building Façade.

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

2. Streetscape Diversity: At minimum of two (2) of the following three (3) design objectives shall be met:

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

   b. Building Setback Lines shall vary within each Block to eliminate monotonous building placement. Front Yard building Setback Lines should be staggered to allow a range of six (6) feet offset within the Block and have a minimum variation of two (2) feet increments from adjacent Lots. Staggered building Setback Lines may not be required to meet this standard where winding streets or a similar development design achieve the same effect.

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

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

      ii. Have a different primary siding color than the adjacent Lot; and

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

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

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

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

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4. Garages in the SFA District: All Dwelling Units in the *SFA: Single-family Attached District* shall have a two (2) car garage with matching driveway and all garage door openings shall be offset from the Street (on which the Dwelling is addressed from or fronts) by at least thirty (30) degrees.

D. **Single-family Districts (Nonresidential Uses):** All nonresidential uses in a Single-family District shall comply with the following:

1. Building Orientation:

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

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

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

E. **Multi-family Districts:** All new buildings within a Multi-family District shall comply with the following:

1. Building Design:

a. Building Façade: A Building Façade shall be designed with a projection or recession in the entire vertical façade plane of the exterior walls of not less than six (6) feet in depth for every two (2) Dwelling Units.

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

2. Building Materials:

a. Permitted Materials: Permitted exterior materials shall include Exterior Insulation and Finish System (E.I.F.S.), synthetic stucco, Masonry Materials, wood, Fiber Cement Siding, and Polymeric Cladding. Aluminum and vinyl siding shall be prohibited.

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

c. Diversity of Materials: Each Building Façade shall utilize a minimum of two (2) different exterior building materials (excluding window, door, and roofing materials). A different style of the same building material (e.g., horizontal and shake style Fiber Cement Siding) does

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not constitute two different building materials.

3. Windows: A Building Façade shall incorporate a minimum of one (1) window (a minimum size of fifteen (15) square feet) or door (with a minimum of fifteen (15) square feet of glass) per Dwelling Unit located along that Building Façade, as architecturally appropriate. All windows shall have treatment consisting of either: (i) shutters (that match the size of the window); or (ii) casing (a minimum of three and one-half (3.5) inches in dimension).
   a. For windows in a Building Façade consisting of a Masonry Material, then the treatment shall be of natural or Masonry Material and shall be applied to at least the window sill.
   b. For windows in a Building Façade consisting of a non Masonry Material, then the windows shall be trimmed to match the architectural style of the building.
4. Roof Design:
   a. Minimum Pitch: The minimum roof pitch of the building's primary or main roof shall be 6:12. Elements such as porches, bays, walkways, etc., may be covered with a lower roof pitch. Lower roof pitches may occur on rear elevations if concealed by side roof elements.
   b. Minimum Overhang: The roof overhang or eaves shall be a minimum of twelve (12) inches, as measured prior to the installation of Masonry Materials.
   c. Roof Form: The roof form and pitch design of a building shall include, where appropriate, varied pitches and ridge levels in accordance with the intended architectural style of the Building and the Building Façade projections.
5. Streetscape Variety:
   a. Building elevations of similar floor plans shall have a variety in style, massing and use of materials and detailing of elements. The same elevation may occur as buildings are grouped together if each building plan has a minimum of two (2) different elevation styles.
   b. If more than one (1) building is proposed, then the building(s) shall be located so that no more than two (2) buildings are in a straight, unbroken line. An unbroken line shall include an offset in the building setback a minimum of one-third (1/3) the height of the adjacent building.

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

1. Mechanical Screening: All roof and wall mounted Mechanical Equipment shall be visually integrated into the overall design of the Building and shall not be visible from adjoining Lots or Rights-of-way (including elevated trails and roadways). Clustering of Mechanical Equipment is encouraged. Wall and ground-mounted equipment shall be screened in accordance with *Article 6.8 Landscaping Standards*.

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2. Building Materials:
   a. External Façades: Each Building Façade visible from a Street, oriented to an adjoining Residential District, or oriented to an alternative transportation corridor bearing a designation on the Thoroughfare Plan (collectively, "External Façade"), shall comply with the following:
      i. Shall be one hundred percent (100%) Masonry Materials, excluding window, door, roofing, fascia and soffit materials; or
      ii. Shall incorporate two (2) or more building materials, excluding window, display window, door and roofing materials; provided, however, that a minimum of sixty percent (60%) of the Building Façade shall be Masonry Materials.
   b. All Other Façades: No more than twenty-five percent (25%) of all other Building Façades, exclusive of windows (including faux windows and glazing), doors and loading berths, may be covered with metal, Fiber Cement Siding, Polymeric Cladding, E.I.F.S., stucco, or vinyl exterior building materials.
   c. General Standards:
      i. The exterior building material selection for all Building Façades shall be supplemented with: (i) the use of multiple colors, multiple textures (e.g., rough, smooth, striated, etc.); or (ii) the addition of architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.).
      ii. No loading spaces, loading docks or oversized service doors shall be permitted on an External Façade, as defined herein; however, if all Building Façades are determined to be External Façades, then loading spaces, loading docks or oversized service doors may be permitted on the least visible External Façade if screened in accordance with the General Screening Standards of *Article 6.8 Landscaping Standards*.
3. Architectural Theme: Buildings and structures within a single development shall have complementary architectural themes.
4. Four-sided Architecture: All Building Façades visible from an adjacent Lot or Street shall be constructed with the same building material quality and level of architectural detail on all Building Façades (e.g., 360 degree architecture).
5. Building Elevations:
   a. Horizontal Design: All Building Façades shall have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated, cornice or moulding.
   b. Wall Planes: Building Façades, which are ninety (90) feet or greater in length, shall be designed with offsets (projecting or recessed) at intervals of not greater than sixty (60) feet. Buildings less than ten thousand (10,000) square feet in Gross Floor Area shall be designed with offsets at interval of not greater than forty (40) feet. Offsets shall extend the entire vertical plane of the Building Façade and

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shall be a minimum depth of four (4) feet and a minimum aggregate length of twenty percent (20%) of the horizontal plane of the overall Building Façade. The offset may be met with setbacks of the Building Façade and/or with architectural elements (i.e., arcades, columns, ribs, piers, and pilasters), if such architectural elements meet the minimum offset requirements of this requirement.

6. External Wall Protrusions: Gutters, downspouts, vents, and other external wall protrusions shall be visually integrated with the architectural style of the structure. The color shall be selected to complement or to be consistent with the building materials.
7. Roof Design:
   a. Pitched Roofs: Pitched roofs shall comply with the following:
      i. Minimum Pitch: Five vertical units to twelve horizontal units (5:12).
      ii. Shall be comprised of three (3) or more sloped roof planes.
      iii. Shall be covered with high quality roofing materials such as natural clay tiles, slate, concrete tiles (with natural texture and color), high quality standing seam metal roofing, wood shakes or shingles (with adequate fire protection), three-dimensional asphalt or fiberglass shingles. Metal roofs shall have a low-gloss finish to reduce glare.
   b. Flat Roofs: Flat roofs shall comply with the following:
      i. Flat roofs are permitted if edged by a parapet wall with an articulated, three-dimensional cornice or moulding.
      ii. Parapet walls shall be fully integrated into the architectural design of the building to create seamless design transitions between the main building mass and roof-mounted architectural elements (which may include screening elements for roof-mounted equipment).
      iii. Modulation or variation of the roofs and/or roof lines shall be required in order to eliminate the appearance of box-shaped buildings.
      iv. Flat roofs shall be prohibited for one-story buildings in the *LB: Local and Neighborhood Business District*, unless otherwise approved by the Plan Commission or Director after consideration of the building architecture, building context, and sensitivity to the residential character of the area.
   c. General Standard: All visible vents, attic ventilators, turbines, flues and other visible roof penetrations shall be: (i) painted to match the color of the roof or flat black; and (ii) oriented to minimize their visibility from adjacent Lots and Streets.
8. Main Entrances:
   a. Building entrances shall be clearly defined and articulated by multiple architectural elements such as lintels, pediments, pilasters, columns, awnings, porticos and other design elements appropriate to the architectural style and details of the building as a whole.

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b. The location, orientation, proportion and style of doors shall complement the style of the building.

9. Windows:

a. All window designs shall be compatible with the style, materials, color, details and proportion of the building. The number of window panes, the number of window openings, window trim and other architectural design elements designed to accent the windows shall be consistent with and complementary to the architectural style of the building.

b. Window trim and other architectural design elements designed to accent the windows shall be required for all windows. Acceptable design elements include shutters, keystones, masonry arches, awnings, decorative stone frames, masonry rowlock frames, or other such trim or design elements as approved by the Plan Commission or Director.

10. Awnings:

a. Fixed or retractable awnings are permitted if they complement the building's architectural style, material, colors and details.

b. Awnings shall be made of a nonreflective material.

c. All awnings shall be kept in good repair.

d. Metal or aluminum awnings are prohibited.

e. Awnings used to comply with the architectural design requirements of this Ordinance shall not be removed unless the Building Façade would otherwise comply with such architectural design requirements without such awnings.

11. Gasoline Service Station Canopies: This section shall apply to canopies for all Gasoline Service Stations:

a. Materials: The support structures for canopies shall be wrapped in Masonry Materials to complement the Principal Building. Canopy fascia and canopy roof materials shall match the color and texture of the Principal Building.

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

c. Roof Design: A canopy shall include a pitched or sloped roof between 5:12 and 10:12, and with a minimum roof height above the canopy fascia of two and one-half (2.5) times the width of the canopy fascia.

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

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

1. Mechanical Screening: All roof or ground mounted mechanical equipment shall be completely enclosed. Ground-mounted enclosures

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for mechanical equipment shall be landscaped on all sides not facing the building served in accordance with *Article 6.8 Landscaping Standards*.

2. Building Façades:

   a. External Façades: Each Building Façade visible from a Street, oriented to an adjoining Residential District, or oriented to an alternative transportation corridor bearing a designation on the Thoroughfare Plan (collectively, "External Façade"), shall comply with the following:

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

      ii. Building Façades, which are ninety (90) feet or greater in length, shall be designed with offsets (projecting or recessed) at intervals of not greater than sixty (60) feet. Offsets shall extend the entire vertical plane of the Building Façade and shall be a minimum depth of four (4) feet and a minimum aggregate length of twenty percent (20%) of the horizontal plane of the overall Building Façade. The offset may be met with setbacks of the Building Façade and/or with architectural elements (i.e., arcades, columns, ribs, piers, and pilasters), if such architectural elements meet the minimum offset requirements of this requirement.

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

   b. All Building Façades: If materials other than Masonry Materials are utilized on any Building Façade, then the Building Façade shall be supplemented with: (i) the use of multiple colors and textures (e.g., rough, smooth, striated, etc.); or (ii) the addition of architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.).

6.4 Building Standards

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

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

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

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

E. **Agriculture-Related Uses:** More than one (1) Principal Building shall be permitted on a Lot for the following uses: Agricultural Uses, Agritourism Uses, Equestrian Facilities, and Nurseries.

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6.5 Fence Standards

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

B. **Location:** Fences may be built directly along Lot Lines; however, fences shall not encroach into the Right-of-way, nor into easements that otherwise prohibit the installation of fences (e.g., drainage and utility easements).

C. **Height Limitations:**

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

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

E. **Outdoor Screening:** Fences for screening of permitted outside storage or display areas shall also comply with *Article 6.12 Outside Storage and Display*.

F. **Vision Clearance:** Fences shall comply with *Article 6.19 Vision Clearance Standards*.

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

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6.6 Height Standards

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

B. **Residential Districts:** In Single-family Districts in which Building Height is limited to twenty-five (25) feet, a Dwelling may be increased in height not to exceed thirty-five (35) feet, provided that both Side Yards are increased an additional one (1) foot for each foot such building exceeds twenty-five (25) feet in height.

C. **Nonresidential Districts:** In Business or Industrial Districts, the maximum Building height requirements of the Zoning District may be increased if buildings are set back from Lot Lines, one (1) foot for each two (2) feet of additional height above forty-five (45) feet, or the Zoning District's maximum Building Height, whichever is less.

D. **Buildings for Agricultural Uses:** If a building used for Agricultural Uses has a minimum roof pitch of five vertical units to twelve horizontal units (5:12), then the maximum Building Height for such building may be increased in height not to exceed forty-five (45) feet.

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

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6.7 Home Business Standards

A. **Permitted:** Home Businesses shall be permitted in Zoning Districts as set forth in *CHAPTER 13: USE TABLE*.

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

1. Art Studio.
2. Beauty Salon (one chair operated by a resident).
3. Business conducted entirely by mail and/or web-based.
4. Seamstress or tailor.
5. Home garage sales not to exceed seven (7) days per year.
6. Home bound schools for twelve (12) or less full-time or part-time children including residents of the home.
7. Personal motor vehicle sales not to exceed two (2) vehicles per year.
8. Professional office of a clergyman, lawyer, architect, accountant, counselor, or consultant.
9. Repairing, servicing or refurbishing equipment or parts, excluding motor vehicles, as long as the work is entirely within the Dwelling and performed by members of the family living in the Dwelling.
10. Teaching (e.g., musical instruments or dancing).
11. Office support services (e.g., data entry, research, telephone-based services).
12. Childcare home in accordance with I.C. 36-7-4-1108.

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

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

1. Home Business Subordinate to Primary Use: The Home Business shall be clearly incidental and subordinate to the primary residential use of the Lot. The primary use of the Dwelling shall remain residential.
2. Primary Residence of Operator: The operator of the Home Business shall make the Dwelling within which the Home Business is conducted their legal and primary residence.
3. Activity Limited to Dwelling Unit: All aspects of the Home Business activity that occur on the Lot shall be conducted within the dwelling structure in which the operator makes their actual residence. For purposes of this Article, only areas completely enclosed by walls and

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under the same roof system as the living quarters shall be considered a part of the "dwelling structure."

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

1. Structural Improvements:
   a. There shall be no room additions, enlargements, structural, or exterior aesthetic alterations that change the residential character of the Dwelling or Lot.
   b. There shall be no exterior, structural, or aesthetic alterations to the Dwelling to accommodate the Home Business that would effect the interior of the Dwelling and would render it undesirable for residential use or habitation.
   c. There shall be no additional or separate exterior entrances to the Dwelling for the purpose of conducting business or to accommodate the Home Business.
2. Walk-in Retail Sales: Walk-in / walk-up retail sales shall not be permitted.
3. Parking: No provision for off-street parking or loading facilities, other than the requirements of the applicable Zoning District, shall be permitted. No part of a minimum required Yard shall be used for off-street parking or loading purposes. No additional driveway to serve the Home Business shall be permitted.
4. Exterior Storage or Display: There shall not be any exterior storage or display of products, trailers, equipment or materials used in connection with the Home Business. No external evidence of the Home Business shall be permitted.
5. Utilities: The Home Business shall not require the increasing or enhancing of the size, capacity, or flow of the water, gas, septic, sewer, electrical systems, or trash removal types or volumes beyond what is standard for a residence.
6. Equipment: The equipment used for the Home Business shall be limited to computers, fax machines, telephones, copy machines, other small office equipment, and other similar equipment that may typically be found in a Dwelling, as determined by the Director. Manufacturing operations shall be prohibited.
7. Gross Floor Area: No more than fifteen percent (15%) of the Gross Floor Area of structures on the Lot shall be used for a Home Business.
8. Signs: Signs shall comply with *Article 6.17 Sign Standards*.

F. **Additional Standards:**

1. Vehicles: Except for purposes of loading and unloading, vehicles of one-ton capacity or more, or more than twenty (20) feet in length, shall not park on the Lot on which the Homes Business is conducted or on any Street adjacent thereto.
2. Hours of Operation: Hours of operation shall not interfere with the use

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and enjoyment of adjacent residential properties.

3. Employees: The Home Business shall not involve the employment of any person that works in the Dwelling or on the Lot other than those residing in the Dwelling of the Home Business.

4. Nuisances: No Home Business shall create electrical interference (e.g., interfere with local radio and television reception), odors, noise, vibration, light, smoke, fumes, or anything offensive.

G. **Appeals:** Any use purported as a Home Business may be deemed not permitted if, in a public hearing on the matter, the Board rules the use to be a nuisance or that it does not comply with this Article. The Director or any person reasonably affected by the Home Business may request such a hearing in accordance with *Article 10.3 Appeals of Administrative Decisions*.

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6.8 Landscaping Standards

A. **Purpose and Intent:**

1. This Article establishes regulations for the preservation of natural features and minimum standards for the provision, installation, and maintenance of landscape materials. The regulations specified herein are intended to promote the health, attractiveness, and safety of the community; foster aesthetically pleasing and environmentally sensitive development that protects and preserves the appearance and character of the community; and encourages the preservation of Natural Areas.
2. This Article establishes standards to manage and control drainage and erosion; to increase the compatibility of development with the natural environment and adjacent developments; to encourage connectivity through the use of a pedestrian network; and to maintain and increase the value of land by requiring landscaping to be incorporated into developments. The standards set forth herein promote important physical and psychological benefits through the use of landscaping to reduce noise and lighting; promote innovative and cost conscious approaches to the design, installation, and maintenance of landscaping; and establish procedures and standards for the administration and enforcement of this Article.

B. **Applicability:**

1. This Article shall apply to Development in all Zoning Districts, except for detached Single-family Dwellings not located within a Major Subdivision.
2. Plantings and landscaping features required by this Article shall be subject to inspection to verify continued compliance with this Article.

C. **Content of Landscape Plan:** Landscaping Plans shall comply with the following standards:

1. Landscape Plans shall be submitted for all required landscaping, green belt buffer areas, Buffer Yards, Open Space areas, conservation easements, landscape easements, and areas owned in common within proposed developments. It is recommended that Landscape Plans be prepared by licensed landscape architects, nurserymen, or other professionals experienced in landscape design, installation, and maintenance. A narrative describing ownership, use, and maintenance responsibilities of these areas should be specified in the submittal.
2. Landscape Plans show the entire project drawn to scale on standard sized sheets (minimum 24" x 36") and shall contain the following information:
   a. Names and addresses of Property Owners, developers, plan preparer, plan preparation date, scale, and north arrow.
   b. Locations and dimensions of all existing and proposed structures, Parking Areas, driveways, Streets, Private Streets, Rights-of-way, sidewalks, pedestrian pathways, bicycle pathways, ground signs, refuse disposal areas, bicycle parking areas, freestanding electrical

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equipment, recreation facilities, utility lines, easements, freestanding structural features, landscape improvements, earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, courts, paved areas, Buffer Yards, and Open Space.

c. Locations, quantities, sizes, and names (botanical names and common names) - of planting materials.

d. Existing and proposed grading plans, indicating contours at not more than two-foot intervals.

e. Locations of barriers to be placed at or beyond driplines of trees to be preserved and types of materials to be used for barriers.

f. Planting and installation details as necessary to ensure conformance with required standards.

g. Details including specific grading measures or protective devices to be utilized where trees are to be preserved in areas of cut and fill.

h. Location of dense trees and shrubs, and other Natural Areas which are to be preserved or removed.

i. An inventory of existing trees to be credited and preserved may be shown on the Landscape Plan, or separately, as otherwise set forth in this Article, which may include tables clearly displaying relevant statistical information (including numbers of existing trees and numbers of trees preserved, for example).

D. **Modifications:**

1. When a change in use occurs, or when modifications that require a Building Permit are made to an existing structure, then landscaping shall be required to be installed in a manner that is comparable in nature and extent to the impact of the proposed change or modification.

2. If plant substitutions become necessary due to seasonal planting problems or a lack of plant availability, then revisions to an approved Landscape Plans shall be permitted.

E. **Preservation and Replacement of Trees:**

1. Developers shall take reasonable measures to design and locate proposed buildings and related infrastructure in a manner that minimizes the destruction of significant tree specimens.

2. The following considerations shall be made in regard to tree preservation efforts:

a. The practicability of arranging site plan components around existing features. Plans for groups of structures should be designed so as to preserve areas of high tree concentrations, desirable individual tree specimens, and desirable stands of trees and shrubs.

b. The condition of vegetation with respect to continued vitality.

c. The possibility of preserving vegetation through pruning rather than removal.

d. The desirability of a particular tree or species by reason of its appearance; historic or ecological significance; botanical

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characteristics; and the function the vegetation would fulfill as a site plan component.

e. The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation.

f. The potential for interference with utility services along the use of Streets and walkways.

3. Tree Inventory: Existing trees that are to be preserved shall be credited toward required landscaping requirements based on the sizes of such preserved trees in accordance with this Article. Tree inventories shall be required for those trees that are required by an ordinance or commitments to be preserved or that are to otherwise be credited pursuant to this Chapter. Tree inventories shall depict locations, sizes, and common names of existing trees and individual shrubs; areas containing dense trees or shrubs; and other natural site features.

4. Tree Preservation Plans: Tree preservation plans shall be submitted with site plans that detail locations, sizes, and common names of preserved trees; individual shrubs; areas of dense tree or shrub concentrations, and other natural features which are to be preserved or removed. No disturbance shall be permitted in the Critical Root Zones of preserved trees. Disturbances include trenching, backfilling, driving or parking equipment, and dumping trash, oil, paint, or other materials detrimental to plant health.

5. Replacement: If any tree designated for preservation dies within five (5) years of project completion, then the Property Owner shall replace such tree with a tree(s) of equal tree preservation value, as set forth herein, within one hundred and eighty (180) days.

6. Incentives to Preserve Trees:

a. Existing trees that are preserved in accordance with this Article may be credited for required landscaping based on a ratio of one (1) tree credit per one (1) tree preserved if the tree meets all of the following criteria:

i. Shall be greater than four-inch (4") Caliper.

ii. Shall be in a good condition and have a life expectancy greater than ten (10) years.

iii. Shall have a trunk with no extensive decay.

iv. Shall have no more than one major or several minor dead limbs.

v. Shall have no major insect or pathological problems or otherwise be a species identified by the State, County, or City to be negatively impacted by a major insect or pathological problem.

vi. Shall be of a species native to the State or on the Master Tree and Shrub List, as maintained by the City.

b. The Plan Commission or Director may credit required plantings where the existing vegetation of a preserved Natural Area is located within a Buffer Yard or External Street Frontage Landscaping Area, and where

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the Natural Area otherwise accomplishes the intended screening effect of a Buffer Yard or External Street Frontage Landscaping Area.

7. Tree Protection:
   a. Barriers shall be used to protect trees during site development. Barriers shall be specified on Landscape Plans and shall be placed at or beyond the driplines of trees to be preserved. Such barriers shall remain in place during site construction. No vehicles, machinery, tools, chemicals, construction materials, or temporary soil deposits shall be permitted within such barriers. No notices or other objects shall be nailed or stapled to preserved trees.
   b. Grading measures or protective devices, such as tree wells, tree walls, or specialized fill and pavement designs, shall be installed when necessary to preserve identified tree specimens.
8. Tree Preservation Easement: A tree preservation easement (see *Article 8.3 Easement Standards*) shall be required for tree identified for preservation and that are not otherwise protected by a landscape easement.

F. **Selection, Installation, and Maintenance of Plant Materials:**

1. Selection: The minimum sizes set forth below shall apply to required plantings at installation, unless otherwise specified herein.
   a. Shade Trees: A minimum of eight (8) feet in height and two (2) inches in Caliper. Shall be of a variety that will attain an average mature spread greater than twenty (20) feet.
   b. Evergreen Trees: A minimum of six (6) feet in height.
   c. Ornamental Trees: A minimum of two (2) inches in Caliper.
   d. Shrubs: A minimum of eighteen (18) inches in height.
   e. Credit for Larger Trees: A proportional decrease in the required number of trees is allowed if larger Caliper trees than required herein are planted (e.g., trees with Caliper measures of four (4) inches may replace two (2) required two (2) inch Caliper trees).
2. Mounds: The following shall apply to mounds at the time of installation, unless otherwise specified herein.
   a. Measurement: Minimum mound height requirements established herein are measured at the lowest elevation of the "valley" of an undulating mound. The maximum mound height requirements are measured at the "peak" of the mound. All mound heights are measured from the highest natural grade of the adjacent ground.
   b. Maximum Slope: The maximum slide slope of mounds shall not exceed a three (3) (horizontal units) to one (1) (vertical units) ratio. The maximum slide slope of a mound may be increased to a two (2) (horizontal units) to one (1) (vertical unit) ratio for those areas of the mound that only includes trees and shrubs and no-mow Groundcover or mulch.
   c. Groundcover: In addition to plantings otherwise required herein, mounds shall be covered with grass or living Groundcover.

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3. Installation: Landscaping materials should be installed in accordance with planting procedures established by the American Association of Nurserymen.
   a. Timing and Permits:
      i. No Certificate of Occupancy or Certificate of Compliance shall be granted until required landscaping is installed. The installation of required landscaping may be delayed, at the Director's determination, for up to one hundred and twenty (12) days due to periods of adverse weather, availability of plant material, or conflicts between construction scheduling and proper planting conditions.
      ii. Landscaping and related improvements (e.g., paths, Development Amenity improvements, mounds) for Open Space, Development Amenities, Common Areas, Buffer Yards or External Street Frontage Landscaping shall be installed prior to the issuance of a subsequent Building Permit for more than fifty percent (50%) of the Lots within the Secondary Plat section in which the required landscaping or improvements located, or within twelve (12) months from when the first Building Permit in the Secondary Plat section was issued, whichever occurs first.
4. Maintenance: All newly planted vegetative material shall meet minimum American Standard for Nursery Stock Standards. Landscaping shall be maintained in healthy growing condition. This includes:
   a. Regular irrigation, weeding, fertilizing, pruning, mowing, and other maintenance of outside plant materials on the property.
   b. Mature trees shall not be topped. They shall be pruned according to procedures established in the National Arborist Association Standards, published by the National Arborist Association.
   c. Treating plant materials that exhibit evidence of insect pest or disease damage.
   d. Replacement of dead or dying plant materials with specimens in good, healthy, growing condition. Replacement shall be completed using the same plant materials approved on Landscape Plans.
   e. Replenishing natural landscape materials such as rock, stone, bark chips and shavings that no longer cover the area in which they were originally deposited.
   f. Repairing, replacing, or maintaining structural landscaping features including, but not limited to fountains, reflecting pools, outdoor art work, screening walls, retaining walls, fences, benches or other street furniture elements, as necessary to maintain these items in good condition.
   g. Any other action necessary to maintain landscaping installed in accordance with an approved Landscape Plan and that promotes the life, growth, health and beauty of Landscaping.

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G. **General Landscaping Design Standards:**

1. Consultation: A landscape architect, nurseryman, or other professional experienced in the installation and care of plant materials shall be consulted to ensure that proposed plants are appropriate and will survive.
2. Scale and Nature of Landscaping: The scale and nature of landscaping materials shall be appropriate to the size of proposed structures. Large-scale buildings should be complemented by large-scale plants. Form, texture, color, pattern of growth, and adaptability to local conditions shall be considered when selecting plant materials.
3. Groundcover: Landscape Plans shall clearly identify areas for Groundcover. Groundcover is not required for: (i) decorative mulch planting beds containing stone or other inert materials, trees and/or shrubs; (ii) inert stabilization in areas subject to severe runoff or erosion; or (iii) or low impact development areas (e.g., rain gardens). Areas not so designated shall be required to have grass or other Groundcover and shall be used in all green space areas and Yards, including, but not limited to required mounds and Parking Area landscape islands.
4. Placement: Installed plantings shall comply with the following:
   a. Clearance with Structures: Trees shall be planted so that when they reach maturity, there will be a minimum of five (5) feet of clearance between tree trunks and structures, building overhangs, walls, fences, and other trees.
   b. Vision Clearance: Plantings and mounds shall also comply with *Article 6.19 Vision Clearance Standards*.
   c. Right-of-way: With the exception of Street Trees, as required herein, or trees as may otherwise be approved by the Plan Commission or Public Works Department, landscape material shall not be planted or placed in Rights-of-way or easements without permission from the City or the easement holder.
   d. Minimum Distance from Sidewalk and Curb: Trees shall be planted a minimum distance of four (4) feet from the edge of a Street curb or pedestrian pathway or sidewalk.
   e. Minimum Distance from Stormwater Structures: Trees shall be planted a minimum distance of ten (10) feet from any storm sewer or subsurface drain, unless otherwise permitted in accordance with the City's Construction Standards or approved in writing by the Public Works Department.
   f. Easements: Required landscaping should be located in landscape easements or designated common areas that are exclusive of utility or drainage easements that would otherwise prohibit the required landscaping.
   g. Arrangement: A natural or irregular row and spacing of plantings is preferred. Trees and shrubs should be grouped or clustered where possible to simulate natural tree stands.

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5. Energy Conservation: Plantings shall be arranged to promote energy conservation wherever practical. This includes using deciduous trees on the south and west sides of buildings to provide shade from summer sun and planting evergreens on the north of buildings to insulate against winter winds.

6. Noise Reduction: Properties adjacent to highly trafficked Streets or businesses shall arrange landscaping to reduce the intensity of noise by reflecting, deflecting, or absorbing sound. Some techniques to accomplish this include using berms, walls, fences, or plantings to provide physical separation and to absorb noise.

H. **General Screening Standards:**

1. Mechanical Screening: Wall and ground-mounted Mechanical Equipment for nonresidential or multi-family structures shall be completely screened from all ground-level viewpoints. Clearance for proper functioning of the equipment and access to the equipment for maintenance shall be incorporated into the design. Screening may be achieved by using either: (i) a wall or fence constructed of Masonry Material, wood, fiber cement, that is visually integrated to the adjacent building façade with a minimum height that fully screens the equipment; (ii) a solid evergreen screen with a combination of trees and shrubs; (iii) a combination of the aforementioned. (See also *Article 6.3 Architectural Standards* for roof-mounted equipment.)

2. Service and Loading Areas: Loading areas, loading docks, service areas, and maintenance areas shall be screened from residential uses and Rights-of-way. Screening shall be achieved by using either: (i) a six (6) feet high, completely opaque fence or wall; (ii) a six (6) feet high berm; (iii) a six (6) feet high screen of evergreen trees planted nine (9) feet on center in a double staggered row; or (iv) a combination of the aforementioned that accomplishes the same effect. See also *Article 6.1 Accessory Use and Building Standards* regarding dumpster enclosures.

I. **Detention and Retention Areas:**

1. Natural Appearances:
   a. Detention and Retention Areas shall be landscaped in a manner that replicates the natural form of ponds and shall include shade trees, ornamental trees, evergreens, shrubs, hedges, and/or other plantings (see also Minimum Lot Landscaping Requirements and *Article 8.6 Open Space and Amenity Standards*).
   b. Wetlands/aquatic vegetation planted around the wet perimeter of such areas should be utilized to further this design objective; however, if such plantings are utilized for water quality control, then Landscape Plans shall be prepared and stamped by a licensed landscape architect.
   c. Detention and Retention Areas shall be designed to be natural in appearance, with meandering edges.

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2. Location: Detention and Retention Areas should be located to enhance view sheds and incorporated as amenities to the development (see also *Article 8.6 Open Space and Amenity Standards*).
3. Side Slopes: Side slopes above the water line for Retention Areas and water features shall not exceed 4:1. Side slopes above the water line for Detention Areas shall not exceed 4:1 and shall be graded to harmonize with the overall Open Space design of the site.

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

1. Requirement: Street Trees shall be required within the right-of-way of all new or re-developed Local Streets (public or private) in residential Major Subdivisions. Street Trees shall only be required on one side of a Residential Frontage Road. Please note that the Westfield Code of Ordinance; Chapter 34-141 et seq., as amended, also applies within the City's corporate limits.
2. Location: Street Trees shall be located within the Right-of-way in a minimum eight-foot (8') wide planting strip between curb and sidewalk (see also *Article 7.3 Principles and Standards of Design*). Where impracticable, the Director may permit either: (i) a lesser width for the planting strip; or (ii) the planting of Street Trees on the adjacent Lot or Common Area within ten (10) feet of the Right-of-way. In no case shall the Street Tree be credited towards that Lot or Common Area's Minimum Lot Landscaping Requirements.
3. Spacing: Street Trees shall be required an average of every fifty (50) feet; however, the Street Trees may be spaced at a maximum spacing of sixty (60) feet but at a minimum spacing of twenty-five (25) feet. Where impracticable, the Director may approve an increase in the maximum spacing. In addition to the placement standards of this Article, Street Trees shall also be planted a minimum of ten (10) feet away from Driveways, Alleys, fire hydrants, mailboxes and other similar improvements.
4. Front Yard and Lot Size Reductions: If a Lot is adjacent to a Right-of-way that includes Street Trees within the Right-of-way in accordance with this section, then the Lot's Minimum Lot Size and Front Yard Minimum Building Setback Line may be reduced in accordance with *Article 6.10 Lot Standards* and *Article 6.16 Setback Standards*, respectively.
5. Maintenance: The maintenance of Street Trees shall be the responsibility of the development's property management group, homeowners' association or other similar legal entity, and the association's or entity's declaration of covenants and restrictions shall include provisions for the maintenance and replacement of Street Trees. In the absence of a homeowners' association, then the maintenance of Street Trees shall be the responsibility of the owner of the adjacent Lot.
6. Street Tree Species: Permitted Street Tree species shall be as set forth in the City's Construction Standards (see *Article 7.3 Principles and Standards of Design*).

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K. **Minimum Lot Landscaping Requirements:** Yards and Open Space areas of all Lots shall be landscaped in accordance with this section (the "Minimum Lot Landscaping Requirements"):

Chart: Minimum Lot Landscaping Requirements:

Land Use	Plant Materials		
	Shade Trees	Ornamental or Evergreen Trees	Shrubs
Single-family Residential (per Lot under 8,000 sq. ft.)	2	1	4
Single-family Residential (per Lot over 8,000 sq. ft.)	4	2	4
Multi-family Residential (per Dwelling Unit)	1	1	4
Institutional Uses (per acre)	2	3	10
Business Uses (per acre)	10	10	25
Industrial Uses (per acre)	5	5	25
Open Space / Common Area (per acre)	10		0

1. Calculation for Recreational Areas: Acreage for athletic fields and courts (including adjacent perimeter areas for coaching and spectator viewing) and areas with playground equipment, may be subtracted from the gross acreage before computing the Minimum Lot Landscaping Requirements.
2. Calculation for Open Space/Common Areas: Plantings required for Open Space or Common Area may be calculated for an overall development, or phase of a development, and then installed and distributed throughout the development's various Open Spaces and Common Areas.
3. Credit: All other landscaping plantings required by this Article to be located on the subject Lot (e.g., Foundation Plantings, Parking Area Landscaping) or within an Open Space/Common Area (e.g., Buffer Yard Landscaping, External Street Frontage Landscaping) may be credited toward the individual Lot's or Open Space/Common Area's Lot Landscaping Requirement at a 1:1 ratio, with the exception of Street Trees, as otherwise set forth herein, which may not be credited.

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

1. Plant materials shall be required intermittently (approximately every forty (40) feet) against long expanses (over eighty (80) feet) of Building Façades, fences, and other barriers to create a softening effect.
2. Plant materials shall also be required along the Front Building Façade of all Buildings at a minimum ratio of one (1) shrub or ornamental tree per twelve (12) lineal feet (Single-family Dwelling and Duplex Dwelling buildings are exempt from this requirement).

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3. The primary landscaping material used shall be ornamental trees, shrubs, and ornamental grasses. Groundcover plants may supplement the required plant materials. Plantings may be clustered to provide a more natural appearance and to accommodate vehicular and pedestrian access, loading and maintenance areas.
4. Plantings shall be located within fifteen (15) feet of the Building Façade, fence or other barrier being softened, and shall occur within planting beds at least eight (8) feet in width.
5. Monument Signs shall include a landscaped area at the base of the Monument Sign. The minimum size of the landscaped area shall be equivalent to one (1) side of the Monument Sign's Sign Face. The landscaped area shall be substantially covered with a variety of planting types such as Groundcover, perennials, shrubs, and ornamental trees.

M. **External Street Frontage Landscaping Requirements:** The landscaping in this section shall be required where any portion of a development abuts an External Street.

1. Residential Uses: A landscaping area with a minimum depth of thirty (30) feet shall be required abutting an External Street along any residential development, except as exempted by Article 6.3(C)(1)(a)(i). The landscaping area shall include a minimum of four (4) evergreen trees, three (3) shade trees, three (3) ornamental trees and twenty-five (25) shrubs per one hundred (100) lineal feet. In addition, a minimum three-foot (3') tall undulating mound shall be required along the entire External Street frontage.
2. Nonresidential Uses: A landscaping area with a minimum depth of ten (10) feet shall be required abutting an External Street along any nonresidential development. The landscaping area shall include a minimum of three (3) shade or evergreen trees, two (2) ornamental trees and twenty-five (25) shrubs per one hundred (100) lineal feet. This requirement may be credited toward required Parking Area Landscaping requirements if the required Parking Area Landscaping is located within twenty (20) feet of the Right-of-way. In addition for Industrial Districts, a minimum three-foot (3') tall undulating mound shall be required along the entire External Street frontage.
3. Easements: Trees required to be planted along External Streets should be located outside drainage and utility easements that would otherwise prohibit the required landscaping and shall be located in a manner that mitigates interference with infrastructure located within such easements. Trees may be clustered or grouped in order to attain creative site design and/or to accommodate utility infrastructure.
4. Unimproved Rights-of-way: The Plan Commission or Director may approve a Development Plan that lessens the planting requirements per the External Street Frontage Landscaping Requirements by up to fifty percent (50%) along the portion of a development that abuts future Right-of-way, as set forth in the Thoroughfare Plan, if: (i) said Rights-of-

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way is unimproved at the time of Development Plan approval; and (ii) there are no immediate plans by the City or requirement of the Applicant to improve said Right-of-way.

N. **Buffer Yard Requirements:** Buffer Yards shall be required in order to soften the potential conflicts between land uses by using distance, plantings, fences, walls and mounds set forth in this section.

1. General: Plantings should physically separate and visually screen different land uses and/or Zoning Districts from one another without precluding connectivity between uses.
2. Location: Buffer Yards shall apply along the entire length of all abutting Lot Lines where conflicting Zoning Districts are adjacent. If adjacent properties possess a mix of land uses, then the highest intensity use shall determine the required Buffer Yard. Buffer Yards shall not be required: (i) between uses within a Planned Unit Development District (unless the PUD District provides otherwise); (ii) internal to Subdivisions; or, (iii) adjacent to External Streets, rather, the External Street Frontage Landscaping Requirements set forth herein shall apply adjacent to External Streets.
3. Responsibility for Installation: The Lot which is zoned for higher intensity uses at the time of development shall install the required Buffer Yard.
4. Buffer Yard Types: The following types of Buffer Yards are hereby established. The numbers established below are minimum requirements. Plantings should be arranged in a manner that creates a visual barrier between land uses without precluding connectivity between uses.

Chart: Buffer Yard Types

Buffer Yard Type	Planting Materials per 100 lineal feet				
	Width	Shade Trees	Evergreen Trees	Shrubs	Mound / Fence
Buffer A (small)	30 feet	3	3	10	none required
Buffer B (medium)	40 feet	4	4	10	4' tall undulating mound for at least 60% of the length of the shared Lot Line
Buffer C (large)	50 feet	5	5	20	4' tall undulating mound for at least 60% of the length of the shared Lot Line and a 6' - 8' tall opaque fence

5. Required Buffer Yard: The minimum required Buffer Yard shall be determined by the abutting Zoning District(s) and/or land uses, whichever is more restrictive, in accordance with the following chart.

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Chart: Required Buffer Yard

Required Buffer Yard Type		Adjacent Use / Zoning District							
		AG-SF1	SF1, SF2	SF3	SF4, SF5, SFA	MF	Institutional	Business	Industrial
Proposed Use / Zoning District	AG-SF1	-	-	-	-	-	-	-	-
	SF1, SF2	A	-	-	-	-	-	-	-
	SF3	B	A	-	-	-	-	-	-
	SF4, SF5, SFA	B	A	A	-	-	-	-	-
	MF	B	B	A	A	-	-	-	-
	Institutional	A	B	B	B	B	-	-	-
	Business	A	C	B	B	B	A	-	-
	Industrial	A	C	C	C	C	B	A	-

a. Institutional Uses: The Plan Commission may approve a smaller Buffer Yard than required above (but no less than 15 feet) for Institutional Uses on Lots of Record (as of December 10, 2001, when Ordinance 01-16 was adopted) that are less than ten (10) acres in size and adjacent existing uses.
   i. The proposed structure shall be finished in a manner that is in character with the adjacent neighborhood.
   ii. Landscaping may be required to be supplemented with a fence or masonry wall to assist in addressing the impact of the proposed use on adjacent existing uses.
   iii. No drives or Parking Areas shall be permitted in a reduced Buffer Yard area.

b. Single-family Dwelling Subdivisions Abutting Agricultural Uses: If the Plan Commission determines a smaller Buffer Yard is appropriate after consideration of the existing and potential use of the adjacent property, then as part of the Overall Development Plan review, the Plan Commission may approve a narrower Buffer Yard with fewer plantings than required above (but no less than 15 feet wide) for Single-family Dwelling Subdivisions adjacent to an Agricultural Use.

O. **Parking Area Landscaping:** This section shall apply to Parking Areas in order to: (i) screen Parking Areas from Right-of-way; (ii) prevent the creation of large expanses of paving; and (iii) provide shade to paved areas.

1. Interior Parking Area Landscaping:

   a. Minimum Area Required: A minimum landscape area of Parking Areas shall be set aside for Parking Area islands in accordance with the following:

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Chart: Percentage of Parking Area Landscaping

Number of Parking Spaces	% of Parking Area to be Islands
0 to 4	0%
5 to 24	5%
25 to 49	7.5%
50 or more	10%

b. Interior Parking Area Islands:

i. Location: Parking Area islands shall be dispersed throughout Parking Areas in a design and configuration that aesthetically corresponds to the size and shape of Parking Areas. Combining or placing Parking Area islands together such that more than one (1) tree may be planted in the island shall be considered when possible. Parking Area islands shall be dispersed so as to define aisles and limit unbroken rows of parking spaces to a maximum of two hundred (200) feet in length.

ii. Design: Parking Area islands shall be: (a) constructed at least six (6) inches above the surface of Parking Areas and curbed in a manner that restricts vehicles from driving over landscaped areas; (b) a minimum area of one hundred twenty (120) square feet; and (c) a minimum of seven (7) feet in width, measured from back of curb to back of curb.

iii. Plantings: Parking Area islands shall include at least one (1) tree and four (4) shrubs per island. One hundred (100) percent of every island shall be covered with permitted Groundcover material to achieve complete coverage.

iv. Vision Clearance: No landscaping within Parking Area islands may unreasonably obstruct visibility for vehicles entering, maneuvering in, or exiting Parking Areas. Such landscaping shall be constructed in compliance with *Article 6.19 Vision Clearance Standards*.

2. Perimeter Parking Area Landscaping:

a. Application: Perimeter landscaping is required for Parking Areas with ten (10) or more spaces where the Parking Area is located within: (i) an Established Front Yard; (ii) a required Yard; or (iii) twenty (20) feet of a Lot Line or Right-of-way line. In instances where parking is shared between adjacent Lots, the standards of this article shall not apply to the shared Lot Line.

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

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

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

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

c. Drive Aisles: Plantings within the perimeter Parking Area landscape areas between drive aisles and a Rear or Side Lot Line may be reduced by up to fifty percent (50%) of the required plantings above, if no Parking Spaces are located between the Lot Line and the drive aisle.

3. Multi-family Districts: in addition to the other standards set forth in this Article, the following shall apply to Multi-family Districts:

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

b. Solid screens or landscape materials shall be installed to protect the privacy of residents when parking spaces are located within ten (10) feet of residential units and to prevent headlights from shining directly into windows.

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6.9 Lighting Standards

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

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

1. Are newly designed, constructed, erected or placed into operation after the effective date of this Article; and
2. Require the relocation or replacement of existing lighting fixtures commenced after the effective date of this Article.

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

1. All outdoor light fixtures permitted prior to the adoption of these regulations (Ordinance No. 02-39, December 9, 2002) shall be exempt from the shielding requirements of this Article, except that when an outdoor light fixture becomes inoperable, the replacement light fixture shall comply with the standards of this Article.
2. All hazard warning lighting required by federal and State regulatory agencies.
3. All temporary emergency lighting required by local law enforcement, emergency service and utility department(s).
4. All traffic control and directional lighting.
5. All underwater lighting used for the illumination of swimming pools and water features shall be exempt from the lamp type and shielding standards of this Article.
6. All lighting for temporary festivals and carnivals (see *Article 6.18 Temporary Uses and Events*).
7. All low wattage residential accent and landscape lighting fixtures having a maximum output of 1600 lumens (equal to one 100 watt incandescent light) per fixture.

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

1. The installation, sale, lease, or purchase of any mercury vapor lamp.
2. The use of laser source light or other similar high intensity light for outdoor advertising, except when otherwise permitted in conjunction with an Electronic Sign, when projected above the horizontal.
3. The operation of searchlights and floodlights for advertising purposes.
4. The use of any lighting source on towers shall be prohibited except as

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required by the Federal Aviation Administration.

5. The illumination of off-site advertising signs.

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

1. All Light Fixtures, with the exception of internally-illuminated signs or Electronic Signage, shall be Fully Shielded and direct light downward toward the earth's surface.
2. All lighting sources shall be directed away from reflective surfaces to minimize glare upon adjacent Lots and Rights-of-way.
3. All lighting sources, with the exception of internally-illuminated signage or Electronic Signage, shall be positioned in such a manner as to direct light away from adjacent Lots and Rights-of-way.
4. Light pole height shall not exceed twenty-five (25) feet. All Light Fixtures in Parking Areas shall be designed and located to confine emitted light to the Parking Area.
5. All Light Fixtures shall meet City Building Code requirements for their appropriate construction class.
6. See also *Article 8.10 Street Light Standards*.

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

1. All Light Fixtures, with the exception of internally-illuminated signage or Electronic Signage, shall be positioned in such a manner so that no light-emitting surface is visible from a residential Lot Right-of-way when viewed at ground level.
2. Light meter readings shall not exceed: (i) one-half (0.5) foot-candles at a single-family or multi-family residential Lot Line; or (ii) one (1.0) foot-candle at all other Lot Lines. [It should be understood that, with all of these measurements, light will still be visible at or beyond Lot Lines.]
3. All lights on poles, stands, or mounted on a building shall have a shield, adjustable reflector, and nonprotruding diffuser.
4. All canopy structures shall have lights with diffusers which are recessed, and which do not extend below the surface of the canopy as measured on a plane parallel to the earth's surface.
5. Lighting under awnings and canopies shall only illuminate a Front Building Façade, a sign under an awning or canopy as measured on a plane parallel to the earth's surface.
6. All Parking Area lighting for nonresidential uses shall be reduced (e.g., turned off or dimmed) by a minimum of thirty percent (30%) within thirty (30) minutes of closing of the last business or no later than 11:00 p.m.
7. No outdoor sports or Recreational Facilities shall be illuminated after 11:00 p.m., except to conclude a scheduled recreational or sporting event in progress prior to 11:00 p.m.

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8. The off-street Parking Areas and service facility areas for multi-family residential uses shall have sufficient lighting facilities, which shall be located and adjusted so that the glare or beam is directed away from any adjoining property, Street or Multi-family Dwelling window.

G. **Sign Lighting:**

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

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

1. A site plan indicating the location of all lighting structures, supports and Light Fixtures, including those Light Fixtures which presently exist on site and those which are proposed for the site.
2. A graphic and/or textual description of all lighting fixtures, both proposed and existing on-site. The description may include, but is not limited to cut sheets and illustrations by the manufacture, lamp types, wattages, and lumen outputs.
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.
4. All plot lighting levels shall be depicted at ten-foot intervals or less.
5. The iso foot-candle diagram shall plot foot-candle increments of one-half (0.5) foot-candle or less.
6. Photometric data depicting the angle of cut off of light emissions.
7. Any other information that the Director determines necessary to ensure compliance with the provisions of this Article.

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6.10 Lot Standards

A. **Lot Area:** Lot Area shall be set forth by the Zoning District or Overlay District.

B. **Lot Width:** Lot Width shall be as set forth by the Zoning District or Overlay District.

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

D. **Corner Lots:** Residential Corner Lots shall be of sufficient width to permit appropriate Building Setback Lines and driveway setbacks from both Streets (see also *Article 6.16 Setback Standards*).

E. **Minimum Lot Size (Street Trees):** If a Lot is adjacent to a Right-of-way that includes Street Trees within the Right-of-way in accordance with *Article 6.8 Landscaping Standards*, then the Lot's Minimum Lot Size, as established by the District in which the Lot is located, may be reduced. The permitted reduction in Minimum Lot Size shall be the Lot's Lot Frontage multiplied by three (3) feet.

6.11 Manufactured Home and Park Standards

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

B. **Permitted Use:** Manufactured Homes and Manufactured Home Parks are permitted as set forth in *Article 13.2 Use Table*; however, the number of Manufactured Homes in a Subdivision, not specifically platted for Manufactured Homes, shall not exceed ten percent (10%) of the total number of platted Lots in the Subdivision. All Manufactured Homes shall only be used for residential purposes.

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

1. Minimum Tract Size: 5 acres
2. Lot Size: 4,000 square feet
3. Minimum Lot Frontage: 40 feet
4. Pads of Slabs: An adequate concrete slab or pad shall be provided for the parking of all manufactured homes and should provide anchoring devices for protection of the home due to excessive wind.
5. Minimum Front Yard Setback: 30 feet
6. Minimum Structure Separation: 20 feet
7. Sewer and Water: Public sewer and water hook up is required.
8. Soil Coverage: All areas must be covered with a hard surface (e.g., concrete, blacktop, or stone) or attractive grasses/vegetative matter in

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accordance with *Article 6.8 Landscaping Standards*.

9. Screening: Suitable screening or fencing must enclose the entire Manufactured Home Park. Such screening must be attractive to the area and be able to be easily maintained.

10. Recreational Facilities: Appropriate Recreational Facilities shall be provided in all Manufactured Home Parks that can accommodate twenty-five (25) or more Dwelling Units.

11. Lighting: Shall be appropriately lighted to protect the health and safety of residents. Such lighting shall not be considered a nuisance to residents, industry or business development.

12. Entrance to Park: All entrances shall be constructed in an attractive manner. The name of the park shall be adequately designated. Entrance areas inside the park shall provide for internal street names and addresses and provide adequate mail facilities for the park's residence.

13. Service Building: An adequate service building shall be provided to contain office and maintenance space, laundry, canteen and other support services.

14. Parking: A minimum of two (2) parking spaces shall be provided for each manufactured home.

D. **Manufactured Home General Requirements:** The following standards shall apply to all Manufactured Homes.

1. Location: Manufactured Homes shall be located in an approved Manufacture Home Park, except for the following:

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

2. Standards: Manufactured Homes not located in a Manufactured Home Park shall be subject to the following requirements and limitations.

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a. Shall be required to meet the minimum Living Area requirements provided for in the applicable Zoning District.
b. Shall meet all requirements applicable to Single-family Dwellings and Duplex Dwellings and shall be subject to all necessary permits (e.g., Improvement Location Permit, Building Permit and Certificates of Occupancy).
c. Shall be permanently attached to a solid foundation extending down below the frost line, a minimum of thirty (30) inches, or on Basement walls. The space between the floor joists of the home and the excavated area under floor grade shall be completely enclosed with a permanent, perimeter foundation, or Basement walls, except for required openings.
d. Shall be covered with an exterior material of one (1) or more of the following types:
   i. Horizontal aluminum or vinyl lap siding
   ii. Cedar or wood siding
   iii. Weather resistant grain pressboard
   iv. Stucco, brick or stone
   v. Other approved materials
   vi. Such materials shall overlap the top of the foundation.
e. Shall have a roof composed of a material customarily used on site-built residential dwellings, such as, fiberglass, shake, asphalt or tile, which shall be installed onto a surface appropriately pitched for the materials used.

3. Placement With Permit: Manufactured Homes not meeting the terms of this Article shall be permitted within the Jurisdiction of the Plan Commission only after: (i) receiving a variance approved by the Board; or (ii) being located in an approved Manufactured Home Park.

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6.12 Outside Storage and Display

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

B. **Residential Districts:**

1. Recreational Vehicles: Storage or parking of Recreational Vehicles shall be subject to the following conditions:

   a. No more than one (1) Recreational Vehicle or any towable vehicle shall be stored or parked outdoors on a residential parcel at any time.
   b. Shall be stored or parked: (i) behind the Lot's Established Front Yard; (ii) no closer to a Rear or Side Lot Line than three (3) times the maximum height of the vehicle, except when stored inside of a lawfully-erected structure that includes a roof and fully encloses the vehicle; and (iii) no closer than the required Side Yard setback line.
   c. Nonmotorized Recreational Vehicles may be stored on a Right-of-way for a period not to exceed four (4) days per month for loading and unloading of the vehicle.
   d. Shall not be occupied or used for living or sleeping purposes and shall not be connected to gas, electric, water or sanitary sewer service for purposes of living or sleeping.
   e. Shall not be parked or stored in a manner as to create a dangerous or unsafe condition on the property where parked or stored. Parking or storage while not locked or chocked, whether loaded or not, and the removal of wheels (except for immediate repairs), shall be considered a dangerous and unsafe condition.

2. Cross-Reference: Please note that Westfield Code of Ordinances; Chapter 58-290 et seq., as amended, also applies to vehicles within the City's corporate limits.

C. **Business Districts:** The following shall apply to Business Districts:

1. Outside Storage: Outside Storage shall only be permitted if delineated on an approved Development Plan and in accordance with the following:

   a. Size: A Lot's Outside Storage area shall not exceed fifty percent (50%) of the Lot's Principal Buildings' gross floor area.
   b. Location: Outside Storage areas:
      i. Shall be located immediately adjacent to the Principal Building.
      ii. Shall not encroach into any required Rear or Side Yard.
      iii. Shall be prohibited in an Established Front Yard.
      iv. Shall be delineated on an approved Development Plan.
   c. Screening: Outside Storage areas shall be incorporated into the building's design as part of the Principal Building as follows:
      i. Outside Storage areas shall be completely screened from view from any adjacent property or right-of-way.
      ii. Outside Storage areas shall be screened on all sides with a solid

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wall, not less than seven (7) feet in height, consisting of Masonry Materials that compliment the Principal Building.

iii. Perimeter access into Outside Storage areas shall not be oriented toward a Front Yard. Gates shall be required for such access and shall be opaque and architecturally compatible with the materials used on the Principal Building. A chain link fence or a variation of a chain link fence combination shall not constitute an acceptable gate material.

d. Storage Restrictions: All materials, product or merchandise stored in an Outside Storage area shall be stacked no higher than one (1) foot below the top of the wall.

2. Outside Sales Display:

a. Permitted Use: Outside Sales Displays, including vending machines, kiosks, and outdoor point of sale items (e.g., flowers, propane, salt, firewood), shall be prohibited, except for the following:

i. Automobile dealerships, and other similar uses as determined by the Director or Plan Commission.

ii. Outside Sales Displays that otherwise comply with the Outside Storage standards set forth in this Article.

iii. Merchandise associated with a temporary use or event conducted pursuant to *Article 6.18 Temporary Uses and Events*.

b. Approval: Any proposed Outside Sales Display shall be delineated on an approved Development Plan and subject to approval by the Plan Commission, except as otherwise permitted by *Article 6.18 Temporary Uses and Events*, and subject to the following:

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

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

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

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

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

D. **Industrial Districts:** Outside Storage may be permitted in the *OI: Open Industrial District*, subject to the following standards:

1. Yards: No Outside Storage shall be permitted in the Established Front

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Yard or in a Yard adjoining a Residential District.

2. Screening: Outside Storage areas shall be screened as follows:
   a. A wall shall extend perpendicular from the building, and then extending a minimum twenty-five (25) feet down each Side Yard. The wall shall be:
      i. A minimum of eight (8) feet in height, but shall not extend beyond the eave of the building's roofline.
      ii. Constructed with architectural block, brick or decorative tilt up concrete to be consistent with and compatible with the architectural character and materials of the building.
   b. At the termination of the wall, a fence, consistent with and compatible with the architectural character and materials of the building, shall encompass the remainder of the Outside Storage area and shall be a minimum of eight (8) feet in height and opaque.
   c. Materials stored outside shall not be stacked higher than one (1) foot below the top of the wall or fence. Equipment and vehicles shall be stored at their lowest state.
3. Storage Surface:
   a. An area fifty (50) feet in depth adjacent to the building and high-volume travel lanes in Outside Storage areas shall be hard surfaced with asphalt or concrete.
   b. The balance of areas used for Outside Storage shall, at a minimum, be finished with stone and have dust control measures implemented by the business during operation.
   c. Curbing shall not be required around Outside Storage areas.

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6.13 Outdoor Café and Eating Areas

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

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

C. **Lighting:** Shall comply with *Article 6.9 Lighting Standards*. Festoon lighting shall not be permitted.

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

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

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

F. **Required Approvals:**

1. Permanent Areas: Outdoor cafes and eating areas that are utilized or set aside for use for a period longer than seven (7) days in a calendar year shall be deemed permanent in nature. Permanent outdoor cafes and eating areas shall require Development Plan approval, in accordance with *Article 10.7 Development Plan Review*, to ensure compliance with this Ordinance and that its use and design is compatible with the surrounding area and Zoning District.
2. Temporary Areas: Temporary outdoor cafes and eating areas shall require a Temporary Use/Event Permit annually, in accordance with *Article 10.13 Temporary Use and Events Permits*, and shall obtain any other necessary permits (e.g., encroachment permit by the Public Works Department) or approvals (e.g., Fire Marshal).

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6.14 Parking and Loading Standards

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

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

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

1. Business and Professional Offices, Medical Facilities, Schools, Hotels, Clubs and Similar Businesses: One (1) loading berth for each 100,000 square feet of space or additional fraction thereof.
2. Industrial Manufacturing and Warehousing: One (1) loading berth for each 40,000 square feet or additional fraction thereof.
3. Other Local and General Business Uses:
   a. 5,000 sq. ft. to 10,000 sq. ft.: 1 loading berth
   b. 10,001 sq. ft. to 25,000 sq. ft.: 2 loading berths
   c. Over 25,000 sq. ft.: 1 additional berth for each 25,000 sq. ft. or fraction thereof.

D. **Site Access and Circulation:**

1. All proposed site access locations shall provide for the safe and efficient movement of vehicular and pedestrian movement to and from the proposed development.
2. Site circulation patterns shall be designed to minimize conflicts between vehicular and pedestrian traffic, and create a safe and efficient movement of both vehicular and pedestrian traffic in and around the site.
3. Where site access has been officially approved by an agency other than the City, the Plan Commission or Director shall not be compelled to include such approved access in the approval of a Development Plan or an Improvement Location Permit.

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

1. General Requirements:

   a. Drive-through lanes and required stacking spaces shall not interfere with parking space maneuvering aisles, parking drive aisles, loading spaces, internal site circulation, designated fire lanes or points of ingress and egress.
   b. Drive-through lanes and stacking spaces shall be designed to prevent vehicles from stacking in the Right-of-way.
   c. No stacking space may occupy any portion of a Right-of-way.
   d. A stacking space does not constitute a Parking Space.
   e. All drive-through and stacking lanes shall be delineated with pavement markings or otherwise distinctly delineated, as approved by the Department.

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

3. By-Pass Lane: A minimum eight (8) foot wide lane parallel to a drive-through lane shall be provided around the drive-through facility to allow vehicles to exit the drive-through lane and circumvent the stacking lane. This lane may be part of the site's overall circulation plan.

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

   a. Fast Food Restaurant: 7 stacking spaces
   b. Financial institutions: pharmacies, Takeout and Deli-style Restaurant with drive-through: 3 stacking spaces per service window
   c. All other facilities: 2 stacking spaces per service window

5. Reduction in Number of Spaces: If an Applicant demonstrates that strict compliance with the minimum number of stacking spaces is impracticable or would result in a less desirable site design, then the Department may approve a reduction of the stacking requirement. If determined by the Director, then demonstration by a qualified traffic engineer that a reduction in the stacking requirements is appropriate for the proposed use given the use's proposed intensity or the site's context may be required.

F. **Landscaping:** Parking and loading areas shall be screened in accordance with *Article 6.8 Landscaping Standards*.

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

1. Use: Except as may otherwise be provided for the parking of trucks or

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for special uses, required accessory off-street parking facilities required as accessory to uses listed herein, shall be solely for the parking of passenger vehicles or patrons, occupants or employees.

2. Location: Parking Spaces shall be located on the same Lot as the use served with the exception of parking facilities located on land other than the Lot on which the building or use served is located, in which case the Parking Spaces shall be located within three hundred (300) feet walking distance from the main entrance to the use served.

3. Computation: When determination of the number of off-street parking spaces required by this Article results in a requirement of fractional space, any fraction of one-half (0.5) or less may be disregarded; while a fraction in excess of one-half (0.5) shall be counted as one (1) parking space.

4. Collective Provisions for Nonresidential Uses: Off-street parking facilities for separate uses may be provided collectively if the total number of Parking Spaces so provided is not less than the sum of the separate requirements of each such use, and if all regulations governing the location of accessory Parking Spaces in relation to the use served are observed. But no Parking Space, or portion thereof, shall serve as the required space for more than one (1) use unless otherwise authorized.

5. Size: Off-street parking spaces shall be at least nine (9) feet in width and at least eighteen (18) feet in length, exclusive of access drives, aisles, ramps, columns, and office or work area. Such Parking Spaces shall have vertical clearance of at least seven (7) feet. Parallel Parking Spaces shall be a minimum of twenty-four (24) feet in length.

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

Chart: Angled Parking Drive Aisles

Angle of Parking Space	Aisle Width
45 degree	14 feet
60 degree	18 feet
90 degree	24 feet

7. Surfacing and Curbs:

   a. Public Parking Areas and loading and unloading berths shall be paved with a dust proof or hard surface. All open off-street Parking Areas shall be improved with a compacted gravel or stone base and surfaced with all-weather, dustless material, in accordance with the City's Construction Standards.

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b. The perimeter of all Parking Areas, and any islands located therein, shall be curbed and guttered, in accordance with the City's Construction Standards.
c. A stormwater collection, conveyance, detention and treatment system, designed in accordance with applicable City standards, policies and ordinances, shall be installed for all Parking Areas.
d. If the proposed on-site storm water quality best management practices require that curbing or alternative surfacing, or portions thereof, not be installed, then a waiver from the requirements of this subsection may be considered by the Public Works Department, in its discretion.

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

9. Shared Parking: Groups of users requiring Parking Spaces may join in establishing group Parking Area if all of the following criteria are met, with the approval of the Plan Commission or Director:
   a. Minimum Number of Parking Spaces Required: The shared Parking Spaces shall provide at least eighty percent (80%) of the cumulative total of Parking Spaces required for each use.
   b. Reciprocal Parking Agreement: A written reciprocal parking agreement, or other similar document, signed by all Property Owners involved is required and shall include provisions concerning at least the following items: easements (if applicable), maintenance, snow removal ownership, and liability. The agreement or other similar document shall be recorded in the County Recorder's office and a copy shall be provided to the Department.

10. Lighting: A system of lights shall be installed to provide an adequate standard of illumination over the entire Parking Area of business uses during business hours and minimum security illumination during nonbusiness hours. All lights shall be shielded so that minimum glare will extend to the adjacent property and meet the requirements of *Article 6.9 Lighting Standards*.

11. Required Spaces: Off-street Parking Spaces shall be provided as follows:
   a. Single-family Dwellings:
      i. SF5: One (1) space per Dwelling Unit
      ii. All other Zoning Districts: Two (2) spaces per Dwelling Unit
   b. Duplex Dwelling: Two (2) spaces per Dwelling Unit
   c. Multi-family Dwellings: Two (2) spaces per Dwelling Unit
   d. Hotels (or Motels): One (1) space for each room, plus one (1) space for each two (2) employees on day shift
   e. Religious Institution:
      i. SF4 and SF5 Districts: One (1) space per five (5) seats
      ii. All other Zoning Districts: One (1) space per three (3) seats
   f. Assembly Halls, auditoriums, theaters, and other similar uses: One

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(1) space for each five (5) seats

g. Medical Office: Three (3) spaces for each examining or treatment room, plus one (1) space for each doctor and employee

h. Restaurants: One (1) space for each three (3) seats of serving area, plus one (1) space for each employee on primary shift

i. Banks, savings and loans, and financial institutions: One (1) space per each three hundred (300) square feet of Gross Floor Area

j. Professional and General Service Offices: One (1) space per each three hundred (300) square feet of assignable office area

k. Gasoline Service Station: One (1) space for each employee, plus two (2) for each service stall

l. Industrial Uses not engaged in retail trade: One (1) space for each two (2) employees, as related to working period when the largest number of employees are employed on the premises

m. Downtown Zoning Districts: Parking Space requirements for uses in the following Zoning Districts may be waived by the Plan Commission or Director if determined sufficient parking alternatives are available in the City's downtown: *LB-H: Local Business / Historical District*, *[reserved for future use]*, *[reserved for future use]*, *[reserved for future use]*, *[reserved for future use]*, and *[reserved for future use]*.

n. Other Uses: Parking Space requirements for other uses shall be determined by the Director based upon data supplied by the Applicant in response to traffic and parking data requested to be furnished with the application for an Improvement Location Permit.

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

1. Number of Spaces: A minimum of one (1) bicycle parking space (or parking position) shall be provided per thirty (30) vehicular parking spaces. No more than fifteen (15) bicycle parking spaces shall be required for any Principal Building.

2. Proximity to Principal Building: the bicycle parking spaces shall be located in close proximity to the main entryway into the Principal Building or be located inside the Principal Building.

3. Rack Requirement: A bicycle rack, which may contain multiple bicycle parking spaces, shall be installed on a hard dustless surface that allows the parking structure to be securely fastened to the ground and that secures the bicycles.

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

5. Exemptions: Single-family Dwellings and Duplex Dwellings shall be exempt from this section. In addition, the Plan Commission or Director

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

6.15 Performance Standards

A. **Applicability:** This section shall apply to all uses in all Zoning Districts as set forth herein. The restrictions of this Article shall not apply to: (1) the activities of site preparation or construction, maintenance, repair, alterations, modification or improvement of buildings, equipment or other improvements on or within the Lot; (2) the operation of motor vehicles or other facilities for the transportation of personnel, materials or products; (3) conditions beyond the control of the user such as fire, explosion, accidents, failure or breakdown of equipment or facilities or emergencies; or (4) safety or emergency warning signals or alarms necessary for the protection of life, limb or property.

B. **General Requirements:** This section shall apply to Uses in all Zoning Districts. Please note that the Westfield Code of Ordinances; Chapter 34-30 et seq., as amended, also applies within the City's corporate limits.

1. Obnoxious Characteristics: No use shall exhibit obnoxious characteristics to the extent that it constitutes a public nuisance.
2. Fire Protection: Fire fighting equipment and prevention measures acceptable to the Fire Department and any federal, State, County, and/or local authorities that may also have jurisdiction shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive materials is conducted.
3. Electrical Disturbance: No use shall cause electrical disturbance adversely affecting radio, television or other equipment in the vicinity.
4. Noise: No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness or vibration. Said noise shall be muffled or otherwise controlled so as not to become detrimental, provided, however, public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.
5. Vibration: No use shall cause vibrations or concussions detectable beyond the Lot Lines without the aid of instruments.
6. Odor: No use shall emit across the Lot Lines malodorous gas or matter in such quantity as to be detectable at any point along the Lot Lines.
7. Air Pollution: No use shall discharge across the Lot Lines fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter, or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property, or conflict with public air quality standards.

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8. Heat and Glare: No use shall produce heat or glare in such a manner as to be a nuisance or create a hazard perceptible from any point beyond the Lot Lines.

9. Water and Solid Waste Pollution:

   a. No use shall produce erosion or pollutants in such quantity as to be detrimental to adjacent properties or conflict with public water quality standards.
   b. No authorization of a use under this Ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under Indiana State Code. Plans and specifications for proposed sewage and other waste treatment and disposal facilities shall be approved by authorities that may have jurisdiction.
   c. No use shall accumulate within the Lot or discharge beyond the Lot Lines any waste matter, whether liquid or solid, in conflict with applicable public health, safety and welfare standards and regulations.

C. **Industrial Uses:** This section shall also apply to Industrial Districts and all Industrial Uses.

1. Activity Restrictions: No activity involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted unless specifically approved and licensed by the City and then only in the *OI: Open Industrial District*. Such activity shall be conducted in accordance with the rules promulgated by the Indiana State Fire Marshal. Such materials shall include, but are not limited to, all primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, HMX, PET, and picric acid, propellants and components thereof, such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerin; unstable organic compounds such as acetylides, tetrazoles, and ozonides, strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than 35 percent; nuclear fuels, fissionable materials and products and reactor elements such as uranium 235 and plutonium 239.

2. Smoke:
   a. The emission of more than seventy (70) smoke units per hour per stack and emissions in excess of Ringelmann No. 2 are prohibited, except that for one hour during any 24-hour period, this rate may be increased to 80 smoke units per stack up to and including Ringelmann No. 3 for the purging, soot blowing and fire cleaning.
   b. *OI: Open Industrial District*: The emission of more than ninety (90) smoke units per hour per stack and emission in excess of Ringelmann No. 3 are prohibited, except that for a one hour period during the 24-hour period this rate may be increased to one hundred and twenty

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(120) smoke units per hour per stack, still at Ringelmann No. 3 for purposes of process purging, soot blowing and fire cleaning.

3. Particulate Matter: The rate of emission of particulate matter from an individual process within the boundaries of any Lot shall not exceed a figure of 0.06 pounds per 1,000 pounds of effluent gas for enclosed industrial use, not 0.2 pounds per 1,000 pounds of effluent gas for open industrial use. For enclosed industrial use and open industrial use not more than fifty percent (50%) by weight particles larger than 44 microns (325) mesh shall be allowed.

4. Odor: Any activity or operation which releases odors to the atmosphere shall be so controlled as to insure that it will produce no public nuisance or hazard at or beyond the nearest Residential District boundary line.

5. Poisonous and Injurious Fumes and Gases: The emission of toxic or injurious fumes and gases shall be controlled so as to comply with the following:

   a. The emission from any source shall not cause at or beyond any Lot Line, concentrations of toxic and/or injurious fumes and gases in excess of ten percent (10%) for an enclosed industrial use, and twenty-five percent (25%) for an open industrial use, of the threshold limit as set for the fume or gas in question in the "Threshold Limit Values for Toxic Materials in Industry" issued by the Indiana Department of Environmental Management, from the American Conference of Governmental Hygienists, latest issue.
   b. The emission of any gas or fumes across Lot Lines in such concentrations as to be detrimental to or endanger public health, safety, comfort and welfare or shall cause injury or damage to property or business is prohibited.

6. Glare and Heat: No use, operation, activity or structure shall cause heat or glare in such a manner as to be a public nuisance at or beyond any Residential or Business District boundary.

7. Vibration: Any use creating intense earthshaking vibrations (i.e., created by a heavy drop forge) shall be set back from a Residential District boundary at least two hundred and fifty (250) feet, or at least one hundred and fifty (150) feet from a Business District boundary. Earthshaking vibrations at the property line shall not be in violation of this Ordinance as long as the vibration is not perceptible without the aid of instruments.

8. Noise:

   a. Enclosed Industrial: At no point one hundred and twenty-five (125) feet from the boundary of an *EI: Enclosed Industrial District*, or any district which permits an enclosed Industrial Use, shall the sound pressure level of any operation or plant (other than background noises produced by sources not under the control of this Article) exceed the decibel limits in the Octave Bands designated below:

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CHART: MAXIMUM PERMITTED SOUND LEVELS FOR ENCLOSED INDUSTRIAL

Octave Band Frequency Cycles per Second	Max. Sound Level 125' from Adjoining Residential District Boundary	Max. Sound Level 125' from Adjoining Business District Boundary
0 to 75	75 decibels	80 decibels
76 to 150	70 decibels	75 decibels
151 to 300	65 decibels	70 decibels
301 to 600	59 decibels	64 decibels
601 to 1200	53 decibels	58 decibels
1201 to 2400	48 decibels	53 decibels
2401 to 4800	48 decibels	49 decibels
Above 4800	41 decibels	46 decibels

b. Open Industrial: At no point one hundred and twenty-five (125) feet from the boundary of an *OI: Open Industrial District* shall the sound pressure of any operation or plant (other than background noises produced by sources not under control of this chapter) exceed the decibel limits in the Octave Bands designated as follows:

CHART: MAXIMUM PERMITTED SOUND LEVELS FOR OPEN INDUSTRIAL

Octave Band Frequency Cycles per Second	Max. Sound Level 125' from Adjoining Residential District Boundary	Max. Sound Level) 125' from Adjoining Business District Boundary
0 to 75	75 decibels	81 decibels
76 to 150	70 decibels	76 decibels
151 to 300	66 decibels	72 decibels
301 to 600	62 decibels	68 decibels
601 to 1200	57 decibels	63 decibels
1201 to 2400	53 decibels	59 decibels
2401 to 4800	49 decibels	55 decibels
Above 4800	45 decibels	51 decibels

9. Fire Hazards: The storage, utilization or manufacture of solid materials, or products ranging from incombustible to moderate burning is permitted. The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted provide the following conditions are met:

   a. Materials shall be stored, utilized or manufactured in such a manner and protected by such means as approved by the Indiana State Fire Marshal; and
   b. Storage, utilization or manufacture of flammable liquids or gases, which produce flammable or explosive vapors, shall be permitted in accordance with the rules and regulations of the Indiana State Fire Marshall regulating the use, handling, storage and sale of flammable liquids - Official Regulation Number 5, effective July 23, 1973.

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6.16 Setback Standards

A. **Applicability:** This Article shall apply to all Zoning Districts.

B. **Measurement:** The measurement of any Building Setback Line or Building Separation is the shortest distance between the Building Façade or foundation and the Lot Line or Right-of-way line, whichever is closest. In the case of Private Streets, the Building Setback Line shall be measured from the edge of pavement or the access easement line, whichever is greater.

C. **Minimum Building Setback Lines:** The minimum Building Setback Lines and minimum Building Separation requirements shall be as set forth in this Ordinance (see also *CHAPTER 4: ZONING DISTRICTS* and *CHAPTER 5: OVERLAY DISTRICTS*).

D. **Minimum Building Separation:** If a minimum Building Separation requirement is not otherwise provided by the Zoning District of a Lot that permits multiple Principal Buildings, then the minimum Building Separation requirement of the Zoning District's minimum Side Yard Building Setback Line shall apply.

E. **Established Areas:** Where twenty-five percent (25%) or more of the Lots in a Block Frontage are occupied by buildings, then the average Building Setback Line of buildings on that Block determine the location of the Building Setback Line for the Block Frontage in lieu of the Building Setback Lines contained in this Ordinance.

F. **Recorded Subdivision Setback Lines:** Building Setback Lines established in a recorded Subdivision shall establish the setback of buildings in such subdivisions, except when such Building Setback Lines may be less restrictive than provided in this Ordinance.

G. **Building Line Exception:** In any Subdivision a variance of ten percent (10%) in the minimum Building Setback Line may be permitted as long as the minimum Lot Area requirement is not lessened; provided further, this exception may only be applicable to ten percent (10%) of the Lots in the Subdivision. In calculating the number of Lots eligible, any fraction shall be considered as the next highest whole number.

H. **Side-Load Garages:** The Minimum Building Setback Line for a Side Yard in a Major Subdivision in a Single-family District may be reduced to five (5) feet for Dwellings with a side or courtyard loading garage; however, the Lot's aggregate Building Setback Lines for the combined Side Yards shall be a minimum of the District's Minimum Building Setback Line for a Side Yard multiplied by two (2).

I. **Front Yard Building Setback Lines (Street Trees):** If a Lot is adjacent to a Right-of-way that includes Street Trees within the Right-of-way in accordance with Article 6.8 Landscaping Standards, then the Lot's Front Yard Minimum Building Setback Line, as established by the District in which the Lot is located, shall be reduced by three (3) feet; however, the Lot's minimum Driveway length shall be twenty (20) feet, as measured from the Right-of-way line.

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J. **Vision Clearance:** Regardless of the minimum setback requirements set forth herein, all Improvements are subject to *Article 6.19 Vision Clearance Standards*, unless specifically exempted elsewhere in this Ordinance.

6.17 Sign Standards

A. **Purpose and Intent:** The community wishes to establish sign regulations for the design, placement, and maintenance of signs which provide a reasonable and impartial means to permit communication, protect the public health, safety, and general welfare, minimize hazards to pedestrians and motorists along Streets and at intersections, enhance the aesthetic environment of the community, safeguard property values, minimize possible adverse effects of signs on nearby property, protect public and private investment in buildings and open space and implement relevant provisions of the comprehensive plan as updated on an annual basis. The community wishes to balance the rights of businesses to identify themselves with the rights of the public to have uncluttered, safe and attractive public rights-of-way. The responsible regulation of signs will foster business opportunities and improve the quality of life in the community.

B. **Applicability:** This Article shall apply to all Signs in all zoning districts in Washington Township, Hamilton County, Indiana, including but not limited to changes in Sign Copy. However, the owner of any sign that is otherwise allowed by this ordinance may substitute noncommercial copy in place of any other commercial or noncommercial copy without the issuance of a permit.

C. **Permits:** A sign permit shall be required for all signs unless otherwise permitted under other applicable law or unless otherwise exempted herein. The Director shall have the authority to review and decide upon sign permit applications. See *Article 10.10 Sign Permits*. If the proposed sign plan is in compliance with the requirements of this Ordinance, then a sign permit shall be issued.

D. **Exemptions:** Exemptions from the standards of this Article and sign permit requirement shall include:

1. Scoreboards for public and private Recreational Facilities and institutions that do not provide for commercial or business advertising displays.
2. Flags of commercial or noncommercial institutions if the following conditions are met:
   a. Shall be displayed on a flag pole;
   b. May only be displayed with an accompanying United States flag on the same flagpole or nearby flag pole within the same display;
   c. Shall be subordinate in size to the accompanying United States flag;
   d. May be displayed at the rate of no more than one (1) commercial or noncommercial institution flag per displayed United States flag; and
   e. All flags shall be displayed per U.S. Code 36-10.

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3. Lettering or symbols placed directly onto a licensed and operable motor vehicle or trailer operating in the normal course of business provided that a vehicle or trailer is not parked or positioned solely for advertising purposes.
4. Signs which do not advertise products, goods, business services, or identify businesses, and which are not permanently affixed to the ground nor to any surface and which do not exceed four (4) square feet in surface area. The owner of any sign that is otherwise allowed herein may substitute noncommercial copy in place of any other commercial or noncommercial copy without the issuance of any permit.
5. Text or logos not exceeding three (3) inches in height, appearing on gasoline pumps or automatic teller machines (ATM).
6. Signs appearing on permitted newspaper vending boxes, DVD/CD vending boxes, soda machines, and other similar vending boxes.

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

1. Signs or sign structure similar in coloring, shape, function or location nor resemble, conflict with or be confused with any approved traffic-control sign or device.
2. Signs that create a safety hazard for vehicles or pedestrians, as determined by the Department of Public Works.
3. Signs placed in any Right-of-way, except publicly owned traffic-control and transit signs, informational, identification, directional signs, and temporary signs, as regulated by this Article.
4. Pole Signs.
5. Off-premise Signs; except as otherwise permitted by this Article.
6. Display of temporary signs such as banners, flags, posters, pennants, ribbons, streamers, spinners, strings of lights, feather flags or signs, balloons or inflatable signs; except as otherwise permitted by this Article.
7. Signs projecting into the Right-of-way; except that a business Sign mounted on a building may be permitted to project eighteen (18) inches from the face of a Building Façade or as otherwise granted by the Council or designee.
8. Signs mounted on a roof or that extend above an eave or parapet of a Building Façade.
9. Signs that revolve, flash, blink, swing or appear to move.
10. Signs affixed to trees, fence posts, utility poles or other support structures.
11. Sign placed on a personal or commercial vehicle or trailer which is then parked or positioned for the primary purpose of displaying the Sign.
12. Manual changeable copy signs.

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F. **General Sign Regulations:** All Signs shall conform to the following:

1. Maintenance and Repair:
   a. All Signs and sign structures shall be kept and maintained in a good state of repair and in a safe condition at all times. Maintenance and repair shall include, but not be limited to:
      i. The replacement of defective parts.
      ii. The replacement of missing or damaged sign panels, supports or other components and parts.
      iii. Cleaning Sign and sign structure components.
      iv. Repainting Sign and sign structure components.
   b. Replacing damaged Sign panels with different Sign Copy does not constitute maintenance and repair. Replacing damaged sign panels with different Sign Copy shall be treated as replacing any Sign with new Sign Copy.
   c. Taking a Sign or sign structure down for the purposes of maintenance and repair is permitted.
2. Abandoned Signs:
   a. Abandoned Sign Copy shall be removed by the Property Owner or lessee of a site upon which the sign is located within three (3) months after the business or service advertised by the sign ceases operations.
   b. Legally existing sign foundations and structures with copy removed may remain upon a site for twenty-four (24) months with the Property Owner's written consent provide that the foundations and structure are maintained pursuant to this Article.
3. Lines of Sight: All Signs shall comply with *Article 6.19 Vision Clearance Standards*.
4. Illumination: Illumination of signs shall be regulated pursuant to *Article 6.9 Lighting Standards*. In addition, illuminated signs for nonresidential uses shall be setback a minimum distance of twenty-five (25) feet from any Residential district.
5. Sign Area: In no instance shall a permitted nonresidential use or tenant be restricted to less than twenty-five (25) square feet of Sign Area, nor shall any permitted nonresidential use or tenant be permitted to display more than five (500) hundred square feet of Sign Area.
6. Electronic Signs: Electronic Signs shall comply with the following:
   a. Electronic Signs shall be limited to Monument Signs, with the following exception:
      i. Gasoline Service Station: Electronic Signs on a Wall Sign shall be permitted for Gas Price Signs.
   b. The entire electronic display area for Electronic Sign shall count toward the permitted Sign Area, as applicable to the type of sign (e.g., Monument Sign) and as permitted in this Article.

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c. The maximum height of any letter, number or character shall be twenty (20) inches.
d. An Electronic Sign shall not exceed fifty percent (50%) of the Sign Area of the Sign, as permitted by this Article, on which it is located; however, in no instance shall an Electronic Sign exceed sixty (60) square feet, per face.
e. The effects or use of moving, flashing, blinking, animation, scrolling, twirling, or other similar effects (including but not limited to video) are prohibited.
f. Changes of image shall not occur more than once per hour, except for displays containing only time and/or temperature.
g. Changes of image shall be instantaneous as seen by the human eye and shall not use fading, rolling, window shading, dissolving, or similar effects as part of the change.
h. Electronic Signs shall use automatic level controls to reduce light levels at night and under cloudy and other darkened conditions, in accordance with the standards established in this subsection. All Electronic Signs shall have installed ambient light monitors and at all times shall allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions. Maximum brightness levels for Electronic Signs shall not exceed five thousand (5,000) nits when measured from the Sign's face at its maximum brightness, during daylight hours, and five hundred (500) nits when measured from the Sign's face at its maximum brightness between sunset and sunrise.

7. Identification with the City: Signs located at the entrances of developments are encouraged to include, as an integral part of the sign design, the words "of Westfield" following any designation of an industrial park, office park, multi-family development, Subdivision or Nonresidential Center name and alike. The size of the words "of Westfield" are encouraged to be a minimum of fifty percent (50%) of the size of the development's name on the Sign and shall not count toward the Sign's otherwise permitted Sign Area. Where "of Westfield" is used on a Sign, then the design and material used to include this wording is encouraged to be the same as the other lettering on the sign. The objective of this paragraph may also be achieved if the word "Westfield" is part of the development's name on the Sign.

8. Identification with Grand Park: If Signs include Grand Park™ trademark, the use of such trademark shall not count toward the Sign's otherwise permitted Sign Area.

9. Reverse Channel Letters: Reverse channel letters may be used in accordance with the following:

a. Shall comply with *Article 6.9 Lighting Standards*.
b. Individually mounted letters may be used; however, if the letters are mounted on a track, then the track shall be the same color as the

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background building material on which the track is mounted.

10. Window Signage:
    a. Maximum Sign Area: Twenty-five (25) percent of the window pane.
    b. Maximum Height: No maximum.
    c. Installation: The use of florescent colors is prohibited, excluding small signs used inside businesses to indicate that they are open for business.
    d. Removal: Damaged or faded Signs shall be removed or maintained to "new" appearance.
    e. Maximum Number of Signs: No Maximum.
    f. Sign Permit: No permit required.
11. Monument Signs:
    a. Materials: Monument Signs shall incorporate a sign base consisting of Masonry Materials. Masonry Materials shall compliment the color and texture of materials used on the Front Building Façade of the Lot's Building(s).
    b. Landscaping: Shall include landscaping around the base of the Monument Sign. See *Article 6.8 Landscaping Standards* for landscaping details.

G. **Residential Signs:**

1. Monument Signs: Subdivisions and developments for Single-family and Multi-family Dwellings shall be permitted one (1) of the following to be located at the entrance(s) of the development:
    a. One (1) Monument Sign per development entrance not to exceed nine (9) feet in height and thirty-two (32) square feet of Sign Area per sign face; or,
    b. Two (2) separate sign display areas per entrance, provided that the Sign Area is directly incorporated into an entrance landscape feature, wall, or other decorative feature. In no instance shall the Sign Area exceed fifteen (15) feet in height or fifty (50) square feet per Sign.
2. Home Businesses:
    a. Home Businesses shall be permitted one (1) sign per Dwelling which shall not exceed four (4) square feet in total sign area; and
    b. Home Business signs shall only be affixed to a wall or door of the structure containing the business.
3. Permitted nonresidential uses located in Residential Districts shall be allowed signage as per Individual Nonresidential Signs set forth below.
4. Temporary Signs shall be permitted as set forth in this Article.

H. **Individual Nonresidential Signs:** All Individual Nonresidential Uses shall be permitted signage as set forth below, unless otherwise permitted by this Article. Outlots of Nonresidential Centers are not considered individual uses and are regulated as set forth in this Article for Outlot Signage.

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1. Sign Area: The total Sign Area Allocation permitted shall be one (1) square foot of Sign Area for each one (1) linear foot of building fronting on a public Right-of-way. The total permitted Sign Area Allocation may be divided between Monument, Wall, Awning, Projecting Signs (projecting signs permitted in downtown only), and all legally-established nonconforming Signs. Both sides of a Monument or Projecting Sign shall count against Sign Area Allocation for a site.
2. Monument Signs: A maximum of one (1) Monument Sign shall be permitted for each public Street Frontage per Lot in accordance with the following:
   a. Maximum Sign Area: Sixty (60) square feet per sign face. Sign caps and bases shall not be used for sign display purposes and shall not count towards the Sign Area calculation.
   b. Maximum Sign Height: Six (6) feet; however, may be nine (9) feet only when incorporating a sign base and sign cap features. Monument signs incorporating a cap or base shall have a minimum base height of six (6) inches, a maximum base height of twenty-four (24) inches and a minimum cap height of two (2) inches. Total aggregate sign cap and base height shall not exceed three (3) feet.
   c. Maximum Sign Width: Twelve (12) feet.
3. Interior Circulation Sign(s): Interior circulation signage containing traffic directing information only (such as "Enter", "Exit", "Do Not Enter", etc.) shall be permitted as follows:
   a. Maximum Sign Area: Two (2) square feet. Interior Circulation Signs are not deducted from the Sign Area Allocation.
   b. Maximum Sigh Height: Three (3) feet.
   c. Business Identification: May contain wording, logos, symbols or emblems related to the use.
4. Setbacks: All Signs shall conform to the Zoning District's Side and Rear Yard Building Setback Line requirements and in addition, shall have a minimum Front Yard or Right-of-way setback requirement of five (5) feet from a Lot Line or Right-of-way.

I. **Downtown:** Signs within the *LB-H: Local Business / Historical District* shall be regulated per Individual Nonresidential Signs as set forth above. In addition, Projecting Signs, which do not exceed sixteen (16) square feet in Sign Area and Temporary Signage, as set forth herein, shall be permitted.

J. **Nonresidential Center Signs:** All Nonresidential Centers in the *LB-H: Local Business / Historical District* shall be regulated as set forth above. All other Nonresidential Centers shall be permitted Signs as set forth below, unless otherwise permitted by this Article:
1. Sign Plan: A sign plan shall be submitted for a Nonresidential Center prior to receiving the first sign permit for the center or its tenants. The sign plan shall include:
   a. Site plan, to scale, depicting the location of all signage.

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b. Building elevation, to scale, depicting the approximate location of all Wall, Awning and under-canopy Signs.
c. Description of uniform lighting method (for example: reverse channel, channel, panel, exterior above, or exterior below lighting). Landscape Plan for all Monument Signs.

2. Monument Sign(s) (Center Only): Nonresidential Centers shall be permitted one (1) Monument Sign per Nonresidential Center in accordance with the following:

a. Sign Area and Height: Shall not exceed the following:
i. Nonresidential Centers with total square footage of all buildings less than 25,000 square feet: Nine (9) feet in Sigh Height and sixty (60) square feet of Sign Area, per face.
ii. Nonresidential Centers with total square footage of all buildings between 25,000 and 100,000 square feet: Fifteen (15) feet in Sign Height and one hundred and twenty (120) square feet of Sign Area, per face.
iii. Nonresidential Centers with total square footage of all buildings greater than 100,000 square feet: Twenty-five (25) feet in Sign Height and two hundred and fifty (250) square feet of Sign Area, per face.
b. Sign Base Height: Shall have a minimum base height of six (6) inches and a minimum cap height of two (2) inches. Total aggregate sign cap and base height shall not exceed six (6) feet. Sign caps and bases shall not be used for display or advertising purposes and shall not count towards the Sign Area Calculation.
c. Sign Copy: The replacement of individual panels does not require a sign permit.

3. Entrance Sign(s) (Center Only): In addition to a Monument Sign, a Nonresidential Center shall be permitted one (1) Entrance Sign per point of ingress which shall be limited to a maximum Sigh Height of six (6) feet, maximum Sign Area of thirty (30) square feet per sign face, and shall not contain tenant information.

4. Interior Circulation Signs: Interior Circulation Signs containing traffic directing information only (such as "Enter", "Exit", "Do Not Enter", etc.) shall be permitted as follows:

a. Maximum Sign Area: Two (2) square feet and shall not be deducted from the Sign Area Allocation.
b. Maximum Sign Height: Three (3) feet.
c. Business Identification: May contain wording, logos, symbols or emblems related to the use.

5. Center In-Line Tenant Signage: All in-line tenants of Nonresidential Centers shall be permitted Wall Signs as set forth below. Center in-line tenants shall not be permitted individual Monument Signs.

a. Sign Area Allocation:

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i. Front Façade: Two (2) square feet of signage of each linear foot of the tenant's front Building Façade. All in-line tenants shall have only one (1) front façade, that being the Building Façade with the tenant's primary public entrance.
ii. Side Façade: One (1) square foot of signage for each linear foot of the tenant's side Building Façade.
iii. Rear Façade: One (1) square foot of signage for each linear foot of the tenant's rear Building Façade.

b. Location: Shall be located within the Sign Plane and shall not obscure any architectural enhancements or features (e.g., changes in materials) of the Building Façade. A Wall, Under Canopy, and Awning Sign shall only be located on the Building Façade from which its Sign Area Allocation was derived.

c. Sign Area: Shall not exceed fifty percent (50%) of the Sign Plane; however, the total permitted Sign Area Allocation per façade may be divided between all, Under Canopy, and Awning Signs.

6. Two-Story, Multi-Tenant Signage:

a. Ground Floor In-Line Tenant Signage:
i. All ground floor in-line tenants of two-story, multi-tenant structures shall be regulated per above for Center In-Line Tenant Signage.
ii. Ground floor in-line tenant signs shall be located on a Building Façade and shall not be located higher than twenty-six (26) feet, from grade.
iii. Ground floor in-line tenants shall not be permitted individual Monument Signs.

b. Second Floor Tenant Signage: Second floor tenant signs shall be located on the Front Building Façade and permitted as follows:
i. The sign area allotment shall be calculated at the rate of 0.35 square foot of signage for each linear foot of the Front Building Façade. The total permitted second floor sign area allocation may be divided between wall and awning signs.
ii. Each two-story, multi-tenant structure shall be permitted second-floor tenant signage using the following chart:

Chart: Second Floor Tenant Signage

Linear Feet of Front Building Façade	Number of Signs Allowed
0 to 199 feet	1
200 to 399 feet	2
400 feet or greater	3

iii. All second floor tenant signs shall be located no less than twenty-six (26) feet above grade on the Front Building Façade.
iv. No tenant shall be permitted more than one (1) sign on the Front Building Façade.

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v. Each patron entrance for second floor tenants is permitted one (1) wall directory sign OR one (1) ground directory sign AND one (1) building identification sign in accordance with the following:
   (a) Directory Signs:
      (1) General: Shall be located within fifteen (15) feet of the patron entrance for second floor tenants and shall not be illuminated.
      (2) Wall Directory Signs: Shall not exceed four (4) square feet in size and shall not be located more than five (5) feet above grade.
      (3) Ground Directory Signs: Shall not exceed six (6) square feet per face and shall not exceed five (5) feet in height from grade.
   (b) Building Identification Signs:
      (1) General:
         (i) One (1) building identification sign is permitted per patron entrance.
         (ii) Shall be located either on an exterior wall above a patron entrance OR on a canopy over a patron entrance.
         (iii) Shall not include tenant information.
         (iv) Shall not be illuminated.
      (2) Building Identification Signs on a Canopy:
         (i) Shall not exceed twelve (12) inches in height.
         (ii) Shall not exceed twelve (12) feet in length.
         (iii) Channel letters and sign panels are prohibited from use on building identification signs on a canopy.
         (iv) Reverse channel letters are permitted.
      (3) Other Building Identification Signs:
         (i) Shall not exceed six (6) inches in height.
         (ii) Shall not exceed six (6) feet in length or the width of the patron entrance doorway, whichever is less.
         (iii) Building identification signs shall not protrude from the Building Façade.
         (iv) Channel letters, reverse channel letters, and sign panels are prohibited from use on building identification signs.
         (v) Transom window signs are permitted and may exceed the provisions otherwise set forth herein.
vi. Second Floor Tenant signage and directory signage is not eligible for the sign area bonuses.
vii. Second floor tenants shall not be permitted individual Monument Signs.

7. <u>Multi-Story, Multi-Tenant Signage (Three Stories or More):</u>
   a. <u>Ground Floor In-Line Tenant Signage:</u>
      i. All ground floor in-line tenants of two-story, multi-tenant

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structures shall be regulated per above for Center In-Line Tenant Signage.

ii. Shall not be located higher than twenty-six (26) feet, from grade.

iii. Ground floor in-line tenants shall not be permitted individual Monument Signs.

b. Upper Floor Tenant Signage:

i. Second Floor Tenant signage, as defined herein, is prohibited on structures three (3) or more stories.

ii. Each multi-story, multi-tenant structure shall be permitted one (1) Wall Sign per each Building Façade adjacent to a Public Right-of-way.

iii. The sign-area allotment shall be calculated at the rate of one percent (1%) of the Building Façade's square footage, including fenestration.

iv. Upper Floor Tenants signs shall be located at the top edge of the Building Façade.

v. Each patron entrance for second floor tenants is permitted either (i) one (1) wall directory sign; or (ii) one (1) ground directory sign and one (1) building identification sign:

(a) Directory Signs: Shall be located within fifteen (15) feet of the patron entrance for second floor tenants and shall not be illuminated.

(b) Wall Directory Signs: Shall not exceed four (4) square feet in size and shall not be located more than five (5) feet above grade.

(c) Ground Directory Signs: Shall not exceed six (6) square feet per face and shall not exceed five (5) feet in height from grade.

(d) Building Identification Signs:

(1) General:

(i) One (1) building identification sign is permitted per patron entrance.

(ii) Shall be located either on an exterior wall above a patron entrance OR on a canopy over a patron entrance.

(iii) Shall not include tenant information.

(iv) Shall not be illuminated.

(2) Building Identification Signs on a Canopy:

(i) Shall not exceed twelve (12) inches in height.

(ii) Shall not exceed twelve (12) feet in length.

(iii) Channel letters and sign panels are prohibited from use on building identification signs on a canopy.

(iv) Reverse channel letters are permitted.

(3) Other Building Identification Signs:

(i) Shall not exceed six (6) inches in height.

(ii) Shall not exceed six (6) feet in length or the width of

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the patron entrance doorway, whichever is less.

(iii) Shall not protrude from the Building Façade.

(iv) Channel letters, reverse channel letters, and sign panels are prohibited from use on building identification signs.

(v) Transom window signs are permitted and may exceed the provisions otherwise set forth herein.

vi. Upper foot tenant signage and directory signage is not eligible for the sign area bonuses.

vii. Upper floor tenants shall not be permitted individual monument signs.

8. Outlot Signage:

a. Sign Area: All Outlots of nonresidential centers shall be permitted one (1) square foot of sign area for each one (1) linear foot of building fronting on a Public Right-of-way.

b. Sign Type: The total permitted sign area allocation may be divided between Wall, Awning, and Under Canopy Signs; however, all Sign Area shall be deducted from the total sign allocation for the Outlot. Outlots within a nonresidential center shall not be permitted Monument Signs.

c. Location: Signs may be located on any Building Façade.

9. Under Canopy Signs: Under Canopy Signs shall only be permitted in Business Zoning Districts and shall conform to the following regulations:

a. Shall be placed under canopies or roof overhangs.

b. Shall not exceed one (1) per building entrance.

c. Shall not exceed three (3) square feet in Sign Area and shall not count toward the business's permitted Sign Area allotment.

d. Shall not be separately illuminated.

e. Shall contain only the address, logo, or name of the occupant or business served by the entrance.

K. **Temporary Signage:** Temporary signs shall be permitted as follows:

1. General:

a. Shall not be placed or erected upon any public infrastructure including, but not limited to, telephone poles, benches, regulatory signs, trash cans and right-of-way fences.

b. Shall not obstruct vehicular Lines of Site, as set forth herein.

c. Shall not be erected within five (5) feet of a Public Right-of-Way surface or, if a curb exists, within five (5) feet of a Public Right-of-Way's back-of-curb.

d. Shall not obstruct or be placed upon sidewalks, pathways or other pedestrian infrastructure.

e. Shall not be illuminated.

2. Construction Signs: Signs advertising construction projects, provided that such Signs shall not exceed sixty-four (64) square feet per face, are

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placed wholly on the subject property, do not exceed ten (10) feet in height, are limited to a maximum of one (1) sign per Street Frontage, and shall be removed at the end of construction.

3. Residential Event Signs:
   a. Maximum Sign Area (per side): Six (6) Square Feet.
   b. Maximum Sigh Height: Three (3) Feet.
   c. Installation: Residential Event Signs shall not be erected or installed more than five (5) days prior to the advertised event.
   d. Removal: Residential Event Signs shall be removed immediately after the advertised event.
   e. Maximum Number of Signs Per Event: Five (5) Signs.
   f. Permit: No permit required.
4. Nonresidential Special Event Signs:
   a. Maximum Sign Area (per side): Six (6) Square Feet.
   b. Maximum Sign Height: Four (4) Feet.
   c. Installation: Nonresidential Special Event Signs shall not be erected or installed more than thirty (30) days prior to the advertised event.
   d. Removal: Nonresidential Special Event Signs shall be permitted to remain for no longer than five (5) days after the advertised event.
   e. Maximum Number of Signs Per Event: One hundred (100).
   f. Frequency: The same event is allowed Nonresidential Special Event Signs no more than two (2) times within a twelve (12) month period.
   g. Permit: No permit required.
5. Real Estate Signs:
   a. Open House Directional Signs:
      i. Maximum Sign Area (per side): Six (6) Square Feet.
      ii. Maximum Sign Height: Three (3) Feet.
      iii. Installation: Shall not be erected or installed more than two (2) days prior to the open house event.
      iv. Removal: Shall be removed immediately after the open house event.
      v. No permit required.
   b. Residential Real Estate Signs:
      i. Maximum Sign Area (per side): Six (6) Square Feet.
      ii. Installation: Shall only be erected or installed on the parcel that is being marked for sale.
      iii. Removal: Shall be removed immediately after the closing of the parcel being marketed.
      iv. Maximum Number of Signs: One (1) per street frontage.
      v. No permit required.
   c. Nonresidential Real Estate Signs.
      i. Maximum Sign Area (per side): Sixty-four (64) Square Feet.
      ii. Maximum Sign Height: Six (6) Feet.
      iii. Installation: Shall only be erected or installed on the parcel that is being marketed for sale.

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iv. Removal: Shall be removed immediately after the closing of the parcel being marketed.
v. Maximum Number of Signs: One (1) sign for every five hundred (500) feet of street frontage.
vi. No permit required.

d. Acreage For Sale Signs:
i. Maximum Sign Area (per side): Thirty-two (32) Square Feet.
ii. Maximum Sigh Height: Eight (8) Feet.
iii. Installation: Shall only be erected or installed on land that is at least three (3) acres in size and is being marketed for sale, rental, or lease.
iv. Removal: Shall be removed immediately after the closing or lease signing of the land being marketed.
v. Maximum Number of Signs: One (1) per street frontage.
vi. No permit required.

6. Builder/Developer Signs:

a. Builder/Developer Directional Signage Off-Site:
i. Maximum Sign Area (per side): Six (6) square feet.
ii. Maximum Sign Height: Three (3) feet.
iii. Installation: Signs shall not be erected or installed until Friday evenings at 6:00 p.m.
iv. Removal: Signs shall be removed by 8:00 p.m. Sunday evenings.
v. Maximum Number of Signs: Six (6).
vi. No permit required.

b. Builder/Developer Directional Signage On-Site:
i. Maximum Sign Area (per side): Six (6) square feet.
ii. Maximum Sign Height: Three (3) feet.
iii. Installation: Signs shall be erected within the development and not visible from the off-site adjacent Arterial or Collector.
iv. Removal: Signs shall be removed at time of turnover to a homeowners' association or when eighty percent (80%) of the development's Lots are sold.
v. Maximum Number of Signs: Unlimited.
vi. No permit required.

c. Builder/Developer Kiosk Directional Signage On-Site:
i. Maximum Sign Area (per side): Eighteen (18) square feet.
ii. Maximum Sigh Height: Six (6) feet.
iii. Installation: Signs shall be erected within the development and shall not be located outside the subdivision entrance signage.
iv. Removal: Signs shall be removed at time of turnover to a homeowners' association of when eighty percent (80%) of the development's Lots are sold.
v. Maximum Number of Signs: One (1) per development entrance.
vi. No permit required.

d. Home Remodeling Signs or Home Construction Signs:
i. Maximum Sign Area (per side): Six (6) square feet.

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ii. Installation: Shall only be erected or installed on the Lot on which the advertised business is conducting remodeling or construction activities and shall not be erected or installed prior to the advertised business commencing remodeling or construction activities.

iii. Removal: Home Remodeling Signs or Home Construction Signs shall be removed immediately upon completion of work activities.

iv. Maximum Number of Signs: One (1) per street frontage for each business entity.

v. No permit required.

e. Builder/Developer Sequential Sign Collections:

i. Residential (Not Multi-family Dwellings):

(a) Maximum Sign Area (per side): Fifteen (15) square feet.

(b) Maximum Sign Height: Six (6) feet.

(c) Installation:

(1) Shall be erected within the development.

(2) Shall only be allowed on Local Streets.

(3) Shall be fastened to Decorative Poles.

(d) Removal: Signs shall be removed at time of turnover to a homeowners' association or when eighty percent (80%) of the development's Lots are sold.

(e) Maximum Number: One (1) per development entrance.

(f) Maximum Number per Builder/Developer Sequential Sign Collection: Five (5)

(g) Maintenance:

(1) Signs and Decorative Poles shall be maintained to look like new.

(2) Any Sign or Decorative Pole that does not look like new, as determined by the Director, shall be replaced or removed.

(h) Any Sign or Decorative Pole that has been determined to not look like new may be removed by the Director, or designee, at the cost of the Builder/Developer.

(i) Permit:

(1) A sign permit is required for all new Builder/Developer Sequential Sign Collections.

(2) A sign permit is required when there is a change in graphics to the Builder/Developer Sequential Sign Collections display.

(3) A sign permit is not required when performing routine maintenance of the Builder/Developer Sequential Sign Collections or pole.

(4) A sign permit is not required when replacing Builder/Developer Sequential Sign Collections that do not look like new with new, identical Builder/Developer Sequential Sign Collections.

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ii. Multi-family Dwellings:
(a) Maximum Sign Area (per side): Fifteen (15) square feet.
(b) Maximum Sigh Height: Six (6) feet.
(c) Installation:
(1) Shall be erected within the development.
(2) Shall only be allowed on Local Streets, Private Streets or private drives within the development;
(3) Signs shall be fastened to Decorative Poles.
(4) Signs do not count against any Residential Signs otherwise permitted herein.
(5) Changing sign display information does not require a new permit.
(d) Removal: None required.
(e) Maximum Number of Builder/Developer Sequential Sign Collections: One (1) per development entrance.
(f) Maximum Number of Signs per Builder/Developer Sequential Sign Collection: Five (5)
(g) Maintenance:
(1) Signs and Decorative Poles shall be maintained to look like new.
(2) Any Sign or Decorative Pole that does not look like new, as determined by the Director, shall be replaced or removed.
(3) Any Sign or Decorative Pole that has been determined to not look like new may be removed by the Director, or designee, at the cost of the property owner of record.
(h) Permit:
(1) A sign permit is required for all new Builder/Developer Sequential Sign Collections.
(2) A sign permit is required when there is a change in graphics to the Builder/Developer Sequential Sign Collections display.
(3) A sign permit is not required when performing routine maintenance of the Builder/Developer Sequential Sign Collections or pole.
(4) A sign permit is not required when replacing Builder/Developer Sequential Sign Collections that do not look like new with new, identical Builder/Developer Sequential Sign Collections.

iii. Nonresidential: Builder/Developer Sequential Sign Collections are not permitted for nonresidential uses.

7. <u>Banner Signs:</u>
a. Maximum Sign Area (per side): Thirty-two (32) square feet.
b. Maximum Sign Height: Eight (8) feet.
c. Maximum Sign Length: Ten (10) feet
d. Installation: Shall be permitted in nonresidential districts and for nonresidential uses in residential districts.

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e. Frequency: Shall be limited to fifteen (15) consecutive days per quarter.
f. Maximum Number of Signs: One (1) per use, per street frontage.
g. Permit required.

8. Sandwich Board Signs:

a. General:
   i. The placement of sandwich board signs shall not impede pedestrian or vehicular traffic.
   ii. Shall not exceed six (6) square feet per sign face.
   iii. Shall not exceed three and one-half (3.5) feet when measured from the outside of a sign support and/or sign face.
   iv. Sigh height shall not exceed five (5) feet when measured from the ground to the top of a sign face or sign support structure.
   v. Shall have a base support and the base support shall be weighted with a minimum ten (10) pound ballast to ensure sign stability.
   vi. Shall not be permanently affixed to any structure or sidewalk.
   vii. Placement of sandwich board signs in a public right-of-way shall require approval by the Council, or designee.
b. Residential Districts:
   i. One (1) sandwich board sign shall be permitted per entrance from a public right-of-way per subdivision.
   ii. Sandwich board signs advertising subdivision events may be placed in the common area adjacent to the subdivision entrance from a Right-of-way.
   iii. Shall be posted for no more than seven (7) consecutive days.
c. Business Districts:
   i. One (1) sandwich board sign shall be permitted per individual commercial or business use.
   ii. Sandwich board signs shall not count toward the total sign allotment for a commercial use or business.
   iii. Signs must be removed at the end of each business day.
   iv. Signs shall only be placed within ten (10) feet of, and directly in front of, a business's Façade having a public entrance, as illustrated in the figure.

FIGURE 6.17(A): PERMITTED SANDWICH BOARD LOCATION

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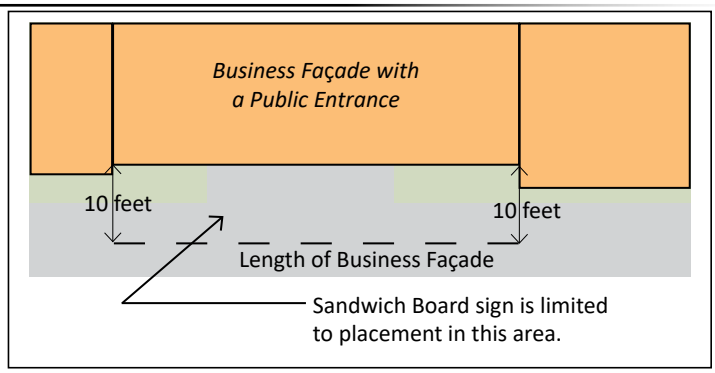

d. Ornamental Banners: The purpose and intent of permitting Ornamental Banners within this section is to provide a temporary themed, uniform, festive display along the perimeter of a residential development, particularly near the development's entrance. See FIGURE 6.17(B): ORNAMENTAL BANNERS for examples.

i. Ornamental Banners shall only be permitted within residential areas.

ii. All Ornamental Banners used by the City shall be exempt from these regulations.

iii. Maximum Size of Ornamental Banners (per face of the entire display, including the pole): Twenty (20) square feet.

iv. Height of Ornamental Banners (per face of the entire display, including the pole): The face of an entire Ornamental Banner display shall not be wider than it is tall and it shall not extend above the top of the pole

v. Shall be two-dimensional.

vi. Shall not be made using fluorescent colors.

vii. Shall not be made using reflective materials.

viii. Installation:

(a) Shall not be located within the Right-of-way.

(b) Shall be located along an adjoining Arterial or Collector.

(c) Shall be fastened to Decorative Poles.

(d) Shall be fastened at the top and bottom of the banner to a rigid support.

(e) Each Decorative Pole within the same development shall contain identical Ornamental Banners, in an identical configuration.

(f) Shall be oriented so that they are perpendicular to the adjoining Right-of-way.

(g) Minimum Distance between Decorative Poles: Fifty (50) feet.

(h) Maximum Height of Decorative Poles: Fifteen (15) feet.

(i) Minimum clearance of Ornamental Banner from the ground: Seven (7) feet.

ix. Removal: None required.

x. Maintenance:

(a) Ornamental Banners and Decorative Poles shall be maintained to look like new. Any Ornamental Banners or Decorative Pole

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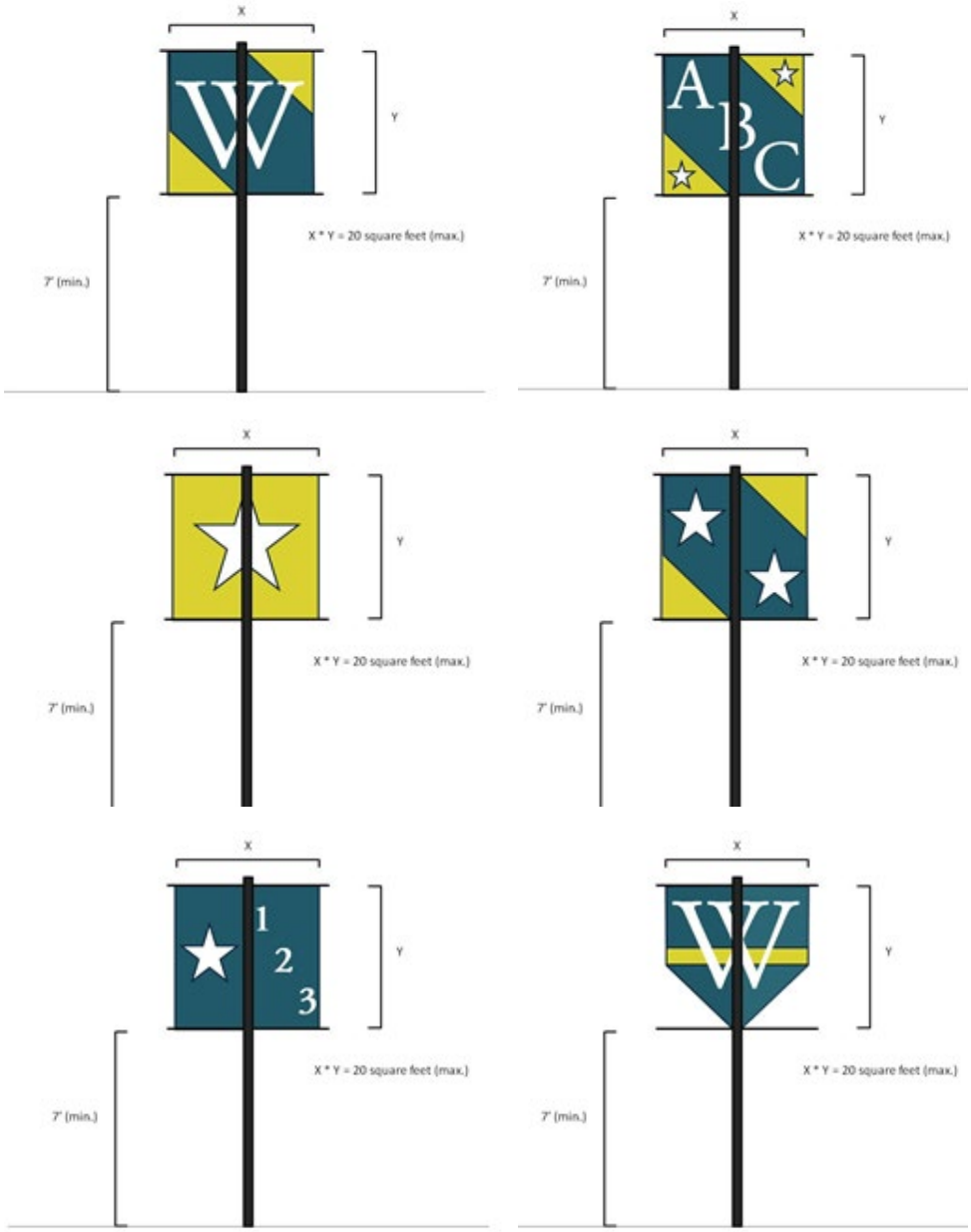
that does not look like new, as determined by the Director, shall be replaced or removed.

(b) Any Ornamental Banners or Decorative Pole that has been determined to not look like new may be removed by the Director, or designee, at the cost of the Property owner of record.

xi. Permit:

(a) A sign permit is required for all new Ornamental Banners and when there is a change in graphics (not including a change in color only) to the Ornamental Banner display.

FIGURE 6.17(B): ORNAMENTAL BANNERS



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(b) A sign permit is not required when performing routine maintenance of the Ornamental Banners or pole.

(c) A sign permit is not required when replacing Ornamental banners that do not look like new with new, identical Ornamental Banners.

9. Election Signs: Election Signs shall be permitted as follows and in accordance with the provisions of IC 36-1-3-11:

a. A sign permit shall not be required for Election Signs.

b. Election Signs shall not exceed thirty-two (32) square feet in area.

c. Election Signs shall only be displayed during the period of time beginning sixty (60) calendar days before an election (as referenced in IC 36-1-3-11) and ending at the beginning of the sixth (6th) calendar day after an election.

d. Election Signs shall not be installed or erected in a manner that impairs lines of sight for vehicles or pedestrians.

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6.18 Temporary Uses and Events

A. Purpose and Intent: The purpose of this Article is to ensure that the public health, safety and general welfare of the community is protected within temporary uses and during temporary events.

B. Applicability: All Temporary Uses, Events and Structures shall comply with this Article.

C. **Permit:** Unless otherwise provided herein, Temporary Uses, Events and Structures shall require a Temporary Uses, Events and Structures permit as set forth in *Article 10.13 Temporary Use and Events Permits*.

D. **Exemptions:**

1. Events hosted on an individual homeowner's property, including but not limited to garage sales, estate sales, private parties.
2. City sponsored events as approved by the Council.
3. Events held on public park property; however, rules and policies established by the City, as administered by the Parks and Recreation Department, shall apply.
4. Nonincorporated children's stands, such as a lemonade stand.
5. Subdivision Block Parties.

E. **General Standards:**

1. Parking requirements for the site at the time of development or if the parcel is vacant, present development standards; shall not substantially be impacted by the temporary event.
2. The Director may limit the location for traffic flow or public safety reasons.
3. All temporary structures must meet the setbacks as defined by this Ordinance for the Zoning District in which they are being installed.
4. A proposed temporary event or use shall be located on a Lot with a permitted Principle Building or on a vacant Lot when the minimum required setbacks for the Zoning District are met.
5. Temporary event/use shall be incidental to the principal permitted use or structure existing on the Lot or an abutting Lot. Holiday Tree and Temporary Greenhouse Sales are exempt from this standard.
6. Goods and display materials shall be stored inside either a permanent or temporary structure during nonevent hours. Holiday Tree and Temporary Greenhouse Sales are exempt from this standard.
7. The temporary event shall not eliminate or negatively impact required parking for the underlying use. Additional parking may be required upon finding that the proposed temporary event/use increases the need for parking.
8. All equipment, materials, goods, poles, wires and other items associated

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with the event shall be removed from the premises within two (2) days of the conclusion of the temporary use or event.

9. All temporary events shall conform to all State and County Health Department regulations and codes, including but not limited to I.C. 16-42-5 and 410 IAC 7-24.
10. Any temporary events that require the assignment of additional police officers and/or Fire Department responders shall be responsible for the cost of said employees. Payments shall be made directly to the City's Police Department and/or Fire Department.
11. The Property on which the event is being located, including all structures and uses, shall be in full compliance with this ordinance and the Westfield Code of Ordinances.

F. **Tent Events:**

1. All tent events shall meet the applicable standards under the General Standards sections of this Article.
2. Tent events are allowed in nonresidential Districts and for nonresidential uses in Residential Districts.
3. Tents must be located on the Lot of the primary business or on a vacant Lot adjoining that of the primary business.
4. Tents shall be subordinate in size to the Principal Building.
5. Temporary Signs shall be limited to two (2).
   a. Signs shall not exceed twelve (12) square feet each.
   b. Signs must be affixed to the temporary structure associated with the event.
   c. No other signs shall be allowed.
   d. Signs shall not be illuminated.
   e. Signs shall otherwise comply with *Article 6.17 Sign Standards*.
6. Tent events shall be an extension of, and not in addition to, the existing uses on site.
7. No sale displays outside the tent shall be allowed. All items or products shall be under a tent or inside the store after business hours.
8. Lighting shall be allowed inside the tent only.
9. Noise shall be kept to a level that is not audible from forty (40) feet or more away from the source or is at a level of ninety (90) decibels or less when measured six (6) feet from its source on a dB(A) meter.
10. Hours of operation shall not exceed the hours of the business.
11. Permitting:
    a. Temporary Use/Event Permits are issued by the Department.
    b. Tent events are allowed per parcel for up to thirty (30) days per permit with a sixty (60) day total per calendar year maximum.
    c. Permits may be issued for consecutive days.
    d. Applicants shall provide dates of events.

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e. Inspections by the Department and the Fire Department are required. Tents shall meet Uniform Fire Code or International Fire Code standards (see also *Article 2.5 Building Code*).

12. Limited Exception: Temporary Use/Events conducted in accordance with all of the following standards shall not be required to obtain a Temporary Use/Event Permit; however, such Temporary Use/Event shall comply with the other standards of this Ordinance:
    a. Tent events lasting no more than three (3) days.
    b. The tent size does not exceed six hundred (600) square feet.
    c. The sale of any item, product, or service shall be prohibited.

G. **Sidewalk Sales:**

1. All sidewalk sales shall meet the applicable standards under the General Standards section of this Article.
2. All sidewalk sales must be located within ten (10) feet of the business's pedestrian entrance.
3. Such sales events shall not impede pedestrian traffic or force pedestrians into vehicle traffic lanes.
    a. A five (5) foot pedestrian access area on the sidewalk shall be maintained at all times.
    b. The pedestrian access area on the sidewalk shall not be interrupted or impeded with building, utility or landscaping elements such as but not limited to columns, supports, plantings or other such materials.
4. Tents are prohibited.
5. Such sales events shall be limited to one (1) week in duration and with a frequency of no more than once every six (6) calendar months.
6. No temporary use permit shall be required.

H. **Temporary Greenhouse and Holiday Tree Sales:** Shall meet the standards of all Federal, State and City Building Codes and Fire Codes outlined below.

1. All Temporary Greenhouse and Holiday Tree Sales must meet the applicable standards under the General Standards section of this Article.
2. Holiday Tree Lots and Temporary Greenhouse sale areas are restricted to three thousand eight hundred (3,800) square feet. With the permission of the Director, Holiday Tree Lots may be increased up to five thousand (5,000) square feet.
3. Temporary Greenhouse Sales and Holiday Tree Lots operations shall be conducted between the hours of 6:00 a.m. and 8:00 p.m.
4. Such sales are restricted to nonresidential Districts and permitted nonresidential uses in Residential Districts.
5. Bagged, bulk items must be stored within an adjacent permanent or temporary structure.
6. Signs shall be limited to two (2).
    a. Signs shall not exceed twelve (12) square feet each.

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b. Signs must be affixed to the temporary structure associated with the event.
c. No other signs shall be allowed.
d. Signs shall not be illuminated.
e. Signs shall otherwise comply with *Article 6.17 Sign Standards*.

7. Music shall be kept to a level that is not audible from forty (40) feet or more away from the source or is at a level of ninety (90) decibels or less when measured six (6) feet from its source on a dB(A) meter.

8. Permitting:

a. Temporary Use/Event Permits are issued by the Department.
b. Permit for these sales shall be valid for a maximum of sixty (60) consecutive calendar days.
c. Applicants must provide dates of sales.
d. A permit is required for each location of operation.
e. No more than two (2) permits shall be issued per Lot per calendar year.
f. Inspections by the Department and the Fire Department are required.

I. **Firework Sales:** The temporary sale of legal fireworks shall only be permitted as set forth in the Westfield Code of Ordinances; Chapter 17-40 et seq., as amended.

J. **Model Homes:** Model Homes shall be permitted in the Zoning Districts set forth in *Article 13.2 Use Table*, and subject to the following standards:

1. General Regulations: The Director shall approve a Temporary Use permit based on a finding that:

a. The Model Home will not detrimentally affect the health, welfare, safety, or morals of the neighborhood under construction.
b. The Model Home will have adequate access and off-street parking facilities will be provided in accordance with *Article 6.14 Parking and Loading Standards*.
c. The Model Home will not utilize a public address system.
d. Flood lights and other lighting on the subject premises will be directed only upon those premises and comply with *Article 6.9 Lighting Standards*.
e. All other required permits (e.g., Improvement Location Permit, Certificate of Occupancy), as may be required by local or State law, are issued prior to the commencement of the use.
f. Any proposed signage complies with *Article 6.17 Sign Standards*.
g. Landscaping is installed on-site in accordance with *Article 6.8 Landscaping Standards*, including enhanced landscaping as may be necessary to satisfy (a) above.
h. The improvements permitted otherwise comply with the other regulations of the applicable Zoning District.

2. Permit Duration: The duration of a Temporary Use permit for a Model Home shall be fixed by the Director, for an initial term not to exceed

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twenty-four (24) months; however, the Director may extend the permit upon a written request by the Applicant for one (1) year increments.

K. **Food Vendors and Food Vending:** Shall be regulated as set forth in the Westfield Code of Ordinances; Chapter 17-61 et seq., as amended.

L. **Farm Stands:**

1. Permitted Zoning Districts: Farm Stands shall be permitted in the Zoning Districts set forth in *Article 13.2 Use Table*.

2. Duration and Display of Permits: A Temporary Use permit may be issued for increments up to one (1) year. All licenses, certificates and permits from all government agencies shall be displayed on the stand.

3. Location: Farm Stands shall not be located within nor encroach upon:

   a. A drainage easement.
   b. A fire lane or maneuvering aisle.
   c. A Right-of-way.
   d. A parking space or spaces necessary to meet the minimum parking requirements of the other use(s) of the Lot.
   e. Pedestrian or vehicular access or parking areas.
   f. A vision clearance area as set forth in *Article 6.19 Vision Clearance Standards*.

4. Maximum Height: The height of a Farm Stand, including all accessory equipment and signage, shall not exceed ten (10) feet.

5. Additional Standards:

   a. Farm Stands shall not exceed two hundred (200) square feet in size.
   b. Customer seating areas associated with Farm Stands shall be prohibited.
   c. Signage in conjunction with a Farm Stand shall be: (i) attached to the Food Stand; (ii) may not exceed ten (10) square feet in area; and (iii) shall be reviewed and approved by the Director as part of the Temporary Use permit. Signs not exceeding two (2) square feet in Sign Area may be required or permitted by the Director if deemed appropriate for safe pedestrian or vehicular access and circulation.
   d. The use of sound amplifying equipment, lights or noisemakers, such as bells, horns or whistles, shall be prohibited.
   e. Only one (1) Farm Stand shall be permitted per Lot.

6. Removal: Farm Stands shall be removed: (a) when not in use; (b) if a subsequent Temporary Use permit is not obtained or is denied; or (c) if the Farm Stand is deemed to be in violation of this Ordinance .

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6.19 Vision Clearance Standards

A. **Vision Clearance:** No Sign, fence, wall, landscaping, Public Utility Installation or other Improvement which obstructs sight lines between three (3) and nine (9) feet above a Street shall be permitted on a Corner Lot, unless otherwise approved in writing by the Public Works Department, within the triangular area formed by the Right-of-way line and a line connecting points:

1. Forty (40) feet from intersections of Collectors or Local Streets.
2. Seventy-five (75) feet from intersections of Expressways or Arterials.
3. Ten (10) feet from intersections of Driveways or Alleys.
4. Twenty-five (25) feet from intersections of Private Streets.

B. **Rounded Property Corners:** In the case of rounded Lot Lines, the distances shall be measured from the point at which the Right-of-way lines would intersect if they were not to have been rounded at the corner.

6.20 Wireless Communication Service Facilities

A. **Applicability:** All Wireless Communication Service Facilities within the Jurisdiction of the Plan Commission shall be subject to this Article.

B. **Permitted Zoning Districts:** Wireless Communication Service Facilities shall be permitted as set forth below and in *CHAPTER 13: USE TABLE*.

1. In any Zoning District where the antennas are to be located upon pre-existing structures or buildings owned or operated by units of government or public utilities so long as the antennas and antenna support structures do not exceed the height of those structures or buildings by more than twenty (20) feet.
2. In a non Urban Area in any Zoning District. For purposes of this Article and as defined in I.C. 36-7-4-1103, an urban area shall include all lands and Lots within the corporate boundaries of a municipality, any other lands or Lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or Lots that have been or are planned for residential areas contiguous to the municipality.

C. **Applicability:** Wireless Communication Service Facilities shall be bound by the standards set forth in this Article as well as the applicable requirements of the Zoning District in which they are located, unless otherwise provided herein.

D. **Procedural Standards:** All Wireless Communication Service Facilities shall meet the following requirements:

1. An Applicant for a Wireless Communication Service Facility must demonstrate that they have exhausted all efforts to locate the proposed facilities upon existing antenna support structures in the geographical area of the proposed Wireless Communication Service Facility, which shall include submitting a master plan for their Wireless Communication

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Service Facilities throughout the Planning Jurisdiction of the Plan Commission. The master plan should show efforts to minimize the size and number of antenna support structures throughout the geographical area, taking into consideration existing technology.

2. The placement of antennas upon existing antenna support structures may be administratively approved by the Department with an application made pursuant to *Article 10.4 Certificate of Compliance*.
3. In the event an antenna support structure ceases to be used, then the antenna support structure shall be removed within one hundred eighty (180) days of termination of use.
4. A Wireless Communication Service Facility may be deemed an Accessory Use in Zoning Districts in which a Wireless Communication Service Facility is listed as either a permitted use (see *CHAPTER 13: USE TABLE*) or a Special Exception (see *Article 10.11 Special Exceptions*).

E. **Development Standards:** All Wireless Communication Service Facilities shall meet the following requirements:

1. The height of the antenna support structure shall not exceed two hundred (200) feet.
2. The antenna support structure shall be set back a minimum of forty (40) feet from the Lot Line, unless the adjoining Lot is zoned or used for a residential use. If the antenna support structure adjoins a Lot which is zoned or used for residential use, then the setback shall not be less than the height of the support structure.
3. Except as required by the Federal Aviation Administration or Federal Communications Commission, the antenna support structure shall not be illuminated by any artificial means and shall not display strobe lights.
4. No Signs or advertising shall be placed upon an antenna support structure and associated equipment buildings or structures.
5. The support structure and any antenna located on the support structure must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment.
6. All utility buildings and structures accessory to the antenna support structure must be architecturally designed to blend into the surrounding area.
7. A Landscape Plan for the Wireless Communication Service Facility shall be submitted with the application and shall be substantially similar to landscaping required for other uses in Business or Industrial Districts.
8. All Wireless Communication Service Facilities shall be designed structurally, electrically, and in all other respects to accommodate the user's equipment and the equipment of at least two (2) additional service providers.
9. A qualified and licensed engineer must approve the design of the

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antenna support structure and certify that it is constructed to comply with the requirements set out in this Article.

10. All applications shall include a notarized letter of intent committing the antenna support structure owner or lessee on behalf of themselves and their successors in interest that the antenna support structure shall be shared with additional users if the additional user(s) agrees to meet reasonable terms and conditions of shared use.

11. No transmissions from a Wireless Communication Service Facility shall interfere with any existing public safety communications.

F. **Limitations on Zoning Authority:**

1. The Board of Zoning Appeals, in consideration of the Special Exception, shall not consider any evidence or base a denial of the location of a Wireless Communication Service Facility on any evidence concerning adverse environmental or health effects of radio frequency emissions so long as those emissions meet the standards of the Federal Aviation Administration or Federal Communications Commission.

2. Nothing herein shall be construed as a prohibition of the location of Wireless Communication Service Facilities within the Jurisdiction of the Plan Commission.

3. Nothing herein shall be construed or applied to unreasonably discriminate between providers of functionally equivalent service, or services which compete one against the other for various wireless communication services.

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6.21 Yard Standards

A. **Yard, Lot Area and Size of Building:** No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the Yards, Lot Area, Minimum Living Area, or Lot Coverage provisions established and specified for the use and the Zoning District or Overlay District in which such building is located.

B. **Partial use of Alley for Yard:** One-half (0.5) of an Alley abutting the Rear or Side Yard may be included in the required Rear or Side Yard of a Lot, respectively, if the Alley has not been developed for the carrying of traffic; however, such Alley area shall not be included for loading and unloading berths.

C. **Measurement of Required Yards:** The Yard width and depth shall be measured as the shortest horizontal distance (e.g., ninety degrees) from a Lot Line to the required Building Setback Line. In the case of a standard applying to an Established Yard, the Yard width and depth shall be measured as the shortest horizontal distance (e.g., ninety degrees) from a Lot Line to the nearest outside wall of a building or structure.

D. **Use of Required Yards:** All required Yards shall be maintained as Open Space and landscaped with grass, trees, shrubs or hedge, or in combination with other suitable Groundcover materials in compliance with *Article 6.8 Landscaping Standards*, except as otherwise improved in accordance with this Ordinance (e.g., Parking Areas).

E. **Corner Lots and Through Lots:** Corner Lots and Through Lots shall be deemed to have multiple Front Yards, one on each Street or Private Street the Lot abuts. Each Front Yard shall be subject to the Building Setback Lines set forth herein for Front Yards.

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6.22 Chapter Amendment Log

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14-47	1412-ZOA-02	11/10/14	11/11/14	Article 6.1(B)(8); Article 6.3(C)(1), (2); Article 6.4(B), (F); Article 6.8(E)(6), (F)(2)(b), (L), (N)(5); Article 6.16(H)
15-12	1506-ZOA-01	05/26/15	05/26/15	Article 6.1(H); Article 6.3(F)(11); Article 6.8(H), (J); Article 6.10(E); Article 6.16(I)
17-10	1704-ZOA-01	05/08/17	05/08/17	Article 6.3(F)(1); Article 6.8(H)(1); Article 6.8(E)(3); Article 6.8(E)(8); Article 6.17(F)(11)(a); Article 6.17(H)(2); Article 6.17(J)(2); Article 6.17(K)(1)(c)
19-13	1905-ZOA-01	08/12/19	08/13/19	Article 6.3(F)(1), (6), (7)(a)(ii); Article 6.8 (H)(1); Article 6.8(J)(2), (3); Article 6.8(L)(4); Article 6.8(M)(1); Article 6.19(A)(1), (4)
19-40	1909-ZOA-02	09/23/19	09/25/19	Article 6.8(O)(2)(a); Article 6.18(D), (E)

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CHAPTER 7: SUBDIVISION STANDARDS

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7.1 Establishment of Controls

No plat or replat of a Subdivision of land or amendment, including plans or specifications and amendments thereto, or corrections to an already recorded plat (certificate of corrections, or certificate of error) located within the Jurisdiction of the Plan Commission shall be recorded until it shall have been approved in accordance with this Ordinance, and such approval shall have been entered in writing on the plat by the Director, or its designee. All corrections or amendments to an approved plat shall be cited as an addendum to and on said approved plat, including the copy in the Office of the Recorder of Hamilton County, Indiana. Subdivisions shall be permitted in all Zoning Districts.

7.2 Procedures

Article 10.12 Subdivision shall apply to all Subdivisions (e.g., Primary and Secondary Plats).

7.3 Principles and Standards of Design

A. **General:** All Improvement Location Permits, Development Plans and Subdivisions shall conform to the principles and standards established by this Ordinance.

B. **Construction Standards:** The City of Westfield Utility and Infrastructure Construction Standards and Specifications ("Construction Standards), as published and maintained by the Westfield Public Works Department, are hereby incorporated, as amended, by cross-reference into this Ordinance. All Development Plans and Subdivisions shall conform to the Construction Standards, which include but are not limited to, standards for:

1. Earthwork for Utilities
2. Paving and Surfacing
3. Erosion Control
4. Principles and Standards of Roadway Design
5. Minimum Standards of Improvement
6. Stormwater Management
7. Curbs and Gutters
8. Storm Sewers

C. **Subdivision Control Waivers:** The Plan Commission, in its discretion, may grant a waiver from standards required by *CHAPTER 8: DESIGN STANDARDS* of this Ordinance. Such waiver shall be entered into the minutes of the Plan Commission together with the reasoning for the departure from the required standards. As a condition of granting a waiver, a commitment may be made in accordance with *Article 10.6 Commitments*. A waiver may only be granted upon finding that:

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1. The proposed development represents an innovative use of site design, site access design, site circulation design, building orientation, building materials, and landscaping which will enhance the use or value of area properties.
2. The proposed development will not be injurious to the public health, safety, morals or general welfare of the community.
3. The strict application of the Ordinance standard will result in a development of the real estate which is undesirable when compared with the proposed development.
4. The proposed development is consistent with and compatible with other development located in the area.
5. The proposed development is consistent with the intent and purpose of the Comprehensive Plan.

7.4 Plat Certificates and Deed of Dedication

The following forms shall be used:

A. **Plan Commission Certificate:**

Under authority provided by I.C. 36-7, enacted by the general assembly of the State of Indiana, and all acts amendatory thereto, and an ordinance adopted by the City Council of the City of Westfield, Hamilton County, Indiana, this plat was given approval by the Westfield-Washington Township Advisory Plan Commission, as follows:

Approved by the Director of the Economic and Community Development Department of the City of Westfield, Hamilton County, Indiana, pursuant to the Westfield-Washington Township Unified Development Ordinance, on the ____ day of _____, _____.

Westfield-Washington Township Plan Commission

By: _____
(Name), Director
Economic and Community Development Department

(SEAL)

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B. **Board of Public Works and Safety Certificate:** The following certificate shall also be used if the plat lies wholly or partly within the City's corproate limits:

This plat and the acceptance of any public rights-of-way dedicated herein is hereby approved on the ____ day of _____, 20__, by the Director of the Public Works Department of the City of Westfield, Indiana, on behalf of the Board of Public Works and Safety, pursuant to Resolution 15-120 enacted by the Board of Public Works and Safety on August 26, 2015, and Article 7.4(B) of the Unified Development Ordianace.

_____
(Name), Director
Public Works Department

C. **County Commissioner's Certificate:** The following certificate shall also be used if the plat lies wholly or partly outside of the City:

Under authority provided by I.C. 36-7 as amended by the General Assembly of the State of Indiana, this plat was given approval by the Board of County Commissioners of Hamilton County, Indiana, at a meeting on the ____ day of _____, _____.

_____
(Name)

_____
(Name)

_____
(Name)

(SEAL)

D. **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)

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E. **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 in accordance with the sepcifications heretofore approved therefore.

_____
(Name)

(SEAL)

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

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

This subdivision shall be known and designated as _____, an addition to _____, Indiana. All rights-of-way shown on this plat, between which lines and the property lines of the street, there shall 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 shall take their titles subject to the rights of the public utilities.

[Additional easement certificates, dedications and protective covenants, or private restrictions would be inserted here upon the Applicant's initiative or the recommendations of the Plan Commission, Public Works Department; important provisiosn are those specifying the use to be made of the property, rights and authority of grantees, and, in the use of residential use, the minimum Living Area.]

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The foregoing covenants, or restrictions, are to run with the land and shall 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, shall 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 judgement or court order shall in no way affect any of the other covenants or restrictions, which shall 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)
)
Hamilton 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)

G. **Easement Certificate:** Each Secondary Plat submitted for approval shall include easement certificates, where appropiate and in accordance with *Article 8.3 Easement Standards*.

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7.5 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
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8.1 Block Standards

A. The maximum length of a block in a single-family residential Subdivision shall not exceed one thousand two hundred and fifty (1,250) feet; except where an Internal Street or Frontage Road parallels an Expressway or Arterial.

8.2 [reserved for future use]

8.3 Easement Standards

A. **Applicability:** This Article applies to all development.

B. **General Easements:**

1. Drainage and Utility Easements: All development submitted for approval under the provisions of this Ordinance shall allocate areas of suitable size and location, wherever necessary, for drainage and/or utility easements. All easements and corresponding utility location plans shall be complete and approved prior to the final approval of any plan. One-half (0.5) of the width of easements located along Lot Lines shall be taken from each Lot, unless otherwise approved by the Public Works Department or the appropriate utility provider. Before determining the location of easements the plan shall 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) shall be permitted within a drainage and utility easement, unless otherwise approved by the Public Works Department or the appropriate utility provider.

2. Surface Drainage: If any stream or necessary surface drainage course is located in the area to be developed, then an easement shall be established along all sides according to the County Surveyor or Indiana law if a legal drain or twenty (20) feet per side (measured from top of bank) if not a legal drain. The easement shall be allocated for the purpose of widening, deepening, sloping, improving or protecting said stream or surface drainage course.

C. **Other Easements:**

1. 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") shall execute the easement instrument in favor of the appropriate party or entity ("grantee"). Said instrument shall:

   a. Specify the docket numbers of the petitions with which the easement is associated.
   b. Specify those activities the grantee is authorized to perform in the easement.
   c. Specify those activities the grantor is prohibited from performing in

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the easement.

d. Be binding on all heirs, successors, and assigns to the property on which the easement is located.
e. Be enforceable by the grantee of the City.
f. Specify any other specially affected persons and classes of specially affected persons that are entitled to enforce the easement.
g. Provide for modification in the manner stipulated in this Ordinance.
h. Be cross-referenced to the most recently recorded deed to the property on which the easement is to be established.
i. Include a metes and bounds description of the easement.
j. Be signed by a duly authorized representative of the property owner of record granting the easement and by a duly authorized representative of the grantee accepting the easement.

2. Easement Certificate:

a. When a Secondary Plat is being recorded, the Applicant may forego a separate easement instrument in favor of printing an easement certificate on the Secondary Plat, the content of which has been approved by the Director or Public Works Department.
b. If a Declaration of Covenants is included or cross-referenced on the Secondary Plat, then an easement certificate shall not be incorporated into the Declaration of Covenants, and shall be clearly separate from the Declaration of Covenants.

D. **Cross-access Easements:**

1. Easement Instrument Specifications: When required by this Ordinance, each Property Owner ("grantor") shall execute a cross-access easement instrument in favor of the adjoining property owner ("grantee"). Said instrument shall:

a. Specify the docket numbers of the petitions and/or the project numbers of the permits with which the easement is associated.
b. Grant the public the right to utilize the easement for purposes of accessing adjoining Parking Areas.
c. Prohibit any person from parking vehicles within the easement.
d. Prohibit the Property Owners or any other person from placing any obstruction within the easement.
e. Be binding on all heirs, successors, and assigns to the properties on which the easement is located.
f. Be enforceable by each party to the easement and by the City.
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 on which the easement is to be established.
j. Include a metes and bounds description of the easement.
k. Be signed by a duly authorized representative of each Property Owner

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granting the easement and by duly authorized representatives of each property owner accepting the easement.

2. Cross-access Easement Certificate:

   a. When a Secondary Plat is being recorded, the Applicant may forego a separate easement instrument in favor of printing the following cross-access easement certificate on the plat:
   "There are shown on this instrument areas that are designated as 'Cross-access Easement' or abbreviated as 'C-A.E.' Such easements are hereby 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 Areas. 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 on which they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement shall only be modified or vacated in the manner stipulated in the Westfield-Washington Township Unified Development Ordinance, or its successor ordinance."
   b. The dedication and acceptance of easements shown on a recordable instrument shall 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 is included on the Secondary Plat, then the cross-access easement certificate shall not be incorporated into the Declaration of Covenants, and shall be clearly separate form the Declaration of Covenants.

E. **Private Street Easements:**

1. Easement Instrument Specification: When required by this Ordinance, the Property Owner ("grantor") shall execute a Private Street easement instrument in favor of the owner of the Lot ("grantee") to which the private street provides access. Said instrument shall:

   a. Specify the docket numbers of the petitions and/or the project numbers of the permits with which the easement is associated.
   b. Grant the grantee the right to access the easement for purposes of accessing their Lot.
   c. Specify the grantee's financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
   d. Prohibit the grantee or any other person from placing any obstruction within the easement.
   e. Require that the Private Street be built to the standards of the City.
   f. Be binding on all heirs, successors, and assigns to the property on which the easement is located.
   g. Be enforceable by the grantee and the City.

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h. Specify any other specially affected persons and classes of specially affected persons that are 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 on which the easement is to be established.
k. Include a metes & bounds description of the easement.
l. Be signed by a duly authorized representative of each Property Owner granting the easement and by duly authorized representatives of each Property Owner accepting the easement.
m. Shall include the following language:
"The Property Owner expressly covenants and warrants on behalf of itself and all future owners of Lots within the subdivision that because the streets are private that all maintenance, repairs and replacement now and forever shall be undertaken at the expense of the Lot owners in accordance with 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 forego a separate easement instrument in favor of printing the below easement certificate on the plat:
"There are shown on this instrument areas that are designated as 'Private Street Easement' or abbreviated as 'P.S.E.' Such easements are hereby established in favor of the adjoining property owners ('grantee'), and grant the grantee the right to enter the easement for purposes of accessing their Lot. These easements prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property on which they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement shall only be modified or vacated in the manner stipulated in the Westfield-Washington Township Unified Development Ordinance, or its successor ordinance."
b. In addition, the Secondary Plat shall 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 that all maintenance, repairs and replacement now and forever shall be undertaken at the expense of the Lot owners in accordance with 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

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to maintain, repair or replace any private street."

c. The dedication and acceptance of easements shown on a recordable instrument shall 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 is included on the Secondary Plat, then the Private Street easement certificate shall not be incorporated into the Declaration of Covenants, and shall be clearly separate from the Declaration of Covenants.

F. **Shared Driveway Easements:**

1. Easement Instrument Specifications: When required by this Ordinance, each Property Owner ("grantor") shall execute a shared driveway easement instrument in favor of the adjoining Property Owner ("grantee"). Said instrument shall:

   a. Specify the docket numbers of the petitions and/or the project numbers of the permits with which the easement is associated.
   b. Grant the adjoining property owners the right to access the easement for purposes of maneuvering vehicles.
   c. Specify the adjoining Property Owners' financial responsibilities with respect to the alteration, repair, maintenance, and removal of the improvements.
   d. Prohibit the Property Owner or other person from placing any obstruction within the easement.
   e. Be binding on all heirs, successors, and assigns to the properties on which the easement is located.
   f. Be enforceable by the parties to the easement and the City.
   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 on which the easement is to be established.
   j. Include a metes and bounds description of the easement.
   k. Be signed by a duly authorized representative of each Property Owner of record granting the easement and by duly authorized representatives of each Property Owner accepting the easement.

2. Shared Driveway Easement Certificate:

   a. When a Secondary Plat is being recorded, the Applicant may forego a separate easement instrument in favor of printing the following shared driveway easement certification the plan:
   "There are shown on this instrument areas that are 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

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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 on which they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement shall only be modified or vacated in the manner stipulated in the Westfield-Washington Township Unified Development Ordinance, or its successor ordinance."

b. The dedication and acceptance of easements shown on a recordable instrument shall 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 is included on the Secondary Plat, then the shared driveway easement certificate shall not be incorporated into the Declaration of Covenants, and shall be clearly separate from the Declaration of Covenants.

G. **Subdivision Sign Easements:**

1. Easement Instrument Specification: When required by this Ordinance, the Property Owner ("grantor") shall execute a subdivision sign easement instrument in favor of the subdivision's homeowners' association ("grantee"). Said instrument shall:

   a. Specify the docket numbers of the petitions and/or the project numbers of the permits with which the easement is associated.
   b. Grant the grantee the right to alter, repair, maintain, or remove the improvements.
   c. 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.
   d. Be binding on all heirs, successors, and assigns to the property on which the easement is located.
   e. Be enforceable by the grantee and the City.
   f. Specify any other specially affected persons and classes of specially affected persons that are 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 on which the easement is to be established.
   i. Include a metes and bounds description of the easement.
   j. Be signed by a duly authorized representative of the Property Owner granting the easement and by duly authorized representatives of the grantee accepting the easement.

2. Conflict: Subdivision sign easements shall be exclusive of drainage and utility easements and improvements within such an easement shall comply with *Article 6.19 Vision Clearance Standards*.

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3. Subdivision Sign Easement Certificate:

   a. When a Secondary Plat is being recorded, the Applicant may forego a separate easement instrument in favor of printing the following subdivision sign easement certificate on the plat:
   "There are shown on this instrument areas that are designated as 'Subdivision Sign Easement' or abbreviated as ['_____']. 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 on which they are located. The grantee or the City may enforce the provisions of the easement. [_____] is also entitled to enforce the provisions of the easement. The easement shall only be modified or vacated in the manner stipulated in the Westfield-Washington Township Unified Development Ordinance, or its successor ordinance."

   b. The dedication and acceptance of easements shown on a recordable instrument shall 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 is included on the Secondary Plat, then the subdivision sign easement certificate shall not be incorporated into the Declaration of Covenants, and shall be clearly separate from the Declaration of Covenants.

H. **Tree Preservation Easement:** When a Secondary Plat is being recorded and an easement is required or proposed for tree preservation, then an Applicant shall record an easement, or an Applicant may forego a separate easement instrument in favor of bringing an easement certificate on the plat, of which shall include:

1. Tree Preservation Easement Certificate: There are shown on this instrument an area(s) designated as 'Tree Preservation Easements' or abbreviated as 'T.P.E.'. Such easement(s) shall be regulated and maintained in accordance with the following:

   Permitted Activities: The following activities shall be 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 combustable material (e.g., dead, fallen trees, and leaves); (c) Removal of vines growing on and up a tree; (d) Removal of hazarous, 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

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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 shall be as narrow or small as reasonably possible with no blanket easements.

Prohibited Activities: The following activities shall be 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, but not limited to the placement of playground equipment, paving for basketball or tennis courts or swimming pools.

Required Activities: The following shall be required: (a) All maintenance activity shall be completed in accordance with industry standards using the latest ANSI Z133.1 and A-300 approved practices and methods; (b) Signs identifying a "Tree Preservation Area" shall be posted every one-thousand (1,000) feet near the perimeter of all Tree Preservation Easements. Such signs shall state "Natural Preservation Area. No mowing or spraying. Restricted Area."; and (c) Any person or entity causing damage or destruction or that voilates the provisions of this easement shall be resposible to replace removed or damaned trees with trees (a minimum of three (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.

8.4 [reserved for future use]

8.5 Monument and Marker Standards

A. **General Standards:**

1. All monument and marker improvements shall be installed per Indiana Administrative Code, 865 IAC 1-12-18, and the standards set forth herein.
2. Permanent reference monuments shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade.
3. Required monuments and markers shall include a surveyor's cap as required by Indiana law, and at a minimum shall include a substantial plastic or metal cap permanently affixed showing the registered professional surveyor's surname and professional license number or

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firm/agency identification number.

4. Upon completion of the development, as-built drawings shall be submitted showing where monuments and markers were placed. This shall 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 shall be reset by the party responsible for damage/alteration. If a responsible party cannot be readily determined, then the active Developer shall bear the costs of having the monument(s) reset.

B. **Monument Standard:** Monuments shall be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of four (4) inches by four (4) inches by thirty (30) inches, set vertically in place. They shall 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 shall be set:

1. At the intersection of lines forming angles in the boundary of the Subdivision.
2. At least two (2) monuments shall 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 two (2) monuments shall be set on any straight line over four hundred (400) feet in length and on Lot corners near each end of the line.
4. Any location a bearing changes.

D. **Marker Standard:** Markers shall consist of iron pipes or steel bars at least thirty (30) inches long, and not less than five-eighths (5/8) inch in diameter.

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

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

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8.6 Open Space and Amenity Standards

A. **Applicability:** This Article shall apply to all residential Development Plans and Primary and Secondary Plats. All residential developments shall set aside Open Space in accordance with this Article.

B. **Minimum Open Space:**

1. Minimum: The minimum Open Space required for each development, as a percentage of its Gross Acreage, shall be as set forth below:

Chart: Minimum Open Space

Zoning District	Minimum Open Space Required
SF1	5%
SF2	8%
SF3	12%
SF4	15%
SF5	15%
SFA	35%
MF1	20%
MF2	20%

2. Exemption: Residential developments with a gross density of 0.33 Dwelling Units per acre or less shall be exempt from providing Open Space under this Article.

3. Plantings: Open Space shall be supplemented with tree plantings in accordance with the Minimum Lot Landscaping requirements of *Article 6.8 Landscaping Standards*.

C. **Access:** The Minimum Lot Frontage standards of Article 4 Zoning Districts shall not apply to Open Space. Instead, a public way, crosswalk or easement not less than fifteen (15) feet in width shall be provided for access to required Open Space.

D. **Connectivity:** Open Space, where applicable, shall be placed adjacent to or connected to existing or proposed Open Space located within the development and/or on adjoining properties. Open Space should be located within reasonable walking distance to those uses it serves, with the exception of preservation of existing features.

E. **Open Space Ownership:** The ownership of Open Space, Common Areas, Development Amenities, how it will be protected from future development, and responsibility for future maintenance (e.g., homeowners' association) shall be documented and recorded.

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

1. Requirement: Required Open Space and Development Amenity improvements (e.g., fencing, walls, mounds, paths, playgrounds, amenities) shall be improved in accordance with an approved

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Development Plan and shall require a Certificate of Compliance (see also *Article 10.4 Certificate of Compliance*).

2. Approval: Open Space and Development Amenity areas shall be identified on the development's Overall Development Plan, in accordance with *Article 10.7 Development Plan Review*. Open Space and Development Amenity improvements shall require approval a Detailed Development Plan, which shall be reviewed and approved by the Department as part of an Improvement Location Permit (see also *Article 10.8 Improvement Location Permit*) or a Certificate of Compliance (see also *Article 10.4 Certificate of Compliance*), if an Improvement Location Permit is not otherwise required for the proposed improvements.

3. Timing of Installation: Open Space and Development Amenity improvements shall be installed prior to the issuance of a subsequent Building Permit for more than fifty percent (50%) of the Lots within the Secondary Plat section in which the Common Area, Open Space or Development Amenity is located, or within twelve (12) months from when the first Building Permit in the Secondary Plat section was issued, whichever occurs first.

G. **Qualifying Site Features:**

1. A minimum of fifty percent (50%) of required Open Space shall be land that is unencumbered by: wetlands, third party regulated utility easements that existed prior to the development of the property (e.g., gas or oil pipelines, transmission lines), legal drains and equivalent land, as determined by the Plan Commission or Director.

2. Detention and Retention Areas may only qualify as Open Space if they comply with *Article 6.8 Landscaping Standards* and if such areas are located and designed for the use and benefit of the public as an amenity to the development.

3. Required Buffer Yards, External Street Frontage landscaping areas, and tree preservation areas, as set forth in *Article 6.8 Landscaping Standards*, may qualify towards required Open Space if placed within common areas or recorded preservation or conservation easements.

4. Street (public or private) medians may qualify towards required Open Space only if the following criteria are met:

   a. Medians are placed within Common Areas which are maintained by the homeowners' association;
   b. Medians are a minimum of sixteen (16) feet wide from back of curb to back of curb; and
   c. Medians are landscaped, at a minimum, pursuant to the Street Tree requirements set forth in *Article 6.8 Landscaping Standards*.

H. **Multi-family Districts:** Multi-family Districts shall be provided with development amenities in accordance with this section.

1. Minimum Number of Amenities: The number of amenities required

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shall be proportional to the size of the development as follows:

CHART: MF DISTRICT AMENITY REQUIREMENTS

Number of Dwelling Units	Minimum Number of Amenities Required
1 to 60	2
61 to 90	3
91 to 120	4
121 to 150	5

2. Qualifying Amenities: Each type of amenity shall count as one (1) amenity, regardless of the quantity of the amenity that is provided (e.g., if two basketball courts are provided, then collectively the courts shall count only as one amenity). Qualifying amenities may include, but is not limited to: clubhouses, gymnasiums, swimming pools, tennis courts, basketball courts, ball-fields (soccer, baseball, etc.), walking/jogging/biking trails, volleyball courts, and racquetball courts. Picnic/barbecue areas and playgrounds are permitted as amenities in accordance with the following standards, or as otherwise approved the Plan Commission or Director:
   a. One picnic/barbecue area (that shall include at least one barbecue grill and one picnic table) per 50 Dwelling Units; and
   b. One large playground at least 5,000 square feet in area per 150 Dwelling Units. The square feet required is of the total play area, including safe fall zones. Play equipment should include a variety of elements within a designated area mulched with ADA and CPSC approved safety surfacing. The play elements shall include at least the following numbers and types:
      i. Six (6) swings
      ii. Three (3) detached/freestanding play elements
      iii. Three (3) sliding elements
      iv. Six (6) climbing elements
      v. One (1) overhead element
      vi. Panels featuring play elements
      vii. Decks, bridges, tunnels as required to attach various play elements to each other.
   c. one small playground at least 2,000 square feet in area per 50 Dwelling Units. The square feet required is of the total play area, including safe zones. Play equipment should include a variety of elements with a designated area mulched with ADA and CPSC approved safety surfacing. The play elements shall include at least the following numbers and types:
      i. Three (3) detached/freestanding play elements
      ii. Three (3) sliding elements
      iii. Three (3) climbing elements
      iv. One (1) overhead element

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v. Panels featuring play elements
vi. Decks, bridges, tunnels as required to attach various play elements to each other.

d. All play area surfacing must comply with Americans with Disabilities Act and Consumer Product Safety Commission requirements for fall heights and accessibility.

8.7 Pedestrian Network Standards

A. **Applicability:** All developments shall integrate an interior and exterior pedestrian network comprised of sidewalks or asphalt paths for pedestrian transportation and recreation, which shall be depicted on the Development Plan or Primary and Secondary Plats.

B. **General Standards:**

1. All concrete sidewalk, asphalt path, and crosswalk improvements shall be constructed per the City's Construction Standards (see *Article 7.3 Principles and Standards of Design*) and comply with requirements of the Americans with Disabilities Act (ADA), as amended.
2. Curb ramps for handicapped accessibility shall be provided at all intersections of Streets, Alleys, and drives (not including individual residential Driveways) and comply with ADA requirements. Curb ramps shall not be permitted in Driveways.
3. When a sidewalk, pedestrian path, jogging path, and/or bicycle way crosses a Street intersection with an Arterial within or adjacent to a development, then safety devices (i.e., painted crosswalks, signs, or other traffic control devices) shall be installed at the Developer's expense as deemed appropriate by the Public Works Department. The Director or Plan Commission may require crosswalks to be marked at other intersections or pedestrian-crossing points as may be deemed appropriate. All traffic control devices shall comply with guidelines and requirements of the current edition of the Indiana Manual on Uniform Traffic Control Devices.

C. **Internal Pedestrian Network Standards:**

1. The minimum sidewalk width shall be as indicated in the Thoroughfare Plan or five (5) feet (six (6) feet if immediately abutting the curb), whichever is greater.
2. Sidewalks shall be required on both sides on internal Streets and internal Private Streets in all developments.
3. When a proposed development lies between or adjacent to existing developments which have been provided with sidewalks, connecting sidewalks or pathways (which are extensions of the existing sidewalks) shall be constructed.
4. Connector sidewalks shall be provided from the sidewalk or path adjacent to the Street to the front entrance of all nonresidential structures.

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Where the sidewalk intersects driving lanes or parking aisles within the Parking Area, then crosswalks and ramps shall be installed in accordance with ADA requirements and such areas shall be delineated (e.g., pavers, stamped, bricked), as determined by the Plan Commission or Director, to reinforce pedestrian safety.

D. **Perimeter/External Pedestrian Network Standards:** All developments shall participate in the establishment or improvement to the pedestrian network along Streets adjacent to its perimeter in accordance with the following:

1. Where a proposed Development Plan or Subdivision abuts an existing Right-of-way, then pedestrian paths, jogging paths, and bicycle paths shall be provided along the perimeter Street(s) or Private Street(s) in accordance with the Thoroughfare Plan. The type of pedestrian facility required shall be as set forth in the Thoroughfare Plan. The County or Public Works Department, as applicable, may waive the requirement for a path along perimeter streets for a Minor Subdivision.
2. Generally, all required pedestrian facility improvements shall be located within the Right-of-way. Required improvements located outside of the Right-of-way shall be located within an easement approved by the Director or Public Works Department.
3. The Plan Commission or Director may require Developers, at their expense, to construct off-site pedestrian facilities adjacent to the proposed development to respond to the proposed development's impact and infrastructure demands (see also *Article 8.9 Street and Right-of-Way Standards* as it may apply).

8.8 Storm Water Standards

A. All proposed development shall provide for the collection and management of all storm and surface water drainage in accordance with the City's Construction Standards (see *Article 7.3 Principles and Standards of Design*).

B. Maintenance of Detention Basins:

1. Vegetation should not be overgrown as to impede the flow of water or alter the volume of the basin's design scope.
2. Inlets and outfalls must be maintained clear of debris and vegetation as not to impede the flow of storm water.
3. Detention basins shall be maintained free of debris (man-made and natural) and noxious growth of aquatic vegetation.
4. Access to the basin must be available for cleaning and maintaining.

8.9 Street and Right-of-Way Standards

A. **Applicability:** All proposed development shall allocate adequate areas for new streets in conformity with *Article 7.3 Principles and Standards of Design* and the Thoroughfare Plan.

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B. **Thoroughfare Plan:** The Westfield Thoroughfare Plan, a part of the Comprehensive Plan, as amended, (the "Thoroughfare Plan") is hereby declared to be a part of this Ordinance. The Thoroughfare Plan shall be 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), all development that adjoins, includes, is served by or affects Streets or alternative transportation corridors bearing a designation on the Thoroughfare Plan shall conform to the requirements of the Thoroughfare Plan in regard to:

a. The dedication of Rights-of-way;
b. Building Setback Lines; and
c. Any other affected development or design standards set forth in the Thoroughfare Plan or this Ordinance.

D. **Dedication of Right-of-way:** In developments that adjoin or include existing Streets that do not conform to the minimum Right-of-way dimensions established in the Thoroughfare Plan, the Developer shall dedicate additional width along either one or both sides of such Streets sufficient to meet the requirements of the Thoroughfare Plan. If the Developer only controls the property on one (1) side of the Street, then sufficient Right-of-way shall 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 shall make a good faith effort to acquire property sufficient for the installation of the passing blister. If the Property Owner on which the passing blister is to be installed refuses to sell the property, then the Developer shall provide the Department copies of all surveys, appraisals, written offers made by the Developer to the Property Owner, and correspondence from the Property Owner.

2. Acceleration and Deceleration Lanes: Where an acceleration lane and/or deceleration lane is required and the Developer does not control street frontage adequate to install the lane, then the Developer shall make a good faith effort to acquire property sufficient for the installation of the acceleration lane and/or a deceleration lane. If the Property Owner on which the acceleration lane and/or a deceleration lane is to be installed refuses to sell the property, then the Developer shall provide the Department copies of all surveys, appraisals, written offers made by the Developer to the Property Owner, and correspondence from the Property Owner.

3. Eminent Domain: Whereas the installation of passing blisters, acceleration lanes, and deceleration lanes is vital to the health, safety, and welfare of the motoring public, the City may begin eminent domain proceedings in accordance with IC 32-24: Eminent Domain for the

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acquisition of public right-of-way sufficient for the installation of the passing blister, acceleration lane, and/or deceleration lane upon receipt of the aforementioned documentation illustrating the Developer's failure to acquire the needed property. Upon completion of the eminent domain proceedings, the Developer shall reimburse the City in an amount equal to the price paid by the City for the public Right-of-way and associated professional nad legal expenses, anything that had to be condemned within the acquired Right-of-way, and anything for which the City paid the price of relocation.

4. Installation of Improvements: The Developer shall then install the passing blister, acceleration lane, and/or deceleration lane in accordance with the City's Construction Standards (see *Article 7.3 Principles and Standards of Design*).

E. **Private Streets:**

1. Standards: Private Streets are permitted, but shall conform to the Street and Right-of-way standards of this Ordinance and shall be constructed in accordance with the City's Construction Standards.
2. Private Street Easements: Private Streets shall be stablished in access easements that may be placed in common area, rather than Rights-of-way, that comply with *Article 8.3 Easement Standards*.
3. Platted Private Streets: When a Private Street easement appears on a Secondary Plat, then a Private Streets certificate (see *Article 8.3 Easement Standards*) shall be printed on the plan or plat. Unplatted easements for Private Streets shall have the same language included on the recorded easement instrument.
4. Financial Sureties: Shall be required in accordance with *Article 8.12 Surety Standards* and the City's Construction Standards.
5. Usage: When the term Right-of-way is used in this Article, it shall also apply to private street easements in the context of this Article only.

F. **Design Principles:**

1. General Street Layout: Street and Alley layout shall provide access to all Lots and parcels of land within a development, and where Streets cross other Streets, jogs shall not be created. Streets shall be laid out on the parent tract:
   a. In a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.
   b. In an orderly and logical manner.
   c. With concern for connectivity to adjacent parcels.
   d. With concern for pedestrian and vehicular safety.
   e. To provide reasonably direct access to the primary circulation system.
2. Regard to Contour and Natural Features: Streets shall be adjusted to the contour of the land so as to produce useable Lots and streets of reasonable gradient. Consideration shall be given to all natural features,

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such as existing stands of trees, streams and creeks, historic locations, or similar conditions which, if preserved, will add attractiveness and value to the community.

3. Connectivity: Streets shall align and connect with existing or planned streets and provide for connections with adjacent property. Proposed streets, where appropriate, shall be extended to the boundary line of the tract to be developed so as to provide for normal circulation of traffic within the vicinity. Regard shall be given to the Thoroughfare Plan and Comprehensive Plan. Cul-de-sacs are discouraged and shall only be permitted where such street continuation is prevented due to topography or other physical condition, or unless such extension is found by the Plan Commission to be unnecessary for the coordination of development within the development or between the development and adjoining property.

G. **Improvement Standards:** Streets shall conform to the following standards of improvement:

1. Street and Right-of-way Widths: Widths of Streets and minimum Right-of-way widths shall conform to the Thoroughfare Plan and *Article 7.3 Principles and Standards of Design*.

2. Construction: All Street improvements, public or private, shall be designed, constructed and installed in accordance with *Article 7.3 Principles and Standards of Design*.

   a. Streets and Alleys shall be completed as shown on approved plans, profiles and cross-section provided by the Developer, and prepared by a qualified engineer or surveyor.
   b. Streets shall be graded, surfaced and improved to the dimensions required by the cross-sections and the work shall 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: Where a street does not extend beyond the boundary of the development and its continuation is not required, as set forth herein, for access to adjoining property, its terminus shall comply with the following:

   a. Maximum Length: 600 feet, measured along the centerline from the intersection at origin to the center of the circle. Where a cul-de-sac extends from another cul-de-sac or dead-end street, the total maximum length of both streets shall not exceed this maximum.
   b. Terminus Design: Shall be nearly circular shape with a minimum Right-of-way diameter in accordance with *Article 7.3 Principles and Standards of Design*.
   c. Drainage Easement: A drainage easement shall be provided near

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the center perimeter of the cul-de-sac, opposite of the cul-de-sac entrance. The easement shall be a minimum of twenty (20) feet wide and ten (10) feet deep. The easement and Right-of-way adjacent to the easement shall be free of above ground improvements (e.g., driveways, mailboxes, fire hydrants, landscaping and Public Utility Installations), unless otherwise approved by the Public Works Department, in order to accommodate snow removal maintenance of the cul-de-sac.

d. Dead-end Streets: A temporarily dead-ended Street shall be permitted if a Street is proposed to be and should logically be extended but is not yet constructed. An adequate easement or Right-of-way for a turn-around shall be provided which extends one hundred and fifty (150) feet or more in length. If an easement, then such easement shall be automatically vacated to abutting Property Owners when the street is legally extended.

e. Pedestrian Connection: The Plan Commission or Director may require a pathway or sidewalk to connect one cul-de-sac to an adjacent cul-de-sac or Street to provide reasonably direct connection between likely pedestrian destinations. Such connection shall be constructed in accordance with *Article 8.7 Pedestrian Network Standards* and located within an easement or common area.

4. Alleys: Alleys shall be constructed in accordance with the City's Construction Standards, unless otherwise approved by the Public Works Department.

5. Intersections:

   a. All intersections, including at angles and minimum distances from the intersection of Right-of-way lines, shall be designed and improved in accordance with *Article 7.3 Principles and Standards of Design*.

   b. Lot Line corners shall be rounded by arcs with minimum radii in accordance with *Article 7.3 Principles and Standards of Design*.

6. Access Points: The following standards shall apply; however, the Plan Commission, Council, or Public Works Department may otherwise approve access points if deemed appropriate to improve traffic circulation in the area or due to the size of the development:

   a. The primary access for a multi-family development shall be from an Arterial, if available, and at least two (2) access points shall be provided for adequate accessibility for emergency vehicles and school busses.

   b. Developments shall not be designed to permit direct access by a driveway to any Arterial or Collector, unless such design accommodates the Lot's only means of access.

7. Curved Streets: Minimum visibility (horizontal and vertical), curvature radii, and tangents on reversed curves on curved Streets shall comply with *Article 7.3 Principles and Standards of Design*.

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8. Traffic Control Devices: All traffic control devices shall comply with guidelines and requirements of the current edition of the Indiana Manual on Uniform Traffic Control Devices.

9. Subsurface Drainage: Prior to placing street surfaces, adequate subsurface drainage for Streets shall be provided by the Developer. Subsurface drainage pipe, when required, shall be as described by the current edition of INDOT standard specifications and as approved by the Plan Commission. Upon completion of street improvements, plans and profiles as built shall be filed with the Plan Commission and the proper governing body of the City or County.

H. **Delay of Surface Layer:** A Developer may request permission from the Plan Commission to delay the installation of the surface layer of asphalt until the binder layer of asphalt has had sufficient time to prove its durability under the stress of heavy construction traffic, but this delay shall not exceed one (1) year. The Developer shall be required to submit a separate performance bond to cover the cost of the installation of the surface layer of asphalt.

I. **Fire Hydrants:** The Developer shall provide the development with fire hydrants. The types of hydrants and location of hydrants shall be determined by the Fire Department.

J. **Acceptance of Improvements:** Before any financial surety (see also *Article 8.12 Surety Standards*) covering a Street Installation is released, the Plan Commission, Council, or Director may request that core borings (asphalt or concrete) of the Street be provided to the Public Works Department or the County Highway Department, or their designated representative(s), at the Developer's expense, for thickness determination.

   a. If requested core borings are for the acceptance of asphalt Streets, then the Developer shall employ and pay for the services of an independent testing laboratory to take cores at selected locations and perform Marshall stability, flow and density test, and percent of compaction determination on completed asphalt work.
   b. If requested core borings are for the acceptance of concrete Street, then the Developer shall provide satisfactory test results from an independent testing laboratory.

K. **Rail Corridors:** The following regulations affecting the Alternative Transportation Plan, as incorporated into the Thoroughfare Plan, shall apply to all property that abuts a railroad property line, current or former ("Rail Corridor"):

1. The railroad property lines used for plats shall be those boundaries in place as of January 2001, according to County mapping records.

2. The Department will work with owners of property adjacent to a Rail Corridor should any question of development arise. Any new development proposal that is adjacent to a Rail Corridor and requires an Improvement Location Permit or Development Plan Review shall be brought to the attention of the Director, who will address this section

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with the Applicant. The Director shall then inform the Director of the Parks Department and Mayor, as appropriate, of said development.

3. For any activity that would require an Improvement Location Permit, the Department shall work together 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 alternative transportation system and for the Property Owner. For new development proposals adjacent to a Rail Corridor that require an Improvement Location Permit or Development Plan Review, the Director 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 Director.
4. The City 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 Alternative Transportation Plan in a way that in beneficial to all.
5. Any agreement shall be approved by the Council and incorporated into the City's plan approval process.

8.10 Street Light Standards

A. **General:** The Developer shall install, or cause to be installed, street lights 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 in its discretion it determines is necessary to provide vehicular or pedestrian safety.

B. **Street Lights at Intersections:** The Developer shall propose a lighting design that provides the minimum amount of light necessary for vehicular and pedestrian safety at all intersections within the development, consistent with the City's Construction Standards (see *Article 7.3 Principles and Standards of Design*) and the public utility providing such lighting. The Public Works Department may reduce the number of intersections required to have street lighting. Under no circumstances shall the major intersections (involving Collectors or Arterials) within the development be waived.

C. **Lighting between Intersections:** Unless street lights have been provided at the lesser of either mid-Block or every fifteen (15) Lots, a dusk-to-dawn light that operates on a photo cell shall be installed on each home site. This lighting shall be maintained by the Property Owner in perpetuity.

D. **Street Lights at Entrances:** If the City established a street light standard along the Street on which the entrance is located, then the Developer shall install the same lighting standard. If there is no established street light standard along the corridor, then the Developer shall propose a lighting design that provides the minimum amount of light necessary for vehicular and pedestrian safety. Luminaires shall be shielded to prevent glare on residential properties.

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E. **Alternative Standard:** Decorative street lights may differ from the City's Construction Standards if approved by the Public Works Department. Decorative street lights shall be installed at the expense of the Developer and maintained by the Property Owners' Association. An agreement between the City and the Property Owner's association shall be 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; otherwise, such street lights may not be replaced or be replaced with a street light consistent with the City's Construction Standards.

8.11 Street Sign Standards

A. **General:** Streets shall have minimum number of street signs necessary to: (i) provide a safe environment for drivers and pedestrians; and (ii) provide an information system so visitor can efficiently find a certain street, address, or development amenity.

B. **Location:** The Developer shall install a minimum of one (1) street name sign at each street intersection within the development indicating the name of each street thereat and on all perimeter intersections prior to the issuance of any Building Permit within the development section. At least one (1) sign shall be set on the most conspicuous corner of the intersections.

C. **Sign Specifications:** Street signs shall comply with the current edition of the Indiana Manual on Uniform Traffic Control Devices and the City's Construction Standards (see *Article 7.3 Principles and Standards of Design*). Street name signs shall be lighted or reflectorized.

D. **Applicant's Responsibilities:** The Applicant shall be required to install street name and regulatory signs prior to any street being opened to the public. Signs shall be installed in the location and to the height determined by the Public Works Department and the City's Construction Standards.

E. **Alternative Standards:** Decorative street signs may differ from the City's Construction Standards if approved by the Public Works Department. Decorative street signs shall be installed at the expense of the Developer and maintained by the Property Owners' Association. An agreement between the City and the Property Owner's association shall be required establishing 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; otherwise, such signs may be replaced with a street sign consistent with the City's Construction Standards.

8.12 Surety Standards

A. **General:** A bond, irrevocable letter of credit, or other guarantee acceptable to the City ("financial surety") required for public improvements shall be executed prior to the time of Improvement Location Permit issuance for single site developments or prior to subdivision plat recording, which ever

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applies. Improvements that shall be guaranteed include facilities which shall become public, and may include other facilities or improvements set forth in the City's Construction Standards and as may be specified in the Detailed Development Plan approval. The guarantee shall be in accordance with this Article and the City's Construction Standards.

B. **Construction/Performance Surety:**

1. General: Neither the Plan Commission nor the Board shall approve a development that includes public infrastructure without a financial surety to cover the proposed public improvements and installation.
2. Requirement for Surety: All Developers shall provide a performance surety to the City for any street (public or private), sidewalk, path, storm sewer, erosion control, drainage facility, or any other facility that is intended or will be dedicated to the City. All such facilities on-site, any off-site improvements committed to by the Developer, and any off-site improvements required as a condition of approval shall be covered by the performance surety.
3. Requirements: The performance surety shall:
   a. Be in an amount of one hundred and ten percent (110%) of the estimated costs determined by the City to be sufficient to complete the improvements and installations in compliance with this Ordinance and the City's Construction Standards.
   b. Provide surety satisfactory to the City.
   c. Run to and be in favor of the City or the County (outside the corporate limits of the City).
   d. Specify the time for the completion of the improvements and installations (both on- and off-site).
   e. Be on a form approved by the Council.
4. Duration of Surety: All performance sureties shall be effective from approval to begin construction of the project and shall not terminate until released by the Board of Public Works. The performance surety shall not be released until the Public Works Department has certified that it has inspected the improvements during construction and after completion, and that they have been installed in accordance with the intent of the approved construction plans and specifications (completion of the "punch list"). It shall be the Developer's responsibility to request an inspection and summary of noncompliant improvements (the "punch list") upon completion of the improvements.
5. Payment in Lieu: There is hereby created a dedicated account in a form acceptable to the State Board of Accounts which shall hold and accumulate all funds paid pursuant to the provisions of this Article and which shall not thereafter be appropriated for any use unless it is associated with the completion of infrastructure improvements which had been approved by the City and which had not been completed after having been initiated for any reason whatsoever.

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6. Alternative Guarantees: Nothing in this Article shall in any way limit the ability of the City to give consideration to other alternative forms of insuring the proper completion of public improvement projects involving infrastructure which is to be dedicated to the City or for the benefit of the public.

C. **Maintenance Surety**

1. General: When the improvements covered by the performance surety have been completed, the Developer shall apply for the release of the performance surety. For a period of three (3) years after the installations and improvements have been completed and are accepted for public maintenance by the appropriate governmental unit or agency thereof, the Developer shall at his own expense make all repairs to said improvements and installations, and on the foundation thereof, which may become necessary by reason of improper workmanship or materials, with such maintenance, however, not to include any damage to said improvements and installations resulting from forces or circumstances beyond the control of the Developer.

2. Requirement for Surety: The Developer shall provide a maintenance surety to the City for any Street (public or private), sidewalk, path, storm sewer, erosion control, drainage facility, or any other facility that is intended or will be dedicated to the City. All such facilities on-site, any off-site improvements to which the Developer has committed, and any off-site improvements required as a condition of approval shall be covered by the maintenance surety.

3. Requirements: The maintenance surety shall:

   a. Run to and be in favor of the City.
   b. Be in a sum of not less than ten percent (10%) of the total improvements construction cost of the development to assure and guarantee the maintenance of all improvements and installations, during such three-year period.
   c. Provide surety satisfactory to the City.
   d. Warrant the workmanship and all materials used in the construction, installation and completion of said improvements and that the installations are of good quality and have been constructed and completed in a workman like manner in accordance with standards, specifications and requirements of this Ordinance and the City's Construction Standards.
   e. Include a certification from the Developer that all improvements and installations for the development required for compliance with this Ordinance have been made or installed in accordance with the approved plans and specifications.

4. Duration of Surety: All maintenance sureties shall be effective from acceptance and shall not terminate until the Public Works Department has certified that it has inspected and approved the improvements

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(completion of the "punch list"). It shall be the Developer's responsibility to request an inspection and summary of noncompliant improvements (the "punch list") upon completion of the improvements.

8.13 Utility Standards

A. **Applicability:** This Article applies to all development including, but not limited to Major Subdivisions, Improvement Location Permits and Development Plans and Public Utility Installations.

B. **Sewer and Water:** Public Sanitary Sewer and water hook-up shall be required for development in all Zoning Districts, except the *AG-SF1: Agriculture / Single-family Rural District.*

C. **Location and Character:** All newly installed, replaced or relocated utilities including, but not limited to, water, sewer, storm sewer, electric lines, phone lines, cable lines, gas lines and pipelines (collectively, the "Utilities"), shall be installed underground (i) in designated utility easements outside the Rights-of-way identified in the Westfield Thoroughfare Plan, or (ii) within the Rights-of-way identified in the Westfield Thoroughfare Plan after obtaining prior written approval from the Westfield Board of Public Works and Safety. If Utilities are to be installed within the Rights-of-way identified in the Westfield Thoroughfare Plan, such Utilities shall be installed in a location and in a manner that is acceptable to the Westfield Board of Public Works and Safety in its sole discretion.

D. **Sanitary Sewer Standards:** All developments shall provide for the collection of all sanitary sewage discharges by the installation of sanitary sewers. These sewers shall be tied into a Public Sanitary Sewer system and constructed within the Right-of-way or dedicated sewer and utility easement. When a Public Sanitary Sewer is not available, then a septic sewer system on an individual Lot may be provided if permitted by this Ordinance and if constructed in accordance with the minimum requirements of the County Health Officer.

E. **Water Service Standards:** All development shall provide a complete water main supply system, which shall be connected to a municipal or a community water supply system approved by the County Health Officer. When such municipal or community water supply is not available, then an individual water supply on each Lot shall be provided in accordance with minimum requirements of the County Health Officer.

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8.14 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
14-47	1412-ZOA-02	11/10/14	11/11/14	Article 8.6(G)(1), (4)
17-10	1704-ZOA-01	05/08/17	05/08/17	Article 8.3(B)(1); Article 8.3(H); Article 8.7(D)(1)
19-13	1905-ZOA-01	08/12/19	08/13/19	Article 8.6(C); Article 8.8(A), (B); Article 8.9(G)(6)(a); Article 8.13(A), (C)
19-40	1909-ZOA-02	09/23/19	09/25/19	Article 8.6(G)(1)

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CHAPTER 9: NONCONFORMING REGULATIONS

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9.1 Purpose and Intent

Upon the adoption of the Westfield Washington Township Zoning Ordinance of 1977 and Zoning Map, and amendments thereto, and potentially upon other government action (e.g., acquisition of Right-of-way), some buildings, Structures, Lots and uses may no longer conform to the regulations of the Zoning District in which they are located. This Chapter has been generated, for this reason, to provide the rules, policies and regulations that apply to these buildings, structures, Lots and users.

9.2 Legal Nonconforming and Illegal Nonconforming

A. Illegal Nonconforming: A Building, Structure, or Lot which was constructed or is being used without an approved Building Permit, Improvement Location Permit or approval from the Board or Plan Commission is considered illegal nonconforming when it does not conform to this Ordinance. An illegal nonconforming property shall be subject to enforcement and penalties as set forth in *CHAPTER 11: ENFORCEMENT & PENALTIES*, and all other applicable State or Municipal law, and shall be altered to conform with all applicable standards and regulations of this Ordinance.

B. Legal Nonconforming: Legal nonconforming is different than illegal nonconforming because a legal nonconforming property is caused by an amendment to this Ordinance, not as a result of a change to the property, that has resulted in the property no longer conforming to the policies and standards of the applicable Zoning District. When this situation occurs, then the property is deemed legal nonconforming if changes to the property are a result of improvements and/or changes to Rights-of-way adjacent to the property (e.g., streets, trails) and such improvements and/or changes to Rights-of-way cause the property to no longer conform to the policies and standards of the applicable Zoning District.

9.3 Nonconforming Buildings and Structures

A. A Legal Nonconforming Building or Structure shall be deemed as such for any Building or Structure that: (i) has been continuously occupied and legally existed prior to the enactment of this Ordinance, or an amendment thereto; and (ii) no longer conforms to the regulations set forth in this Ordinance, or its subsequent amendments.

B. A Legal Nonconforming Building or Structure may continue provided it remains the same or fits within the below described tolerances:

1. A Legal Nonconforming Building or Structure shall not be enlarged or altered in a manner that the enlargement or alteration increases its nonconformity; however, the Building or Structure, or portion thereof, may be altered to maintain or decrease its nonconformity.

2. A Legal Nonconforming Building and Structure deliberately damaged or deliberately destroyed by more than fifty percent (50%) of its fair market

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value shall thereafter conform to the regulations of the Zoning District in which it is located.

3. A Legal Nonconforming Building or Structure damaged or destroyed through natural disaster or a nondeliberate action may be reconstructed to the state and configuration as it existed immediately prior to the damage or destruction, except as otherwise regulated by *Article 5.5 Floodplain Overlay District (FOD)*.

C. If a Legal Nonconforming Building or Structure is moved for any reason, for any distance, then it shall thereafter conform to the provisions of this Ordinance.

9.4 Nonconforming Lots of Record

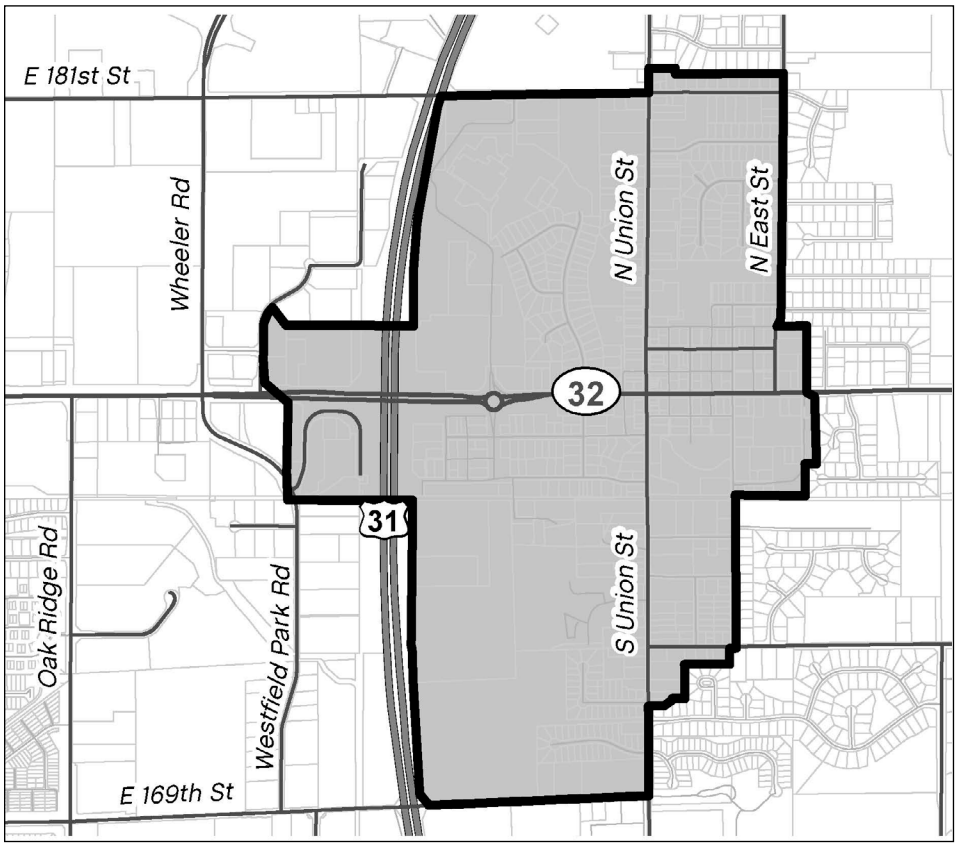

FIGURE 9.4(1): DOWNTOWN AREA

A. A Legal Nonconforming Lot shall be deemed as such for any Lot that: (i) was established and recorded prior to the date of passage of the Westfield Washington Township Zoning Ordinance of December 20, 1977; and (ii) no longer conforms to the regulations set forth in this Ordinance, or its subsequent amendments, as applicable to Lots (e.g., Lot Area, Lot Width, Lot Depth, Lot Frontage).

B. A Legal Nonconforming Lot within the geographic area identified in FIGURE 9.4(1): DOWNTOWN AREA may be: (i) used as permitted by the Zoning District in which the Lot is located; and (ii) built upon, only if the Lot and

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improvements otherwise comply with all other standards of this Ordinance.

C. A Legal Nonconforming Lot not within the geographic area identified in FIGURE 9.4(1): DOWNTOWN AREA may be: (i) used as permitted by the Zoning District in which the Lot is located; and (ii) built upon, only if the Lot and improvements otherwise comply with all other standards of this Ordinance, and provided that:

1. The Property Owner of said parcel does not own, in whole or in part, sufficient adjacent land to enable the parcel to conform to the dimensional and acreage requirements of this Ordinance;
2. The Lot Width is no less than one hundred (100) feet; and
3. The Lot Area is no less than one (1) acre.

D. A Legal Nonconforming Lot is no longer deemed a Legal Nonconforming Lot if the Lot has been combined into a Lot or parcel that fully conforms with the standards of the Zoning District. A Legal Nonconforming Lot shall retain its Legal Nonconforming status if combined with another Legal Nonconforming Lot resulting in increased conformity of the Lot. Once combined with another Lot, a Legal Nonconforming Lot shall not thereafter be subdivided except when the resulting Lots are in full compliance with this Ordinance.

9.5 Nonconforming Uses, Land, or Structures and Land in Combination

A. A Legal Nonconforming use of Structures, land, or Structures and land in combination (collectively, "Legal Nonconforming Use") shall be deemed a Legal Nonconforming Use if it: (i) was established prior to the date of passage of the Westfield Washington Township Zoning Ordinance of December 20, 1977; (ii) does not conform to the regulations set forth in this Ordinance, or its subsequent amendments; (iii) no longer is a permitted use in the applicable Zoning District in which it is located.

B. A Legal Nonconforming Use may continue provided that it remains otherwise lawful, subject to the following conditions:

1. No existing Structure devoted to a Legal Nonconforming Use shall be enlarged, expanded, increased, extended, constructed, reconstructed, moved, or structurally altered unless it:
   a. Complies with this Chapter for limited and small expansions;
   b. Changes the use of the Structure to a use permitted by the Zoning District in which it is located; or
   c. Changes the use to a less intensive nonconforming use and is approved by the Director or Plan Commission.
2. No new Building or Structure shall be constructed in connection with an existing Legal Nonconforming Use.
3. A Legal Nonconforming Use of a Building or Structure may be extended throughout any parts of a Building or Structure which were plainly arranged or designed for such use prior the effective date of this

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Ordinance, but no such use shall be extended to occupy any land outside the Building or Structure.

4. A Structure being used by a Legal Nonconforming Use may be expanded an aggregate of up ten percent (10%) of the original Gross Floor Area, as it existed prior the effective date of this Ordinance. Expansions shall otherwise conform to all applicable standards of this Ordinance, unless a variance is granted by the Board.
5. If no structural alterations are made, then a Legal Nonconforming Use may be changed to another Legal Nonconforming Use, provided the use is equally appropriate or more appropriate to the Zoning District than the existing Legal Nonconforming Use requires more parking than the previous use, as set forth by *Article 6.14 Parking and Loading Standards*, then such new use shall comply with *Article 6.14 Parking and Loading Standards*, as determined by the Director.
6. If a Legal Nonconforming Use is discontinued or abandoned for twelve (12) consecutive months, except when government action impedes access to the premises, then any subsequent use of such land, Structure or land and Structure shall conform to the provisions of this Ordinance.
7. A Legal Nonconforming Use superseded by a permitted use shall lost its legal nonconforming status and shall not thereafter be resumed.
8. Removal or destruction of a Structure in which a Legal Nonconforming Use existed shall result in the property losing its legal nonconforming status and shall not thereafter be resumed. Destruction is defined as deliberate damage of more than fifty percent (50%) of the Structure's fair market value at the time of destruction.

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9.6 Nonconforming Signs

A. A Legal Nonconforming Sign shall be deemed as such for any Sign that: (i) lawfully existing on the effective date of this Ordinance, or amendment thereto; and (ii) no longer conforms to all standards and regulations of this Ordinance.

B. Legal Nonconforming Signs shall be permitted to remain until such time as: (i) a major change is made to the Sign; (ii) any new Sign is proposed for the property upon which the nonconforming Sign is located; or, (iii) the Sign is taken down for maintenance and repair and is down for longer than thirty (30) days. Major changes for purposes of this Section shall include replacement of the Sign Copy, changing the size, changing the height, adding lights, altering light intensity, and/or relocation. The replacement of individual tenant panels on a Nonresidential Center sign shall not constitute a major change.

C. Legal Nonconforming Signs shall comply with the Maintenance and Repair requirements found in *Article 6.17 Sign Standards* and shall be kept in good repair, safe, neat, clean and attractive condition. If Legal Nonconforming Signs are not kept in said condition for a period exceeding six (6) consecutive months or are demolished by any force whatsoever to the extent of fifty percent (50%) or more of the fair market value of the Sign, including its structure, then the Sign(s) shall lose its legal nonconforming status and shall conform to this Ordinance.

D. A Legal Nonconforming Sign shall be removed by the owner or lessee of the premises upon which the Sign is located when the business it advertises is no longer conducted on the premises. If the Property Owner or lessee fails to remove the Sign, then the Plan Commission or Director shall give the Property Owner thirty (30) days written notice to remove it. Upon failure to comply with this notice, the Plan Commission or Director may remove the sign at cost to the Property Owner or lessee.

E. A Legal Nonconforming Sign that loses its legal nonconforming status shall comply immediately with all provisions of this Ordinance or be granted a variance(s) from the Board of Zoning Appeals.

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9.7 Repairs and Maintenance

The following shall apply to Legal Nonconforming Structures or Buildings, and Legal Nonconforming Uses of Structures, or Structures and land in combination:

A. Work may be done for ordinary repairs or replacement of walls, heating, fixtures, wiring, or plumbing; under the condition that the square footage and volume of usable space existing when the Structure became Legal Nonconforming shall not be increased.

B. If a Building or Structure or portion of a Building or Structure were to become unsafe or condemned due to lack of repairs or maintenance, and is declared by an authorized official to be unsafe or condemned due to physical condition; then the Building or Structure shall be restored, repaired, rebuilt or entirely demolished within six (6) months of the declaration. If the Building or Structure is not restored, or rebuilt within the six (6) months, then the Building or Structure shall lost its Legal Nonconforming status and any future improvements shall conform to the standards and regulations of this Ordinance.

C. If a Building or Structure becomes unsafe or unlawful due to physical condition and is razed, then the Building or Structure shall be rebuilt in conformity with the Zoning District in which it is located.

D. Nothing herein shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any Building or Structure or part thereof declared to be unsafe by any official charged with protecting public safety upon order of such official.

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9.8 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
15-12	1506-ZOA-01	05/26/15	05/26/15	Article 9.4(B)
17-10	1704-ZOA-01	05/08/17	05/08/17	Article 9.2(B); Article 9.3(B)
19-13	1905-ZOA-01	08/12/19	08/13/19	Article 9.4(D); Article 9.5(A)

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CHAPTER 10: PROCESSES & PERMITS

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10.1 Processes and Permits

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

B. **Application:** Application and informational packets may be obtained through the Department and/or online through the City's website.

C. **Fees:** Fees shall be paid in accordance with the Fee Schedule, as set forth in *Article 3.1 General Administration*. No permit shall be granted by the Department until all applicable fees pertaining to that permit have been paid in full. No permit shall be granted by the Department until all fees and fines owed by the Applicant to the City have been paid in full. This requirement shall apply not only to fees and fines specific to the individual application, but shall also include all fees and fines owed on any permit previously issued to the Applicant. A schedule of payment of all owed fees provided by the Applicant to the satisfaction of the Director shall satisfy the requirement of this section in lieu of payment in full.

D. **Public Meetings:** Applications requiring public meetings shall be filed in accordance with the adopted Schedule of Meeting and Filing Dates, as set forth in *Article 3.1 General Administration* and subject to the Rules of Procedure of the applicable hearing body.

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10.2 Administrative Determination

A. **Purpose:** The interpretation authority established by this Ordinance is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied. Many such situations can be readily addressed by an interpretation of the specific provisions of this Ordinance in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, it is not intended to add to or change the essential content of this Ordinance but is intended only to allow authoritative application of that content to specific cases.

B. **Authority:** The Director may be written order, subject to the procedures, standards, and limitations of this Ordinance, render interpretations of the provisions of this Ordinance and of any rule or regulation issued pursuant to it ("Administrative Interpretation") or "Administrative Determination").

C. **Parties Entitled to Seek Interpretations:** Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation; provided that interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

D. **Procedure for Review and Decision**

1. Application: Applications for interpretations of this Ordinance shall be filed in accordance with the requirements of this Article.
2. Action on Application: Within ten (10) working days following the receipt of a properly completed application, the Director shall inform the Applicant in writing of his/her determination, stating the specific precedent, reasons, and analysis upon which the determination is based. The failure of the Director to act within ten (10) working days, or such further time to which the Applicant may agree, shall be deemed to be a decision denying the application rendered on the day following such ten (10) day period.
3. Records: A record of all applications for determinations shall be kept on file in the office of the Director and may, at the Director's discretion, be required to be recorded in the Office of the Recorder of Hamilton County, Indiana.
4. Appeal: Appeals from interpretations rendered by the Director may be made in accordance with *Article 10.3 Appeals of Administrative Decisions*.

E. **Standards for interpretations:** The following standards shall govern the Director, and the Board of appeals from the Director, in issuing determinations:

1. No determination shall permit any use in any Zoning District unless

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evidence shall be presented that demonstrates that it will comply with the general regulations established for that particular Zoning District;

2. No determination shall permit any use in Zoning District unless such use is similar to other uses permitted in the Zoning District and is more similar to those uses than to uses permitted in a more restrictive Zoning District;
3. If a proposed use is most similar to a use permitted only as a Special Exception in the Zoning District in which it is proposed to be located, then any determination permitting such use shall be conditioned on the approval of the Special Exception pursuant to *Article 10.11 Special Exceptions*; and
4. No determination shall permit the establishment of any use that would be inconsistent with the purpose and intent of the Zoning District.

F. **Effect of Favorable Interpretations:** No determination shall authorize the establishment of a use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by this Ordinance and ordinances of the City including, but not limited to, a Building Permit, a Certificate of Occupancy, Primary and Secondary Plats, or Development Plan approval.

G. **Limitations on Interpretations:** A determination shall be limited only to the particular circumstance for which it was issued, and such determination shall not be deemed to authorize any allegedly similar circumstance for which a separate determination has not been issued, unless otherwise provided for in the determination.

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10.3 Appeals of Administrative Decisions

A. **Right of Appeal:** The Board of Zoning Appeals may grant an appeal of any decision, interpretation, or determination made by the Director, or any other administrative official or board charged with the duty of enforcing and interpreting this Ordinance. The procedure set forth in this Article shall apply to all appeals of administrative decisions, unless otherwise set forth by local or Indiana law.

B. **Stay of Enforcement:** If an appeal is filed in accordance with this Article, then the enforcing party shall take no further action on the matter pending the Board's decision, except for unsafe circumstances which present an immediate and serious danger to the public.

C. **Application:** The Applicant shall submit an administrative appeal application within thirty (30) days of when the decision, interpretation, or determination was made, along with the required supporting information. Supporting information shall include, but not be limited to, the following:

1. Original Submittals: Copies of all materials upon which the decision being appealed was based.
2. Written Decisions: Copies of any written decisions that are the subject of the appeal.
3. Appeal Basis: A letter describing the reasons for the appeal noting specific sections of this Ordinance or other applicable standards upon which the appeal is based.

D. **Board Review:** The Board will then, at a meeting scheduled consistent with the adopted Schedule of Meeting and Filing Dates, review the administrative appeal application and supporting information.

1. Representation: The Applicant and/or any representative of the appellant must be present at the meeting to present the appeal.
2. Testimony: The Board shall consider at the meeting a report from the Department and/or enforcing party, testimony from the Applicant, and/or testimony from witnesses.
3. Procedures: The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the Rules and Procedures of the Board.

E. **Board Action:** The Board may affirm, affirm with modifications, reverse, or continue to appeal.

1. Affirm: If the Board finds the administrative decision was consistent with the provisions of this Ordinance, then the Board shall affirm the determination in writing.
2. Affirm with Modifications: If the Board determines the proper interpretation of the provision(s) of this Ordinance that are subject to the appeal is consistent with neither the administrative decision nor the required interpretation of the Applicant, then the Board may affirm the

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determination with modifications.

3. Reverse: If the Board finds the administrative decision was inconsistent with the provisions of this Ordinance, then the Board shall reverse the determination in writing.

4. Continuances: The appeal may be continued based on a request by the Department or Applicant; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request. The continuing of all applications shall be consistent with the Rules and Procedures of the Board.

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10.4 Certificate of Compliance

A. **Applicability:** An application for a Certificate of Compliance ("CofC") may be filed in accordance with this Article. A CofC: (i) may be required as set forth by this Ordinance; (ii) may serve as a written confirmation by the City that a property or use complies with this Ordinance, as may be requested by an Applicant; (iii) may serve as a written verification of a property's zoning, as may be requested by an Applicant; and, (iv) shall be required for:

1. A change in use (e.g., change from residential to commercial, change to a Special Handling Retail use).
2. Exterior building or site improvements that would not otherwise require an Improvement Location Permit or Development Plan approval.
3. Landscaping (e.g., buffer yards) in Common Areas or Open Spaces.
4. Conditions of approval associated with an approval of the Board, Plan Commission or Council.

B. **Application:** An Applicant shall submit a completed application, on forms provided by the Department, or a detailed written request to the Department with supporting information. Applications, requests, plans, and specifications filed by an Applicant shall be checked by the Department for compliance with this Ordinance. If the Department is satisfied that the property, plans and information provided in the application conforms to the requirements of this Ordinance and other applicable laws and ordinances, then the Department shall issue a Certificate of Compliance to the Applicant.

C. **Effect:** No CofC shall authorize the establishment of a use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely certify compliance of an existing property, use and/or improvements thereon made in accordance with an approved permit. The filing and processing of applications for any permits and approvals may be required by this Ordinance and ordinances of the City including, but not limited to, a Building Permit, a Certificate of Occupancy, Primary and Secondary Plats, or Development Plan approval, for proposed improvements or uses.

D. **Limitations:** A CofC shall be limited only to the particular circumstance for which it was issued and at the time it was issued, and the CofC shall not be deemed to authorize and allegedly similar circumstance for which a separate review or certificate has not been issued or change in circumstances, unless otherwise provided for in the CofC.

E. **Records of Certificate of Compliance:** Every CofC issued pursuant to this Article shall be kept on file in the office of the Department and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

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10.5 Certificate of Occupancy

A. **Authority:** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy ("CofO") shall have been issued by the Department. The CofO shall state that the proposed use of the building and/or land conforms to the requirements of this Ordinance and that the Department has inspected the property and attested to that fact.

B. **Applicability:** Applications for a CofO shall be filed in accordance with this Article and shall be applied for coincidentally with the application for an Improvement Location Permit within ten (10) days after the lawful erection, reconstruction or structural alteration of such building or other improvement of the land shall have been completed.

C. **Issuance of Certificate of Occupancy:** A CofO may be issued by the Department within ten (10) days after notification by the Applicant that the lawful erection, reconstruction, or structural alteration of such building or other improvement of the land shall have been completed and the finding of the Department that such erection, reconstruction, or structural alteration is complete.

D. **Enforcement:** In case any building, structure, or property is, or is intended to be erected, constructed, reconstructed, altered or converted, or any building, structure, or property is, or is intended to be used in violation of, or contrary to the provisions of this Ordinance, the Director is hereby authorized, in addition to other remedies set forth in Indiana law and in this Ordinance, to institute an action to enjoin, or any other appropriate action or proceeding to prevent such erection, construction, alteration, conversion, or use. See also *CHAPTER 11: ENFORCEMENT & PENALTIES*.

E. **Sewage Disposal:** An application for a permit for any use shall not be approved until it has been ascertained by the Department that the proposed use and minimum Lot size and width meet the minimum standards for a sewage disposal system as required by the County Health Department, the Board of Public Works, other licensed centralized waste collection entities of appropriate jurisdiction, and as otherwise required by this Ordinance. No CofO shall be issued for a nonresidential structure or for any other applicable use until the plans for such structure shall have been approved by the appropriate State agencies, including the State Fire Marshal.

F. **Temporary Certificate of Occupancy:** When the improvement covered by the issued permit has been completed in substantial conformity with the architectural plan, site plan and/or development plan submitted with the application, a Conditional CofO may then be issued. For nonresidential structures, the Conditional CofO shall permit the stocking, shelving, furniture installation and similar activities but not the utilization of the building for general public use or the term "Open for Business." For residential structures, a Conditional CofO does permit the occupying of the structure

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in most instances. A Conditional CofO is valid for a period not exceeding thirty (30) days. At the end of the thirty (30) days, all unfinished items shall be completed and re-inspected for total compliance with the issued permit and submitted plans. The Director may grant thirty (30) day extensions for unusual or unique circumstances.

G. **Records of Certificate of Occupancy:** Every CofO issued pursuant to this Article shall be kept on file in the office of the Department and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

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10.6 Commitments

A. **Applicability:** An Applicant may be required or allowed to make a commitment to the Plan Commission or Board as a condition to the use or development of real estate in connection with the: (i) approval of a change of zoning proposal; (ii) approval of a Primary Plat or Overall Development Plan; (iii) approval of a vacation of all or part of the plat; or (iv) approval of an application for a Special Exception or Variance.

B. **Form:** Commitments shall be reduced to writing in a recordable form approved by the City and signed by the owner(s) of the real estate.

C. **Expiration:** Commitments may contain terms providing for its own expiration. A commitment may contain terms providing that the commitment automatically terminates: (i) if the Zoning District or classification applicable to the property is changed; (ii) if the use to which the commitment relates is changed; or (iii) otherwise in accordance with the Rules of Procedure of the Plan Commission or Board to which the commitment is made. If not otherwise provided, commitments shall be in effect until otherwise modified or terminated pursuant to this Article.

D. **Recording:** Commitments shall authorize their recording by the Department in the Office of the Recorder of Hamilton County, Indiana, upon the final approval of the related petition. If recorded by the Department, then the Department shall return the original recorded commitments in its file. If recorded by the Applicant, then the Applicant shall return a copy of the recorded commitments to the Department.

E. **Enforcement:** The Plan Commission, Property Owners of real estate adjoining the subject real estate and all Property Owners of real estate within the area included in the petition who were not Applicants for approval, and other affected persons specifically designated in such commitments shall be entitled to enforce such commitments pursuant to I.C. 36-7-4-1015, or as otherwise provided by applicable law.

F. **Modification of Commitments:** A commitment made pursuant to this Ordinance, may be modified or terminated only be a decision of the Plan Commission or Board to which the commitment was made. The decision must be made: (i) at a public hearing by the Plan Commission or Board, as the case may be, after notice of the hearing has been provided under the applicable Rules of Procedure; and (ii) following an introductory presentation of the proposed modification to the Council, prior to the public hearing, if the proposed modification is to a commitment originally made in connection with a change of zoning petition. Any modification or termination of the commitments shall not be effective until: (i) reduced to writing in a form approved by the City; (ii) approved by the Plan Commission or Board, as the case may be; (iii) executed and notarized by the current Property Owner of the real estate; and, (iv) recorded in the Office of the Recorder of the Hamilton County, Indiana.

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10.7 Development Plan Review

A. **Authority:** A Development Plan review process, as set forth herein, is hereby established to ensure adherence to the standards of this Ordinance. Development Plan applications shall be generally considered favorably by the Plan Commission and Department.

B. **Purpose:** The purpose of the Development Plan review process is to: (i) promote innovation and creativity in the design of the built environment; and, (ii) assure the compatibility of new development or major additions to existing development with the surrounding community.

C. **Applicability:** The Development Plan review process shall be necessary prior to any: (i) new construction; (ii) building additions; (iii) new or expanded surface Parking Areas; (iv) new or expanded impervious surface areas; (IV) renovation or improvements to a previously approved development plan; (v) exterior building renovations; or, (vi) any other improvements that require an Improvement Location Permit.

1. Exception: Individual Single-family Dwellings shall not require Detailed Development Plan approval in accordance with this Article; rather, the Building Permit review process (see also *Article 10.8 Improvement Location Permit*) shall serve as the Detailed Development Plan.

2. Transition Rules:

   a. Previously Approved Development Plans: A development plan or site plan approved by the Plan Commission prior to the adoption of this Ordinance shall be deemed to be an approved Detailed Development Plan; except for development plans approved by the Plan Commission for single-family developments, which shall be deemed as approved Overall Development Plans.

   b. Existing Lots without Approved Development Plans or Site Plans: New improvements or changes to existing improvements on a Lot which has lawfully developed, but did not receive approval of a development plan or site plan by the Plan Commission, shall require Detailed Development Plan approval, pursuant to this Article. Overall Development Plan approval shall only be required in this case if the proposed developments results in a Major Subdivision.

D. **Approvals Required:** The approval of a Development Plan is a two step process that includes the approval of an Overall Development Plan and the approval of a Detailed Development Plan, as set forth herein. The approval or disapproval of both an Overall and a Detailed Development Plan is hereby delegated to the Plan Commission.

1. Overall Development Plan: The purpose of the Overall Development Plan is to preliminarily divide property into Lots, Blocks or Common Area and to ensure compliance with the standards of this Ordinance with regard to Lots (e.g., size, access, general building envelopes), common areas (e.g., perimeter landscaping, shared signage) and shared infrastructure (e.g., drives, streets, cross-access, utilities, drainage). An Overall Development

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Plan does not include the review of the site layout or building design of individual building Lots; rather, it is intended to generally review Lots, common areas, public spaces and shared infrastructure so that adequate consideration is given to ensure a coordinated development prior to subdividing the property.

2. Detailed Development Plan: The purpose of the Detailed Development Plan is to clearly define all construction matters and special conditions such as construction techniques, specific building locations and design (e.g., architecture), and specific site design (e.g., landscaping, parking, signage, lighting) for an individual Lot or Block.

E. **Development Plan Review Criteria:** Development Plans shall comply with and be reviewed by the Plan Commission upon finding that the Development Plan is in compliance with the following requirements:

1. Compliance with all applicable development and design standards of the Zoning District in which the real estate is located.
2. Compliance with all applicable provisions of any Overlay District in which the real estate is located.
3. Management of traffic will be in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community such that:
   a. The design and location of proposed street and highway access points shall minimize safety hazards and congestion.
   b. The capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development.
   c. The entrances, streets and internal traffic circulation facilities in the proposed development are compatible with existing and planned streets and adjacent development.
4. The applicable utilities have sufficient capacity to provide potable water, sanitary sewer facilities, electricity, telephone, natural gas, and cable service at a satisfactory level of service to meet the needs of the proposed development.

F. **Overall Development Plan Approval Process:**

1. Application Procedures:
   a. Pre-Filing Conference: A pre-filing conference with the Department is required prior to the filing of any Development Plan application. The Applicant is encouraged to incorporate the Department's comments into the design of the project prior to the filing the application.
   b. Who May File: Applications may be filed by a petition signed by the Property Owners of the real estate involved in the petition, or the Property Owner's authorized agent. If an authorized agent, then a consent form signed by the Property Owner and notarized shall accompany the application.
   c. Filing Deadline: Applications shall be filed in accordance with the

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Schedule of Meetings and Filing Deadlines. The Applicant shall be responsible for distributing a copy of the application and Development Plan to members of the Technical Advisory Committee.

d. Forms of Filing: An Applicant shall submit a completed application to the Department on forms provided by the Department with documentation and supporting information as set forth in this Article.

e. Specifying Waiver Request: All Development Plans shall specify and detail any waivers requested pursuant to *Article 7.3 Principles and Standards of Design*. Any waiver of standard shall not be considered unless specifically requested and presented to the Plan Commission for its consideration, even if it is otherwise identified on the Development Plan.

f. Docketing by Department: Each Development Plan filed shall be reviewed for completeness. All Development Plans which are determined to be in proper form pursuant to the guidelines established by the Department shall be numbered and docketed by the Department for an initial hearing by the Plan Commission.

2. Investigation of Petitions: The Technical Advisory Committee may review any Development Plan, at the Director's determination, prior to the Plan Commission's consideration. The Department may submit a written report to the Plan Commission stating any facts concerning the physical characteristics of the area involved in the Development Plan, together with a recital of surrounding land use and public facilities available to service the area, or other pertinent facts. The report may also contain opinions of the Department concerning the proposal contained in the Development Plan and a report from members of the Technical Advisory Committee. A copy of such statement shall be made available to the Applicant and all remonstrators of record, if any.

3. Amendments Prior to Public Hearing: Amendments to a Development Plan to be considered at the public hearing must be received by the Department in accordance with the Schedule of Meeting and Filing Deadlines, to allow for the Department's written report to include comments and recommendations related to plans that may have been amended in response to comments provided by the Department or the Technical Advisory Committee. If the Director determines amendments made are beyond those necessary to comply with the recommendations of the Department or the Technical Advisory Committee, then the Director may continue the public hearing and require the amended plans to be reviewed again by the Department and/or the Technical Advisory Committee.

4. Public Hearing and Notice: A public hearing by the Plan Commission shall be required for any Development Plan and notification for the scheduled public hearing shall be completed consistent with the requirements of the Rules of Procedure of the Plan Commission and the Schedule of

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Meeting and Filing Deadlines. Any Development Plan which has been delegated to the Director for approval may occur without public notice and without a public hearing.

5. Amendments Proposed at Public Hearing: An Applicant may make amendments to a Development Plan pending determination by the Plan Commission at any time prior to a vote being called for by the Plan Commission. If, in the sole discretion of the Plan Commission, the proposed amendment is of such a nature that additional time is needed for review, then the Plan Commission may continue its consideration in accordance with the Rules of Procedure of the Plan Commission. If amendments are presented by the Applicant and agreed to by the Plan Commission at the public hearing, then revised plans indicating all amendments approved by the Plan Commission shall be filed with the Department prior to the application of a Detailed Development Plan.
6. Plan Commission Action: The Plan Commission will then hold the public hearing and review the application and required information and take action on the petition in accordance with this Ordinance, Indiana law, and the Rules of Procedure of the Plan Commission.
7. Amendments to Approved Overall Development Plan: Changes to an Overall Development Plan which has already received approval by the Plan Commission shall be subject to this section.
   a. Minor Amendments: If the Director determines a change to an approved Overall Development Plan is not a Major Amendment, then the change shall be deemed a Minor Amendment. Minor Amendments may be approved as part of the Detailed Development Plan or Improvement Location Permit without a public hearing.
   b. Major Amendments: If the Director determines a change to an approved Overall Development Plan is a Major Amendment, then the Applicant shall be required to file a new application of an amendment to the Overall Development Plan, which shall follow the procedures set forth in this Article for the initial approval of the Overall Development Plan.
8. Appeals of Determinations by Director: Any determination of the Director made under the authority of this Article may be appealed by any interested party to the Plan Commission. Such letter shall request a hearing on the matter by the Plan Commission at the Plan Commission's next regularly scheduled meeting for which published notice of the appeal pursuant to I.C. 5-3-1 can be provided. Further, appeals of the Plan Commission's determination may be made in accordance with *Article 10.3 Appeals of Administrative Decisions*.

G. **Detailed Development Plan Approval Process:**

1. Application Procedures:
   a. Prefiling Conference: A pre-filing conference with the Department is required prior to the filing of any Development Plan application. The

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Applicant is encouraged to incorporate the Department's comments into the design of the project prior to filing the project prior to filing the application.

b. Who May File: Applications may be filed by a petition signed by the Property Owners of the real estate involved in the petition, or the Property Owner's authorized agent. If an authorized agent, then a consent form signed by the Property Owner and notarized shall accompany the application.

c. Filing Deadline: Application shall be filed in accordance with the *Schedule of Meeting and Filing Deadlines*. The Applicant shall be responsible for distributing a copy of the application and Development Plan to members of the Technical Advisory Committee.

d. Forms of Filing: An Applicant shall submit a completed application to the Department on forms provided by the Department with documentation and supporting information as set forth in this Article. The number of copies of all petitions and supporting documentation required to be filed shall be as established by the Department.

e. Docketing by Department: Each Development Plan filed shall be reviewed for completeness. All Development Plans which are determined to be in proper form pursuant to the guidelines established by the Department shall be numbered and docketed by the Department.

2. Investigation of Petitions: The Technical Advisory may review any Detailed Development Plan prior to approval. The Department shall, based upon the facts presented for review, notify the Applicant in writing what revisions, changes, or further changes in the application are needed for approval.

3. Plan Commission Action: Following the Applicant's submittal of revised copies of the Detailed Development Plan, the Plan Commission shall review and take action on the petition in accordance with the Ordinance, Indiana law, and the Rules of Procedure of the Plan Commission without a public hearing. If the Detailed Development Plan complies with this Ordinance and is substantially consistent with the approved Overall Development Plan, then the Plan Commission shall approve the Detailed Development Plan. If the Detailed Development Plan is disapproved, then the Director shall set forth the reasons accordingly in writing and provide the Applicant with a copy.

4. Effect of Approval: Approval of a Detailed Development Plan shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required, which may include but are not limited to approval of an Improvement Location Permit, Building Permit and a Certificate of Occupancy.

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5. Amendments to Approved Detailed Development Plan: Major Amendments to an approved Detailed Development Plan may be filed as a new application for review approval of a Detailed Development Plan, which shall follow the procedures set forth in this Article for the initial approval of the Detailed Development Plan. If changes to an approved Detailed Development Plan are determined to be Minor Amendments, then said modifications may be administratively reviewed and approved as part of the application and issuance of an Improvement Location Permit (see also *Article 10.8 Improvement Location Permit*).

6. Surety Requirement: In conjunction with the approval of a Detailed Development Plan, the Applicant shall provide financial sureties for all public improvements in accordance with this Ordinance (see also *Article 8.19 Surety Standards*).

7. Appeals of Determinations by Director: Any determination of the Director made under the authority of this Article may be appealed by any interested party to the Plan Commission. Such letter shall request a hearing on the matter by the Plan Commission at the Plan Commission's next regularly scheduled meeting for which published notice of the appeal pursuant to I.C. 5-3-1 can be provided. Further, appeals of the Plan Commission's determination may be made in accordance with *Article 10.3 Appeals of Administrative Decisions*.

H. **Application Documentation and Supporting Information:** All applications for Development Plan approval shall include the documentation and supporting information set forth herein. Other information as deemed necessary to support a thorough review of the project may be requested in writing by the Plan Commission or Director. The Director, in its sole discretion, may, in writing, waive or relax any of the documentation required which is not relevant or is deemed unnecessary for a thorough review of the development.

1. Development Plan Scope: An Overall Development Plan shall include those details applicable to the overall development, shared or common areas, shared infrastructure, and other areas deemed appropriate by the Director or Plan Commission in order that adequate consideration is given to ensure a coordinated development prior to subdividing the property. A Detailed Development Plan shall include all details specific to the individual Lot that is the subject of the application.

2. General Plan Requirements: An Overall and Detailed Development Plan shall include the following, which shall be drawn to scale of not more than 1" = 100':

   a. Title, scale, north arrow and date.
   b. Proposed name of the development.
   c. Area map insert showing the general location of the site referenced to Streets, section lines and alternative transportation plan system, as well as the Zoning District and use of adjacent property;
   d. Address and legal description of the property.

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e. Boundary lines of the property including all dimensions.
f. Location, name, centerline and width of all Streets, Private Streets, Alleys, access easements and alternative transportation plan system improvements that are existing or proposed to be located within or adjacent to the property.
g. Location, centerline and width (at the Lot Line) measurements of any proposed or existing Driveways within two hundred (200) feet of the property, and any connection to an Alley must be indicated.
h. Location and dimensions of primary vehicular ways in and around the proposed development, including depictions of all travel lanes, turning movements, vehicle storage areas and tapers.
i. All proposed Street and Driveway improvements, both on and off-site, including measurement of curb radius and/or taper.
j. Location and dimensions of existing and proposed sidewalks, pathways, trails or other alternate transportation plan improvements;
k. Layout, number, dimension and area (in square feet and acres) of all Lots and Outlots with Building Setback Lines.
l. Location and dimensions of all existing structures and paved areas.
m. Location and dimensions of all proposed structures and paved areas (indicated by cross-hatching).
n. Location all Floodplain areas within the boundaries of the property.
o. Names of legal ditches and streams on or adjacent to the site.
p. Location and feasibility statement of all existing and proposed utility facilities and easements, including, but not limited to: sanitary sewer, water, storm water management, electric, gas, telephone and cable.
q. Identify buildings proposed for demolition.
r. Areas of the property reserved for Development Amenities, Open Space and other similar uses.
s. Use of each Lot and/or building by labeling, including approximate density or size of proposed uses and buildings (e.g., number of parking spaces, Dwelling Units, Gross Floor Area, Living Area).
t. Label Building Separation and/or Building Setback Lines in relation to Front, Rear and Side Lot Lines.

3. Primary or Secondary Plat: If a property is being subdivided, then: (i) a Primary Plat, meeting the terms of this Ordinance, shall be submitted prior to or contemporaneous with the Overall Development Plan; and (ii) a Secondary Plat, meeting the terms of this Ordinance, shall be submitted prior to or contemporaneous with the Detailed Development Plan (see also *Article 10.12 Subdivision*).
4. Landscape Plan: A Landscape Plan in accordance with *Article 6.8 Landscaping Standards*, shall be required as part of any Development Plan. Landscape Plans for Overall Development Plans shall generally detail perimeter areas, Buffer Yards, common areas, entryways, Street Trees, and any other Open Space as deemed appropriate by the Plan Commission or Director. Landscape Plans for a Detailed Development Plan shall generally be site or Lot specific showing compliance with

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Parking Area areas, Buffer Yards, Street Trees, and on-site or foundation requirements.

5. Open Space and Development Amenity Plan: A statement of the nature and extent of all existing and proposed Open Space and Development Amenities shall be provided either on the submitted Landscape Plan or in writing, along with any necessary explanatory materials or graphics, as part of any Development Plan (see also *Article 8.6 Open Space and Amenity Standards*).

6. Lighting Plan: A Lighting Plan in accordance with *Article 6.9 Lighting Standards*, shall be required as part of any Development Plan.

7. Sign Plan: A Sign Plan in accordance with Article 6.17 Sign Standards, may be required with the submission of any Development Plan; however, all signs shall be subject to approval and obtaining a Sign Permit (see also *Article 10.10 Sign Permits*) prior to erection.

8. Building Elevations: Drawings of proposed buildings shall be filed in connection with the submission of a Detailed Development Plan and shall be drawn to scale and include the following (see also *Article 6.3 Architectural Standards*):

   a. Address of property and graphic scale.
   b. Proposed name of the development.
   c. Elevations for each Building Façade (360 degree).
   d. Specification or sample of the type and color of exterior materials to be used for all wall, window, roof and other architectural features.
   e. A separate true color rendering, or other realistic depiction, of the proposed building, including any areas designated for signage.
   f. Details of any exterior architectural lighting.

9. Integrated Developments: Documentary assurances may be required for integrated developments that ensure that the development will be provided with, at a minimum: (i) regular trash pick-up; (ii) snow removal; (iii) common vehicle access point(s), and drive(s) and Parking Area(s), including maintenance thereof.

10. Traffic Impact Study: A Traffic Impact Study may be required to be conducted at the discretion of the Director, the Department of Public Works Director, or the Plan Commission. If a Traffic Impact Study is required, then it shall be prepared by a registered professional engineer and shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to commencement, a Applicant shall meet with the Department to determine the appropriate scope for the study.

11. Statement of Development Build-Out: The Overall Development Plan shall include a statement of: (i) the order of development of the major infrastructure elements of the project: (ii) development phase boundaries, if any; (iii) the order and content of each phase; and, (iv) an estimate of the time frame for build-out of the development.

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10.8 Improvement Location Permit

A. **Applicability:** Applications for an Improvement Location Permit shall be filed in accordance with this Article.

B. **Application:** An Applicant shall submit a completed application to the Department on forms provided by the Department with supporting information. Applications, plans, and specifications filed by an Applicant for a permit shall be checked by the Department. If the Department is satisfied that the plans and work described in the application conforms to the requirements of this Ordinance and other applicable laws and ordinances, then the Department shall issue a permit to the Applicant.

1. Site Plan: Any persons, who shall make application for an Improvement Location Permit, shall, at the time of making such application furnish a site plan or development plan of the real estate. Site plans so furnished shall become a permanent public record and shall be drawn to scale showing, at a minimum, the following:

   a. Legal or site description of the real estate involved.
   b. Location and size of all buildings and structures.
   c. Location of existing and proposed easements.
   d. Width and length of all entrances and exits to and from said real estate.
   e. All adjacent Rights-of-way.
   f. Building construction elevation points.

2. Performance Standards: An application for any use subject to *Article 6.15 Performance Standards* shall be accompanied by a certificate subscribed by a registered professional engineer or architect, certifying that the use intended will satisfy the performance standards of this Ordinance, if requested by the Building Commissioner. The Building Commissioner may take ten (10) days in which to study the application, during which time he may consult with appropriate technical consultants. If the Building Commissioner has not required any additional information or stated any objections in writing after the ten (10) day period, then the Department shall issue the Improvement Location Permit.

C. **Special Exception Uses:** The Building Commissioner shall issue an Improvement Location Permit for a Special Exception only after the Special Exception has been approved by the Board in accordance with this Ordinance (see also *Article 10.11 Special Exceptions*).

D. **Infrastructure:**

1. Release of Foundation: No permit to release construction of a building foundation shall be issued until: (i) streets, curbs, gutters, storm sewers and the like infrastructure have been constructed and inspected in accordance with the City's Construction Standards; or (ii) financial sureties for all City infrastructure are secured in accordance with this Ordinance and the City's Construction Standards.

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2. Release of Building Permit: No permit to release the vertical construction of a building shall be issued until notification has been received from the water utility for the project stating the water lines have been accepted and are in service and the fire hydrant(s) intended to serve the building has been accepted by the Fire Marshal.

3. Release of CofO: No Certificate of Occupancy (see also *Article 10.5 Certificate of Occupancy*) shall be issued for a building until all streets, curbs, gutters, sanitary sewers, storm sewers and like infrastructure, of the applicable section of a subdivision or approved Development Plan in which structures are being constructed, have been constructed in accordance with the City's Construction Standards and the financial sureties for the maintenance of said improvements are secured in accordance with this Ordinance and the City's Construction Standards.

E. **Penalties:** Penalties may be assessed pursuant to this Ordinance if construction has commenced prior to obtaining a permit or payment of fees. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, realtor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

F. **Inspections:** After the issuance of any permit, the Building Commissioner shall make, or cause to be made, inspections of the work being done as are necessary to ensure compliance with the provisions of this Ordinance and the terms of the permit. Re-inspections of work found to be incomplete or not ready for inspection may be subject to assessment of re-inspection fees as prescribed herein. The Fire Marshal, or designated representatives, may assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and may provide reports of such inspection to the Building Commissioner.

G. **Entry:** Upon presentation of proper credentials, the Building Commissioner, or duly authorized representatives, may enter at reasonable times any building, structure, or premises in the Jurisdiction of the Plan Commission to perform any duty imposed by this Ordinance.

H. **Stop Order:** Whenever any work is being done contrary to the provisions of this Ordinance, the Building Commissioner, or duly authorized representatives, may order the work stopped by notice, in writing, served on any persons engaged in the causing of such work to be done. Any such persons shall forthwith stop such work until authorized by the Building Commissioner, or duly authorized representatives, to proceed with the work.

I. **Certificate of Occupancy:** No land shall be occupied or used and no building hereafter erected, reconstructed or structurally altered shall be occupied or used, in whole or in part, of for any purpose whatsoever, until a Certificate of Occupancy has been issued. No Improvement Location Permit shall be issued to excavation for or the erection, reconstruction or structural

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alteration of any building, before application has been made for a Certificate of Occupancy. See also *Article 10.5 Certificate of Occupancy*.

J. **Sewage Disposal:** An application for an Improvement Location Permit for any use shall not be approved until it has been ascertained by the Department that the proposed development will meet the minimum standards for a sewage disposal system as required by the County Health Department, the Board of Public Works, other licensed centralized waste collection entities of appropriate jurisdiction, and as otherwise required by this Ordinance.

K. **Workmanship:** All work on construction and alteration of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

L. **Permit Time Limitations:**

1. Deadline for Obtaining Permit Once Filed: Any permit application shall be considered null and void unless all applicable fees have been paid in full within one (1) year from the date a permit is approved by the Department.
2. Completion Time: The work or use authorized by any Building Permit, Improvement Location Permit or other permit must be commenced within six (6) months of the date of issuance of such permit, otherwise the same shall lapse and be and become null and void. All work so authorized shall be completed within twenty-four (24) months from the issuance of the permit. The Director may extend the work completion time if good cause is shown by Applicant.
3. Renewing Permits: If construction is commenced pursuant to an issued permit but not completed in the time frame established herein, then it will be necessary for the Applicant to renew the permit at the end of the prescribed time frame. The fee that shall be collected for this renewal shall be equal to fifty percent (50%) of the fee originally paid for the permit and the fee must be paid prior to the issuance of the renewed permit.

M. **Changes to Approved Permits:** Construction shall be consistent with plans and specifications approved as part of an issued permit. Such plans and specifications shall not be changed, modified, or altered without written authorization by the Department. Changes to approved plans shall be reviewed and approved or disapproved in accordance with this Ordinance and upon determination by the Department of whether further action is required by the Plan Commission or Board and whether any additional permits or fees are due.

N. **Demolition Permits:** A demolition permit shall be obtained prior to a structure being removed and/or destroyed to the ground. A completed and signed application for a Building Permit shall be made and include:

1. A single copy of a sketch plan drawing (informal) including the general locations of all existing structures on the real estate; highlighting/

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identifying the structure(s) to be removed.

2. A written statement as to the removal of the demolished materials and the intended use of the area, as well as the place where the demolished materials are being located or hauled.
3. A written and signed statement concerning the existing well, septic systems, sanitary sewer, and/or fuel tanks. Written proof of disconnection from utilities such as gas, water, and/or electric.

O. **Farm Buildings:** Accessory Buildings constructed in the normal course of agricultural business (see Agricultural Uses) for the support of individual farms are not subject requirements for detailed construction plans; however, a special Agricultural Accessory Building Permit is required and subject to two (2) inspections and related fees. If any structure requires plumbing, heating, sewage, electric or office space, then this section shall not apply; rather, the structure shall be subject to the other requirements stated herein.

P. **Appeals:** Appeals may be made in accordance with *Article 10.3 Appeals of Administrative Decisions*.

Q. **Enforcement and Penalties:** See *CHAPTER 11: ENFORCEMENT & PENALTIES*.

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10.9 Planned Unit Development Districts

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

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

1. Ordinance and Concept Plan (collectively, "PUD District Ordinance") (see also *Article 5.6 Planned Unit Development (PUD) District*)
2. Development Plan (see also *Article 10.7 Development Plan Review*) / Subdivision Approval (*see also Article 10.12 Subdivision*)
   a. Overall Development Plan / Primary Plat
   b. Detailed Development Plan / Secondary Plat

C. **PUD District Ordinance:**

1. Application Procedures:
   a. Pre-Filing Conference: A pre-filing conference with the Department is required prior to the filing of any PUD District application. A draft of the proposed PUD District Ordinance is required for the pre-filing conference and the Applicant is encouraged to incorporate the Department's comments into the proposal prior to filing the application.
   b. Who May File: Applications may be filed by a petition signed by the Property Owners of the real estate involved in this petition, or the Property Owner's authorized agent. If an authorized agent, then a consent form signed by the Property Owner and notarized shall accompany the application.
   c. Filing Deadline: Applications shall be filed in accordance with the Schedule of Meeting and Filing Deadlines. The Applicant shall be responsible for distributing a copy of the application and related materials to members of the Technical Advisory Committee.
   d. Forms of Filing: An Applicant shall submit a completed application to the Department on forms provided by the Department with documentation and supporting information as set forth in this Article and *Article 5.6 Planned Unit Development (PUD) District*. The number of copies of all petitions and supporting documentation required to be filed shall be as established by the Department.
   e. Docketing by Department: Each filed application shall be reviewed for completeness. Applications which are determined to be in proper form pursuant to the guidelines established by the Department shall be numbered and docketed by the Department.
   f. Neighbor Meeting: Applicants requesting approval of a PUD District Ordinance, and any amendments thereto, shall host a neighbors' meeting and submit a written report to the Department summarizing

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the meeting, prior to the Plan Commission public hearing. This requirement may be waived by the Director. Applicants shall, at a minimum invite to the neighbors' meeting those Interested Parties required to receive mailed notice of the Plan Commission public hearing.

g. Review and Approval: After docketing, an application shall be reviewed and considered by the Plan Commission and Council in accordance with *Article 10.15 Zoning Map Changes (Rezones)*.

2. Effect of Approvals of PUD District Ordinance: A PUD District Ordinance shall become effective after its approval by the Council and shall be recorded by the City in the Office of the Recorder of Hamilton County, Indiana. The Zoning Map shall be amended accordingly. The use and development of the property shall thereafter be governed by the PUD District Ordinance, subject to review and approval of subsequent permits and approvals as required by this Article and Ordinance, and any other regulatory processes which may be required prior to commencement of construction within the PUD District.

D. **Development Plan Approval:** Overall Development Plan and Detailed Development Plan Review approval, as set forth in *Article 10.7 Development Plan Review*, shall be required for all PUD Districts. Development Plans shall conform to the approved PUD District Ordinance and this Ordinance.

E. **Permits:** No permit of any kind shall be issued for any purpose within a PUD District except in accordance with the approved Detailed Development Plan, and after acceptance by the City of all required guarantees for improvements pursuant to this Ordinance.

F. **PUD District Ordinance Requirements:** PUD District Ordinances and supporting data shall include the following documentation. The Director, in its sole discretion, may, in writing, waive or relax any of the requirements listed which are not relevant or deemed unnecessary for a thorough review of the development.

1. PUD Ordinance: The PUD District Ordinance shall follow a standard format adopted by the City for PUD District Ordinances. See also *Article 5.6 Planned Unit Development (PUD) District*.

2. Concept Plan: A drawing of the PUD District ("Concept Plan") shall be included at a scale not less 1"=100', or at a scale as otherwise deemed appropriate by the Director.

a. General Concepts: The Concept Plan shall show in general terms the following: major circulation; generalized location and dimensions of buildings, structures, and Parking Areas; Open Space areas; recreation facilities; and other details to indicate the character of the proposed development.

b. Detailed Concepts: The Concept Plan shall include in detailed terms the following:

i. A site location map showing the project location and other

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development projects in the vicinity.

ii. The name of the development, with the words "Concept Plan".

iii. Boundary lines and acreage of each land use component.

iv. Existing easements, including location, width and purpose.

v. Existing land use on abutting properties.

vi. Other conditions on the site and adjoining land: topography (at 10-foot contours) including any embankments or retaining walls; use and location of buildings, railroads, power lines, towers and other influences; name of any adjoining subdivision.

vii. Existing Streets on and adjacent to the tract, including Street name, Right-of-way width, walks, pathways and bridges and other drainage structures.

viii. Proposed public improvements: collector and arterial Streets and other major improvements planned by the public for future construction on or adjacent to the tract.

ix. Existing utilities on the tract.

x. Any land on the tract within the floodplain as depicted on the Flood Insurance Rate Maps dated March 11, 1983, and as subsequently amended.

xi. Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, existing structures and other significant features such as significant isolated trees.

xii. Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.

xiii. Map data such as north point, graphic scale and date of preparation.

3. Written Statement of Character: A written statement of character of the PUD District shall provide an explanation of the character of the PUD District and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement shall include:

a. A specific explanation of how the proposed PUD District meets the objectives of all adopted land use policies which affect the land in question.

b. Development phasing indicating:

i. Phases in which the project will be built, including the area, density, use, public facilities, and Open Space to be developed with each phase. Each phase shall be described and mapped.

ii. Projected dates for beginning and completion of each phase.

c. General details of the proposed uses:

i. Residential Uses: gross area, architectural concepts (narrative, sketch, or representative photo), number of units for each residential component;

ii. Nonresidential Uses: specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and Building Heights.

d. Preliminary feasibility reports for the infrastructure and facilities,

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including:
i. Streets
ii. Street lighting
iii. Sidewalks and pathways
iv. Sanitary sewers
v. Water supply system
vi. Other utilities
vii. Storm water management
viii. Schools

4. Development Amenities and Open Space: The PUD District Ordinance must include a statement of recreational amenities and open space. Such statements shall designate and convey active and/or passive recreational areas in accordance with the following:
   a. Recreational amenities and open space shall be allocated to the property in proportion to the uses assigned in the PUD District and shall be located within reasonable walking distance to those uses; however, the recreational amenities need not be located in proximity to the use in the case of preservation of existing features.
   b. If the PUD District Ordinance provides for development in stages, then amenities and open space shall be provided in each stage of the PUD District in proportion to that stage, unless otherwise indicated and approved in the PUD District Ordinance.
   c. Amenities shall be conveyed in one of the following forms:
      i. To a municipal or public corporation;
      ii. To a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the PUD District. All conveyances hereunder shall be structured to insure that the grantee has the obligation and the right to effect maintenance and improvement of the amenities and that such duty of maintenance and improvement is enforced by the owners and tenants of the PUD District; or
      iii. To owners other than those specified in subsections (i) and (ii) above, and subject to restrictive covenants describing and guaranteeing the amenities and its maintenance and improvement, running with the land for the benefit of residents of the PUD District or adjoining property owners or the community, or any combination of these.

5. Traffic Impact Study: A Traffic Impact Study may be required to be conducted at the discretion of the Director, the Department of Public Works Director, or the Plan Commission. If a Traffic Impact Study is required, then it shall be prepared by a registered professional engineer and shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to commencement, an Applicant shall meet with the Department to determine the appropriate scope for the study.

6. Additional Materials: The Department shall inform the Applicant in

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writing of any additional information, documents or data deemed necessary to support a thorough review of the proposed development.

G. **PUD District Ordinance Amendments:**

1. Changes that shall require an amendment to a PUD District Ordinance include changes which alter the concept or intent of the initial PUD District, as determined by the Director, which shall include but are not limited to:
   a. Increases in density or intensity.
   b. Changes in the proportion or allocation of land uses.
   c. Changes in the list of approved uses.
   d. Changes in the locations of uses outside of the parameters set forth by the PUD District Ordinance.
   e. Changes in functional uses of Open Space, where such change constitutes an intensification of use of the Open Space.
   f. Changes in the final governing agreements where such changes conflict with the Concept Plan approval.
2. The procedure for amending an approved PUD District Ordinance ("text amendment") shall be the same as the procedure for the adoption of the initial PUD District Ordinance as set forth herein.

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10.10 Sign Permits

A. **Cross-Reference:** See *Article 6.17 Sign Standards* for sign standards.

B. **Application:** Applications for a sign permit shall be on forms published by the Department and include appropriate filing fees and documentation set forth herein.

C. **Supporting Documentation:** Applications shall be accompanied by the following information. The Director may, in its sole discretion, waive or relax any of the requirements listed which are not relevant or deemed unnecessary for a thorough review of the application.

1. Name, address, and telephone number of Applicant or business.
2. Site address.
3. Scale, north arrow and date.
4. A site plan indicating the location of: (i) any building upon which a sign is to be mounted, with the location of the signs indicated; and (ii) any existing or proposed monument signs.
5. A square footage calculation of any proposed sign(s) and the Sign Plane on which sign is proposed to be located, as well as the location and square footage of all existing on-site sign(s).
6. Elevation and a true color rendering or other realistic depiction of the proposed sign, including size, materials, color and dimensions.
7. Illumination details for proposed signs, including the timing of sign illumination and method of control of such illumination.
8. Indication of sign type(s) as defined by this Ordinance.
9. Written consent of the Property Owner on which the sign is to be erected if the Applicant is not the Property Owner.
10. Temporary and special event sign displays shall provide a schedule for sign displays which indicate the dates and duration of the sign displays.
11. Any other information necessary to support a thorough review of the project and as requested in writing by the Director.

D. **Effect of Sign Permit Issuance:** A sign permit issued under the provisions of this Ordinance shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign. See also *Article 9.6 Nonconforming Signs*.

E. **Certificate of Compliance:** Upon installation, all signs shall be inspected for compliance and require a Certificate of Compliance (see also *Article 10.4 Certificate of Compliance*).

F. **Expiration:** A sign permit shall become null and void if work has not been completed within one hundred and eighty (180) days of the date the permit is issued.

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10.11 Special Exceptions

A. **Permitted:** The Board of Zoning Appeals may approve a use listed as a Special Exception in *CHAPTER 13: USE TABLE*, and their Accessory Buildings and uses, in accordance with the procedures set forth in this Article, and other regulations applicable to the Zoning District in which the subject property is located.

B. **Purpose:** A Special Exception is a use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for the Zoning Districts in which it is permitted. The determination of whether the Special Exception is approved shall be contingent upon: (i) the Special Exception meeting the standards of this Ordinance and those standards as set forth in this Article; and (ii) the Board weighing, in each case, the public need and benefit against the local impact, giving effect to the proposals of the Applicant for ameliorating adverse impacts through special site planning and development techniques and contributions to the provisions of public improvements, sites, right-of-way and services.

C. **Procedures:**

1. Application: Applications shall be made in writing on forms prescribed by the Department with documentation and supporting information the Department determines is necessary to assure compliance with this Ordinance.
2. Action by the Director: The Director shall review a filed application for completeness. All applications which are determined to be in proper form shall be docketed by the Department for a hearing by the Board of Zoning Appeals.
3. Investigation of Application: The Technical Advisory Committee may review any Special Exception prior to the Board's consideration.
4. Public Notice: Notification for the scheduled public hearing regarding the application shall be completed consistent with the Schedule of Meeting and Filing Dates and the Rules and Procedures of the Board.
5. Public Hearing: The Board will then, in a public hearing scheduled consistent with the Schedule of Meeting and Filing Dates, review the particular facts and circumstances of each application and supporting information.
6. Board Decision: Following the public hearing, the Board shall direct the Director to either: (i) reject the application; or (ii) approve, or approve with conditions, the application if the Board finds adequate evidence is shown that the Special Exception meets the criteria set forth herein.

D. **Review Criteria:** A Special Exception may be approved by the Board only upon a determination in writing that the Special Exception at the proposed location meets the following:

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1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.
2. The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.
3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.
4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.
5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.
7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, will be met.

E. **No Presumption of Approval:** The listing of a Special Exception as a permitted use does not constitute an assurance or presumption that such Special Exception will be approved. Rather, each Special Exception shall be evaluated on an individual basis, in relation to its compliance with the standards and conditions set forth herein, in order to determine whether approval of the Special Exception is appropriate at the particular location and in the particular manner proposed.

F. **Limitations of Approval:** The approval of a Special Exception by the Board shall be deemed to authorize only that particular use at that particular location for which the approval was granted. Except when otherwise provided by the Board's approval of the Special Exception, a Special Exception shall be deemed to relate to, and be for the benefit of, the use and Lot in question, rather than the Property Owner or operator of such use or Lot.

G. **Effect of Approval:** The approval of a Special Exception by the Board shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the

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preparation, filing and processing of applications for such permits or approvals as may be required, which may include but is not limited to approval of Development Plan, Improvement Location Permit, Building Permit and a Certificate of Occupancy.

H. **Existing Use:** An existing use which is listed herein as a Special Exception, and which is located in a Zoning District in which such Special Exception may be permitted, is a conforming use, providing such use meets the minimum Lot Area requirements set forth in the respective Zoning District. Any expansion of such Special Exception involving the enlargement of buildings, structures, and land area devoted to such use, shall be subject to the requirements and procedures described in this Ordinance.

I. **Conditions:** In granting a Special Exception, the Board may prescribe conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by a Special Exception as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Any conditions prescribed by the Board shall be recorded in the Office of the Recorder of Hamilton County, Indiana. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the Special Exception or related Improvement Location Permit, pursuant to *CHAPTER 11: ENFORCEMENT & PENALTIES*.

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10.12 Subdivision

A. **Authority:** This Article establishes the process for the subdivision of land in accordance with *CHAPTER 7: SUBDIVISION REGULATIONS*, to ensure adherence to the standards of this Ordinance. Subdivision applications shall be generally considered favorably by the Plan Commission and Department.

B. **Applicability:** The procedures set forth in this Article shall be required for all Minor and Major Subdivisions (see also *Article 12.1 Definitions*).

C. **Approval Process:**

1. Major Subdivision: The approval of a Major Subdivision is a two step process that includes the approval of a Primary Plat and the approval of a Secondary Plat, as set forth herein. The approval or disapproval of a Primary Plat is hereby delegated to the Plan Commission. After a Primary Plat has been approved, a property is eligible for Secondary Plat approval. The approval or disapproval of a Secondary Plat is hereby delegated to the Director.

2. Minor Subdivision: The approval of a Minor Subdivision is a one step process that includes the approval of a "Minor Subdivision Plat" depicting the details of a Secondary Plat, as set forth herein. The approval or disapproval of a Minor Subdivision is hereby delegated to the Director and shall follow the process and requirements set forth herein for a Secondary Plat. This type of subdivision may be used one time for the subdividing of a parent parcel. Additional subdivisions of a parent parcel shall require approval as a Major Subdivision.

D. **Requirement for Development Plan Approval:** Approval shall not be granted to any Primary Plat unless an Overall Development Plan has been approved prior to or contemporaneous with the Primary Plat. Approval shall not be granted to any Secondary Plat unless a Detailed Development Plan has been approved prior to or contemporaneous with the Secondary Plat. See also *Article 10.7 Development Plan Review*.

E. **Application Procedures:**

1. Pre-Filing Conference: A pre-filing conference with the Department is required prior to the filing of any Primary or Secondary Plat application. The Applicant is encouraged to incorporate the Department's comments into the design of the project prior to filing the application.

2. 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 and notarized shall accompany the application.

3. Filing Deadline: Applications shall be filed in accordance with the Schedule of Meeting and Filing Deadlines. The Applicant shall be responsible for distributing a copy of the application and Primary and/or Secondary Plat to members of the Technical Advisory Committee.

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4. Forms of Filing: An Applicant shall submit a completed application to the Department on forms provided by the Department with documentation and supporting information as set forth in this Article. The number of copies of all petitions and supporting documentation, including final copies for signatures, required shall be as established by the Department.

5. Specifying Waiver Request: All Primary Plats shall specify and detail any waivers requested pursuant to *Article 7.3 Principles and Standards of Design*. Any waiver of standard shall not be considered unless specifically requested and presented to the Plan Commission for its consideration, even if it is otherwise identified on the Primary Plat.

F. **Primary Plat Approval:**

1. Phasing: A Primary Plat may include all or only part of a larger overall development (e.g., Planned Unit Development, Nonresidential Center); however, a Primary Plat shall include, at a minimum, the entire parent tract being subdivided, unless otherwise deemed unnecessary by the Director or Plan Commission. The purpose of this requirement is to avoid the creation of a remainder parcel(s) that does not comply with this Ordinance or that does not allow for the orderly development of the remainder parcel.

2. Docketing by Department: Each Primary Plat application filed in accordance with this Article shall be reviewed for completeness. All Primary Plat applications determined to be in proper form pursuant to the guidelines established by the Department shall be numbered and docketed by the Department for a public hearing by the Plan Commission.

3. Investigation of Petitions:

   a. The Technical Advisory Committee may review any Primary Plat prior to the Plan Commission's consideration.

   b. The Department may submit a written report to the Plan Commission stating any facts concerning the physical characteristics of the area involved in the Primary Plat, together with a recital of surrounding land use and public facilities available to service the area, or other pertinent facts. The report may also contain opinions of the Department concerning the proposal contained in the Primary Plat and a report from members of the Technical Advisory Committee. A copy of such statement shall be made available to the Applicant and all remonstrators of record, if any.

4. Public Hearing: A public hearing by the Plan Commission, in accordance with the Schedule of Meeting and Filing Dates, shall be required for any Primary Plat and notification for the scheduled public hearing shall be completed consistent with the requirements of the Rules of Procedure of the Plan Commission.

5. Plan Commission Action: The Plan Commission will then hold the public hearing and review the application and required information and take action on the petition in accordance with this Ordinance, Indiana law,

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and the Rules of Procedure of the Plan Commission.

6. Effect of Approval: Approval of a Primary Plat shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required, which may include but are not limited to approval of a Secondary Plat, Detailed Development Plan, Improvement Location Permit, Building Permit and a Certificate of Occupancy.

G. **Secondary Plat Approval:**

1. Phasing: A Secondary Plat may include all or only a part of the Primary Plat which has received approval; however, a Secondary Plat shall include, at a minimum, the entire parent tract being subdivided.
2. Time Limitation: An Applicant may submit an application for Secondary Plat approval within the time provided for appeal under I.C. 36-7-4-708; however, approval of a Secondary Plat shall not be granted until thirty (30) days after the approval of a Primary Plat.
3. Docketing by Department: Each Secondary Plat application filed in accordance with this Article shall be reviewed for completeness. All Secondary Plat applications determined to be in proper form pursuant to the guidelines established by the Department shall be numbered and docketed by the Department.
4. Investigation of Petitions: The Technical Advisory Committee may review any Secondary Plat prior to approval. The Department shall, based upon the facts presented for review, notify the Applicant in writing what revisions, changes, or further changes in the application are needed for approval.
5. Approval: Following the Applicant's submittal of revised copies of the Secondary Plat, the Department shall approve the Secondary Plat if it complies with this Ordinance and is substantially consistent with the approved Overall Development Plan. If the Secondary Plat is disapproved, then the Director shall set forth the reasons accordingly in the Department records and provide the Applicant with a copy.
6. Effect of Approval: Approval of a Secondary Plat shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required, which may include but are not limited to approval of an Improvement Location Permit, Building Permit and a Certificate of Occupancy.
7. Signing of Plat: This subsection applies to each Secondary Plat. Unless otherwise approved by the Director or Public Works Department, a Secondary Plat shall not be signed (see also *Article 7.4 Plat Certificates and Deed of Dedication* for required signatures) until: (i) streets,

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curbs, gutters, sanitary sewers, fire hydrants, storm sewers and like infrastructure have been constructed and inspected in accordance with the City's Construction Standards and financial sureties for the maintenance of all public improvements are secured in accordance with this Ordinance; or (ii) financial sureties are secured assuring the installation and maintenance of all public improvements in accordance with applicable ordinances.

8. Recording of Secondary Plat: No Secondary Plat, or amendment thereto, of a subdivision shall be recorded until the plat has been approved and signed in accordance with this Ordinance. Upon approval, the Applicant shall file the signed Secondary Plat for recording in the Office of the Recorder of Hamilton County, Indiana, as required by law, and shall provide the Department with a recorded copy. The recorded copy shall remain on file in the office of the Department.

H. **Secondary Plat Amendments ("replats"):** Amendments to a recorded Secondary Plat shall be processed and reviewed in the same manner as a Secondary Plat application.

I. **Vacation of Plats:** The procedure to vacate a recorded Secondary Plat shall be as set forth by Indiana Code (see I.C. 36-7-4-711). The vacation of a Secondary Plat shall not be used to vacate platted rights-of-way, which shall be vacated as set forth in Indiana Code (see I.C. 36-7-3-12), nor shall it be used to vacate platted easements, which shall be vacated as set forth in Indiana Code (see I.C. 36-7-3-16).

J. **Primary Plat Documentation and Supporting Information:** A Primary Plat application shall include the following information:

1. Location Map: (which may be prepared by indicating the data by notations on available maps) showing:
   a. Subdivision name and location.
   b. Any street related to the subdivision.
   c. Title, scale, north point and date.
   d. Adjacent property land uses and Property Owners' names.
2. Scale: A Primary Plat shall be drawn to a scale of fifty (50) feet to one (1) inch, or one hundred (100) feet to one (1) inch; provided, however, that if the resulting drawing would be over thirty-six (36) inches in shortest dimension, then a scale as determined by the Director may be used.
3. Primary Plat: The following basic information shall be shown on the Primary Plat (unless otherwise provided on an accompanying Overall Development Plan (see also *Article 10.7 Development Plan Review*)), which shall be prepared by a land surveyor or planner:
   a. Proposed name of the subdivision.
   b. Names and addresses of the owner, owners, land surveyor or land planner.
   c. Title, scale, north point and date.

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d. Streets on and adjoining the site of the proposed subdivision, showing the names (which shall not duplicate other names of streets in the community, unless extensions of such streets) and including roadway widths, approximate gradients, types and widths of pavement, curbs, sidewalks, cross-walks, tree plantings and other pertinent data.
e. Easements (locations, widths and purposes).
f. Statement concerning the location and approximate size or capacity of utilities to be installed.
g. Layout of Lots (showing dimensions, numbers and square footage);
h. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public or community purposes.
i. Contours at vertical intervals of two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of five (5) feet if the general slope is greater than ten percent (10%).
j. Tract boundary lines showing dimensions, bearings, angles, and references to section, township and range lines or corners.
k. Building setback lines.
l. Legend and notes.
m. Drawing indicating the proposed method of drainage for storm sewers and other surface water drainage.
n. Other features or conditions which would affect the subdivision favorable or adversely.
o. A National Cooperative Soil Survey Map showing the soil limitations based upon the intended usage of the development land.
p. A statement from County departments, State highway departments, or the Public Works Department concerning rights-of-way, road improvements, roadside improvements, roadside drainage, entrances, culvert pipes, and other specifications deemed necessary.
q. If private sewage systems, then a statement from the County Health Officer whether private septic system can be used on the property.
r. If legal drain is involved, then a statement from the County Drainage Board or County Surveyor's Office concerning easements, right-of-way, permits, etc.
s. If floodplain is involved, then a statement from the Indiana Department of Natural Resources, Division of Water, concerning construction in floodway, including floodplain high water marks, etc.

4. Covenants and Restrictions: The Plan Commission or Director may request a description of the proposed or recorded protective covenants or private restrictions if they are to be cross-referenced or incorporated on the plat of the subdivision or if they otherwise establish or grant rights related to the plat (e.g., easements). Covenants and restrictions may not independently lessen any requirement of this Ordinance or revise, alter, or change in any way any aspect of an approved plat without approval of the Director or Plan Commission.

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K. **Secondary plat Documentation and Supporting Information:** A Secondary Plat application shall include and meet the following specifications:

1. Scale: The original drawing of a Secondary Plat shall be drawn to a scale of fifty (50) feet to one (1) inch. A scale of one hundred (100) feet to one (1) inch may be used if necessary to make the drawing no larger than eighteen (18) by twenty-three (23) inches in order that the plat may be inserted in the plat books in the Office of the Recorder of Hamilton County, Indiana, without the necessity of folding said plat.

2. Secondary Plat: The following basic information shall be shown on the Secondary Plat, which shall be prepared by a land surveyor or planner:

   a. Proposed name of the subdivision.
   b. Names and addresses of the owner, owners, land surveyor or land planner.
   c. Title, scale, north point and date.
   d. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in five thousand (5,000) feet.
   e. Accurate distances and direction to the nearest established street corners or official monuments. Reference corners shall be accurately described on the plan.
   f. Accurate locations and names of all existing and recorded streets intersecting the boundaries of the tract.
   g. Accurate metes and bounds description of the boundary.
   h. Source of title to the land to be subdivided as shown by the books of the Office of the Recorder of Hamilton County, Indiana.
   i. Complete curve notes for all curves included in the plan.
   j. Street lines and street names with accurate dimensions in feet and hundredths of feet, with angles to street and Lot Lines.
   k. Lot numbers and dimensions.
   l. Accurate locations of easements and any limitations on such easements (see also *Article 8.3 Easement Standards*).
   m. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
   n. Building setback lines and dimensions.
   o. Location, type, material and size of all monuments and Lot markers.
   p. Plans and specifications for the improvements required in this Ordinance, if not otherwise detailed on the corresponding Detailed Development Plan (see also *Article 10.7 Development Plan Review*).
   q. Plat certificates and deeds of dedication, as set forth in *Article 7.4 Plat Certificates and Deed of Dedication*.

3. Surety Requirements: In conjunction with the approval of a Secondary Plat, the Applicant shall provide financial surety, if applicable, for public improvements in accordance with this Ordinance.

4. Covenants and Restrictions: The Plan Commission or Director may request a description of the proposed or recorded protective covenants

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or private restrictions if they are to be cross-referenced or incorporated on the plat of the subdivision or if they otherwise establish or grant rights related to the plat (e.g., easements). Covenants and restrictions may not independently lessen any requirement of this Ordinance or revise, alter, or change in any way any aspect of an approved plat without approval of the Director or Plan Commission.

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10.13 Temporary Use and Events Permits

A. **Application:** Applications for a temporary use and/or event permit, pursuant to *Article 6.18 Temporary Uses and Events*, shall be made in writing on forms provided by the Department and shall include the appropriate filing fees and documentation set forth herein.

B. **Filing Deadline:** In order to allow time for the Department to review and coordinate reviews with the Police and Fire Departments, applications shall be made to the Department at least thirty (30) days prior to the scheduled event.

C. **Supporting Documentation:** Applications shall include the following, unless otherwise determined by the Director to be unnecessary or not relevant for a thorough review of the application:

1. A written statement describing the requested use, operations plan, traffic control and the proposed time period.
2. A plot plan or sketch (not to exceed 11" x 17") that illustrates:
   a. The property lines of the site.
   b. Adjacent uses and Zoning Districts.
   c. Location of fire hydrants.
   d. Existing and proposed buildings or structures.
   e. Boundaries of proposed sales/activities area.
   f. Proposed lighting and method of power.
   g. Parking calculations based upon standards set within this Ordinance.
   h. Proposed traffic circulation.
   i. Location and size of proposed signs.
   j. Location and method of trash disposal.
3. Any other information deemed necessary by the Department.
4. Proof of ownership, or if the Applicant is not the owner of the land, written permission from the property owner for said use/activity.
5. If an Improvement Location Permit or Encroachment Permit is required, then those permit applications shall be submitted with the Temporary Use/Event Permit application.
6. Proof that reasonable liability insurance is carried depending on the use/activity. The City and Township shall be added as an additional insured at the Applicant's expense.
7. If alcohol is sold or consumed, then proof of appropriate permits from the State of Indiana, Alcohol and Tobacco Commission is required. No aspect of the Temporary Event/Use or Structure permit shall exempt any entity or individual from all applicable State laws regarding the serving of alcoholic beverages.
8. If cooking or eating is involved in a temporary event, outdoor café or some other eating area, then proof of review and approval from the County Health Department shall be required with the application.

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D. **Permit Fees:**

1. The application fee for a Temporary Event/Use or Structure permit shall be pursuant to the Fee Schedule. Fees for any Temporary Event/Use or Structure application that is denied, shall be nonrefundable.
2. Application fees are separate from and shall not be applied to any other permit or deposit fee required (e.g., Improvement Location Permit, Encroachment Permit). Such fees shall be paid directly to the respective Department requiring such fees.
3. Separate fees or permits which may be required by the Parks and Recreation Department for events located on public park property, and those fees shall be paid directly to the Parks and Recreation Department.

E. **Penalties:** Temporary Event/Uses or Structures shall be subject to *CHAPTER 11: ENFORCEMENT & PENALTIES*. In addition, the following shall apply:

1. Any person or entity that violates any part of the provisions of this Ordinance regarding Temporary Event/Use or Structures, shall have the Temporary Event/Use or Structure permit revoked for the event. If the violation is abated, then a permit may be re-instated after a review by the Director, Chief of Police, Fire Marshal or their designees.
2. Any person or entity that has a Temporary Event/Use or Structure permit revoked more than once in a one (1) year period shall be prohibited from applying for any Temporary Use/Event permit for one (1) year.
3. In the event of a public safety emergency, the Mayor, Chief of Police, Fire Marshal or their designee, may revoke the Temporary Event/Use or Structure permit. If a permit is revoked for public safety reasons, then the person and entity that were issued the permit may not apply for any Temporary Use/Event permits for a period of two (2) years.
4. Continued noncompliance after the revocation of a Temporary Event/Use or Structure permit necessitating additional enforcement action on the part of the City may result in the assessment of fines, fees, attorney's fees and court costs as provided for in *CHAPTER 11: ENFORCEMENT & PENALTIES*.

F. **Appeal:** Any decision by the Director to deny a Temporary Event/Use or Structure permit may be appealed pursuant to *Article 10.3 Appeals of Administrative Decisions*.

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10.14 Variances

A. **Authority:** In no case shall any variance to the terms of this Ordinance be authorized without the approval of the Board. Further, no decisions on previous applications shall serve to set a precedent for any other application before the Board. The procedure set forth in this Article shall apply to all variance of development standard and variance of use applications.

B. **Application:** The Applicant shall submit a variance application, affidavit and consent of Property Owner (if the Property Owner is someone other than the Applicant), a copy of the deed for the property involved, the required filing fee, and requiring supporting information. Supporting information shall include, but not be limited to, the following:

1. Site Plan: A site plan shall be signed and dated. The site plan shall be drawn to scale and/or fully dimensioned to the satisfaction of the Director and clearly show the entire layout of the property with all features relevant to the variance request.
2. Statement of Intent: A statement of intent to the Board describing the details of the variance being requested and stating how the request is consisting with the required findings of fact. The statement should include any written commitments being made by the Applicant.
3. Deed: A copy of the most current property deed.

C. **Public Notice:** Notification for the scheduled public hearing regarding the variance request shall be completed consistent with the Schedule of Meeting and Filing Dates and the Rules and Procedures of the Board.

D. **Public Hearing:** The Board will then, in a public hearing scheduled consistent with the Schedule of Meeting and Filing Dates, review the variance application and required supporting information.

1. Representation: The Applicant and/or any representative of the Applicant must be present at the public hearing to present the petition and address the required findings of fact.
2. Testimony: The Board shall consider a report from the Department and testimony from the Applicant, remonstrators, the public, and interested parties at the hearing.
3. Procedures: The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules and Procedures of the Board.
4. Possible Action: The Board may approve, approve with conditions, deny, or continue the application in accordance with I.C. 36-7-4-918.4.

E. **Denial:** Applications that are denied shall not be eligible for consideration again by the Board for a period of twelve (12) months from the date of denial.

F. **Continuances:** The application may be continued by the Board based on a request by the Director, Applicant, remonstrator, or interested party; an

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indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request. The continuing of all applications and any potential additional legal notice shall be consistent with the Rules and Procedures of the Board.

G. **Decision Criteria:** In taking action on all variance requests, the Board shall use decision criteria to approve or deny variances consistent with the requirements of Indiana Code as set forth below:

1. Variances of Use: A variance of land use may be approved only upon a determination that:
   a. The use will not be injurious to the public health, safety, morals, and general welfare of the community.
   b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
   c. The need for the variance arises from some condition particular to the property involved.
   d. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
   e. Does not interfere substantially with the Comprehensive Plan.
2. Variances of Development Standards: A variance of development standard may be approved only upon a determination that:
   a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
   b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
   c. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property.

H. **Commitments:** The Board may require the owner of the property to make written commitments concerning the use or development of the property. Such commitments shall be recorded in the Office of the Recorder of Hamilton County, Indiana, and a copy of the recorded commitments shall be provided to the Department for inclusion in the petition file at the time of application for a permit.

I. **Conditions:** The Board may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this Ordinance upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

J. **Effect of Approval:** Approval of a variance shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required,

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which may include but are not limited to approval of a Primary or Secondary Plat, an Overall or Detailed Development Plan, Improvement Location Permit, Building Permit and/or a Certificate of Occupancy.

K. **Acknowledgement of Variance:** Approval of a variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

L. **Compliance and Violations:** No permit shall be issued which does not comply with an approved variance, conditions of approval, or commitments. Violations of an approved variance, conditions of approval or commitments shall constitute grounds for revocation of the variance.

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10.15 Zoning Map Changes (Rezones)

A. **Applicability:** This Article shall apply to all petitions regarding a request to amend the Zoning Map.

B. **Initiation:** Proposals to amend the Zoning Map may be initiated by either the Plan Commission, the Council, or through an application signed by Property Owners of at least fifty percent (50%) of the land involved.

1. Legislative Body Initiation: The Department shall prepare the application for Zoning Map amendment if either the Plan Commission or Council has initiated the application. The Director shall serve as the representative of the Applicant for such proposals.

2. Property Owner Initiation: Any Property Owner(s) requesting a Zoning Map amendment shall be the Applicants and assume responsibility for preparing application materials.

C. **Application Procedures:**

1. Pre-Filing Conference: A pre-filing conference with teh Department is required prior to the filing of an application. The Applicant is encouraged to incorporate the Department's comments into the application prior to filing.

2. Filing Deadline: Applications shall be filed in accordance with the Schedule of Meeting and Filing Deadlines. The Applicant may be responsible for distributing a copy of the application to members of the Technical Advisory Committee.

3. Forms of Filing: An Applicant shall submit a completed application to the Department on forms provided by the Department with documentation and supporting information as set forth in this Article. The number of copies of all petitions and supporting documentation required to be filed shall be as established by the Department.

4. Application Requirements:

a. Consent Form: If an Application is filed by a Property Owner's authorized agent, then a consent form signed by the Property Owner and notarized shall accompany the application.

b. Deed: A copy of the most current property deed.

c. List of Adjoining Property Owners: A list of adjoining property owners required to be served public notice pursuant to the Rules of Procedure of the Plan Commission, as obtained from the County.

d. Supporting Document and Information: Which should include but is not limited to the following:

i. A conceptual site plan showing all features relevant to the application.

ii. A vicinity map showing the use and zoning of all properties within five hundred (500) feet on the property subject to the change of zoning request.

iii. A narrative stating the reasons for the change of zoning, including

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a detailed description of any proposed development for which the change of zoning is sought. The narrative should include any written commitments being made by the Applicant.

D. **Council Introduction:** All applications which are determined to be in proper form pursuant to the guidelines established by the Department may, at the Director's or Council's discretion, be presented to the Council for introduction, prior to the Plan Commission's public hearing. The Council will then, in a meeting consistent with the adopted Schedule of Meeting and Filing Dates, hear an introductory presentation of the application and required supportive information.

E. **Public Notice:** A public hearing by the Plan Commission shall be required and notification for the scheduled Plan Commission public hearing shall be completed consistent with the requirements of the Rules of Procedures of the Plan Commission.

F. **Plan Commission Public Hearing:** The Plan Commission will then, in a public hearing scheduled consistent with the adopted Schedule of Meeting and Filing Dates, review the application and required supportive information.

1. Representation: The Applicant and/or any representative of the Applicant must be present at the public hearing to present the application and address any Plan Commission questions.
2. Testimony: The Plan Commission shall consider a report from the Department and testimony from the Applicant, remonstrators, the public, and interested parties at the hearing.
3. Procedures: The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Plan Commission.
4. Possible Action: Following the public hearing, the Plan Commission may either forward the application to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation in accordance with Indiana Code; or continue the request to a subsequent Plan Commission meeting.

G. **Continuances:** The application may be continued by the Plan Commission based on a request by the Director, Applicant, remonstrator, or interested party; an indecisive vote, or a determination by the Plan Commission that additional information is required prior to action being taken on the request. The continuing of all applications and any potential additional legal notice shall be consistent with the Rules and Procedures of the Plan Commission.

H. **Certification:** The Plan Commission shall certify its recommendation to the Council in accordance with Indiana Code. The Department shall forward the Plan Commission certification, the application and all supporting information, any Department reports regarding the application, and an ordinance to the Council for its consideration.

I. **Council Action:** The Council will review the change of zoning application

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and materials forwarded from the Plan Commission and may either approve or deny the ordinance. If the Council fails to act within ninety (90) days of the Plan Commission's certification and the Applicant has not otherwise withdrawn its request or requested additional consideration by the Plan Commission, then the ordinance shall become effective or be defeated with the provisions of I.C. 36-7-4-608. The Council may also seek modifications or additions to any written commitments permitted by this Ordinance.

J. **Decision Criteria:** In reviewing the change of zoning application, the Plan Commission and Council shall give due consideration in accordance with Indiana Code.

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10.16 Chapter Amendment Log

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14-47	1412-ZOA-02	11/10/14	11/11/14	Article 10.12(A)
15-12	1506-ZOA-01	05/26/115	05/26/15	Article 10.7(G)(4)
17-10	1704-ZOA-01	05/08/17	05/08/17	Article 10.7(C); Article 10.7(F); Article 10.7(F)(7); Article 10.7(F)(8); Article 10.7(F)(9); Article 10.7(G)
19-13	1905-ZOA-01	08/12/19	08/13/19	Article 10.8(D)

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CHAPTER 11: ENFORCEMENT & PENALTIES

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11.1 Authority

The City of Westfield, including the Director, Council, Plan Commission, Board, Building Commissioner, Fire Marshal, and their delegates are designated to enforce the provisions, regulations, and intent of this Ordinance, in accordance with I.C. 36-7-4-100, et. seq., as amended.

11.2 Violation

Any sign or building, erected, raised, or converted, or land or premises used in violation of any provisions of this Ordinance or the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

11.3 Enforcement

Complaints made pertaining to this Ordinance may be investigated by the Director, the Building Commissioner, the Fire Marshal, and/or their designees. Also, any violations suspected by the Plan Commission, Council or Director shall be investigated by the Director. Action may or may not be taken depending on the findings. The degree of action will be at the discretion of the investigating person and should reflect what is warranted by the violation.

11.4 Penalty

A. Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any provisions of this Ordinance shall be subject to judgment for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. Penalties may be imposed in accordance with the Fee Schedule (see *Article 3.1 General Administration*).

B. Any person who shall commence any land improvements or construction subject to the provisions contained in this Ordinance without first receiving the required approvals as designated, or obtaining a Building Permit, Improvement Location Permit and/or Certificate of Occupancy, shall pay twice the amount of fees as set forth herein.

11.5 Remedies

A. The Plan Commission, Board, Director, or any designated enforcement official or any person or persons, firm or corporation, jointly or severally aggrieved, may issue a stop work order and shall advise the Property Owner of the sign, business, building, structure or premise in writing of a violation of this Chapter and specify a date for compliance. The written notice shall describe the violation, appeal process, and enforcement provisions including penalties that may be assessed.

B. The Plan Commission, Board, Director, or any designated enforcement official or any person or persons, firm or corporation, jointly or severally

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aggrieved, may institute a suite of injunction in the circuit court of Hamilton County to restrain an individual or a government unit from violating the provisions of this Ordinance.

C. The Plan Commission or the Board may also institute a suit for mandatory injunction directing any individual, a corporation or a governmental unit to remove a structure erected in violation of the provisions of this Ordinance.

D. As an additional remedy to each of the above identified plaintiffs, if the plaintiff prevails the court may allow costs, expenses and reasonable attorney fees in any judgment so rendered.

E. And other remedies provided for or allowed by Indiana law or City Code.

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11.6 Chapter Amendment Log

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12.1 Definitions

The general rules of construction as set forth in *Article 2.4 Interpretation & Application* shall apply. Words used in a special sense in this Ordinance are defined below. All other words shall have the meaning inferred from their context in this Ordinance or their ordinarily accepted definitions.

Aa

Abutting: Bordering or contiguous.

Agricultural Processing: The use of land for activities involving the cultivation of products as part of a recognized commercial enterprise, including a variety of operations on crops or Livestock, and other Agricultural Uses, which may generate dust, noise, odors, pollutants, or visual impacts that could adversely affect adjacent properties. Example uses include, but are not limited to: aquaculture, hydroponics, the grazing or raising of Livestock in a confined feed yard, commercial logging and timber harvesting, slaughterhouses, mills, refineries, canneries, coffee roasting, food processing, granaries, grain processing, commercial hatcheries, poultry processing plants, fat rendering, manufacturing of commercial fertilizer, starch manufacturing, and milk processing plants or other treatment of agricultural products which changes the naturally grown product for consumer use.

Agricultural Use: The use of land for farming, including plowing, tilling, cropping, installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); the grazing or raising of Livestock (except in confined feed yards); dairy farming; sod production; horticulture; orchards; tree farms; and related building (e.g., barns, Stables, sheds, feeding bins).

Agritourism Use (or Agritainment Use): An agriculturally-based operation or activity that brings visitors to an operational farm, and that may include, but is not limited to, uses and activities such as: pumpkin patches, Christmas tree sales, animal interaction exhibits (i.e., petting zoo, pony rides), apple or strawberry picking, seasonal or holiday activities (i.e., corn mazes, hay or wagon rides, straw piles, haunted houses), family-oriented activities (i.e., bounce houses, pedal cars, kiddie rides), creamery, vineyards, breweries, educational experiences or tours, limited retail sales of products not produced on-site (i.e., country store, activity ticket sales), related beverage or food sales (i.e., tasting facilities, lunch counters, dairy bar, refreshment or specialty food stands), and related ancillary uses and buildings.

Airport: Any area of land or use devoted to the take-off, landing and storing and servicing of aircraft, and any appurtenant areas designated, set aside, used, or intended for use for related buildings and facilities located thereon.

Alley: A Right-of-way which provides a secondary means of access to abutting lands. An Alley is not a Street for purposes of this Ordinance.

Aa Bb Cc Dd Ee Ff Gg Hh Ii Jj Kk Ll Mm Nn Oo Pp Qq Rr Ss Tt Uu Vv Ww Xx Yy Zz

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Alternative Transportation Plan: A plan which illustrates bicycle and pedestrian corridors throughout the Jurisdiction of the Plan Commission, as incorporated into the Thoroughfare Plan.

Amendment, Major: A proposed modification(s) to a previously approved development plan that is determined by the Director to adversely impact the purpose or intent of a previously approved development plan. Example modifications may include: (i) an increase in the buildable area or number of Lots; (ii) an increase in impervious surface area or intensity of a use; (iii) a reduction in the width of or number of plantings in a perimeter yard (e.g., buffer yard, external street frontage landscaping); or (iv) changes in standards or alignment of Streets or circulations, including additional driveways, Rights-of-way or access points.

Amendment, Minor: A proposed modification(s) to a previously approved development plan that is not a Major Amendment.

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

Architectural Insulated Panels: An insulated metal panel with an insulated core and an exterior face finished to simulate stucco, or other high quality exterior material. May also be referred to as "sandwich panels".

Art Studio: A work space for individuals practicing one of the fine arts or skilled in an applied art or craft that may include instrumental music, painting, sculpture, jewelry-making, weaving or other similar craft.

Arterial (Street), Primary or Secondary: A Street identified on the Thoroughfare Plan intended to carry large volumes of traffic to provide both intermediate and long distance trips across the community and utilizing traffic control devices to facilitate traffic flow and manage access here appropriate.

Assisted Living Facility: A facility for persons having such disabilities as to require assistance with daily living tasks. Such facilities contain four (4) or more living units; provide a combination of housing, support services, personalized assistance, and health care; and respond to needs of a person requiring assistance with the activities of daily living (i.e., dressing, grooming, bathing, food preparation) but do not require 24-hour skilled medical care.

Bb

Banner: A Sign possessing characters, letters, illustrations or ornamentations which are designed or intended to convey any identification, message or information other than an address number and which are applied to cloth, paper, plastic or fabric of any kind. A Banner shall not include: (i) plastic or fabric Signs which are permanently attached within a rigid frame which are intended to be used as a permanent Sign; or (ii) national flags, flags of political subdivisions and symbolic flags of any institution or business.

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Banner, Ornamental: A Banner that uses any of a variety of images or colors of an ornamental or decorative nature, and that may display symbols, logos, emblems, letters (no more than three (3) per face of the entire display), and other graphic elements that do not include displays of on-premises or off-premises copy (i.e., words or other symbols, logos, emblems that may be construed as advertising).

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

Beauty Salon: Any properly licensed and inspected establishment where cosmetology services (i.e., hair care, nail care, skin care) are provided on a regular basis for compensation.

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

Block: An area of land bounded by Streets or by a combination of Streets and public land, Rights-of-way, Common Area, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Board: The Westfield-Washington Township Board of Zoning Appeals.

Boarding House: A building where more than two (2), but fewer than twelve (12) rooms are provided for lodging for definite periods of times, in contradiction to a Hotel, Motel or Bed and Breakfast (B&B). Meals may or may not be provided, but there is common kitchen facility. No meals are provided to outside guests. A Boarding House is a Multi-family Dwelling for purposes of this Ordinance.

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

Builder/Developer Directional Signage Offsite: A Sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians to a development.

Builder/Developer Directional Signage Onsite: A Sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians within a development to specific phases or Lots.

Builder/Developer Kiosk Directional Signage Onsite: A Sign whose message is limited to guiding the circulation of motorists or pedestrians within a development to different builder's sections or types of home products.

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Builder/Developer Sequential Sign Collections: A series of Signs, typically grouped together in a linear fashion, used for advertising or other informational purposes. Typically, the collective viewing of each sign in a proper sequence portrays a single message, but each individual Sign may portray an independent message.

Building: A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels or other property.

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

Building Code: The various codes of the City that regulate construction as set forth in *Article 2.5 Building Code*.

Building Commissioner: The official designated by the Council, authorized to enforce the City's Building Code.

Building, Detached: A building having no structural connection with another building.

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

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

Building Height: The vertical distance measured from the Lot ground level to the highest point of the roof for a flat roof (or the top of the parapet wall, if provided); to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip and gambrel roofs. [See also *Article 6.6 Height Standards*.]

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

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

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

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

Cc

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

Campground: A parcel of land used or intended to be used for temporary occupancy by campers, or for temporary occupancy by or of Recreational Vehicles, travel trailers, mobile homes, tents, cabins, or other temporary accommodations.

Carnival/Festival: Carnival/Festival means a temporary and transportable activity, bazaar, or fair which celebrates or promotes a special occasion and may include but not limited to any combination of crafts, exhibits, entertainment, games, rides, and display of items for sale or purchase.

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

Certificate of Compliance: A document issued by signature of the Department certifying that a proposed development or property complies with the terms and provisions of this Ordinance; such certification shall not constitute a statement as to compliance of proposed building with this code. [See also *Article 10.4 Certificate of Compliance*.]

Certificate of Occupancy: A document signed by the Building Commissioner allowing the occupancy or use of a building or structure and certifying that the building, structure or use has been constructed or will be used in compliance with all the applicable codes and ordinances. [See also *Article 10.5 Certificate of Occupancy*.]

Childcare / Daycare Center: A commercial facility operated for the purpose of providing care, education, protection and/or guidance to children for a period of less than twenty-four hours per day, and primarily for children under the age of six (6) years. Examples include nursery schools, preschools, day care centers for individuals, Montessori schools, and other similar uses.

City: The City of Westfield, Hamilton County, Indiana.

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

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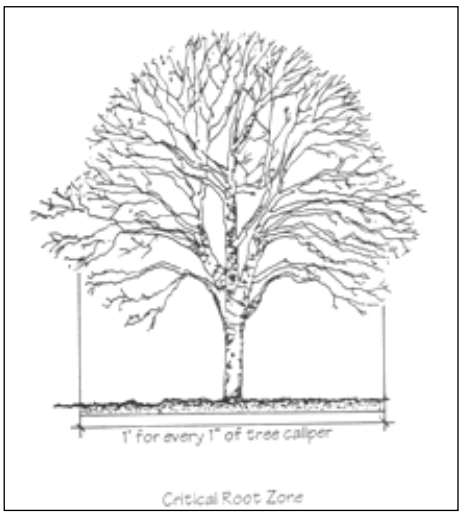
Club, Private: Buildings and facilities owned or operated by a corporation, association, person or persons catering exclusively to members and their guests for social, intellectual, or recreational purposes that are conducted for profit; includes a lodge, swim clubs, etc.

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



Common Area: Land identified on a Plat or Development Plan that is held in common or single ownership, typically by a homeowners' or property owners' association, which is designed and intended for the common use and enjoyment of the residents or tenants of the development and not reserved for the exclusive use or benefit of an individual tenant or Property Owner. Such areas may include complementary structures and improvements. Maintenance of such areas is forth by the development association, typically in the form of restrictive covenants guaranteeing the maintenance of these areas.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan, as adopted and amended in accordance with I.C. 36-7-4-500 et seq.

Condominium: Real estate lawfully subject to I.C. 32-35, by the recording of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

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

Council: The Common Council of the City of Westfield, Hamilton County, Indiana.

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

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

Dd

Decibel (dB): A unit of measurement of the intensity of sound. Sound level meters are used to measure such intensities and are calibrated in decibels.

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Deciduous: A plant with foliage that is completely shed annually in early to mid autumn.

Aa

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

Bb

Department: The City of Westfield Economic and Community Development Department.

Cc

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

Dd

Ee

Ff

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

Gg

Hh

Development: Any human-caused change to improved or unimproved land, including but not limited to: construction of new buildings or other structures; subdivision of land; the relocation of an existing building; the use of land; parking; fences; pools; Signs; Land Disturbing Activity; temporary uses; clearing of land; paving; mining; dredging; filling; grading; paving; excavation; drilling operations.

Ii

Jj

Kk

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

Ll

Mm

Nn

Oo

Pp

Development Plan, Detailed: A set of drawings subject to review and approval in accordance with this Ordinance, as set forth in *Article 10.7 Development Plan Review*, and that clearly define all construction matters and special conditions such as construction techniques, specific building locations and design (e.g., architecture), and specific site design (e.g., landscaping, parking, signage, lighting) for an individual Lot or Block.

Qq

Rr

Ss

Tt

Development Plan, Overall: A set of drawings subject to review and approval in accordance with this Ordinance, as set forth in *Article 10.7 Development Plan Review*, that preliminarily divides property into Lots, Blocks or Common Areas and depicts Lots (e.g., size, access general building envelopes), common areas (e.g., perimeter landscaping, shared signage) and shared infrastructure (e.g., drives, street, cross-access, utilities, drainage).

Uu

Vv

Ww

Director: The Director of the City of Westfield's Economic and Community Development Department and the official, designated by the Council, authorized to enforce this Ordinance.

Xx

Yy

Zz

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District, Business: Shall mean and refer to individually, or collectively, the Zoning Districts listed under "Business Districts" in *Article 4.1 Establishment of Districts*.

District, Industrial: Shall mean and refer to individually, or collectively, the Zoning Districts listed under "Industrial Districts" in *Article 4.1 Establishment of Districts*.

District, Multi-family: Shall mean and refer to individually, or collectively, the Zoning Districts listed under "Multi-family Districts" in *Article 4.1 Establishment of Districts*.

District, Overlay: Areas of land delineated on the Zoning Map that overlap Zoning Districts and govern development and uses in context sensitive areas of the community as set forth in this Ordinance. [See also *CHAPTER 5: OVERLAY DISTRICTS*.]

District, Residential: Shall mean and refer to individually, or collectively, an Agricultural District, Single-family District and/or Multi-family District.

District, Single-family: Shall mean and refer to individually, or collectively, the Zoning Districts listed under "Single-family Districts" in *Article 4.1 Establishment of Districts*.

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

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

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

Dwelling, Duplex: A building containing two (2) Dwelling Units, each of which has direct access to the outside and each Dwelling Unit being a minimum of twenty-three (23) feet wide.

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

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

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

Dwelling, Single-family: A building containing one (1) Dwelling Unit being a minimum of twenty-three (23) feet wide, which does not share a common wall with any other Dwelling Unit and is surrounded on all sides by outside areas located on the same Lot (e.g., detached building).

Dwelling, Triplex: A building containing three (3) Dwelling Units.

Dwelling, Townhouse: A Dwelling Unit with a private entrance, which is part of a building with Dwelling Units attached in a linear arrangement, and having a totally exposed front and rear walls, used for access, light, and ventilation.

Dwelling Unit: Any room or group of rooms located within a building, which forms a single habitable unit for occupancy for one (1) family unit and includes facilities that are used, or intended for use as living, sleeping, cooking, and eating accommodations.

Ee

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

Economic Development Area: Any redevelopment project area, economic development area, or urban renewal project area duly established by a Redevelopment Commission in accordance with Indiana law.

Educational Institution: Public or parochial primary, grade, junior high, high, preparatory school or academy; junior college, college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization. This definition does not include facilities primarily serving children pre-kindergarten (see *Childcare Center*).

Equestrian Facility: The use of land that is accessory to a permitted residential use on the Lot, for a horse, donkey, or a mule facility operated for business purposes including, but not limited to: horse ranches, boarding stables, riding schools and academies, horse exhibition facilities, pack stations, barns, stables, riding arenas (indoor or outdoor), corrals, and paddocks accessory and incidental to the above uses.

Evergreen: A coniferous or broad-leaved plant whose leaves remain throughout the year and are continually dropping and being replaced by new springtime growth.

Expressway (Street): A Street identified on the Thoroughfare Plan as a Primary Arterial 1, which is intended as a highway for through traffic with full or partial access control and a limited number of at-grade intersections.

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Ff

Family: One (1) or more persons occupying a Dwelling Unit and living as a single housekeeping unit, as distinguished from a group occupying a Hotel (or Motel), Boarding House, Residential Facility, Assisted Living Facility, Nursing Home, fraternity or sorority house.

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

Fiber Cement Siding: A composite material made of cement, sand, cellulose fiber and various additives mixed with water and manufactured into an exterior siding material.

Fixture, Light: The assembly that houses a lamp(s) and may include some or all of the following parts: an assembly housing, mounting bracket or pole socket, lamp holder, ballast, reflector or mirror, and a refractor or lens.

Floodplain: The channel proper and the areas adjoining any wetland, lake or watercourse that have been or hereafter may be covered by the base flood, which shall include both the floodway and the floodway fringe as shown on the Flood Insurance Rate Map (FIRM), as prepared by the National Flood Insurance Program by the Federal Emergency Management Agency (FEMA). [See also *Article 5.5 Floodplain Overlay District (FOD)*.]

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

Foot-candle: A unit of illumination produced on a surface, all points which are one foot from a uniform point source of one candle.

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

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Gg

Garden and Lawn Center: A place of business or portion of a business where retail and wholesale products and produce are sold to the consumer and where most items sold are not produced on the Lot and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other lawn, garden and farm variety tools and utensils.

Gasoline Service Station: Any building or land used for the retail sale of automobile fuels and lubricants and which typically includes fuel pumps and underground storage tanks.

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

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

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

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

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

Hh

Home Business: An Accessory Use incidental and secondary to the use of a property as a Dwelling Unit and which use complies with the standards of the Zoning District in which the property is located and complies with the standards set forth in *Article 6.7 Home Business Standards*.

Home Garage Sales: The conducting of home rummage sales for the benefit of the family or a group of families.

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

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

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Hotel: A building in which lodging is provided and offered to the public for compensation and which is open to transient guests; in contradistinction to a Boarding House.

Ii

Improvement Location Permit: A document signed by the Building Commissioner stating that a proposed Improvement complies with the provisions of this Ordinance. [See also *Article 10.8 Improvement Location Permit*.]

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

In-Line Tenant: Any tenant within a multi-tenant building where each individual tenant has an exterior store front and public entrance for its patrons.

Industry, Extraction: The use of land for activities involving on-site extraction of surface or subsurface mineral products or natural resources and immediate processing of material. Example uses include: a quarry, outside salt storage, borrow pits, lumber yard, coal yard, sand and gravel operation, mining, soil mining, well drilling operations, milling (i.e., crushing, screening, washing and flotation) and other preparation customarily done at extraction site or as part of the extractive activity. Specifically excluded from this use are site development activities in preparation of infrastructure installation or vertical construction and Agricultural Uses.

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

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Industry, Light: Research and development activities, manufacturing, compounding, processing, packaging, storage, assembly, fabrication, processing, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building using processes that ordinarily do not create noise, smoke, fume, odors, glare or health or safety hazards outside of the building or Lot and shall not include any use that is otherwise listed specifically in this Ordinance. Example uses include, but are not limited to: leather products manufactured from finished leather; casket and casket supplies; crating and packaging service; exterminators; glass fabrication and installation; newspaper publishing; storage and transfer (household goods); manufacturing and/or assembly of storm doors, windows, awnings, siding, cabinets, can or containers, communication equipment, household appliances, marine equipment, office equipment and machinery, cloth products from finished cloth, furniture, glass and glass products, jewelry without retail, musical instruments, optical goods, paper boxes and paper products from finished paper, portable household appliances, electric hand tools, railroad equipment (including repair and service), recording instruments, tools, implements, machinery, mattress and upholstering, pharmaceutical, advertising and business signs, medicine and cosmetics; assembly operations of pre-manufactured parts, components; assembly, repair and manufacture of light component parts; taxidermist; machine, welding, tool and die shops; stamping and fabricating metal shops; tire recapping; malt products, brewery, distiller of liquor and spirits; bottling of alcoholic and nonalcoholic beverages; secondary food processing and packaging of products not produced on site.

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

Institutional Use: Educational Institutions, Religious institutions, Public Safety and Service Uses, Parks and other similar uses, as listed under Cultural & Institutional Uses in Article 13.2 Use Table.

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

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Jj

Jurisdiction of the Plan Commission: All land within Washington Township, Hamilton County, Indiana, and all land incorporated into the City of Westfield, Hamilton County, Indiana.

Kk

Kennel: Any use of land on which four (4) or more dogs, or small animals (e.g., cats, rabbits, chickens), at least four (4) months of age are kept. A Kennel is not an Agricultural Use for purposes of this Ordinance.

Ll

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

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

Landscape Plan: A plan which depicts compliance with and meets the requirements of *Article 6.8 Landscaping Standards*.

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

Light Emitting Diode (LED): A semiconductor device that emits visible light when an electric current passes through it.

Light Pollution: General sky glow which is caused by the scattering of artificial light in the atmosphere, caused by luminaries.

Light Trespass: Light emitted by a luminaire that shines beyond the Lot Lines of a of the Lot on which the luminaire is located.

Lighting Plan: A plan which depicts compliance with and meets the requirements of *Article 6.9 Lighting Standards*.

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

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

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Aa

Loading and Unloading Berths: The off-street area required for the receipt or distribution by vehicles of materials or merchandise, which in this Ordinance is held to be a loading space measuring at least twelve (12) feet by forty-five (45) feet with a height clearance of fourteen (14) feet.

Bb

Cc

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

Dd

Ee

Lodging House: A building where lodging only is provided for compensation to three (3) or more, but not exceeding twelve (12) persons, not open to transients, in contradistinction to a Hotel which is open to transients.

Ff

Lot: A Lot of Record or a tax parcel described by metes and bounds or separately in a survey which is recorded in the Office of the Recorder of Hamilton County, Indiana.

Gg

Hh

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

Ii

Jj

Kk

Lot Coverage: A measure of intensity of land use that represents the portion of a site that is impervious (i.e., does not absorb water) and includes, but is not limited to all areas of a Lot improved by buildings, sidewalks, parking structures, Driveways, Street, Private Street, sidewalks, and any other area of concrete or asphalt.

Ll

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

Mm

Lot Frontage: The length of the Front Lot Line.

Nn

Lot, Interior: A Lot other than a Corner Lot or Through Lot.

Oo

Lot Line: The property line bounding the Lot.

Pp

Lot Line, Front: A Lot Line abutting a Street (public or Private Street). A Through Lot and Corner Lot will have multiple Front Lot Lines.

Qq

Rr

Ss

Lot Line, Rear: The Lot Line that is opposite the Front Lot Line and farthest from it, except that for a triangular or other irregularly shaped Lot, the line ten (10) feet long, parallel to the Front Lot Line, and wholly within the Lot, that is farthest from the Lot Line. A Through Lot and Corner Lot may not have a Rear Lot Line.

Tt

Lot Line, Side: A Lot Line other than a Front Lot Line or Rear Lot Line.

Uu

Vv

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

Ww

Xx

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

Yy

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

Zz

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

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Luminaire: A complete lighting system, and includes the lamp or lamps and a Lighting Fixture.

Luminance: A level of light measured at a point on a surface.

Mm

Manufactured Home: A Dwelling Unit, designed and built in a factory after January 1, 1981, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq) and that exceeds twenty-three (23) feet in width and nine hundred fifty (950) square feet of Living Area.

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

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

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

Mechanical Equipment: Equipment, devices, and accessories, the use of which relates to water supply, powering, heating, ventilating, air conditioning, and similar purposes. This does not include gutters/downspouts, stormwater grates, or stormwater basins.

Mobile Home: A factory assembled Dwelling Unit that is transportable and intended for year around occupancy which exceeds thirty-five (35) feet in length and is designed either for transportation on highways or for temporary or permanent placement on a foundation on a Lot or in a mobile home park. This definition is not intended to apply to other modular housing or prefabricated housing panels, trusses, or other sub-elements, nor any other Dwelling Unit which is defined as a Manufactured Home by this Ordinance.

Model Home: A Dwelling Unit temporarily used for display purposes as an example of Dwelling Units available or to be available for sale or rental in a particular Subdivision or other residential development approved by the City. Model Homes may also incorporate sales or rental offices for Dwelling Units within the development and may include temporary trailers. [See also *Article 6.18 Temporary Uses and Events*.]

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

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Motor Truck Terminal: Any premises used by a motor freight company as a carrier of goods, which 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.

Nn

Natural Areas: An area possessing one or more of the following environmental characteristics: steep slopes; floodplain; soils classified as having high water tables; soils that are subject to erosion; land incapable of meeting percolation requirements; Riparian Corridors; mature stands of Native Vegetation; aquifer recharge and discharge areas; wetlands and wetland transition areas; and Significant Wildlife Habitats.

Nonconforming Building (or Nonconforming Structure): A Building, Structure, or portion thereof, which uses does not conform to the regulations of the Zoning District in which it is located. [See also *CHAPTER 11: ENFORCEMENT & PENALTIES*.]

Nonconforming Use: A use which does not conform to the regulations of the Zoning District in which it is located. [See also *CHAPTER 11: ENFORCEMENT & PENALTIES*.]

Nonconforming Sign: A Sign which does not conform to the regulations of this Ordinance, or any amendment thereto. [See also *CHAPTER 11: ENFORCEMENT & PENALTIES*.]

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

Nonresidential Use, Individual: Any building or combination of buildings with a single tenant, store, service establishment, office or other permitted nonresidential use and not part of a Nonresidential Center.

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

Nursing Home: A facility licensed by the State Board of Health, which: (1) provides nursing services on a continuing basis; (2) admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; (3) provides for licensed physicians services or supervision; (4)

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maintains medical records; and (4) may also provide other and similar medical or health service provided that no occupant requires physical restraint within the facility. A Nursing Home may include similar uses such as convalescent homes, maternity homes, rest homes, homes for the aged, and the like, if such use complies with the above criteria.

Oo

Octave band: A narrow range of sound frequencies which classify sounds according to pitch. An Octave Band analyzer, an electrical device used with the sound level meter that sorts a complex noise or sound, divides the audible sound spectrum into eight (8) Octave Bands.

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

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

Office, Medical: Dental clinic, medical clinic, optical clinic, general physician's office, hospital (minor) and veterinarian clinic (small animals and no outdoor runs), related labs and the like.

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

Open Space: Land used for recreation, resource protection, amenity, and/or screening. Open Space may include Natural Areas, Parks, Development Amenities, Recreational Facilities, railroad corridors, Buffer Yards, public art spaces, interpretative sites, and performing art spaces. Open Space does not include medians in Rights-of-way or any area of land included on a Lot used for another primary use such as residential or commercial. [See also *Article 8.6 Open Space and Amenity Standards*.]

Outlot: A Lot within a Nonresidential Center that typically abuts a Street on one Lot Line and either a Street or other vehicular access (i.e., Private Street) shared with other Lots within the Nonresidential Center on another Lot Line.

Outside Sales Display: An outdoor arrangement of objects, items, products

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merchandise or other materials, that are placed, designed and/or used for the purpose of selling, advertising or identifying a business, product, or service.

Outside Storage: The keeping of any material, merchandise, products, or equipment outside of a building or structure for a period greater than twenty-four (24) hours. Material or equipment being used in the development of a property or construction refuse, disposed of within fifteen (15) days, shall not be deemed Outside Storage.

Pp

Park: Land available for recreational, educational, cultural, or aesthetic use which is publicly owned or controlled for public use.

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

Parking Space: An area designed or used for parking a motor vehicle which complies with *Article 6.14 Parking and Loading Standards*.

Path: An improved pedestrian surface constructed of asphalt in accordance with this Ordinance and that complies with the requirements of the Americans with Disabilities Act (ADA), as amended. [See also *Article 7.3 Principals and Standards of Design* and *Article 8.7 Pedestrian Network Standards*].

Plan Commission: The Westfield-Washington Township Advisory Plan Commission.

Plat: A map or chart indicating the subdivision of land, intended to be filed for record. [See also Plat, Primary and Plat, Secondary.]

Plat, Primary: The initial plat and plans upon which the approval of a proposed subdivision are based, pursuant to I.C. 36-7-4-700 et seq., and subject to review and approval in accordance with this Ordinance. [See also *Article 10.12 Subdivision*.]

Plat, Secondary: The final plat document in recordable form, pursuant to I.C. 36-7-4-700 et seq., which shall substantially conform with the preceding Primary Plat, or section thereof and subject to review and approval in accordance with this Ordinance. {See also *Article 10.12 Subdivision*.]

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

Premises (or Property): Premises means a Lot, parcel, tract or plot of land together with the buildings and structures thereon.

Property Owner: An individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity who owns, owns in part, or holds title to real property as shown on records of the office of the Hamilton

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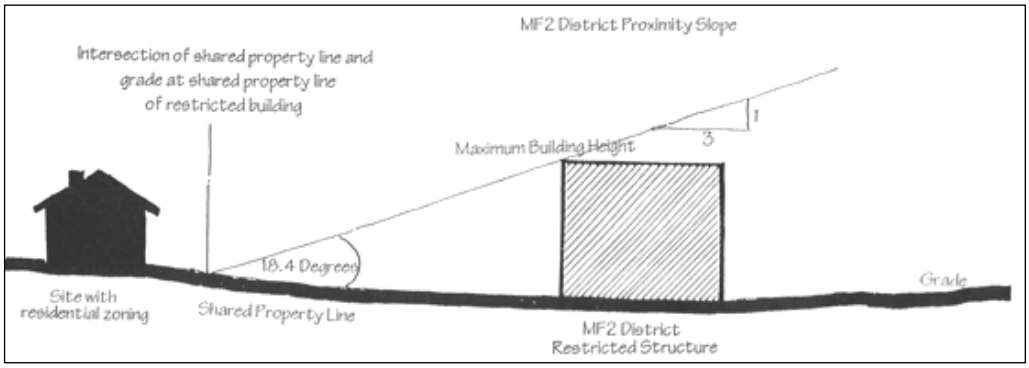
County Recorder.

Proximity Slope: A plane projected upward and outward from the Lot Line at a specific angle or slope. The angle or slope is projected from the line formed by the intersection of the vertical plane extending up from the shared Lot Line and the grade at the shared Lot Line of the restricted building or structure.



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

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

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

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Qq

Rr

Recreational Facility, Commercial: A commercial use conducted for profit and open to the general public that offers active recreational and/or training opportunities and is predominantly conducted in enclosed or screened facilities. Commercial Entertainment Facilities may include, but are not limited to: arcades, bowling alleys, driving ranges, miniature golf, motorized cart tracks, motorized model airplane flying facilities, paintball, laser tag, batting cages, roller or ice skating rink, athletic training facilities (e.g., gymnastics, swimming, basketball, baseball, tennis) and trampoline facilities.

Recreational Vehicle: Any boat, boat trailer, trailer, camping trailer, travel trailer, pick-up, coach, motor home or other unit built or mounted on a vehicle or chassis, without permanent foundation, which may legally be driven or towed by a motor vehicle on a highway.

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

Religious Institution: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes church, synagogue, temple, mosque, or other such place for worship and religious activities.

Residential Facility: A residential facility for individuals with a developmental disability or mental illness meeting the requirements of I.C. 12-28-4-7 and that otherwise complies with the Zoning Districts in which the facility is located.

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

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

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

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

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

Retail, Low Intensity: Retail businesses that have a low impact on neighboring properties, traffic generation, and public safety. Example businesses include, but are not limited to: art gallery, banks and savings and loans, bakery with limited seating, barber and beauty shop, book store (small), camera store, convenience store (small), craft gallery (small), drug store (small), dry cleaning pick-up, flower shop, gift shop, jewelry store, laundromats and self-service dry cleaning, mail order stores, meat market, news dealer and stationary stores. Generally, a business under eight thousand (8,000) square feet qualifies as small for purposes of this definition.

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

Retail, Special Handling: Retail businesses that primarily sell products that require special handling due to risks to public safety. Example businesses include, but are not limited to: gun sales and hunting stores.

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

Retention Area (or Retention Pond): An area of land, naturally or artificially designed, intended to accept runoff from a developed site and discharge it at a limited rate. Flows exceeding the limited rate are stored until they can be released at the limited rate (when the runoff rate into the system drops below the limited rate). A specified volume is stored indefinitely (retained) until it is displaced by runoff from another storm stores stormwater on a permanent basis and which may or may not have an outlet to adjoining watercourses to release stored stormwater. Retention Areas may provide multipurpose uses such as recreational areas and Open Space.

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

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Ringelmann Number: The number of the area on the Ringelmann Chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann Chart is described in the U.S. Bureau of Mines Information Circular 6888, on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. 1 shall be considered no smoke, or Ringelmann 0.

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

Ss

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

School, Fine Arts or Commercial: A facility which offers instruction specific to an art or other commercial purpose and is not publicly owned or owned or conducted by or under the sponsorship of a religious, charitable or nonprofit organization. Examples include, but are not limited to schools or academies teaching the arts for profit (e.g., language school, music school, dancing studio, photography school, cooking classes, karate studio).

School, Professional Trade or Business: A facility which offers instruction specific to an trade or business and is not publicly owned or owned or conducted by or under the sponsorship of a religious, charitable or nonprofit organization. Examples include, but are not limited to vocational or industrial training facilities (e.g., culinary arts, barber and beauty schools, business and clerical schools, professional and technical schools, industrials schools and training facilities).

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

Screen, Vegetative: A Screen of vegetation with dense foliage.

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Self-Storage Facility: A Building or groups of Buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage or personal property. Facility may include related accessory uses including, without limitation, any one or combination of the following: (i) administrative offices; (ii) ancillary retail sales (e.g., moving and packing supplies); (iii) mail or delivery boxes, and (iv) any other facilities approved by the Director that compliment and are intended as ancillary to serve such a facility.

Shield: Any attachment, which interrupts and blocks the path of light emitted from a luminaire or Fixture.

Shielded, Fully: A bulb is not visible within a shielded Fixture and no light is emitted from the top or sides of the Fixture. All light emitted from a Fixture is projected downward below a horizontal plane running through the lowest point of a Fixture where light is emitted.

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

Sidewalk: An improved pedestrian surface constructed of concrete in accordance with this Ordinance and that complies with the requirements of the Americans with Disabilities Act (ADA), as amended. [See also *Article 10.11 Special Exceptions*.]

Sign: Any display or device placed on a property in any fashion which is designed, intended, or used to convey any identification, message or information other than an address number.

Sign, Acreage For Sale: A Sign announcing the sale, rental, or lease of land.

Sign Area: The entire area within a single continuous perimeter enclosing the extreme limits of a sign, including all background area figures and letters. However, such perimeter shall not include any structural elements lying outside the limits of the sign which are not part of the information, visual attraction, or symbolism of the sign. Sign Area shall be computed as the smallest continuous rectangular figure that circumscribes a single sign display including writing, representations, emblems, logos or other displays, exclusive of the supporting framework, base, or structural bracing clearly incidental to the sign display.

Sign Area Allocation: The amount of permitted signage available to a particular use or tenant.

Sign, Awning: Any advertising or display located on any nonrigid material that extends from the exterior wall of a building and is supported by or attached to a frame.

Sign, Center: Advertising used to identify a Nonresidential Center, which may include individual tenant advertising.

Sign, Construction: A Sign directing attention to construction upon a property where the Sign is displayed, and bearing the name, address, or other identifier of the contractor, subcontractor, architect and/or development team.

Sign Copy: The wording, logos, symbols, emblems, or graphic content of a Sign.

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Sign, Direction: A Sign intending to direct the safe flow of vehicular and pedestrian traffic and includes "enter," "exit," and "arrow" signs.

Sign, Election: A type of Temporary Sign defined in Indiana Code 36-1-3-11.

Sign, Electronic: A Sign or Sign component with a fixed or changeable display composed of a series of lights, including but not limited to light emitting diode (LED), that may be changed through electronic means.

Sign, Entrance: Signs located at Nonresidential Centers which identify points of ingress and egress into the center.

Sign, Flashing: Any illuminated Sign which exhibits changing light or color effects.

Sign, Gas Price: A Sign displaying only the price of gasoline.

Sign, Home Construction or Home Remodeling Sign: A Temporary Sign used to advertise business entities conducting remodeling or construction work activities on a given parcel during the period that remodeling or construction activities are taking place on the given parcel.

Sigh Height: The height measured from the natural grade elevation upon which the Sign is placed to the highest point of the Sign or sign structure.

Sign, Illuminated: A Sign which has characters, letters, figures, designs, or outline illuminated by electric lights or luminous tubes as a part of the sign property, or which is illuminated by reflectors.

Sign, Interior Circulation: A Sign intending to direct the safe flow of vehicular and pedestrian traffic and includes "enter," "exit," and "arrow" signs. Interior Circulation Signs are not commercial way-finding signs.

Sign, Monument (or Ground): A Sign which is permanently fixed to the ground.

Sign, Nonresidential Real Estate: A sign announcing the sale, rental, or lease of nonresidential property.

Sign, Nonresidential Special Event: A Temporary Sign for a nonresidential entity, including businesses, charitable organizations, or not-for-profit corporations, which advertises grand openings, customer-appreciation events, public gatherings, and other similar events as determined by the Director.

Sign, Off-Premises: A Sign directing attention to a specific business, product, service, entertainment, or any other activity offered, sold, or conducted elsewhere that upon the Lot where the Sign is displayed.

Sign, Open House Directional: A Temporary Sign used to advertise an open house and direct traffic to the house for sale.

Sign Plane: The flat area free of architectural ornamentation on the façade of a building or structure that is intended primarily for or can be utilized for displaying a Sign. For buildings in which the Building Façade is offset into multiple faces, only the face on which the Sign will be located shall be used for calculating the Sign Plane.

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Sign, Pole: A Sign which is supported by one or more poles, posts, or braces upon the ground, in excess of six (6) feet in height, not attached to or supported by any building.

Sign, Projecting: A Sign attached to a building or wall and extending laterally more than eighteen (18) inches from the face of a wall.

Sign, Pylon: A Sign constructed upon the ground on a solid foundation with the sign surface resting directly on top of such foundation and intended to identify multiple businesses.

Sign, Real Estate: A Sign announcing the sale, rental, or lease of real property.

Sign, Residential Event: A Temporary Sign utilized to advertise residential garage sales, yard sales, individual residential events, subdivision or neighborhood events and other similar events as determined by the Director.

Sign, Residential Real Estate: A Sign announcing the sale, rental, or lease of residential property.

Sign, Sandwich Board: A portable Sign for display in front of a business for the specific use of advertising that business.

Sign, Special Event: A Sign advertising or announcing a special community-wide event or activity conducted or sponsored by or on behalf of the City, Westfield-Washington Schools, a charitable organization or a not-for-profit corporation. A special community-wide event or activity is one that occurs not more than twice in any twelve (12) month period and seeks to attract donations, participants or customers throughout the City.

Sign, Time and Temperature: A Sign displaying only the current time and/or outdoor temperature.

Sign, Under Canopy: A Sign placed under a canopy or roof overhang to direct patron traffic to the store's public entrance.

Sign, Wall: A Sign attached to and/or integral with an exterior wall or window surface of a building, the face of which is parallel to the surface.

Sign, Window: A Sign that is applied to or attached to the exterior or interior of a window or located in such a manner within a building that it is visible from the exterior of the building through a window, but excludes merchandise window display.

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

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Smoke Unit: The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed. The various products are then added together to give the total number of smoke units observed during the entire observation period.

Special Exceptions: A use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted. [See also *Article 10.11 Special Exceptions*.]

Stable: An Accessory Building having stalls or compartments for the sheltering and feeding of Livestock.

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

Stable, Public: A Stable incidental to a business operation such as an Agritourism Use or Equestrian Facility.

Stockyard: An enclosure with pens, sheds, and other buildings or structures for the temporary keeping of livestock for slaughter, market, or shipping.

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

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

Street (or Road): Right-of-way designated for use by motor vehicles that is dedicated or deeded to a governmental entity and under the control of a public agency for public use. [See also *Article 8.9 Street and Right-of-Way Standards*.]

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

Street, Internal: A Street or Private Street other than an External Street.

Street, Private: A vehicular way established in an access easement or common area affording access to abutting properties for private users of such property and constructed in accordance with this Ordinance and not controlled or maintained by a governmental entity. A Driveway is not a Private Street for purposes of this Ordinance. [See also *Article 8.9 Street and Right-of-Way Standards*.]

Structural Alteration: Any change in the supporting numbers of a building, such as bearing walls or partitions, columns, beams or girders, or any other substantial change in the exterior walls or the roof.

Structure: Anything constructed or erected which requires location on the ground or attachment of something having location on the ground.

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Subdivision: The division of any parcel of land into two (2) or more parcels or Lots or, the combination of two (2) or more platted Lots into one (1) Lot.

Subdivision, Major: Any Subdivision: (i) which results in two (2) or more smaller Lots or parcels, any of which front on or utilize a Private Street or easement for its only access; or, (ii) the Subdivision is for the purpose of Development (excluding cemeteries) and a Street is to be dedicated, reserved, or otherwise platted.

Subdivision, Minor: A Subdivision within an Agricultural District or Single-family District along an existing Street, not involving the opening, widening, or extension of any Street (public or private), which comply with the applicable Zoning District standards, after the original tract has been completely subdivided.

Tt

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

Temporary: A period of not more than ten (10) consecutive calendar days and not to exceed a period of timing totaling thirty (30) days within a calendar year.

Temporary Sign: A nonpermanent Sign intended for a limited time of display that complies with *Article 6.17 Sign Standards*.

Temporary Use and Event: A use or structure which is associated with a holiday or special event, or which is accessory to a permitted use and transitory in nature, and complies with *Article 6.18 Temporary Uses and Events*.

Thoroughfare Plan: The Westfield Thoroughfare Plan, adopted by the City of Westfield, as amended, which sets forth the location, classification, and other information pertaining to existing and proposed vehicular and pedestrian ways in the Jurisdiction of the Plan Commission and which illustrates the legally established goals and objectives of the City as they pertain to Rights-of-way.

Township: Washington Township, Hamilton County, Indiana.

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

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

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

Tree Protection Area: The area within the Dripline identified for preservation.

Tree, Shade: A large Tree growing to over forty (40) feet in height at maturity,

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usually Deciduous and planted to canopy cover shade.

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

Tree, Street: A Tree planted along a Street or Private Street, which is typically located within the Right-of-way in accordance with *Article 6.8 Landscaping Standards* and the City's Construction Standards.

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

Uu

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

Use, Accessory: A use incidental to and customarily associated with a use otherwise permitted and located on the same Lot or parcel.

Vv

Variance: Collectively, a Development Standards Variance and Use Variance.

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

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

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

Vibration: Oscillatory motion transmitted through the ground.

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

Vision Clearance: A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision as set forth in *Article 6.19 Vision Clearance Standards*.

Ww

Wildlife Habitat, Significant: A geographic area which provides food, shelter, nesting sites, territory, and protection for important animal, insect, and/or plant species.

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

Wireless Communication Service Facilities: Antennas or antenna support structures for private or commercial mobile radio communications, broadcast radio or television; and associated equipment buildings, broadcasting studios, or radio or television business offices.

Xx

Yy

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

Yard, Established Front: A Yard extending across the full width of the Lot between the Principal Building, as built, and the Front Lot Line, the depth of which is the least distance between the Front Lot Line and the Principal Building.

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

Yard, Established Side: A Yard extending the full depth of the Lot between the Principal Building and the Side Lot Line, the width of which is the least distance between the Side Lot Line and the Principal Building.

Yard, Front: A Yard extending across the full width of the Lot, the depth of which is the least distance between the Front Lot Line and the Front Yard Building Setback Line.

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

Yard, Side: A Yard extending across the full depth of the Lot, the depth of which is the least distance between the Side Lot Line and the Side Yard Building Setback Line.

Zz

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12.2 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
17-10	1704-ZOA-01	05/08/17	05/08/17	Article 12.1
19-13	1905-ZOA-01	08/12/19	08/13/19	Article 12.1
19-40	1909-ZOA-02	09/23/19	09/25/19	Article 12.1

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CHAPTER 13: USE TABLE

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13.1 Application

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

B. **Land Use Specified:** Each land use is either a permitted, not permitted, or a special exception use in each Zoning District as set forth in *Article 13.2 Use Table* (the "Use Table") or elsewhere in this Ordinance.

C. **Special Exception Uses:** A Special Exception designation is not meant to imply that the use will be disallowed, but that the use requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for those Zoning Districts in which it is permitted. The determination of whether the Special Exception may be approved shall be subject to a public hearing by the Board of Zoning Appeals and review in accordance with *Article 10.11 Special Exceptions*.

D. **Unlisted or Questionable Land Uses:** Any use not listed in the Use Table or otherwise permitted by this Ordinance shall be prohibited. The Director shall determine into which category a land use is placed if it is not specifically listed. This determination may be appealed to the Board of Zoning Appeals consistent with *Article 10.3 Appeals of Administrative Decisions*.

13.2 Use Table

A. **[SEE FOLLOWING PAGES]**

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P = Permitted Use • SE = Special Exception • E = Excluded by Overlay • Blank = Prohibited Use

	ZONING DISTRICTS																			OVERLAYS	
LAND USE	AG-SF1	SF1	SF2	SF3	SF4	SF5	MF1	MF2	GO	LB	LB-H	GB	[reserved for future use]					EI	OI	SR 32	US 31
RESIDENTIAL USES																					
Assisted Living Facility							P	P													
Convent, monastery	SE		SE	SE	SE	SE	SE	SE		SE	SE	SE						SE			
Dwelling, Single-family	P	P	P	P	P	P					SE										
Dwelling, Duplex							P				SE										
Dwelling, Efficiency Unit																					
Dwelling, Multi-family							P	P	P		SE	SE									
Dwelling, Quadraplex									P		SE										
Dwelling, Townhouse							P														
Dwelling, Triplex									P		SE										
Group Home						SE	SE	SE													
Home Business	P	P	P	P	P	P	P	P													
Hospice							P	P													
Manufactured Home																					
Manufactured Home Park							SE	SE				SE									E
Mobile Home																					E
Nursing Home							P	P				SE									
Residential Facility	P	P	P	P	P	P															
BUSINESS USES																					
Auction rooms												P						P	P		E
Bed and Breakfast (B&B)	SE										SE										
Childcare / daycare centers							P		SE	P	P	P									
Commissary, food catering service												P						P			E
Garden and Lawn Center												P						P			E
Gasoline Service Station										SE		SE									E
Health, fitness and exercise center										P	P	P									
Hotel (or Motel)												P									E

P = Permitted Use • SE = Special Exception • E = Excluded by Overlay • Blank = Prohibited Use

	ZONING DISTRICTS																			OVERLAYS	
LAND USE	AG-SF1	SF1	SF2	SF3	SF4	SF5	MF1	MF2	GO	LB	LB-H	GB	[reserved for future use]					EI	OI	SR 32	US 31
Kennel	SE																	SE	SE		E
Mortuaries												P									E
Office, General Services									P	P	P	P						P			
Office, Medical									P	P	P	P						P			
Office, Professional									P	P	P	P						P			
Restaurant, Fast Food											SE	P									E
Restaurant, Sit Down										P	P	P									
Restaurant, Specialty										P	P	P									
Restaurant, Takeout and Deli-style										P	P	P									E
Retail, High Intensity												P									E
Retail, Low Intensity										P	P	P									
Retail, Medium Intensity										P	P	P									
Retail, Special Handling												SE						SE	SE		E
Retail, Very High Intensity												SE									E
School, Fine Arts or Commercial									P	P	P	P						P			
School, Professional Trade or Business										SE	SE	P						P	P		
Veterinary hospital, large animal	SE	SE										SE						SE	SE		E
CULTURAL & INSTITUTIONAL USES																					
Amphitheater / outdoor theater										P	P	P									E
Assembly halls / auditoriums										SE	SE	P									
Civic center										P	P	P									
Educational Institution, without dormatory accomodations	P		P	P			P	P	P			P									
Educational Institution, with dormatory accomodations	SE	SE			P		P	P													
Hospital (major)												P									

P = Permitted Use • SE = Special Exception • E = Excluded by Overlay • Blank = Prohibited Use

	ZONING DISTRICTS																			OVERLAYS	
LAND USE	AG-SF1	SF1	SF2	SF3	SF4	SF5	MF1	MF2	GO	LB	LB-H	GB	[reserved for future use]					EI	OI	SR 32	US 31
Museum / exhibition hall										P	P	P									
Public Safety and Service Use	P	P	P	P	P	P	P	P	P	P	P	P						P	P		
Religious Institution	P		P	P			P			P	P	P									
ENTERTAINMENT & RECREATIONAL USES																					
Amusement parks	SE											SE						SE	SE		E
Race track or speedway, outdoor																			SE		E
Camp, public or private	SE																				E
Club, Civic										P	P	P									
Club, Private	SE	SE		SE						P	P	P									
Development Amenities		P	P	P	P	P	P	P	P	P	P	P									
Recreational Facility, Commercial												P						P			E
Golf Course	P	P	P																		
Park, public or private	P	P	P	P																	
Tavern (or Nightclub)										P	P	P						SE			E
Theater, indoor												P									E
Zoo	SE																				
INDUSTRIAL USES																					
Agricultural Processing																			P		E
Composting facility, commercial												SE						SE	SE		E
Data processing / call centers												P						P	P		
Engineering, research and testing laboratories																		P	P		
Industry, Extraction																		SE	SE		E
Industry, Heavy																			SE		E
Industry, Light																		P	P		
Industry, Medium																			P		E
Material Recycling Facility (MRF)												SE						SE			E

P = Permitted Use • SE = Special Exception • E = Excluded by Overlay • Blank = Prohibited Use

	ZONING DISTRICTS																			OVERLAYS	
LAND USE	AG-SF1	SF1	SF2	SF3	SF4	SF5	MF1	MF2	GO	LB	LB-H	GB	[reserved for future use]					EI	OI	SR 32	US 31
Office, Construction Trade												SE						P	P		E
Recycling Collector System											SE								P		E
Salvage Yard																			SE		E
Self-Storage Facility												SE						P	P		E
Trucking companies																		P	P		E
Warehousing and distribution operations (inside storage)																		P	P		E
Warehousing and distribution operations (outdoor storage)																			P		E
Wholesalers (inside storage)																		P	P		E
AGRICULTURE-RELATED USES																					
Agricultural Use	P																				
Agritourism Use (or Agritainment Use)	SE																				E
Auction barn for sale of livestock	SE																				E
Equestrian Facility	SE	SE																			E
Stable, Private	P																				
Nursery	P											P									E
Stockyard	SE																		SE		E
MISCELLANEOUS & TEMPORARY USES																					
Cemetery	P		P																		E
Farm Stand	P								SE	SE	SE	SE									E
Model Home		P	P	P	P	P	P	P	SE			SE									
Temporary Use and Event	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
TRANSPORTATION & COMMUNICATION USES																					
Airport	SE																				E
Bus stations / transit stops												P						P			E

P = Permitted Use • SE = Special Exception • E = Excluded by Overlay • Blank = Prohibited Use

	ZONING DISTRICTS																			OVERLAYS	
LAND USE	AG-SF1	SF1	SF2	SF3	SF4	SF5	MF1	MF2	GO	LB	LB-H	GB	[reserved for future use]					EI	OI	SR 32	US 31
Commercial parking lots and structures, public												P						P			
Heliports	SE	SE										P						P	P		E
Motor Truck Terminal																			P		E
Utilities - not regulated by Indiana Utility Regulatory Commissions							P	P		P	P	P						P	P		E
Utilities - Regulated by Indiana Utility Regulatory Commission	P	P	P	P	P	P	P	P		SE	SE	SE						SE	SE		
Wireless Communication Service Facilities	SE																	P	P		E

13.3 Chapter Amendment Log

Council Ordinance #	Plan Commission Docket #	Council Approved	Effective Date	Sections Affected
17-10	1704-ZOA-01	05/08/17	05/08/17	Article 13.2

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14.1 Adopted PUD District Ordinances:

The following is a list of Planned Unit Development District (PUD) Ordinances (see *Article 5.6 Planned Unit Development (PUD) District*) adopted by the Council. This Chapter shall automatically be amended upon the adoption by the Council of a new PUD District Ordinance or an ordinance amending an existing PUD District Ordinance. The Department should update and publish this Chapter accordingly, and at least annually. For electronic copies of all approved PUDs, please see the PUD Library on the City website.

A. 146th Street Commerce Centre (10-09)

B. 181st Street (14-03, 16-45, 16-50)

C. Ackerson Farms (06-47)

D. Andover (03-40, as amended 06-24, 12-3713-22, 15-19, 15-23)

E. Andover North (06-12, as amended 15-05)

F. Aurora (06-55, 16-35 (restated), as amended 17-30)

G. Big Hoffa's Restaurant at the Junction (16-19)

H. Bridgewater (06-49 (restated), as amended 08-05, 09-17, 10-01, 10-05, 10-08, 10-19, 11-01, 12-10, 13-06, 13-08, 14-02, 14-16, 14-20, 14-22, 14-44, 15-29, 15-34, 15-35, 15-36, 16-13, 17-22)

I. CarDon Senior Living (14-07, 15-25 (restate))

J. Centennial North (05-10, as amended 06-09, 09-03, 11-33)

K. Centennial South (02-01, as amended 04-42, 09-05, 11-02)

L. Chatham Commons (17-03)

M. Chatham Hills (13-24, 15-28, 16-46, 17-24)

N. Compton (18-02)

O. Crossroads Church (12-03)

P. Culver's Sun Park (15-44)

Q. Custom Commerce Park (03-29, as amended 11-05, 14-45, 17-31)

R. Dartown Crossing (17-13)

S. The Depot at Spring Mill Station (16-36)

T. Eagletown (06-46, as amended 07-07)

U. Enclave and Springs (13-16)

V. Field Brewery in the Junction (17-04)

W. Garden Market (14-21)

X. Gateway Southwest (15-08)

Y. Grand Millennium Center (16-51)

Z. Grand Park Fieldhouse (15-04, as amended 16-41)

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AA. Grand Park Indoor Sports and Recreation Facility (14-35, as amended 15-26, 17-44)
AB. Grand Park Village (12-46, as amended 15-10)
AC. Grassy Branch at Bridgewater (17-25)
AD. Hall and House (12-25, 17-16, 18-05)
AE. Harmony (12-14, as amended 14-55, 15-18, 16-12, 16-24)
AF. Haworth Business Park (17-05)
AG. Hittle at Thirty One (17-45)
AH. IHC (16-06)
AI. Junction North (16-09)
AJ. Junction, The (14-22, as amended 15-41)
AK. Kalorama Park (10-15, as amended 10-21)
AL. Keeneland Park (12-45, 16-04)
AM. Lantern Park (15-11)
AN. Liberty Ridge (16-23)
AO. Mainstreet at Grand Park (11-29)
AP. Maple Knoll (04-02, as amended 05-22, 14-08, 15-45)
AQ. Mapleridge (14-50)
AR. Maples at Springmill (10-14, as amended 12-11)
AS. North Walk (14-09)
AT. Oak Manor (03-37, as amended 17-20, 17-32)
AU. Oak Manor North (05-04)
AV. Oak Ridge Point (07-34, as amended 08-48, 11-09, 17-14, 18-01)
AW. Open Doors (16-14)
AX. Osborne Trails (16-44, as amended 17-21)
AY. Park Street at the Junction (16-25)
AZ. Park Street at the Junction II (17-40)
BA. Scofield Farms (16-42)
BB. Sheffield Park (14-51)
BC. Southoak (03-12)
BD. Spring Mill Grand Station (17-19)
BE. Spring Mill Station Northeast Quadrant (14-39, as amended 15-24, 16-05)
BF. Spring Mill Station SEC (14-46, as amended 17-18)
BG. Spring Mill Station SWC (15-15)
BH. Springmill Trails (11-19, as amended 13-15, 14-11, 14-34, 16-07, 16-28)

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BI. Sycamore on the Monon (05-12)

BJ. Towne Road Crossing (07-26)

BK. Towne West (12-24)

BL. Trails, The (15-27, as amended 16-26, 17-50)

BM. Union Street Flats (09-02)

BN. Viking Meadows (04-22, as amended 10-30, 12-05, 13-11, 13-17, 13-25, 15-06, 15-13, 16-34)

BO. Village Park Plaza I (17-17)

BP. Villas at Timber Ridge (08-36)

BQ. West Chester (17-46)

BR. Westgate (06-37)

BS. West Oak (04-01, as amended 04-40)

BT. West Rail (15-37)

BU. Wilshire (15-46)

14.2 Chapter Amendment Log

Chapter Last Updated:	April 26, 2017 April 17, 2018

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