FORT WAYNE ZONING ORDINANCE

As certified by the Plan Commission and amended by Common Council

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CHAPTER 153 – PLANNING AND DEVELOPMENT

COMPREHENSIVE PLAN[1]

§ 153.01 TITLE AND ADOPTION

The Comprehensive Plan for the City of Fort Wayne shall be formally known as "The Comprehensive Plan for the City of Fort Wayne and Allen County" (Plan-It Allen); it may also be cited and referred to as the "Fort Wayne Comprehensive Plan" or the "Comprehensive Plan". The Comprehensive Plan, containing goals, objectives, strategies, guiding principles, maps, figures, and charts for Community Facilities, Community Identity and Appearance, Economic Development, Environmental Stewardship, Housing and Neighborhoods, Land Use, Transportation, and Utilities, was adopted by the Fort Wayne Common Council on March 27, 2007, and approved by the Mayor on March 28, 2007.

§ 153.02 GUIDANCE AND CONSIDERATION

The Common Council of the City of Fort Wayne and each governmental entity within the planning jurisdiction of the Fort Wayne Plan Commission shall be guided by and give consideration to the general policy and pattern of development set out in the Comprehensive Plan and to other land use policies adopted in this subchapter, including the:

(A) Authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;

(B) Authorization, construction, development, alteration, or abandonment of public ways, public places, public lands, public buildings and structures, or public utilities;

(C) Objectives and policies for future land use development; and

(D) Adoption, amendment, or repeal of zoning ordinances, (including zoning maps), subdivision control ordinances, historic preservation ordinances, and other land use ordinances.

§ 153.03 AMENDMENTS

Amendments to the Comprehensive Plan shall be prepared and approved according to the procedures set forth in IC 36-7-4-500 (the 500 series – Comprehensive Plan). The following plans and policies have previously been adopted as amendments to the Comprehensive Plan:

(A) *Bike Fort Wayne Plan.* The Comprehensive Plan (Plan-It Allen) is amended by Resolution No. R-20-10 by adding the goals and policies of "Bike Fort Wayne: A Plan to Enhance Transportation Options" as set forth in that plan.

(B) *Downtown Action Plan.* The Comprehensive Plan for the city is amended by adding the "Downtown Fort Wayne Action Plan.

(C) *Front Door Fort Wayne Plan.* The Comprehensive Plan (Plan-It Allen) is amended by adding the goals and objectives of the "Front Door Fort Wayne Plan" as set forth in that plan.

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[1] Updated and aligned with Allen County language.

(D) *Frontage Road Amendment.* The Comprehensive Plan for the city, adopted May 11, 1982, is amended by adding the Frontage Road Amendment, dated September 26, 1988, which is incorporated by reference and made a part of this section.

(E) *City of Fort Wayne Housing Strategy Goals.* The Comprehensive Plan for the city is amended by adding the goals of the City of Fort Wayne Housing Strategy, as set forth below:

(1) Reintroduce planning as a central basis for activity at all scales within the city and county;

(2) Improve the image and marketability of all of the city's neighborhoods;

(3) Create a transparent coordinated process for city program and service delivery;

(4) Enhance the lending and financing environment;

(5) Foster a proactive development environment;

(6) Adopt value-added property management approaches;

(7) Support and expand C.D.C. capacity; and

(8) Facilitate more housing choice for low-income families.

(F) *Southwest Sector Amendment.* The Comprehensive Plan of the city dated May 11, 1982,is amended by adding the Southwest Sector Amendment, April 21, 1986, which is hereby incorporated by reference and made a part of this section and shall be in full force and effect from and after its passage and approval by the Mayor and due publication.

(G) *Walk Fort Wayne Plan.* The Comprehensive Plan (Plan-It Allen) is amended by adding the goals and policies of the “Walk Fort Wayne Plan” as set forth in that plan.

(H) Area, Sub-Area, and Neighborhood Plans

(1) *Around the Square Sub-Area Plan.* The Comprehensive Plan (Plan-it Allen) is amended by adding the Strategic Development Map and goals and policies of the "Around the Square Sub-Area Plan" as set forth in that plan.

(2) *Bloomingdale/Spy Run Neighborhood Plan*. The Comprehensive Plan for the city is amended by adding the goals and policies of the "Bloomingdale/Spy Run Neighborhood Plan" as set forth in that plan.

(3) *East Park Planning Alliance (EPPA) East Central Neighborhood Plan*. The Comprehensive Plan for the city is amended by adding the goals and policies of the "East Park Planning Alliance (EPPA) East Central Neighborhood Plan" as set forth in that plan.

(4) *Memorial Park Community Development Area Plan.* The Comprehensive Plan (Plan-it Allen) is amended by adding the goals and policies of the "Memorial Park Neighborhood Plan" as set forth in that plan.

(5) *Nebraska Neighborhood Community Development Plan.* The Comprehensive Plan (Plan-It Allen) is amended by Resolution No. R-9-10 by adding the goals and policies of the "Nebraska Neighborhood Development Area Plan", as set forth in that plan.

(6) *Northside Neighborhood Community Development Area Plan (CDAP).* The Comprehensive Plan for the city is amended by adding the goals and policies of the "Northside Neighborhood Plan", as set forth in that plan.

(7) *Packard Area Planning Alliance (PAPA) Plan.* The Comprehensive Plan for the city is amended by adding the goals and policies of the "Packard Area Planning Alliance (PAPA) Plan" as set forth in that plan.

(8) *Southeast Area Development Strategy*. The Comprehensive Plan is amended by adding the Strategic Development Map and Land Use Policies of the "Southeast Area Development Strategy" as set forth in that strategy.

(9) *West Central Plan*. The Comprehensive Plan for the city is amended by adding the goals and policies of the "West Central Plan" as set forth in that plan.

§ 153.04 COPY ON FILE

A copy of the approved Comprehensive Plan, including all maps and amendments, shall be placed and kept on file in the office of the Allen County Recorder. A copy of the approved Plan shall also be placed and kept on file in the office of the Department of Planning Services and the Division of Community Development and shall be available for public examination during the regular business hours of said offices.

TRANSPORTATION PLAN[2]

§ 153.31 TITLE AND ADOPTION

A Transportation Plan, prepared by the Northeastern Indiana Regional Coordinating Council and adopted by the Fort Wayne Common Council, shall be considered the Transportation Plan for the City of Fort Wayne. It may be cited and referred to as the "Transportation Plan".

§ 153.32 GUIDANCE AND CONSIDERATION

The Fort Wayne Common Council and other governmental entities within the jurisdiction of Fort Wayne Plan Commission shall pay reasonable regard to the general policies, objectives, and proposed highway, transit, and pedestrian/bicycle systems improvement projects set forth in the Transportation Plan as part of the review and approval of proposed projects; the authorization, construction, development, and improvement of public streets and roadways; the abandonment of public ways; and other matters relevant to the Transportation Plan.

§ 153.33 COPY ON FILE

A copy of the approved Transportation Plan shall be kept on file in the office of the City Clerk. A copy of the Transportation Plan shall also be placed and kept on file in the office of the Department of Planning Services and in the office of the Northeastern Indiana Regional Coordinating Council (NIRCC). The Transportation Plan shall be available for public examination during the regular business hours of said offices.

[2] Updated and aligned with Allen County language.

CHAPTER 157 – ZONING ORDINANCE

GENERAL PROVISIONS

§ 157.101 TITLE[3]

This ordinance shall be formally known as the "Fort Wayne Zoning Ordinance"; the Fort Wayne Zoning Ordinance may also be cited and referred to as the "Zoning Ordinance" or "ordinance".

§ 157.102 AUTHORITY[4]

This ordinance is adopted by the City of Fort Wayne pursuant to its authority under the laws of the State of Indiana, including the 600 Series of Indiana Code (IC 36-7-4-600).

§ 157.103 EFFECTIVE DATE[5]

This ordinance and any subsequent amendments shall be in full force and effect as of the designated effective date noted in the ordinance adopted by the Fort Wayne Common Council; if there is no designated effective date, the ordinance shall be in effect as of the date of the Mayor's approval.

§ 157.104 PURPOSE[6]

The purpose of this ordinance is to promote carefully planned, orderly growth and development and the efficient use of land resources within the City and the City's planning jurisdiction, and to carry out the land use objectives and strategies of the Comprehensive Plan, and in doing so to:

(A) Carry out the purposes of IC 36-7-4-201(b) and the IC 36-7-4-600 Series, including, but not limited to the following:

(1) Promote the health, safety, convenience, and welfare of the citizens of the community;

(2) Secure adequate light, air, and convenience of access;

(3) Provide safety from fire, flood, and other danger;

(4) Reduce or avoid congestion and provide for the safe and efficient movement of vehicles and pedestrians along public ways;

(5) Encourage that the growth of the community is commensurate with and promotive of the efficient and economical use of public funds;

(6) Set forth the uses permitted in the City's residential, commercial, and industrial districts; and establish other permitted and prohibited land uses;

(7) Establish uses that the Board of Zoning Appeals may permit as contingent uses and special uses, along with the zoning districts where special uses will be allowed;

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[3] New section.
[4] New section.
[5] New section.
[6] Updated and aligned with Allen County language.

(8) Regulate both the use and the intensity of use of land for commercial, community, industrial, institutional, residential, and other purposes and activities;

(9) Establish minimum standards for lot areas and sizes, yard requirements, and residential building sizes;

(10) Establish maximum building and structure heights;

(11) Establish standards for accessory construction such as fences, garages, sheds, swimming pools, and similar buildings, structures and uses; and

(12) Provide consistent subdivision control provisions, standards, and policies;

(B) Provide for the enforcement of this ordinance, including recourse for violations and other noncompliance with these provisions; and

(C) Define terms used in this chapter.

§ 157.105 JURISDICTION[7]

This ordinance shall apply to all land within the planning jurisdiction of the City of Fort Wayne. A map showing the boundaries of the City's planning jurisdiction shall be available for public inspection in the office of the Department of Planning Services. This ordinance does not revoke any previously-granted extra-territorial planning jurisdiction. Any requests for Fort Wayne to exercise jurisdiction over any part of the unincorporated area beyond the Fort Wayne corporate limits shall be prepared and considered as set forth in IC 36-7-4-205(e). DPS staff shall maintain a map showing all areas of extra-territorial jurisdiction.

§ 157.106 ANNEXATION[8]

Upon annexation, the Allen County zoning districts shall automatically be converted from the existing Allen County zoning classification into the corresponding Fort Wayne zoning district based on district conversions in § 157.201(E). Uses that were legal at the time of annexation shall be considered nonconforming uses. Any application previously approved by the County Board of Zoning Appeals subject to a renewal of the approval or a report on the status of the approval may have the approval renewed or the status of the approval reviewed by action of the Fort Wayne Board of Zoning Appeals based on the criteria used for the original approval, upon the giving of notice and the holding of a public hearing by the Board for a period of up to three years from the effective date of this ordinance.

§ 157.107 APPLICABILITY[9]

Except as noted below, this ordinance shall be applicable to all structures, land, and uses on property located within the planning jurisdiction of the City of Fort Wayne, including private primary uses on otherwise-exempt property. Any applicant or property owner who feels that their property or proposed building, structure or use is expressly exempted from this ordinance (as in the case of express field implied pre-emption, or pre-emption under IC 36-7-4-1104 (b)) shall be required to furnish documentation supporting such an exemption. A project that may otherwise be deemed

[7] Updated and aligned with Allen County language.
[8] New section.
[9] New section; language establishing a zoning exemption for Fort Wayne owned and occupied land uses added since Phase 3 drafts.

exempt may be voluntarily submitted for review. Projects or properties which are exempt within Fort Wayne's planning jurisdiction shall not automatically be exempt outside of Fort Wayne's planning jurisdiction.

However, this ordinance does not apply to, and does not regulate or restrict, the City's public use of any lot or parcel within the Commission's planning jurisdiction that is owned and occupied for City puposes by the Mayor, Common Council, the City Clerk, or any City department heads, City departments or City officers established under I.C. 36-4-9. In the event the Mayor, Common Council, the City Clerk, or any City departments heads, City departments or City officers cease to own or occupy the lot or parcel for a City public use, then this ordinance shall apply, and shall regulate and restrict, any other use of the lot or parcel. Any prior use of a lot or parcel by the Mayor, Common Council, the City Clerk, or any City department heads, City departments or City officers that was exempt from this ordinance shall not be deemed a nonconforming use when the Mayor, Common Council, the City Clerk, or any City department heads, City departments or City officers cease to own or occupy the lot or parcel for a City public use. [10]

§ 157.108 COMPLIANCE[11]

After the effective date of this ordinance, no building, structure or land shall be used, and no building or structure shall be altered, converted, enlarged, erected, moved, reconstructed, or reused except in conformance with the provisions of this ordinance, including the issuance of any required permits. No lot parcel shall hereafter be established or divided except in conformance with the provisions of this ordinance. Existing buildings, structures and uses that do not comply with the provisions of this ordinance shall be subject to the provisions of §157.504 (Nonconforming Situations).

§ 157.109 DESIGN STANDARDS

The Plan Commission may adopt design standards for use in the review and approval of Development Plans and/or development proposals for different areas within the City's planning jurisdiction, consistent with a development strategy or plan(s) adopted by Common Council. Prior to the adoption of any such standards, the Plan Commission shall give notice and hold a public hearing in accordance with the Commission's rules. Copies of adopted design standards shall be available in the office of the Department of Planning Services.

§ 157.110 GRAPHICS, HEADINGS, AND ILLUSTRATIONS[12]

To aid in the creation of standards that are reasonable, clear and precise, this ordinance includes diagrams, graphics, illustrations, images, and tables to help show the applicability, use, and intent of the relevant standards. The accompanying ordinance text is also intended to explain the standard that the diagram, graphic, or illustration is showing. If there is a conflict between the text and a diagram, graphic, or illustration, the text shall override the diagram, graphic, or illustration.

[10] New language added since Phase 3 drafts establishing a zoning exemption for Fort Wayne owned and occupied land uses.
[11] Updated and aligned with Allen County language.
[12] New section.

§ 157.111 INTERPRETATION[13]

In cases where the provisions of this ordinance require interpretation, the interpretation shall be provided by the Zoning Administrator, with assistance from the Plan Commission, Board of Zoning Appeals, definitions used in State or Federal law, or other Department of Planning Services staff, if determined necessary by the Zoning Administrator. In interpreting this ordinance, words are to be given their plain, ordinary, and usual meaning, unless a contrary purpose or meaning is shown by the ordinance itself. Where possible, every word is to be given effect and meaning, and no word or part is to be held to be meaningless if it can be reconciled with the rest of this ordinance.[14]

§ 157.112 MINIMUM REQUIREMENTS[15]

Unless specifically noted otherwise, the provisions of this ordinance shall be held to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the City, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment of the City.

§ 157.113 OVERLAY DISTRICTS[16]

This ordinance permits the creation of overlay districts, as a district that extends across one or more underlying zoning districts, to prescribe additional or alternate regulations to the regulations included in the underlying zoning district for a specific critical feature or resource. Overlay districts shall include the Airport Overlay Districts and the Floodplain regulations.

§ 157.114 RELATION TO PLANS[17]

In the administration, enforcement, and amendment of this ordinance, reasonable regard should be paid to the Comprehensive Plan. Amendments to the text of this ordinance should maintain and enhance the consistency between this ordinance and the Comprehensive Plan. In the event the Plan Commission determines that this ordinance is inconsistent with the Comprehensive Plan, the Commission may initiate an ordinance amendment pursuant to I.C. 36-7-4-602(b).

§ 157.115 RELATION TO OTHER LAWS AND REGULATIONS[18]

(A) This ordinance does not supersede or amend more restrictive requirements of ordinances or regulations adopted by other local entities, including building, drainage, health, housing, onsite sewage systems,, sewage, and water regulations or other similar requirements. If a conflict arises between this ordinance and other local ordinances or regulations, any action taken under this ordinance shall be based on the standards and regulations herein. When not in conflict, this ordinance shall be construed as being in addition to or supplemental to such other ordinances or regulations.

(B) This ordinance does not supersede more restrictive requirements which may be contained in the Indiana Code, the Indiana Administrative Code, the United States Code, or the Code of Federal

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[13] New section.
[14] Second and third sentences added since Phase 3 draft.
[15] New section.
[16] New section since Phase 3 drafts.
[17] New section
[18] New section

Regulations. To the extent that the regulatory standards of this ordinance are more restrictive than the requirements contained in the Indiana Code, the Indiana Administrative Code, the United States Code, or the Code of Federal Regulations and such regulatory standards are not otherwise specifically prohibited by the Indiana Code, the Indiana Administrative Code, the United States Code, or the Code of Federal Regulations, such regulatory standards shall be applicable and enforceable.

§ 157.116 SAVING PROVISION[19]

This ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous Zoning Ordinance, Subdivision Control Ordinance, or related ordinance. This ordinance shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

§ 157.117 SEVERABILITY

If any provision of this ordinance as existing now or later amended, or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 157.118 SIMILAR USES PERMITTED[20]

The uses specified herein shall be permitted in the noted zoning districts. . Land uses similar to those listed as permitted in a district, but not specifically mentioned in these provisions may be permitted with the approval of the Zoning Administrator; however, in the absence of a determination by the Zoning Administrator that a non-mentioned use is permitted, no land shall be used for any purpose other than a use specified herein [21]

§ 157.119 STATE STATUTE AMENDMENT[22]

If any of the provisions of Indiana Code cited in this ordinance are amended or superseded, this ordinance shall be deemed amended with regard to the reference(s) to the new or revised code, until such time that the ordinance is amended to conform to the new or revised code. If Indiana Code is amended to require a more restrictive standard than this ordinance, the more restrict State standard shall be applicable and enforced.

§ 157.120 SUBDIVIDING LAND[23]

Land may be subdivided within any zoning district.

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[19] New section
[20] Updated and aligned with Allen County language
[21] Language updated since Phase 3 draft to clarify that uses that are not mentioned are only permitted if determined to be a permitted use by the Zoning Administrator.
[22] New section.
[23] New section.

§ 157.121 TRANSITIONAL PROVISIONS AND VESTED RIGHTS[24]

The intent of this section is to make this ordinance fully effective, but to allow for the continuation of all vested rights related to permits and approval issued prior to the effective date of this ordinance. The transitional provisions shall apply to the following situations:

(A) Applications Filed Prior to the Effective Date[25]

(1) Completed Applications

Any application for an Improvement Location Permit, Certificate of Occupancy, or Certificate of Compliance, or any application for a land use approval from the Board of Zoning Appeals or the Plan Commission, which has been filed with the required filing fee and which has been determined to be complete prior to the effective date of this ordinance , shall be regulated by the terms and provisions of the zoning ordinance that were in effect as of the date the application was determined to be complete. Any re-application for an expired application or permit shall meet the provisions and development standards of the zoning ordinance in effect at the time of re-application. However, any such completed application filed before the effective date of this ordinance, shall be subject to the administrative procedures, procedural rules, and hearing process in effect at the time the completed application is reviewed or heard at a public hearing.

(2) No Applications Submitted and Incomplete Applications

Projects for which no application has been submitted or which have been determined to be incomplete prior to the effective date of this ordinance shall be subject to all requirements and standards of this ordinance.

(B) Approved Permits and Projects[26]

(1) Permits

All permits (including Improvement Location Permits, Site Plan reviews, Certificates of Occupancy, and Certificates of Compliance) which have been issued prior to the effective date of this ordinance , or which are issued after the effective date of this ordinance for a complete application filed under §157.121 (A)(1) shall remain valid and in effect until the applicable expiration date. Projects with valid permits may be carried out in accordance with the provisions and development standards of the zoning ordinance in effect at the time of the approval of the permit, or at the time of filing a completed application under §157.121 (A)(1), provided that the permit does not expire or lapse prior to the effective date of this ordinance . If an application to substantially change a permit is filed after three (3) years of the effective date of this ordinance,, then the change to the permit shall be governed by all requirements and standards of this ordinance in effect at the time of applying for the change.

(2) Plan Commission Final Decisions

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[24] New section.
[25] Language updated since Phase 3 draft to revise the ordinance effective date reference.
[26] Language updated since Phase 3 draft to revise the ordinance effective date references.

All Plan Commission final decisions (as defined in IC 36-7-4-1016(b), which includes Development Plans and plats) which have been approved prior to the effective date of this ordinance, or which were approved after the effective date of this ordinance for a complete application filed under §157.121 (A)(1) above, shall remain valid and in effect until the applicable expiration date. A final decision of the Plan Commission may be carried out in accordance with the Plan Commission's conditions of approval and the provisions and development standards of the zoning ordinance in effect at the time of the Plan Commission's decision, or for a completed application under §157.121 (A)(1) above at the time the application is filed; unless the Plan Commission's decision is reversed, expired or lapsed prior to the effective date of this ordinance. If an application to substantially change a Plan Commission final decision is filed after three (3) years of the effective date of this ordinance, then the change to the final decision shall be governed by all requirements and standards of this ordinance in effect at the time of applying for the change.

(3) Board of Zoning Appeals Final Decisions

All Board of Zoning Appeals final decisions (as defined in IC 36-7-4-1016(a), which includes special exceptions, special uses, contingent uses, use variances, and variance from development standards) which have been approved prior to the effective date of this ordinance, or which were approved after the effective date of this ordinance for a complete application filed under §157.121 (A)(1) above, shall remain valid and in effect until the applicable expiration date. A final decision of the Board of Zoning Appeals may be carried out in accordance with the Board of Zoning Appeals' conditions of approval and the provisions and development standards of the zoning ordinance in effect at the time of the Board of Zoning Appeals' decision, or for a completed application under §157.121(A)(1) at the time the application is filed; unless the Board of Zoning Appeals' decision expires, lapses, or is reversed prior to the effective date of this ordinance . If an application to substantially change a Board of Zoning Appeals final decision is filed after three (3) years of the effective date of this ordinance, then the change to the final decision shall be governed by all requirements and standards of this ordinance in effect at the time of applying for the change.

(4) Commitments

Any commitments submitted as part of a rezoning, a Plan Commission final decision, or a Board of Zoning Appeals' final decision that is recorded prior to the effective date of this ordinance, shall remain in full force and in effect. If an application to substantially change a commitment is filed after three (3) years of the effective date of this ordinance, then the change to the commitment shall be governed by all requirements and standards of this ordinance in effect at the time of applying for the change.

(5) Changes

No provision of this ordinance shall require any change in the plans, construction, or designated use of any structure for which an Improvement Location Permit has been issued prior to the effective date of this ordinance, or for a permit that was issued under §157.121 (A)(1) above.

(6) Extensions

The decision-making body that granted the original approval may renew or extend the time of a valid previous approval. Any extension granted shall not exceed the time specified for the extension of the specific permit approval in §157.503 (Procedures).

(7) Re-application

Any re-application for an expired permit or project approval shall meet the provisions and standards of the zoning ordinance in effect at the time of re-application.

(C) Violations Continue

Any violation occurring under the previous Zoning Ordinance will continue to be a violation under this ordinance and be subject to penalties and enforcement pursuant to §157.505 (Enforcement), unless the use, development, construction, or other activity complies with the provisions of this updated ordinance.

(D) Nonconforming Uses and Structures Under Prior Ordinance

Any nonconforming use or structure that lawfully existed on the effective date of this ordinance will be allowed to continue, as long as the nonconformity that resulted in the nonconforming status under the previous ordinance continues to exist. If a nonconformity under the previous ordinance becomes conforms to the provisions or development standards of this ordinance, then the use or structure shall no longer be deemed nonconforming, but shall be considered a permitted use or structure and subject to the provisions of this ordinance.

§ 157.122 ZONING DISTRICT DESIGNATION CONVERSIONS[27]

The existing zoning district designations shall be converted into updated zoning district designations as noted in the table below.

Existing and Updated Zoning Designations			
Existing Zoning Designation	**Updated Zoning Designation**	**Existing Zoning Designation**	**Updated Zoning Designation**
AR/Low Intensity Residential	AR/Low Intensity Residential	CM5A/Central Downtown District	DC/Downtown Core
R1/Single Family Residential	R1/Single Family Residential	CM5B/Downtown Edge District	DE/Downtown Edge
R2/Attached Single Family and Two Family Residential	R2/Two Family Residential	CM5C/Neighborhood Commercial Corridor	UC/Urban Corridor
R3/Multiple Family Residential	R3/Multiple Family Residential	SC1/Neighborhood Shopping Center	NC/Neighborhood Center
RP/Planned Residential	RP/Planned Residential	SC2/Community Shopping Center	NC/Neighborhood Center
MR1/Manufactured Residential Subdivision	MHS/Manufactured Home Subdivision	SC3/Metropolitan Shopping Center	SC/Shopping Center
MR2/Manufactured Home Park	MHP/Manufactured Home Park	SC4/Regional Shopping Center	SC/Shopping Center
CM1/Professional Offices and Personal Services	C1/Professional Office and Personal Services		BTI/Business, Technology, and Industrial Park
CM2/Limited Retail and Commercial	C2/Limited Commercial	IN1/Limited Industrial	I1/Limited Industrial
CM3/General Commercial	C3/General Commercial	IN2/General Industrial	I2/General Industrial
CM4/Intensive Commercial	C4/Intensive Commercial	IN3/Heavy Industrial	I3/Intensive Industrial

[27] New section.

ZONING DISTRICTS

§ 157.201 GENERAL ZONING DISTRICT PROVISIONS

(A) Purpose

The purpose of this section is to establish designations, standards, and requirements for the following:

(1) Zoning district boundaries;

(2) Zoning district conversions;

(3) Zoning district designations;

(4) Zoning maps; and

(5) Zoning district and map determinations and interpretations.

(B) Zoning Districts

All of the area within the planning jurisdiction of the Plan Commission is hereby divided and classified into the zoning districts designated in the following table.

DISTRICT DESIGNATIONS[28]	
AR	Low Intensity Residential
R1	Single Family Residential
R2	Two Family Residential
R3	Multiple Family Residential
RP	Planned Residential
MHS	Manufactured Home Subdivision
MHP	Manufactured Home Park
C1	Professional Office and Personal Services
C2	Limited Commercial
NC	Neighborhood Center
SC	Shopping Center
C3	General Commercial
C4	Intensive Commercial
DC	Downtown Core
DE	Downtown Edge
UC	Urban Corridor
BTI	Business, Technology, and Industrial Park
I1	Limited Industrial
I2	General Industrial
I3	Intensive Industrial

[28] Table revised to reflect new district names described in §157-201 through 224.

(C) Zoning Maps

The zoning districts designated herein, and the boundaries of the respective zoning districts, shall be as shown on the Fort Wayne zoning maps on file in the office of the DPS staff. The zoning maps are hereby incorporated as part of this chapter.

(D) District Boundaries

Zoning district boundary lines shall be considered to be: lot lines; the centerline of any alley, street, or road right-of-way; or the centerline of any ditch, drain, river, stream, or other watercourse unless the zoning maps indicate otherwise. However, for the purpose of establishing minimum distances from residential zoning districts as required in this chapter, the measurement shall always be taken from lot line to lot line, as opposed to being taken from the center line or other point within a public street or alley right-of-way.

(E) District Conversions

(1) Any land which may be added to the planning jurisdiction of the Plan Commission shall automatically be converted from the existing Allen County zoning classification into the corresponding Fort Wayne zoning district as set forth in the following table.

COUNTY DISTRICT[29]		**FORT WAYNE DISTRICT**	
A1	Agricultural	**AR**	Low Intensity Residential
A3	Estates		
R1	Single Family Residential	**R1**	Single Family Residential
R2	Two Family Residential	**R2**	Two Family Residential
R3	Multiple Family Residential	**R3**	Multiple Family Residential
		RP	Planned Residential
MHS	Manufactured Home Subdivision	**MHS**	Manufactured Home Subdivision
MHP	Manufactured Home Park	**MHP**	Manufactured Home Park
C1	Professional Office and Personal Services	**C1**	Professional Office and Personal Services
C2	Limited Commercial	**C2**	Limited Commercial
NC	Neighborhood Center	**NC**	Neighborhood Center
SC	Shopping Center	**SC**	Shopping Center
C3	General Commercial	**C3**	General Commercial
C4	Intensive Commercial	**C4**	Intensive Commercial
BTI	Business, Technology and Industrial Park	**BTI**	Business, Technology and Industrial Park
I1	Limited Industrial	**I1**	Limited Industrial

[29] Table revised to reflect new Allen County and Fort Wayne district names described in §157-201 through 224.

COUNTY DISTRICT[29]		FORT WAYNE DISTRICT	
I2	General Industrial	**I2**	General Industrial
I3	Intensive Industrial	**I3**	Intensive Industrial

(2) If no specific zoning conversion is noted in this chapter, the Zoning Administrator shall determine the appropriate zoning district conversion based on the Comprehensive Plan, existing or proposed development in the area, and recommendation of the Plan Commission.

(F) Interpretation of Zoning Maps

If there is uncertainty or conflict with regard to the location of a zoning district boundary, the Zoning Administrator shall determine the correct boundary location, in accordance with the following:

(1) It is intended that zoning district boundary lines follow the boundary survey perimeter lot lines or the legal description submitted as a part of an approved zoning map amendment;

(2) If no survey or legal description exists then the zoning district boundary lines are intended to follow lot lines; the centerline of any alley, street, or road right-of-way; or the centerline of any ditch, drain, river, stream, or other watercourse;

(3) If a zoning district boundary line divides a lot, the location of the boundary line shall be determined by measurement, based on the scale of the zoning map; and

(4) The Zoning Administrator may also consider existing or previous land use(s) on a lot in making such a determination.

§ 157.202 PERMITTED USES. [30]

The following uses shall be permitted as set forth in the specified zoning districts in the following sections. Land uses similar to those listed as permitted in a district, but not specifically mentioned in these sections may be permitted with the approval of the Zoning Administrator, based on part of the purpose of the applicable zoning district. However, in the absence of a determination by the Zoning Administrator that a non-mentioned use is permitted, no land shall be used for any purpose other than a use specified herein. All development proposals shall be subject to the applicable review and approval procedures as set forth in §157.301 (Development Plans), §157.302 (Site Plan Review), and §157.503(B) (Improvement Location Permit).

[30] Since Phase 3 drafts, Permitted Uses language updated to clarify that the Zoning Administrator must determine if a non-listed use is a permitted use.

§ 157.203 AR LOW INTENSITY RESIDENTIAL

(A) Purpose

The Low Intensity Residential district is intended to create areas for both low intensity residential and agricultural uses. The purpose of this district is to allow for the continuation of agricultural land uses while also allowing low intensity residential development and certain additional uses where adequate infrastructure is available.

(B) Permitted Uses[31]

The following uses are permitted as a matter of right in an AR district:

(1) Accessory building, structure, or use as set forth in § 157.203(D);

(2) Agricultural uses and buildings, including:

(a) agronomic crop production, along with the operation of any machinery or vehicles necessary for the crop production; bee hives; floriculture; forestry and tree farming; horticulture; and viticulture; and

(b) low intensity livestock operation, on properties of two acres or more in size.

(3) Common areas used for a clubhouse, neighborhood center, swimming pool, tennis court, or other similar assembly/recreation facility or use, in association with a minor plat or an existing single family subdivision;

(4) Group residential facility (small);

(5) Model home, in association with a minor plat (permitted for up to two years);

(6) Riding stable, residential (shall be located on a lot with a single family residence);

(7) Single family dwelling (detached);

(8) Universally permitted use;

(9) Wind energy conversion system, micro (on unplatted parcels); and

(10) Wind energy conversion system, standard (on parcels of over five acres not adjacent to platted lots or residential zoning districts).

[31] Updated and aligned with Allen County language. Since Phase 2 drafts, "Park or recreation area (public county, municipal, state, or township), including parking areas and structures" has been removed from this list, since it is now a universally permitted use; "Community gardens" has been removed, and "Group residential facility (small)" has replaced "Residential facility for the developmentally disabled" and "Residential facility for the mentally ill, if located at least 3,000 feet from any other such facility" on this list.

(C) Special Uses[32]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Accessory building conversion to a single family residence;

(2) Accessory building, as a primary building, on a site of at least 5 acres;

(3) Airstrip/heliport (for corporate or multiple owner use);

(4) Bed and breakfast;

(5) Boarding house;

(6) Class II child care home;

(7) Community garden that includes a structure;[33]

(8) Country club;

(9) Educational institution (not otherwise permitted);

(10) Educational institution-associated uses (on non-contiguous properties);

(11) Funeral home;

(12) Golf course;

(13) Group residential facility (large):[34]

(14) Home business (see § 157.503(D)(3)(b) for additional standards);

(15) Home enterprise (see § 157.503(D)(3)(c) for additional standards);

(16) Home workshop (see § 157.503(D)(3)(d) for additional standards);

(17) Homeless/emergency shelter (accessory to a religious institution), for up to eight (8) individuals;

(18) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards);

(19) Model home (for an extension of time or expansion of scope);

(20) Nature preserve that includes a structure or parking area; [35]

(21) Neighborhood facility;

(22) Nonconforming use (expansion of existing legal nonconforming use, or allow conforming status to existing use)

(23) Reception, meeting, or recreation hall; clubhouse;

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[32] Updated and aligned with Allen County language. Since Phase 2 drafts, "Wind energy conversion system, large (for systems with a rating that would serve more than one residence, or to request approval of a height greater than 60')" has been removed from this list.
[33] Since Phase 2 drafts, the words "or water" have been deleted from the end of this phrase.
[34] Since Phase 2 drafts, the word "(large)" has been added to this use title.
[35] Since Phase 3 drafts, the words "that includes a structure " have been added.

(24) Recreation facility and/or use, outdoor (athletic field, including illuminated accessory use fields, campground, driving range, miniature golf course, swim or tennis club);

(25) Religious institution or school illuminated athletic field(s);

(26) Residential facility for a court-ordered re-entry program;[36]

(27) Residential facility for homeless individuals, for up to eight (8) individuals;[37]

(28) Riding stable, non-residential (on a lot with no residential building; the stable shall be located on a tract of at least five acres);

(29) Sign (temporary subdivision direction);

(30) Solar panel (ground-mounted);

(31) Two family dwelling (to allow conforming status for existing nonconforming dwellings);

(32) Utility facility, private (not otherwise permitted or exempt);

(33) Wind energy conversion system, micro (to allow systems for single family detached dwellings on platted land, or to request approval of a greater height); and

(34) Wind energy conversion system, standard (to allow systems on a parcel of less than five acres, or adjacent to platted lots or residential zoning districts).

[36] This use has been added since Phase 2 drafts.
[37] This use has been added since Phase 2 drafts.

(D) Accessory Buildings, Structures, and Uses[38]

Accessory buildings, structures, and uses shall be permitted, including but not limited to:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit(1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Notes: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Dumpster[1]
Grill	Family counseling or education
4H/similar indoor small animal project	Food bank
Home occupation	Maintenance building
Hot tub, Jacuzzi, or spa	Outdoor events (short-term)
Smoke house/oven (outdoor)	Performances (indoor)
Tree house	Shop (for sale of church-related items).
Notes: (1) Also permitted for nonresidential uses	

[38] Provisions put into table, reorganized, updated, and aligned with Allen County language

(E) Development Standards[39]

(1) The standards in the following table shall apply in the AR district; all are minimum standards unless otherwise noted (the table continues onto the next page).

AR LOW INTENSITY RESIDENTIAL DEVELOPMENT STANDARDS	
Building size (square feet)	
Single family residence	950 (1)
Accessory structures	On lots of less than two acres served by a private sewage disposal system, new detached accessory building square footage shall be less than the square footage of the primary building; plus: On lots of over five acres, an accessory building shall also be permitted, as the primary building
Number of buildings permitted on a lot	
One primary residential building per lot, plus: One accessory dwelling unit (300 SF minimum)	
Multiple primary non-residential buildings are permitted per lot	
Height (maximum) (2)	
Accessory building	25′
Primary building	40′
Lot area (square feet)	
Private sewage disposal	87,120 (2 acres)
Public sewer	12,000
Lot width	
Private sewage disposal	120′ at front building line
Public sewer	75′ at front building line
Front yard	
Platted lot[40]	25’
If adjacent to: Arterial/collector street Local or private street PC-approved easement	 115′ from the centerline of the street 65′ from the centerline of the street 30′ from the easement
Through lot	As noted above, at each end of the lot, based on the street classification/type the yard is adjacent to
If there is an existing residence with a nonconforming front setback within 300 feet of the lot	The minimum front yard shall be the smallest existing nonconforming setback

[39] Standards put into table, reorganized, updated, and aligned with Allen County language; primary building height increased to 40′; front and side yards aligned with County. Minimum lot width standard updated since Phase 3 draft.
[40] This row has been added since Phase 2 drafts.

AR LOW INTENSITY RESIDENTIAL DEVELOPMENT STANDARDS	
Side yard [3]	
Interior lot Private sewage disposal Public sewer	 15′ 15′ if the lot is at or over 150′ wide; 7′ if the lot is less than 150′ wide
Corner lot	The street side yard setback shall be the same as the front yard setback, based on the side lot line street classification[4]
Rear yard	
Primary building	25′ [4] 50′ (if adjacent to an arterial or collector street)
Accessory structure [5]	3′ from a side or rear lot line [6]
Swimming pool	6′ from a side or rear lot line

Notes:
(1) Excluding basement and attached garage area
(2) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(3) See rear yard information for accessory structure and swimming pool side yard standards
(4) On a corner lot, a fence shall meet the street side yard setback
(5) A single story primary building addition of up to 250 square feet may encroach up to 10 feet into the required rear yard
(6) Excluding swimming pools
(7) If located behind the primary building

(2) Yard Projections and Additional Location Standards[41]

Permitted yard projections and additional location standards shall be as set forth in the table below:

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS(1)

Buildings/structures	Required Yard		
	Front	Side	Rear
Access ramp	Permitted(2)	Permitted(2)	Permitted(2)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, retaining wall, small satellite dish, trellis, yard light	Permitted(2)	Permitted(2)	Permitted(2)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window)	May project up to 2′	May project up to 2′(3)	May project up to 2′
Awning or canopy	May project up to 4′	May project up to 4′(3)	May project up to 4′
Balcony, fire escape, or stairway, open	May project up to 4′	Shall not project	May project up to 4′
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal)	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor)	May project up to 8′	May project up to 4′(3)	May project up to 10′
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(2)	Permitted(2)	Permitted(2)
Slab on grade patio	May project up to 8′	May project up to 4′(3)	May project up to 20′
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(2)	Permitted(2)
Wall (retaining)	Permitted(2)	Permitted(2)	Permitted(2)

(1) Except as noted below, buildings and structures shall not project into or be located in a required yard
(2) May be located within required yard with no setback, except that fences and walls shall meet corner lot setback standard
(3) However, a 3′ side yard shall be maintained
(4) Shall meet minimum setback

[41] Standards put into table, reorganized, updated, and aligned with Allen County language

§ 157.204 RESERVED

§ 157.205 RESERVED

§ 157.206 R1 SINGLE FAMILY RESIDENTIAL

(A) Purpose

The Single Family Residential district is intended to create and maintain areas for single family residential uses on individual lots or tracts and to provide for a variety of areas for single family neighborhoods, along with certain additional uses.

(B) Permitted Uses[42]

The following uses are permitted as a matter of right in an R1 district:

(1) Accessory building, structure, or use as set forth in § 157.206(D);

(2) Common areas used for a clubhouse, neighborhood center, swimming pool, tennis court, or other similar assembly or recreation facility, including structures and uses typically associated with a single family subdivision;

(3) Group residential facility (small);

(4) Model home (permitted for up to two years);

(5) Single family dwelling (detached); and

(6) Universally permitted use.

(C) Special Uses[43]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Animal keeping (outdoor, small animal);

(2) Bed and breakfast;

(3) Boarding house;

(4) Class II child care home;

(5) Club, private (transitional use);

(6) Community facility not otherwise permitted (transitional use);

(7) Community garden that includes a structure;

(8) Country club;

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[42] Updated and aligned with Allen County language; new "universally permitted uses" category created for parks, religious institutions, schools, etc. Since Phase 2 drafts, "Park or recreation area (public county, municipal, state, or township), including parking areas and structures" has been removed from this list, since it is now a universally permitted use; and "Group residential facility (small)" has replaced "Residential facility for the developmentally disabled" and "Residential facility for the mentally ill if located at least 3000 feet from any other such facility" on this list.

[43] Updated and aligned with Allen County language; animal keeping, bed and breakfast, boarding house, community facility, community garden, educational institution, emergency response facility, instruction/training, medical office, personal service, professional office, wind energy conversion added to allowed special uses. Since Phase 2 drafts, "Wind energy conversion system, large (for systems with a rating that would serve more than one residence, or to request approval of a height greater than 60')" has been removed from this list.

(9) Educational institution (not otherwise permitted);

(10) Educational institution-associated uses (on non-contiguous properties);

(11) Emergency response facility (transitional use);

(12) Funeral home;

(13) Golf course;

(14) Group residential facility (large);[44]

(15) Heliport (noncommercial/private individual or accessory to permitted nonresidential use, excluding hospital uses);

(16) Home business (see § 157.503(D)(3)(b) for additional standards);

(17) Homeless/emergency shelter (accessory to a religious institution), for up to eight (8) individuals;

(18) Instruction/training (transitional use);

(19) Live-work unit (transitional use);

(20) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards);

(21) Medical office (transitional use);

(22) Model home (for extension of time/expansion of scope);

(23) Museum;

(24) Nature preserve that includes a structure or parking area;

(25) Neighborhood facility;

(26) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use);

(27) Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency);

(28) Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan);

(29) Recreation facility or use, outdoor (athletic field, riding stable, swim club, tennis club);

(30) Religious institution or school illuminated athletic field(s);

(31) Residential facility for a court-ordered re-entry program;[45]

(32) Residential facility for homeless individuals, for up to eight (8) individuals; the facility shall be located a minimum of 3000 feet from a small group residential facility, a large group residential facility, a court-ordered re-entry program residential facility, or another

[44] Since Phase 2 drafts, the word "(large)" has been added to this use title.
[45] This use has been added since Phase 2 drafts.

residential facility for homeless individuals, as measured from the closest property lines of the facilities;[46]

(33) Solar panel (ground mounted);

(34) Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision;

(35) Studio (transitional use);

(36) Two family dwelling (to allow conforming status for existing nonconforming uses);

(37) Utility facility, private (not otherwise permitted or exempt);

(38) Wind energy conversion system, micro (for single family detached dwellings on unplatted land); and

(39) Wind energy conversion system, standard (for church, fire/police station, public park/recreation area, or school uses; or unplatted residential land over five acres).

[46] This use has been added since Phase 2 drafts.

(D) Accessory Buildings, Structures and Uses[47]

Accessory buildings, structures, and uses shall be permitted, including but not limited to:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Notes: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Dumpster[1]
Grill	Family counseling or education
4H/similar indoor small animal project	Food bank
Home occupation	Maintenance building
Hot tub, Jacuzzi, or spa	Outdoor events (short-term)
Smokehouse/oven (outdoor)	Performances (indoor)
Tree house	Shop (for sale of church-related items).
Notes: (1) Also permitted for nonresidential uses	

[47] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[48]

(1) The standards in the following table shall apply in the R1 district; all are minimum standards unless otherwise noted (the table continues onto the next page).

R1 SINGLE FAMILY RESIDENTIAL DEVELOPMENT STANDARDS	
Building size (square feet)	
Single family residence	950 (1)
Accessory structures	Total square footage shall be less than the primary building
Number of buildings permitted on a lot	
One primary residential building per lot	
Multiple primary non-residential buildings are permitted per lot	
Height (maximum) (2)	
Accessory building	25′
Primary building	40′
Lot area (square feet)	
Private sewage disposal	87,120 (2 acres)
Public sewer	6,000 (interior lot) 8,500 (corner lot)
Lot width	
Private sewage disposal	120′ at front building line
Public sewer	50′ at front building line (interior lot) 70′ at front building line (corner lot)
Front yard (3)	
Platted lot[49]	25’
Unplatted lot if adjacent to:[50] Arterial/collector street Local or private street PC-approved easement	 115′ from the centerline of the street 25′ from the street right-of-way 30′ from the easement
Through lot	At each end of the lot, based on the street classification/type the yard is adjacent to
With an existing residence with a nonconforming front setback within 300 feet of the lot	The minimum front yard shall be the smallest existing nonconforming setback
Side yard (3)	
Interior lot	

[48] Provisions put into table, reorganized, updated, and aligned with Allen County language; primary building height increased to 40′; corner lot minimum width and area standard added; existing private sewage disposal standard added; nonconforming front yard setback standard updated; expanded rear yard standard added; corner lot fence setback increased; building addition encroachment provision added.
[49] This row has been added since Phase 2 drafts.
[50] The words “unplatted lot” have been added since Phase 2 drafts.

R1 SINGLE FAMILY RESIDENTIAL DEVELOPMENT STANDARDS	
Private sewage disposal Public sewer	15′ 5′
Corner lot	The street side yard setback shall be the same as the front yard setback, based on the side lot line street classification(4)
Rear yard	
Primary building	25′ (5) 50′ (if adjacent to an arterial or collector street)
Accessory structure (6)	3′ from a side or rear lot line (7)
Swimming pool	6′ from a side or rear lot line

Notes:
(1) Excluding basement and attached garage area
(2) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(3) See rear yard information for accessory structure and swimming pool side yard standards
(4) On a corner lot, a fence shall meet the street side yard setback
(5) A single story primary building addition of up to 250 square feet may encroach up to 10 feet into the required rear yard
(6) Excluding swimming pools
(7) If located behind the primary building

(2) Yard Projections and Additional Location Standards[51]

Permitted yard projections and additional location standards shall be as set forth in the table below:

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS(1)

Buildings/structures	Required Yard		
	Front	Side	Rear
Access ramp	Permitted(2)	Permitted(2)	Permitted(2)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, retaining wall, small satellite dish, trellis, yard light	Permitted(2)	Permitted(2)	Permitted(2)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(3)	May project up to 2′
Awning or canopy	May project up to 4′	May project up to 4′(3)	May project up to 4′
Balcony, fire escape, or stairway, open	May project up to 4′	Shall not project	May project up to 4′
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal)	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor)	May project up to 8′	May project up to 4′(3)	May project up to 10′
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(2)	Permitted(2)	Permitted(2)
Slab on grade patio	May project up to 8′	May project up to 4′(3)	May project up to 20′
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(2)	Permitted(2)
Wall (retaining)	Permitted(2)	Permitted(2)	Permitted(2)

Notes:

(1) Except as noted below, buildings and structures shall not project into or be located in a required yard

(2) May be located within required yard with no setback, except that fences and walls shall meet corner lot setback standard

(3) However, a 3′ side yard shall be maintained

(4) Shall meet minimum setback

[51] Provisions put into table, reorganized, updated, and aligned with Allen County language

§ 157.207 R2 TWO FAMILY RESIDENTIAL

(A) Purpose

The Two Family Residential district is intended to create areas for medium density residential uses on individual lots or tracts and to provide for a variety of areas for single family and two family residential development, along with certain additional uses.

(B) Permitted Uses[52]

The following uses are permitted as a matter of right in an R2 district:

(1) Accessory building, structure, or use as set forth in § 157.203(D);

(2) Common areas used for a clubhouse, neighborhood center, swimming pool, tennis court, or other similar assembly or recreation facility, including structures and uses typically associated with a single family subdivision;

(3) Group residential facility (small);

(4) Model home (permitted for up to two years);

(5) Single family dwelling (attached; one building of up to two units);

(6) Single family dwelling (detached);

(7) Two family dwelling; and

(8) Universally permitted use.

(C) Special Uses[53]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Animal keeping (outdoor, small animal);

(2) Bed and breakfast;

(3) Boarding house;

(4) Class II child care home;

(5) Club, private (transitional use);

(6) Community facility not otherwise permitted (transitional use);

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[52] Updated and aligned with Allen County language; new "universally permitted uses" category created for parks, religious institutions, schools, etc.; all permitted uses listed in each district. Since Phase 2 drafts, "Park or recreation area (public county, municipal, state, or township), including parking areas and structures" has been removed from this list, since it is now a universally permitted use; and "Group residential facility (small)" has replaced "Residential facility for the developmentally disabled" and "Residential facility for the mentally ill if located at least 3000 feet from any other such facility" on this list.

[53] Updated and aligned with Allen County language; animal keeping, bed and breakfast, boarding house, community facility, community garden, educational institution, emergency response facility, instruction/training, medical office, personal service, professional office, wind energy conversion added to allowed special uses. Since Phase 2 drafts, "Wind energy conversion system, large (for systems with a rating that would serve more than one residence, or to request approval of a height greater than 60')" has been removed from this list.

(7) Community garden that includes a structure;

(8) Country club;

(9) Educational institution (not otherwise permitted);

(10) Educational institution-associated uses (on non-contiguous properties);

(11) Emergency response facility (transitional use);

(12) Funeral home;

(13) Golf course;

(14) Group residential facility (large);[54]

(15) Heliport (noncommercial/private individual or accessory to permitted nonresidential use, excluding hospital uses);

(16) Home business (see § 157.203(D)(3)(b) for additional standards);

(17) Homeless/emergency shelter (accessory to a religious institution), for up to eight (8) individuals;

(18) Instruction/training /education(transitional use);

(19) Live-work unit (transitional use);

(20) Manufactured home, Type II (see § 157.203(D)(3)(e) for additional standards);

(21) Medical office (transitional use);

(22) Model home (for extension of time/expansion of scope);

(23) Museum;

(24) Nature preserve that includes a structure or parking area;

(25) Neighborhood facility;

(26) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use);

(27) Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency);

(28) Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan);

(29) Recreation facility or use, outdoor (athletic field, riding stable, swim club, tennis club);

(30) Religious institution or school illuminated athletic field(s);

(31) Residential facility for a court-ordered re-entry program;[55]

(32) Residential facility for homeless individuals, for up to eight (8) individuals;[56]

(33) Solar panel (ground mounted);

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[54] Since Phase 2 drafts, the word "(large)" has been added to this use title.
[55] This use has been added since Phase 2 drafts.
[56] This use has been added since Phase 2 drafts.

(34) Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision;

(35) Studio (transitional use);

(36) Utility facility, private (not otherwise permitted or exempt);

(37) Wind energy conversion system, micro (for single family detached structures on unplatted land only); and

(38) Wind energy conversion system, standard (for church, fire/police station, public park/recreation area, or school uses; or unplatted residential land over five acres).

(D) Accessory Buildings, Structures and Uses[57]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Notes: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Dumpster[1]
Grill	Family counseling or education
4H/similar indoor small animal project	Food bank
Home occupation	Maintenance building
Hot tub, Jacuzzi, or spa	Outdoor events (short-term)
Smoke house/oven (outdoor)	Performances (indoor)
Tree house	Shop (for sale of church-related items).
Notes: (1) Also permitted for nonresidential uses	

[57] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses.

(E) Development Standards[58]

(1) The standards in the following table shall apply in the R2 district; all standards are minimum standards unless otherwise noted (the table continues onto the next page).

R2 TWO FAMILY RESIDENTIAL DEVELOPMENT STANDARDS	
Building size (square feet)	
Single family residence	950 (1)
Accessory structures	Total square footage shall be less than the primary building
Number of buildings permitted on a lot	
One primary residential building per lot	
Multiple primary non-residential buildings are permitted per lot	
Height (maximum) (2)	
Accessory building	25′
Primary building	40′
Lot area (square feet)	
Private sewage disposal	87,120 (2 acres)
Public sewer	6,000 (interior lot) 8,500 (corner lot)
Lot width	
Private sewage disposal	120′ at front building line
Public sewer	50′ at front building line (interior lot) 70′ at front building line (corner lot)
Front yard (3)	
Platted lot[59]	25’
Unplatted lot if adjacent to:[60] Arterial/collector street Local or private street PC-approved easement	 115′ from the centerline of the street 25′ from the street right-of-way 30′ from the easement
Through lot	At each end of the lot, based on the street classification/type the yard is adjacent to
With an existing residence with a nonconforming front setback within 300 feet of the lot	The minimum front yard shall be the smallest existing nonconforming setback
Side yard (3)	
Interior lot	

[58] Standards put into table, reorganized, updated, and aligned with Allen County language; primary building height increased to 40′; corner lot minimum width and area standard added; existing private sewage disposal standard added; nonconforming front yard setback standard updated; expanded rear yard standard added; corner lot fence setback increased; building addition encroachment provision added.
[59] This row added since Phase 2 drafts.
[60] The words “unplatted lot” were added since Phase 2 drafts.

R2 TWO FAMILY RESIDENTIAL DEVELOPMENT STANDARDS	
Private sewage disposal Public sewer	15′ 5′
Corner lot	The street side yard setback shall be the same as the front yard setback, based on the side lot line street classification(4)
Rear yard	
Primary building	25′ (5) 50′ (if adjacent to an arterial or collector street)
Accessory structure (6)	3′ from a side or rear lot line (7)
Swimming pool	6′ from a side or rear lot line

Notes:

(1) Excluding basement and attached garage area
(2) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(3) See rear yard information for accessory structure and swimming pool side yard standards
(4) On a corner lot, a fence shall meet the street side yard setback
(5) A single story building of up to 250 square feet may encroach up to 10 feet into the required rear yard
(6) Excluding swimming pools
(7) If located behind the primary building

(2) Permitted yard projections and additional location standards shall be as set forth in the table below:[61]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS(1)			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(2)	Permitted(2)	Permitted(2)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, retaining wall, small satellite dish, trellis, yard light	Permitted(2)	Permitted(2)	Permitted(2)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(3)	May project up to 2′
Awning or canopy	May project up to 4′	May project up to 4′(3)	May project up to 4′
Balcony, fire escape, or stairway, open	May project up to 4′	Shall not project	May project up to 4′
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal)	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor)	May project up to 8′	May project up to 4′(3)	May project up to 10′
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(2)	Permitted(2)	Permitted(2)
Slab on grade patio	May project up to 8′	May project up to 4′(3)	May project up to 20′
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(2)	Permitted(2)
Wall (retaining)	Permitted(2)	Permitted(2)	Permitted(2)

Notes:

(1) Except as noted below, buildings and structures shall not project into or be located in a required yard

(2) May be located within required yard with no setback, except that fences and walls shall meet corner lot setback standard

(3) However, a 3′ side yard shall be maintained

(4) Shall meet minimum setback

[61] Provisions put into table, reorganized, updated, and aligned with Allen County language

§ 157.208 R3 MULTIPLE FAMILY RESIDENTIAL

(A) Purpose

The Multiple Family Residential district is intended to create areas for high density multiple family residential uses, as well as single and two-family dwelling units and other compatible nonresidential uses where adequate public facilities are available. Certain additional professional office and commercial uses may also be permitted, if approved by the Board of Zoning Appeals (see §157.404). Multiple family complexes and projects with multiple lots or development sites, or multiple primary buildings on a single development site (including multiple single family detached dwellings) shall require the review and approval of a Development Plan (see §157.304).

(B) Permitted Uses[62]

The following uses are permitted as a matter of right in an R3 district:

(1) Accessory building, structure, or use as set forth in §157.208(d) (including rental/management office in a multiple family complex);

(2) Assisted living facility;

(3) Common areas used for a clubhouse, neighborhood center, swimming pool, tennis court, or other similar assembly or recreation facility, including structures and uses typically associated with a single family subdivision;

(4) Fraternity or sorority house;

(5) Group residential facility (small);

(6) Model home (permitted for up to two years);

(7) Multiple family complex;

(8) Multiple family dwelling;

(9) Off-site campus housing;

(10) Retirement facility;

(11) Single family dwelling (attached);

(12) Single family dwelling (detached; including multiple primary structures);

(13) Two family dwelling; and

(14) Universally permitted use.

[62] Updated and aligned with Allen County language; new "universally permitted uses" category created for parks, religious institutions, schools, etc.; all permitted uses listed in each district. Since Phase 2 drafts, "Park or recreation area (public county, municipal, state, or township), including parking areas and structures" has been removed from this list, since it is now a universally permitted use; and "Group residential facility (small)" has replaced "Residential facility for the developmentally disabled" and "Residential facility for the mentally ill if located at least 3000 feet from any other such facility" on this list.

(C) Special Uses[63]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Animal keeping (outdoor, small animal);

(2) Bed and breakfast;

(3) Boarding house;

(4) Class II child care home;

(5) Club, private non-profit (transitional use);

(6) Community facility not otherwise permitted (transitional use);

(7) Community garden that includes a structure;

(8) Country club;

(9) Educational institution (not otherwise permitted);

(10) Educational institution-associated uses (on non-contiguous properties);

(11) Emergency response facility (transitional use);

(12) Funeral home;

(13) Golf course;

(14) Group residential facility (large);[64]

(15) Heliport (private individual or accessory to permitted nonresidential use, excluding hospital uses);

(16) Home business (see § 157.503(D)(3)(b) for additional standards);

(17) Homeless/emergency shelter (accessory to a religious institution) , for up to eight (8) individuals;

(18) Instruction/training /education (transitional use);

(19) Live-work unit (transitional use);

(20) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards);

(21) Medical office (transitional use);

(22) Model home (for extension of time/expansion of scope);

(23) Museum;

(24) Nature preserve that includes a structure or parking area ;

(25) Neighborhood facility;

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[63] Updated and aligned with Allen County language; animal keeping, bed and breakfast, boarding house, community facility, community garden, educational institution, emergency response facility, instruction/training, medical office, personal service, professional office, wind energy conversion added to allowed special uses. Since Phase 2 drafts, "Wind energy conversion system, large (for systems with a rating that would serve more than one residence, or to request approval of a height greater than 60')" has been removed from this list.

[64] Since Phase 2 drafts, the word "(large)" has been added to this use title.

(26) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use);

(27) Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency);

(28) Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan);

(29) Recreation facility or use, outdoor (athletic field, riding stable, swim club, tennis club);

(30) Religious institution or school illuminated athletic field(s);

(31) Residential facility for a court-ordered re-entry program;[65]

(32) Residential facility for homeless individuals, for up to eight (8) individuals;[66]

(33) Solar panel (ground mounted);

(34) Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision;

(35) Studio (transitional use);

(36) Utility facility, private (not otherwise permitted or exempt);

(37) Wind energy conversion system, micro (for single family detached buildings on unplatted land only); and

(38) Wind energy conversion system, standard (for church, fire/police station, public park/recreation area, or school uses; or unplatted residential land over five acres).

[65] This use has been added since Phase 2 drafts.
[66] This use has been added since Phase 2 drafts.

(D) Accessory Buildings, Structures and Uses[67]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Notes: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Dumpster[1]
Grill	Family counseling or education
4H/similar indoor small animal project	Food bank
Home occupation	Maintenance building
Hot tub, Jacuzzi, or spa	Outdoor events (short-term)
Smoke house/oven (outdoor)	Performances (indoor)
Tree house	Shop (for sale of church-related items).
Notes: (1) Also permitted for nonresidential uses	

[67] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted uses

(E) Development Standards[68]

(1) The standards in the following table shall apply in the R3 district; all standards are minimum standards unless otherwise noted (the table continues onto the next page).

R3 MULTIPLE FAMILY RESIDENTIAL DEVELOPMENT STANDARDS	
Building size (square feet)	
Single family residence	950 (1)
Accessory structures	Total square footage shall be less than the primary building
Number of buildings permitted on a lot	
One primary residential building per lot	
Multiple primary non-residential buildings are permitted per lot	
Height (maximum) (2)	
Accessory building	25′
Primary building	40′
Lot area (square feet)	
Private sewage disposal	87,120 (2 acres)
Public sewer	6,000 (interior lot) 8,500 (corner lot)
Lot width	
Private sewage disposal	120′ at front building line
Public sewer	50′ at front building line (interior lot) 70′ at front building line (corner lot)
Front yard (3)	
Platted lot[69]	25’
Unplatted lot if adjacent to:[70] Arterial/collector street Local or private street PC-approved easement	 115′ from the centerline of the street 25′ from the street right-of-way 30′ from the easement
Through lot	At each end of the lot, based on the street classification/type the yard is adjacent to
With an existing residence with a nonconforming front setback within 300 feet of the lot	The minimum front yard shall be the smallest existing nonconforming setback
Side yard (3)	

[68] Provisions put into table, reorganized, updated, and aligned with Allen County language; primary building height increased to 40′; corner lot minimum width and area standard added; existing private sewage disposal standard added; nonconforming front yard setback standard updated; expanded rear yard standard added; multiple family perimeter setback standard updated; townhouse complex building separation standards updated; corner lot fence setback increased; building addition encroachment provision added.
[69] This row added since Phase 2 drafts.
[70] The words “unplatted lot” were added since Phase 2 drafts.

R3 MULTIPLE FAMILY RESIDENTIAL DEVELOPMENT STANDARDS	
Interior lot Private sewage disposal Public sewer	 15′ 5′
Corner lot	The street side yard setback shall be the same as the front yard setback, based on the side lot line street classification[4]
Rear yard	
Primary building	25′ [5] 50′ if adjacent to a collector or arterial street
Accessory structure [6]	3′ from a side or rear lot line [7]
Swimming pool	6′ from a side or rear lot line
Multiple family complex perimeter setback	
One story building	25 feet
Two story building	30 feet
Three story or above building	40 feet
Multiple family complex building separation	
25 feet (separation from any other primary building)	
Multiple family complex building recreation space	
120 square feet of developed recreation space per dwelling	
Townhouse complex building separation	
10 feet (separation from the side of another primary townhouse building) 20 feet (separation from the front or rear of another primary townhouse building)	

Notes:

(1) Excluding basement and attached garage area
(2) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(3) See rear yard information for accessory structure and swimming pool side yard standards
(4) On a corner lot, a fence shall meet the street side yard setback
(5) A single story building of up to 250 square feet may encroach up to 10 feet into the required rear yard
(6) Excluding swimming pools
(7) If located behind the primary building

(2) Permitted yard projections and additional location standards shall be as set forth in the table below:[71]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS(1)

Buildings/structures	Required Yard		
	Front	Side	Rear
Access ramp	Permitted(2)	Permitted(2)	Permitted(2)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, retaining wall, small satellite dish, trellis, yard light	Permitted(2)	Permitted(2)	Permitted(2)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(3)	May project up to 2′
Awning or canopy	May project up to 4′	May project up to 4′(3)	May project up to 4′
Balcony, fire escape, or stairway, open	May project up to 4′	Shall not project	May project up to 4′
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal)	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor)	May project up to 8′	May project up to 4′(3)	May project up to 10′
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(2)	Permitted(2)	Permitted(2)
Slab on grade patio	May project up to 8′	May project up to 4′(3)	May project up to 20′
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(2)	Permitted(2)
Wall (retaining)	Permitted(2)	Permitted(2)	Permitted(2)

Notes:

(1) Except as noted below, buildings and structures shall not project into or be located in a required yard

(2) May be located within required yard with no setback, except that fences and walls shall meet corner lot setback standard

(3) However, a 3′ side yard shall be maintained

(4) Shall meet minimum setback

[71] Provisions put into table, reorganized, updated, and aligned with Allen County language

§ 157.209 RP PLANNED RESIDENTIAL

(A) Purpose

The Planned Residential district is intended to create areas for mixed residential uses. The purpose of this district is to permit residential and other compatible nonresidential uses, where adequate public facilities are available. Certain additional professional office and commercial uses may also be permitted, if approved by the Board of Zoning Appeals (see §157.502). Multiple family complexes and projects with multiple lots or development sites, or multiple primary buildings on a single development site (including multiple single family detached dwellings) shall require the review and approval of a Development Plan (see §157.301).

(B) Permitted Uses[72]

The following uses are permitted as a matter of right in an RP district:

(1) Accessory building, structure, or use as set forth in §157.209(d) (including rental/management office in a multiple family complex);

(2) Assisted living facility;

(3) Common areas used for a clubhouse, neighborhood center, swimming pool, tennis court, or other similar assembly or recreation facility, including structures and uses typically associated with a single family subdivision;

(4) Group residential facility (small);

(5) Fraternity or sorority house;

(6) Model home (permitted for up to two years);

(7) Multiple family complex;

(8) Multiple family dwelling;

(9) Off-site campus housing;

(10) Retirement facility;

(11) Single family dwelling (attached);

(12) Single family dwelling (detached);

(13) Two family dwelling; and

(14) Universally permitted use.

[72] Updated and aligned with Allen County language; new "universally permitted uses" category created for parks, religious institutions, schools, etc.; all permitted uses listed in each district. Since Phase 2 drafts, "Park or recreation area (public county, municipal, state, or township), including parking areas and structures" has been removed from this list, since it is now a universally permitted use; and "Group residential facility (small)" has replaced "Residential facility for the developmentally disabled" and "Residential facility for the mentally ill if located at least 3000 feet from any other such facility" on this list.

(C) Special Uses[73]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Animal keeping (outdoor, small animal);

(2) Bed and breakfast;

(3) Boarding house;

(4) Class II child care home;

(5) Club, private non-profit (transitional use);

(6) Community facility not otherwise permitted (transitional use);

(7) Community garden that includes a structure;

(8) Country club;

(9) Educational institution (not otherwise permitted);

(10) Educational institution-associated uses (on non-contiguous properties);

(11) Emergency response facility (transitional use);

(12) Funeral home;

(13) Golf course;

(14) Group residential facility (large);[74]

(15) Heliport (private individual or accessory to permitted nonresidential use, excluding hospital uses);

(16) Home business (see § 157.203(D)(3)(b) for additional standards);

(17) Homeless/emergency shelter (accessory to a church) , for up to eight (8) individuals;

(18) Instruction/training (transitional use);

(19) Live-work unit (transitional use);

(20) Manufactured home, Type II (see § 157.203(D)(3)(e) for additional standards);

(21) Medical office (transitional use);

(22) Model home (for extension of time/expansion of scope);

(23) Museum;

(24) Nature preserve that includes a structure or parking area;

(25) Neighborhood facility;

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[73] Updated and aligned with Allen County language; animal keeping, bed and breakfast, boarding house, community facility, community garden, educational institution, emergency response facility, instruction/training, medical office, personal service, professional office, wind energy conversion added to allowed special uses. Since Phase 2 drafts, "Wind energy conversion system, large (for systems with a rating that would serve more than one residence, or to request approval of a height greater than 60')" has been removed from this list.

[74] Since Phase 2 drafts, the word "(large)" has been added to this use title.

(26) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use);

(27) Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency);

(28) Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan);

(29) Recreation facility or use, outdoor (athletic field, riding stable, swim club, tennis club)

(30) Religious institution or school illuminated athletic field(s);

(31) Residential facility for a court-ordered re-entry program;[75]

(32) Residential facility for homeless individuals, for up to eight (8) individuals;[76]

(33) Solar panel (ground mounted);

(34) Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision;

(35) Studio (transitional use);

(36) Utility facility, private (not otherwise permitted or exempt);

(37) Wind energy conversion system, micro (for single family detached residential buildings on unplatted land only); and

(38) Wind energy conversion system, standard (for church, fire/police station, public park/recreation area, or school uses; or unplatted residential land over five acres).

[75] This use has been added since Phase 2 drafts.
[76] This use has been added since Phase 2 drafts.

(D) Accessory Buildings, Structures and Uses[77]

Accessory buildings, structures, and uses shall be permitted, including but not limited to:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Notes: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Dumpster[1]
Grill	Family counseling or education
4H/similar indoor small animal project	Food bank
Home occupation	Maintenance building
Hot tub, Jacuzzi, or spa	Outdoor events (short-term)
Smoke house/oven (outdoor)	Performances (indoor)
Tree house	Shop (for sale of church-related items).
Notes: (1) Also permitted for nonresidential uses	

[77] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[78]

(1) The standards in the following table shall apply in the RP district; all are minimum standards unless otherwise noted (the table continues onto the next page).

RP PLANNED RESIDENTIAL DEVELOPMENT STANDARDS	
Building size (square feet)	
Single family residence	950 (1)
Accessory structures	Total square footage shall be less than the primary building
Number of buildings permitted on a lot	
One primary residential building per lot	
Multiple primary non-residential buildings are permitted per lot	
Height (maximum) (2)	
Accessory building	25′
Primary building	40′
Lot area (square feet)	
Private sewage disposal	87,120 (2 acres)
Public sewer	6,000 (interior lot) 8,500 (corner lot)
Lot width	
Private sewage disposal	120′ at front building line
Public sewer	50′ at front building line (interior lot) 70′ at front building line (corner lot)
Front yard (3)	
Platted lot[79]	25’
Unplatted lot if adjacent to:[80] Arterial/collector street Local or private street PC-approved easement	 115′ from the centerline of the street 25′ from the street right-of-way 30′ from the easement
Through lot	At each end of the lot, based on the street classification/type the yard is adjacent to
With an existing residence with a nonconforming front setback within 300 feet of the lot	The minimum front yard shall be the smallest existing nonconforming setback
Side yard (3)	

[78] Standards put into table, reorganized, updated, and aligned with Allen County language; primary building height increased to 40′; corner lot minimum width and area standard added; existing private sewage disposal standard added; nonconforming front yard setback standard updated; expanded rear yard standard added; multiple family perimeter setback standard updated; townhouse complex building separation standards updated; corner lot fence setback increased; building addition encroachment provision added

[79] This row added since Phase 2 drafts.

[80] The words “unplatted lot” were added since Phase 2 drafts.

RP PLANNED RESIDENTIAL DEVELOPMENT STANDARDS	
Interior lot Private sewage disposal Public sewer	 15′ 5′
Corner lot	The street side yard setback shall be the same as the front yard setback, based on the side lot line street classification[4]
Rear yard	
Primary building	25′ [5] 50′ if adjacent to a collector or arterial street
Accessory structure [6]	3′ from a side or rear lot line [7]
Swimming pool	6′ from a side or rear lot line
Multiple family complex perimeter setback	
One story building	25 feet
Two story building	30 feet
Three story or above building	40 feet
Multiple family complex building separation	
25’ (separation from any other primary building)	
Multiple family complex building recreation space	
120 sq. ft. of developed recreation space per dwelling	
Townhouse complex building separation	
10’ (separation from the side of another primary townhouse building) 20’ (separation from the front or rear of another primary townhouse building)	

Notes:

(1) Excluding basement and attached garage area
(2) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(3) See rear yard information for accessory structure and swimming pool side yard standards
(4) On a corner lot, a fence shall meet the street side yard setback
(5) A single story building of up to 250 square feet may encroach up to 10 feet into the required rear yard
(6) Excluding swimming pools
(7) If located behind the primary building

(2) Permitted yard projections and additional location standards shall be as set forth in the table below:[81]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS(1)

Buildings/structures	Required Yard		
	Front	Side	Rear
Access ramp	Permitted(2)	Permitted(2)	Permitted(2)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, retaining wall, small satellite dish, trellis, yard light	Permitted(2)	Permitted(2)	Permitted(2)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(3)	May project up to 2′
Awning or canopy	May project up to 4′	May project up to 4′(3)	May project up to 4′
Balcony, fire escape, or stairway, open	May project up to 4′	Shall not project	May project up to 4′
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal)	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor)	May project up to 8′	May project up to 4′(3)	May project up to 10′
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(2)	Permitted(2)	Permitted(2)
Slab on grade patio	May project up to 8′	May project up to 4′(3)	May project up to 20′
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(2)	Permitted(2)
Wall (retaining)	Permitted(2)	Permitted(2)	Permitted(2)

Notes:
(1) Except as noted below, buildings and structures shall not project into or be located in a required yard
(2) May be located within required yard with no setback, except that fences and walls shall meet corner lot setback standard
(3) However, a 3′ side yard shall be maintained
(4) Shall meet minimum setback

[81] Provisions put into table, reorganized, updated, and aligned with Allen County language

§ 157.210 MHS MANUFACTURED HOME SUBDIVISION [82]

(A) Purpose

The Manufactured Home Subdivision district is intended to create areas for the development of Type II manufactured homes on individual lots which will provide for an environment of predominantly single family development with certain additional uses.

(B) Permitted Uses[83]

The following uses are permitted as a matter of right in an MHS district:

(1) Accessory building, structure, or use

(2) Common areas used for a clubhouse, neighborhood center, swimming pool, tennis court, or other similar assembly or recreation facility, including structures and uses typically associated with a single family subdivision;

(3) Group residential facility (small);

(4) Manufactured home, Type II;

(5) Model home (permitted for up to two years);

(6) Single family dwelling (detached);

(7) Universally permitted use.

(C) Special Uses[84]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Animal keeping (outdoor, small animal);

(2) Bed and breakfast;

(3) Boarding house;

(4) Class II child care home;

(5) Club, private (transitional use);

(6) Community facility not otherwise permitted (transitional use);

(7) Community garden that includes a structure;

(8) Country club;

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[82] District name and designation updated from MR1/Manufactured Residential Subdivision.
[83] Updated and aligned with Allen County language; new "universally permitted uses" category created for parks, religious institutions, schools, etc.; all permitted uses listed in each district. Since Phase 2 drafts, "Group residential facility (small)" has replaced "Residential facility for the developmentally disabled" and "Residential facility for the mentally ill if located at least 3000 feet from any other such facility" on this list.
[84] Updated and aligned with Allen County and Fort Wayne R1 language. Since Phase 2 drafts, "Wind energy conversion system, large (for systems with a rating that would serve more than one residence, or to request approval of a height greater than 60')" has been removed from this list. Since Phase 2 drafts, the use "Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)" has been removed from this list.

(9) Educational institution (not otherwise permitted - a post-secondary educational institution including a college, university, professional school, seminary, or vocational school);

(10) Educational institution-associated uses (on non-contiguous properties);

(11) Emergency response facility (transitional use);

(12) Funeral home;

(13) Golf course;

(14) Group residential facility (large);[85]

(15) Heliport (private individual or accessory to permitted nonresidential use, excluding hospital uses);

(16) Home business (see § 157.503(D)(3)(b) for additional standards);

(17) Homeless/emergency shelter (accessory to a church), for up to eight (8) individuals;

(18) Instruction/training (transitional use);

(19) Live-work unit (transitional use);

(20) Medical office (transitional use);

(21) Model home (for extension of time/expansion of scope);

(22) Museum;

(23) Nature preserve that includes a structure or parking area;

(24) Neighborhood facility;

(25) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use);

(26) Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency);

(27) Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan);

(28) Recreation facility or use, outdoor (athletic field, riding stable, swim club, tennis club);

(29) Religious institution or school illuminated athletic field(s);

(30) Residential facility for a court-ordered re-entry program;[86]

(31) Residential facility for homeless individuals, for up to eight (8) individuals;[87]

(32) Solar panel (ground mounted);

(33) Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision;

(34) Studio (transitional use);

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[85] Since Phase 2 drafts, the word "(large)" has been added to this use title.
[86] This use has been added since Phase 2 drafts.
[87] This use has been added since Phase 2 drafts.

(35) Two family dwelling (to allow conforming status for existing nonconforming uses);

(36) Utility facility, private (not otherwise permitted or exempt);

(37) Wind energy conversion system, micro (for single family detached buildings on unplatted land only); and

(38) Wind energy conversion system, standard (for church, fire/police station, public park/recreation area, or school uses; or unplatted residential land over five acres).

(D) Accessory Buildings, Structures and Uses[88]

Accessory buildings, structures, and uses shall be permitted, including but not limited to:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Notes: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Dumpster[1]
Grill	Family counseling or education
4H/similar indoor small animal project	Food bank
Home occupation	Maintenance building
Hot tub, Jacuzzi, or spa	Outdoor events (short-term)
Smoke house/oven (outdoor)	Performances (indoor)
Tree house	Shop (for sale of church-related items).
Notes: (1) Also permitted for nonresidential uses	

[88] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[89]

(1) The standards in the following table shall apply in the MHS district; all standards are minimum standards unless otherwise noted (the table continues onto the next page).

MHS MANUFACTURED HOME SUBDIVISION DEVELOPMENT STANDARDS	
Building size (square feet)	
Single family residence	950 (1)
Accessory structures	Total square footage shall be less than the primary building
Number of buildings permitted on a lot	
One primary residential building per lot	
Multiple primary non-residential buildings are permitted per lot	
Height (maximum) (2)	
Accessory building	25′
Primary building	40′
Lot area (square feet)	
Private sewage disposal	87,120 (2 acres)
Public sewer	6,000 (interior lot) 8,500 (corner lot)
Lot width	
Private sewage disposal	120′ at front building line
Public sewer	50′ at front building line (interior lot) 70′ at front building line (corner lot)
Front yard (3)	
Platted lot[90]	25’
Unplatted lot if adjacent to:[91] Arterial/collector street Local or private street PC-approved easement	 115′ from the centerline of the street 25′ from the street right-of-way 30′ from the easement
Through lot	At each end of the lot, based on the street classification/type the yard is adjacent to
With an existing residence with a nonconforming front setback within 300 feet of the lot	The minimum front yard shall be the smallest existing nonconforming setback
Side yard (3)	
Interior lot	

[89] Standards put into table, reorganized, updated, and aligned with Allen County language; primary building height increased to 40′; corner lot minimum width and area standard added; existing private sewage disposal standard added; nonconforming front yard setback standard updated; expanded rear yard standard added; corner lot fence setback increased; building addition encroachment provision added.
[90] This row was added since Phase 2 drafts.
[91] The words “unplatted lot” were added since Phase 2 drafts.

MHS MANUFACTURED HOME SUBDIVISION DEVELOPMENT STANDARDS	
Private sewage disposal Public sewer	15′ 5′
Corner lot	The street side yard setback shall be the same as the front yard setback, based on the side lot line street classification(4)
Rear yard	
Primary building	25′ (5) 50′ (if adjacent to an arterial or collector street)
Accessory structure (6)	3′ from a side or rear lot line (7)
Swimming pool	6′ from a side or rear lot line

Notes:
(1) Excluding basement and attached garage area
(2) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(3) See rear yard information for accessory structure and swimming pool side yard standards
(4) On a corner lot, a fence shall meet the street side yard setback
(5) A single story building of up to 250 square feet may encroach up to 10 feet into the required rear yard
(6) Excluding swimming pools
(7) If located behind the primary building

(2) Permitted yard projections and additional location standards shall be as set forth in the table below:[92]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS(1)			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(2)	Permitted(2)	Permitted(2)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, retaining wall, small satellite dish, trellis, yard light	Permitted(2)	Permitted(2)	Permitted(2)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(3)	May project up to 2′
Awning or canopy	May project up to 4′	May project up to 4′(3)	May project up to 4′
Balcony, fire escape, or stairway, open	May project up to 4′	Shall not project	May project up to 4′
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal)	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor)	May project up to 8′	May project up to 4′(3)	May project up to 10′
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(2)	Permitted(2)	Permitted(2)
Slab on grade patio	May project up to 8′	May project up to 4′(3)	May project up to 20′
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(2)	Permitted(2)
Wall (retaining)	Permitted(2)	Permitted(2)	Permitted(2)

Notes:
(1) Except as noted below, buildings and structures shall not project into or be located in a required yard
(2) May be located within required yard with no setback, except that fences and walls shall meet corner lot setback standard
(3) However, a 3′ side yard shall be maintained
(4) Shall meet minimum setback

[92] Provisions put into table, reorganized, updated, and aligned with Allen County language

§ 157.211 MHP MANUFACTURED HOME PARK [93]

(A) Purpose

The Manufactured Home Park district is intended to create areas for the location of multiple Type III manufactured homes on leased or rented lots. Manufactured home park developments shall require the review and approval of a Development Plan (see §157.304).

(B) Permitted Uses

The following uses are permitted as a matter of right in an MHP district:

(1) Accessory building, structure, or use as set forth in §157.209(d);

(2) Common areas used for a clubhouse, neighborhood center, swimming pool, tennis court, or other similar assembly or recreation facility, in association with an approved Development Plan;

(3) Manufactured home project under single ownership (including model home, but excluding sales or service lot);

(4) Manufactured home, Type III; and

(5) Universally permitted use.

[93] District name and designation updated from MR2/Manufactured Housing Park

(C) Accessory Buildings, Structures, and Uses[94]

Accessory buildings, structures, and uses shall be permitted, including but not limited to:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Access ramp	Hedge	Satellite dish
Address marker	Holiday decorations	Shed or other storage building
Arbor or pergola	Landscape elements	Sign
Bird bath	Mailbox	Solar panels (building mounted)
Bird house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Dumpster[1]
Grill	Family counseling or education
4H/similar indoor small animal project	Food bank
Home occupation	Maintenance building
Hot tub, Jacuzzi, or spa	Outdoor events (short-term)
Smoke house/oven (outdoor)	Performances (indoor)
Tree house	Shop (for sale of church-related items).
Notes: (1) Also permitted for nonresidential uses	

[94] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(D) Development Standards[95]

(1) The standards in the following table shall apply in the MHP district; all are minimum standards unless otherwise noted.

MHP MANUFACTURED HOME PARK DEVELOPMENT STANDARDS	
Building size (square feet)	
Single family residence	950
Accessory structures	Total square footage shall be less than the primary building
Number of buildings permitted on a lot	
One primary residential building per lot	
Height (maximum)(1)	
Accessory building	25′
Primary building	40′
Front yard	
Standard lot	5′
Through lot	5′ (minimum yard at both ends of the lot)
Side yard	
Standard lot	5′
Rear yard	
Standard lot	5′
Manufactured home park perimeter setback	
50′	
Manufactured home park building separation	
5’ (separation from any other primary building)	
Manufactured home park recreation space	
120 sq. ft. of developed recreation space per dwelling	
Notes:[96] (1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions	

[95] Standards put into table, reorganized, updated, and aligned with Allen County language; primary building height increased to 40′; yard requirements updated; perimeter setback and recreation space standard added
[96] This table note is new since Phase 2 drafts.

§ 157.212 C1 PROFESSIONAL OFFICE AND PERSONAL SERVICES[97]

(A) Purpose[98]

The Professional Office and Personal Services district is intended to provide areas for professional offices, personal services, community, and similar low intensity nonresidential uses, along with certain residential facilities. This district can serve as a buffer between residential uses/zoning districts and higher intensity commercial uses.

(B) Permitted Uses[99]

The following uses are permitted as a matter of right in a C1 district. In C1 districts, outdoor display, temporary outdoor sales, and outdoor storage shall not be permitted.

C1 PROFESSIONAL OFFICE AND PERSONAL SERVICES USE CATEGORIES		
Community facility	Professional office/business service	Universally permitted use
Instruction/training/education	Residential facility, general	Miscellaneous use
Medical facility or office	Residential facility, limited	
Personal service(1)	Studio	
Notes: (1) Excluding tattoo establishment		

C1 PROFESSIONAL OFFICE AND PERSONAL SERVICES SPECIFIC PERMITTED USES[100]		
Accessory building/structure/use	Dating service	Music/recording studio
Accountant	Day care	Nail salon
Adoption service	Day spa	Nature preserve
Adult care center	Dentist	Neighborhood facility
Adult care home	Diagnostic center	Nursing home
Advertising	Dialysis center	Nutrition service
Answering service	Doctor	Ophthalmologist
Appraiser	Dormitory	Optician

[97] District name and designation changed from CM1/Professional Office and Personal Services
[98] Purpose statement updated to allow for certain residential uses
[99] Permitted uses have been significantly revised to update and align the County and Fort Wayne ordinances and put into tables.
[100] Since Phase 3 drafts, the following changes have been made, “bank”, “broadcast studio”, “credit union”, “fire station”, “nature preserve”, “parking area (off-site)”, “park or recreation area (public)”, “police station”, “photography studio”, “religious institution”, “residential facility for homeless individuals (if not adjacent to a residential district)” and “tailor/alteration service” have been added to this list; the “group residential facility” has been split into large and small uses, with large uses not permitted adjacent to residential districts, and those two uses replace the “residential facility for the developmentally disabled” and “residential facility for the mentally ill” uses. “Laboratory” was renamed “laboratory, medical”, “real estate” was renamed “realtor”, and “school, primary or secondary” was renamed “school” because primary and secondary is now in the definition. “Air conditioning sales”, “air conditioning service”, “antique shop”, “apparel and accessory store”, “arcade”, “arena”, “artist materials and supply store”, “auction hall”, “cigarette/tobacco/cigar store”, “cosmetic store”, “fabric shop”, “interior decorating store”, “picture framing facility”, and “taxidermist” have been removed from the table.

C1 PROFESSIONAL OFFICE AND PERSONAL SERVICES SPECIFIC PERMITTED USES[100]		
Architect	Driving instruction	Optometrist
Art instruction	Embroidery	Park or recreation area
Artist studio	Educational institution	Parking area (off-site)
Assisted living facility	Employment agency	Photography studio
Attorney	Engineer	Photography training
Auction service	Finance agency	Physical therapy facility
Audiologist	Financial planning service	Planetarium
Audio-visual studio	Fire station	Podiatrist
Bank	Fitness center	Police station
Bankruptcy service	Foundation office	Radio station
Barber shop	Fraternity house	Realtor
Barber/beauty school	Funeral home	Rehabilitation facility
Beauty shop	Graphic design service	Religious institution
Bed and breakfast	Group residential facility (large)(1)	Religious institution/school field
Blood bank	Group residential facility (small)	Residential dwelling unit(1)
Blood or plasma donor facility	Gymnastics instruction	Residential facility for homeless individuals(2)
Boarding/lodging house	Health center	Retirement facility
Bookkeeping service	Health club	Savings and loan
Broadcast studio	Homeless/emergency shelter	School
Broker	Hospice care center	Security service
Business training	Hospital	Sleep disorder facility
Campus housing	Insurance agency	Social service agency
Child care center	Interior design service	Sorority house
Child care home (class I or II)	Internet/web site service	Stained glass studio
Chiropractor	Investment service	Stock and bond broker
Clinic	Laboratory	Surgery center
Collection agency	Land surveyor	Tailor/alteration service
Community garden	Legal service	Tanning salon
Computer training	Library	Tax consulting
Consulting service	Live-work unit	Television station
Copy or duplicating service	Loan office	Title company
Correctional services facility	Marketing agency	Townhouse complex
Counseling service	Martial arts training	Travel agency
Craft instruction	Massage therapy	Treatment center
Craft studio	Medical training	Tutoring service
Credit service	Model unit	Veterinary clinic
Credit union	Mortgage service	Wind energy conversion system (micro)(1)
Customer service facility	Multiple family complex	Wedding consultant
Dance instruction	Multiple family dwelling	Weight loss service
Data processing facility	Museum	Yoga/pilates instruction
Data storage facility	Music instruction	

Notes: (1) Above, to the rear of, or attached to a permitted nonresidential use
(2) If not adjacent to a residential district

(C) Special Uses [101]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Animal service, indoor (animal grooming, animal hospital, animal kennel, animal obedience school, veterinary clinic)

(2) Automatic teller machine (ATM) (stand alone)

(3) Club (private nonprofit)

(4) Commercial communication tower (see § 157.503(D)(3)(a) for additional standards)

(5) Community garden that includes a structure

(6) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted)

(7) Group residential facility (large) (if adjacent to a residential district)

(8) Home business (in a single family detached dwelling only; (see § 157.503(D)(3)(b) for additional standards))

(9) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a church)

(10) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)

(11) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(12) Recreation facility or use, outdoor (athletic field, riding stable, swim club, tennis club)

(13) Religious institution or school illuminated athletic field(s)

(14) Residential facility for court-ordered re-entry program

(15) Residential facility for homeless individuals (if adjacent to a residential district)

(16) Retail (limited): art gallery, bakery, coffee shop, confectionary/candy/ice cream store, craft gallery, delicatessen, florist, jeweler, medical supply sales, musical instrument sales, sandwich shop, tea room (permitted as a conversion of an existing building; allowed up to 2500 square feet; excluding drive-through facilities)

(17) Solar panel (ground mounted)

(18) Tattoo establishment

(19) Utility facility, private (not otherwise permitted or exempt)

(20) Wind energy conversion (WEC) system (standard, or more than 1 micro system)

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[101] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; “private non-profit club”, “community garden”, “educational-associated”, “limited retail”, “solar panel”, “tattoo establishment”, and “wind energy conversion system” uses were added. Since Phase 2 drafts, “Animal service, indoor”, “Group residential facility (large) (if adjacent to residential district)”, “Residential facility for court-ordered re-entry program” and “Residential facility for homeless individuals (if adjacent to residential district) have been added to this list.

(21) Wind energy conversion system, micro (on land adjacent to a residential district)

(D) Accessory Buildings, Structures and Uses [102]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items)
Note: (1) Also permitted for nonresidential uses	

[102] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses.

(E) Development Standards [103]

(1) The standards in the following table shall apply in the C1 district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

C1 PROFESSIONAL OFFICE AND PERSONAL SERVICES DEVELOPMENT STANDARDS			
Height (maximum) [(1)]			
Primary or accessory nonresidential building or structure			40′
Primary or accessory residential facility building or structure			Up to two stories or 30′ [(2)]
Front yard			
Non-through lot			25′
Through lot			25′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) [(3)]			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Primary building – outside activity behind the building) [(3)]			
50′			

[103] The development standards have been significantly revised to update and align the County and Fort Wayne ordinances. Primary nonresidential height increased to 40′; residential structures permitted up to 30′; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

C1 PROFESSIONAL OFFICE AND PERSONAL SERVICES DEVELOPMENT STANDARDS			
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′ and	Up to 200 sq ft	25′	5′
Over 25′ or	Over 200 sq ft	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall include building access, delivery/loading areas, drives, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [104]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted

[104] The additional yard location and yard projection standards have been significantly revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(1)	Permitted(5)	Permitted(5)
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:
(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.213 C2 LIMITED COMMERCIAL [105]

(A) Purpose

The Limited Commercial district is intended to provide areas for moderate intensity business, community, office, personal service, and limited retail uses, along with certain residential facilities. Neighborhood-oriented uses are encouraged.

(B) Limitations on Building Size and Number of Buildings[106]

For new development, a single building on a single lot shall be permitted, with a square footage of up to 25% coverage of the net lot area, to a maximum building size of 22,000 square feet.

(C) Permitted Uses[107]

The following uses are permitted as a matter of right in a C2 district. Unless otherwise noted, all primary uses shall be conducted indoors. In C2 districts, outdoor display shall be permitted within 10 feet of the primary structure on the front or street side(s); or beneath a gas station canopy. Outdoor storage shall: be located behind the primary structure, or on the internal side of a corner lot; meet primary building setback standards; be located on a paved or existing gravel surface; and be screened from adjacent residential zoning districts by a solid fence.

C2 LIMITED COMMERCIAL USE CATEGORIES		
Animal service, indoor	Instruction/training/education	Residential facility, limited
Automobile service, limited	Medical facility or office	Retail, limited
Clothing	Personal service	Studio
Community facility	Professional office/business service	Universally permitted use
Electronics	Recreation/Tourism, limited	Miscellaneous use
Food and beverage service	Residential facility, general	

C2 LIMITED COMMERCIAL SPECIFIC PERMITTED USES[108]		
Accessory building/structure/use	Customer service facility	Motel
Accountant	Dance instruction	Movie and game sales and rental

[105] District name and designation changed from CM2/Limited Retail and Commercial
[106] New provision
[107] Permitted uses have been significantly revised to update and align the County and Fort Wayne ordinances and put into tables; all permitted uses are listed in each district. Since Phase 2 drafts, the words "unless otherwise noted, all primary uses shall be conducted indoors" have been added to the introductory text.
[108] Since Phase 3 drafts the following changes have been made. "Arena", "hotel", "motel", "pharmacy", and "skating rink" uses have been added to the table. "Club" was renamed "club, private" and "school, primary or secondary" was renamed "school" because primary and secondary is now in the definition; "residential facility for homeless individuals (if not adjacent to a residential district)" and "WEC system (micro) (if not adjacent to a residential district)" have been added to this list; the "group residential facility" has been split into large and small uses, with large uses not permitted adjacent to residential districts, and those two uses replace the "residential facility for the developmentally disabled" and "residential facility for the mentally ill" uses. "(Indoor)" qualifiers have been removed from this table, since that requirement is now covered in introductory text. The "boat/watercraft sales", "ice skating rink (indoor)", and "propane/bottled gas sales/service" uses have been removed from this list.

C2 LIMITED COMMERCIAL SPECIFIC PERMITTED USES[108]		
Adoption service	Data processing facility	Multiple family complex
Adult care center	Data storage facility	Multiple family dwelling
Adult care home	Dating service	Museum
Advertising	Day care	Music instruction
Air conditioning sales	Day spa	Music store
Animal hospital	Delicatessen	Music/recording studio
Animal kennel	Dentist	Musical instrument store
Animal obedience school	Department store	Nail salon
Answering service	Diagnostic center	Neighborhood facility
Antique shop	Dialysis Center	Nursing home
Apparel and accessory store	Diaper service facility	Nutrition service
Appraiser	Dinner theater	Ophthalmologist
Arcade	Doctor	Optician
Architect	Dormitory/campus housing	Optometrist
Arena	Driving instruction	Package liquor store
Art gallery	Drug store	Paint store
Art instruction	Dry cleaning store	Park or recreation area
Artist material and supply store	Educational institution	Parking structure
Artist studio	Embroidery	Pet store
Assisted living facility	Employment agency	Pharmacy
Attorney	Engineer	Photographic supply store
Auction service	Entertainment facility	Photography training
Audiologist	Fabric shop	Physical therapy facility
Audio-visual studio	Farmer's market (incl. outdoor sales)	Picture framing facility
Automobile accessory store	Finance agency	Planetarium
Bait sales	Financial planning service	Podiatrist
Bakery goods	Fireworks sales	Pottery sales
Bank	Fitness center	Radio station
Bankruptcy service	Flea market	Real estate
Bar or tavern	Floor covering store	Reception/banquet hall
Barber shop	Florist	Rehabilitation facility
Barber/beauty school	Foundation office	Religious institution/school field
Beauty shop	Fraternity house	Rental and/or leasing store
Bed and breakfast	Fruit and/or vegetable store	Rescue mission
Bicycle sales and repair shop	Funeral home	Residential dwelling unit[(1)]
Billiard or pool hall	Furniture store	Residential facility for homeless individuals[(1)]
Bingo establishment	Furrier	Restaurant, including drive-through
Blood bank	Gift shop	Retirement facility
Blood or plasma donor facility	Glass cutting/glazing shop	Savings and loan
Boarding/lodging house	Graphic design service	School
Book store	Grocery store or supermarket	Security service
Bookkeeping service	Group residential facility (large)[(1)]	Shoe store/shoe repair shop
Bowling alley	Group residential facility (small)	Sign sales store
Broker	Gymnastics instruction	Skating rink
Business training	Hardware store	Sleep disorder facility

C2 LIMITED COMMERCIAL SPECIFIC PERMITTED USES[108]		
Caterer	Haunted house	Social service agency
Child care center	Health center	Sorority house
Child care home (class I or II)	Health club	Sporting goods sales and rentals
Chiropractor	Heating sales	Stained glass studio
Cigarette/tobacco/cigar store	Hobby shop	Stock and bond broker
Clinic	Homeless/emergency shelter(2)	Surgery center
Clock/watch/ jewelry sales/repair	Hospice care center	Swim club
Clothing store	Hospital	Swimming pool/hot tub sales
Club, private	Hotel	Tailor/alterations service
Coffee shop	Insurance agency	Tanning salon
Coin shop	Interior decorating store	Tattoo establishment
Collection agency	Interior design service	Tax consulting
Community garden	Internet/web site service	Taxi service
Computer sales and service	Investment service	Telephone sales and service
Computer software store	Laboratory	Television station
Computer training	Landscape contracting service	Tennis club
Confectionery/ candy/ice cream store	Land surveyor	Theater
Consignment shop	Laundromat/coin operated laundry	Tire sales
Consulting service	Leather goods or luggage store	Title company
Consumer electronics sales/service	Legal service	Townhouse complex
Convenience store	Library	Toy store
Copy or duplicating service	Live-work unit	Travel agency
Correctional services facility	Loan office	Treatment center
Cosmetic store	Marketing agency	Truck fueling station
Costume and clothing rental	Martial arts training	Tutoring service
Counseling service	Massage therapy	Variety store
Craft instruction	Meat or fish market	Wedding consultant
Craft studio	Medical training	Weight loss service
Craft supply store	Micro or mini-brewery/brewpub	Wind energy conversion system (micro)(2)
Credit service	Model unit	Yoga/pilates instruction
Credit union	Mortgage service	

Notes: (1) Above, to the rear of, or attached to a permitted nonresidential use
(2) If not adjacent to a residential district

(D) Special Uses[109]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Automobile maintenance (quick service)

(2) Automobile sales (all-terrain, cars, mopeds, scooters, trucks-up to one ton; indoor)

(3) Commercial communication tower (see § 157.503(D)(3)(a) for additional standards)

(4) Community garden that includes a structure

(5) Educational institution-associated uses (on non-contiguous properties)

(6) Gas station (the Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in § 157.219(9) (Downtown Edge district)).

(7) Greenhouse (retail)

(8) Group residential facility (large) (if adjacent to a residential district)

(9) Home business (for single family detached structures only; see § 157.503(D)(3)(b) for additional standards)

(10) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a church)

(11) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)

(12) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(13) Outdoor use (in conjunction with a permitted primary use)

(14) Plant nursery (retail)

(15) Recreation facility or use, outdoor (athletic field, riding stable)

(16) Religious institution or school illuminated athletic field(s)

(17) Residential facility for a court-ordered re-entry program

(18) Residential facility for homeless individuals (if adjacent to a residential district)

(19) Shooting range (indoor)

(20) Solar panel (ground mounted)

(21) Utility facility, private (not otherwise permitted or exempt)

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[109] Special uses have been revised to update and align the County and Fort Wayne ordinances. Most standards moved to BZA section; “private non-profit club”, “community garden”, “educational-associated”, “limited retail”, “solar panel”, “tattoo establishment”, and “wind energy conversion system” uses added. Since Phase 3 drafts, “group residential facility (large) (if adjacent to a residential district)”, “outdoor use (in conjunction with a permitted primary use)”, “residential facility for a court-ordered re-entry program”, and “residential facility for homeless individuals (if adjacent to a residential district)” have been added to this list; “meeting hall”, “swim club” and “tennis club” have been removed from the “recreational facility” use

(22) Wind energy conversion (WEC) system (standard, or more than 1 micro system)

(23) Wind energy conversion system, micro (on land adjacent to a residential district)

(E) Accessory Buildings, Structures and Uses[110]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items).
Note: (1) Also permitted for nonresidential uses	

[110] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses.

(F) Development Standards[111]

(1) The standards in the following table shall apply in the C2 district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

C2 LIMITED COMMERCIAL DEVELOPMENT STANDARDS			
Height (maximum) (1)			
Primary or accessory nonresidential building or structure			40′
Primary or accessory residential facility building or structure			Up to two stories or 30′ (2)
Front yard			
Non-through lot			25′
Through lot			25′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) (2)			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Primary building – outside activity behind the building) (2)			
50′			

[111] The development standards have been significantly revised to update and align the County and Fort Wayne ordinances. Primary nonresidential height increased to 40′; residential structures permitted up to 30′; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

C2 LIMITED COMMERCIAL DEVELOPMENT STANDARDS			
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′ and	Up to 200 sq. ft.	25′	5′
Over 25′ or	Over 200 sq. ft.	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall include building access, delivery/loading areas, drives, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [112]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted

[112] The additional yard location and yard projection standards have been significantly revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(1)	Permitted(5)	Permitted(5)
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:
(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.214 NC NEIGHBORHOOD CENTER[113]

(A) Purpose[114]

The Neighborhood Center district is intended to provide areas for the day-to-day shopping needs of the surrounding residential neighborhoods. Uses typically found within this type of center include moderate intensity business, community, office, personal service, and limited retail uses, along with certain residential facilities.

(B) Limitations on Building Size and Number of Buildings[115]

For new development, single or multiple buildings shall be permitted, with a total square footage for all buildings of up to 25% coverage of the net development site area, to a maximum of 80,000 square feet; individual tenant spaces shall be limited to 40,000 square feet**,** except that grocery store/supermarket uses shall not have a tenant space limit; new commercial/retail developments with individual buildings between 22,000 and 40,000 square feet shall require an NC zoning classification.

(C) Permitted Uses[116]

In NC districts, outdoor display shall be permitted within 10 feet of the primary structure on the front or street side(s); or beneath a gas station canopy. Outdoor storage shall: be located behind the primary structure, or on the internal side of a corner lot; meet primary building setback standards; be located on a paved or existing gravel surface; and be screened from adjacent residential zoning districts by a solid fence. The following uses are permitted as a matter of right in an NC district; the permitted uses shall include, but not be limited to the following uses. Unless otherwise noted, all primary uses shall be conducted indoors.

NC NEIGHBORHOOD CENTER USE CATEGORIES		
Animal service, indoor	Instruction/training/education	Residential facility, limited
Automobile service, limited	Medical facility or office	Retail, limited
Clothing	Personal service	Studio
Community facility	Professional office/business service	Universally permitted use
Electronics	Recreation/Tourism, limited	Miscellaneous use
Food and beverage service	Residential facility, general	

NC NEIGHBORHOOD CENTER SPECIFIC PERMITTED USES[117]		
Accessory building/structure/use	Credit union	Music instruction
Accountant	Customer service facility	Movie and game sales and rental
Adoption service	Dance instruction	Multiple family complex

[113] District name and designation changed from SC1/Neighborhood Shopping Center
[114] Purpose statement simplified
[115] Updated standards
[116] Permitted uses have been significantly revised to update and align the County and Fort Wayne ordinances and put into tables; all permitted uses are listed in each district; outdoor storage/display standards added. Since Phase 3 drafts, the words "unless otherwise noted, all primary uses shall be conducted indoors" have been added.
[117] Since Phase 3 drafts, the "group residential facility" has been split into large and small uses, with large uses not permitted adjacent to residential districts, and those two uses replace the "residential facility for the developmentally disabled" and "residential facility for the mentally ill" uses; "truck fueling station" was deleted from this list; "(Indoor)" qualifiers have been removed from this table, since that requirement is now covered in introductory text.

NC NEIGHBORHOOD CENTER SPECIFIC PERMITTED USES[117]		
Adult care center	Data processing facility	Multiple family dwelling
Adult care home	Data storage facility	Museum
Advertising	Dating service	Music store
Air conditioning sales	Day care	Music/recording studio
Animal hospital	Day spa	Musical instrument store
Animal kennel	Delicatessen	Nail salon
Animal obedience school	Dentist	Neighborhood facility
Answering service	Department store	Nursing home
Antique shop	Diagnostic center	Nutrition service
Apparel and accessory store	Dialysis Center	Ophthalmologist
Appraiser	Diaper service facility	Optician
Arcade	Dinner theater	Optometrist
Architect	Doctor	Package liquor store
Art gallery	Dormitory	Park or recreation area
Art instruction	Driving instruction	Parking structure
Artist material and supply store	Drug store	Pet store
Artist studio	Dry cleaning store	Photographic supply store
Assisted living facility	Educational institution	Photography training
Attorney	Embroidery	Physical therapy facility
Auction service	Employment agency	Picture framing facility
Audiologist	Engineer	Planetarium
Audio-visual studio	Entertainment facility	Podiatrist
Automobile accessory store	Fabric shop	Pottery sales
Bakery goods	Farmer's market (incl. outdoor sales)	Propane/bottled gas sales service
Bank	Finance agency	Radio station
Bankruptcy service	Financial planning service	Real estate
Bar or tavern	Fireworks sales	Reception/banquet hall
Barber shop	Fitness center	Rehabilitation facility
Barber/beauty school	Flea market	Religious institution/school field
Beauty shop	Florist	Rental and/or leasing store
Bed and breakfast	Foundation office	Rescue mission
Bicycle sales and repair shop	Fraternity house	Residential dwelling unit[(1)]
Billiard or pool hall	Fruit/vegetable store	Residential facility for homeless individuals[(2)]
Bingo establishment	Funeral home	Restaurant, including drive-through
Blood bank	Furniture store	Retirement facility
Blood or plasma donor facility	Furrier	Savings and loan
Boarding/lodging house	Gift shop	School
Boat/watercraft sales	Glass cutting/glazing shop	Security service
Book store	Graphic design service	Shoe store/shoe repair shop
Bookkeeping service	Grocery store or supermarket	Sign sales store
Bowling alley	Group residential facility (large)[(1)]	Skating rink
Broker	Group residential facility (small)	Sleep disorder facility
Business training	Gymnastics instruction	Social service agency
Card and stationery store	Haunted house	Sorority house
Catalog showroom	Health center	Sporting goods sales and rentals
Caterer	Health club	Stained glass studio
Child care center	Heating sales	Stock and bond broker
Child care home (class I or II)	Hobby shop	Surgery center
Chiropractor	Homeless/emergency shelter[(2)]	Swim club

NC NEIGHBORHOOD CENTER SPECIFIC PERMITTED USES[117]		
Cigarette/tobacco/cigar store	Hospice care center	Swimming pool/hot tub sales
Clinic	Hospital	Tanning salon
Clock/watch/ jewelry sales/repair	Hotel	Tattoo establishment
Clothing store	Insurance agency	Tax consulting
Club	Interior decorating store	Taxi service
Coffee shop	Interior design service	Telephone sales and service
Coin shop	Internet/web site service	Television station
Collection agency	Investment service	Tennis club
Community garden	Laboratory	Theater
Computer sales and service	Landscape contracting service	Tire sales
Computer software store	Land surveyor	Title company
Computer training	Laundromat/coin operated laundry	Townhouse complex
Confectionery/candy/ice cream store	Leather goods or luggage store	Toy store
Consignment shop	Legal service	Travel agency
Consulting service	Library	Treatment center
Consumer electronics sales/service	Live-work unit	Tutoring service
Convenience store	Loan office	Variety store
Copy or duplicating service	Marketing agency	Veterinary clinic
Correctional services facility	Martial arts training	Warehouse/storage facility
Cosmetic store	Massage therapy	Wedding consultant
Costume and clothing rental	Meat or fish market	Weight loss service
Counseling service	Medical training	Wind energy conversion system, micro (2)
Craft instruction	Micro or mini-brewery or brewpub	Window sales
Craft studio	Model unit	Yoga/pilates instruction
Craft supply store	Motel	
Credit service	Mortgage service	

Notes: (1) Above, to the rear of, or attached to a permitted nonresidential use
(2) If not adjacent to a residential district

(D) Special Uses[118]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Automobile maintenance (quick service)

[118] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; "quick service automobile maintenance", "automobile sales", "community garden", "educational-associated", "gas station", "greenhouse", "plant nursery", "recreation facility", "religious institution/school athletic fields", "indoor shooting range", "ground mounted solar panel", "private utility center", and "wind energy conversion system" uses added. Since Phase 3 drafts, "group residential facility (large) (if adjacent to a residential use), "outdoor use (in conjunction with a permitted primary use)", "residential facility for a court-ordered re-entry program", and "residential facility for homeless individuals (if adjacent to a residential district)" have been added to this list; and "meeting hall, swim club and tennis club have been deleted from the recreational facility use."
.

(2) Automobile sales (all-terrain, cars, mopeds, scooters, trucks-up to one ton; indoor)

(3) Commercial communication tower (see § 157.503(D)(3)(a) for additional standards)

(4) Community garden that includes a structure

(5) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted)

(6) Gas station (the Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(9) (Downtown Edge district))

(7) Greenhouse (retail)

(8) Group residential facility (large) (if adjacent to a residential district)

(9) Home business (for single family detached buildings only; see § 157.503(D)(3)(b) for additional standards)

(10) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a church)

(11) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)

(12) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(13) Outdoor use (in conjunction with a permitted primary use)

(14) Plant nursery (retail)

(15) Recreation facility or use, outdoor (athletic field, riding stable)

(16) Religious institution or school illuminated athletic field(s)

(17) Residential facility for a court-ordered re-entry program

(18) Residential facility for homeless individuals (if adjacent to a residential district)

(19) Solar panel (ground mounted)

(20) Utility facility, private (not otherwise permitted or exempt)

(21) Wind energy conversion (WEC) system (standard, or more than 1 micro system)

(22) Wind energy conversion system, micro (on land adjacent to a residential district)

(E) Accessory Buildings, Structures and Uses[119]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items)
Note: (1) Also permitted for nonresidential uses	

[119] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(F) Development Standards[120]

(1) The standards in the following table shall apply in the NC district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

NC NEIGHBORHOOD CENTER DEVELOPMENT STANDARDS			
Height (maximum) (1)			
Primary or accessory nonresidential building or structure			40′
Primary or accessory residential facility building or structure			Up to two stories or 30′ (2)
Front yard			
Non-through lot			50′
Through lot			50′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	25′
Over 30′		50′	40′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) (2)			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	10′
Over 30′		50′	40′
Primary building – outside activity behind the building) (2)			
50′			
Accessory building or structure			

[120] The development standards have been significantly revised to update and align the County and Fort Wayne ordinances. Primary nonresidential height increased to 40′; residential structures permitted up to 30′; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

NC NEIGHBORHOOD CENTER DEVELOPMENT STANDARDS			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′ and	Up to 200 sq. ft.	25′	5′
Over 25′ or	Over 200 sq. ft.	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall include building access, delivery/loading areas, drives, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [121]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(1)	Permitted(5)	Permitted(5)

[121] The additional yard location and yard projection standards have been significantly revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:

(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.215 SC SHOPPING CENTER[122]

(A) Purpose[123]

The Shopping Center districts are intended to create areas for the provision of adequate commercial facilities at suitable locations and of appropriate design, scale and intensity which will create a functional and compatible relationship with the immediate surroundings and community. It is intended that SC districts be composed of multiple, different uses that serve the retail needs of the community. Uses typically found within this type of center include moderate intensity business, community, office, personal service, and limited retail uses, along with certain residential facilities.

(B) Limitations on Building Size and Number of Buildings[124]

For new development, single or multiple buildings shall be permitted, with a total square footage for all buildings of up to 25% coverage of the net development site area; new commercial/retail developments with total building square footage of over 80,000 square feet or with individual tenant spaces over 40,000 square feet shall require an SC zoning classification

(C) Permitted Uses[125]

In SC districts, outdoor display shall be permitted within 10 feet of the primary structure on the front or street side(s); or beneath a gas station canopy. Outdoor storage shall: be located behind the primary structure, or on the internal side of a corner lot; meet primary building setback standards; be located on a paved or existing gravel surface; and be screened from adjacent residential zoning districts by a solid fence. The following uses are permitted as a matter of right in an SC district; the permitted uses shall include, but not be limited to the following uses. Unless otherwise noted, all primary uses shall be conducted indoors.

SC SHOPPING CENTER USE CATEGORIES		
Animal service, indoor	Instruction/training/education	Residential facility, limited
Automobile service, limited	Medical facility or office	Retail/service, general
Clothing	Personal service	Retail, limited
Community facility	Professional office/business service	Studio
Electronics	Recreation/Tourism, limited	Universally permitted use
Food and beverage service	Residential facility, general	Miscellaneous use

[122] District name and designation changed; SC2/Community Shopping Center, SC3/Metropolitan Shopping Center, and SC4/Regional Shopping Center consolidated into this district
[123] Purpose statement simplified
[124] Updated standards
[125] Permitted uses have been significantly revised to update and align the County and Fort Wayne ordinances and put into tables; all permitted uses are listed in each district; outdoor storage/display standards added. Since Phase 3 drafts, the words "unless otherwise noted, all primary uses shall be conducted indoors" have been added.

SC SHOPPING CENTER SPECIFIC PERMITTED USES[126]		
Accessory building/structure/use	Credit union	Movie/game sales and rental
Accountant	Customer service facility	Multiple family complex
Adoption service	Dance instruction	Multiple family dwelling
Adult care center	Data processing facility	Museum
Adult care home	Data storage facility	Music instruction
Advertising	Dating service	Music store
Air conditioning sales	Day care	Music/recording studio
Animal hospital	Day spa	Musical instrument store
Animal kennel	Delicatessen	Nail salon
Animal obedience school	Dentist	Neighborhood facility
Answering service	Department store	Nursing home
Antique shop	Diagnostic center	Nutrition service
Apparel and accessory store	Dialysis Center	Ophthalmologist
Appraiser	Diaper service facility	Optician
Arcade	Dinner theater	Optometrist
Architect	Doctor	Package liquor store
Art gallery	Dormitory	Paint store
Art instruction	Driving instruction	Park or recreation area
Artist material and supply store	Drug store	Parking structure
Artist studio	Dry cleaning store	Pet store
Assisted living facility	Educational institution	Photographic supply store
Attorney	Embroidery	Photography training
Auction service	Employment agency	Physical therapy facility
Audiologist	Engineer	Picture framing facility
Audio-visual studio	Entertainment facility	Planetarium
Automobile accessory store	Fabric shop	Podiatrist
Bait sales	Farmer's market (incl. outdoor)	Pottery sales
Bakery goods	Finance agency	Propane/bottled gas sales
Bank	Financial planning service	Radio station
Bankruptcy service	Fireworks sales	Real estate
Bar or tavern	Fitness center	Reception/banquet hall
Barber shop	Flea market	Rehabilitation facility
Barber/beauty school	Floor covering store	Religious institution/school field
Beauty shop	Florist	Rental and/or leasing store
Bed and breakfast	Foundation office	Rescue mission
Bicycle sales and repair shop	Fraternity house	Residential dwelling unit(1)
Billiard or pool hall	Fruit/vegetable store	Residential facility for homeless individuals(2)
Bingo establishment	Funeral home	Restaurant, including drive-through
Blood bank	Furniture store	Retirement facility
Blood or plasma donor facility	Furrier	Savings and loan
Boarding/lodging house	Gift shop	School
Boat/watercraft sales	Glass cutting/glazing shop	Security service

[126] Since Phase 3 drafts, the "group residential facility" has been split into large and small uses, with large uses not permitted adjacent to residential districts, and those two uses replace the "residential facility for the developmentally disabled" and "residential facility for the mentally ill" uses; "truck fueling station" was deleted from this list; "(Indoor)" qualifiers have been removed from this table, since that requirement is now covered in introductory text.

SC SHOPPING CENTER SPECIFIC PERMITTED USES[126]		
Book store	Graphic design service	Shoe store/shoe repair shop
Bookkeeping service	Grocery store or supermarket	Sign sales store
Bowling alley	Group residential facility (large)(1)	Skating rink
Broker	Group residential facility (small)	Sleep disorder facility
Business training	Gymnastics instruction	Social service agency
Card and stationery store	Hardware store	Sorority house
Catalog showroom	Haunted house	Sporting goods sales and rentals
Caterer	Health center	Stained glass studio
Child care center	Health club	Stock and bond broker
Child care home (class I or II)	Heating sales	Surgery center
Chiropractor	Hobby shop	Swim club
Cigarette/tobacco/cigar store	Homeless/emergency shelter	Swimming pool/hot tub sales
Clinic	Hospice care center	Tailor/alterations service
Clock/watch/ jewelry sales/repair	Hospital	Tanning salon
Clothing store	Hotel	Tattoo establishment
Club	Insurance agency	Tax consulting
Coffee shop	Interior decorating store	Taxi service
Coin shop	Interior design service	Telephone sales and service
Collection agency	Internet/web site service	Television station
Community garden	Investment service	Tennis club
Computer sales and service	Laboratory	Theater
Computer software store	Landscape contracting service	Tire sales
Computer training	Land surveyor	Title company
Confectionery/ice cream/candy	Laundromat/coin operated laundry	Townhouse complex
Consignment shop	Leather goods or luggage store	Toy store
Consulting service	Legal service	Travel agency
Consumer electronics sales/service	Library	Treatment center
Convenience store	Live-work unit	Tutoring service
Copy or duplicating service	Loan office	Variety store
Correctional services facility	Marketing agency	Veterinary clinic
Cosmetic store	Martial arts training	Warehouse/storage facility
Costume and clothing rental	Massage therapy	Wedding consultant
Counseling service	Meat or fish market	Weight loss service
Craft instruction	Medical training	Wind energy conversion (micro) (2)
Craft studio	Micro or mini-brewery	Window sales
Craft supply store	Model unit	Yoga/pilates instruction
Credit service	Mortgage service	

Notes: (1) Above, to the rear of, or attached to a permitted nonresidential use
(2) If not adjacent to a residential district

(D) Special Uses[127]

(1) Automobile maintenance (quick service)

(2) Automobile sales (all-terrain, cars, mopeds, scooters, trucks-up to one ton; indoor)

(3) Commercial communication tower (see § 157.503(D)(3)(a) for additional standards)

(4) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted)

(5) Gas station ((the Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(9) (Downtown Edge district))

(6) Greenhouse (retail)

(7) Group residential facility (large) (if adjacent to a residential district)

(8) Home business (for single family detached buildings only; see § 157.503(D)(3)(b) for additional standards)

(9) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a church)

(10) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)

(11) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(12) Plant nursery (retail)

(13) Recreation facility or use, outdoor (athletic field, riding stable)

(14) Religious institution or school illuminated athletic field(s)

(15) Residential facility for a court-ordered re-entry program

(16) Residential facility for homeless individuals (if adjacent to a residential district)

(17) Shooting range (indoor)

(18) Solar panel (ground mounted)

(19) Utility facility, private (not otherwise permitted or exempt)

(20) Wind energy conversion (WEC) system (standard, or more than 1 micro system)

(21) Wind energy conversion system, micro (on land adjacent to a residential district) energy conversion system (non-building mounted or more than 1 building mounted)

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[127] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; “quick service automobile maintenance”, “automobile sales”, “community garden”, “educational-associated”, “gas station”, “greenhouse”, “plant nursery”, “recreation facility”, “religious institution/school athletic fields”, “indoor shooting range”, “ground mounted solar panel”, “private utility center”, and “wind energy conversion system” uses were added. Since Phase 3 drafts, “group residential facility (large) (if adjacent to a residential use), “residential facility for a court-ordered re-entry program”, and “residential facility for homeless individuals (if adjacent to a residential district)” have been added to this list.

(E) Accessory Buildings, Structures and Uses[128]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items).
Note: (1) Also permitted for nonresidential uses	

[128] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(F) Development Standards[129]

(1) The standards in the following table shall apply in the SC district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

SC SHOPPING CENTER DEVELOPMENT STANDARDS			
Height (maximum) (1)			
Primary or accessory nonresidential building or structure			40′
Primary or accessory residential facility building or structure			Up to two stories or 30′ (2)
Front yard			
Non-through lot			50′
Through lot			50′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	25′
Over 30′		50′	40′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq ft	25′	5′
Over 25′	Over 200 sq ft	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) (2)			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	10′
Over 30′		50′	40′
Primary building – outside activity behind the building) (2)			
50′			
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq ft	25′	5′

[129] The development standards have been significantly revised to update and align the County and Fort Wayne ordinances. Primary nonresidential height increased to 40′; residential structures permitted up to 30′; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

SC SHOPPING CENTER DEVELOPMENT STANDARDS			
Over 25′	Over 200 sq ft	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall include building access, delivery/loading areas, drives, parking, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [130]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(1)	Permitted(5)	Permitted(5)
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′

[130] The additional yard location and yard projection standards have been significantly revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Slab on grade patio	May project up to 8′	May project up to 4′[2]	May project up to 8′[2]
Wall (freestanding; permitted up to 8′ in height)	Not permitted[4]	Permitted[5]	Permitted[5]
Wall (retaining)	Permitted[6]	Permitted[5]	Permitted[5]

Notes:

(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.216 C3 GENERAL COMMERCIAL [131]

(A) Purpose[132]

The General Commercial district is intended to provide areas for a variety of commercial uses including certain high intensity uses not permitted in C1 and C2 districts. Uses typically found within this district include moderate intensity general business, community, office, personal service, and retail uses, along with certain residential facilities. Commercial uses in this district often serve the general public and therefore are usually located along arterial or collector roadways.

(B) Permitted Uses[133]

The following uses are permitted as a matter of right in a C3 district; unless otherwise noted, primary uses shall be permitted to have outdoor components.[134] In C3 districts, except for automobile, boat, and similar vehicle sales uses, outdoor display shall meet the building setback standards; display area shall be limited to a maximum of 10% of the primary structure or tenant space; outdoor storage shall: be located behind the primary structure, or on the internal side of a corner lot; meet primary building setback standards; be located on a paved or existing gravel surface; and be screened from adjacent residential zoning districts by a solid fence.

C3 GENERAL COMMERCIAL USE CATEGORIES		
Animal service, indoor	Food and beverage service	Residential facility, general
Animal service, outdoor	Instruction/training/education	Residential facility, limited
Automobile service, general	Medical facility or office	Retail/service, general
Automobile service, limited	Personal service	Retail, limited
Clothing	Professional office/business service	Studio
Community facility	Recreation, general	Universally permitted use
Electronics	Recreation/Tourism, limited	Miscellaneous use

C3 GENERAL COMMERCIAL SPECIFIC PERMITTED USES[135]		
Accessory building, structure	Customer service facility	Multiple family complex
Accountant	Dance instruction	Multiple family dwelling
Adoption service	Data processing facility	Museum
Adult care center	Data storage facility	Music instruction

[131] District designation changed from CM3
[132] Purpose statement updated to allow for certain residential uses
[133] Permitted uses have been significantly revised to update and align the County and Fort Wayne ordinances and put into tables; all permitted uses are listed in each district; outdoor storage/display standards added
[134] Revised to clarify that this applies to primary uses since Phase 3 drafts.
[135] Since Phase 3 drafts, the following changes have been made. “Shooting range” has been revised to “shooting range (indoor)”; “equipment rental” has been changed to “equipment rental (limited)”; “pottery stand” has been revised to “pottery sales”; “Agricultural equipment sales”, “agricultural equipment service”, “agricultural supply sales”, “home improvement store”, “manufactured home sales”, “plumbing sales”, “towing service (with no storage yard)”, “water park”, “WEC system (micro)”, and “zipline” uses have been added to this list; the “group residential facility” has been split into large and small uses, with large uses not permitted adjacent to residential districts, and those two uses replace the “residential facility for the developmentally disabled” and “residential facility for the mentally ill” uses.

C3 GENERAL COMMERCIAL SPECIFIC PERMITTED USES[135]		
Adult care home	Dating service	Music store
Advertising	Day care	Music/recording studio
Agricultural equipment sales	Day spa	Musical instrument store
Agricultural equipment service	Delicatessen	Nail salon
Agricultural supply sales	Dentist	Neighborhood facility
Air conditioning sales	Department store	Nursing home
Air conditioning service	Diagnostic center	Nutrition service
Animal hospital	Dialysis Center	Ophthalmologist
Animal kennel	Diaper service facility	Optician
Animal obedience school	Dinner theater	Optometrist
Answering service	Doctor	Package liquor store
Antique shop	Dormitory	Paint store
Apparel and accessory store	Driving instruction	Park or recreation area
Appraiser	Drug store	Parking structure
Arcade	Dry cleaning store	Pawn shop
Architect	Educational institution	Pest control
Arena	Embroidery	Pet store
Art gallery	Employment agency	Photographic supply store
Art instruction	Engine repair	Photography training
Artist material and supply store	Engineer	Physical therapy facility
Artist studio	Entertainment facility	Picture framing facility
Assisted living facility	Equipment rental (limited)	Planetarium
Attorney	Equipment service	Plant nursery
Auction hall	Exhibit hall	Plumbing sales
Audiologist	Exterminator	Plumbing service
Audio-visual studio	Fabric shop	Podiatrist
Automobile accessory store	Feed store	Pottery sales
Automobile auction	Finance agency	Propane/bottled gas sales and service
Automobile detailing or trim shop	Financial planning service	Radio station
Automobile maintenance	Fireworks sales	Real estate
Automobile rental	Fitness center	Reception/banquet hall
Automobile restoration	Flea market	Recreation uses, outdoor [(2)]
Automobile rustproofing	Floor covering store	Rehabilitation facility
Automobile sales	Florist	Religious institution/school field
Automobile washing facility	Foundation office	Rental and/or leasing store
Bait sales	Fraternity house	Residential dwelling unit[(1)]
Bakery goods	Fruit and vegetable sales	Residential facility for homeless individuals[(2)]
Bank	Fruit and/or vegetable store	Restaurant, including drive-through
Bankruptcy service	Funeral home	Retirement facility
Bar or tavern	Furniture refinishing/repair	Riding stable
Barber shop	Furniture store	Savings and loan
Barber/beauty school	Furrier	School
Batting cages	Garage sales	Seasonal Sales
Beauty shop	Gas station	Security service
Bed and breakfast	Gift shop	Shoe store/shoe repair shop
Betting or other gambling facility	Glass cutting/glazing shop	Shooting range (indoor)
Bicycle sales and repair shop	Golf course, miniature	Sign sales store

C3 GENERAL COMMERCIAL SPECIFIC PERMITTED USES[135]		
Billiard or pool hall	Golf driving range	Skating rink
Blood bank	Graphic design service	Sleep disorder facility
Blood or plasma donor facility	Greenhouse	Social service agency
Boarding/lodging house	Grocery store or supermarket	Sorority house
Boat/watercraft sales	Group residential facility (large)(1)	Sporting goods sales and rentals
Book store	Group residential facility (small)	Stained glass studio
Bookkeeping service	Gun sales	Stock and bond broker
Bowling alley	Gymnastics instruction	Storage shed sales
Broker	Hardware store	Surgery center
Business training	Haunted house	Swim club
Card and stationery store	Health center	Tailor/alterations service
Catalog showroom	Health club	Tanning salon
Caterer	Heating sales	Tattoo establishment
Check cashing	Heating service	Tax consulting
Child care center	Hobby shop	Taxi service
Child care home (class I or II)	Home improvement store	Taxidermist
Chiropractor	Homeless/emergency shelter(2)	Telephone sales and service
Cigarette/tobacco/cigar store	Hospice care center	Television station
Clinic	Hospital	Tennis club
Clock/watch/ jewelry sales/repair	Hotel	Theater
Clothing store	Insurance agency	Tire sales
Club	Interior decorating store	Title company
Coffee shop	Interior design service	Towing service (with no storage yard)
Coin shop	Internet/web site service	Townhouse complex
Collection agency	Investment service	Toy store
Community garden	Laboratory	Trade show facility
Computer sales and service	Landscape contracting service	Travel agency
Computer software store	Land surveyor	Treatment center
Computer training	Laundromat/coin operated laundry	Truck fueling station
Confectionery/ice cream/candy store	Leather goods or luggage store	Tutoring service
Consignment shop	Legal service	Variety store
Consulting service	Library	Veterinary clinic
Consumer electronics sales/service	Live-work unit	Warehouse/storage facility
Convenience store	Loan office	Water park
Copy or duplicating service	Manufactured home sales	Wind energy conversion system (micro) (2)
Correctional services facility	Marketing agency	Wedding consultant
Cosmetic store	Martial arts training	Weight loss service
Costume and clothing rental	Massage therapy	Wholesale facility
Counseling service	Meat or fish market	Window repair
Country club	Medical training	Window sales
Craft instruction	Micro or mini-brewery or brewpub	Yoga/pilates instruction
Craft studio	Model unit	Zipline
Craft supply store	Motel	
Credit service	Mortgage service	
Credit union	Movie and game sales and rental	

Notes: (1) Above, to the rear of, or attached to a permitted nonresidential use
(2) If not adjacent to a residential district

(C) Special Uses[136]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Commercial communication tower (see § 157.503(D)(3)(a) for additional standards)

(2) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted)

(3) Group residential facility (large) (if adjacent to a residential district)

(4) Home business (for single family detached buildings only; see § 157.503(D)(3)(b) for additional standards)

(5) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a church)

(6) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)

(7) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(8) Recreation use, outdoor (amusement park, go-cart facility, race track; if adjacent to a residential district)

(9) Residential facility for a court-ordered re-entry program

(10) Residential facility for homeless individuals (if adjacent to a residential district)

(11) Solar panel (ground mounted)

(12) Tree service

(13) Utility facility, private (not otherwise permitted or exempt)

(14) Wind energy conversion (WEC) system (standard, or more than 1 micro system)

(15) Wind energy conversion system, micro (on land adjacent to a residential district)

[136] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; "educational-associated", "gas station", "greenhouse", "plant nursery", "recreation facility", "religious institution/school athletic fields", "indoor shooting range", "ground mounted solar panel", "private utility center", and "wind energy conversion system" were uses added; "animal raising/breeding", "business storage facility", "fairgrounds", "off-premise signs", "off-site campus housing", "parking area fencing", and "residential special" uses were removed. Since Phase 3 drafts, "group residential facility (large) (if adjacent to a residential district)", "residential facility for a court-ordered re-entry program," and "residential facility for homeless individuals (if adjacent to a residential district) uses have been added to this list; "shooting range, outdoor" has been removed from this list.

(D) Accessory Buildings, Structures and Uses[137]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items).
Note: (1) Also permitted for nonresidential uses	

[137] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[138]

(1) The standards in the following table shall apply in the C3 district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

C3 GENERAL COMMERCIAL DEVELOPMENT STANDARDS			
Height (maximum) (1)			
Primary or accessory nonresidential building or structure			40′
Primary or accessory residential facility building or structure			Up to two stories or 30’ (2)
Front yard			
Non-through lot			35′
Through lot			35′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	25′
Over 30′		50′	40′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) (3)			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	10′
Over 30′		50′	40′
Primary building – outside activity behind the building) (3)			
50′			

[138] The development standards have been revised to update and align the County and Fort Wayne ordinances. Primary nonresidential height increased to 40′; residential structures permitted up to 30′; front yard increased from 25 feet to 35 feet; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

C3 GENERAL COMMERCIAL DEVELOPMENT STANDARDS			
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′ and	Up to 200 sq ft	25′	5′
Over 25′ or	Over 200 sq ft	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall include building access, delivery/loading areas, drives, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [139]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in	Open or	Permitted(5)	Permitted(5)

[139] The additional yard location and yard projection standards have been significantly revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
height; other fencing permitted up to 8′ in height)	ornamental fence permitted(1)		
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:

(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.217 C4 INTENSIVE COMMERCIAL[140]

(A) Purpose[141]

The Intensive Commercial district is intended to provide areas for general commercial uses, along with higher intensity uses not permitted in the C1, C2 or C3 districts. Commercial uses in this district often serve the general public and therefore are usually located along major arterial and/or collector roadways. It is intended that new C4 zoning districts not be created adjacent to existing residential zoning districts.

(B) Permitted Uses[142]

In C4 districts, except for automobile, boat, and similar vehicle sales uses, outdoor display shall meet the building setback standards; display area shall be limited to a maximum of 10% of the primary structure or tenant space; outdoor storage shall: be located behind the primary structure, or on the internal side of a corner lot; meet primary building setback standards; be located on a paved or existing gravel surface; and be screened from adjacent residential zoning districts by a solid fence. The following uses are permitted as a matter of right in a C4 district; all uses shall be permitted to have outdoor components.

C4 INTENSIVE COMMERCIAL USE CATEGORIES		
Animal service, indoor	Food and beverage service	Residential facility, general
Animal service, outdoor	Instruction/training/education	Residential facility, limited
Automobile service, general	Medical facility or office	Retail/service, general
Automobile service, limited	Personal service	Retail, limited
Clothing	Professional office/business service	Studio
Community facility	Recreation, general	Universally permitted use
Electronics	Recreation/Tourism, limited	Miscellaneous use

C4 INTENSIVE COMMERCIAL SPECIFIC PERMITTED USES[143]		
Accessory building, structure	Credit union	Multiple family dwelling
Accountant	Customer service facility	Museum
Adoption service	Dance instruction	Music instruction
Adult care center	Data processing facility	Music store
Adult care home	Data storage facility	Music/recording studio
Advertising	Dating service	Musical instrument store
Air conditioning sales	Day care	Nail salon
Air conditioning service	Day spa	Neighborhood facility
Animal hospital	Delicatessen	Nursing home
Animal kennel	Dentist	Nutrition service

[140] District designation changed from CM4
[141] Purpose statement updated to allow for certain residential uses
[142] Permitted uses have been revised to update and align the County and Fort Wayne ordinances and put into tables; all permitted uses are listed in each district; outdoor storage/display standards added
[143] Since the Phase 3 drafts, the following changes have been made: "equipment rental" has been revised to "equipment rental (limited)", "towing service (with no towing yard)" and "WEC system (micro)" have been added to this list; the "group residential facility" has been split into large and small uses, with large uses not permitted adjacent to residential districts, and those two uses replace the "residential facility for the developmentally disabled" and "residential facility for the mentally ill" uses; and a table note with conditions for "sexually oriented businesses" was added.

C4 INTENSIVE COMMERCIAL SPECIFIC PERMITTED USES[143]		
Animal obedience school	Department store	Ophthalmologist
Answering service	Diagnostic center	Optician
Antique shop	Dialysis center	Optometrist
Apparel and accessory store	Diaper service facility	Package liquor store
Appraiser	Dinner theater	Paint store
Arcade	Doctor	Park or recreation area
Architect	Dormitory	Parking structure
Arena	Driving instruction	Pawn shop
Art gallery	Drug store	Pest control
Art instruction	Dry cleaning store	Pet store
Artist material and supply store	Embroidery	Photographic supply store
Artist studio	Employment agency	Photography training
Assisted living facility	Engine repair	Physical therapy facility
Attorney	Engineer	Picture framing facility
Auction hall	Entertainment facility	Planetarium
Auction service	Equipment rental (limited)	Plant nursery
Audiologist	Equipment service	Plumbing service
Audio-visual studio	Exhibit hall	Podiatrist
Automobile accessory store	Exterminator	Pottery sales
Automobile auction	Fabric shop	Propane/bottled gas sales and service
Automobile detailing or trim shop	Feed store	Radio station
Automobile maintenance	Finance agency	Real estate
Automobile rental	Financial planning service	Reception/banquet hall
Automobile restoration	Fireworks sales	Recreation uses, outdoor(2)
Automobile rustproofing	Fitness center	Rehabilitation facility
Automobile sales	Flea market	Religious institution/school field
Automobile washing facility	Floor covering store	Rental and/or leasing store
Bait sales	Florist	Residential dwelling unit(1)
Bakery goods	Foundation office	Residential facility for homeless individuals(2)
Bank	Fraternity house	Restaurant, including drive-through
Bankruptcy service	Fruit and vegetable sales	Retirement facility
Bar or tavern	Fruit and/or vegetable store	Riding stable
Barber shop	Funeral home	Savings and loan
Barber/beauty school	Furniture refinishing/repair	School
Batting cages	Furniture store	Seasonal sales
Beauty shop	Furrier	Security service
Bed and breakfast	Garage sales	Sexually oriented business(3)
Betting or other gambling facility	Gas station	Shoe store/shoe repair shop
Bicycle sales and repair shop	Gift shop	Shooting range (indoor)
Billiard or pool hall	Glass cutting/glazing shop	Sign sales store
Bingo establishment	Golf course, miniature	Skating rink
Blood bank	Golf driving range	Sleep disorder facility
Blood or plasma donor facility	Graphic design service	Social service agency
Boarding/lodging house	Greenhouse	Sorority house
Boat/watercraft sales	Grocery store or supermarket	Sporting goods sales and rentals
Book store	Group residential facility (large)(1)	Stadium/racetrack
Bookkeeping service	Group residential facility (small)	Stained glass studio
Bowling alley	Gun sales	Stock and bond broker

C4 INTENSIVE COMMERCIAL SPECIFIC PERMITTED USES[143]		
Broker	Gymnastics instruction	Storage shed sales
Business training	Hardware store	Surgery center
Card and stationery store	Haunted house	Swim club
Catalog showroom	Health center	Tailor/alteration service
Caterer	Health club	Tanning salon
Check cashing	Heating sales	Tattoo establishment
Child care center	Heating service	Tax consulting
Child care home (class I or II)	Hobby shop	Taxi service
Chiropractor	Homeless/emergency shelter(2)	Taxidermist
Cigarette/tobacco/cigar store	Hospice care center	Telephone sales and service
Clinic	Hospital	Television station
Clock/watch/ jewelry sales/repair	Hotel	Tennis club
Clothing store	Insurance agency	Theater
Club	Interior decorating store	Tire sales
Coffee shop	Interior design service	Title company
Coin shop	Internet/web site service	Towing service (with no storage yard)
Collection agency	Investment service	Townhouse complex
Community garden	Laboratory	Toy store
Computer sales and service	Landscape contracting service	Trade show facility
Computer software store	Land surveyor	Travel agency
Computer training	Laundromat/coin operated laundry	Treatment center
Confectionery/ice cream/candy	Leather goods or luggage store	Truck fueling station
Consignment shop	Legal service	Tutoring service
Consulting service	Library	Variety store
Consumer electronics sales/service	Live-work unit	Veterinary clinic
Convenience store	Loan office	Warehouse/storage facility
Copy or duplicating service	Marketing agency	Water park
Correctional service facility	Martial arts training	Wind energy conversion system (micro) (2)
Cosmetic store	Massage therapy	Wedding consultant
Costume and clothing rental	Meat or fish market	Weight loss service
Counseling service	Medical training	Wholesale facility
Country club	Micro/mini-brewery, brewpub	Window repair
Craft instruction	Mortgage service	Window sales
Craft studio	Motel	Yoga/pilates instruction
Craft supply store	Movie and game sales and rental	Zipline
Credit service	Multiple family complex	

Notes: (1) Above, to the rear of, or attached to a permitted nonresidential use
(2) If not adjacent to a residential district
(3) The property where the use is proposed shall be located at least:
(a) 500 ft. from any existing Allen County or Fort Wayne A or R district
(b) 1,000 ft. from any existing or pending sexually oriented business
(c) 750 ft. from any existing or pending religious institution or school

(C) Special Uses[144]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Commercial communication tower

(2) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted))

(3) Group residential facility (large) (if adjacent to a residential district)

(4) Home business (for single family detached dwellings only; see § 157.503(D)(3)(e) for additional standards)

(5) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a church)

(6) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)

(7) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(8) Recreation use, outdoor (amusement park, go-cart facility, race track; if adjacent to a residential district)

(9) Residential facility for a court-ordered re-entry program

(10) Residential facility for homeless individuals (if adjacent to a residential district)

(11) Shooting range (outdoor)

(12) Solar panel (ground mounted)

(13) Tree service

(14) Utility facility, private (not otherwise permitted or exempt)

(15) Wind energy conversion (WEC) system (standard, or more than 1 micro system)

(16) Wind energy conversion system, micro (on land adjacent to a residential district) energy conversion system (non-building mounted or more than 1 building mounted)

[144] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; “educational-associated”, “recreation use”, “outdoor shooting range”, “ground mounted solar panel”, “tree service”, “private utility facility”, and “wind energy conversion system” uses were added; “business storage facility”, “fairgrounds”, “off-premise signs”, “off-site campus housing”, “parking area fencing”, and “residential special” uses were removed. Since Phase 3 drafts, “group residential facility (large) (if adjacent to a residential district)”, “residential facility for a court-ordered re-entry program,” and “residential facility for homeless individuals (if adjacent to a residential district) uses have been added to this list.

(D) Accessory Buildings, Structures and Uses[145]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items).
Note: (1) Also permitted for nonresidential uses	

[145] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[146]

(1) The standards in the following table shall apply in the C4 district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

C4 INTENSIVE COMMERCIAL DEVELOPMENT STANDARDS			
Height (maximum) (1)			
Primary or accessory nonresidential building or structure			40′
Primary or accessory residential facility building or structure			Up to two stories or 30’ (2)
Front yard			
Non-through lot			35′
Through lot			35′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	25′
Over 30′		50′	40′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building or structure – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) (3)			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	10′
Over 30′		50′	40′
Primary building – outside activity behind the building) (3)			
50′			

[146] The development standards have been significantly revised to update and align the County and Fort Wayne ordinances. Primary nonresidential height increased to 40′; residential structures permitted up to 30′; front yard increased from 25 feet to 35 feet; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

C4 INTENSIVE COMMERCIAL DEVELOPMENT STANDARDS			
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′ and	Up to 200 sq ft	25′	5′
Over 25′ or	Over 200 sq ft	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall include building access, delivery/loading areas, drives, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [147]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in	Open or ornamental fence	Permitted(5)	Permitted(5)

[147] The additional yard location and yard projection standards have been significantly revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
height; other fencing permitted up to 8′ in height)	permitted(1)		
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:

(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.218 DC DOWNTOWN CORE[148]

(A) Purpose

The Downtown Core district is intended to recognize downtown Fort Wayne as the heart of the city and the regional economic and cultural hub for Northeast Indiana. This area should also serve as a hub for different forms of mass transit. This district is intended to be the city's highest density district consisting of multiple story buildings with mid- to high-rise buildings being common. The district is intended to provide for a pedestrian oriented mixture of cultural, entertainment, governmental, institutional, office, personal service, recreational, residential, retail, restaurant, and similar uses along with the provision of public parks and other gathering spaces. Development following the recommendations of the Fort Wayne Downtown Design Standards and other adopted plans for the downtown area should be encouraged. The development pattern in the district should serve to promote an active, attractive and pedestrian friendly environment while maintaining the unique and historic character of the downtown. In order to promote and maintain a dense urban development pattern, certain characteristics typically associated with less dense development such as minimum building setbacks and single story buildings should be discouraged. Parking is not intended to be provided for each use on-site, but rather is to be provided through on-street parking and parking garages that serve multiple buildings.

(B) Permitted Uses[149]

The uses listed below are permitted as a matter of right in the DC district.

DC DOWNTOWN CORE USE CATEGORIES		
Animal service, indoor	Instruction/training/education	Residential facility, general
Automobile service, limited	Medical facility or office	Residential facility, limited
Clothing	Personal service	Retail, limited
Community facility	Professional office/business service	Studio
Electronics	Recreation, general	Universally permitted use
Food and beverage service	Recreation/Tourism, limited	Miscellaneous use

DC DOWNTOWN CORE SPECIFIC PERMITTED USES[150]		
Accessory building, structure	Costume and clothing rental	Micro or mini-brewery/brewpub
Accountant	Counseling service	Model unit
Adoption service	Craft instruction	Mortgage service
Adult care center	Craft studio	Movie and game sales and rental
Adult care home	Craft supply store	Multiple family complex
Advertising	Credit service	Multiple family dwelling
Air conditioning sales	Credit union	Museum
Animal grooming (indoor)	Customer service facility	Music instruction
Animal hospital (indoor)	Dance instruction	Music store
Animal kennel (indoor)	Data processing facility	Music/recording studio

[148] District designation changed from CM5A and district name changed from Central Downtown
[149] Permitted uses have been revised to update and align the ordinance, and put into tables; all permitted uses are listed in each district
[150] Since Phase 3 drafts, "botanical conservatory" has been added to this list.

DC DOWNTOWN CORE SPECIFIC PERMITTED USES[150]		
Animal obedience school (indoor)	Data storage facility	Musical instrument store
Answering service	Dating service	Nail salon
Antique shop	Day care	Neighborhood facility
Apparel and accessory store	Day spa	Nursing home
Appraiser	Delicatessen	Nutrition service
Arcade	Dentist	Ophthalmologist
Architect	Department store	Optician
Arena	Diagnostic center	Optometrist
Art gallery	Dialysis center	Package liquor store
Art instruction	Diaper service facility	Paint store
Artist material and supply store	Dinner theater	Park or recreation area
Artist studio	Doctor	Parking structure[(1)]
Assisted living facility	Dormitory	Pet store
Attorney	Driving instruction	Photographic supply store
Audiologist	Drug store	Photography training
Audio-visual studio	Dry cleaning store	Physical therapy facility
Automobile accessory store (indoor)	Embroidery	Picture framing facility
Automobile rental (indoor)	Employment agency	Planetarium
Automobile sales (indoor)	Engineer	Podiatrist
Bait sales	Entertainment facility (indoor)	Radio station
Bakery goods	Exhibit hall	Real estate
Bank	Fabric shop	Reception/banquet hall
Bankruptcy service	Farmer's market (w/outdoor uses)	Rehabilitation facility
Bar or tavern	Finance agency	Religious institution/school field
Barber shop	Financial planning service	Rental and/or leasing store
Barber/beauty school	Fireworks sales (indoor)	Residential dwelling unit[(2)]
Beauty shop	Fitness center	Restaurant, including drive-through
Bed and breakfast	Flea market (indoor)	Retirement facility
Betting or other gambling facility	Floor covering store	Riding stable
Bicycle sales and repair shop	Florist	Savings and loan
Billiard or pool hall	Foundation office	School
Bingo establishment	Fraternity house	Security service
Blood bank	Fruit and/or vegetable store	Shoe store/shoe repair shop
Blood or plasma donor facility	Funeral home	Sign sales store
Boarding house	Furniture store	Skating rink
Book store	Furrier	Sleep disorder facility
Bookkeeping service	Gift shop	Social service agency
Botanical conservatory	Glass cutting/glazing shop	Sorority house
Bowling alley	Graphic design service	Sporting goods sales and rentals
Broker	Grocery store or supermarket	Stadium
Business training	Gymnastics instruction	Stained glass studio
Card and stationery store	Hardware store	Stock and bond broker
Catalog showroom	Health center	Surgery center
Caterer	Health club	Swim club (indoor)
Child care center	Heating sales	Tailor/alteration service
Child care home (class I or II)	Hobby shop	Tanning salon
Chiropractor	Hospice care center	Tattoo establishment
Cigarette/tobacco/cigar store	Hospital	Tax consulting
Clinic	Hotel	Taxi service

DC DOWNTOWN CORE SPECIFIC PERMITTED USES[150]		
Clock/watch/jewelry sales/repair	Insurance agency	Telephone sales and service
Clothing store	Interior decorating store	Television station
Club	Interior design service	Tennis club (indoor)
Coffee shop	Internet/web site service	Theater (indoor)
Coin shop	Investment service	Title company
Collection agency	Laboratory	Townhouse complex
Community garden	Land surveyor	Toy store
Computer sales and service	Laundromat/coin operated laundry	Travel agency
Computer software store	Leather goods or luggage store	Treatment center
Computer training	Legal service	Tutoring service
Confectionery/ice cream/candy store	Library	Variety store
Consignment shop	Live-work unit	Veterinary clinic
Consulting service	Loan office	Water park
Consumer electronics sales/service	Marketing agency	Wedding consultant
Convenience store	Martial arts training	Weight loss service
Copy or duplicating service	Massage therapy	Window sales
Correctional services facility	Meat or fish market	Yoga/pilates instruction
Cosmetic store	Medical training	
Note: (1) If integrated within the footprint of a new building for a permitted primary use (2) Above, to the rear of, or attached to a permitted nonresidential use		

(C) Special Uses[151]

The following uses may be approved by the Board of Zoning Appeals after the filing of a Special Use petition:

(1) Animal keeping (outdoor, small animal)

(2) Community garden that includes a structure

(3) Group residential facility (large)

(4) Group residential facility (small)

(5) Home business (see § 157.503(D)(3)(b) for additional standards)

(6) Homeless/emergency shelter

(7) Model unit (for extension of time/expansion of scope)

(8) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(9) Parking structures (public or private)

[151] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; “general automobile services”, “community garden”, “group residential facility (large)”, “group residential facility (small)”, “religious institution/school illuminated athletic field”, “residential facility for homeless individuals”, “residential facility for a court-ordered re-entry program”,” ground mounted solar panel”, “private utility facility” uses were added; “nursing home”, “parking structure”, and “pawnshop” uses were removed. Since Phase 3 drafts, the word “(outdoor)” has been added to “automobile rental” and “automobile sales”.

Parking structures integrated within the footprint of a new building for a permitted primary use shall not require a special use approval under this provision. In addition to meeting the requirements set forth in §157.503(D)(2), the Board shall evaluate the request based on the following standards and guidelines:

(a) Parking structures should contain commercial or residential uses along the street frontages where practical to encourage pedestrian oriented uses and activity at the street level. If commercial or residential uses are not provided, parking structures shall maintain a minimum 10' setback along yards with a street frontage. The Board may require a greater setback on a case-by-case basis.

(b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new parking structure is connected to an existing or proposed building than the parking structure shall be compatible with that building.

(c) If a new parking structure is not connected to an existing or proposed building then the parking structure shall be compatible with the proposed building or one or more structures adjoining[152] to the parking structure.

(10) Pawn shop

(11) Religious institution or school illuminated athletic field(s)

(12) Residential facility for a court-ordered re-entry program

(13) Residential facility for homeless individuals

(14) Solar panel (ground mounted)

(15) Utility facility, private (not otherwise permitted or exempt)

[152] Revised from "adjacent" to "adjoining" since Phase 3 drafts.

(D) Accessory Buildings, Structures and Uses[153]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items)
Note: (1) Also permitted for nonresidential uses	

[153] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[154]

(1) The standards in the following table shall apply in the DC district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

DC DOWNTOWNCORE DEVELOPMENT STANDARDS	
Height (maximum) [(1)]	
Primary building[(2)]	200′
Primary building within the area bounded by Superior Street, Jefferson Boulevard, Lafayette Street, and Ewing Street	500′
Accessory building or structure[(3)]	Up to the height of the primary building
Front yard	
Non-through lot	0′ minimum 10′ maximum
Through lot	0′ minimum 10′ maximum
Side yard	
Primary building	0′ minimum 10′ maximum
Accessory building or structure [(5)]	0′ minimum 10′ maximum
Rear yard	
Primary or accessory building or structure	No minimum rear yard

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) New primary structures shall be a minimum of 20 ft. in height and have two occupiable stories
(3) Accessory structures shall not exceed 25% of the ground floor area of the primary building
(4) Accessory buildings or structures shall be located to the side or rear of the primary building, and shall be constructed or placed to minimize visibility from public rights-of-way

[154] The development standards have been revised to update the ordinance. Accessory building or structure height increased to up to the height of the primary building.

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [155]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS(1)

Buildings/structures	Required Yard		
	Front	Side	Rear
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(2)	Permitted(2)	Permitted(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(3)	Permitted(2)	Permitted(2)
Wall (retaining)	Permitted(4)	Permitted(2)	Permitted(2)

Notes:

(1) Except as noted in this table, buildings and structures shall not project into or be located in a required yard

(2) May be located within required yard with no setback, except that fences and walls shall meet corner lot primary structure setback standard

(3) Shall meet minimum primary structure setback

(4) U p to 3′ in height

[155] The additional yard location and yard projection standards have been revised to update the ordinance.

§ 157.219 DE DOWNTOWN EDGE [156]

(A) Purpose

The Downtown Edge district is intended to provide for a transition from the high density mixed use development within the Fort Wayne core downtown to the traditional urban residential neighborhoods that surround the downtown. The district is intended for a lower density development pattern than the DC district, but is still meant for predominately multiple story structures (typically between 2 and 6 stories). Like the DC district, this district is intended to provide for a pedestrian oriented mixture of cultural, entertainment, governmental, institutional, office, personal service, recreational, residential, restaurant, retail, and similar uses along with the provision of public parks and other gathering spaces. This district is also uniquely intended to provide opportunities for artist studios, live/work space, small offices, and other creative uses. Special attention should be paid to the primary corridors in this district as they serve as the gateways to the central downtown. Development following the recommendations of the Fort Wayne Downtown Design Standards and any adopted plans for the downtown area should be encouraged.

(B) Permitted Uses[157]

The uses listed below are permitted as a matter of right in the DE districts:

DE DOWNTOWN EDGE USE CATEGORIES		
Animal service, indoor	Instruction/training/education	Residential facility, general
Automobile service, limited	Medical facility or office	Residential facility, limited
Clothing	Personal service	Retail, limited
Community facility	Professional office/business service	Studio
Electronics	Recreation, general	Universally permitted use
Food and beverage service	Recreation/Tourism, limited	Miscellaneous use

DE DOWNTOWN EDGE SPECIFIC PERMITTED USES		
Accessory building, structure	Costume and clothing rental	Micro or mini-brewery/brewpub
Accountant	Counseling service	Model unit
Adoption service	Craft instruction	Mortgage service
Adult care center	Craft studio	Movie and game sales and rental
Adult care home	Craft supply store	Multiple family complex
Advertising	Credit service	Multiple family dwelling
Air conditioning sales	Credit union	Museum
Animal grooming (indoor)	Customer service facility	Music instruction
Animal hospital (indoor)	Dance instruction	Music store
Animal kennel (indoor)	Data processing facility	Music/recording studio
Animal obedience school (indoor)	Data storage facility	Musical instrument store
Answering service	Dating service	Nail salon
Antique shop	Day care	Neighborhood facility
Apparel and accessory store	Day spa	Newspaper publishing facility

[156] District designation changed from CM5B
[157] Permitted uses have been revised to update and align the ordinance, and put into tables; all permitted uses are listed in each district

DE DOWNTOWN EDGE SPECIFIC PERMITTED USES		
Appraiser	Delicatessen	Nursing home
Arcade	Dentist	Nutrition service
Architect	Department store	Ophthalmologist
Arena	Diagnostic center	Optician
Art gallery	Dialysis center	Optometrist
Art instruction	Diaper service facility	Package liquor store
Artist material and supply store	Dinner theater	Paint store
Artist studio	Doctor	Park or recreation area
Assisted living facility	Dormitory	Parking structure[1]
Attorney	Driving instruction	Pet store
Audiologist	Drug store	Photographic supply store
Audio-visual studio	Dry cleaning store	Photography training
Automobile accessory store (indoor)	Embroidery	Physical therapy facility
Automobile rental (indoor)	Employment agency	Picture framing facility
Automobile sales (indoor)	Engineer	Planetarium
Bait sales	Entertainment facility (indoor)	Podiatrist
Bakery goods	Exhibit hall	Radio station
Bank	Fabric shop	Real estate
Bankruptcy service	Farmer's market (with outdoor uses)	Reception/banquet hall
Bar or tavern	Finance agency	Rehabilitation facility
Barber shop	Financial planning service	Religious institution/school field
Barber/beauty school	Fireworks sales (indoor)	Rental and/or leasing store
Beauty shop	Fitness center	Residential dwelling unit[2]
Bed and breakfast	Flea market (indoor)	Restaurant, including drive-through
Betting or other gambling facility	Floor covering store	Retirement facility
Bicycle sales and repair shop	Florist	Riding stable
Billiard or pool hall	Foundation office	Savings and loan
Bingo establishment	Fruit and/or vegetable store	School
Blood bank	Funeral home	Security service
Blood or plasma donor facility	Furniture store	Shoe store/shoe repair shop
Book store	Furrier	Sign sales store
Bookkeeping service	Gift shop	Skating rink
Botanical conservatory	Glass cutting/glazing shop	Sleep disorder facility
Bowling alley	Graphic design service	Social service agency
Broker	Grocery store or supermarket	Sporting goods sales and rentals
Business training	Gymnastics instruction	Stadium
Card and stationery store	Hardware store	Stained glass studio
Catalog showroom	Health center	Stock and bond broker
Caterer	Health club	Surgery center
Child care center	Heating sales	Swim club (indoor)
Child care home (class I)	Hobby shop	Tailor/alteration service
Chiropractor	Hospice care center	Tanning salon
Cigarette/tobacco/cigar store	Hospital	Tattoo establishment
Clinic	Hotel	Tax consulting
Clock, watch, or jewelry sales/repair	Insurance agency	Taxi service
Clothing store	Interior decorating store	Telephone sales and service
Club	Interior design service	Television station
Coffee shop	Internet/web site service	Tennis club (indoor)
Coin shop	Investment service	Theater (indoor)

DE DOWNTOWN EDGE SPECIFIC PERMITTED USES		
Collection agency	Laboratory	Title company
Community garden	Land surveyor	Townhouse complex
Computer sales and service	Laundromat/coin operated laundry	Toy store
Computer software store	Leather goods or luggage store	Travel agency
Computer training	Legal service	Treatment center
Confectionery/ice cream/candy store	Library	Tutoring service
Consignment shop	Live-work unit	Variety store
Consulting service	Loan office	Veterinary clinic
Consumer electronics sales/service	Marketing agency	Water park
Convenience store	Martial arts training	Wedding consultant
Copy or duplicating service	Massage therapy	Weight loss service
Correctional services facility	Meat or fish market	Window sales
Cosmetic store	Medical training	Yoga/pilates instruction

Note:
(1) If integrated within the footprint of a new building for a permitted primary use
(2) Above, to the rear of, or attached to a permitted nonresidential use

(C) Special Uses[158]

(1) Accessory dwelling units (ADU)

An ADU may be constructed as a new detached structure or created as part of the renovation of a detached garage. An ADU shall not be subdivided or otherwise separated in ownership from the primary residential structure. In addition to meeting the requirements set forth in §157.503(D)(2), the Board shall evaluate the request based on the following standards and guidelines:

(a) The accessory dwelling unit (ADU) shall not exceed 40% of the floor area of the primary residence or 800 total square feet, whichever is less;

(b) The ADU shall not exceed 600 square feet in ground floor area;

(c) The ADU shall be no less than 250 square feet and have no more than two (2) bedrooms;

(d) New ADU structures shall be located behind the primary structure and meet the setback, height, and rear yard lot coverage standards for accessory structures;

(e) There shall be only one ADU per lot; and

(f) As part of its review of a request for an ADU, the Board may also consider the size, bulk, scale and compatibility of the ADU, relative to the primary residence and other structures in the immediate area, and the size of the lot.

(2) Animal keeping (small)

(3) Boarding house

(4) Child care home (class II)

(5) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted)

(6) Fraternity house

(7) Gas station (as a primary or accessory use)

In addition to meeting the requirements set forth in §157.503(D)(2), the Board shall evaluate the request based on the following standards and guidelines:

(a) Location and size requirements

The proposed gas station/convenience store shall meet the following requirements.

(i) A new gas station/convenience store shall have a minimum of 100 feet of frontage on one of the following arterial roads: Washington Boulevard, Jefferson Boulevard, Clinton Street, and Lafayette Street.

(ii) The primary building shall be at least 2,000 square feet in size.

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[158] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; “small animal keeping”, “boarding house”, “community garden”, “educational institution”, “fraternity house”, “group residential facility (large)”, “group residential facility (small)”, “Type II manufactured home”, “model unit extension”, “nature preserve”, “nonconforming use”, “religious institution/school illuminated athletic field”, “residential facility for homeless individuals”, “residential facility for a court-ordered re-entry program”, “ground mounted solar panel”, and “private utility facility” uses were added; “correctional services facility”, “indoor flea market”, “nursing home”, “parking structure”, “pawnshop”, “single family residential” uses were removed. Since Phase 3 drafts, standard wind energy systems and micro wind energy systems adjacent to residential districts were removed from this list.

(b) Building/canopy orientation

The preferred building/canopy orientation for a gas station/convenience store is for the primary building to be located near the street and the canopy and service pumps to be located behind the primary building, however alternate layouts may be approved provided they comply with the appropriate design requirements (see §157.219(C)(3) d, e, and f below).

(c) General design standards

(i) The primary building and any canopies shall be compatible with architecture and development pattern of the surrounding area and be adequately screened from adjacent residential uses. To enhance compatibility, structures should provide variation in rooflines and utilize similar forms and materials.

(ii) Canopy lighting shall be recessed with the canopy constructed to shield the light fixtures to avoid glare on public rights of way and/or adjacent properties.

(iii) There shall be at least one unobstructed pedestrian walkway at least five (5)[159] feet wide connecting the primary building to an adjacent public sidewalk.

(iv) Except for the vehicular access driveways, all pavement, parking and drive lanes shall be located a minimum of eight (8) feet from any lot line. These setback areas shall be landscaped and low walls are encouraged along street frontages.

(v) A minimum of one bicycle rack shall be provided.[160]

(vi) For the purposes of this subsection the determination of a rear yard for a lot having frontages on two streets shall be determined as that part of the lot that is parallel to the street having the highest traffic volume.

(d) Design requirements based on orientation of the primary building at street (meeting the required front yard setback), with the canopy located behind the primary building

(i) Primary Building and Canopy Attachment

Under this design option it is not required that the canopy be attached to the primary structure, however it would be encouraged.

(ii) Canopy location and design

The canopy shall be located a minimum of twenty (20) feet from side and rear lot lines. Other than setback, there are no special design requirements for the canopy under this option, however, varied rooflines for the canopy and decorative designs (using materials such as brick or stone) for the canopy support columns/poles are encouraged.

(iii) Front and side wall design.

The front and any side wall of the primary building that faces a street shall have windows or the appearance of windows.

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[159] Revised from 4 ft. since Phase 3 drafts.
[160] Since Phase 3 drafts, requirement that bike rack be adjacent to primary building has been deleted.

(e) Design Requirements based on orientation of the primary building at street (meets required front yard setback), canopy located to the side of the primary building

(i) Primary building and canopy attachment

Under this design option the canopy shall be attached to the primary building. The width of the canopy attachment shall be a minimum of thirty (30) percent of the length of the canopy side that is parallel and closest to the primary building. In no case shall the canopy connection be less than twenty (20) feet.

(ii) Canopy location and design

Under this design option the canopy shall have a varied roofline and use similar forms and materials as those used on the primary building. The canopy shall have the same or greater front yard setback than the primary building. The canopy shall not be required to have decorative designs for the canopy columns, unless the canopy is located having frontage on two streets. In cases where decorative design for canopy columns is required, such columns shall be designed of brick or stone or other material to achieve a similar decorative affect.

(iii) Front and side wall design

The front and any side wall of the primary building that faces a street shall have windows or the appearance of windows.

(f) Design Requirements based on orientation of the primary building behind the canopy

(i) Primary building and canopy attachment

Under this design option the canopy shall be attached to the primary building. The width of the canopy attachment shall be a minimum of thirty (30) percent of the length of the canopy side that is parallel and closest to the primary building. In no case shall the canopy connection be less than twenty (20) feet.

(ii) Canopy location and design

Under this design option the canopy shall have a varied roofline and use similar forms and materials as those used on the primary building and utilize decorative designs for the canopy columns. Materials used for the canopy columns shall consist of brick or stone or other material to achieve a similar decorative affect. Attached canopies meeting the standards noted in this section shall be considered a part of the primary structure for the purposes of determining building setbacks.

(iii) Front and side wall design

The front and any side wall of the primary building that faces a street shall have windows or the appearance of windows.

(8) Group residential facility (large)

(9) Group residential facility (small)

(10) Home business (for single family detached buildings only; see § 157.503(D)(3)(e) for additional standards)

(11) Homeless/emergency shelter (accessory to a religious institution)

(12) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)

(13) Model unit (for extension of time/expansion of scope)

(14) Nature preserve (with parking areas or structures)

(15) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(16) Parking structures (public or private)

Parking structures integrated within the footprint of a new building for a permitted primary use shall not require a special use approval under this provision. In addition to meeting the requirements set forth in §157.503(D)(2), the Board shall evaluate the request based on the following standards and guidelines:

(a) Parking structures should contain commercial or residential uses along the street frontages where practical to encourage pedestrian oriented uses and activity at the street level. If commercial or residential uses are not provided, parking structures shall maintain a minimum 10' setback along yards with a street frontage. The Board may require a greater setback on a case-by-case basis.

(b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new parking structure is connected to an existing or proposed building, then the parking structure shall be compatible with that building.

(c) If a new parking structure is not connected to an existing or proposed building, then the parking structure shall be compatible with the proposed building or one or more structures adjoining[161] to the parking structure.

(17) Pawn shop

(18) Religious institution or school illuminated athletic field(s)

(19) Residential facility for a court-ordered re-entry program

(20) Residential facility for homeless individuals

(21) Single family dwelling (detached)

(22) Solar panel (ground mounted)

(23) Sorority house

(24) Utility facility, private (not otherwise permitted or exempt)

[161] Revised from "adjacent" to "adjoining" since Phase 3 drafts.

(D) Accessory Buildings, Structures and Uses[162]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items).
Note: (1) Also permitted for nonresidential uses	

[162] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[163]

(1) The standards in the following table shall apply in the DE district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

DE DOWNTOWN EDGE DEVELOPMENT STANDARDS	
Height (maximum) (1)	
Primary building	60′
Accessory building or structure (2)	60′
Front yard	
All lots	0′ minimum 20′ maximum
Side yard (3)	
Accessory and primary buildings and structures – interior side yard	5′
Accessory and primary buildings and structures – corner lot side street	0′ minimum 20′ maximum
Rear yard (3)	
Accessory or primary building	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Accessory structures shall not exceed 25% of the ground floor area of the primary building
(3) Accessory buildings or structures shall be located to the side or rear of the primary building, and shall be constructed or placed to minimize visibility from public rights-of-way

[163] The development standards have been revised to update the ordinance. Accessory building or structure height increased to up to the height of the primary building.

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [164]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS

Buildings/structures	Required Yard		
	Front	Side	Rear
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′	May project up to 2′
Awning or canopy(4)	May project up to 4′	May project up to 4′(2)	May project up to 4′(3)
Balcony or open stairway(4)	May project up to 4′	May project up to 4′(2)	May project up to 4′(3)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(5)	Not permitted(5)	Not permitted(5)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (4)	May project up to 8′	May project up to 4′(2)	May project up to 8′(3)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(5)	Not permitted(5)	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(1)	Permitted(2)	Permitted(5)
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(3)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(5)	Permitted(6)	Permitted(6)
Wall (retaining)	Permitted(7)	Permitted(6)	Permitted(6)

Notes:
(1) May be located within required yard with no setback
(2) However, a 3′ side yard shall be maintained
(3) However, a 5′ rear yard shall be maintained
(4) If not adjacent to a residential district; shall not project if adjacent to a residential district
(5) Shall meet minimum primary structure setback

[164] The additional yard location and yard projection standards have been revised to update the ordinance.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS
(6) However, fences and walls shall meet corner lot primary structure setback standard (7) Up to 3 feet in height

§ 157.220 UC URBAN CORRIDOR [165]

(A) Purpose

The Urban Corridor district is intended to recognize that certain commercial corridors have special importance to the community because of their collective, cohesive identity, historic character, urban development patterns, relationship to the surrounding neighborhood, pedestrian oriented streetscapes, and distinct urban architecture and form. In keeping with this intent, the UC district should allow for and encourage mixed uses with a focus on neighborhood oriented commercial and personal service uses at the street level. New development is encouraged to be compatible with the existing historic development patterns by locating buildings close to the street in order to enhance pedestrian activity along the corridor. New residential development is encouraged to locate on the upper floors of new and existing commercial structures. Parking standards in these areas should accommodate historic development patterns which typically allow for on-street parking, the use of alleys to access parking areas behind buildings as well as access to public transit routes and alternative transportation modes. Urban Corridor districts should generally be located along arterial streets in neighborhoods surrounding the core of the city. Examples of these streets would include, but not be limited to, portions of Broadway, Calhoun Street, West Main Street, Pontiac Street, East State Street, and Wells Street.

(B) Permitted Uses[166]

The uses listed below are permitted as a matter of right in the UC districts; drive-through facilities, gas stations, gas stations and/or gas pumps/canopies shall not be permitted as either a primary or an accessory use in this district.

UC URBAN CORRIDOR USE CATEGORIES [167]		
Clothing	Medical facility or office	Residential facility, limited
Community facility	Personal service	Retail, limited
Electronics	Professional office/business service	Studio
Food and beverage service	Recreation/Tourism, limited	Universally permitted use
Instruction/training/education	Residential facility, general	Miscellaneous use

UC URBAN CORRIDOR SPECIFIC PERMITTED USES (drive-through facilities, gas stations and/or gas pumps/canopies shall not be permitted as either a primary or an accessory use)		
Accessory building, structure	Craft instruction	Multiple family complex
Accountant	Craft studio	Multiple family dwelling
Adoption service	Craft supply store	Museum
Adult care center	Credit service	Music instruction
Adult care home	Credit union	Music store
Advertising	Customer service facility	Music/recording studio
Air conditioning sales	Dance instruction	Musical instrument store

[165] District designation changed from CM5C and district name changed from Neighborhood Commercial Corridor
[166] Permitted uses have been revised to update and align the ordinance, and put into tables; all permitted uses are listed in each district; several existing permitted CM5C uses have been eliminated.
[167] "Indoor Animal" category and uses deleted since Phase 3 drafts

UC URBAN CORRIDOR SPECIFIC PERMITTED USES (drive-through facilities, gas stations and/or gas pumps/canopies shall not be permitted as either a primary or an accessory use)		
Animal grooming (indoor)	Data processing facility	Nail salon
Animal hospital (indoor)	Data storage facility	Neighborhood facility
Animal kennel (indoor)	Dating service	Nursing home
Animal obedience school (indoor)	Day care	Nutrition service
Answering service	Day spa	Ophthalmologist
Antique shop	Delicatessen	Optician
Apparel and accessory store	Dentist	Optometrist
Appraiser	Department store	Package liquor store
Arcade	Diagnostic center	Paint store
Architect	Dialysis center	Park or recreation area
Art gallery	Diaper service facility	Parking structure[(1)]
Art instruction	Dinner theater	Pet store
Artist material and supply store	Doctor	Photographic supply store
Artist studio	Dormitory	Photography studio
Assisted living facility	Driving instruction	Photography training
Attorney	Drug store	Physical therapy facility
Audiologist	Dry cleaning store	Picture framing facility
Audio-visual studio	Embroidery	Planetarium
Automobile accessory store (indoor)	Employment agency	Podiatrist
Automobile rental (indoor)	Engineer	Radio station
Automobile sales (indoor)	Entertainment facility (indoor)	Real estate
Bait sales	Fabric shop	Reception/banquet hall
Bakery goods	Farmer's market (with outdoor uses)	Rehabilitation facility
Bank	Finance agency	Religious institution/school field
Bankruptcy service	Financial planning service	Rental and/or leasing store
Bar or tavern	Fireworks sales (indoor)	Residential dwelling unit
Barber shop	Fitness center	Restaurant
Barber/beauty school	Flea market (indoor)	Retirement facility
Beauty shop	Floor covering store	Riding stable
Bed and breakfast	Florist	Savings and loan
Bicycle sales and repair shop	Foundation office	School
Billiard or pool hall	Fruit and/or vegetable store	Security service
Bingo establishment	Funeral home	Shoe store/shoe repair shop
Blood bank	Furniture store	Sign sales store
Blood or plasma donor facility	Furrier	Single family dwelling (attached)
Boarding house	Gift shop	Single family dwelling (detached)
Book store	Glass cutting/glazing shop	Skating rink
Bookkeeping service	Graphic design service	Sleep disorder facility
Bowling alley	Grocery store or supermarket	Social service agency
Broker	Gymnastics instruction	Sporting goods sales and rentals
Business training	Hardware store	Stained glass studio
Card and stationery store	Health club	Stock and bond broker
Catalog showroom	Heating sales	Surgery center
Caterer	Hobby shop	Swim club (indoor)
Child care center	Hospice care center	Tailor/alteration service
Child care home (class I)	Hospital	Tanning salon
Chiropractor	Insurance agency	Tattoo establishment[(2)]
Cigarette/tobacco/cigar store	Interior decorating store	Tax consulting

UC URBAN CORRIDOR SPECIFIC PERMITTED USES (drive-through facilities, gas stations and/or gas pumps/canopies shall not be permitted as either a primary or an accessory use)		
Clinic	Interior design service	Taxi service
Clock, watch, or jewelry sales/repair	Internet/web site service	Telephone sales and service
Clothing store	Investment service	Television station
Club	Laboratory	Tennis club (indoor)
Coffee shop	Land surveyor	Theater (indoor)
Coin shop	Laundromat/coin operated laundry	Title company
Collection agency	Leather goods or luggage store	Townhouse complex
Community garden	Legal service	Townhouse dwelling
Computer sales and service	Library	Toy store
Computer software store	Live-work unit	Travel agency
Computer training	Loan office	Tutoring service
Confectionery/ice cream/candy store	Marketing agency	Two family dwelling
Consignment shop	Martial arts training	Variety store
Consulting service	Massage therapy	Veterinary clinic
Consumer electronics sales/service	Meat or fish market	Wedding consultant
Convenience store	Medical training	Weight loss service
Copy or duplicating service	Micro or mini-brewery/brewpub	Window sales
Cosmetic store	Model unit	Yoga/pilates instruction
Costume and clothing rental	Mortgage service	
Counseling service	Movie and game sales and rental	
Note: (1) If integrated within the footprint of a new building for a permitted primary use (2) New tattoo facilities shall be located a minimum of 500 feet from any existing facility, as measured from the closest property lines.		

(C) Special Uses[168]

(1) Animal keeping (small)

(2) Child care home (class II)

(3) Community garden that includes a structure or water

(4) Educational institution-associated uses (on non-contiguous properties)

(5) Fraternity house

(6) Group residential facility (large)

(7) Group residential facility (small)

[168] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; “small animal keeping”, “community garden”, “educational institution”, “fraternity house”, “group residential facility (large)”, “group residential facility (small)”, “homeless/emergency shelter”, “Type II manufactured home”, “nature preserve”, “nonconforming use”, “recreation facility”, “religious institution/school illuminated athletic field and parking area”, “residential facility for homeless individuals”, “residential facility for a court-ordered re-entry program”, “indoor shooting range”, “sorority house”, “single family dwelling”, “ground mounted solar panel”, “subdivision amenity”, and “private utility facility” uses were added. Since Phase 3 drafts, standard wind energy systems and micro wind energy systems adjacent to residential districts were removed from this list.

(8) Home business (for single family detached buildings only)

(9) Homeless/emergency shelter (accessory to a church)

(10) Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)

(11) Nature preserve (with parking areas or structures)

(12) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(13) Parking structures (public or private)

Parking structures integrated within the footprint of a new building for a permitted primary use shall not require a special use approval under this provision. In addition to meeting the requirements set forth in §157.503(D)(2), the Board shall evaluate the request based on the following standards and guidelines:

(a) Parking structures should contain commercial or residential uses along the street frontages where practical to encourage pedestrian oriented uses and activity at the street level. If commercial or residential uses are not provided, parking structures shall maintain a minimum 10' setback along yards with a street frontage. The Board may require a greater setback on a case-by-case basis.

(b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new parking structure is connected to an existing or proposed building, then the parking structure shall be compatible with that building.

(c) If a new parking structure is not connected to an existing or proposed building, then the parking structure shall be compatible with the proposed building or one or more structures adjoining the parking structure.

(14) Recreation facility or use, private (athletic field, riding stable, swim club, tennis club)

(15) Religious institution or school illuminated athletic field(s)

(16) Residential facility for a court-ordered re-entry program

(17) Residential facility for homeless individuals

(18) Sorority house

(19) Solar panel (ground mounted)

(20) Subdivision amenity

(21) Utility facility, private (not otherwise permitted or exempt)

(D) Accessory Buildings, Structures and Uses[169]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items).
Note: (1) Also permitted for nonresidential uses	

[169] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[170]

(1) The standards in the following table shall apply in the UC district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

UC URBAN CORRIDOR DEVELOPMENT STANDARDS	
Height (maximum) (1)	
Primary building (2)	60′
Accessory building or structure (3)	60′
Front yard	
All lots	0′ minimum 10′ maximum
Side yard (4)	
Accessory and primary buildings and structures – interior side yard	0′ minimum
Accessory and primary buildings and structures – corner lot side street	0′ minimum 20′ maximum
Rear yard	
Primary building	25′
Accessory building or structure	25′ (4)

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) New primary structures shall have two occupiable stories
(3) Accessory structures shall not exceed 25% of the ground floor area of the primary building
(4) Accessory buildings or structures shall be located to the side or rear of the primary building, and shall be constructed or placed to minimize visibility from public rights-of-way

[170] The development standards have been revised to update the ordinance. Accessory building or structure height increased to up to the height of the primary building.

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [171]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS

Buildings/structures	Required Yard		
	Front	Side	Rear
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′	May project up to 2′
Awning or canopy(4)	May project up to 4′	May project up to 4′(2)	May project up to 4′(3)
Balcony or open stairway(4)	May project up to 4′	May project up to 4′(2)	May project up to 4′(3)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(5)	Not permitted(5)	Not permitted(5)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (4)	May project up to 8′	May project up to 4′(2)	May project up to 8′(3)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(5)	Not permitted(5)	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(1)	Permitted(2)	Permitted(5)
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(3)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(5)	Permitted(6)	Permitted(6)
Wall (retaining)	Permitted(7)	Permitted(6)	Permitted(6)

Notes:
(1) May be located within required yard with no setback
(2) However, a 3′ side yard shall be maintained
(3) However, a 5′ rear yard shall be maintained
(4) If not adjacent to a residential district; shall not project if adjacent to a residential district
(5) Shall meet minimum primary structure setback

[171] The additional yard location and yard projection standards have been revised to update and the ordinance.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS
(6) However, fences and walls shall meet corner lot primary structure setback standard (7) Up to 3 feet in height

§ 157.221 BTI BUSINESS, TECHNOLOGY, AND INDUSTRIAL PARK [172]

(A) Purpose[173]

The Business, Technology, and Industrial Park districts are intended to create areas for the development of limited intensity assembly, fabrication, office, medical, technology, and research facilities, including corporate campus and similar development, with quality, integrated architectural and site design which is compatible with adjacent development and creates minimal impacts outside of the buildings.

(B) Permitted Uses[174]

The following uses, along with any other use determined to be a permitted use by the Plan Commission, shall be permitted as a matter of right in a BTI district. Outdoor display or storage shall not be permitted.

BTI BUSINESS, TECHNOLOGY AND INDUSTRIAL PARK SPECIFIC PERMITTED USES	
Accessory building/structure/use	Limited assembly and fabrication of: (continued)
Apparel fabrication and processing	Optical instruments
Assembly of finished products	Scientific and precision instruments
Bioscience development/research testing	Service industry machines
Business incubation office or laboratory	Specialty equipment
Computer/other software	Machine design facility
Corporate campus	Machine tool shop
Cosmetic product compounding	Medical device technology
Information technology	Pharmaceutical product compounding
Internet applications or products	Product research and development
Laboratory (testing)	Technology use or service
Limited assembly and fabrication of:	Vehicle technology (advanced)
Bio-medical/orthopedic products	Universally permitted use
Communication and computation equipment	Warehouse/storage facility
Computers and electronics	Wholesale facility
Computer hardware products	Wind energy conversion system (micro) (1)
Industrial controls	Wind energy conversion system (standard) (2)
Medical devices	Woodworking/carpentry
Orthopedic devices	
Notes: (1) If not adjacent to a residential district (2) If on land of over two acres not adjacent to a residential district	

[172] New zoning district, based on existing County C1B district
[173] New purpose statement
[174] New permitted uses provisions; outdoor storage and display provisions included

(C) Special Uses[175]

(1) Commercial communication towers

(2) Illuminated recreation field (if adjacent to residential district)

(3) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(4) Solar panel (ground-mounted)

(5) Wind energy conversion system, micro (on land adjacent to a residential district, or to erect an additional micro system or systems)

(6) Wind energy conversion (WEC) system, standard (on land of under two acres, or on land adjacent to a residential district)

[175] New special use provisions

(D) Accessory Buildings, Structures and Uses[176]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items).
Note: (1) Also permitted for nonresidential uses	

[176] New provisions based on proposed accessory buildings, structures, and uses provisions in other districts

(E) Development Standards[177]

(1) The standards in the following table shall apply in the BTI district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following).

BTI BUSINESS, TECHNOLOGY, AND INDUSTRIAL PARK DEVELOPMENT STANDARDS			
Height (maximum) (1)			
Primary or accessory nonresidential building or structure			40′
Primary or accessory residential facility building or structure			Up to two stories or 30′ (2)
Front yard			
Non-through lot			50′
Through lot			50′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building or structure – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) (2)			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Primary building – outside activity behind the building) (2)			
50′			
Accessory building or structure			

[177] New development standards provisions, based on existing County C1B district and other nonresidential districts.

BTI BUSINESS, TECHNOLOGY, AND INDUSTRIAL PARK DEVELOPMENT STANDARDS			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall include building access, delivery/loading areas, and drives

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [178]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence	Permitted(5)	Permitted(5)

[178] New standards, based on proposed nonresidential standards.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS

Buildings/structures	Required Yard		
	Front	Side	Rear
	permitted(1)		
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:

(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.222 I1 LIMITED INDUSTRIAL [179]

(A) Purpose[180]

The Limited Industrial district is intended to provide areas in which goods are produced for direct consumption by consumers. Limited industrial uses typically involve final assembly of goods produced from prepared materials, finished products or parts; distribution of finished goods; low intensity industrial or manufacturing operations; or wholesale and/or storage activities. The I1 district may serve as a buffer between heavier industrial districts and business or residential districts.

(B) Permitted Uses[181]

A limited industrial use creates minimal impacts outside of the buildings and includes limited outdoor storage. The following uses are permitted as a matter of right in an I1 district. Outdoor storage shall only be permitted between the rear of the building and the rear lot line, up to the square footage of the primary structure, and shall be screened from adjacent residential zoning and public street rights of way.

I1 LIMITED INDUSTRIAL SPECIFIC PERMITTED USES[182]	
Accessory building, structure, or use	Equipment supply facility for (continued):
Air freight service	Radio/communication
Apparel fabrication and processing	Restaurant
Bakery	Telecommunication
Bioscience development, research, or testing	Trade show/exhibit
Boat dry dock facility	Truck
Brewery (micro)	Water softening/purification
Business incubation office or laboratory	Welding
Computer/other software	Freight service
Contractor (construction, excavation, landscape)	Furniture production
Cosmetic product compounding	Group residential facility (large)(1)
Crematory	Group residential facility (small)
Dairy/creamery	Homeless/emergency shelter
Distillery (micro)	Laboratory (testing)
Distribution facility for:	Lathe/screw machine products
Batteries	Limited assembly and fabrication of:
Beer	Bio-medical/orthopedic products
Building materials	Communication and computation equipment
Electrical parts	Computers and electronics
Food	Computer hardware products
Janitorial supplies	Industrial controls

[179] District designation changed from IN1
[180] Purpose statement updated and simplified
[181] Permitted uses have been revised to update and align the County and Fort Wayne ordinances and put into tables; all permitted uses are listed in each district; outdoor storage and display provisions added
[182] Since Phase 3 drafts, "boat dry dock facility", "dry cleaning/laundry facility (central)", "group residential facility (large) (if not adjacent to a residential district)", "group residential facility (small)", and "residential facility for homeless individuals (if not adjacent to a residential district)" uses have been added to this list; "equipment rental" has been revised to "equipment rental (limited)",

I1 LIMITED INDUSTRIAL SPECIFIC PERMITTED USES[182]	
Lubrication	Medical devices
Machines	Orthopedic devices
Medical supplies	Optical instruments
Oil	Scientific and precision instruments
Paint	Service industry machines
Petroleum products	Specialty equipment
Pipe	Machine design facility
Plumbing fixtures	Machine tool shop
Soft drinks	Maintenance/repair facility (not otherwise permitted)
Steel	Medical device technology
Tires (new)	Pharmaceutical product compounding
Truck bodies	Printing facility
Vending machines	Printing press
Windows	Product research and development
Dry cleaning/laundry facility (central)	Refurbishing facility (household items)
Equipment rental (general)	Research and development facility
Equipment supply facility for:	Residential facility for homeless individuals(1)
Air purification	Technology use or service
Electrical	Tool and die facility
Electric wire and cable	Utility facility (private)
Fire protection	Vehicle technology (advanced)
Food service	Welding service
Heating, ventilation, or air conditioning	Warehouse/storage facility
Industrial	Wholesale facility
Maintenance	Wind energy conversion system (micro) (1)
Mechanical	Wind energy conversion system (standard) (2)
Medical	Winery (micro)
Power transmission	Woodworking/carpentry

Notes:
(1) If not adjacent to a residential district
(2) If on land of over two acres not adjacent to a residential district

I1 LIMITED INDUSTRIAL COMMERCIAL USE CATEGORIES		
Animal service, indoor	Food and beverage service	Recreation/Tourism, limited
Automobile service, limited	Instruction/training/education	Residential facility, general
Clothing	Medical facility or office	Retail, limited
Community facility	Personal service	Studio
Electronics	Professional office/business service	Universally permitted use

(C) Special Uses[183]

(1) Commercial communication towers (see § 157.503(D)(3)(a) for additional standards)

(2) Gas station (the Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(9) (Downtown Edge district)).

(3) Group residential facility (large) (if adjacent to a residential district)

(4) Illuminated recreation field (if adjacent to residential district)

(5) Metal and plastic extrusion and molding facility

(6) Metal cutting facility

(7) Metal fabricating facility

(8) Metal processing facility (anodizing, buffing, galvanizing, plating, and polishing)

(9) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(10) Residential facility for a court-ordered re-entry program

(11) Residential facility for homeless individuals (if adjacent to a residential district)

(12) Sheet metal fabrication and/or processing

(13) Solar panel (ground-mounted)

(14) Wind energy conversion system, micro (on land adjacent to a residential district, or to erect an additional micro system or systems)

(15) Wind energy conversion (WEC) system, standard (on land of under two acres, or on land adjacent to a residential district)

[183] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; “construction contractor”, “gas station”, “illuminated recreation field”, “sheet metal cutting and fabricating facility”, “nonconforming use”, “ground mounted solar panel”, and “wind energy conversion system” uses were added; “off-site campus housing”, “off-site sign”, “parking area fencing”, “railroad switching yard”, and “residential” uses were removed. Since Phase 3 drafts, “dairy/creamery”, “distillery (micro)”, “equipment rental (general)”, “group residential facility (large) (if adjacent to a residential district)”, “metal and plastic extrusion and molding facility”, “metal processing facility (anodizing, buffing, galvanizing, plating and polishing)”, “residential facility for a court-ordered re-entry program”, “residential facility for homeless individuals (if adjacent to a residential district)”, and “winery (micro)” uses were added to this list.

(D) Accessory Structures and Uses[184]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items).
Note: (1) Also permitted for nonresidential uses	

[184] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[185]

(1) The standards in the following table shall apply in the I1 district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following).

I1 LIMITED INDUSTRIAL DEVELOPMENT STANDARDS			
Height (maximum) (1)			
Primary or accessory nonresidential building or structure			50′
Primary or accessory residential facility building or structure			Up to two stories or 30′(2)
Front yard			
Non-through lot			25′
Through lot			25′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq .ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building or structure – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) (2)			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Primary building – outside activity behind the building) (2)			
50′			

[185] The development standards have been revised to update and align the County and Fort Wayne ordinances. Primary nonresidential height increased to 50′; residential structures permitted up to 30′; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

I1 LIMITED INDUSTRIAL DEVELOPMENT STANDARDS			
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall building access, delivery/loading areas, drives, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [186]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in	Open or	Permitted(5)	Permitted(5)

[186] The additional yard location and yard projection standards have been revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS

Buildings/structures	Required Yard		
	Front	Side	Rear
height; other fencing permitted up to 8′ in height)	ornamental fence permitted(1)		
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:

(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.223 I2 GENERAL INDUSTRIAL [187]

(A) Purpose[188]

The General Industrial district is intended to provide areas for assembly, distribution, fabricating, manufacturing, and processing industries where the operation is enclosed within a building and conducted in such a manner that no adverse impacts are created or emitted outside of the building(s).

(B) Permitted Uses[189]

The following uses are permitted as a matter of right in an I2 district. Except for automobile, boat, and similar vehicle sales uses, outdoor display shall meet the building setback standards; display area shall be limited to a maximum of 10% of the primary structure or tenant space; outdoor storage shall be allowed between the front façade of the building and the rear lot line and shall be screened from adjacent residential zoning districts and public street rights of way.

I2 GENERAL INDUSTRIAL SPECIFIC PERMITTED USES[190]	
Accessory building, structure, or use	Mechanical
Air freight service	Medical
Apparel fabrication and processing	Power transmission
Assembly of finished products	Radio/communication
Assembly facility for/manufacturing of:	Restaurant
Adhesive/glue	Telecommunication
Agricultural implements	Trade show/exhibit
Aircraft	Truck
Animal feed	Water softening/purification
Appliances	Welding
Automobiles	Foundry
Bicycles	Freight service
Boats	Furniture production
Carbon steel pipe and tubing	Group residential facility (small)
Computers	Group residential facility (large)(1)
Concrete and concrete products	Laboratory (testing)
Electronics	Lathe/screw machine products
Insulation	Limited assembly and fabrication of:
Manufactured homes	Bio-medical/orthopedic products
Modular buildings	Communication and computation equipment
Motorcycles	Computers and electronics

[187] District designation changed from IN2
[188] Purpose statement updated and simplified;
[189] Permitted uses have been revised to update and align the County and Fort Wayne ordinances and put into tables; all permitted uses are listed in each district; outdoor storage and display provisions added
[190] Since the Phase 3 drafts, the following changes have been made: "(general)" added after "equipment rental", "metal (anodizing, buffing, galvanizing, plating, polishing)" has been added under "processing facility"; "ceramic product fabrication", "compounding (chemical, cleaning supply, cosmetic, pharmaceutical)", "group residential facility (large) (if not adjacent to a residential district)", "group residential facility (small)", "metal and plastic extrusion and molding facility", "residential facility for homeless individuals (if not adjacent to a residential district)", "wind energy conversion system (micro), and "wind energy conversion system (standard) uses have been added; "fuel storage facility" use has been removed.

I2 GENERAL INDUSTRIAL SPECIFIC PERMITTED USES[190]	
Motors	Computer hardware products
Paper/paper products	Industrial controls
Recreational vehicles	Medical devices
Spas	Optical instruments
Stainless steel	Orthopedic devices
Steel	Scientific and precision instruments
Tile	Service industry machines
Tires	Specialty equipment
Valves	Machine design facility
Bakery	Machine tool shop
Bio-medical/orthopedic equipment	Magnet wire facility
Bioscience development/research testing	Maintenance/repair facility
Bottling facility	Medical device technology
Brewery	Metal and plastic extrusion and molding facility
Canvas product fabrication	Metal cutting
Ceramic product fabrication	Metal fabricating
Compounding of:	Packaging facility
Chemicals	Printing facility
Cleaning supplies	Printing press
Cosmetics	Processing facility for:
Pharmaceuticals	Animals
Contractor (construction, excavation, landscape)	Animal products
Crematory	Lumber
Distillery	Metal (anodizing, buffing, galvanizing, plating, polishing)
Distribution facility for:	Raw Materials
Batteries	Timber
Beer	Propane/bottled gas facility
Building materials	Product research and development
Electrical parts	Railroad spur
Food	Recycling processing facility
Janitorial supplies	Refractory
Lubrication	Refurbishing facility
Machines	Research and development facility
Medical supplies	Residential facility for homeless individuals [(1)]
Oil	Sales yard for:
Paint	Building materials
Petroleum products	Lumber
Pipe	Sand, gravel, stone
Plumbing fixtures	Sheet metal fabrication
Soft drinks	Sheet metal processing
Steel	Technology use or service
Tires (new)	Tool and die facility
Truck bodies	Tree service
Vending machines	Truck depot/terminal
Windows	Truck stop
Equipment supply facility for:	Utility facility (private)
Air purification	Vehicle technology (advanced)

I2 GENERAL INDUSTRIAL SPECIFIC PERMITTED USES[190]	
Electrical	Welding service
Electric wire and cable	Warehouse/storage facility
Fire protection	Wind energy conversion system (micro)(1)
Food service	Wind energy conversion system (standard)(2)
Heating, ventilation, or air conditioning	Wholesale facility
Industrial	Woodworking/carpentry
Maintenance	
Notes: (1) If not adjacent to a residential district (2) If on land of over two acres not adjacent to a residential district	

I2 GENERAL INDUSTRIAL USE CATEGORIES		
Animal service (indoor)[191]	Food and beverage service	Residential facility, general
Animal service (outdoor)	Instruction/training/education	Retail, limited
Automobile service, general(1)	Medical facility or office	Retail/service, genral
Automobile service, limited	Personal service	Studio
Clothing	Professional office/business service	Universally permitted use
Community facility	Recreation, general	
Electronics	Recreation/tourism, limited	
(1) Excluding gas stations		

(C) Special Uses[192]

(1) Commercial communication towers (see § 157.503(D)(3)(a) for additional standards)

(2) Fuel storage facility

(3) Gas station (the Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(9) (Downtown Edge district)).

(4) Group residential facility (large) (if adjacent to a residential district)

(5) Illuminated recreation field (if adjacent to residential zoning)

(6) Junk yard

(7) Motor vehicle storage yard

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[191] "(Indoor)" added since Phase 3 drafts.

[192] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; "fuel storage facility", "gas station", "illuminated recreation field", "nonconforming use", "processing facility", "ground mounted solar panel", and "wind energy conversion system" uses were added; "off-site sign", "parking area fencing", "railroad switching yard", and "waste management and remediation" uses were removed. Since Phase 3 drafts, "automobile service, general", "freight service", "group residential facility (large) (if adjacent to a residential district)", "residential facility for a court-ordered re-entry program", "residential facility for homeless individuals (if adjacent to a residential district)", "sawmill", and "truck terminal/depot" uses were added to this list; "processing facility" was removed.

(8) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(9) Residential facility for a court-ordered re-entry program

(10) Residential facility for homeless individuals (if adjacent to a residential district)

(11) Salvage yard

(12) Sawmill

(13) Solar panel (ground-mounted)

(14) Solid waste transfer station

(15) Wind energy conversion system, micro (on land adjacent to a residential district, or to erect an additional micro system or systems)

(16) Wind energy conversion (WEC) system, standard (on land of under two acres, or on land adjacent to a residential district)

(D) Accessory Structures and Uses[193]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items)
Note: (1) Also permitted for nonresidential uses	

[193] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[194]

(1) The standards in the following table shall apply in the I2 district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following).

I2 GENERAL INDUSTRIAL DEVELOPMENT STANDARDS			
Height (maximum) [(1)]			
Primary or accessory nonresidential building or structure			50′
Primary or accessory residential facility building or structure			Up to two stories or 30′[(2)]
Front yard			
Non-through lot			25′
Through lot			25′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building or structure – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) [(2)]			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		25′	10′
Over 30′		50′	25′
Primary building – outside activity behind the building) [(2)]			
50′			

[194] The development standards have been revised to update and align the County and Fort Wayne ordinances. Residential structures permitted up to 30′; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

I2 GENERAL INDUSTRIAL DEVELOPMENT STANDARDS			
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall building access, delivery/loading areas, drives, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [195]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted
Fence (open/ornamental fence permitted up to 3′ in	Open or	Permitted(5)	Permitted(5)

[195] The additional yard location and yard projection standards have been revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS

Buildings/structures	Required Yard		
	Front	Side	Rear
height; other fencing permitted up to 8′ in height)	ornamental fence permitted(1)		
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:

(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

§ 157.224 I3 INTENSIVE INDUSTRIAL [196]

(A) Purpose[197]

The Intensive Industrial district is intended to provide areas for intense industrial uses such as fabricating, manufacturing, processing, extraction, heavy repair and dismantling industries where outside operations and storage areas may be required. Due to the nature of these industries, districts are typically located away from residential areas and districts. I3 districts should be buffered by less intensive industrial or commercial districts to minimize adverse impacts on surrounding land uses.

(B) Permitted Uses[198]

The following uses are permitted as a matter of right in an I3 district. Except for automobile, boat, and similar vehicle sales uses, outdoor display shall meet the building setback standards; display area shall be limited to a maximum of 10% of the primary structure or tenant space; outdoor storage shall be allowed between the required front setback line and the rear lot line and shall be screened from adjacent residential zoning districts and public street rights of way.

I3 INTENSIVE INDUSTRIAL SPECIFIC PERMITTED USES[199]	
Air freight service	Equipment supply facility for (continued):
Apparel fabrication and processing	Industrial
Asphalt plant	Maintenance
Assembly of finished products	Mechanical
Assembly facility for/manufacturing of:	Medical
Adhesive/glue	Power transmission
Agricultural implements	Radio/communication
Aircraft	Restaurant
Animal feed	Telecommunication
Appliances	Trade show/exhibit
Automobiles	Truck
Bicycles	Water softening/purification
Boats	Welding
Carbon steel pipe and tubing	Foundry
Computers	Freight service
Concrete and concrete products	Fuel storage facility

[196] District designation and name changed from IN3/Heavy Industrial
[197] Purpose statement updated and simplified
[198] Permitted uses have been revised to update and align the County and Fort Wayne ordinances and put into tables; all permitted uses are listed in each district; outdoor storage and display provisions added
[199] Since Phase 3 drafts, "assembly" and "manufacturing" categories have been combined; "construction contractor" was revised to "contractor (construction, excavation, landscaping)"; "solid waste facility/transfer station" was revised to "solid waste transfer station", "cosmetic product compounding" and "pharmaceutical product compounding" have been combined into a single category with chemical and cleaning product compounding; "light assembly" has been revised to "limited assembly"; and "group residential facility (large) (if not adjacent to a residential district)", "group residential facility (small)", "metal and plastic extrusion and molding facility", "motor vehicle storage area", "residential facility for homeless individuals (if not adjacent to a residential area", "sawmill", "wind energy conversion (micro)", "wind energy conversion (standard)", and "winery" uses have been added.

I3 INTENSIVE INDUSTRIAL SPECIFIC PERMITTED USES[199]	
Electronics	Furniture production
Insulation	Gas station
Manufactured homes	Group residential facility (large)[(1)]
Modular buildings	Group residential facility (small)
Motorcycles	Junk yard
Motors	Laboratory (testing)
Paper/paper products	Lathe/screw machine products
Recreational vehicles	Limited assembly and fabrication of:
Spas	Bio-medical/orthopedic
Stainless steel	Communication and computation equipment
Steel	Industrial controls
Tile	Optical instruments
Tires	Scientific and precision instruments
Valves	Service industry machines
Bakery	Specialty equipment
Bio-medical/orthopedic equipment	Machine design facility
Bioscience development/research testing	Machine tool shop
Bottling facility	Magnet wire facility
Brewery	Maintenance/repair facility
Canvas product fabrication	Medical device technology
Compounding of:	Metal and plastic extrusion and molding facility
Chemicals	Metal cutting
Cleaning supplies	Metal fabricating
Cosmetics	Motor vehicle storage yard
Pharmaceuticals	Packaging facility
Concrete plant	Printing facility
Contractor (construction, excavation, landscape)	Printing press
Crematory	Processing facility for:
Distillery	Animals
Distribution facility for:	Animal products
Batteries	Lumber
Beer	Raw materials
Building materials	Timber
Electrical parts	Propane/bottled gas facility
Food	Product research and development
Janitorial supplies	Railroad spur
Lubrication	Recycling processing facility
Machines	Refractory
Medical supplies	Refurbishing facility
Oil	Research and development facility
Paint	Residential facility for homeless individuals[(1)]
Petroleum products	Salvage yard
Pipe	Sheet metal fabrication
Plumbing fixtures	Sheet metal processing
Soft drinks	Solid waste transfer station
Steel	Technology use or service
Tires (new)	Tool and die facility
Truck bodies	Truck depot/terminal

I3 INTENSIVE INDUSTRIAL SPECIFIC PERMITTED USES[199]	
Vending machines	Truck stop
Windows	Utility facility (private)
Equipment rental	Vehicle technology (advanced)
Equipment supply facility for:	Welding service
Air purification	Warehouse/storage facility
Electrical	Wholesale facility
Electric wire and cable	Wind energy conversion system (micro)(1)
Fire protection	Wind energy conversion system (standard)(2)
Food service	Winery
Heating, ventilation, or air conditioning	Woodworking/carpentry
Notes: (1) If not adjacent to a residential district (2) If on land of over two acres not adjacent to a residential district	

I3 INTENSIVE INDUSTRIAL USE CATEGORIES		
Animal service, indoor	Food and beverage service	Recreation/tourism, limited
Animal service, outdoor	Instruction/training/education	Residential facility, general
Automobile service, general	Medical facility or office	Retail/service, general
Automobile service, limited	Personal service	Retail, limited
Clothing	Professional office/business service	Studio
Community facility	Recreation, general	Universally permitted use
Electronics		

(C) Special Uses[200]

(1) Commercial communication towers (see § 157.503(D)(3)(a) for additional standards)

(2) Group residential facility (large) (if adjacent to a residential district)

(3) Illuminated recreation field (if adjacent to a residential district)

(4) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)

(5) Open use of land (not otherwise permitted)

(6) Residential facility for a court-ordered re-entry program

(7) Residential facility for homeless individuals (if adjacent to a residential district)

(8) Sawmill

[200] Special uses have been revised to update and align the County and Fort Wayne ordinances; most standards moved to BZA section; illuminated recreation field, nonconforming use, open use of land, ground mounted solar panel, and wind energy conversion system uses added; hazardous waste facility, junk and salvage yard, motor vehicle storage yard, off site sign, parking area fencing, railroad switching yard, solid waste transfer station, and waste management and remediation facility use provisions removed. Since Phase 3 drafts, "group residential facility (large) (if adjacent to a residential district)", "residential facility for a court-ordered re-entry program", and "residential facility for homeless individuals (if adjacent to a residential district)" uses were added.

(9) Solar panel (ground-mounted)

(10) Wind energy conversion system, micro (on land adjacent to a residential district, or to erect an additional micro system or systems)

(11) Wind energy conversion (WEC) system, standard (on land of under two acres, or on land adjacent to a residential district)

(D) Accessory Structures and Uses[201]

The noted accessory buildings, structures, and uses shall be permitted as set forth below:

UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES		
Accessory dwelling unit (1)	Hedge	Satellite dish
Access ramp	Holiday decorations	Shed or other storage building
Address marker	Landscape elements	Sign
Arbor or pergola	Mailbox	Solar panels (building mounted)
Bird bath/house	Name plate	Swimming pool
Carport	Newspaper delivery box	Swing set
Deck	Patio	Television aerial
Driveway	Play equipment	Trellis
Fence	Pond	Utility fixture
Flagpole	Property boundary marker	Walk
Garage	Radio antenna (amateur)	Wall
Gazebo	Rain barrel	Yard light
Geothermal system	Rain garden	
Note: (1) If integrated into an existing single family detached residence		

RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES	RELIGIOUS INSTITUTION ACCESSORY BUILDINGS, STRUCTURES, AND USES
Basketball backboard and goal	Athletic or recreation fields (non-illuminated)
Bath house or cabana	Assembly building, including hall and gymnasium
Day care	Bleachers or similar structures
Dog/pet house	Clothing bank
Garage or yard sale	Convent, parsonage, rectory, or similar residence
Garden (private)	Day care
Greenhouse	Donation site/recycling collection point (1)
Grill	Dumpster(1)
4H/similar indoor small animal project	Family counseling or education
Home occupation	Food bank
Hot tub, Jacuzzi, or spa	Maintenance building
Smoke house/oven (outdoor)	Outdoor events (short-term)
Tree house	Performances (indoor)
	Shop (for sale of church-related items)
Note: (1) Also permitted for nonresidential uses	

[201] Provisions put into table, reorganized, updated, and aligned with Allen County language; permitted accessory uses expanded based on current practice; accessory dwelling unit, geothermal system, rain barrel/garden, satellite dish, and solar panels added as universally permitted accessory structures/uses

(E) Development Standards[202]

(1) The standards in the following table shall apply in the I3 district; all standards are minimum standards unless otherwise noted (see also the permitted yard projections and additional location standards on the following page).

I3 INTENSIVE INDUSTRIAL DEVELOPMENT STANDARDS			
Height (maximum) [(1)]			
Primary or accessory nonresidential building or structure			75′
Primary or accessory residential facility building or structure			Up to two stories or 30′[(2)]
Front yard			
Non-through lot			50′
Through lot			50′ at each end of the lot
With existing building(s) with a lesser front setback adjacent to the lot			The smallest existing nonconforming setback
Side yard (interior lot)			
Primary building			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	25′
Over 30′		50′	40′
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq. ft.	25′	5′
Over 25′	Over 200 sq. ft.	25′	25′
Side yard (corner lot)			
Primary building – corner lot street side yard			25′
Accessory building or structure – corner lot street side yard			25′
Rear yard			
Primary building – no outside activity behind the building) [(2)]			
Height		If adjacent to a residential district	If not adjacent to a residential district
Up to 30′		40′	10′
Over 30′		50′	40′
Primary building – outside activity behind the building) [(2)]			
50′			

[202] The development standards have been revised to update and align the County and Fort Wayne ordinances. Residential structures permitted up to 30′; new side and rear yard standards based on building height, residential adjacency, and outside activity added.

I3 INTENSIVE INDUSTRIAL DEVELOPMENT STANDARDS			
Accessory building or structure			
Height	Size	If adjacent to a residential district	If not adjacent to a residential district
Up to 25′	Up to 200 sq ft	25′	5′
Over 25′	Over 200 sq ft	40′	25′

Notes:
(1) See §157.405(C) in Development Standards Waivers and Exceptions for exceptions; §157.409 Signs for maximum sign heights; and §157.404(O) Residential Impact Mitigation and §157.411 Airport Overlay Districts for additional restrictions
(2) Whichever is less
(3) Outside activity shall include building access, delivery/loading areas, drives, and storage

(2) Except as noted in the table below, buildings and structures shall not project into or be located in a required yard. [203]

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS			
Buildings/structures	**Required Yard**		
	Front	**Side**	**Rear**
Access ramp	Permitted(1)	Permitted(1)	Permitted(1)
Arbor, basketball goal, bird bath/house/feeder, driveway, flagpole, garden (private), landscape elements, mail/newspaper delivery box, property boundary marker, small satellite dish, trellis, yard light	Permitted(1)	Permitted(1)	Permitted(1)
Architectural feature (belt course, chimney, cornice, eave, fireplace, overhang, sill, bay/bow window, or similar feature)	May project up to 2′	May project up to 2′(2)	May project up to 2′
Awning or canopy (3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Balcony or open stairway(3)	May project up to 4′	May project up to 4′(2)	May project up to 4′(2)
Bath house/cabana, carport, garage, gazebo, greenhouse, pergola, shed, smoke house (personal), swimming pool	Not permitted(4)	Not permitted(4)	Not permitted(4)
Deck, landing, porch, or stoop, open (shall not extend above the height of the first floor) (3)	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Dog/pet house, grill, hot tub, oven (outdoor), play equipment, radio antenna (amateur), large satellite dish, tree house	Not permitted(4)	Permitted	Permitted

[203] The additional yard location and yard projection standards have been revised to update and align the County and Fort Wayne ordinances.

ADDITIONAL YARD LOCATION AND YARD PROJECTION STANDARDS

Buildings/structures	Required Yard		
	Front	Side	Rear
Fence (open/ornamental fence permitted up to 3′ in height; other fencing permitted up to 8′ in height)	Open or ornamental fence permitted(1)	Permitted(5)	Permitted(5)
Fire escape	May project up to 4′	May project up to 4′	May project up to 4′
Slab on grade patio	May project up to 8′	May project up to 4′(2)	May project up to 8′(2)
Wall (freestanding; permitted up to 8′ in height)	Not permitted(4)	Permitted(5)	Permitted(5)
Wall (retaining)	Permitted(6)	Permitted(5)	Permitted(5)

Notes:

(1) May be located within required yard with no setback
(2) However, a 5′ side or rear yard shall be maintained
(3) If not adjacent to a residential district; shall not project if adjacent to a residential district
(4) Shall meet minimum primary structure setback
(5) However, fences and walls shall meet corner lot primary structure setback standard
(6) Up to 3 feet in height

DEVELOPMENT PROCESSES AND STANDARDS

§ 157.301 DEVELOPMENT PLANS[204]

(A) Purpose[205]

The Development Plan process is intended to:

(1) Promote and encourage quality development that has a positive impact on surrounding structures and land uses;[206]

(2) Allow for public, Commission and staff review of and input on the site layout, access and circulation, and development quality of certain development proposals, the potential impacts of those proposals on surrounding areas, and the ability of Fort Wayne and other governmental or quasi-governmental entities to provide public services required by those developments.[207]

(3) In the DC and DE districts, to promote attractive and functional building forms; attractive and functional streetscape and public space design; compatibility of design, use, character, and pattern; increased pedestrian oriented design; and the use of high quality, durable materials.

(B) When Required[208]

(1) A Development Plan application shall be submitted and approved when an applicant is proposing the types of development indicated in the following table. If a Secondary Development Plan is not required, an administrative Site Plan Review process will generally be required following the Primary Development Plan approval.

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[204] From current 157.304 with numerous minor wording changes for clarity and to reflect current practice.
[205] From current 157.304(A) with significant revisions. The first list of purpose statements was deleted because it only served as a table of contents for the section and did not address the purpose of the Development Plan process. In addition, the long list of topics on which input can be made was deleted, because these details should be covered in the criteria for approval and staff allowed to comment on how applications meet those criteria. If left in the purpose statement, these issues could become inconsistent with the list of criteria against which applications are reviewed, which occurs in the substantive (not purpose) portions of the regulations.
[206] Clause "and the overall community" was deleted.
[207] List of comment topics consolidated to be more flexible and inclusive.
[208] Replaces current 157.304(B) and (C) with very significant revisions to reduce the number of applications that need to go through Development Plan approval. Pursuant to the Barriers Report and our discussions with DPS staff and the Planning Commissions, the triggers for requiring a Development Plan have now been narrowed to the items listed in the table that follows. This replaces the very complex lists of specific projects in specific zoning districts in specific adjacency situation not shown in 157.304(B) and (C), most of which should be addressed through either (a) the Special Use process, if the issue is the compatibility of the use to its surroundings, or (b) the Site Plan review process, if the issue is the design and layout of the proposed development to avoid adverse impacts on its neighbors. The additional standards chapter of the revised code will contain enhanced dimensional and buffering standards to address adjacency situations – particularly when the proposal is adjacent to a single family development. This is a major step to reduce development processing time, implement the recommendations of the Barriers Report, and bring the city and county codes into closer alignment. The definition of "adjacency" now embedded in this section (i.e. "For the purposes of this section, "adjacent" shall also include any property which is located directly across from the development site boundaries, and separated by a public right-of-way of 60 feet or less in width") and the existing definition of "existing residential land use" embedded in this section will be included in the definitions section of the revised code.

TYPE OF DEVELOPMENT	PRIMARY DEVELOPMENT PLAN REQUIRED	SECONDARY DEVELOPMENT PLAN REQUIRED
Rezoning (when accompanied by a specific development project proposal, for which the applicant is requesting Plan Commission approval)	✓	
Projects involving multiple buildings on a single lot, or on several contiguous lots, where each building is not located on a separate lot	✓	✓
Projects involving the phased construction of infrastructure or streets	✓	✓
Projects requesting a waiver from one or more ordinance standards	✓	
Projects requiring Design Review in DC and DE districts	✓	

(2) In addition to the provisions above, an applicant or property owner may choose to voluntarily submit a project or development through the Development Plan process.

(3) As part of its consideration and approval of a request for a contingent use, special use, or use variance, the Board of Zoning Appeals may require the submission and approval of a Development Plan.

(C) Primary Development Plans[209]

(1) Pre-Application Meeting[210]

DPS staff shall hold a pre-application meeting at least five (5) business days prior to the filing deadline for an application for approval of a Primary Development Plan. The purpose of this pre-application meeting is to:

(a) Acquaint the applicant with the standards, procedures and requirements of this ordinance, the Comprehensive Plan, and any other applicable standards, or requirements;

(b) Review the Development Plan procedures and submittal requirements;

(c) Acquaint the applicant with inherent limiting characteristics of the specific site or surrounding areas; and

(d) Reduce the time period between initial application and Commission approval,

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[209] From current §157.304 with significant changes as footnoted. Provisions for waiver of Development Plans have been replaced with general waiver provisions in Article 5 (Administration and Enforcement).

[210] Material carried over from current 157(D)(1) with revisions for clarity and to reflect current practice. This early consultation will allow DPS to narrow the list of required submittals to those relevant to the project and make it easier to enforce the complete application requirement. Minor wording changes were made and subsections (d) and (e) were added to clarify intent and align with the Allen County code. Clause on providing a tailored list of application requirements were deleted. Throughout this document, references to "developer" have been replaced with "applicant" for consistency.

(2) Submittal Requirements[211]

The applicant for a Primary Development Plan approval shall submit an application and fee, a Primary Development Plan Site Plan, and supporting information as established by the Commission's rules. Only applications that have been determined by DPS staff to be complete shall be placed on the Plan Commission's agenda for the next available public hearing. A determination made by DPS staff with regard to the completeness of a Primary Development Plan application may be appealed to the Commission pursuant to the Commission's rules.[212]

(3) Review[213]

(a) The Commission shall adopt filing fees, filing deadlines, meeting dates, and a hearing procedure for this process by rule.

(b) After receipt of a complete application, the DPS staff shall provide notice of the public hearing by publication in accordance with IC 5-3-1, and as established by the Commission's rules.[214]

(c) DPS staff shall review the application and shall make a recommendation on the application.[215] If the application involves land located in a DC or DE district, the Design Review Committee shall also make a recommendation on the application.

(d) The Commission shall hold a public hearing on the application for approval of the proposed Primary Development Plan, in accordance with the Commission's rules.

(4) Action and Additional Provisions

The following standards and requirements shall apply to the Commission's actions on a Primary Development Plan.

(a) Decision[216]

(i) After the public hearing on the Primary Development Plan, the Commission shall approve or deny the application. The Commission shall approve the Primary Development Plan if it determines that the application meets the development requirements of the applicable zoning district. The Plan Commission may approve the plan subject to conditions if the conditions are reasonably necessary to satisfy those development requirements..[217]

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[211] Detailed application material lists from current 157.304(D)(2), (3) and (4) have been moved to an administrative document – as discussed in the Barriers Report – which shortens the zoning ordinance, improves readability for those not anticipating filing an application, and enables the Plan Commission to revise the description of required materials quickly as DPS transitions to the electronic Accela system. Revised to require that all submittal materials be received before processing of the application begins, as recommended in the Barriers Report.
[212] Final sentence is from 157.304(D)(5)(e).
[213] From current 157.304(D)(2) and (D)(5). Revised from "approval" title in Phase 3 drafts.
[214] Notice requirements not required by state law have been moved to the Commission rules.
[215] New provision to reflect current practice of staff review and to add a requirement that staff make a recommendation, per the Barriers Report.
[216] Decision language simplified since Phase 3 drafts; criteria is whether the plan meets the development requirements.
[217] From current 157.304(D)(5)(c) and (d), with requirements (iv) and (v) added. Revised to provide that the decision should be made at the same meeting where the public hearing takes place, which is a courtesy to the public, promotes transparent government, and is consistent with the recommendations in the Barriers Report. These materials have been

(ii) In the DC and DE districts, the Plan Commission shall also determine that the application is consistent with the provisions of §157.404 (Development Design Standards and Requirements) and the recommendations of the Downtown Design Manual and Design Review Committee.

(b) Deferral

The Commission may also defer action on the proposed Primary Development Plan if it needs more information or time to determine if the Development Plan is eligible for approval. In deferring action on a Primary Development Plan, the Commission shall notify the applicant in writing of the reasons for the deferral, in accordance with the rules of the Commission. If the reason for the deferral is a Commission determination that the application cannot be approved until specific changes are made or additional information is submitted by the applicant, the applicant shall have twenty one (21) days to submit corrected materials or additional information (or other specific period of time, up to sixty (60) days, as established by the Commission at the time of deferral). If the corrected materials or additional information is not submitted within the Commission's established period of time, the Commission may deny the application.[218]

(c) Findings

The Commission shall enter written findings, setting forth the reasons for its action on an application to approve a Primary Development Plan. If primary approval is denied, the written findings entered by the Commission shall set forth the reasons for such denial.[219]

(d) Notice of Decision

Notice of the Commission's decision on a Primary Development Plan shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by rule.

(e) Appeal of Decision[220]

Any action by the Commission on a Primary Development Plan application shall be a final decision and may be reviewed as provided in IC 36-7-4-1016.

(f) Period of Valid Approval[221]

(i) Approval of the Primary Development Plan by the Commission is valid for twenty-four (24) months from the date of approval. If approval of a Secondary Development Plan or Site Plan for some portion of the land covered by the Primary Development Plan approval is not obtained within that twenty-four (24) month period, the Primary

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reordered for better flow, and the material on written commitments has been moved to subsection G per the revised ordinance outline.

[218] A provision for deferred decision was added because the more complex types of applications now subject to Primary Development Plan approval may require additional time to reach a considered decision. Since Phase 3 drafts, 30 day period changed to 21 days.

[219] Revised to clarify that findings are also necessary in case of denial. Requirements for signatures on the findings have been deleted, as they belong in the Commission's rules instead of the ordinance.

[220] New section.

[221] Period of validity has been increased from 12 to 24 months.

Development Plan approval shall be null and void, unless an extension is obtained pursuant to subsection (ii) below.

(ii) The applicant may request approval from the Commission for an extension of time to obtain approval of a Secondary Development Plan or a Site Plan for the proposed development, as applicable. The request shall be made prior to the expiration of the twenty-four (24) month approval period.

(iii) If a Secondary Development Plan is required pursuant to §157.301(D) and the applicant obtains approval of a Secondary Development Plan but then fails to obtain an Improvement Location Permit for at least part of the development site included in that Secondary Development Plan within the time required by §157.301(D)(3)(g), both the Secondary Development Plan and the Primary Development Plan related to that development site shall lapse and be null and void.[222]

(iv) If a Certificate of Compliance has been obtained for at least a portion of the Primary Development Plan area, the applicant thereafter will not be obligated to adhere to any time limitations for requesting Secondary Development Plan or Site Plan approval of the remainder of the Primary Development Plan area.[223]

(D) Secondary Development Plans[224]

If a Secondary Development Plan is required pursuant to §157.301(B), the approval of a Secondary Development Plan shall be governed by the provisions of this 157.301(D). In cases where a Primary Development plan has been previously approved for the same development site, a Secondary Development Plan may be submitted simultaneously with a revised Primary Development Plan. A Secondary Development Plan may only be submitted simultaneously with a revised Primary Development Plan if the applicant provides all required application materials in the level of detail required to constitute a complete application for both if they were submitted sequentially. The Commission may make a decision on both a revised Primary Development Plan and a Secondary Development Plan as part of a single review process, provided that all submittal requirements and all approval criteria for both a Primary and Secondary Development Plan have been met.[225]

(1) Submittal Requirements

The applicant for a Secondary Development Plan approval shall submit an application and fee, the required number of Secondary Development Plan Site Plans, and supporting information as established by the Commission's rules. Only applications that have been determined by DPS staff to be complete shall be placed on the Plan Commission's agenda for the next available meeting. A

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[222] New provision.
[223] New provision to reflect current practice.
[224] From current 3-3-4-2, but revised to reflect the fact that a Secondary Development Plan approval is sometimes not required. Throughout this section, the phrase "secondary approval of a Development Plan" has been replaced by "approval of a Secondary Development Plan." Provisions on Certification and Recordation have been deleted as more appropriate for Commission rules than this ordinance.
[225] Replaces current 157.304(E)(1) to reflect the fact that a Secondary Plan approval is not always required, and to allow simultaneous processing of Primary and Secondary Development Plan applications.

determination made by DPS staff with regard to the completeness of a Secondary Development Plan application may be appealed to the Commission.[226]

(2) Review[227]

(a) The DPS staff shall distribute the application materials to those public and quasi-public agencies identified by the Commission by rule.[228]

(b) DPS staff shall review the application and shall make a recommendation on the application.[229] If the application involves land in a DC or DE district, the Design Review Committee shall also make a recommendation on the application.

(c) The Commission shall review the application for approval of the proposed Secondary Development Plan at a meeting of the Commission, in accordance with the Commission's rules.

(3) Action and Additional Provisions[230]

The following standards and requirements shall apply to the Commission's actions on a Secondary Development Plan.

[226] Detailed application material lists from current 157.304(E)(2) have been moved to an administrative document – as discussed in the Barriers Report. The final sentence is from 157.304(D)(5)(e).
[227] From current 157.304(E)(3) with revisions as footnoted. Because only complex projects are now subject to the requirement of Secondary Development Plan approval, those applications are now decided by the Commission rather than the Executive Committee, and procedures for Secondary review have been revised to parallel primary review except that no public hearing is required. Many applications that were previously subject to Development Plan review, (for example new commercial or industrial buildings or additions to them near residential areas) will now be reviewed through the Site Plan process. The review of more complex projects listed for Secondary Development Plan review in §157.301(B) is based on Fort Wayne's current Secondary Plan Review process, but with specific provisions for design review in downtown. Provisions for notice have been deleted since they will be established in the Commission's rules.
[228] Revised to require that staff, rather than the applicant, distribute these materials, per the Barriers Report recommendations.
[229] New provision to reflect current practice of staff review and to add a requirement that staff make a recommendation, per the Barriers Report.
[230] Provisions revised and reordered for parallel structure with Primary Development Plan and Allen County code and to reflect current practice.

(a) Decision

After review of the Development Plan, the Commission shall approve or deny the application. The Commission shall approve the Secondary Development Plan if it determines that the application meets the following criteria, and may approve the plan subject to conditions if it determines that those conditions will enable it to make a determination that:[231]

(i) The application is consistent with the approved Primary Development Plan for the development site, including any conditions attached to the Primary Development Plan approval;

(ii) The application meets those design and development standards for Development Plans in 157.301(E);

(iii) If the application involves multiple buildings on a single parcel, or on several contiguous parcels, where each building is not located on a separate parcel, then the location and layout of those buildings and their orientation to each other will not create adverse impacts on the occupants or users of the development site or on the surrounding area.[232]

(iv) If the application involves the phased construction of infrastructure or streets, the order of phased development will not create adverse impacts on the occupants or users of the development site or on the surrounding area, and are within the capacity of Fort Wayne or applicable service provider to service and maintain.[233]

(v) If the application involves design review in DC and DE districts, then the application shall meet the applicable criteria (i) through (iv) above and the Commission shall also consider the recommendations of the Design Review Committee~~.~~

(b) Deferral

The provisions of §157.301(C)(4)(b) apply.

(c) Findings

The provisions of §157.301(C)(4)(c) apply.

(d) Notice of Decision

The provisions of §157.301(C)(4)(d) apply.

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[231] From current 157.304(D)(5)(c) and (d), with requirements (iv) and (v) added. Revised to provide that the decision should be made at the same meeting where the public hearing takes place, which is a courtesy to the public, promotes transparent government, and is consistent with the recommendations in the Barriers Report. The approval criteria are new, and align with those in Allen County. The current ordinance does not have criteria for Secondary Development Plans, because they are (usually) handled through the Site Plan process, but the revised Secondary Development Plan process applies to larger and more complex projects where a decision by the Commission is needed, and the ordinance needs to contain criteria to guide that decision. The current code includes standards for Development Plans but does not state that the Development Plan is approved if it meets those conditions.

[232] New criteria related to one type of project that will need Secondary Development Plan approval.

[233] New criteria related to another type of project that will need Secondary Development Plan approval.

(e) Appeal of Decision

The provisions of §157.301(C)(4)(e) apply.

(f) Period of Valid Approval[234]

(i) Approval of the Secondary Development Plan by the Commission is valid for thirty-six (36) months from the date of approval If approval of an Improvement Location Permit for some portion of the land covered by the Secondary Development Plan approval is not obtained within that thirty-six (36) month period, both the Secondary Development Plan approval and the related Primary Development Plan approval shall be null and void, unless an extension is obtained pursuant to subsection (ii) below.

(ii) The applicant may request approval from the Commission for an extension of time to obtain approval of an Improvement Location Permit, for all or part of the proposed development. The request shall be made prior to the expiration of the thirty-six (36) month approval period.

(4) Issuance of Permit[235]

Prior to the issuance of an Improvement Location Permit for any use, building, or structure in a project where a Primary or Secondary Development Plan is required, all of the following requirements shall be satisfied.

(a) If the use, building, or structure is part of a development for which only a Primary Development Plan is required, the Commission shall have approved a Primary Development Plan and DPS staff shall have approved a Site Plan Review pursuant to §157.302 (Site Plan Review).[236]

(b) If the use, building, or structure is part of a development for which a Secondary Development Plan is required, the Commission shall have approved a Primary Development Plan and a Secondary Development Plan.

(c) The applicant shall have met or adequately committed to meet all of the conditions of approval placed on each approved Development Plan.

(d) The applicant shall have installed or adequately committed to have installed all of the public improvements and infrastructure required to serve the development. If the applicant has delivered assurances to Fort Wayne pursuant to §157.503(A)(5)(Commitments) that it will provide to the Commission approvals of required improvements, and the applicant does not then deliver those approvals in a timely fashion, the Commission is hereby empowered to refuse to issue either Improvement Location Permits or Certificate of Compliance Permits

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[234] From current 157.304(D)(5)(c)(v), revised to reflect the fact that a Secondary Development Plan may not be required, but that action to obtain the next permit that is required must take place within 3 years and with minor wording changes to align with Allen County code. Period of Validity has been extended from 12 to 36 months for alignment with Indiana vesting law.

[235] Minor wording changes to confirm that these provisions apply to both buildings and structures.

[236] Revised to clarify that for those applications that no longer require Secondary Development Plan approval, a Site Plan Review is required in order to confirm that the conditions of the Primary Development Plan have been fulfilled and the detailed design complies with the zoning ordinance.

for development site within that Primary or Secondary Development Plan until the required approvals are received by the Commission. [237]

(e) The applicant shall have recorded in the Allen County Recorder's Office all of the required documents, rights-of-way, utility easements, plans, deed restrictions, restrictive covenants, commitments, and any other instruments required by the Commission or staff, in a form approved by the Commission.[238]

(E) Development and Design Standards

Development and design standards applicable to Development Plans are listed in §157.404. Some waivers of and adjustments to development and design standards for Development Plans are permitted pursuant to §157.405(B), (C), and (D).

(F) Commitments[239]

As part of its approval of a Primary or Secondary Development Plan, the Commission may permit or require the owner of the property included in the request to make a commitment concerning the use or development of that property, in accordance with IC 36-7-4-613, §157.503(A)(5), and the Commission's rules.[240]

(G) Amendments to Approved Development Plans[241]

After the Commission has granted approval of a Primary or Secondary Development Plan, any amendments to the Development Plan shall be submitted by the applicant to the Executive Director by way of an amended application for the type of approval sought. The application shall also be accompanied by the pertinent submissions required by Fort Wayne for the proposed amendments involved, as determined by the Executive Director. [242] For purposes of all amendments to approved Development Plans, the Zoning Administrator shall determine whether a change is substantial by considering the scope of the overall project, the possible impact of amended land uses or site activities, structure locations, sizes, or heights, or transportation access, systems, or volumes upon the community and land uses, both existing and planned, which surround the Development Plan area and areas within the Development Plan that have already been developed.[243]

(1) Purpose

The purpose of this section is to describe how an approved Primary or Secondary Development Plan may be amended, and to clarify the difference between minor amendments that may be approved by DPS staff and amendments that are determined to be a substantial change that requires approval by the Commission.[244]

(2) Amendment after Approval of a Primary Development Plan

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[237] Revised to align with Allen County code, including a new permit hold provision.
[238] Final clause requiring form approved by the commission added for alignment with Allen County code.
[239] Materials relocated from current 157.304(D)(5)(d) and expanded to cover Secondary Development Plans.
[240] Wording revised to align with Allen County code.
[241] From current 157.304(H) with revisions to reflect the fact that Secondary Development Plans are not always required, to correct technical errors in the current code regarding amendments after Secondary Plan approval, and to add criteria for distinguishing when a proposed amendment is substantial.
[242] New introductory language to match Allen County code.
[243] Criteria for determining substantial changes are new.
[244] New section.

Proposed amendments to an approved Primary Development Plan shall be reviewed in accordance with the following:

(a) If the Zoning Administrator determines that the amendment does not constitute a substantial change to the previously approved plan, and the proposed development requires the approval of a Secondary Development Plan, the revised plan may be submitted as an application for a Secondary Development Plan.

(b) If the Zoning Administrator determines that the amendment constitutes a substantial change to the previously approved plan, or the proposed development does not require approval of a Secondary Development Plan, the submission of a new Primary Development Plan shall be required. The previous Primary Development Plan shall be void once the new Primary Development Plan is approved. The new Primary Development Plan shall require a new application and filing fee and shall be reviewed under the provisions of this ordinance.

(3) Amendments after Approval of a Secondary Development Plan Prior to ILP Issuance

Proposed amendments to an approved Secondary Development Plan prior to approval of an Improvement Location Permit shall be reviewed in accordance with the following:

(a) If the Zoning Administrator determines that the amendment does not constitute a substantial change to the previously approved plan, the revised Secondary Development Plan may be submitted with the application for a an Improvement Location Permit, and shall be considered by DPS staff at the same time as the Improvement Location Permit.

(b) If the Zoning Administrator determines that the amendment constitutes a substantial change to the previously approved plan, the submission of a new Secondary Development Plan shall be required. The previous Secondary Development Plan shall be void once the new Secondary Development Plan is approved. The new Secondary Development Plan shall require a new application and filing fee, and shall be reviewed under the provisions of this ordinance.

(4) Amendments after Issuance of the ILP

A proposed amendment or addition to an approved Secondary Development Plan where Improvement Location Permits have been issued, but where no construction on any structures has taken place, shall be reviewed in accordance with the following:

(a) If the Zoning Administrator determines that the amendment does not constitute a substantial change to the previously approved plan, the revised Secondary Development Plan may be submitted with an application for a new Improvement Location Permit.

(b) If the Zoning Administrator determines that the amendment constitutes a substantial change to the previously approved Secondary Development Plan the submission of a new Secondary Development Plan shall be required. The previously approved Secondary Development Plan and previously issued Improvement Location Permit shall be revoked and declared void once the new Secondary Development Plan is approved. The amended secondary Development Plan shall require a new application and filing fee, and shall be reviewed under the provisions of this subchapter.

(c) If the Zoning Administrator determines that the amendment is substantial enough that another public hearing should be required, the applicant shall resubmit the revised plan as a new Primary Development Plan, and the previously issued Improvement Location Permit shall be voided. The new Primary Development Plan shall require a new application and filing fee and shall be reviewed under the provisions of this ordinance.

§ 157.302 SITE PLAN REVIEW[245]

(A) Purpose[246]

The purpose of this section is to:

(1) Provide a process that allows for administrative review of certain projects for compliance with the provisions of this ordinance.

(2) In the DC and DE districts, establish plan documentation and supporting information that must be submitted to allow for the review of a project, including design review;

(3) Allow reviewing staff to provide input on proposed projects

(B) When Required[247]

Except as excluded in §157.302(C), any proposal for a new building or structure or addition to an existing building in the following categories that does not require the submission of a Development Plan under the provisions of §157.301, requires submittal, review and approval through the Site Plan Review process:

(1) New individual multiple family buildings of over two (2) units;

(2) A nonresidential structure or building (including a single building on an individual lot or development site, an accessory structure or building, additions to an existing building, a gas station canopy or pumps, and an outdoor activity area);

(3) If the Commission, Board, or Hearing Officer determines in the course of application review that the proposal is large, complex, or raises potential unanticipated development impacts, the Commission, Board, or Hearing Officer may require that the proposed project complete the Site Plan review process.[248]

(C) Exclusion

Projects of less than 1,000 square feet that do not have sanitary sewer or water facilities and fire sprinkler systems, including modular mobile classroom, construction, or office facilities (but excluding gas station canopies or outdoor activity areas), shall be exempt from the Site Plan review process.[249]

(D) Pre-Application Meetings

(1) Prior to the submission of an application for approval of a Site Plan, a pre-application meeting between DPS staff and the applicant is recommended. The purpose of the pre-application meeting is to:

(a) Acquaint the applicant with the standards, procedures, and requirements of this ordinance and any other applicable standards or requirements;

(b) Review the Site Plan Review process procedures and submittal requirements;

(c) Acquaint the applicant with any potential issues or problems regarding the specific site or surrounding area, including significant cost or permit delay issues; and

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[245] From current §157.305, with minor wording changes for clarification and other changes as noted.
[246] Purpose language simplified since Phase 3 drafts.
[247] Revised to provide that all single buildings with permitted or approved conditional uses go through the Site Plan Review process, regardless of size.
[248] Revised to add standards to guide the Board, Commission, or Officer's decision.
[249] Applicability to modular buildings, gas station canopies, and outdoor activity areas has been clarified.

(d) Provide the applicant with a list of application submittal requirements based on the nature and size of the proposed development.

(E) Submittal Requirements[250]

The applicant for Site Plan Review shall submit an application form and supporting information as established by the Commission. DPS staff shall only distribute applications for review that have been determined by DPS staff to be complete. A determination made by DPS staff with regard to the completeness of a Site Plan Review application may be appealed to the Commission in accordance with the Commission's rules.

(F) Development and Design Standards[251]

Development and design standards applicable to Site Plan Review are listed in §157.404. No waivers of or exceptions to those standards are permitted through Site Plan Review.

(G) Approval

(1) Filing Deadline [252]

Application submission deadlines shall be according to the schedule and times established by the DPS staff.

(2) Distribution and Review Schedule

Proposals submitted prior to the application deadline and determined to be complete submittals by DPS staff shall be distributed to the applicable review agency staff. The proposals shall be reviewed and comments submitted by the established review deadline. If no response is received from a review agency within ten (10) business days after transmittal of Site Plan Review materials, DPS staff may consider that the review agency has no objection to approval of the application as submitted.[253]

(3) Action[254]

Following review of a submitted Site Plan Review application, the review staff may take the following actions:

(a) The application may be approved, with or without conditions; review staff may place a hold on the Certificate of Compliance as part of the approval, to allow for: inspections of project improvements; issuance of project-related permits from other reviewing agencies; confirmation that previous commitments have been met or adequately committed to be met; or to obtain other information as necessary to confirm compliance with standards or requirements.[255]

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[250] New standard language on submittal requirements applicable to all types of applications, since submittal requirement lists will be in an administrative document.
[251] Added since Phase 2 drafts to clarify standards applicable to Site Plan Review.
[252] Revised to clarify review authority and that failure to respond within 10 business days will be deemed consent by the review agency. Provision for including review agencies in Site Plan Review meetings has been deleted as a subject for rules rather than inclusion in the ordinance.
[253] Provision for inclusion of applicant in review meetings has been deleted as more appropriate for rules than ordinance.
[254] Reordered and revised to clarify that Site Plans are reviewed for compliance with the zoning ordinance.
[255] Provision revised since Phase 2 Draft to add decision criteria.

(b) Changes to the application may be required if necessary to bring the application into compliance with the applicable standards and requirements; or

(c) Additional information may be required if necessary to determine whether the application complies with the applicable standards and requirements; or

(d) The application may be denied if it does not comply with the applicable standards and requirements and cannot be made to comply through the imposition of conditions.

(4) Design Review Committee

All Site Plan Review projects in the DC and DE districts shall also be reviewed by the Design Review Committee for consistency with the recommendations of the Downtown Design Manual and the standards of §157.404 (New Development Design Standard and Requirements). For these projects, the Design Review Committee shall be considered a reviewing department for the purpose of making recommendations regarding consistency with the Design Manual or taking action regarding consistency with §157.404.

(5) Time Frame for Valid Application or Approval

The following time frames shall apply to the validity of Site Plan review applications and approvals

(a) Validity of Application

A Site Plan Review application shall remain valid for twelve (12) months from the application date, except that the applicant can request an extension from DPS staff prior to the expiration of the application. Extensions may be approved if DPS staff determines that the need for the extension arises due to unforeseen circumstances relative to the project.

(b) Validity of Approval

A Site Plan review approval shall remain valid for six (6) months from the approval date, except that the applicant can request an extension from DPS staff prior to the expiration of the approval. Extensions may be approved if DPS staff determines that the need for the extension arises due to unforeseen circumstances relative to the project.

(6) Improvement Location Permit[256]

(a) Revised Plans or Documents

After the review agency comments are received by DPS staff, it is the responsibility of the designated project representative to provide the DPS or reviewing staff with any requested information or revised plans or documents.

(b) Issuance of Permit

After all of the reviewing agencies have sent approvals for the proposal to DPS staff (or failed to respond for 10 business days following the transmittal of application materials), and any revised plans or documents have been approved by reviewing staff, an Improvement Location Permit shall be issued for the project.

(7) Certificate of Compliance

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[256] Requirement that applications for multiple primary structures on a lot receive a separate ILP for each primary structure has been deleted.

After the issuance of an Improvement Location Permit for a building or structure, no occupancy or use of that building or structure shall take place prior to the issuance of a Certificate of Compliance for the building or structure.

(a) Certificate of Compliance Release[257]

It is the designated project representative's responsibility to contact the reviewers and provide any requested information or schedule any required inspections required by the reviewing agencies for their release of the Certificate of Compliance. When all of the reviewing agencies have approved the release of the Certificate of Compliance, indicating compliance with all applicable standards and requirements or that the applicant has adequately committed to meet the applicable conditions of approval, the DPS staff will issue the Certificate to the Allen County Building Department. DPS staff may require the issuance of multiple Certificates of Compliance for ILPs for projects with phased occupancy.

(b) Survey

For new structures the applicant may be required to submit a certified survey to document that the structure(s) meet setback requirements, in addition to satisfying any other conditions of approval established by the DPS staff.

[257] Current practice of requiring multiple ILPs for phased construction has been clarified. Provision for issuing separate CoCs for individual tenant spaces has been deleted.

§ 157.303 SUBDIVISION CONTROL

(A) Title

This section shall be known and cited as the City of Fort Wayne Subdivision Control Regulations. The provisions in this section are an updated replacement of the previous Fort Wayne Subdivision Control Ordinance (City Code Chapter 155).

(B) Purpose[258]

(1) Major Subdivisions

The purpose of the Major Subdivision regulations in section is to provide standards and procedures to regulate all divisions of land that do not qualify as Minor Subdivisions or exempt divisions of land, to ensure that Major Subdivisions are consistent with the Comprehensive Plan, and to provide minimum rules, regulations, and standards in order to achieve orderly development in the City through land subdivision; to provide for the proper arrangement of streets in relation to other existing or proposed streets; to promote the use of land to assure the best possible environment; to reduce the unplanned development and the public service and enforcement costs associated with that development; to promote the health, safety, and general welfare of the public, and the provision of sufficient capital improvements to maintain community standards while meeting the standards and specifications of the City.

(2) Minor Subdivisions

The purpose of the Minor Subdivision regulations in this section is to establish an expedited procedure to review the platting of residential developments containing no more than six (6) lots for single family and two family dwellings. An administrative review and platting process is hereby established to provide assurance that a Minor Subdivision meets certain minimum requirements and design standards.

(C) When Required

(1) Jurisdiction[259]

Each division of land within the planning jurisdiction of the City is required to obtain approval of either Minor Subdivision pursuant to §157.303(E) or a Major Subdivision pursuant to §157.303(F) as applicable, unless it qualifies as an exempt division of land pursuant to §157.303(C)(2).

(a) No subdivision of land, as defined in this ordinance, may occur until such time as all the provisions of this section are complied with, the Fort Wayne City Plan Commission has acknowledged its approval by affixing its signatures and seal, and the sealed plat has been recorded in the Office of the Allen County Recorder.

(b) No lot in a subdivision may be sold, and no permit to erect, alter, or repair any building upon land in a subdivision be issued, unless and until a Major or Minor Subdivision has received

[258] Major Subdivision purpose is from current §155.001, revised to reflect new Minor Subdivision process and exemptions. Minor Subdivision purpose is from A.C.C. 3-2-3(b). Purpose related to reducing unplanned growth and related costs added per the Comprehensive Plan.
[259] Reworded for clarity and alignment with Allen County Code.

final approval and been recorded, and until the improvements required in connection with the subdivision have either been constructed or guaranteed as provided in this section.[260]

(2) Exempt Divisions of Land[261]

(a) Exempt Divisions

The following divisions of land do not have to obtain approval of a Minor Subdivision plat pursuant to 157.303(C)(3) or a Major Subdivision plat pursuant to §157.303(C)(4).

(i) All lots in a recorded subdivision at the time of adoption of this ordinance shall not be required to meet the regulations of this section;

(ii) The conveyance of land located within a Development Plan that has been approved by the Commission;

(iii) A division of a parcel of land for the transfer of a parcel of land to correct errors in an existing legal description, provided that no additional building sites are created;

(iv) A conveyance of a parcel of land pursuant to a distribution of land to a devisee, legatee or other heir pursuant to a last will and testament or intestate proceeding;

(v) The conveyance of parcel(s) of land to one or both parties in a divorce proceeding pursuant to a court order regarding disposition of marital assets;

(vi) A division of a parcel of land for federal, state, or local government to acquire for public purposes;

(vii) A division of land resulting in the transfer or sale of land between contiguous parcels of land, provided that no additional building sites are created by the subdivision; and

(viii) A division of a parcel of land into cemetery plots.

(b) Administrative Approval Required[262]

(i) A division of land that does not constitute a subdivision as defined in this ordinance must be submitted for administrative approval. Only one administrative approval shall be permitted off of an existing parcel in a 12 month period; requests to create additional lots or parcels shall require Development Plan approval.[263]

(ii) The application shall be reviewed for compliance with the requirements of the ordinance and to confirm that each affected lot is served by public water and public sewer and must have immediate access to an improved public right-of-way.

(iii) Applications shall be approved providing that all affected parcels meet or exceed these minimum standards.

(iv) The approved application will be returned to the applicant and must be recorded by the applicant within one year of approval or the approval will be null and void.

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[260] From current §155.004.
[261] From current §155.004.
[262] From current §155.086 with wording revisions for clarity.
[263] Second and third sentences are new since Phase 3 drafts.

(3) Minor Subdivisions[264]

Minor Subdivisions are those that contain no more than six lots (including the root parcel or original tract), in which all lots are created for single family or two family dwellings, and in which each lot has frontage on an existing improved non arterial street, and no lot requires the creation or extension of any water or sewer facility. Land included in an approved Minor Subdivision may not later be divided into more lots through the exempt land division process pursuant to §157.303(C)(2). Minor Subdivisions shall be reviewed and approved as described in §157.303(E).

(4) Major Subdivisions

Major Subdivisions are those that are not exempt divisions of land as described in §157.303(C)(2) and do not qualify as Minor Subdivisions as described in §157/303(C)(3). Major subdivisions shall be reviewed and approved as described in §157.303(F).

(D) Pre-application Meeting[265]

DPS staff shall hold a pre-application meeting at least five (5) business days prior to the filing deadline for an application for approval of a Minor or Major Subdivision. The purpose of this pre-application meeting is to:

(1) Acquaint the applicant with the standards, procedures and requirements of this ordinance, the Comprehensive Plan, and any other applicable standards or requirements;

(2) Review the subdivision procedures and submittal requirements;

(3) Acquaint the applicant with any inherent limiting characteristics of the specific site or surrounding areas; and

(4) Reduce the time period between initial application and approval.

(E) Minor Subdivision

(1) Delegation of Authority[266]

The Commission may delegate authority to grant primary approval of a Minor Subdivision to a Committee of the Commission by rule, and may delegate authority to grant secondary approval of a Minor Subdivision to the DPS staff, by rule. If the Commission has not delegated such authority, the Commission shall review applications for primary and/or secondary approval of Minor Subdivision, as applicable.

(2) Submittal Requirements[267]

The applicant for a primary or secondary approval of a Minor Subdivision shall submit an application form and fee, a subdivision plat, and supporting information as established by the Commission's rules. Only applications that have been determined by DPS staff to be complete shall be place on the Plan Commission's agenda for the next available public meeting. A

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[264] From current §155.060, revised to clarify that Minor Subdivisions cannot be further subdivided through an exempt division. Revised since Phase 2 drafts to clarify current practice that only lots for 1 and 2 family dwellings may be created.
[265] Replaces similar text in current §155.006 for alignment with Allen County code and the development plan provisions
[266] New section to reflect current practice but to allow the Commission to delegate power to either a Committee or staff.
[267] Replaces current §155.061 with new standard submittal text for all applications. Submittal requirements will now be in an administrative document.

determination made by the DPS staff with regard to the completeness of a Minor Subdivision application may be appealed to the Commission pursuant to the Commission's rules.

(3) Primary Review[268]

(a) The Commission shall adopt filing fees, filing deadlines, meeting dates, and a hearing procedure for this process by rule.

(b) After receipt of a complete application, the DPS staff shall provide notice of the public hearing by publication in accordance with IC 5-3-1, this ordinance, and as established by the Commission by rule.[269]

(c) DPS staff shall review the application and shall make a recommendation on the application. If the applicant has submitted an incomplete application, the DPS staff shall notify the applicant of the missing information and provide the applicant with thirty (30) business days to submit the missing information.[270]

(d) The Committee of the Commission[271] shall hold a public hearing on the application for primary approval of the proposed Minor Subdivision in accordance with the Commission's rules.

(4) Action and Additional Provisions[272]

(a) Decision[273]

After the public hearing on the primary approval of a Minor Subdivision, the Committee shall approve or deny the application. The Committee shall grant primary approval to the Minor Subdivision if it determines that the application meets the development requirements of the applicable zoning district. The Plan Commission may approve the Subdivision subject to conditions if the conditions are reasonably necessary to satisfy those development requirements

(b) Deferral[274]

The Committee may also defer action on primary approval of the proposed Minor Subdivision if it needs more information or time to determine if the subdivision is eligible for approval. In deferring action on a Primary Minor Subdivision, the Committee shall notify the applicant in writing of the reasons for the deferral, in accordance with the rules of the Commission. If the reason for the deferral is a Committee determination that the application cannot be granted primary approval until specific changes are made or additional information is submitted by the applicant, the applicant shall be notified of that fact and the applicant

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[268] Replaces current §155.062 and 063. Detailed notice requirements have been deleted because notice provisions now appear in the Commission's rules.
[269] Replaces current §155.061 with new standard submittal text for all applications. Submittal requirements will now be in an administrative document.
[270] Thirty day time limit has been added.
[271] Throughout this section, references to the Executive Committee used in current A.C.C. have been replaced by general references to a Committee of the Commission, so either an Executive Committee or a Plat Committee could be authorized to approve Primary Minor Subdivisions.
[272] Replaces the materials from current §155.062 and 063.
[273] Decision criteria language simplified since Phase 3 drafts.
[274] A provision for deferred decision was added based on current practice. The 30 day time period was changed to 21 days.

shall have twenty one (21) days to submit corrected materials or additional information (or other specific period of time, up to sixty (60) days, as established by the Commission at the time of deferral)... If the corrected materials or additional information is not submitted within the Commission's established period of time, the Committee may deny the application.

(c) Findings[275]

The Committee shall enter written findings, setting forth the reasons for its action on an application for primary approval of a Minor Subdivision. If the Subdivision is denied, the written findings entered by the Committee shall set forth the reasons for such denial.

(d) Notice of Decision[276]

Notice of the Committee's decision on an application for primary approval of a Minor Subdivision shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by Commission rule.

(e) Period of Valid Approval[277]

(i) Any primary approval of a Minor Subdivision by a Committee of the Commission shall be valid for a period of twenty-four (24) months from the date of that approval. If the Minor Subdivision has not received secondary approval within that twenty-four (24) month period, the preliminary approval of the Minor Subdivision shall be null and void, unless an extension is obtained pursuant to subsection (ii) below.

(ii) The applicant may request approval from the Committee of the Commission for an extension of time to obtain secondary approval of a Minor Subdivision. The request shall be made prior to the expiration of the twenty-four (24) month approval period.

(5) Secondary Approval[278]

(a) Review[279]

(i) Following primary approval of a Minor Subdivision, the applicant shall file an application for secondary approval of the Minor Subdivision.

(ii) The DPS staff shall distribute the application materials to those public and quasi-public agencies identified by the Commission's rules.

(iii) The DPS staff shall review the application materials to insure the requirements for secondary approval stated in this ordinance have been satisfied, shall coordinate the comments and requirements of the reviewing agencies, and shall make a recommendation to the Commission for the granting or denial of secondary approval of the plat.

(iv) The Commission shall consider reviewing the application at its next available business meeting.

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[275] New provision to reflect current practice.
[276] New provision to reflect current practice.
[277] Revised to align with validity period for Development Plan, and possibility of extension added.
[278] From current §155.064 with revisions to align with structure of Development Plan regulations.
[279] Revised to align with Development Plan regulations.

(v) No notice or public hearing is required for approval of a Secondary Minor Subdivision.

(vi) If an appeal of the Committee of the Commission's primary approval of a Minor Subdivision was filed, the DPS staff shall take no further action until the Commission has made a decision on the appeal, and any action on the application for secondary approval of a Minor Subdivision shall be consistent with the Commission's decision on the appeal.

(b) Decision[280]

(i) After review of an application for secondary approval of a Minor Subdivision, the DPS staff shall approve or deny the application. The DPS staff shall grant secondary approval of the Minor Subdivision if it determines that the application meets the following criteria, and may approve subject to conditions if it determines that those conditions will enable it to make a determination that:

[A] The application is consistent with the primary approval of the Minor Subdivision for the development site, including any conditions attached to the Minor Subdivision primary approval;

[B] The application meets those design and development standards for Minor subdivisions in §157.303(E)(5); and

[C] All required improvements and infrastructure for the Minor Subdivision have been completed and have been approved by the Board of Works.

(ii) If secondary approval is denied, DPS Staff shall within three (3) business days after that denial furnish the applicant with a written list of the reasons for such denial.[281]

(iii) If secondary approval is granted by DPS Staff, all certifications required by the Commission's rules shall be obtained by the applicant prior to recording.[282]

(iv) The DPS Staff may grant secondary approval of the Minor Subdivision plat subject to the expiration of the time provided for appeal under IC 36-7-4-708 of the primary approval of the Minor Subdivision; provided however, that the plat for which secondary approval has been granted shall not be signed or certified on behalf of the Commission, prior to the expiration of such appeal period.

(c) Recording and Period of Validity

The provisions of §157.303(F)(4)(d) shall apply.

(6) Development and Design Standards

Development and design standards applicable to Minor Subdivisions are listed in §157.404. No waivers of or exceptions to those standards are permitted for Minor Subdivisions.

(F) Major Subdivision[283]

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[280] Restructured to align with Development Plan materials and approval criteria. Subsections (ii), (iii), and (iv) are new to reflect current practice.
[281] Since Phase II drafts, references to Commission in (ii), (iii), and (iv) have been changed to DPS Staff to correct drafting errors.
[282] Details of who signs the plat have been deleted, as those are generally established by Commission rules.

(1) Delegation of Authority[284]

The Commission may delegate authority to grant primary approval of a Major Subdivision to a Committee of the Commission by rule. If the Commission has not delegated such authority, the Commission shall review applications for primary and/or secondary approval of Major Subdivision, as applicable.

(2) Submittal Requirements[285]

The applicant for a primary or secondary approval of a Major Subdivision shall submit an application form and fee, a subdivision plat, and supporting information as established by the Commission's rules. Only applications that have been determined by DPS staff to be complete shall be placed on the Plan Commission's agenda for the next available meeting. A determination made by the DPS staff with regard to the completeness of a Major Subdivision application may be appealed to the Commission in accordance with the Commission's rules.

(3) Primary Approval[286]

(a) Review

(i) The Commission shall adopt filing fees, filing deadlines, meeting dates, and a hearing procedure for this process by rule.

(ii) After receipt of a complete application, the DPS staff shall provide notice of the public hearing by publication in accordance with IC 5-3-1, this ordinance, and as established by the Commission by rule.

(iii) DPS staff shall review the application and shall make a recommendation on the application. If the applicant has submitted an incomplete application, the DPS staff shall notify the applicant of the missing information and provide the applicant with thirty (30) business days[287] to submit the missing information.[288]

(iv) The Commission shall hold a public hearing on the application for primary approval of the proposed Major Subdivision in accordance with the Commission's rules.

(b) Action and Additional Provisions[289]

The following standards and requirements shall apply to the Commission's actions on a Major Subdivision.

(i) Decision

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[283] From current §155.065 with significant changes to follow structure of Development Plan regulations.
[284] New section to reflect current practice but to allow the Commission to delegate power to either an Executive Committee or a Plat Committee.
[285] Replaces current §155.061 with new standard submittal text for all applications. Submittal requirements will now be in an administrative document.
[286] From current §155.067 and 068significantly revised and restructured to match the structure of the Development Plan materials in §157.301. Notice provisions deleted because all notice provisions will be in the Commission's rules. References to urban regulated drains deleted.
[287] Throughout this document, the term "days" has been clarified to be "business days."
[288] Thirty day time limit has been added.
[289] Adapted from current A.C.C. 4-2-3-5, 4-2-4-3, 4-2-4-4 and 4-2-4-5, with restructuring to match Development Plan structure and with minor wording changes for clarification and to avoid repetition. Text specifying who shall sign the decision was not carried over, since that is usually specified in the Commission rules (not the code).

After public hearing the proposed Major Subdivision, the Commission shall grant primary approval to the Major Subdivision if it determines that the application meets the development requirements of the applicable zoning district. The Plan Commission may approve the plat subject to conditions if the conditions are reasonably necessary to satisfy those development requirements.[290]

(ii) Deferral[291]

The Commission may also defer action on the proposed Major Subdivision if it needs more information or time to determine if the subdivision is eligible for primary approval. In deferring action on a Major Subdivision, the Commission shall notify the applicant in writing of the reasons for the deferral, in accordance with the rules of the Commission. If the reason for the deferral is a Commission determination that the application cannot be granted primary approval until specific changes are made or additional information is submitted by the applicant, the applicant shall be notified of that fact and the applicant shall have twenty one (21) days to submit corrected materials or additional information (or other specific period of time, up to sixty (60) days, as established by the Commission at the time of deferral).. If the corrected materials or additional information is not submitted within the Commission's established period of time, the Commission may deny the application.

(iii) Findings[292]

The Commission shall enter written findings, setting forth the reasons for its action on an application for primary approval of a Major Subdivision. If approval is denied, the written findings entered by the Commission shall set forth the reasons for such denial.

(iv) Notice of Decision[293]

Notice of the Commission's decision on an application for primary approval of a Major Subdivision shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by rule.

(v) Period of Valid Approval[294]

[A] Any primary approval of a Major Subdivision by the Commission shall be valid for a period of twenty-four (24) months from the date of that approval. If secondary approval of the Major Subdivision is not obtained within that twenty-four (24) month period, the primary approval of the Major Subdivision approval shall be null and void, unless an extension is obtained pursuant to subsection (ii) below.

[B] The applicant may request approval from the Commission for an extension of time to obtain secondary approval of a Major Subdivision. The request shall be made prior to the expiration of the twenty-four (24) month approval period.

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[290] Decision criteria language simplified since Phase 3 drafts.
[291] Added to reflect current practice. The 30 day time period was changed to 21 days
[292] New provision to reflect current practice.
[293] New provision to reflect current practice.
[294] Revised to extend approval period for a Primary Major Subdivision from 12 to 24 months and to provide for an extension.

(4) Secondary Approval[295]

(a) Delegation of Authority

The Commission may delegate authority to grant secondary approval of a Major Subdivision to a Committee of the Commission. If such authority has been delegated, each reference to the Commission below shall apply to the Committee granted such authority. If the Commission has not delegated authority to grant approval of a Secondary Major Subdivision, the Commission shall review applications for Secondary Major Subdivisions.

(b) Review[296]

(i) Following primary approval of a Major Subdivision, the applicant shall file an application for secondary approval of all or a specifically described portion of the Major Subdivision.

(ii) The DPS staff shall distribute the application materials to those public and quasi-public agencies identified in the Commission's rules.

(iii) The DPS staff shall review the application materials to insure the requirements for secondary approval stated in this ordinance have been satisfied, shall coordinate the comments and requirements of the reviewing agencies, and shall make a recommendation to the Commission for the granting or denial of secondary approval of the plat.

(iv) The Commission shall consider reviewing the application at its next available business meeting.

(v) No notice or public hearing is required for a secondary approval of a Major Subdivision.

(c) Decision[297]

(i) After review of an application for secondary approval of a Major Subdivision, the Commission staff shall grant secondary approval of the Major Subdivision if it determines that the application meets the following criteria, and may approve subject to conditions if it determines that those conditions will enable it to make a determination that:

[A] The application is consistent with the primary approval of the Major Subdivision for the development site, including any conditions attached to the Major Subdivision primary approval;

[B] The application meets those design and development standards for Major Subdivisions in §157.303(F)(5);

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[295] From current §155.069, reordered and revised to align with Minor Plat secondary approval structure and Allen County code.
[296] Reordered and revised for alignment of city and county codes.
[297] Reordered and revised to match structure of Development Plan provisions. Some materials are from §155.068 and 069. Details regarding specific certifications to appear on the face of the plat have been deleted and will appear in the Commission's administrative documents. Criteria for approval have been revised to align with Development Plan criteria and Allen County code.

[C] The applicant has paid in full to the Commission all costs incurred for the furnishing of notice related to the primary approval of the Major Subdivision required under this ordinance or by the Commission's rules;

[D] The applicant has installed all of the improvements required by this ordinance in accordance with the approved plans and specifications on file, and delivered to or the Commission all necessary approvals and acceptances from all applicable agencies and authorities, and the Board of Public Works has accepted those improvements; or in the event all of the required improvements required have not been installed, the applicant has filed with the Commission, for any improvements already installed all necessary approvals and acceptances from all applicable agencies and authorities, and provided performance guarantees pursuant to §157.303(F)(6) for any required improvements not installed, or installed but for which all necessary approvals and acceptances from all applicable agencies and authorities have not been obtained.[298]

(ii) If secondary approval is denied, the Commission shall within five (5) business days after that denial furnish the applicant with a written list of the reasons for such denial.[299]

(iii) If secondary approval is granted by a Committee of the Commission, all certifications required under by the Commission's rules shall be obtained by the applicant prior to recording.[300]

(iv) Secondary approval may only be granted after the expiration of the time provided for an appeal of the Primary approval under 36-7-4-708. [301]

(v) After secondary approval has been granted, the plat shall be certified and then released for recordation as established in the Commission's rules.[302]

(d) Recording and Period of Validity[303]

(i) It shall be the responsibility of the applicant to obtain all Major Subdivision plat certifications and signatures required by the Commission's rules, and to record the Major Subdivision plat with secondary approval and any associated covenants, easements or similar documents.

(ii) Within one (1) year of the granting of secondary approval of the Major Subdivision, the applicant shall furnish to the Executive Director the original of the subdivision plat in its final form and with all required contents and restrictive covenants, as approved by or on behalf of the Commission.

(iii) Upon receipt of the plat, the Executive Director shall determine whether the plat submitted for recording complies strictly in its form and contents with the secondary approval granted by or on behalf of the Commission.

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[298] New section. Provisions from current §155.070 on bonding and security now appear in §157.303(F)(7).
[299] New section to reflect current practice and align with Allen County code.
[300] Details of who signs the plat have been deleted, as those are generally established by Commission rule.
[301] New provision to clarify current practice.
[302] New provision to clarify current practice.
[303] From current §155.069, with significant revisions to align with Allen County code..

(iv) If the Executive Director determines that the submitted plat strictly complies with the secondary approval, the Executive Director shall have the plat signed and certified as established by rule and shall release the plat to be recorded.

(v) If the Executive Director determines that the plat submitted for recording does not strictly comply with the secondary approval, the Executive Director shall forthwith notify the applicant of any required changes to bring the plat into compliance with the secondary approval and shall allow the applicant an additional thirty (30) days to make those changes and to submit a corrected plat to the Executive Director for recording. If the applicant makes the required changes and submits a corrected plat and required recording fees within that thirty (30) day period, the Executive Director shall proceed to record the plat as described in subsection (D) above. If the applicant does not submit a corrected plat with the thirty (30) day period, or the plat submitted by the applicant during that period does not include the changes requested by the Executive Director, the primary and secondary approvals of the subdivision shall lapse and be void, and the DPS staff shall notify the Board of Public Works that the plat has been voided.[304]

(5) Development and Design Standards

Development and design standards applicable to Major Subdivisions are listed in §157.404. Some waivers of and adjustments to development and design standards for Major Subdivisions are permitted pursuant to §157.405(B), (C), and (D).

(6) Performance Guarantees[305]

If an applicant applies for secondary approval of a Major Subdivision and has not installed all of the improvements required by this ordinance and the subdivision approvals, the Commission or its designee may only consider the application if the applicant has executed with the Commission an infrastructure completion agreement as set forth below:

(a) Infrastructure Completion Agreement

The applicant has executed an agreement acceptable to the Commission confirming that:

(i) The applicant will install all required infrastructure to serve each lot in the Major Subdivision before applying for an Improvement Location Certificate for that lot, and

(ii) After Improvement Location Permits have been approved for fifty (50) percent of the lots in that phase of the Major Subdivision, no additional Improvement Location Permits for any lot in that phase of the Major Subdivision shall be issued until all required improvements have been installed, inspected, and approved by Fort Wayne or the applicable governmental or quasi-governmental entity or a subdivision improvement bond is posted by the applicant, as described in subsection (ii) below.

(iii) For purposes of this standard, each phase of a Major Subdivision shall be considered separately.

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[304] Revised provision allowing the applicant one month to cure defects in the final plat, rather than requiring automatic rejection and lapsing of the primary approval.

[305] Replaces current code §155.064 and 070 with significant revisions to allow the use of a permit hold agreement in lieu of a performance bond until ILPs have been issued for 60% of the lots, and to avoid need for a performance bond entirely if full infrastructure has been completed by that time.

(b) Subdivision Improvement Bond

(i) If the DPS is holding Improvement Location Permits under the terms of an Infrastructure Completion Agreement and required improvements in the Major Subdivision have not been completed, inspected, and approved as required by that agreement, then, as an alternative to completing those improvements, the applicant may execute and post with the Commission a subdivision improvement bond, in accordance with the Commission's rules, to insure installation, acceptance and approval of the remaining improvements as shown on the approved plans and specifications for the Major Subdivision.

(ii) The subdivision improvement bond shall:

[A] Be in an amount determined by the Commission to be sufficient to complete the improvements and installation in accordance with this ordinance based on an estimate provided by the developer and determined to be adequate by the applicable reviewing entity;

[B] Provide surety satisfactory to the Commission;

[C] Run to the Commission; and

[D] Specify the time for completion of the improvements and installations.

(iii) If an applicant posts a subdivision improvement bond as required by subsection (a)(ii) above and the required improvements are not installed within the time stated in the performance bond, the Commission is authorized to use funds from the bond to cause the improvements covered by the bond to be installed as shown in the approved plans and specifications for the Major Subdivision. Upon submission by the application of the document required under the regulations adopted by the Commission, demonstrating that all improvements have been installed in accordance with this ordinance, the Commission, or its duly authorized representative, shall release such performance bond and discharge the developer and surety, if any, from further liability or responsibility under the bond.

(G) Secondary Plat Amendments and Adjustments[306]

(a) General Amendments

After a secondary approval of a Minor or Major Subdivision, the Commission or its designee is authorized to approve amendments to the subdivision plat if:

(i) A request for amendment is filed, accompanied by the signatures of all owners of development site in the plat, and a survey if the Commission or its designee determines that a survey is necessary to accurately evaluate the impacts of the proposed amendment;

(ii) There is no increase in the number of lots;

(iii) No public land will be accepted as a result of the amendment, except as may be incidental to the adjustment of lot lines and/or right-of-way lines; and

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[306] From current §155.071 and 072 with revisions to clarify that this applies to both Minor and Major Subdivisions. Reference to payment of a fee has been deleted, since that is addressed in Article 5.

(iv) The amendment is consistent with the purposes and requirements of this ordinance.

(b) Errors or Omissions

If an error or omission is found at any time after the recording of a Minor or Major Subdivision plat, the Executive Director shall be notified of the error or omission in writing, and the lot owner or his or her successor shall cause the error or omission to be corrected. The Executive Director shall determine how the correction of the error or omission shall be made. The Executive Director may withhold Improvement Location Permits for any lot within the subdivision until the error or omission is corrected.[307]

(H) Appeals[308]

(1) Appeals of Decisions of a Committee of the Commission

(a) A decision of a Committee of the Commission may be appealed to the Plan Commission by the applicant.

(b) The applicant may appeal the Committee's action on a Minor or Major Subdivision within five (5) business days after notice of the disposition has been mailed. If an appeal is filed, it shall be placed on the next available scheduled public hearing of the Commission that will allow for notice to interested parties.

(c) The Commission may approve, disapprove, or conditionally approve the Minor or Major Subdivision plat based on a determination of whether the Committee's decision complied with the requirements of this ordinance.

(d) The approval or disapproval of the appeal is a final decision of the Commission that may be reviewed as provided in IC 36-7-4-1016.

(2) Appeals of Decision of the Plan Commission

Every final decision of the Commission or its designee as set forth in I.C. 36-7-4-715 shall be subject to review as provided in IC 36-7-4-1016.

(I) Subdivision Plat Vacation[309]

The Commission may approve, approve with conditions, or deny a decision to vacate a Major or Minor Subdivision plat, pursuant to I.C. 36-7-4-711.

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[307] Revised to provide that the director may (not shall) withhold permits; often scriveners errors do not affect the development in a way that would justify permit holds.

[308] From current §155.068, 073 and 074, reordered and revised for clarity. Required submittal materials have been moved to an administrative document. Wording revisions clarify that this applies to Minor Subdivisions as well. A 5 business day deadline for filing the appeal replaces the current 10 day deadline. Provision that an appeal not decided within 90 days is deemed denied has been deleted. Detailed provisions for notice have been replaced by a general reference to notice provisions in the Commission's rules.

[309] Added to align with Allen County code.

ADDITIONAL GENERAL STANDARDS[310]

§ 157.401 PURPOSE

The purpose of this chapter is to provide updated and aligned additional standards, requirements, and provisions for accessory structures and uses, temporary structures and uses, development design standards, development standards waivers and exceptions, home occupations, parking, landscape standards, signs, airport overlay districts, and floodplain management, along with a cross-reference to the existing Historic Preservation regulations.

[310] Updated and reorganized subchapter; Development Plans, Site Plan Review, and Subdivision control sections moved to new Development Processes and Standards subchapter. Title of section has been changed since Phase 3 drafts.

§ 157.402 ACCESSORY STRUCTURES AND USES[311]

(A) Residential Accessory Structures and Uses

(1) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(2) Accessory Structures

See the individual residential zoning district sections for the accessory structures permitted in that zoning district

(3) Fence and Wall Standards[312]

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Permitted Materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchloride (PVC), or similar fencing material.

(c) Prohibited Materials

The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing. In residential districts, or areas abutting residential districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, "abutting" shall include any area separated from a residential district by an alley right-of-way.

(d) Swimming Pool Fencing

Any pool which meets the definition set forth in §157.506 of this ordinance shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 14-4.3-296(3). In accordance with and to supplement this section access to a pool shall be restricted by one of the following:

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[311] Section updated to align the County and Fort Wayne ordinances
[312] Current FW §157.302(A)(3)(b) Construction and Maintenance removed due to redundancy with other requirements.

(i) A wall or fence not less than four (4) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or[313]

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 14-4.3-296(3) and which provides a continuous connection between the cover and the deck, so as to prohibit access to the pool when the cover is completely drawn over the pool; and shall be mechanically operated such that the cover cannot be drawn open or retracted without the use of a key, or a key and switch, or a touch pad with a personal access code. All automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or[314]

(iii) For above ground swimming pools, other means not less than four (4) feet high completely surrounding the pool and deck area when the pool is not in use that is deemed impenetrable by DPS staff at the time of construction. [315]

(e) Exceptions to Standards[316]

(i) Hedge or Retaining Wall

A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjoining[317] sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in this ordinance.

(ii) Ornamental Fence

An ornamental fence, as defined herein, not exceeding three (3) feet in height may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in this ordinance.[318]

(4) Accessory Uses

See the individual residential zoning district sections for the accessory uses permitted in that zoning district. Staff may also determine that additional accessory uses may be permitted.

(a) Outdoor Display

Outdoor display as defined herein shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

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[313] Height reduced from 5 feet to 4 feet.
[314] Revised to include requirement for continuous connection between the cover and the deck to prohibit access to the pool when the cover is drawn, and to require the use of a key or personal access code to remove the cover.
[315] Height reduced from 5 feet to 4 feet. Statement added to clarify that "other means" must completely surround the pool.
[316] Current FW §157.302(A)(3)(f)(iii) Parking Lot Screening removed since parking lot and landscaping standards now address these requirements.
[317] Revised from "adjacent" in Phase 3 drafts.
[318] Current FW §157.302(A)(3)(g) Waiver of Standards removed since this topic addressed in Administration, Development Plan and Site Plan sections of the ordinance.

(b) Outdoor Storage

In any residential district, the outdoor storage of junk, trash, and debris as defined herein shall be prohibited. In addition, the outdoor storage of the following shall be prohibited:[319]

(i) Wrecked or dismantled automobiles;[320]

(ii) Home appliances and fixtures such refrigerators, stoves, and sinks; and

(iii) Indoor furniture.

(c) Parking and Vehicle Storage

In any residential district, licensed and operable automobiles, vans, motorcycles, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 100 square feet in size shall only be permitted to be parked in a driveway or on an improved surface directly connected to a driveway.[321]

(d) Prohibited Vehicles

The vehicles noted below shall be prohibited to be parked or otherwise stored outside of a public right-of-way in residential districts:

(i) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;

(ii) Inoperable or unlicensed automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles;

(iii) School, church or similar buses;

(iv) Pull-behind trailers over 100 square feet in size;[322]

(v) Semi-trailers;

(vi) Semi-trucks;

(vii) Large pick up or panel trucks (over one ton); and

(viii) Other large commercial vehicles not otherwise listed.

(B) Nonresidential Accessory Structures and Uses

(1) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the

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[319] Removed the following materials from the list of prohibited outdoor storage materials in residential district: automobile or machinery equipment or parts including automobile/motor vehicle tires; building construction materials except in conjunction with a permitted ongoing construction project; scrap metal, wood and similar materials; and shelving, racks, or similar uses.
[320] Revised to remove inoperable vehicles from this category of materials.
[321] Clarified the current requirements in FW §157.302(A)(4)(c) to allow parking/vehicle storage in a driveway or on an improved surface directly connected to a driveway. Revised the size limit for trailers from 32 square feet to 100 square feet.
[322] Revised from 32 square feet to 100 square feet.

assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(2) Accessory Structures

See the individual residential zoning district sections for the accessory structures permitted in that zoning district

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Permitted Materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchloride (PVC), or similar fencing material. In DC and DE districts, fencing and wall materials shall be further limited as follows:

(i) Permitted DC fence materials:

[A] Wrought iron or similar metal;

[B] Wood may also be permitted for a fence used to screen service, storage, or delivery areas.

(ii) Permitted DE fence materials:

[A] Dark vinyl coated chain link, if supplemented with a continuous row of shrub plant material a minimum of three feet (3') in height;

[B] Polyvinylchloride (PVC) vertical slat or picket style;

[C] Wood vertical slat or picket style; and

[D] Wrought iron or similar metal.

(iii) Permitted DC and DE wall materials:

[A] Brick;

[B] Stone; or

[C] Similar masonry material, if approved by the Zoning Administrator.

(c) Prohibited Materials

The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(d) Swimming Pool Fencing

Commercial, industrial, and other nonresidential swimming pools shall be completely surrounded by a fence, wall, building, or other enclosure determined acceptable by the Zoning Administrator, of not less than 6 feet in height.

(e) Exceptions to Standards[323]

(i) Hedge or Retaining Wall

A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjoining[324] sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in this ordinance.

(ii) Ornamental Fence

An ornamental fence, as defined herein, not exceeding three (3) feet in height may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in this ordinance.[325]

(4) Accessory Uses

(a) Outdoor Display and Temporary Outdoor Sales[326]

Nonresidential outdoor display and temporary outdoor sales shall only be permitted as follows:[327]

(i) In C1 and BTI districts, outdoor display and temporary outdoor sales shall not be permitted;[328]

(ii) In C2 and NC districts, outdoor display shall be permitted within 10 feet of the primary structure on the front or street side(s); or beneath a gas station canopy; [329]

(iii) In SC, C3, C4, I1, I2, and I3 districts, except for automobile, boat, and similar vehicle sales uses, outdoor display and temporary outdoor sales shall meet the building setback standards, or as otherwise approved by the Plan Commission; display area shall be limited to a maximum of 10% of the primary structure or tenant space;[330]

(iv) Items offered for sale shall be displayed on a paved or similar improved surface; and

(v) In the UC district, outdoor display shall be further limited to 10% of the building ground floor area or 120 square feet, whichever is less; the display shall only be permitted in conjunction with permitted indoor display area(s), during normal business operating hours. All outdoor display items shall be taken inside each day as part of the closing of the business.

(b) Permanent Outdoor Sales[331]

Permanent outdoor sales shall only be permitted as follows:

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[323] Current FW §157.302(A)(3)(f)(iii) Parking Lot Screening removed since parking lot and landscaping standards now address these requirements.
[324] Revised from "adjacent" in Phase 3 drafts.
[325] Current FW §157.302(A)(3)(g) Waiver of Standards removed since this topic addressed in Administration, Development Plan and Site Plan sections of the ordinance.
[326] Category expanded to also include temporary outdoor sales.
[327] New standards to align with updated zoning districts and standards.
[328] New provisions.
[329] New provisions.
[330] New provisions.
[331] New section and provisions.

(i) In C1 and BTI districts, permanent outdoor sales shall not be permitted;

(ii) In C2 and NC districts, permanent outdoor sales shall be permitted within 10 feet of the primary structure on the front or street side(s); or beneath a gas station canopy;

(iii) In SC, C3, C4, I1, I2, and I3 districts, permanent outdoor sales shall be permitted within 10 feet of the primary structure on the front or street side(s); or beneath a gas station canopy; and

(iv) Items offered for sale shall be displayed on a paved or similar improved surface.

(c) Outdoor Storage

Nonresidential outdoor storage shall only be permitted as follows: [332]

(i) In C1 and BTI districts, outdoor storage shall not be permitted; [333]

(ii) In C2, NC, SC, C3, and C4 districts, outdoor storage display shall: be located behind the primary structure, or on the internal side of a corner lot; meet primary building setback standards; be located on a paved or existing gravel surface; and be screened from adjacent residential zoning districts by a solid fence; [334]

(iii) In any commercial or industrial district, if over five (5) vehicles are stored outside the vehicle storage area shall be screened from adjacent residential zoning districts and public street rights of way by a solid fence; the outdoor storage of dismantled vehicles shall be prohibited; [335]

(iv) In I1 districts, outdoor storage shall be allowed between the rear of the building and the rear lot line; the area of the storage may be up to the square footage of the primary structure; the storage area shall be screened from adjacent residential zoning districts and public street rights of way; [336]

(v) In I2 districts, outdoor storage shall be allowed between the front façade of the building and the rear lot line and shall be screened from adjacent residential zoning districts and public street rights of way; and[337]

(vi) In I3 districts, outdoor storage shall be allowed between the required front setback line and the rear lot line and shall be screened from adjacent residential zoning districts and public street rights of way. [338]

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[332] New standards to align with updated zoning districts and standards.
[333] New provisions.
[334] New provisions.
[335] Number of vehicles reduced from 10 to 5.
[336] New provision clarifies requirements for I1 districts.
[337] New provision clarifies requirements for I2 districts.
[338] New provision clarifies requirements for I3 districts.

§ 157.403 TEMPORARY STRUCTURES AND USES

(A) Temporary Accessory Structures

A temporary accessory structure shall be permitted for any universally permitted or other permitted nonresidential use, subject to the following standards and requirements:[339]

(1) A temporary mobile classroom structure shall be permitted up to two years;[340]

(2) A temporary storage or similar temporary structure shall be permitted up to 90 days without a certificate of use; if the applicant obtains a certificate of use then the structures may be permitted up to 120 days; [341]

(3) If the proposed structure requires review under §157.302 (Site Plan Review), the applicant shall obtain approval of the proposal through that process, prior to the issuance of an Improvement Location Permit; and

(4) This subsection shall not apply to temporary construction or sales structures, mobile food service units, or tents.[342]

(B) Temporary Special Events

Temporary special events shall be permitted as an accessory use to any universally permitted use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed ten (10) days per event[343]. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(C) Temporary Construction/Sales Structures[344]

(1) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. Trailers shall be located in conformance with the corner visibility standards set forth in this ordinance.

(2) A temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan review process.[345]

(3) No permit shall be required for an on-site trailer if no water and sewer connections are requested; if the trailer is to be placed off-site, or if water and sanitary sewer connections are requested, then the structure shall be reviewed through the Site Plan review process.[346]

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[339] Simplified language for clarity.
[340] New provision.
[341] Replaces current provision that allows a temporary use for up to two years.
[342] Expanded to include temporary constructions or sales structures.
[343] Extended event period from seven to 10 days.
[344] Expanded category to include Temporary Sales Structures.
[345] Current requirement for a model home within an approved residential subdivision to be used as a temporary sales office for a period of up to 2 years removed.
[346] New provision.

(D) Mobile Food Service Units

(1) A mobile food service unit shall be a permitted use in a C2, NC, SC, C3, C4, DC, DE, UC, I1, I2, or I3 district, and a permitted accessory use to an institutional building in any zoning district. The unit shall be allowed on a site up to five (5) times in a twelve (12) month period, for up to five (5) days per event. If the unit is located in a public park as part of a festival or similar event or is located within a public right-of-way, there shall be no limit on the number of times the unit shall be allowed. Any unit located outside of a public right-of-way shall meet the primary building setbacks. No Improvement Location Permit or Certificate of Compliance shall be required.[347]

(2) A mobile food service unit shall be a permitted use in a C2, NC, SC, C3, C4, I1, I2, or I3 district, beyond the limits listed in §157.403(1) above, for up to four (4) months in a twelve (12) month period; however, an Improvement Location Permit or Site Plan Review, as applicable to the specific request, shall be required for the use. . [348]

(E) Temporary Tents[349]

The following standards shall apply to the placement of temporary tents.

(1) Except for universally permitted uses, in residential districts a tent of up to 200 square feet may be placed on a lot up to three (3) times in a twelve (12) month period, for up to ten (10) days per event;

(2) Except for universally permitted uses, in residential districts a tent of over 200 square feet may be placed on a lot up to three (3) times in a twelve (12) month period, for up to ten (10) days per event; the applicant shall obtain a certificate of use;

(3) Except for universally permitted uses, in nonresidential districts, a tent may be placed on a lot up to three (3) times in a twelve (12) month period, for up to ten (10) days per event or one time for up to four (4) months in a twelve month period; the applicant shall obtain a certificate of use for each placement; or

(4) For universally permitted uses a tent may be placed on a lot up to three (3) times in a twelve (12) month period, for up to ten (10) days per event.

[347] Revisions clarify in which districts temporary mobile food service units are permitted, and expand the number of events from three to five and reduce the number of days per event from 14 days to five. Removed requirement for event length for events in public parks or public rights-of-way.
[348] Reduced length of event from 14 days to 5 days.
[349] New section and provisions.

§ 157.404 DEVELOPMENT DESIGN STANDARDS

(A) Purpose[350]

The purpose of this section is to:

(1) Mitigate potential adverse impacts of proposed development on surrounding areas, and particularly residential neighborhoods;

(2) Accommodate required infrastructure and public services,

(3) Promote the efficient provision of public services;

(4) Promote efficient transportation and circulation networks,;

(5) In the Downtown Core (DC) and Downtown Edge (DE) districts, promote attractive and functional building forms; attractive and functional streetscape and public space design; compatibility of design, use, character, and pattern; increased pedestrian oriented design; and the use of high quality, durable materials.

(B) Applicability[351]

(1) All Development Plans, Site Plan Reviews, and Subdivisions shall comply with each of the standards shown in the table below.

DEVELOPMENT DESIGN STANDARD APPLICABILITY[352]

Standard	Section	DP	SP	MJS	MNS
Access	§157.404(D)	✓	✓	✓	✓
Airport overlay districts	§157.404(E)	✓	✓	✓	✓
Block layout	§157.404(F)			✓	✓
Easements	§157.404(G)	✓	✓	✓	✓
Floodplain	§157.404(H)	✓	✓	✓	✓
Landscape standards	§157.404(I)	✓	✓		
Lot standards	§157.404(J)			✓	✓
Natural site features	§157.404(K)	✓		✓	✓
Open space and recreation amenities	§157.404(L)			✓	
Parking	§157.404(M)	✓	✓		
Pedestrian circulation	§157.404(N)	✓	✓	✓	
Residential impact mitigation	§157.404(O)	✓	✓		
Sanitary sewer	§157.404(P)	✓	✓	✓	✓
Signs	§157.404(Q)	✓	✓	✓	✓
Site lighting	§157.404(R)	✓	✓		
Storm drainage	§157.404(S)	✓	✓	✓	✓

[350] New section integrating purposes from current Development Plan and Major and Minor Subdivision controls. Simplified since Phase 2 drafts.
[351] New section and table since the Phase 2 drafts.
[352] New table summarizing requirements in this section.

DEVELOPMENT DESIGN STANDARD APPLICABILITY[352]					
Standard	**Section**	**DP**	**SP**	**MJS**	**MNS**
Street lighting	§157.404(T)	✓	✓	✓	
Vehicle circulation and streets	§157.404(U)	✓	✓	✓	✓
Water	§157.404(V)	✓	✓	✓	✓
Zoning district standards • Building Separation • Building Size • Number of Buildings on a Lot • Height • Lot Area and Width • Yard Requirements • Zoning Overlay Districts	§157.404(W)	✓	✓	✓	✓
Design standards (downtown)	§157.404(X)	✓	✓		
KEY DP=Development Plan SP=Site Plan MJS=Major Subdivision MNS = Minor Subdivision ✓=Standard is applicable					

(C) Compliance[353]

All proposed development shall be in conformance with the applicable development design standards. Compliance shall be determined by the DPS staff in the case of zoning ordinance standards, and by the applicable reviewing agency staff in the case of non-zoning ordinance standards. Copies of required application materials, applicable fees, and non-zoning ordinance standards are available from DPS staff.

(D) Access [354]

(1) General Standards

Complete access and traffic management facilities in compliance with the standards and specifications of the applicable reviewing agency shall be provided to serve the proposed development.

(2) Additional Standards for Major Subdivisions

(a) Each residential lot in the Major Subdivision shall have direct access to an existing, publicly maintained street by way of a platted public or private street, but no residential lot may directly access an arterial street.[355]

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[353] New section addressing compliance with standards.
[354] From current §155.040, 157 065, and 157.301.4(F)(1) simplified and revised to reflect current practice of requiring frontage on a public street (but not an arterial). Requirements for additional connections to surrounding street system have been added to promote walkability. Since Phase 2 drafts, the section has been renamed from "Access and Traffic Management." has been generalized to apply to those types of applications shown in the table, and has been revised to align with the Allen County code.
[355] Limited this provision to residential lots, because non-residential lots may need to have access to arterial streets.

(b) Each residential lot in the Major Subdivision shall front upon and have at least the minimum required frontage on a dedicated public street of sufficient width and improvement to meet the applicable agency standards and specifications.[356] [357]

(c) Each Major Subdivision shall have at least one point of connection between its internal street system and an adjoining[358] arterial, collector, or local street for every fifty (50) residential lots, or part thereof, located in the Major Subdivision. For purposes of this standard, the number of homes in all adjoining[359] phases of a Major Subdivision shall be considered together.[360]

(3) Additional Standards for Minor Subdivisions

Each Minor Subdivision lot shall have frontage on an existing improved non-arterial street.

(E) Airport Overlay Districts[361]

All development proposals shall also be subject to the applicable provisions of the Airport Overlay Districts as set forth in §157.411.

(F) Block Layout[362]

In Major Subdivisions, blocks shall be of sufficient dimension to allow two (2) tiers of lots of at least the minimum depth required by the zoning district in which the lots are located.[363]

(G) Easements[364]

Easements shall be provided as required by the applicable reviewing agency for utility lines, storm water drainage facilities, and pedestrian access. Easements shall be designed and laid out so that adequate utility service and storm drainage can be provided, and proper continuity exists between areas, uses, structures, parcels, and developments. Easement widths and locations shall be shown.

(H) Floodplain[365]

All proposed buildings, structures, and site development located within a Special Flood Harzard Area shall also comply with the Floodplain regulations as set forth in §157.412.

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[356] Revised since Phase 2 to apply to only residential lots.
[357] Private streets provision moved to Access section.
[358] Revised from "adjacent" in Phase 3 drafts.
[359] Revised from "adjacent" in Phase 3 drafts.
[360] New provision to promote street connectivity.
[361] New standard to clarify application of overlay district requirements.
[362] New section based on Allen County code. Since phase 2, block standards and cul-de-sac standards have been separated and different standards apply to each. Cul-de-sac standards appear in the vehicle circulation section.
[363] Since Phase 2 drafts, cul-de-sac provisions have been revised and moved to the vehicle circulation section.
[364] Integrates text from current §157.304(F)(4) and 155.023, with minor wording changes to align with Allen County code. References to city standards were deleted. Allen County provision favoring easements over alleys were not included. Since Phase 2 drafts, this requirement now applies to all applications shown in the Applicability Table in §157.404(B).
[365] Replaces current §155.026by deleting detailed requirements and instead providing a cross reference to the Floodplain regulations.

(I) Landscaping Standards[366]

All development shall comply with the landscaping, screening, and buffering standards applicable to that development as set forth in §157.408. When development other than a single family or two family dwelling occurs on a lot adjacent to a residential zoning district, the additional landscaping, screening, and buffering requirements in §157.404(O) shall apply.

(J) Lot Standards[367]

(1) Minor and Major Subdivision Standards

(a) Corner Lots[368]

If Minor or Major subdivision lots are created that front on more than one intersecting street (corner lots) and one or more of those streets is an arterial street, collector street or limited access highway as shown in the latest adopted County transportation or street plan, access to each corner lot shall only be permitted from a local or interior street, unless otherwise approved by the Plan Commission. The Commission shall not approve a request for alternative access unless it shall make findings of fact based upon the evidence presented to it in each specific case that:[369]

(i) Granting approval will not be detrimental to the public health, safety, or welfare, or injurious to other properties.

(ii) The conditions upon which the request is based are unique to the property for which the request is sought, and are not applicable generally to other properties.

(iii) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.

(b) Double Frontage Lots[370]

Major Subdivision lots shall not be created with two opposite lots lines both facing a public street (double frontage lots) unless:

(i) The depth of each double frontage lot is at least 150 feet; it is intended that a double frontage lot be deeper than the lots directly across the interior street from the double frontage lot. Alternatively, the lots may be separated from the exterior higher volume street by a common area of not less than 15 feet;[371] and

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[366] New section since Phase 2 cross-referencing all landscaping, screening and buffering.
[367] From current §155.022. Introduction is new to reflect current practice. Requirement for sequential numbering of lots was deleted as unnecessary. Provisions regarding design of rounded corners deleted as more appropriate for administrative design documents. Since the Phase 2 drafts this has been retitled from "Lots" and standards have been extended to apply to Development Plans. In cases where these provisions restrict access from certain types of streets, the City may require the recording of a deed restriction or covenant relinquishing those access rights, and a provision on "Covenants and Other Restrictions" clarifying that authority will be added to Article 5.
[368] New provision to align with Allen County code.
[369] Since Phase 2, inserted provisions from current §157.302 to clarify when the Commission may approve an alternative access.
[370] New provision to align with Allen County code, now extended to apply to Development Plans.
[371] Revised since Phase 2 to replace 10 ft. extra depth with 15 ft. common area and 150 ft. depth option.

(ii) Access to each double frontage lot is only permitted from the interior, local street.

(c) Side Lot Lines

Side lot lines generally shall be at right angles to straight street right-of-way lines and radial to curved street right-of-way lines.[372]

(K) Natural Site Features[373]

(1) General Standards

The location and nature of existing significant natural site features should be considered by the applicant in the planning and design of site development and should be avoided or preserved where possible..

(2) Additional Standards for Major Subdivisions

(a) All Major Subdivisions should be located and designed to avoid the inclusion of significant natural features in individual building lots and to incorporate those features into common open spaces for the benefit of subdivision residents where possible.

(b) The Commission shall have the authority to approve Major Subdivision lots with up to ten (10) percent less lot area than the minimum required for the zoning district where the property is located if significant natural features are preserved, to allow for the platting of the same number of lots permitted by the minimum lot area required for that zoning district provided that title to the land containing those features is transferred to a homeowners' association or other entity responsible for their management under terms that will not allow the future development of the land on which the natural features are located.

(L) Open Space and Recreation Amenities[374]

(1) Development Plan and Major Subdivision Standards

(a) All Major Subdivisions and Development Plans shall require the provision of open/recreation space. The provisions of this section are minimum standards, and an applicant may establish other land for recreational purposes in addition to the requirements of this section.[375]

(b) Open/recreation space shall be of suitable size, dimension, topography and general character and shall have adequate road access for the general purposes envisioned. The acreage shall be determined by the Commission from the following table, which has been prepared on the basis of providing three (3) acres of recreation area for every 100 dwelling units, and may be waived if the total required open/recreation space is less than 10,000 square feet. These ratios shall be applied to all sections of a subdivision and to the subdivision as a whole.

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[372] New provision to align with Allen County code, now extended to apply to Development Plans.
[373] Currently addressed in §157.3014(F)(5) for development plans and new for subdivisions. Since Phase 2 drafts, the simple standards applicable to Development Plans and the proposed more detailed standards applicable to Subdivisions have been consolidated, requirement has been revised to an incentive, text on Planning Commission authority to mitigate pre-application removals of significant natural features has been deleted, and definition of significant natural features has been moved to definitions.
[374] From current §155.025. Since Phase 2 drafts, this has been extended to apply to Development Plans.
[375] From current code §155.025 and Chapter 158. These requirements are not aligned with AC because the city and county needs are different.

TABLE OF REQUIRED RECREATIONAL SPACE	
If total area of plat divided by number of lots is less than or equal to:	Total land required for recreational space allotment:
15,000 sq. ft.	8.0%
25,000 sq. ft.	5.0%
35,000 sq. ft.	3.5%
40,000 sq. ft.	3.0%
50,000 sq. ft.	2.5%
80,000 sq. ft. or more	1.5%

(c) Recreation areas shall be located as the Commission directs, may contain any type of recreational facility approved by the Department of Parks and Recreation, and may include active or passive recreational facilities. Recreation areas shall be coordinated, whenever possible, with existing or proposed recreation areas.

(d) This open/recreation area requirements shall be waived if:

(i) The applicant has entered an agreement with the Department of Parks and Recreation to improve and dedicate lands and facilities within the subdivision, or at an acceptable location not contained within the subdivided land, for a public park, or;

(ii) The applicant has made acceptable "in lieu of" payments to the Department of Parks and Recreation for deposit in an escrow account to be used only for public park development within the appropriate subarea of the park service jurisdiction.

(e) In addition, the requirements of Chapter 158 of the Fort Wayne Code apply.

(M) Parking[376]

All development shall comply with the parking standards applicable to that development as set forth in §157.407.

[376] New provision to provide reference to updated parking requirements.

(N) Pedestrian Circulation[377]

(1) General Standards

(a) Internal pedestrian walkways shall be constructed to provide connections to existing adjoining sidewalks and trails, and from primary building entrances to existing sidewalks and trails.

(b) Construction of all required sidewalks shall occur prior to issuance of a Certificate of Compliance for any primary building.[378]

(c) Where a plan showing specific trail locations has been adopted as an amendment to the Comprehensive Plan, and the plan shows a multi-use trail in a location where a sidewalk would otherwise be required, a multi-use trail shall be constructed instead.[379]

(d) If the proposed roadway is to be dedicated to Fort Wayne, the design shall comply with the requirements of the Americans with Disabilities Act, including but not limited to the Public Right-of-Way Accessibility Guidelines.[380]

(2) Additional Standards Applicable to Development Plans and Site Plans

(a) Unless determined by the Fort Wayne Transportation Engineering Department to be an unnecessary hardship due to engineering constraints, sidewalks a minimum of five (5) feet in width shall be constructed to the standards of the applicable reviewing agency along the full property frontage of any street adjoining the Development Plan or Site Plan development site if:

(i) The street adjoining the development site is identified by the Pedestrian Connectivity Needs Map in the *Walk Fort Wayne* plan as a thoroughfare in need of pedestrian facilities within a Pedestrian Generating Area (regardless of project size); or

(ii) The development site (including previous or proposed later phases of the proposed development) contains twenty-five (25) dwelling units or more, or contains 5,000 sq. ft. of nonresidential gross floor area or more, or both; or

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[377] Standards from current §155.038 has been and expanded to apply to projects requiring Development Plan approval. A five foot minimum width standard has been added to align city and county standards. Industrial developments have reduced requirements, but Allen County exceptions for large lots, developments without curb and gutters, and cul-de-sacs with alternative access do not apply in the City. Provisions for waiver by the Commission have been deleted. Walkway requirements are simplified from those found in 157.3014(F)(3). Since Phase 2 the Pedestrian Circulation and Sidewalk standards have been integrated and the text clarifies that these do not apply to Minor Subdivisions. In addition, sidewalks are only required on perimeter streets when the subdivision is larger or when connecting sidewalks have already been developed. Since Phase 3 drafts, section has been significantly reorganized, provisions for lot bonuses for provision of multi-use trail where one is not required by a plan document have been deleted, text regarding the obligation to provide a street frontage sidewalk if an adjacent property has done so has been revised to clarify that the required sidewalk must extend across the entire property frontage, and all references to "abutting" property or sidewalks have been revised to "adjoining".

[378] Revised since Phase 3 drafts to clarify that sidewalks must be installed prior to CoC issuance rather than building occupancy.

[379] Revised since Phase 3 drafts to clarify that this applies to specific locations shown on amendments to the Comp Plan.

[380] New since Phase 3 drafts to avoid future costs of City retrofitting of dedicated roadways.

(iii) Sidewalks have previously been constructed within the street right-of-way on the same side of that adjoining street on at least one of the parcels adjacent to the proposed development site with frontage on that adjoining street.[381]

(b) Where the Development Plan or Site Plan development site includes multiple buildings on a single lot or on adjoining lots, internal pedestrian walkways shall be provided to provide connections between the primary building entrances of all primary buildings.[382]

(3) Additional Standards Applicable to Major Subdivisions

(a) Sidewalks a minimum of five (5) feet in width shall be constructed to City standards and specifications on each side of all internal streets within a Major Subdivision, except as provided in subsection (4) below.

(b) Sidewalks a minimum of five (5) feet in width shall be constructed to the standards of the applicable reviewing agency along the full property frontage of any street adjoining the Major Subdivision if:

(i) The Major Subdivision (including previous or proposed later phases of the proposed development) contains twenty-five (25) residential lots or more; or

(ii) Sidewalks have previously been constructed within the street right-of-way on the same side of that adjoining street on at least one of the parcels adjacent to the proposed subdivision with frontage on that adjoining street.[383]

(4) Exceptions[384]

Sidewalks shall not be required in the BTI (Business, Technology, Industrial Park), I1 (Limited Industrial), I2 (General Industrial), or I3 (Intensive Industrial) zoning districts, unless the property is included on a plan showing specific trail locations that has been adopted as an amendment to the Comprehensive Plan; in those cases, a multi-use trail shall be provided in the location shown on the plan.

(O) Residential Impact Mitigation[385]

All development must comply with the landscaping, screening, and buffering requirements in §157.408. To provide additional buffering and mitigation for residential uses, if proposed development on a lot or parcel adjacent to an AR, R1, R2, R3, RP, MHS, or MHP zoning district includes development other than a single family or two family dwelling, the Development Plan shall comply with the following additional standards.

(1) Additional Height Standards

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[381] Revised since Phase 2 to clarify that requirement applies when sidewalks have been constructed in the street right-of-way.
[382] New provision.
[383] Revised since Phase 2 to clarify that requirement applies when sidewalks have been constructed in the street right-of-way.
[384] Clarifies that exceptions do not apply if the sidewalk is needed for an approved Safe Routes to School plan. Since Phase 2 documents, several exceptions that apply in Allen County have been deleted as inapplicable to Fort Wayne's more urban context.
[385] New provisions to address community concerns about commercial/residential adjacency impacts.

No primary or accessory buildings or structures exceeding 30 feet in height shall be located within 50 feet of the A, R, or MH district.

(2) Landscaping, Screening and Buffering

(a) Outdoor display or storage areas, including vehicle storage areas and drive through lanes shall meet the minimum primary building setback.

(b) No gas station or convenience store canopy shall be located between the primary structure and any lot line with a protected district.

(c) If the mitigation requirements of this §157.407(O) conflict with the screening and buffering requirements of §157.408, the standard requiring more screening and buffering shall apply.

(P) Sanitary Sewer[386]

Public sanitary sewer facilities in compliance with the standards and specifications of the applicable reviewing agency shall be provided to serve the proposed development; for primary plats and development plans, evidence that public sanitary sewer is available and has adequate capacity to serve the development shall be provided..

(Q) Signs[387]

All development shall comply with the sign regulations applicable to that zoning district and type of development as set forth in §157.409.

(R) Site Lighting[388]

Exterior lighting for all development other than single family and two family dwellings shall comply with the standards in subsection (2) below unless exempted pursuant to subsection (1) below.

(1) Exceptions

The following types of lighting are not subject to the requirements of this §157.407(R):

(a) Public street and right-of-way lighting;

(b) Lighting required and regulated by the Federal Aviation Administration;

(c) Lighting for a special area, district, street or building that, according to an adopted City ordinance, requires special lighting aesthetics as part of its physical character;

(d) Lighting for outdoor recreational uses such as ball diamonds, playing fields, tennis courts and similar uses, provided that light poles are not more than 40 ft. tall, and the maximum illumination at the property line is not brighter than zero foot-candles.

(e) Temporary decorative seasonal lighting;

(f) Temporary lighting for emergency or nighttime work and construction; and

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[386] Merges text from current §155.043 applicable to Subdivisions and 157.304(F)(10) applicable to Development Plans, with references to review agencies simplified; language on capacity added since Phase 3 drafts.
[387] New provision provides reference to updated sign regulations.
[388] These new standards replace those from current §157.304(F)(7) which read "Building and parking lot lighting facilities shall be provided to serve the proposed development. All lighting fixtures shall be full cut off fixtures. Internal site lighting poles on properties adjacent to residential zoning districts shall be a maximum of 24 feet tall."

(g) Temporary lighting for theatrical, television and performance areas, or for special public events.

(2) Standards

All exterior lighting shall meet the following design standards:

(a) Any freestanding or wall pack light source or lamp shall be concealed or shielded with an Illuminations Engineering Society of North America (IESNA) full cut-off style fixture to minimize the potential for glare and unnecessary diffusion on adjacent property.

(b) Except for the portion of the property adjoining a street right-of-way, where nonresidential development is proposed adjacent to residential districts, zero footcandles of light may be emitted by the nonresidential development along the property line with the residential district. [389]

(c) The maximum height of any lighting pole serving a residential use is 25 feet. The maximum height serving any other type of use is 35 feet, except that the maximum height of any pole located within 50 feet of an A, R, or MH district shall be 25 feet.[390]

(d) Lighting on gas stations, convenience store and other outdoor canopies shall be fully recessed into the canopy and shall not protrude downward beyond the ceiling of the canopy. [391]

(S) Storm Drainage[392]

Storm drainage facilities in compliance with the standards and specifications of the applicable reviewing agency shall be provided to serve the proposed development.

(T) Street Lighting

Except in Minor Subdivisions, public street lighting in compliance with the standards and specifications of the applicable reviewing agency shall be provided to serve the proposed development.[393].

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[389] Subsection (b) is new since Phase 3 drafts.
[390] Replaces Phase 3 draft text reading "The maximum height of any lighting pole serving a residential use is 20 ft. The maximum height serving any other type of use is 25 ft., except that (a) the maximum height of any pole located at least 100 ft. from any residential zoning district boundary is 35 ft., and (b) in the I2 or I3 zoning districts, the maximum pole height is 50 ft."
[391] Since Phase 3 drafts, the maximum lighting uniformity limit of 15:1 has been deleted.
[392] From current §155.044, with first paragraph reworded and second paragraph added for alignment with Allen County code. Since the Phase 2 a draft, this more general language has replaced previous subdivision text reading, "The applicant shall install an adequate storm water system with surface inlets. The plans for the drainage of the Major Subdivision showing topography, direction of flow, size, location, material, profiles, and all connections the storm water drainage facilities shall meet the requirements of storm water management and erosion control as established by the Water Pollution Control Engineering Department and/or its successors or assigns." Since the Phase 2 draft, language on enforcement by Water Pollution Control Engineering has been deleted.
[393] From current §155.039. Since the Phase 2 drafts, these standards have been extended to apply to Development Plans and other applications shown in the Development and Design Standards Applicability table.

(U) Vehicle Circulation and Streets[394]

(1) Consistency with Transportation Plan

The design and layout of the street system shall be consistent with the latest Common Council adopted Transportation Plan.[395]

(2) Construction Standards

The construction of streets shall comply with all applicable City street construction standards, including but not limited to City standards for minimum street widths, intersection and/or roundabout design, street alignments, curve radii and tangents, street grades and grading, types and qualities of construction materials.

(3) Alleys

Alleys are permitted in all districts.[396]

(4) Continuation of Streets, Alleys and Easements[397]

Wherever a dedicated or platted portion of a street or alley or easement exists adjoining[398] to the proposed Subdivision or Development Plan, the continuation of the street, alley, or easement right-of-way at the same width shall be shown on the proposed Subdivision plat or Development Plan.

(5) Cul-de-sac Streets

(a) No cul-de-sac street shall be permitted where it would be in conflict with the latest Common Council adopted Transportation Plan .

(b) Cul-de-sacs shall not exceed eight hundred (800) feet in length, except that the Commission may allow a length of up to 1,320 feet if the presence of natural site features (creeks, drains, floodplain, rivers, wetlands, or significant grade changes) makes it impractical to provide additional or alternate access.[399]

(c) A cul-de-sac street shall terminate in a circular right-of-way (cul-de-sac) meeting the City's design and construction standards.

(d) Unless determined to be unnecessary by the Commission, a temporary dead-end street shall be required where a Major Subdivision[400] or Development Plan shows that the street should be extended to conform to the provisions of this ordinance. A circular right-of-way in

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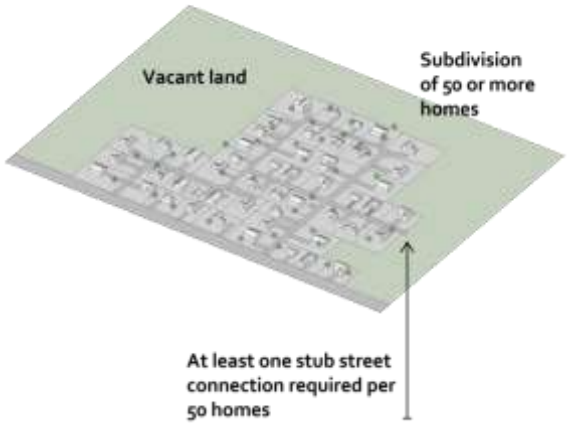
[394] From current §155.020(B), 155.036, 155.037 and 155.037, reordered and reworded for alignment of city and county codes. Provisions on shade trees from §155.041 have been deleted because those generally appear in landscaping requirements (Article 4) and having them in two different sections of the code leads to inconsistencies. These now align with the AC code, except that private street materials are not included. Since the Phase 2 drafts these provisions have been extended to apply to Development Plans as well as Subdivisions.
[395] New provision to reflect current practice.
[396] Revised since Phase 2 documents to clarify that alleys are permitted in all districts and to remove minimum width requirement.
[397] New provision.
[398] Revised from "adjacent" in Phase 3 drafts.
[399] In response to public comment, revised since Phase 2 to increase maximum length from 500 ft. to 800 ft. and to remove maximum limit of 20 homes on a cul-de-sac.
[400] Extended to apply to subdivisions with secondary approval as well, and extended to Development Plans.

excess of the required street right-of-way at the termination of such temporary dead-end street may be required by the Commission.

(6) Interconnection[401]

(a) Development Plans and Major Subdivisions

All streets shall be aligned to join with planned or existing streets (including stub streets) on adjoining[402] parcels and shall provide stub streets to allow at least one future access to adjoining[403] vacant parcels of land per 50 homes (or part thereof) in the proposed Development Plan or Subdivision, unless the Plan Commission determines at the time of Primary Development Plan or Subdivision approval that the interconnection is impracticable due to site or topography constraints.



(b) Minor Subdivisions

No Minor Subdivision may provide an interconnection to more than one other Minor Subdivision, and no more than two (2) Minor Subdivisions may share a single point of access to a public street.

(7) School Bus Access

Each Major Subdivision or Development Plan containing over sixty (60) lots shall include an internal loop street system allowing school busses to access the subdivision, circulate, and return to an access point to a local, collector, or arterial street adjoining[404] the Major Subdivision or Development Plan development site without turning around or backing up. The Plan Commission may permit alternative street system provisions allowing for internal bus access if those provisions have been approved by the applicable school district. For purposes of this standard, the number of homes in all adjoining[405] phases of a Major Subdivision or Development Plan shall be considered together.[406]

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[401] New provision.
[402] Revised from "adjacent" in Phase 3 drafts.
[403] Revised from "adjacent" in Phase 3 drafts.
[404] Revised from "adjacent" in Phase 3 drafts.
[405] Revised from "adjacent" in Phase 3 drafts.
[406] New provision. Revised since Phase 2 documents to apply to raise threshold from 25 lots to 60 and to allow for alternatives.

(8) Street Names[407]

(a) The name of any street, road, drive, or avenue already in use or established by plat anywhere in Allen County shall not be used in any new development except in the case of a direct extension of the existing street, road, drive, or avenue of the same name.

(b) No name of a street, road, drive, or avenue shall include the word north, south, east or west, unless it denotes a geographic location.

(V) Water[408]

Public water facilities shall be provided to serve the proposed development.

(W) Zoning District Standards[409]

(1) Building Separation

All buildings and structures shall comply with the applicable building separation standards for the zoning district in which they are located, as set forth in §157.208-209.

(2) Building Size

All residential buildings shall comply with the applicable building size standards for the zoning district in which they are located, as set forth in §157.206-211.

(3) Number of Buildings on a Lot

All residential developments shall comply with the applicable building number limitations for the zoning district in which they are located, as set forth in §157.206-211.

(4) Height[410]

(a) All buildings and structures shall comply with the height standards for the zoning district in which they are located, as set forth in §157.206-224.

(b) In addition, when development other than a single family or two family dwelling occurs on a lot adjoining[411] an AR, R1, R2, R3, RP, MHP, or MHS zoning district, the height standards in §157.404(O) shall apply.

(5) Lot Area and Width

All developments shall comply with the applicable lot area and lot width standards for the zoning district in which they are located, as set forth in §157.206-211.

(6) Yard Requirements

All development shall comply with the applicable yard requirements for the zoning district in which they are located, as set forth in §157.206-224.

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[407] Replaces current §155.020(B).
[408] Since the Phase 2 draft, this text consolidates current subdivision standards from current §155.042 and development plan standards from §157.304(F)(15) with references to review agencies simplified and minor rewording to align standards.
[409] New heading and provisions to clarify that some development standards are specific to the zoning districts and are found within the zoning district sections of this code.
[410] Revised since Phase 2 documents to cross-reference new residential protection standards.
[411] Revised from "adjacent" in Phase 3 drafts.

(7) Zoning Overlay Districts[412]

All development proposals shall also be subject to all applicable provisions of Zoning Overlay districts including but not limited to the provisions of §157.411 (Airport Overlay Districts), §157.412 (Floodplain), and §157.413 (Historic Preservation).

(X) Design Standards (Downtown)[413]

(1) Purpose

The purpose of including design standards as part of Development Plan and Site Plan Review and certain other development proposals is to:

(a) Implement the design-based recommendations of the Plan-it Allen Comprehensive Plan, the Downtown BluePrint plan, the BluePrint Plus plan, the Around the Square Sub Area Plan; and additional Council-adopted plans.

(b) Preserve and enhance the unique character of the community, including the Downtown area, by maintaining the integrity of areas with special significance;

(c) Foster attractive and functional design solutions;

(d) Protect and encourage public and private investments;

(e) Encourage new development and redevelopment which is compatible with the character and pattern of existing development; and

(f) Provide design direction to property owners, developers, designers, and decision-makers.

(2) Applicability[414]

This section shall be applicable to the following development proposals in the DC and DE districts:

(a) Primary and Secondary Development plans;

(b) Major façade renovations;

(c) Site Plan Review projects;

(d) Conversions of single family and two family structures to commercial/mixed-use structures, or to multiple family structures that are determined to be Development Plans, major façade renovations, or Site Plan routing projects; and

(e) Fence, parking lot, and sign proposals.

(3) In case of any conflict between the standards in this §157.404(X) and other standards in this ordinance that address the same building or site feature, including without limitation standards in §157.404(C) through 157.404(W), the standards in this §157.404(X) shall apply.

(4) General Requirements

The Commission has established a Design Review Committee for conducting reviews, making recommendations, or taking action on certain development proposals in the DC and DE zoning districts. All Commission-reviewed Development Plan projects in the DC and DE districts shall

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[412] New section and provisions to provide reference to all overlay districts.
[413] From current 157.304(F)(16) and 157.309.
[414] Subsection (b) added for clarification of current practice.

also be reviewed in terms of the recommendations of the Downtown Design Manual and the Design Review Committee, except that projects located within local historic districts shall not be subject to design review. It is intended that the design review process generally take place as set forth in the table below.

Project Type	Development Plan (with Design Review Committee [DRC] Recommendation)	Major Facade Renovation (with DRC Decision)	Site Plan (with DRC Decision)	Staff Review	Permit Type
New development projects (including accessory structures)	Greater than 1,000 sq. ft. gross floor area (gfa)	N/A	Less than 1,000 sq. ft. gfa	N/A	Improvement Location Permit (ILP)
Additions to primary or accessory structures, excluding additions to single and two family structures	Greater than 25% of structure gfa or greater than 10,000 sq. ft. gfa	N/A	Less than 25% of structure gfa or less than 10,000 sq. ft. gfa	N/A	ILP
Major facade renovation	N/A	All projects	N/A	N/A	ILP
Signs only	N/A	N/A	N/A	All projects	ILP
Fencing only	N/A	N/A	N/A	All projects	ILP
Minor facade renovation	N/A	N/A	N/A	N/A	N/A

(5) Design Standards

The following design standards shall apply as noted. The Downtown Design Manual is also available and is intended to provide additional information and assistance on, and recommended alternatives for development proposals in the DC and DE zoning districts to property owners, developers, designers, and decision-makers.

(a) Awnings, Canopies, and Marquees

(i) Fiberglass and plastic awnings shall not be permitted.

(ii) Awnings shall not be internally lit.

(iii) At their lowest point, awnings, canopies, and marquees shall be a minimum of eight (8) feet above the grade of the sidewalk.

(b) Balconies

At their lowest point, balconies shall be a minimum of eight (8) feet above the grade of the sidewalk.

(c) Building Additions

Additions to the front or side of an existing structure that are visible from a public street shall be similar in material and design to the primary facade.

(d) Building Lighting

(i) Building-mounted light fixtures shall be shielded with an Illuminations Engineering Society of North America (IESNA) full cut-off fixture such that glare is not created on adjoining[415] public rights-of-way.[416]

(ii) Building-mounted light fixtures in pedestrian areas such as sidewalks, pathways, and plazas shall not be mounted higher than twelve (12) feet, as measured from the adjoining[417] grade.

(e) Building Materials

(i) Mirrored glass is prohibited for all new construction, façade renovations, and building conversions.

(ii) In the DC district, aluminum and/or vinyl residential style lap siding is prohibited on the first two stories of structures, for all new construction, façade renovations, and building conversions

(iii) Thin-set brick, corrugated metal, Exterior Insulation Finishing Systems (EIFS), and wood shake, shingle, or other wood lap siding is prohibited on the bottom three feet of the primary façade of the structure for new non-residential and mixed use buildings, façade renovations, and building conversions.

(f) Cornice/Roof Layer Screening

Roof-mounted mechanical equipment such as roof vents, metal chimneys, solar panels, television antennae/satellite dishes, or air conditioning units shall be screened so as to not be visible from any adjoining[418] sidewalk or street.

(g) Drive-Through Facilities

(i) The following requirements shall apply to all drive-through facilities:

[A] There shall be a direct pedestrian access between the primary entrance and the adjoining[419] public sidewalk.

[B] The drive-through facility shall not have more than two (2) service lanes.

[C] If an additional access point is required to serve a new facility, the access should be provided from an alley if feasible; if alley access is not feasible, the access should be provided from the street with the least traffic volume.

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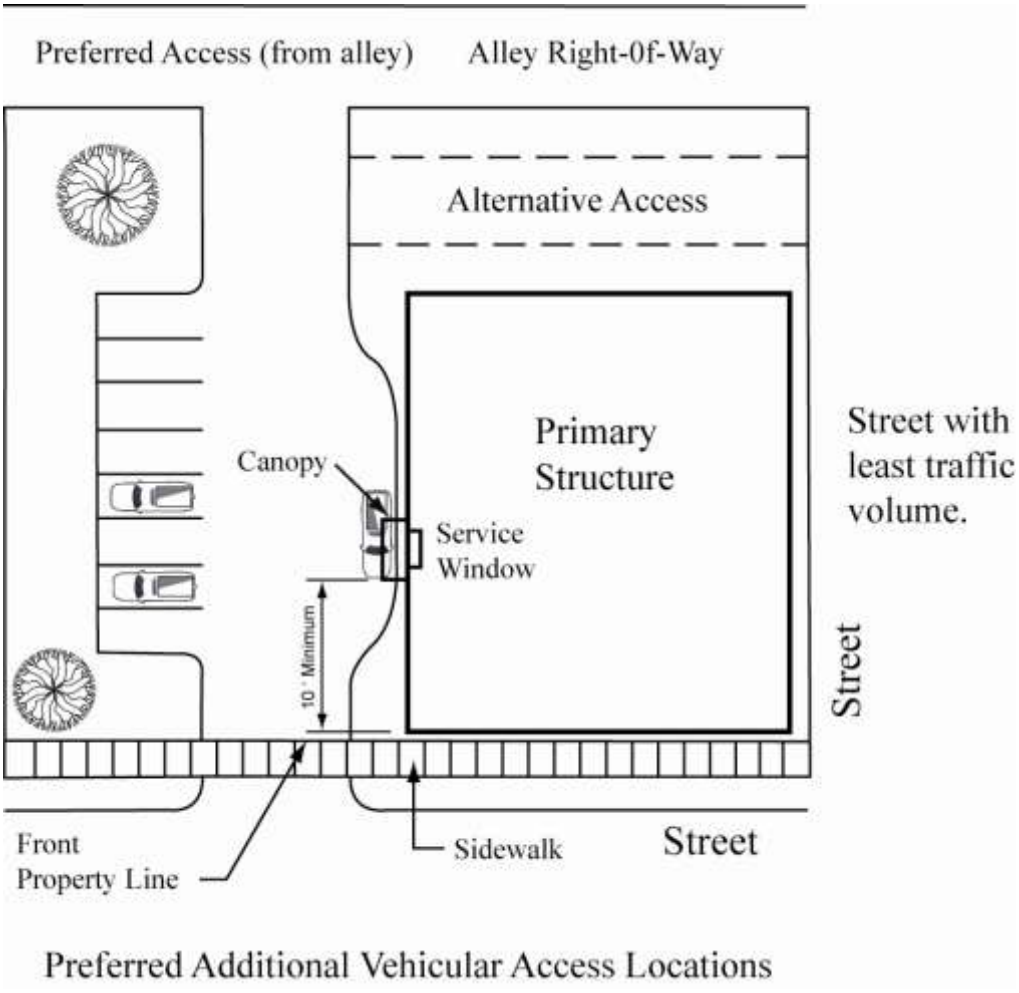
[415] Revised from “adjacent” in Phase 3 drafts.
[416] Words ‘with an IESNA full cut-off style fixture” were added since Phase 3.
[417] Revised from “adjacent” in Phase 3 drafts.
[418] Revised from “adjacent” in Phase 3 drafts.
[419] Revised from “adjacent” in Phase 3 drafts.

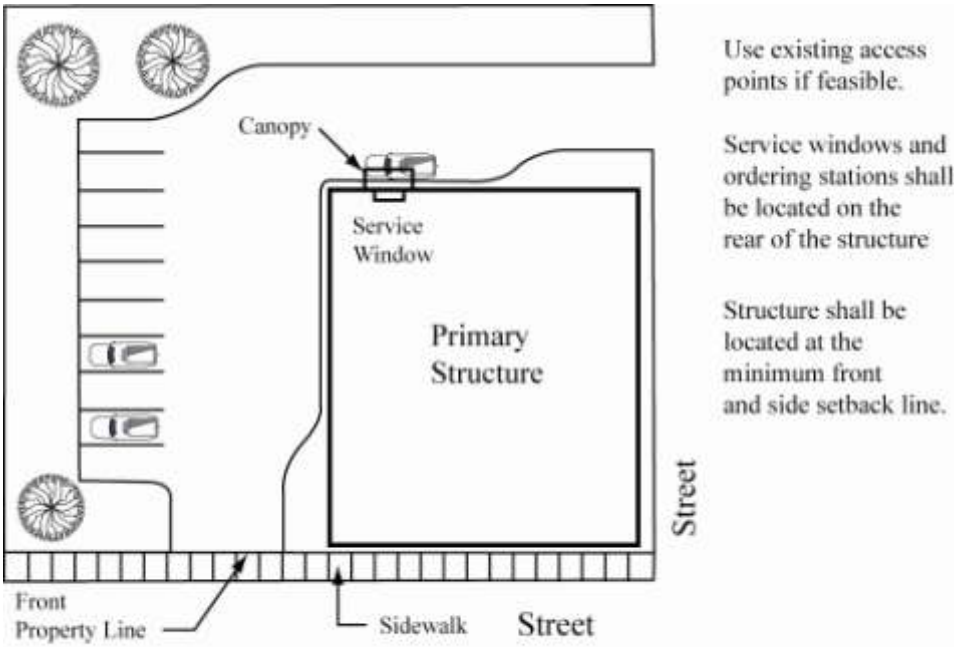


Preferred Additional Vehicular Access Locations

(ii) The following requirements shall apply to drive-through facilities proposed as part of a new primary structure:

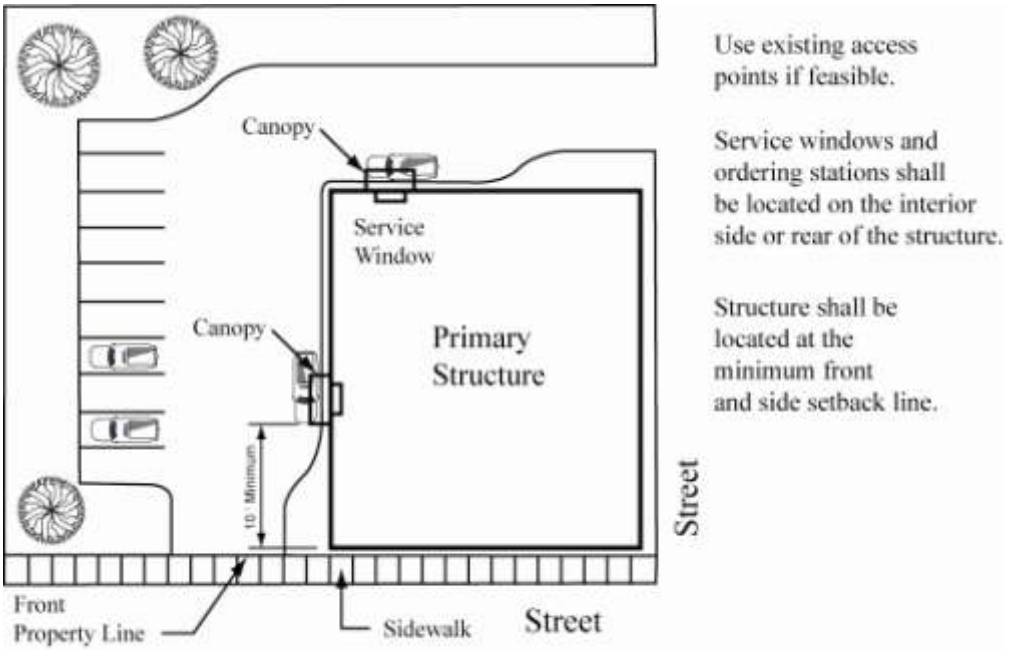
[A] The structure shall be located at the minimum front setback line as established in this ordinance for the associated zoning district. Structures located on a corner lot/development site shall be considered to have two (2) front setback lines. In this situation, the Plan Commission or Zoning Administrator shall determine the location of any required rear yard.

[B] In DC districts, drive-through service windows and ordering stations shall be located on the rear of a structure.



DC Drive-Through Canopy/Service Window Locations - New Primary Structures

[C] In DE districts, drive-through service windows and ordering stations shall be located on the interior side or rear of a structure.



DE Drive-Through Canopy/Service Window Locations - New Primary Structures

[D] In DE districts, if the drive-through service window is located on the interior side of the structure, canopies for the drive-through windows shall be attached to the structure and recessed from the front of the structure by a minimum of ten (10) feet.

[E] In DE districts, the drive-through exit lane shall be located a minimum of ten (10) feet from the structure at the location where the exit lane meets the public sidewalk.

(iii) The following requirements shall apply to drive-through facilities proposed as an addition to an existing primary structure:

[A] In DC districts, drive-through service windows and ordering stations shall be located either on the interior side or rear of a structure, with access to the window provided by new or existing alley access points; an existing street access point may also be used.

[B] In DC districts, drive-through service windows and ordering stations shall be located either on the interior side or rear of a structure, with access to the window provided by new or existing alley or street access points.

[C] If the drive-through service window is located on the interior side of the structure, canopies for the drive-through lanes shall be attached to the structure and recessed from the front of the structure by a minimum of ten (10) feet.

[D] If the drive-through service window is located on the interior side of the structure, the drive-through lanes shall be located a minimum of ten (10) feet from the building at the location where the exit lane meets the public sidewalk.

(h) Entrances

(i) There shall be at least one (1) unobstructed pedestrian walkway at least five (5) feet wide connecting the primary facade entrance to an adjoining[420] public sidewalk.

(ii) For new non-residential and mixed-use buildings, there shall be a minimum of one (1) direct pedestrian entrance accessed directly from the primary street frontage of a building. A corner entrance shall be permitted as a way of meeting this standard.

(iii) For new non-residential and mixed use buildings, architectural features shall be provided at primary façade entrances and shall include at least one (1) of the following at each primary entrance:

[A] An arch;

[B] An awning or canopy;

[C] Architectural design elements, projecting from the vertical plane of the main exterior wall and raised above the adjoining parapet wall/roof;

[D] Architectural details such as tile work and moldings that are integrated into the building design;

[420] Revised from “adjacent” in Phase 3 drafts.

[E] Enhanced exterior lighting such as wall sconces, building mounted accent lights, or decorative pedestal lights;

[F] Pilasters projecting from the plane of the wall by a minimum of eight (8) inches and/or architectural or decorative columns that create visual breaks and interest in the facade walls;

[G] A raised corniced parapet over the door; or

[H] A recessed entry.

(iv) For new non-residential and mixed-use buildings, building mounted lighting shall be provided at primary and secondary entrances.

(v) For new residential buildings, the primary exterior entrance(s) shall face a primary street frontage or be oriented to the corner, and shall be highlighted with architectural elements and/or details, including at least one (1) of the following at each primary entrance:

[A] An arch;

[B] An awning or canopy;

[C] Architectural design elements, projecting from the vertical plane of the main exterior wall;

[D] Architectural details such as tile work and decorative moldings that are integrated into the building design;

[E] Enhanced exterior lighting such as wall sconces, building mounted accent lights, or decorative pedestal lights;

[F] Pilasters projecting from the plane of the wall and/or architectural or decorative columns that create visual breaks and interest in the facade walls;

[G] A porch: or

[H] A recessed entry.

(i) Façade Horizontal Divisions (Primary Facades)

(i) For new non-residential and mixed use buildings, a clear delineation/division between the street level facade and upper façade shall be created by providing one of the following elements:

[A] Awnings;

[B] Variation in window pattern such as large store-front windows at street level and smaller, separated windows on the upper facade level; or

[C] A flush or projecting horizontal band of a different material, color, or pattern.

(ii) For new non-residential and mixed use buildings, one of the following elements shall be included on the cornice layer:

[A] A cornice or other three-dimensional element; or

[B] A flush or projecting horizontal band of a different material, color, or pattern.

(j) Façade Vertical Divisions (Primary Facades)

(i) For new non-residential and mixed-use buildings, the façade shall consist of building bays that are a maximum of thirty (30) feet in width. Building bay widths shall be measured to the center of the column, pilaster, or other element/change in plane.

(ii) Bays shall be established using at least one of the following architectural features:

[A] Changes in texture or materials;

[B] Columns, ribs, or pilasters;

[C] Enhanced entries; or

[D] A change in plane (a recess or projection).

(k) Façade Transparency

For new non-residential and mixed-use buildings, a minimum of fifty (50) percent of the street level façade shall be transparent, as measured by the window and door openings compared to the area of the façade. The length of the area of the façade shall be measured from the top of any foundation wall to the bottom of the first floor ceiling.

(l) Facade Design (Secondary)

For new non-residential and mixed use buildings, building walls that are visible from public streets, public gathering areas, connecting walkways, or adjacent development shall be subdivided horizontally and vertically as further set forth in (9) and (10) above on at least fifty (50) percent of the façade.

(m) Mechanical and Service Area Screening

(i) For new non-residential and mixed-use buildings, roof-mounted mechanical equipment such as roof vents, metal chimneys, solar panels, television antennae/satellite dishes, or air conditioning units shall be screened so as not to be visible from any adjoining[421] street or sidewalk.

(ii) For new non-residential and mixed use buildings, loading berths, service areas, trash storage, exterior work areas, storage yards, and truck parking shall be adequately screened from public streets, public open spaces and residential properties using building mass, freestanding walls and gates, and/or landscaping, except at access points. The screening shall be a minimum of six (6) feet in height.

(iii) For new non-residential and mixed-use buildings except for dumpsters recessed into a building, the minimum height service area or dumpster enclosure screening shall be six (6) feet. Gates shall be provided.

(iv) For new non-residential and mixed-use buildings, ground-mechanical equipment shall be screened with an enclosure constructed of materials that are compatible with the primary structure materials or with evergreen landscaping that is not less than the height of the mechanical equipment at the time of planting.

[421] Revised from "adjacent" in Phase 3 drafts.

(v) For new residential buildings, dumpsters and mechanical equipment located on the ground shall be screened on all sides from any adjoining[422] street or sidewalk by the building, walls, plant material, or fences.

(n) Site Lighting

(i) Site lighting shall be required to illuminate pedestrian areas outside of the public right-of-way including parking areas, service areas, sidewalks and pathways, and plazas.

(ii) Lighting intended for pedestrian pathway illumination shall have a maximum height of fifteen (15) feet.

(iii) All parking lot lighting requirements shall also apply to interior drives and other areas on the property used by vehicles.

(iv) The maximum height for all parking lot illuminating light fixtures, including both the pole and the base, shall be twenty-five (25) feet above grade.

(v) The maximum average maintained illumination level of parking areas, service areas, pathways, and plazas shall be no more than one and six-tenths (1.6) horizontal foot-candles at grade.

(vi) Cut-off fixtures shall be used for parking lots or building-mounted lighting. Lighting fixtures shall be fully shielded (no direct light emitted past a specified point or lot line) or full cut-off (no light emitted above the horizontal plan of the lowest edge of the fixture) in accordance with dark sky principles.

(vii) The use of spotlights, floodlights, and searchlights shall be prohibited except for short-term events of up to seven (7) days.

(viii) Holiday lighting shall be exempt from the provisions of this section.

(ix) Lighting of outdoor display or open sales areas

[A] Light fixtures serving areas designated as exterior display or open sales areas shall be full cutoff and/or fully shielded fixtures.

[B] Areas designated as exterior display or open sales areas shall be illuminated so that the average maintained horizontal illumination at grade level does not exceed four (4) foot-candles.

[C] Light fixtures located on the perimeter of display or sales areas and within twenty (20) feet of a lot line shall utilize “house-side” shielding to minimize light spillage beyond that lot line.

(o) Townhouse Complexes

(i) Townhouse units shall only be connected to other units on the sides of the unit (each unit shall have its own exterior front and rear walls).

(ii) No single building shall have more than ten (10) ground floor units.

(iii) Units shall not have garage doors facing public streets.

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[422] Revised from “adjacent” in Phase 3 drafts.

§ 157.405 DEVELOPMENT STANDARDS WAIVERS AND EXCEPTIONS[423]

(A) Minor and Major Subdivisions

No waiver of design and development standards is permitted on an application for Minor Subdivision or Major Subdivision approval, unless the design and development standards are modified by a variance of development standards approved by the Board of Zoning Appeals pursuant to §157.504(E).

(B) Development Plans[424]

The following shall apply to waivers to design and development standards on Development Plans, other than those downtown design standards in §157.404(X).

(1) Authority

Pursuant to I.C. 36-7-1402(b)(4), the Plan Commission may waive a design or development standard listed in §157.404(C) through (W) as set forth below, except as set forth in subsection (2) below, based on the criteria in subsection (3) below:

(2) Exceptions

The following standards may only be varied by the Board of Zoning Appeals through the Variance process described in §157.504(E).

(a) Pedestrian circulation standards in §157.404(N); and

(b) Residential impact mitigation standards in §157.404(O).

(3) Criteria

Except for the standards listed in § 157.405(B)(2) above, the Commission may waive or adjust those design and development standards as part of its approval of a Primary or Secondary Development Plan if it determines in writing that:

(a) The waiver or modification is in conformance with the purposes and intent of this ordinance along with the objectives and policies of the Comprehensive Plan;

(b) The applicant has submitted adequate evidence to demonstrate that the requested waiver ormodification will not have a significant impact on contiguous residential properties; and

(c) The failure to grant the requested waiver would result in practical difficulties in the use of the property for the proposed development.

(C) Height Standards Exceptions

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[423] Language has been updated to align with recent changes to State law regarding waivers in subdivisions

[424] From current 157.304(G) and 157.309(C)(17), with changes as footnoted. Provisions related to staff granting of waivers were deleted as no longer applicable to the limited list of projects going through the Development Plan process. Title revised to reflect that this may include reduction or variation of a standard, not just elimination of that requirement. Criteria revised to avoid the "compatibility" standard, which is very vague, and to add criteria related to specific impacts on adjacent residential properties. Since Phase 2 drafts, these provisions have been revised to clarify what types of waivers and adjustments require a formal variance rather than Planning Commission approval. Since Phase 2 drafts, provisions allowing increasing the height or intensity of development more than 50 feet of the residential district property boundaries was removed, as the residential protection standards now limit heights up to 100 feet from single family residential zoning districts, and prohibition on reduction of screening and buffering along residential property boundaries was removed because that provision is now in the residential protection standards.

(1) Except within the Airport Overlay District areas, the following buildings or structures shall be exempt from the height limitations herein (however, no building or structure shall provide additional inhabitable floor space above the height limit):

(2) Amateur radio towers

(3) Chimneys

(4) Fire or parapet walls

(5) Flagpoles

(6) Grain elevators

(7) Industrial installation requiring a vertical production procedure such as a steel mill

(8) Silos;

(9) Skylights

(10) Smokestacks

(11) Stairways

(12) Steeples

(13) Television aerials

(14) Uninhabited structures for the housing of elevators or mechanical equipment;

(15) Water tanks (building mounted) or

(16) Water towers

(D) Waivers of Downtown Design Standards[425]

(1) Authority

The Plan Commission may waive or adjust a design or development standards listed in §157.404(W), as well as the standards in §157.402 (Accessory Structures and Uses)[426] and 157.407 (Parking) as set forth below, except as set forth in subsection (2) below, following a recommendation by the Design Review Committee, based on the criteria in subsection (3) below:

(2) Exceptions[427]

The following standards may only be varied by the Board of Zoning Appeals through the Variance process described in §157.504(E).

(a) Residential protection standards in §157.404(V).

(3) Criteria[428]

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[425] From current §157.309(C)(17) with changes as noted. Text indicating waivers are made in the Primary Development Plan process have been deleted, since some of these now occur outside the Development Plan review process.
[426] Current code indicates that Planning Commission can also vary fence standards in 157.302, but those are now included in the accessory structures section.
[427] Added for consistency with other (non-downtown) waiver and adjustment standards.
[428] From current waiver provisions in 157.221 through 223, with changes as footnoted. Provisions related to staff granting of waivers were deleted as no longer applicable to the limited list of projects going through the Development Plan process.

The Commission may waive or adjust those development and design standards not listed in subsection (2) above, if it determines in writing that:

(a) The waiver or modification is in conformance with the purposes and intent of this ordinance along with the objectives, and policies of the Comprehensive Plan;[429]

(b) The applicant has submitted adequate documentation in support of the requested waiver or modification;

(c) The proposed building or site design, after the granting of the requested waiver or modification, will be an attractive and functional design that meets the intent of the design standards and is compatible with the character and pattern of existing development in the surrounding area;

(d) The need for the waiver arises from conditions specific to existing site or area characteristics, such that it is not practical to provide the required design feature on the site;

(e) The waiver or adjustment is no being requested to solely to avoid costs or expenses of compliance with the standards in this ordinance;[430] and

(f) The approval of the waiver or modification will not be unduly detrimental to existing public and/or private investments.

Title revised to reflect that this may include reduction or variation of a standard, not just elimination of that requirement. Criteria revised to avoid the "compatibility" standard, which is very vague, and to add criteria related to specific impacts on adjacent residential properties. Since Phase 2 drafts, provisions allowing increasing the height or intensity of development more than 50 feet of the residential district property boundaries was removed, as the residential protection standards now limit heights up to 100 feet from single family residential zoning districts, and prohibition on reduction of screening and buffering along residential property boundaries was removed because that provision is now in the residential protection standards.

[429] New criteria for downtown design standard waivers to parallel criteria for other waivers.

[430] Previously in intent statement preceding criteria.

§ 157.406 HOME OCCUPATIONS[431]

(A) Home Occupation Standards

To be considered a home occupation, a proposed use shall comply with all of the following:

(1) The home occupation shall be operated only by residents of the dwelling; no outside employees shall be permitted;

(2) The home occupation shall be conducted entirely within the dwelling unit. No home occupation shall be operated from a detached accessory structure or garage;

(3) The home occupation shall not display or create any external evidence of the operation of the occupation except that a single vehicle, used in conjunction with the occupation, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions in §72.23 of the City Code. In addition, signage shall be permitted as set forth in §157.409;

(4) A home occupation shall be permitted in a single family, two family, or multiple family dwelling unit; and

(5) Clients or customers are not permitted to come to the home, and retail sales shall not be permitted to take place on the property.

(B) Permitted Home Occupations

Permitted home occupations shall include but not be limited to:

(1) Personal service uses;

(2) Professional office/business service uses;

(3) Limited assembly of products or components of products; and

(4) Limited production of products or components of products.

(C) Prohibited Home Occupations

Prohibited home occupations shall include but not be limited to automobile mechanical or body repair (other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property), or automobile detailing.

[431] Home occupation provisions revised to update and align the County and Fort Wayne ordinances; provisions moved in ordinance to be in alphabetical order

§ 157.407 PARKING

(A) Purpose[432]

The purpose of this section is to establish standards for the provision of adequate off-street parking facilities, including standards for bicycle facilities and parking structures, for permitted or approved residential, commercial, mixed use, industrial and other nonresidential uses.

(B) Applicability[433]

The minimum off-street parking requirements of this section shall apply to:

(1) Any new freestanding building or use except in the DC and DE districts, and except for the excluded uses in §157.407 (D)(1)(d). In cases where a building addition of over 50% of the gross floor area of an existing primary building or displaces existing parking spaces, the current parking provisions shall also be reviewed by DPS staff to see if additional parking should be provided. This review shall consider the existing number of parking spaces provided the ability to provide additional on-site parking, and the availability of additional parking in the immediate area.. If parking is provided for uses in the DC and DE districts, there shall be a maximum number of parking spaces allowed; the parking maximum shall be the number of spaces required for the use by the ordinance in districts other than the DC and DE districts, if parking for the use is provided in either an on-site or off-site parking structure; if parking for the use is not provided in a parking structure, then the parkling maximum shall be ½ the number of space required for the use.[434]

(2) In the UC districts, the standards shall apply only to the following uses or activities: a new bar/tavern building; a new dance or similar school building; a new restaurant building; a new night club or similar entertainment use building; the addition of units to an existing residential structure; or the conversion of a residential structure to nonresidential use.

(C) General Parking Standards[435]

(1) Location on Site Required

All parking spaces required by this section shall be provided on the same lot, tract or development site as the building, structure, or use for which the spaces are required**,** except in the case of off-site parking areas for religious institutions or school uses, where the lot is either under the same ownership or operates under an executed agreement allowing for its use and is directly across an alley right-of-way from the primary use [436]

(2) Parking Area Location Standards

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[432] From current §157.313(A).
[433] From current §157.313(B), with changes as noted. Provisions for excluded uses and building additions added since Phase 3 drafts.
[434] Provisions applying minimum parking standards to building expansions over 25% of gfa, expansions of schools and religious institutions, and changes of use have been deleted.
[435] From current §157.313(B), with content reorganized and changes as noted. Provisions for shared parking spaces and credits against required minimum parking spaces have been moved to follow the minimum parking table to which they relate.
[436] 300 ft. maximum distance for off-site parking has been replaced by limit to schools and religious institutions and requirement that the site be across a street or alley,

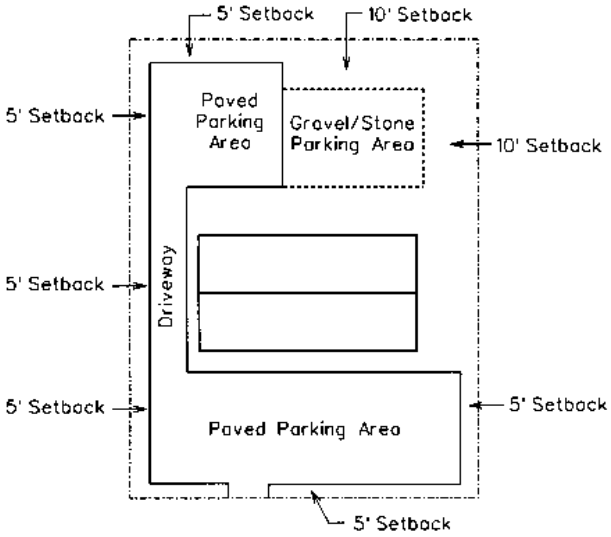
(a) Any paved area used for off-street public or employee parking, including internal driveways and driving lanes, shall meet the following standards, except for:

(i) Driveways or driving lanes that provide direct access between the parking area and a public or private street;[437] and

(ii) Any single or two family residential driveway or parking area that does not meet the definition of "public parking area".

(b) Paved areas shall be located a minimum of five (5) feet from any lot line.

(c) Gravel areas shall be located a minimum of ten (10) feet from any lot line.



Parking Area Location Standards

(d) In DC and DE districts, off-street parking shall not be located in front of or on the side of any new structure. Where existing site conditions do not allow for the five (5) foot pavement setback required in §157.407(C)(2)(b) above, the required setback may be eliminated along a side or rear lot line, and reduced to three (3) feet along a front lot line.[438]

(e) In UC districts, parking areas shall be located a minimum of 20 feet from any front lot line; and new parking areas in these districts are only permitted where there is an adequate existing alley access and a new driveway onto the primary commercial street is not required.

(3) Compliance with the Americans with Disabilities Act

The design and construction of all new off-street parking areas shall comply with the applicable requirements of the Americans with Disabilities Act (ADA).[439]

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[437] Exception (i) is new.
[438] Adjustment to accommodate site conditions is new.
[439] New requirement required to comply with federal law.

(4) Maintenance

Off-street parking spaces and any required landscaping shall be provided and maintained by the property owner or other occupant of the property.

(D) Minimum Off-Street Parking Requirements[440]

(1) General Requirement

(a) Where applicable and required, off-street parking spaces shall be provided in at least the amounts set forth in the following table, as adjusted by any applicable credits pursuant to §157.407(D)(2).

(b) For uses that require off-street stacking spaces, additional stacking space may be required as part of the approval of a Development Plan, if the Plan Commission determines that they are necessary for traffic safety purposes.

(c) Parking spaces located within a garage on a lot containing a single family or two family dwelling, and parking spaces located within a garage on a lot containing a multifamily dwelling and designated for use by that dwelling unit shall count towards required off-street parking requirements.[441]

(d) The following uses shall not have a minimum off-street parking requirement:

(i) Community garden;

(ii) Fairgrounds;

(iii) Hospital;

(iv) Nature preserve;

(v) Religious institution;

(vi) School; and

(vii) Uses in the DC/Downtown Core, DE/Downtown Edge, or UC/Urban Corridor districts.

MINIMUM OFF-STREET PARKING REQUIREMENTS [442]

See the table below for specific use additional stacking space standards

Use	Parking Standard [(2)] (spaces per measurement type)
Animal service	1 per 400 square feet
Assisted living facility[443]	1 per 3 sleeping rooms

[440] From current §157.313(C) with significant revisions to parking use categories and associated minimum space requirements and significant reordering of material. Provision prohibiting a DC or DE property that currently has at least 2 parking spaces from reducing to fewer than 2 places was deleted.
[441] Since Phase 3 drafts, subsection (c) added for clarity,
[442] The parking table was significantly revised to consolidate categories and adjust ratios. Footnotes explain how the categories were consolidated and how the parking requirements were adjusted generally. Refer to the previous parking table to see old parking requirement details. The following parking requirements were deleted as unnecessary or only capable of being determined on a case-by-case basis: airport, botanical/garden conservatory, automobile sales.

MINIMUM OFF-STREET PARKING REQUIREMENTS [442] See the table below for specific use additional stacking space standards	
Use	**Parking Standard [(2)] (spaces per measurement type)**
Athletic field (indoor)	1 per 6 seats
Auditorium	1 per 400 square feet
Automobile service	1 per 400 square feet
Bed and breakfast	1 per sleeping room
Business service	1 per 400 square feet
Campus housing (off-site)[444]	1 per 3 sleeping rooms
Educational institution[445] (business school, college, medical training, university, or similar post-secondary use)	1 per 400 square feet
Golf course	4 per golf hole
Group residential facility	1 per 3 sleeping rooms
Hotel	1 per sleeping room
Industrial[446]	1 per 1,000 square feet, or 1 per employee at largest shift (whichever is less)
Instruction/training	1 per 400 square feet
Library	1 per 400 square feet
Medical facility or office	1 per 400 square feet
Mixed use project (uses with different parking requirements)	The greatest number of spaces required by any individual use
Motel	1 per sleeping room
Multiple family[447]	1 per 1-2 bedroom dwelling unit 2 per 3+ bedroom dwelling unit 1 per dwelling unit (UC district only)
Multiple tenant nonresidential building	1 per 400 square feet (regardless of individual uses)
Museum	1 per 400 square feet
Nursing home[448]	1 per 3 sleeping rooms
Personal service	1 per 400 square feet

[443] Consolidated previous categories of assisted living facility, retirement facility, and group residential facility, campus housing (off site) and fraternity/sorority house, reduced parking requirements, and revised parking requirements to address facility size, not number of employees

[444] Consolidated previous categories of assisted living facility, retirement facility, and group residential facility, campus housing (off site) and fraternity/sorority house, reduced parking requirements, and revised parking requirements to address facility size, not number of employees

[445] Consolidated previous categories of college, university, high school, business or trade school or other educational institution not otherwise listed, and simplified parking requirement and clarified additional requirements for housing and assembly uses.

[446] Consolidated previous categories of industrial uses and industrial multiple tenant/speculative tenant buildings and simplified parking requirement

[447] Since Phase 3 drafts, revised to increase standard for larger dwelling units and reduce standard for affordable housing units.

[448] Consolidated previous categories of nursing home, child/adult care center and preschool/nursery school and simplified parking requirement.

MINIMUM OFF-STREET PARKING REQUIREMENTS [442] See the table below for specific use additional stacking space standards	
Use	**Parking Standard [(2)] (spaces per measurement type)**
Professional office	1 per 400 square feet
Recreation (limited)	1 per 400 square feet
Recreation (general)	1 per 400 square feet, plus 1 per 400 square feet of developed outdoor facilities
Restaurant	1 per 400 square feet
Retail	1 per 400 square feet
Retirement facility	1 per dwelling unit
Self-storage	1 per 400 square feet of office
Single family[449]	1 per dwelling unit
Stadium/racetrack	1 per 6 seats
Studio	1 per 400 square feet
Theater (indoor)	1 per 6 seats
Two family	1 per dwelling unit

STACKING SPACE PROVISIONS	
Proposed Use	**Stacking Standard (spaces per measurement type)**
Automatic teller machine	2 per drive through lane
Bank	2 per drive through lane
Car wash	6 per automatic washing bay 1 per manual washing bay
Drug store/pharmacy	2 per point of sale (payment) window
Restaurant	4 per point of sale (payment) window
Other retail use w/accessory drive through facility	2 per point of sale (payment) window

(2) Credits[450]

To allow for flexibility in the City's nonresidential zoning districts (DC, DE, UC, C1 through C4, SC, NC, BTI, and I1 through I3) and in order to accomplish the Comprehensive Plan's objectives of urban revitalization, enhancing the pedestrian environment, and encouraging the use of transit, parking space credits shall be allowed for nonresidential uses in these districts as set forth below:

[449] Consolidated previously separate requirements for single/two family residential (within and outside of DE and C districts), manufactured home park and manufactured home Type I and II, multi-family complexes, and multi-family dwellings, and reduced minimum requirement.
[450] New standards.

(a) On-street parking spaces directly in front of and to the side of the lot, tract, or development site where the proposed or existing use is located may be counted towards satisfying the minimum off-street parking requirements.

(b) One (1) required off-street parking space for each on-site bicycle rack (a rack must store a minimum of four (4) bicycles), up to two (2) % of the total parking requirement.

(c) If access to public transit is located within 400 feet of the lot, tract, or development site where the proposed or existing use is located, this may serve in lieu of one (1) required off-street parking space.

(d) If construction techniques such as pervious pavement, block and concrete modular pavers, and grid pavers are used for off-street parking surfaces, each space provided as a result may serve in lieu of two (2) required off-street parking spaces, up to a maximum of ten (10) % of the number of required spaces.

(e) However, in the DE and UC districts, where existing off-street parking exists, or additional spaces are required, the resulting off-street parking provided after the application of these credits shall not be less than two spaces (it is intended that a minimum of 2-4 off-street parking spaces be provided behind existing or proposed structures on the same lot, tract, or development site in these districts where practical, primarily to accommodate employee parking).

(E) Parking Lot Improvement Standards[451]

(1) Public Works Standards[452]

All land used for off-street parking and all driveways serving parking areas, whether required by this ordinance or provided voluntarily, shall comply with those minimum standards and specifications for paving, surfacing, and drainage established by the Board of Public Works. In the event of any inconsistency between those standards and specifications and the requirements of this ordinance, the Board of Public Works standards and specifications shall apply.

(2) Paving and Drainage

(a) All land used for off-street parking and all driveways serving parking, delivery, and loading areas, shall be paved with asphalt, concrete, pervious pavement (which may include block, concrete, similar modular pavers, and grid pavers); or other approved all-weather hard surfaces, and shall be drained with materials and in a manner that meets the current minimum standards and specifications for parking areas adopted by the Board of Public Works, except as provided in §157.407(E)(2)(b) below.

(b) In industrial zoning districts, parking areas that are provided in addition to the minimum number of spaces required as set forth in §157.407(D)(1) shall not be required to be paved, but may have a gravel surface that meets the current minimum standards and specifications for parking areas adopted by the Board of Works.

(3) Curbing

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[451] From current §157.313(D) with minor revisions as noted. Wording has been simplified where possible. Lighting standards have been deleted because they are now covered in the lighting standards in §157.404(T) applicable to all Development Plans and Site Plans.
[452] Last sentence added to reflect current practice.

All off-street parking areas shall have curbing or other acceptable elements around the perimeter of the parking area at a sufficient location to keep vehicles from overhanging or encroaching upon abutting properties, streets, alleys or sidewalks or landscape areas.[453]

(4) Single and Two Family Dwellings[454]

The standards in §157.407(E)(2)(a), (b), and (c) above shall not apply to single and two family dwellings. However, the parking, storage, or display of motor vehicles on grass or other similar areas that do not have a paved or gravel surface shall not be permitted on any property.

(5) Parking Lot Landscaping, Screening, and Buffering[455]

Landscaping, screening, and buffering of off-street parking areas shall be provided to meet the requirements of §157.408.

[453] Since Phase 3 drafts, the following text was deleted: "Curbing shall also be used if necessary to facilitate drainage into landscaped areas wherever possible, or into storm drainage facilities where infiltration into a landscaped area is not possible, and to prevent the discharge of water onto adjacent properties."
[454] Reworded to reflect current practice.
[455] New section that references new section addressing all landscaping, screening, and buffering requirements together. .

§ 157.408 LANDSCAPE STANDARDS

(A) Purpose[456]

The purpose of this section is to establish standards to provide adequate landscaping and screening and buffering between buildings, structures, parking areas, driveways, and activity areas and adjacent uses, structures, and streets. The objectives of these standards are to promote compatibility between different land uses; conserve energy and moderate the effects of sun and wind; decrease storm water run-off and erosion; conserve or enhance property values; and improve the appearance of individual developments.

(B) Applicability[457]

The requirements in this §157.408 shall apply to all requests for approval of a Primary or Secondary Development Plan, Site Plan Review, certain Improvement Location Permits (including permits for new outside activity areas), and Public Works parking lot permits, except that only the exterior area landscape standards shall apply in the DC, DE, and UC districts. The Board of Zoning Appeals and Hearing Officer may also consider and use these standards as conditions for the approval of applications. If this §157.408 requires screening and buffering between two adjacent properties, and an existing property already contains screening and buffering that satisfies the applicable screening and buffering standards, a new development or use on the adjacent parcel is not required to install additional landscaping or screening.

(C) Landscape Plan[458]

A landscape plan shall be submitted to show conformance with this §157.408. The plan shall be prepared by an individual knowledgeable of plant materials, landscape and site design, construction processes, and growing conditions in this region (USDA Zone 5) and shall be in a format and with supporting information as established by the Plan Commission.

(D) Standards and Requirements

(1) General Standards and Requirements[459]

(a) Preservation of Existing Trees

The location of existing significant individual trees and tree masses should be considered by the applicant in the planning and design of site development, and locations should be avoided and trees preserved where possible. Existing trees and other existing vegetation may be used to meet the requirements of this §157.408. Existing trees intended to be preserved in order to meet the requirements of this section shall be protected during the construction of the project through the erection of a fence around the drip line of the tree.[460]

(b) Location of Screening and Buffering Materials[461]

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[456] Purpose statement revised to reflect Comprehensive Plan goals.
[457] New section. Since Phase 3 drafts, last sentence has been added to clarify current practice.
[458] Specific requirements for what needs to be included in a landscape plan have been deleted, because all application requirements will appear in administrative document.
[459] From current §157.306(C), with changes as noted.
[460] Requirement for protective fencing has been added.
[461] Revised standard to clarify that buffering and screening should not be located within utility easements. Added provision allowing for an alternative location for screening and buffering plants if a conflict arises in a utility easement area.

Screening and buffering materials may be located either on the lot line, adjoining[462] or within a parking area, or adjoining[463] a building; however, screening and buffering plants shall not be located within utility easements. Fencing may be located within a utility easement.

(c) Parking Area Landscape Standards Applicability

The edge buffering requirements §157.408(D)(2) and the interior parking lot landscaping requirements in §157.408(E) shall be applicable to the following:[464]

(i) All new primary or accessory parking areas except that:

[A] The standards shall not apply to any pervious paver parking areas provided in addition to required parking; and

[B] In the DC and DE districts, the interior landscaping requirements of § 157.405(E) only apply for parking areas created after the effective date of this ordinance with more than twenty-five (25) spaces or exceeding eight thousand (8,000) square feet.[465]

(ii) Any addition to an existing lot that increases the number of spaces by more than 25 or the parking area by more than 8,000 square feet, but increases the overall area of the lot by less than 50%, shall have the landscape standards applied to the additional lot areas only (an addition of less than 25 spaces and less than 8,000 square feet shall not have any applicable landscape standards).[466]

(iii) Any addition to an existing lot that increases the overall lot area by over 50% shall have the perimeter parking area landscape standards (Code 13, 14, 15, or 17 as applicable) applied to the entire lot perimeter.[467]

(d) Conflicts with Existing Utility Easements and Facilities[468]

If this ordinance requires the placement of landscape materials within a platted or otherwise dedicated utility easement, and the policies or specifications of the utility providers using that easement prohibit that type of landscaping within the easement, an alternative location may be proposed by the applicant and approved by DPS to avoid such a conflict, provided that there is no reduction in the total quantity of the landscape materials and the relocated plants continue to meet the intent of the standards in this ordinance to the extent practicable.

(e) Conflicts with Driveways and Site Features[469]

If this ordinance requires the placement of landscape materials within a location designated for a driveway or in a location where it would interfere with pedestrian access or with visibility of an existing permitted sign on the property an alternative location may be proposed by the applicant and approved by DPS to avoid such a conflict, provided that there

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[462] Revised from "adjacent" in Phase 3 drafts.
[463] Revised from "adjacent" in Phase 3 drafts.
[464] Introductory text revised since Phase 3 drafts to clarify that applicability applies to both interior and edge landscaping.
[465] From current §157.313(D)(4)(f). Since Phase 2 this provision has been relocated so that all applicability provisions appear together.
[466] New provision.
[467] New provision.
[468] New provision to address past conflicts with utilities.
[469] New provision since Phase 2 drafts.

is no reduction in the total quantity of the landscape materials, the number of trees required along public street frontages is not reduced by more than one tree per street frontage, and the relocated plants continue to meet the intent of the standards in this ordinance to the extent practicable.

(f) Corner Visibility

All required screening and buffering shall be subject to the standards set forth in this ordinance.[470]

(g) Plant Requirements[471]

All trees and shrubs used for landscaping purposes shall be selected from the Plan Commission's adopted plant species list unless an alternative species is approved by DPS staff as part of a Development Plan or Site Plan review.

(h) Mounding Standards[472]

All mounding installed to meet the provisions of this section shall be covered with grass or other acceptable ground cover, shall be designed and installed to ensure that it does not create ponding or other storm drainage problems on adjoining[473] properties, and shall not include side slopes exceeding 34%. If mounding of at least three (3) feet in height is provided, then any required shrub screening standard shall be reduced to 50%.

(i) Fencing Used for Screening[474]

Where this section requires landscaping for the purpose of screening a building or activity area, a fence may be used to meet the screening requirement. Fencing used for screening purposes may be located in a required yard, subject to the corner visibility provisions set forth in this ordinance.

(j) Maintenance

(i) All plant material required by the provisions of this section shall be properly maintained in accordance with standard horticultural practices for a period of three (3) years from the date of the issuance of the Certificate of Compliance for the project. Any required plant or other screening material that dies or is otherwise removed during that time shall be replaced with equivalent plant or screening material by the developer or subsequent owner. If necessary, the Planning staff shall determine what new plant or other screening material shall be adequate to replace the dead, removed, or destroyed plant or other screening material.

(ii) Any required plant material that dies or is otherwise removed after the three (3) year period may also be required to be replaced if staff is notified of the removal within one year of removal.

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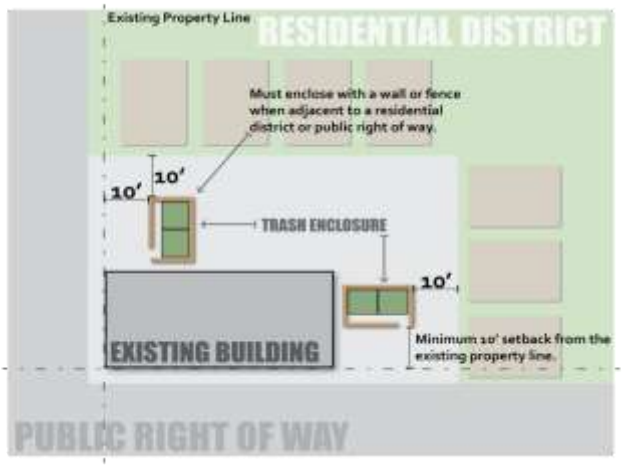
[470] Revised since Phase 3 drafts to remove cross-reference to §99.022.
[471] From current §157.306(C)(1)(c) and (C)(2)(d). Revised title and removed detailed requirements and minimum plant sizes since those will be addressed in the Administrative Manual. Existing measurement rules will be addressed in measurement section of the code.
[472] New provisions.
[473] Revised from "adjacent" in Phase 3 drafts.
[474] New provisions.

(2) Specific Standards and Requirements[475]

(a) Each application subject to this section that falls under the building type shown in the tables titled "Landscape Codes – Buildings and Outside Activity Areas" or "Landscape Codes – Parking Areas" below shall include a buffer yard of that type, as shown the applicable "Buffer Yard Standards" table, along the edge(s) of the applicant's property where the adjacency occurs. For example, an application with an adjacency situation identified in the Landscape Codes table as requiring a Code B-2 buffer yard shall include a Code B-2 buffer yard as defined in the Buffer Yard Standard tables. There may be more than one code required along a given property edge.

(b) DPS staff may allow flexibility in the location of required plant materials to allow for landscaping that is equivalent to these standards in cases where the submitted landscape plan has been prepared by a licensed landscape architect.[476]



(c) All refuse dumpsters shall be located a minimum of ten (10) feet from any lot line, and shall be screened from any adjacent residential district and/or public right-of-way by a solid wall or fence.[477]

(d) The following landscape codes shall be applicable to the noted building types, building heights, and other landscape situations:

LANDSCAPE CODES – BUILDINGS AND OUTSIDE ACTIVITY AREAS[478]

Building Type	Building Height or Other Site Situation	Landscape Code, if Adjacent To:	
		Residential districts	Nonresidential districts
Office/Personal Service/ Other C1 Use Building	Up to 30 feet high	B-1	No requirement
	Over 30 feet high	B-2	No requirement
Commercial/Retail/ Industrial Building	Up to 30 feet high	B-3	No requirement
	Over 30 feet high	B-4	No requirement

[475] Heading revised to reflect content. Tables of uses and required buffer yards significantly revised to reflect public feedback and staff revisions.
[476] New provision since Phase 3 drafts.
[477] New provision since Phase 3 drafts.
[478] New table. Since Phase 3 drafts, landscape codes were revised with prefixes B for building, A for outside activity areas, P for parking areas; Code 8s (Non-residential adjacent to non-residential) have been changed to no requirement; and a new Code A-1 for nonresidential driveways adjacent to residential districts has been added.

Multiple Family Complex/ Manufactured Home Park	Up to two stories high	B-5	B-7
	Over two stories high	B-6	B-7
Nonresidential Outside Activity Areas	Driveway	A-1	No requirement
	Drive through	A-2	A-4
	Other activity area	A-3	A-5

(e) The following landscape codes shall be applicable to the noted parking area situations:

LANDSCAPE CODES – PARKING AREAS[479]	
Site Situation	**Landscape Code**
Adjacent to public street or private access drive	P-1
Adjacent to residential district[480]	P-2
Adjacent to commercial district	P-3
Parking areas over 50 spaces – interior landscaping[481]	P-4

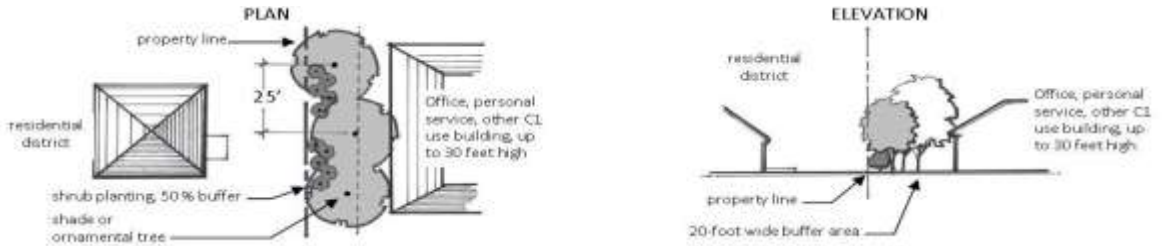
[479] New table. Since Phase 3 drafts, Code 17 (buffering of industrial truck storage or commercial vehicle display areas) has been deleted.
[480] Revised from "adjacent to nonresidential district" in Phase 3 drafts.
[481] Since Phase 3 drafts, threshold raised from 20 to 50 parking spaces.

(f) The following Code B-1 and B-2 buffer yard standards shall apply if an office, personal service, or other C1 use building is adjacent to a residential district:

BUILDING BUFFER YARD STANDARDS[482]

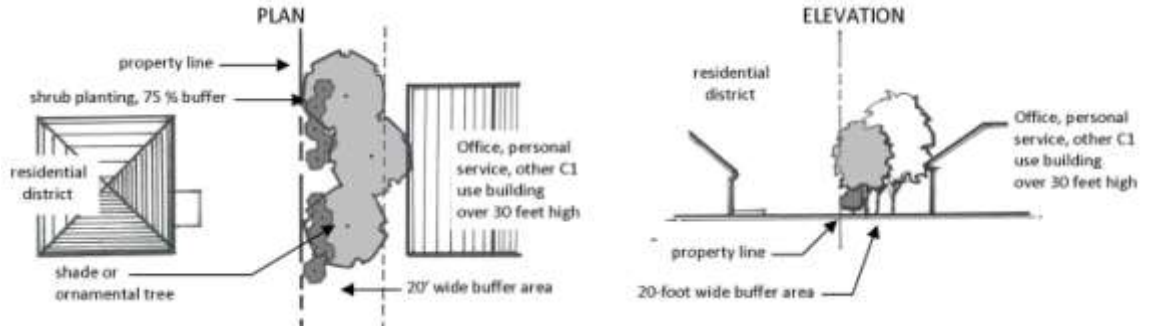
CODE B-1
Office/Personal Service/Other C1 Use Building Adjacent to a Residential District (up to 30 feet high)

WIDTH	TREES (per foot of facade which does not face a public street)	SHRUBS (% of façade linear feet)
20′	1 tree every 25 feet; a minimum of 3 per façade up to 50% small trees may be used	50% large shrub buffer in groups of at least five



CODE B-2[483]
Office/Personal Service/Other C1 Use Building Adjacent to a Residential (over 30 feet high)

WIDTH	TREES (per foot of façade which does not face a public street)	SHRUBS (% of façade linear feet)
20′	1 tree every 25 feet; a minimum of 3 per façade up to 50% small trees may be used	75% large shrub buffer in groups of at least five



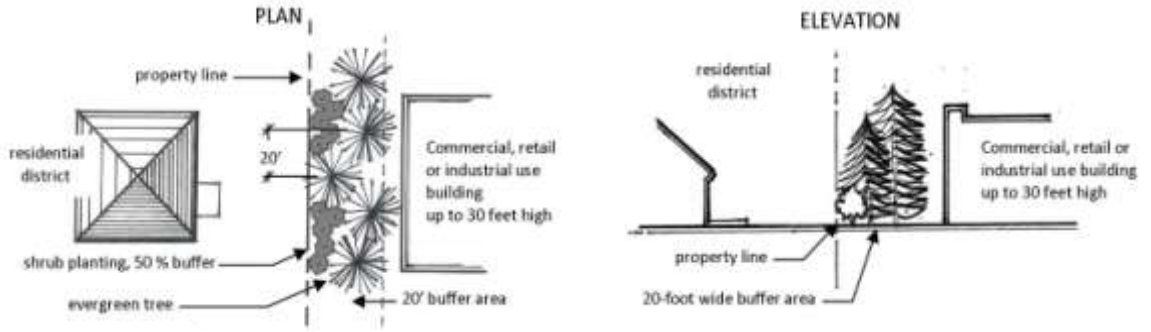
[482] New provision. Elevation image revised: 15 foot wide buffer area in illustration now reads “20 foot” and office building should show up to 30 feet high.
[483] New provision. Image will be revised: 25 foot wide buffer area in illustration now reads “20 foot” and office building now showsover 30 feet high

(g) The following Code B-3 and Code B-4 buffer yard standards shall apply if a commercial, retail, or industrial building is adjacent to a residential district:

BUILDING BUFFER YARD STANDARDS

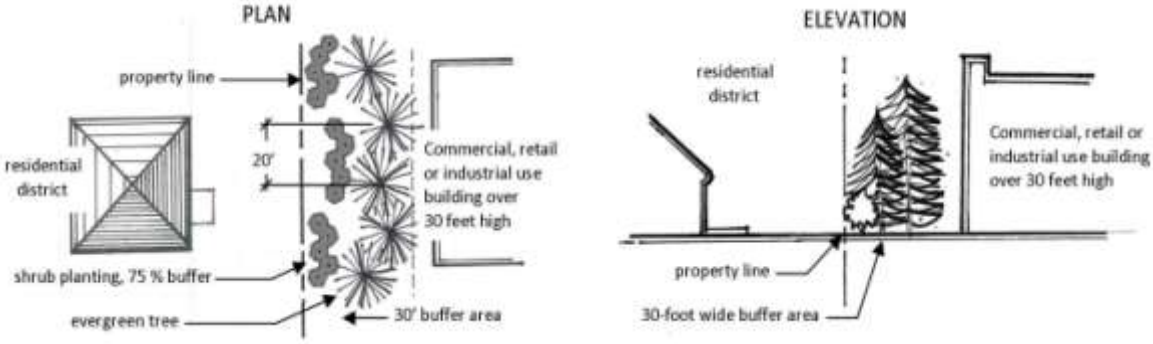
CODE B-3[484]
Commercial, Retail, or Industrial Structure Adjacent to a Residential District (up to 30 feet high)

WIDTH	TREES (per foot of façade which does not face a public street)	SHRUBS (% of façade linear feet)
20′	1 evergreen tree every 20 feet; a minimum of 5 per façade	50% large shrub buffer in groups of at least five



CODE B-4[485]
Commercial, Retail, or Industrial Structure Adjacent to a Residential District (over 30 feet high)

WIDTH	TREES (per foot of facade which does not face a public street)	SHRUBS (% of façade linear feet)
30′	1 evergreen tree every 20 feet; a minimum of 5 per façade	75% large shrub buffer in groups of at least five



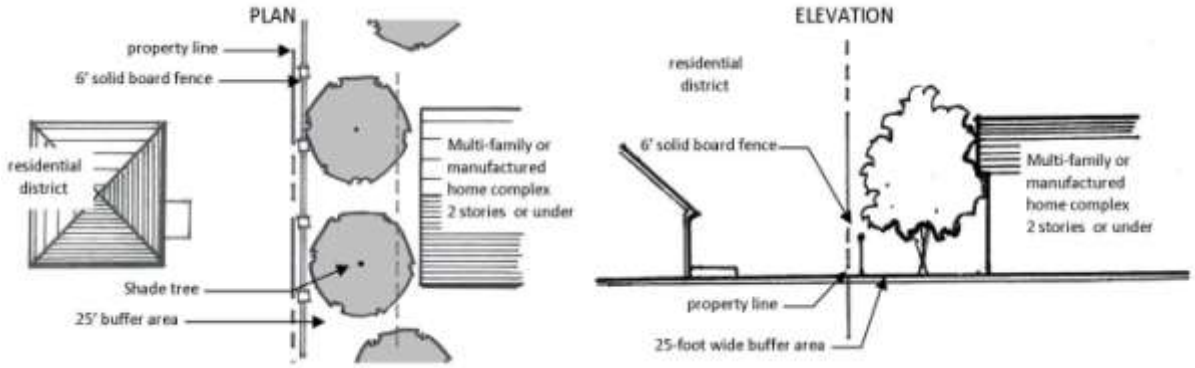
[484] New provision. Image revised to show commercial building up to 30 feet high.
[485] New provision. Image revised to show commercial building over 30 feet high.

(h) The following Code B-5 and Code B-6 buffer yard standards shall apply if a manufactured home park or multiple family building is adjacent to a residential district:

BUILDING BUFFER YARD STANDARDS

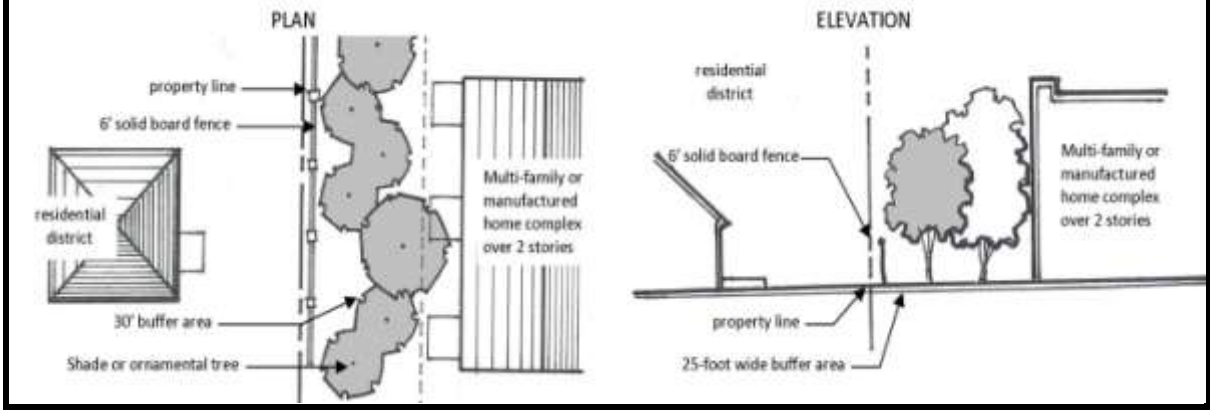
CODE B-5[486]
Manufactured Home Park or Multiple Family Building/Complex Adjacent to a Residential District (One or Two Stories in Height)

WIDTH	TREES (per linear foot of parcel boundary)	ADDITIONAL SCREENING
25′	1 tree every 30 feet (up to 50% small trees may be used)	Continuous 6′ high solid wood fence



CODE B-6 [487]
Manufactured Home Park or Multiple Family Building/Complex Adjacent to a Residential District (Over Two Stories in Height)

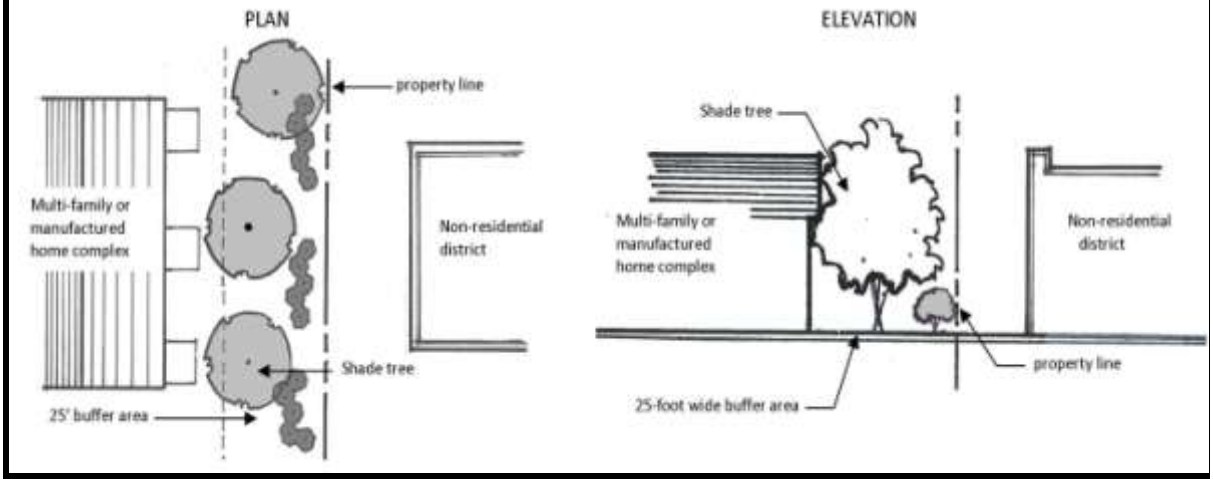
WIDTH	TREES (per linear foot of parcel boundary)	ADDITIONAL SCREENING
30′	1 tree every 15 feet (up to 50% small trees may be used)	Continuous 6′ high solid wood fence



[486] New provision.
[487] New provision. Since Phase 3 drafts, title changed to clarify applicability.

(i) The following Code B-7 buffer yard standards shall apply if a manufactured home park or multiple family building is not adjacent to a residential district:

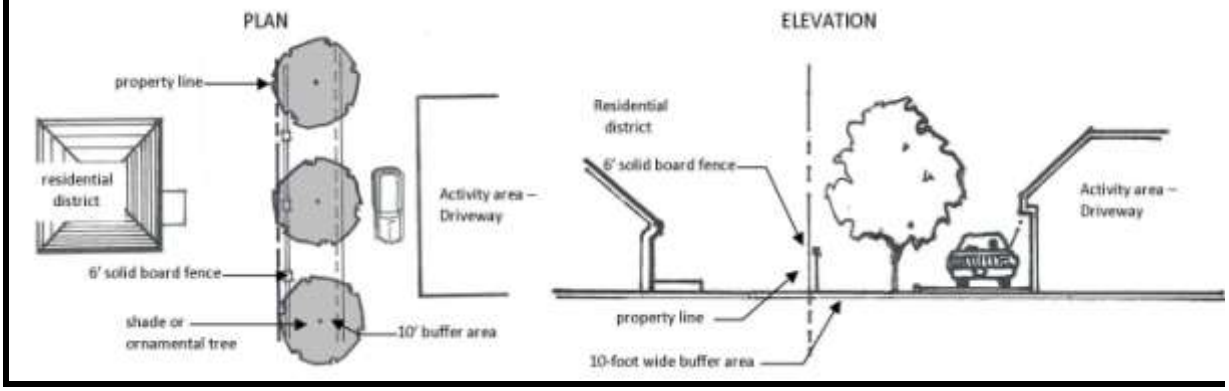
BUILDING BUFFER YARD STANDARDS		
CODE B-7[488] **Manufactured Home Park or Multiple Family Building/Complex Not Adjacent to a Residential District**		
WIDTH	**TREES (per linear foot of parcel boundary)**	**SHRUBS (% of façade linear feet)**
25′	1 tree every 30 feet (up to 50% small trees may be used)	50% large shrub buffer in groups of at least five



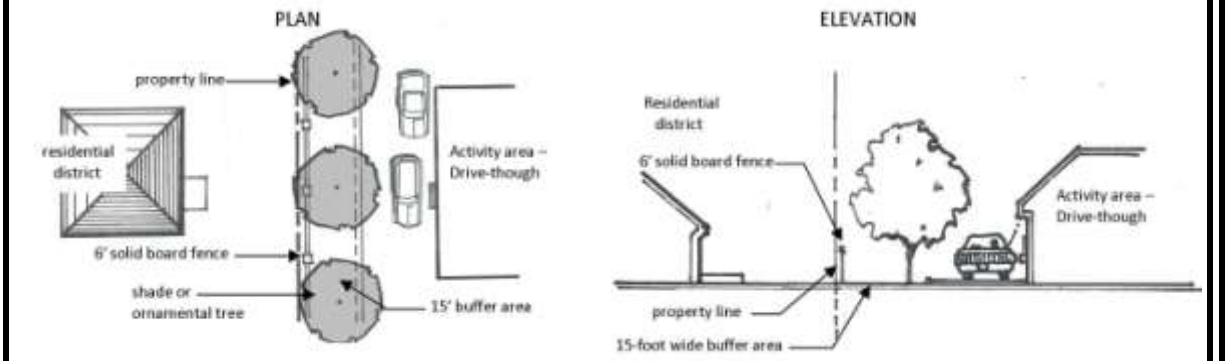
[488] New provision.

(j) The following Code A-1, A-2, and A-3 buffer yard standard shall apply if a nonresidential outside area is adjacent to a residential district:[489]

OUTSIDE ACTIVITY AREA BUFFER YARD STANDARDS		
CODE A-1[490] **Nonresidential Driveway Adjacent to a Residential District**		
WIDTH	**TREES (per lineal foot of driveway)**	**ADDITIONAL SCREENING**
10′	1 every 30 feet	Continuous 6′ high solid wooden fence



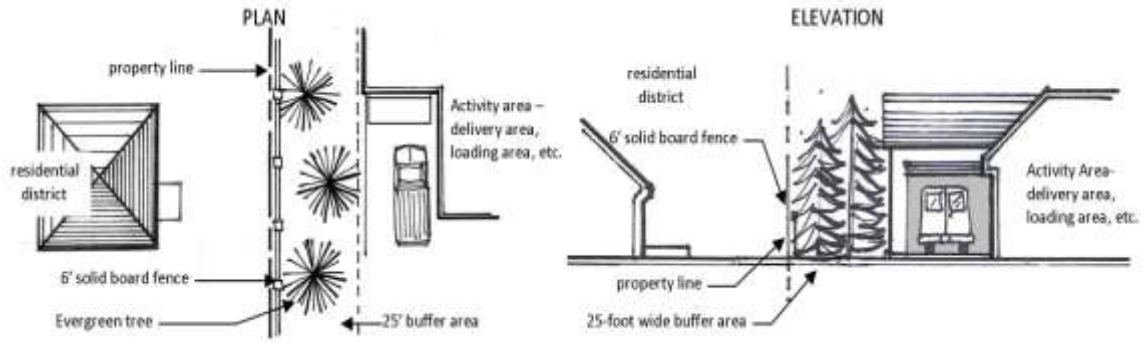
OUTSIDE ACTIVITY AREA BUFFER YARD STANDARDS		
CODE A-2 [491] **Drive-Through Facilities Adjacent to a Residential District**		
WIDTH	**TREES (per lineal foot of drive-through lane)**	**ADDITIONAL SCREENING**
15′	1 every 30 feet	Continuous 6′ high solid wood fence



[489] Since Phase 3, Code 8 (buffering non-residential buildings from non-residential districts) has been deleted and a new Code A-1 has been to address buffering of non-residential driveways from adjacent residential districts.
[490] New provision.
[491] New provision. Since Phase 3 drafts, revised to not apply to driveways.

Code A-3[492]
Other Nonresidential Outside Activity Areas Adjacent to a Residential District (outdoor storage, delivery/employee/emergency access entrances, loading areas, mechanical equipment)

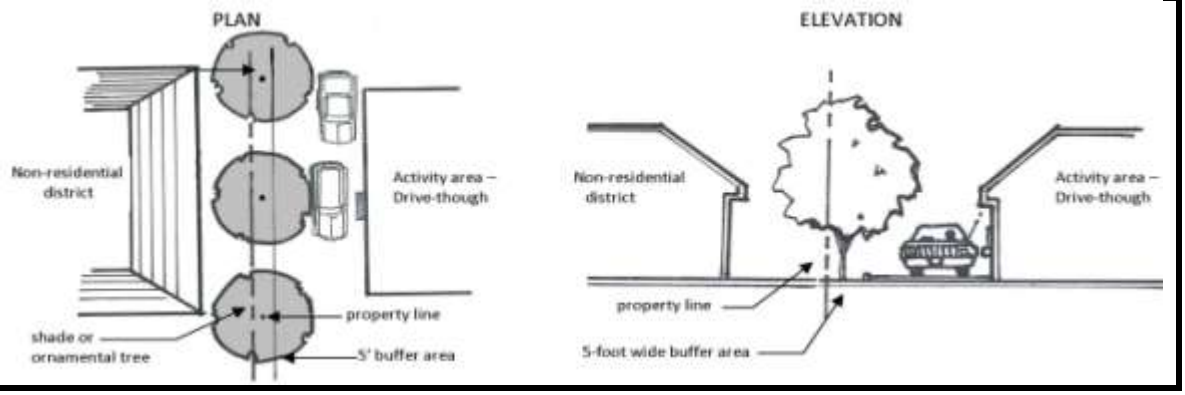
WIDTH	TREES (per lineal foot of activity area)	ADDITIONAL SCREENING
25′	1 evergreen tree every 20 feet	Continuous 6′ high solid wood fence, either on the lot line or immediately around the activity area



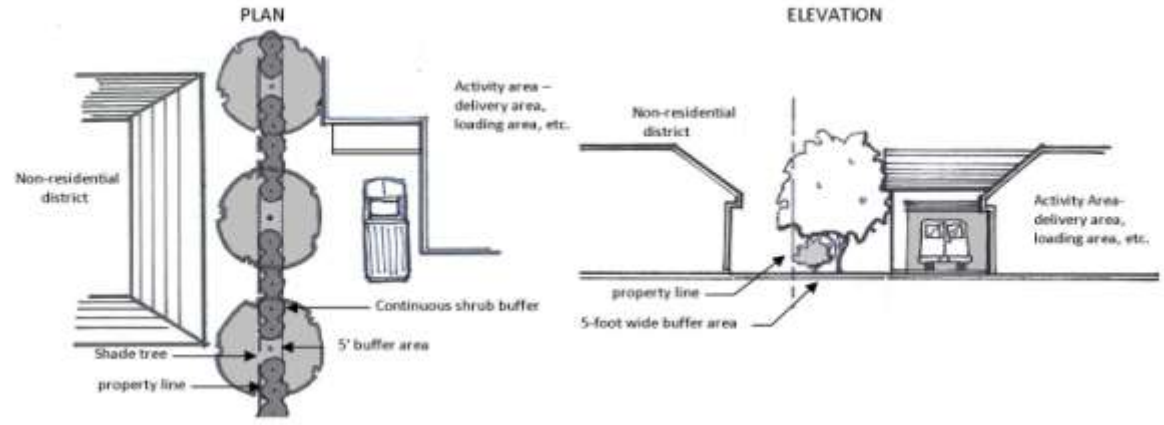
[492] New provision. Since Phase 3 drafts, revised to not apply to dumpsters, but to apply to outside storage areas; and "either on the property line or immediately around the activity area" added to additional screening requirement.

(k) The following Code A-4 and Code A-5 buffer yard standards shall apply if a nonresidential outside activity area is adjacent to a nonresidential district:

OUTSIDE ACTIVITY AREA BUFFER YARD STANDARDS		
CODE A-4[493] **Drive Through Areas Not Adjacent to a Residential District**		
WIDTH	**TREES (per lineal foot of drive-through lane)**	**ADDITIONAL SCREENING**
5′	1 tree every 30 feet	None required



OUTSIDE ACTIVITY AREA BUFFER YARD STANDARDS		
CODE A-5[494] **Other Nonresidential Activity Areas Not Adjacent to a Residential District**		
WIDTH	**TREES (per lineal foot of activity area)**	**ADDITIONAL SCREENING (around activity area)**
5′	1 every 30 feet	Continuous large shrub screen



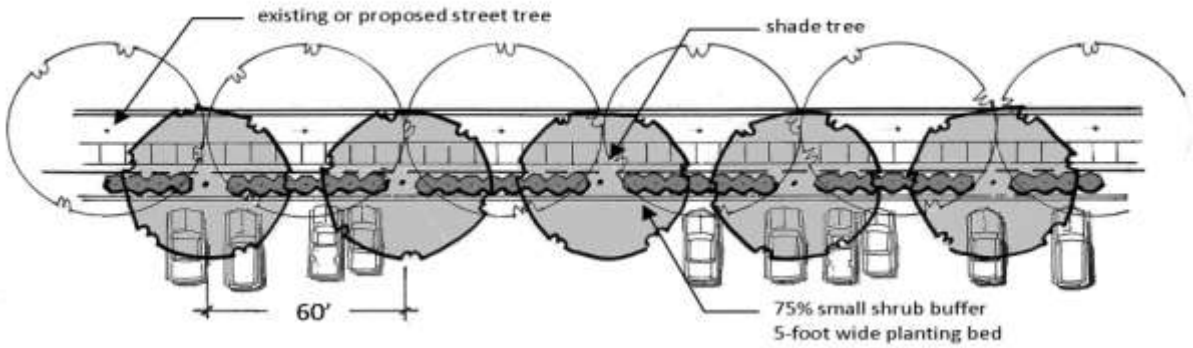
[493] New provision. Since Phase 3 title revised to clarify this does not apply to driveways.
[494] New provision. Since Phase 3, title revised to clarify this applies to nonresidential activity areas.

(l) The following Code P-1 and Code P-2 buffer yard standards shall apply if a parking area is adjacent to a public street, private access drive, or residential district except that only the tree standard in Code P-1 shall apply if the parking area is located over 300 feet from the street right of way:

PARKING AREA BUFFER YARD STANDARDS

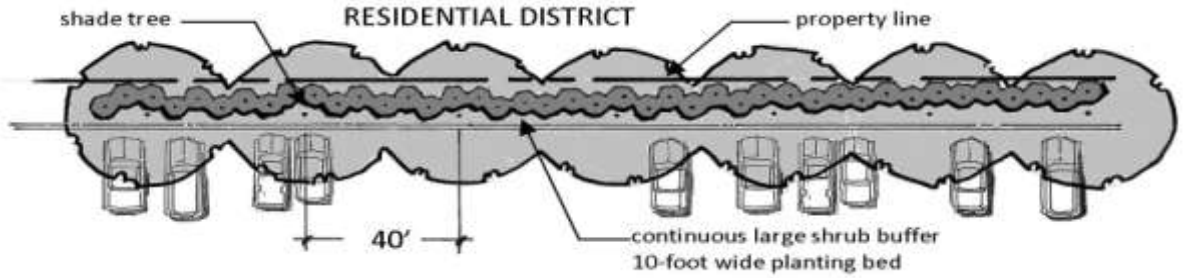
CODE P-1[495]
Parking Area Adjacent to Public Street or Private Access Drive

WIDTH	TREES (per linear foot of parking area)	SHRUBS
5′	1 every 60 feet[496]	75% small shrub buffer; up to 30% medium shrubs may be used[497]



CODE P-2[498]
Parking Area Adjacent to Residential District

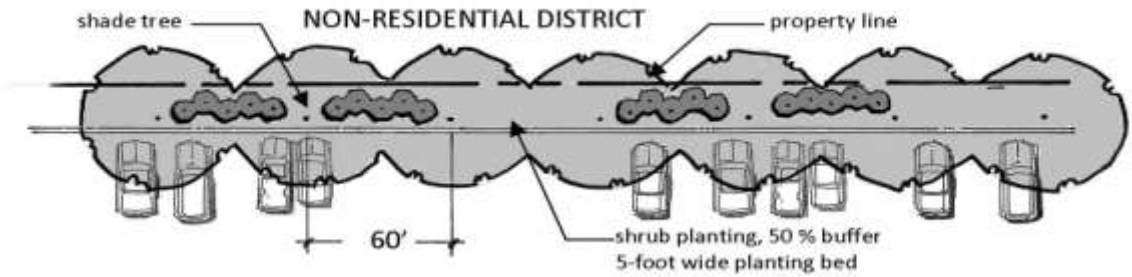
WIDTH	TREES (per linear foot of parking area)	SHRUBS (% of linear feet to be planted)
10′	1 every 40 feet[499]	75% large shrub buffer



[495] New provision. Labels revised to clarify existing/proposed tree status.
[496] Revised from 1 per 30 or 40 ft. in Phase 3 drafts.
[497] Revised from continuous shrub buffer in Phase 3 drafts.
[498] New provision.
[499] Revised from 1 per 30 ft. in Phase 3 drafts

(m) The following Code P-3 buffer yard standards shall apply if a parking area is adjacent to a nonresidential district:

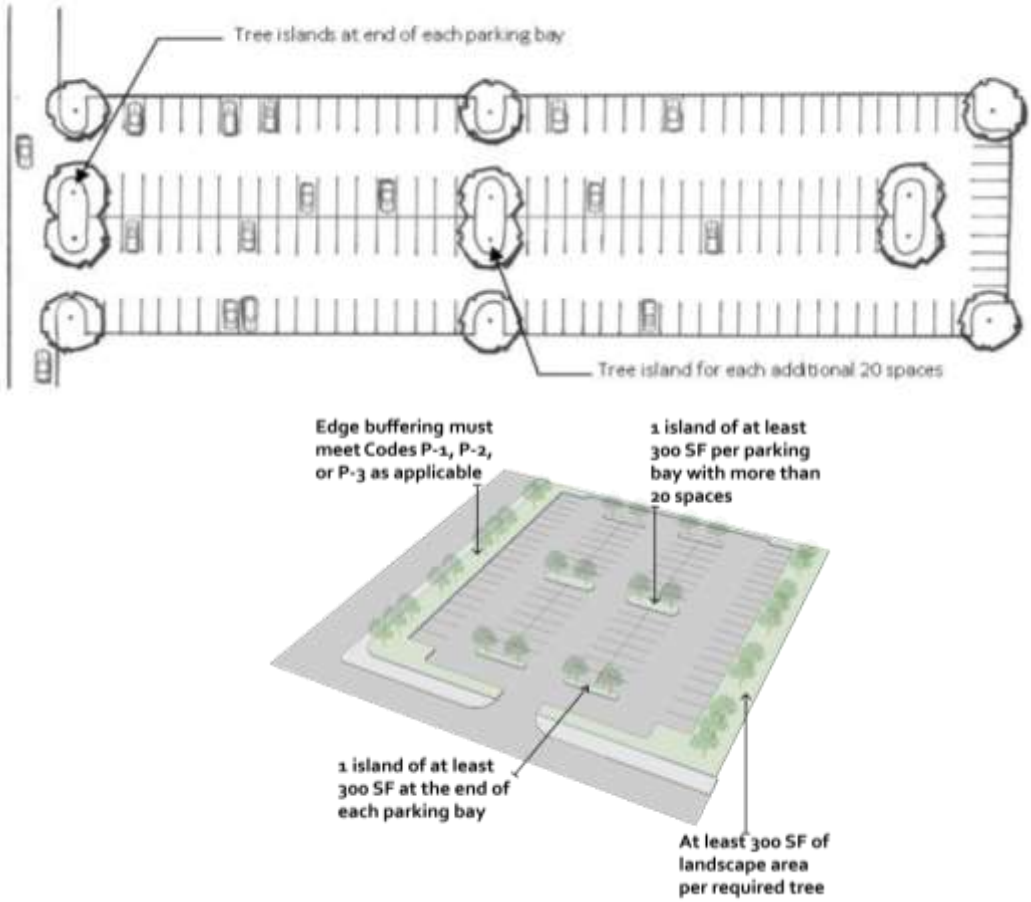
CODE P-3[500] **Parking Area Adjacent to a Commercial Zoning District[501]**		
WIDTH	**TREES** **(per linear foot of parking area)**	**SHRUBS** **(% of linear feet to be planted)**
5′	1 every 60 feet[502]	50% buffer (in groups of at least 3)



[500] New provision.
[501] Revised from "adjacent to a nonresidential district" in Phase 3 drafts.
[502] Revised from 1 per 30 ft. in Phase 3 drafts.

(n) The following Code P-4 interior landscaping standards shall apply to a parking area of over 50 spaces:

PARKING AREA BUFFER YARD STANDARDS		
CODE P-4[503] **Parking Area Over 50 Spaces Interior Landscaping[504]**		
PLANTING AREA PER TREE (square feet)	**PLANTING ISLANDS REQUIRED (At Each End of Parking Bays)**	**ADDITIONAL PLANTING ISLANDS (Per each parking bay with more than 20 spaces)[505]**
300	One island of at least 300 square feet per parking bay[506]	One island of at least 300 square feet per parking bay[507]



(E) Additional Parking Area Landscape Standards[508]

[503] New provision.
[504] Threshold revised from 20 spaces to 50 spaces since Phase 3 drafts.
[505] Revised from "per every additional 20 spaces" in Phase 3 drafts.
[506] Revised from 1 island of at least 600 sq. ft. in Phase 3 drafts.
[507] Revised from 1 island of at least 600 sq. ft. in Phase 3 drafts.

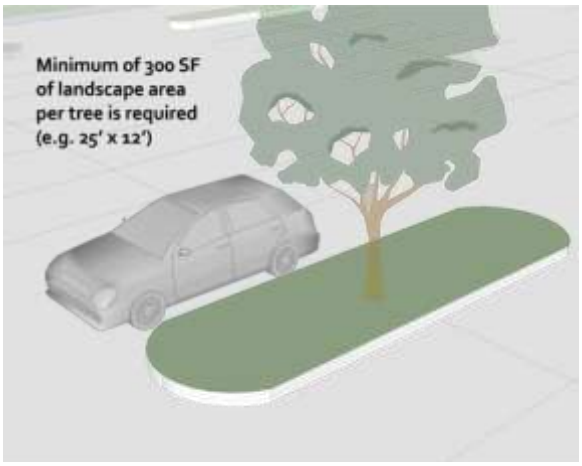
(1) Screening and Buffering

Screening and buffering of off-street parking areas shall be provided to meet the requirements of §157.408(D)(2).[509]

(2) Planting Areas [510]

The following landscape planting area requirements shall be calculated based on the gross square footage of the parking areas (not including driveways that are not adjacent to any parking space).

(a) Except as set forth in §157.408(E)(2)(b) and (c) below, a minimum of 10% of the interior surface parking lot area shall be landscaped (in addition to any perimeter screening or buffering required per §157.408(D)(2)).[511]



(b) In surface parking lots over 100,000 square feet in size, a minimum of 15% of the interior parking area shall be landscaped (in addition to any perimeter screening or buffering required per §157.408(D)(2).[512]

(c) A minimum of 300 square feet of planting area shall be provided per tree.[513]

(d) Required perimeter and interior landscaped areas shall maximize effective stormwater management by installing required interior planting areas at a lower grade than the parking lot pavement, with curbing that includes openings allowing drainage from the pavement to enter and percolate through the interior landscape areas. If approved by DPS staff, other planting areas may be designed and planted to be used for stormwater conveyance.[514]

(e) If approved by DPS staff, the internal planting areas may be designed and planted to be used for stormwater conveyance.

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[508] From current §157.313(E) with revisions as noted and significant reordering of content. Purpose statement has been integrated with overall chapter purpose statement. Requirement for submission of a landscaping plan has been deleted because all application requirements will now appear in an administrative document.
[509] Deleted specific screening/buffering requirements for parking lots in the DC and DE districts due to new standards that address parking lot screening/buffering in all districts.
[510] From current §157.313(E)(4) with changes as noted.
[511] Revised current §157.313(D)(4)(a) which specified the minimum parking area shade tree requirements based on the proposed use, and updated standards to base interior landscaping requirements on size of lot, rather than use.
[512] New standard to address additional requirements for large parking lots.
[513] Revised standard from 180 to 300 feet to reflect general practices from other communities.
[514] New provision since Phase 3 drafts.

(f) Each parking lot that serves a multi-family residential, commercial, public, institutional, civic, or mixed use and contains any parking spaces located more than 300 feet from the closest pedestrian entrance to the primary building shall contain at least one pedestrian walkway (which may be a site perimeter sidewalk) allowing pedestrians to pass from the furthest row of parking to the primary building entrance without crossing additional driving spaces or aisles. The required walkway must be at least five (5) feet wide, shall not be located within a driving aisle, and shall be located in a landscaped island running perpendicular to the primary building façade if possible. If located in a landscaped island, the minimum width of the island shall be increased by five (5) feet to accommodate the walkway without reducing the amount of landscaped area.[515]

(F) Alternative Landscaping/Buffering Compliance[516]

(1) Purpose

In lieu of compliance with the specific landscaping, screening, and buffering requirements of this §157.408(A) through (E), the applicant may propose alternative compliance pursuant to this §157.408(F) as part of the submittal of a Primary Development Plan.

(2) Procedure

An application for alternative landscaping/buffering compliance shall be processed as an application for approval of a Primary Development Plan pursuant to §157.301. e

(3) Criteria for Approval of Alternative Landscaping/Buffering

An application for alternative landscaping/buffering shall be approved if the Plan Commission determines that:

(a) The proposed alternative promotes the purpose of §157.408(A);

(b) The proposed alternative will equal or exceed the amount of trees, shrubs, and planting area required by §157.408(A) through (E) above; and

(c) The proposed alternative will screen or buffer adjacent properties from visual, lighting, and noise impacts from the same buildings, areas, or site features addressed by §157.408(A) through (E) as well as or better than compliance with the standards in those Sections.

[515] New provision.
[516] Replaces current "waiver of screening and buffering standards" to better address the need for flexibility and to replace the waiver option.

§ 157.409 SIGNS[517]

(A) Purpose[518]

The purpose of this section shall be to:

(1) Regulate the time, place, and manner of the display of signage and non-sign visual displays;

(2) Coordinate the type, placement, and dimensions of signs within the different zoning districts;

(3) Recognize the commercial communication requirements of all sectors of the business community;

(4) Establish updated language and standards for the various types of signs and land use situations;

(5) Encourage the innovative use of design;

(6) Promote both sign renovation and proper sign maintenance;

(7) Provide for the treatment of nonconforming signs:

(8) Encourage equal treatment through accurate record keeping and consistent enforcement;

(9) Avoid content-based regulation prohibited by the federal or state constitution, statutes, or court decisions.

(B) Applicability

(1) The provisions of this section apply to all structures, displays, and surface treatments that meet the definition of a sign in §157.506 and shall apply throughout the planning jurisdiction of Fort Wayne.[519]

(2) An Improvement Location Permit shall be required before the construction, display, enlargement, erection, reconstruction, placing or locating of all signs regulated by this §157.409, except as exempted in §157.409(C) below.

(3) It shall be a violation of this ordinance for any sign to be constructed, displayed, enlarged, erected, reconstructed, or otherwise altered except as provided in this section. Any person, agent, contractor, lessee, owner, sign company, or tenant violating the provisions of this section or failing to comply with any order or determination made under this ordinance shall be subject to the enforcement provisions of this ordinance

(4) Signs regulated by this §157.409 may also be subject to the regulations of the Indiana Department of Transportation (INDOT); where such regulations are more restrictive than this chapter, the INDOT regulations shall govern.

(5) For purposes of determining street classifications for signage purposes in this §157.409, refer to Fort Wayne Urban Area map, as may be amended.[520]

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[517] Replaces current §157.316 with significant changes as noted below.
[518] Revised to delete "allow for special circumstances" and to add purposes related to removal of nonconforming signs and compliance with state and federal law.
[519] Revised since Phase 3 draft for clarity and to tie into definition of sign.
[520] New reference to standards designating roadway classifications.

(C) Improvement Location Permit Not Required[521]

The on-site signs listed in subsection (1) below, and the temporary signs listed in subsection (2) below, may be erected or placed, in addition to other permitted signs, without obtaining an Improvement Location Permit. However, a violation of any standard or condition for such sign shall be considered a violation of this ordinance.

(1) Permanent On-Site Signs[522]

(a) Agriculturally-related signs, such as seed dealer and test plot signs,

(b) Flags of federal, state, or local governments;

(c) Historical or commemorative plaques or tablets;

(d) Historically significant signs that have been reviewed and approved by the Historic Preservation Review Commission in conformance with any historic preservation ordinance in effect at the time of review;[523]

(e) Information signs that direct traffic within a premises or that identify key locations on the premises subject to the following standards:

(i) In the DC and DE zoning districts, one (1) sign is permitted per site entrance and no sign shall exceed two (2) sq. ft. in area or 2.5 ft. in height.

(ii) In other zoning districts, no sign shall exceed six (6) sq. ft. in area or three (3) ft. in height.

(f) Memorial plaques, tablets, or building cornerstones, when cut or carved into a masonry surface, or when made of incombustible material and made an integral part of the building or structure it identifies.

(g) Noncommercial opinion signs subject to the following standards and limitations[524]:

(i) In the AR, R1, R2, R3, RP, MHP, or MHS zoning districts, up to two (2) wall or freestanding signs shall be permitted per lot or development site. No sign shall exceed twelve (12) sq. ft. in area and no freestanding sign shall exceed four (4) ft. in height. The sign(s) may be located in a required yard.

(ii) In any other zoning district, one wall or freestanding sign shall be permitted per lot or development site. No sign shall exceed thirty-two (32) sq. ft. in area, and no freestanding sign shall exceed six (6) ft. in height. The sign may be located in a required yard.

(h) Signs authorized by a governmental entity, including traffic and warning signs, public notices, and proclamations erected or displayed in discharge of a government function, or where required by ordinance.

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[521] These are called "miscellaneous signs" in the current ordinance. Street name and number signs were excluded from this list avoid references to sign content; public street and number signs are already covered by the governmental signs exception.
[522] "Murals, exclusive of any sign copy area, painted on the wall of a building, fence, or similar structure" has been removed from this list, as they generally need to be reviewed through a permit process to distinguish sign area from art.
[523] Wording clarified
[524] These are in addition to the temporary noncommercial opinion sign allowances listed in the following section.

(i) Reflectors and other safety signs or devices used to mark driveways, towers, airport approaches, underground public utilities, and other potentially dangerous structures or situations.

(j) Signs painted, printed or mounted on licensed and operable vehicles that are incidentally visible on any vehicle in connection with the use of such vehicle for transportation purposes, but excluding vehicles (including trailers) specifically constructed for use as signs rather than for transportation of other goods.[525]

(k) Signs, warning the public against hunting, fishing, trespassing, dangerous animals, swimming or other risks to public health or safety.

(l) Off-site wall signs not exceeding six (6) sq. ft. providing directions to nearby properties.[526]

(2) Temporary Signs[527]

The temporary signs listed in the following table are permitted subject to the conditions for that type of sign. Unless otherwise noted, only one type of temporary sign may be present on a development site at the same time, and no temporary sign may be mounted on a fence: these restrictions shall not apply to noncommercial opinion signs. Holiday lighting is not considered signage, and is not subject to the provisions of this §157.409.[528]

TEMPORARY SIGN STANDARDS			
Sign Type	**Zoning Districts**	**A/ R/MH Districts**	**All Other Districts**
Auction			
Signs per development site (wall or freestanding)		1	1
Maximum size (square feet)		32	32
Maximum freestanding sign height (feet)		6	6
Setback from lot line (feet)		5	5
Placement limitation (number of days prior to event)[529]		30	30
Removal requirement (number of days after event)[530]		7	7
Construction [531]			
Signs per development site (wall or freestanding)		1	1/multiple

[525] Revised to clarify that this exception does not include "rolling billboards."
[526] Item (k) is new since Phase 3 drafts.
[527] Materials on banner signs have been deleted, because the only standard was a content-based restriction to non-commercial messages. Banners can still be erected under the institutional and business special event provisions. The distinction between short- and long-term temporary signs in the current Fort Wayne sign regulations have not been carried over, since it is unusual (and administratively difficult) to regulate temporary signs in that much detail.
[528] Exemption for holiday lighting is now generally applicable to all zoning districts – not just the DC and DE districts. Since Phase 2 drafts prohibition on temporary signs on fences has been added in response to public comment.
[529] Revised from current 21 days before event to 5 days after event for consistency with other temporary sign periods.
[530] Revised from current 21 days before event to 5 days after event for consistency with other temporary sign periods.
[531] Size and height limits for construction signs have been reduced from 6, 12and 20 ft. in height and 16, 64, or 128 sq. ft. in area to match those for non-commercial opinion signs in order to avoid legal challenges.

TEMPORARY SIGN STANDARDS			
Sign Type	**Zoning Districts**	**A/ R/MH Districts**	**All Other Districts**
Maximum size (square feet)[532]		12	32 per sign or 100 if only one sign
Maximum height (feet)		4	6 per sign or 10 if only one sign
Setback from lot line (feet)[533]		5	5
Removal (# of days after C of O issuance)[534]		30	30
Special Event[535]			
Signs per development site (wall or freestanding)		1	1
Maximum size (square feet)		32	32
Maximum freestanding sign height (feet)[536]		6	6
Setback from lot line (feet)		5	5
Placement limitation (number of days prior to event)		30	30
Removal requirement (number of days after event)		7	7
Mobile[537]			
Signs per development site (freestanding only)		0	1[538]
Maximum size (square feet)		N/A	32
Maximum freestanding sign height (feet)[539]		N/A	6
Setback from lot line (feet)		N/A	5
Placement limitation (number of times per year)[540]		N/A	2
Time limitation (number of days per placement)		N/A	30
Noncommercial Opinion[541]			

[532] Current standards were revised to provide different height and size limits based on the number of signs.
[533] Setback now applies to all lot lines.
[534] New standard.
[535] These standards combine the previous "church and school", "institutional, "business moving," business opening and special event" sign standards and remove content-based text regarding the sign message. Institutional and business event signs are now subject to the 5 ft. height and setback standards previously applicable to church and school signs, and churches and schools are now allowed to put up signs up to 30 days in advance of an event, rather than just 7 days surrounding it. The time limit for business event signs is now 30 days before and 7 after, rather than the current 60 days. The limit of 1 sign is now applied to all signs if located in residential districts. Business special event signs are now permitted in all districts, but will only apply to permitted and nonconforming businesses in those districts. Revised from "institutional or business special event" to clarify that special events by neighborhood associations are also covered.
[536] Height increased to 6 ft. for consistency in temporary sign standards.
[537] Mobile signs will be defined to include signs affixed to the back of a truck or trailer that is parked temporarily on a lot or parcel, to clarify that the area of those signs will be counted against the mobile sign area allowed on the site.
[538] The list of permitted districts has been expanded to include UC (formerly CM5C).
[539] New standard.
[540] The current text says "per permit" but the requirement for a permit has been deleted to align with other types of temporary signs.
[541] Consolidates the current Fort Wayne code provisions for noncommercial opinion signs and political campaign signs.

TEMPORARY SIGN STANDARDS			
Sign Type	**Zoning Districts**	**A/ R/MH Districts**	**All Other Districts**
Signs per development site (wall or freestanding)		No limit	No limit
Maximum size (square feet)		12	32
Maximum freestanding sign height (feet)		4	6
Setback from lot line (feet)		5	5
Placement limitation (January 1 of election year)		Yes	Yes
Removal requirement (# of days after election)		30	30
Real Estate			
Signs per street frontage (wall or freestanding)		1	1
Maximum size (square feet)		12	32
Maximum freestanding sign height (feet)[542]		4	6
Setback from lot line (feet)		None	None
Removal requirement (number of days after sale, rental, or lease)		7	7

(D) General Sign Standards [543]

All non-billboard signs shall meet the standards in the following tables for the zoning district in which the sign is located, as well as the standards in §157.409(D)(2) (Standards Applicable in All Zoning districts) and §157.409(F) (General Provisions and Standards).

(1) Standards Applicable in Specific Zoning Districts[544]

(a) General Standards

[542] Reduced from 8 ft. for consistency with other temporary signs.
[543] Separate regulations for "churches and schools" have been deleted. In residential districts the current church and school sign standards have been extended to apply to all permitted non-residential uses. In other zoning districts churches and schools are now subject to the same sign controls applicable to non-residential uses in those areas.
[544] These tables summarize information from current §157.316(B), with changes as noted.

AR, MH, AND RESIDENTIAL DISTRICT PERMANENT SIGN STANDARDS							
Land Use	**Zoning District**	**AR**	**R1**	**R2**	**R3**	**RP**	**MH**
Single and Two Family Dwellings[545]							
Signs per dwelling (wall or freestanding, non-illuminated)		1	1	1	1	1	1
Maximum size (square feet)		3	3	3	3	3	3
Maximum freestanding sign height (feet)		4	4	4	4	4	4
Setback from lot line (feet)		5	5	5	5	5	5
Universal and other permitted Non-Residential Uses[546]							
Signs per development site (freestanding)		1	1	1	1	1	1
Maximum size, freestanding (square feet)		50	50	50	50	50	50
Maximum changeable copy area (square feet)		40	40	40	40	40	40
Maximum freestanding sign height		8	8	8	8	8	8
Setback from front lot line (feet)		5	5	5	5	5	5
Setback from side or rear lot line (feet)		50	50	50	50	50	50
Maximum size, wall (square feet)		80	80	80	80	80	80
Maximum wall sign coverage (per wall)		10%	10%	10%	10%	10%	10%
Subdivisions							
Signs per manufactured home community, multiple family housing project, or subdivision plat entrance[547]		2	2	2	2	2	2
Maximum size (square feet)[548]		50	50	50	50	50	50
Maximum height		8	8	8	8	8	8
Setback from lot line (feet)		5	5	5	5	5	5

[545] Replaces current text from 157.316.B.1 reading, "one on-premise non-illuminated wall sign is permitted. Such sign shall not exceed one square foot in area, and may be used to identify block parents, the name(s) of the premises or occupants thereof, or to provide similar information. Additional signs as allowed herein shall also be permitted." Maximum size increased from 1 to 3 sq. ft. Standard sign provisions have been extended to the new RM1 and RM2 districts. Freestanding sign now permitted as an alternative to the wall sign. Maximum sign height of 4 ft. and required setback of 5 ft. are new.

[546] Extended from "churches and schools to apply to all permitted non-residential uses. Maximum size of 32 sq. ft. for freestanding increase to 50 sq. ft.; max. size of 32 sq. ft. for wall sign increased from 32 to 80 sq. ft. but 10% wall coverage limit added; max. height increased from six to 8 ft.; side lot line setback increased from 5 to 50 ft.; rear setback of 50 ft. has been added.

[547] Provision expanded to cover manufactured home communities.

[548] Current code provisions for 20 sf sign 5 ft. tall in general and 32 sf sign 6 ft. tall if integrated into required screening were simplified a maximum size of 50 sq. ft. and maximum height of 8 ft. 10 ft. setback from front and side lot lines were reduced to 5 ft.; 5ft. rear lot line setback has been added.

COMMERCIAL AND SHOPPING CENTER DISTRICT PERMANENT SIGN STANDARDS[549]							
Sign Type	**Zoning District**	**C1**[550]	**C2**[551]	**NC**[552]	**SC**[553]	**C3**[554]	**C4**
Freestanding[555]							
Up to 300 ft. of frontage on an arterial street, or on a collector/other street							
Number of signs per street frontage		1	1	1	1	1	1
Maximum size (square feet) [556]		80	80	80	80	80	80
Maximum changeable copy area[557]		40	40	40	40	40	40
Maximum height (feet)[558]		8	8	8	8	8	8
Setback from lot line (feet)[559]		5	5	5	5	5	5
Setback from residential zoning district (feet)[560] (distance indicated or 5 ft. from side lot line opposite residential district, whichever is less)		50	50	50	50	50	50
More than 300 ft. of frontage on an arterial st.							

[549] Current category of 'projecting signs' has been deleted and regulations on projections are now incorporated into other sign types. Current provisions for freestanding signs on pad sites have been consolidated into general freestanding sign regulations. Special regulations for marquee signs have been deleted.
[550] Replaces current C1 text reading, "One on-premise free-standing sign per entrance, identifying the name of the office park or activity conducted within the district shall be permitted. Such sign shall not exceed 32 square feet in area, shall have a maximum height of six feet, and shall be permitted with a five foot setback from the front lot line. Such sign shall not face any residential district 50 feet away" and "On-premises wall signs shall be permitted on each façade of a primary building; the total copy area of such signs shall not exceed 50 square feet per facade" and "If there is more than one building, a freestanding directory sign is permitted for each building. Such sign shall be located in the interior of the development with a maximum height of six feet and may not exceed 50 square feet in total area."
[551] Replaces current C2 text in 157.316(B)(3).
[552] In NC and SC districts, provision that freestanding sign identify the complex (not tenants) has been removed.
[553] This district combines the former SC2, SC3, and SC4 districts.
[554] Replaces current C3 and C4 text in 157.316(B)(5).
[555]Sign regulations now differentiate between small, medium, and large parcels based on amount of site frontage.
[556] Current code has max of 32 sq. ft. in C1, 100 in C2 (with option to substitute 50/75 sq. ft. projecting sign), 200 in SC1 (now NC), 300 in SC2 and SC3, 400 in SC4 (now SC), and 250 in C3 and C4 (with option to substitute 50/100 sq. ft. projecting sign). These have generally been adjusted downward for smaller parcels.
[557] New standard.
[558] Current code has max height of 6 ft. in C1, 35 ft. in C2, 35 ft. in SC1 (now NC), 40 ft. in SC2 and SC3 and 50 ft. in SC4 (now SC), and 50 ft. in CM3 and 4. These have generally been adjusted downward for smaller parcels.
[559] Extended to apply to all lot lines (not just front lot line).
[560] Replaces Sec. 157.316(D)(6), which used a difficult-to-administer sliding scale that reduced maximum sign size if it could not be located 100 ft. from the residential district boundary.

COMMERCIAL AND SHOPPING CENTER DISTRICT PERMANENT SIGN STANDARDS[549]							
Sign Type	**Zoning District**	**C1**[550]	**C2**[551]	**NC**[552]	**SC**[553]	**C3**[554]	**C4**
Number of signs per lot (per street frontage)[561]		1	1	1	1	1	1
Maximum size (square feet)[562]		80	100	100	300	300	300
Maximum changeable copy area (square ft.)[563]		40	40	40	40	40	40
Maximum height (feet)[564]		8	15	15	30	30	30
Setback from lot line (feet)[565]		5	5	5	5	5	5
Setback from residential zoning district (feet) (distance indicated or 5 ft. from side lot line opposite residential district, whichever is less)[566]		50	100	100	150	150	150
Additional sign for properties with over 500 feet of frontage on an interstate highway (I-69 or I-469; on premise only)[567]							
Number of signs per lot		N/A	N/A	N/A	1	1	1
Maximum size (square feet)		N/A	N/A	N/A	100	100	100
Maximum changeable copy area (square ft.); digital signs not permitted		N/A	N/A	N/A	40	40	40
Maximum height (feet)		N/A	N/A	N/A	30	30	30
Setback from lot line (feet)		N/A	N/A	N/A	5	5	5
Maximum sign base setback from interstate ROW (feet)		N/A	N/A	N/A	50	50	50
Setback from residential zoning district (feet) (distance indicated or 5 ft. from side lot line opposite residential district, whichever is less)		N/A	N/A	N/A	50	50	50

[561] Current code allows more than one sign on NC, SC, C3, and C4 properties with frontages over 800 ft.
[562] Current code has max of 32 sq. ft. in C1, 100 in C2 (with option to substitute 50/75 sq. ft. projecting sign), 200 in SC1 (now NC), 300 in SC2 and SC3, 400 in SC4 (now SC), and 250 in C3 and C4 (with option to substitute 50/100 sq. ft. projecting sign). These have been generally adjusted downward for medium sized parcels.
[563] New standard.
[564] Current code has max height of 6 ft. in C1, 35 ft. in C2, 35 ft. in SC1 (now NC), 40 ft. in SC2 and SC3 and 50 ft. in SC4 (now SC), and 50 ft. in CM3 and 4. These have generally been adjusted downward for medium sized parcels.
[565] Extended to apply to all lot lines (not just front lot line).
[566] Replaces Sec. 157.316(D)(6), which used a difficult-to-administer sliding scale that reduced maximum sign size if it could not be located 100 ft. from the residential district boundary.
[567] New standard.

COMMERCIAL AND SHOPPING CENTER DISTRICT PERMANENT SIGN STANDARDS[549]							
Sign Type	**Zoning District**	**C1**[550]	**C2**[551]	**NC**[552]	**SC**[553]	**C3**[554]	**C4**
Entrance signage for projects with multiple lots/parcels or multiple buildings on a single parcel (permitted for new development proposals)[568]							
Number of signs per development site (per street frontage)[569]		2	1	1	1	1	1
Maximum size (square feet)		80	150	150	300	300	300
Maximum changeable copy area (square ft.)		40	40	40	40	40	40
Maximum height (feet)		8	15	15	30	30	30
Setback from lot line (feet)		5	5	5	5	5	5
Setback from residential zoning district (feet)		50	50	50	50	100	100
Wall[570]							
Maximum coverage (per facade)[571]		30%	30%	30%	30%	30%	30%
Maximum changeable copy area (square feet)[572]		40	40	40	40	40	40
Awning[573]							
Maximum coverage (of outer awning surface)		50%	50%	50%	50%	50%	50%
Backlighting permitted		No	Yes	Yes	Yes	Yes	Yes
Blade[574] Permitted for lot frontages located on principal arterial streets only (as identified on the Fort Wayne Urban Area map, as may be amended).							
Maximum size (square feet)		80	80	80	80	80	80
Distance sign can extend from building (feet)		4	4	4	4	4	4
Canopy[575]							

[568] New standard. Since Phase 3 drafts, revised to apply to projects with multiple buildings on a single parcel, and "additional" removed from before "entrance".
[569] Current code allows more than one sign on NC, SC, C3, and C4 properties with frontages over 800 ft.
[570] Standards governing maximum projection from wall have been deleted.
[571] Standard extended to 30 % for all commercial districts. Current code has no % limits in C1 and C2, 25% (or size of freestanding sign, whichever is less) in SC1, SC2, SC3, and SC4 (now NC and SC), and 30% or 250% sq. ft. (whichever is less) in C3 and C4 districts.
[572] New standard.
[573] New type of sign permitted in these zoning districts; coverage increased from 25% to 50% since Phase 3 drafts.
[574] New type of sign permitted in these zoning districts.
[575] New type of sign permitted in these zoning districts.

COMMERCIAL AND SHOPPING CENTER DISTRICT PERMANENT SIGN STANDARDS[549]							
Sign Type	**Zoning District**	**C1**[550]	**C2**[551]	**NC**[552]	**SC**[553]	**C3**[554]	**C4**
Maximum coverage (of front and side canopy faces)		50%	50%	50%	50%	50%	50%
Distance sign can extend above canopy (feet)		1	1	1	1	1	1
Backlighting permitted		No	Yes	Yes	Yes	Yes	Yes
Building Directory[576] Additional sign for a building with multiple internal tenants							
Number of signs permitted (per building)		1	1	1	1	1	1
Maximum size (square feet)		50	50	50	50	50	50
Maximum height of sign (feet)		6	6	6	6	6	6
Setback from lot line (feet)		5	5	5	5	5	5
Drive Through For a primary building with an accessory drive through facility							
Number of signs permitted (per lot)[577]		1	2	2	2	2	2
Maximum size (square feet)[578]		20	50	50	50	50	50
Maximum height[579]		6	10	10	10	10	10
Setback from lot line (feet)[580] May not be located in required front or side yard		5	5	5	5	5	5
Gas Station[581]							
Gas pump embellishment maximum size (sq. ft.)		2	2	2	2	2	2
Subdivision Plat[582]							
Number of signs per entrance		2	1	1	1	1	1
Maximum size (square feet)		80	80	80	80	80	80

[576] 5 ft. setback from lot lines has been added to C1 and current C1 language revised to allow 1 sign per building (rather than building entrance), then C1 provisions were expanded from the C1 district to allow directory signs in all districts listed in this table. Renamed since Phase 3 drafts in response to public comments.
[577] Current code allows 2 signs in each zoning district.
[578] Maximum size increased from 32 sf for 1 sign and 20 each for two signs because of frequent requests for variances to accommodate industry norms.
[579] Maximum height increased from 6 feet in all except C1 district because of frequent requests for variances to accommodate industry norms.
[580] New standard.
[581] Additional wall signage, freestanding signage, and canopy signage regulations removed. Gas pump embellishments reduced from 4 sq. to 2 sf. Since Phase 3 use title revised for consistency.
[582] Current code limits to 1 sign in C1; limits max. size to 75 sq. ft.; limits max height to 5 ft., and requires 5 ft. setback from each lot line.

COMMERCIAL AND SHOPPING CENTER DISTRICT PERMANENT SIGN STANDARDS[549]							
Sign Type	**Zoning District**	**C1**[550]	**C2**[551]	**NC**[552]	**SC**[553]	**C3**[554]	**C4**
Maximum height		8	8	8	8	8	8

DOWNTOWN AND CORRIDOR DISTRICT PERMANENT SIGN STANDARDS				
Sign Type	**Zoning District**	**DC**	**DE**	**UC**
Freestanding[583] DC signs shall be ground-mounted signs (pole-mounted signs are not permitted)				
Number of signs per street frontage		1	1	1
Maximum size (square feet)[584]		50	50	80
Maximum changeable copy area[585]		40	40	40
Maximum height (feet)		8	8	8
Setback from lot line (feet)		0	5	5
Setback from residential zoning district (distance indicated or 5 ft. from side lot line opposite residential district, whichever is less)[586]		50	50	50
Wall[587] Signs shall not cover exterior windows; for multiple tenant space buildings the allowance shall be per tenant space facade				
Maximum coverage per facade (below second story sill)		10%	25%	25%
Maximum coverage per facade (above second story sill)		5%	25%	25%
Maximum changeable copy area (square feet)[588]		40	40	40
Awning[589]				
Maximum coverage (of outer awning surface)		50%	50%	50%
Setback from lot line (feet)		0	0	0
Backlighting permitted		Yes	Yes	Yes

[583] Restrictions against signs in vision clearance areas have been made generally applicable to all signs. Restriction against location in "site lines to entrances" has been deleted as difficult to establish and enforce.
[584] Max. size reduced from 100 sq. ft. in UC. Text excluding sign support from area measurements moved to general sign definitions – it applies in all districts.
[585] New standard.
[586] Replaces Sec. 157.316(D)(6), which used a difficult-to-administer sliding scale that reduced maximum sign size if it could not be located 100 ft. from the residential district boundary.
[587] Replaces current DC and DE standard of (a) 50 sf per tenant space for areas <50 ft. above sidewalk, plus (b) 100 sf for portions of building between 50-100 ft. above sidewalk OR 300 sf for portions of building over 100 ft. above sidewalk, as well as current UC max of 50 sq. ft. Current code prohibits internal illumination.
[588] New standard
[589] Now allowed in UC district; coverage increased from 25% to 50% since Phase 3 drafts..

DOWNTOWN AND CORRIDOR DISTRICT PERMANENT SIGN STANDARDS			
Sign Type / **Zoning District**	**DC**	**DE**	**UC**
Blade[590] Permitted for properties located on principal arterial streets			
Maximum size (square feet)	80	80	80
Distance sign can extend from building (feet)	4	4	4
Canopy[591]			
Maximum coverage (of front and side canopy faces)	50%	50%	50%
Distance sign can extend above canopy (feet)	1	1	1
Backlighting permitted	Yes	Yes	Yes
Drive Through For a primary building with an accessory drive through facility;			
Number of signs permitted (per lot)	2	2	2
Maximum size (square feet)[592]	50	50	50
Maximum height[593]	6	10	10
Setback from lot line (feet) Shall not be located in required front or side yard	0	0	0
Marquee[594]			
Maximum height of sign (feet)	5	5	5
Distance sign can extend above marquee (feet)	6	6	6
Projecting			
Maximum size (square feet)	12	12	12
Distance sign can extend from building (feet)	4	4	4

[590] Current code limits these to Clinton, Jefferson, Washington, and Lafayette in the DC and DE zones, allows 4 ft. over r-o-w, requires that lower edge be at least 18 ft. above grade, and prohibits projections above roof/cornice line.
[591] Provision extended to include UC district – size limit replaces the current limit of 5 ft. times the length of canopy. Current code permits internal lighting of letters.
[592] Maximum size increased from 32 sf for 1 sign and 20 each for two signs because of frequent requests for variances to accommodate industry norms.
[593] Except for DC district, maximum height increased from 6 feet because of frequent requests for variances to accommodate industry norms.
[594] Revised to clarify that marquees in UC district may not extend more than 6 ft. above marquee (like DE and DC).

INDUSTRIAL DISTRICT PERMANENT SIGN STANDARDS					
Sign Type[595]	**Zoning District**	**BTI**[596]	**I1**	**I2**	**I3**
Freestanding (all on-site only)[597]					
Up to 300 ft. of frontage on an arterial street, or on a collector or other street					
Number of signs per street frontage		1	1	1	1
Maximum size (square feet)[598]		80	80	80	80
Maximum changeable copy area (square feet)[599]		40	40	40	40
Maximum height (feet)[600]		8	8	8	8
Setback from lot line (feet)[601]		5	5	5	5
Setback from residential zoning district (distance indicated or 5 ft. from side lot line opposite residential district, whichever is less)[602]		50	50	50	50
Over 300 ft. of frontage on an arterial street, or on a collector or other street					
Number of signs per street entrance if lot or parcel contains one primary building		1	1	1	1
Number of signs per street entrance if lot or parcel contains more than one primary building[603]		2	2	2	2
Maximum size (square feet)[604]		80	100	100	300
Maximum changeable copy area (square feet)[605]		40	40	40	40
Maximum height (feet)[606]		8	15	15	30
Setback from lot line (feet)[607]		5	5	5	5

[595] Regulations for marquee signs and projecting signs have been deleted.
[596] BTI sign standards are new.
[597] Sign regulations now differentiate between small, medium, and large parcels based on amount of site frontage.
[598] Reduced from 300 sq. ft.
[599] New standard.
[600] Reduced from 50 ft.
[601] Extended to apply to rear lot line.
[602] Replaces Sec. 157.316(D)(6), which used a difficult-to-administer sliding scale that reduced maximum sign size if it could not be located 100 ft. from the residential district boundary.
[603] Added since Phase 3 drafts to allow additional entrance signage for multi-building properties on larger parcels, and to regulate by number of entrances rather than frontages, in response to public comment.
[604] Reduced from 300 sq. ft. in I1 and I2.
[605] New standard.
[606] Reduced from 50 ft.
[607] Extended to apply to rear lot line.

INDUSTRIAL DISTRICT PERMANENT SIGN STANDARDS					
Sign Type[595]	**Zoning District**	**BTI**[596]	**I1**	**I2**	**I3**
Setback from residential zoning district (distance indicated or 5 ft. from side lot line opposite residential district, whichever is less)[608]		50	100	100	150
Additional signage if lot has over 500 ft. of frontage on an interstate highway (I-69 or I-469)[609]					
Number of signs per lot		N/A	1	1	1
Maximum size (square feet)		N/A	100	100	100
Maximum changeable copy area (square ft.); digital signs not permitted		N/A	40	40	40
Maximum height (feet)		N/A	30	30	30
Setback from lot line (feet)		N/A	5	5	5
Maximum sign base setback from interstate ROW (feet)		N/A	50	50	50
Setback from residential zoning district (feet) (distance indicated or 5 ft. from side lot line opposite residential district, whichever is less)		N/A	50	50	50
Wall					
Maximum coverage (per facade)[610]		30%	30%	30%	30%
Maximum changeable copy area (square feet)[611]		40	40	40	40
Awning[612]					
Maximum coverage (of outer awning surface)		50%	50%	50%	50%
Backlighting permitted		Yes	Yes	Yes	Yes
Canopy[613]					
Maximum coverage (of front and side canopy faces)		50%	50%	50%	50%
Distance sign can extend above canopy (feet)		1	1	1	1
Backlighting permitted		Yes	Yes	Yes	Yes
Building Directory[614] Additional sign for a building with multiple internal tenants					
Maximum size (square feet)		50	50	50	50

[608] Replaces Sec. 157.316(D)(6), which used a difficult-to-administer sliding scale that reduced maximum sign size if it could not be located 100 ft. from the residential district boundary.
[609] New standard.
[610] Cap of 300 sq. ft. has been deleted.
[611] New standard.
[612] New type of sign permitted in these districts.
[613] New type of sign permitted in these districts.
[614] New type of sign permitted in these districts. Renamed since Phase 3 drafts in response to public comments.

INDUSTRIAL DISTRICT PERMANENT SIGN STANDARDS					
Sign Type[595]	**Zoning District**	**BTI**[596]	**I1**	**I2**	**I3**
Maximum height of sign (feet)		6	6	6	6
Setback from lot line (feet)		5	5	5	5
Drive Through For a primary building with an accessory drive through facility;					
Number of signs permitted (per lot)		1	2	2	2
Maximum size (square feet)		20	50	50	50
Maximum height		6	10	10	10
Setback from lot line (feet); Shall not be located in required front or side yard		5	5	5	5
Gas Station[615]					
Gas pump embellishment maximum size (square feet)		2	2	2	2
Subdivision or Multiple Lot Development Plan[616]					
Number of signs per development entrance		2	2	2	2
Maximum size (square feet)		150	150	150	150
Maximum height		10	10	10	10

(2) Standards Applicable in All Zoning Districts[617]

(a) Awning Signs[618]

(i) Awning signs shall be affixed flat to, or painted upon, the surface of the awning.

(ii) Awning signs shall not extend vertically or horizontally beyond the limits of the awning to which they are attached.

(iii) Awning signs shall not be internally illuminated.

(iv) Awnings shall be permitted to extend up to four (4) feet into a required front yard or into a right-of-way, if the awning is at least eight (8) feet above grade.

(b) Changeable Copy Area and Digital Signs[619]

[615] Additional wall signage, freestanding signage, and canopy signage regulations removed. Gas pump embellishments reduced from 4 sq. to 2 sf. Since Phase 3 use title revised for consistency.
[616] Current code limits to 1 sign per entrance. Max size increased from 75 sq. ft.; max. height increased from 5 ft.; 5 ft. setbacks from lot lines was deleted.
[617] Current provisions allowing roof signs as an alternative to freestanding signs were deleted. Wall signs up to the roof line are allowed, as are signs on mansard roofs, and most contemporary sign codes do not allow signs on sloping roofs or on top of a flat roof. Since Phase 3 drafts the paragraph on directory signs has been deleted as unnecessary; the same content is contained in the tables.
[618] These provisions from the recently revised CM5 district now apply to the DC, DE, and UC districts.
[619] Renamed from "changeable copy signs" in the current code. Standards (iv), (v), and (vi) are new.

(i) Unless specifically prohibited, changeable copy area and digital signs shall be permitted to be up to 40 square feet of the area of a permitted freestanding or wall sign.

(ii) Digital signs may not be operated to allow an image or component to change, rotate, move, flash, or blink at a rate exceeding one image per six (6) seconds. The change time between images shall be no more than 0.25 second. This includes the use of lighting to depict action or animation or to create a special effect or scene through any of the following: blink, flash, flicker, scintillate, scroll, or variations in intensity or brightness that depict or give the appearance of action, motion, movement, or rotation. Only static text and graphics shall be permitted. The digital display shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs. Digital sign illumination shall not exceed 4,500 nits from 30 minutes after sunrise to 30 minutes before sunset and 500 nits during other hours.

(iii) Digital signs that scroll or travel may not be in motion longer than ten (10) seconds with a minimum of 3 seconds delay until transition to another message.

(iv) Digital sign illumination shall not exceed 4,500 nits from 30 minutes after sunrise to 30 minutes before sunset and 500 nits during other hours.[620]

(v) Each digital sign shall have an automatic dimmer control, to produce a distinct illumination change from a higher illumination level to a lower illumination level in order to comply with the daytime and nighttime illumination levels in subsection (iv) above, and to adjust sign brightness based on ambient lighting levels. The dimmer control shall be activated at all times that the sign is in operation.[621]

(vi) Each digital sign shall have an automatic cutoff device that results in a blank sign in the event of a mechanical or electrical malfunction in the sign.

(c) Marquee Signs[622]

(i) All portions of the marquee and attached signs shall have a minimum clearance of eight feet above the walk or grade below.

(ii) Each face of a marquee shall be allowed to have a sign.

(iii) Each sign may extend the entire length of the marquee face on which it is located

(iv) Each sign may project up to six (6) feet above the roof of the marquee face on which it is located, but not above the cornice wall or roof of the building.

(d) Drive Through Signs

Drive through signs are only permitted in conjunction with a primary building with an accessory drive-through facility.[623]

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[620] The current code standard is 5,000 nits in daylight and 540 nits nighttime.
[621] The requirement that sign dimmers be set to "automatic" has been deleted, since that could be inconsistent with the other lighting intensity standards.
[622] Consolidated from the current C2, NC, SC, C3, C4, CM5C, I1, I2, and I3 district sign regulations. Height provisions come from recently revised CM5A and B districts. Prior height control text read: Those signs projecting above or below the marquee shall be erected at a 90° angle to the building, and shall project no more than six (6) feet."

(e) Projecting Signs

All portions of the projecting sign shall have a minimum clearance of eight feet above the walk or grade below.[624]

(f) Roof Signs[625]

Roof signs are prohibited

(g) Wall Signs[626]

(i) When located on a building wall, wall signs shall be mounted substantially parallel to that wall and shall project no more than twelve (12) inches from the wall

(ii) When mounted on a mansard roof, wall signs shall be mounted so that the lower edge of the sign is no more than twelve (12) inches from the mansard roof surface and the top edge is no further from the mansard roof surface than necessary to allow the sign to be mounted vertically.

(iii) No portion of the wall sign shall project above the cornice wall or roof of the building to which they are attached.

(h) Window Signs[627]

Window signs shall be permitted in accordance with the applicable wall sign provisions.

(3) Board of Zoning Appeals Approved Uses Signs[628]

Sign regulations for uses permitted by the Board of Zoning Appeals pursuant to §157.503(F)(Use Variance) shall be as specified in any written decision approved by the Board in connection with that use. If the written decision does not address permitted signs or does not address some aspects of permitted signs, then the regulations for the zoning district in which the property is located shall apply.

(4) Plan Commission Approved Uses Signs[629]

Sign regulations permitted by the Plan Commission pursuant to §157.301(Development Plans) shall be as specified in any written decision approved by the Plan Commission in connection with that use. As part of its approval, the Plan Commission may waive or modify certain sign design standards as part of its approval of a Primary Development Plan as provided in 157.304(G). If the written decision does not address permitted signs or does not address some aspects of permitted signs, then the regulations for the zoning district in which the property is located shall apply.

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[623] Revised from "eating establishment where ordering from the vehicle is permitted" to match terminology of revised permitted use tables. These are now allowed for any use with an accessory drive through
[624] This provision from the current C2, CM5A, and CM5B districts now applies to all projecting signs.
[625] New provision common to most newer sign codes.
[626] Current provisions from the SC and CM5 district have now extended to all districts. Applicability to mansard roofs has been revised for clarity.
[627] New standard added since Phase 3 drafts.
[628] Revised to separate provisions for Board approved uses from those for nonconforming uses. Text reordered for clarity, and provision for 32 sq. ft. sign deleted because unclear when (if ever) it prevails over the signage permitted in the district where the use is located.
[629] New provision clarifying that a written decision of the Planning Commission may vary the sign regulations otherwise applicable.

(5) Master Sign Plan

(a) Authority

An applicant for a development containing multiple buildings on a single parcel or multiple buildings on separate contiguous parcels may file an application for a Master Sign Plan to reallocate certain aspects of the on-site sign area, to increase the number or size of individual signs, available in the zoning district where the applicant's property is located pursuant to §157.409.(D)(1). A Master Sign Plan is not available for a single lot or parcel containing a single principal building. The Plan Commission shall not be permitted to approve signage that exceeds the maximum height standards

(b) Review by Plan Commission

The Master Sign Plan application shall be treated as a Primary Development Plan for review by the Plan Commission, but the criteria in subsection (c) below shall apply instead of the criteria in §157.301.

(c) Criteria for Review and Approval

The Plan Commission shall approve the application for a Master Sign Plan if it finds that:

(i) The application reflects an overall sign program of a consistent architectural design.

(ii) The requested signage will not create an adverse impact on adjacent County or Fort Wayne residential or office zoning districts.

(iii) The application does not request a sign with a maximum height taller than that otherwise permitted for that sign pursuant to §157.409(D)(1).

(d) Board of Zoning Appeals

A request to permit signs not permitted by this §157.409 that does not meet the criteria for approval in subsection (c) above may be submitted to the Board of Zoning Appeals for review and decision under §157.503(E) (Variances of Development Standards).

(6) Nonconforming Use Signs[630]

A nonconforming use may continue to use that sign(s) in use at the time the use became nonconforming (or if that date is unknown, then the date on which the nonconforming use was first documented), and may repair the sign and change the message or sign face as permitted for an on-site signs. The size, height, or illumination (if any) of the sign may not be increased, and the sign may not be converted from a static to a digital sign.

(E) Billboard Sign Provisions[631]

(1) Locations Permitted[632]

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[630] New provision.
[631] This section consolidates information on off-premises (billboard) signs from the district-specific provisions in the current Fort Wayne code. Billboards are no longer permitted in the C2 and I1 districts, although existing billboards in those districts may continue to be used pursuant to the code's nonconforming use and structure provisions.
[632] Revised since Phase 3 drafts to allow billboards in the I-1 district and SC district lots with interstate frontage.

Billboard signs are permitted only in the SC, C3, C4, I1, I2, and I3 zoning districts. However, regardless of the zoning of the property, billboard signs shall not be permitted on properties with frontage on Airport Expressway.

(2) Standards[633]

BILLBOARD SIGN STANDARDS		
Sign Size	**Zoning District**	**SC, C3, C4, I1, I2, I3**
100 square foot freestanding billboard Lot shall be located on a principal arterial		
Number of signs per lot[634]		1
Lineal distance from nearest billboard sign (feet)[635]		300[636]
Lineal distance from Fort Wayne AR, DC, DE, UC, MH, or R district (feet)		300
Lineal distance from County or Fort Wayne C1 district (feet)		150
Lineal distance from County A, MH, or R district (feet)		300
Lineal distance from church, school, health care facility, historic district, or lot eligible for historic designation (feet)		300
Radial distance from Fort Wayne AR, DC, DE, UC, MH, or R district (feet)		125
Radial distance from church, school, health care facility, historic district, or lot eligible for historic designation (feet)		125
Maximum height (feet)[637]		30
Minimum setback from lot line (feet)		15
Maximum area of billboard embellishments (% of main sign area)[638]		15
300 square foot freestanding billboard standards Lot shall be located on a principal arterial		
Number of signs per lot[639]		1
Lineal distance from nearest billboard sign (feet)[640]		500
Lineal distance from Fort Wayne AR, DC, DE, UC, MH, or R district (feet)		300
Lineal distance from County or Fort Wayne C1 district (feet)		150
Lineal distance from County A, MH, or R district (feet)		300
Lineal distance from church, school, health care facility, historic district, or lot eligible for historic designation (feet)		300
Radial distance from Fort Wayne AR, DC, DE, UC, MH, or R district (feet)		125
Radial distance from church, school, health care facility, historic district, or lot eligible for historic designation (feet)		125

[633] These billboard standards have been revised significantly from those in the current code. A single set of standards applies in all four zoning districts where billboards are permitted, and differ only based on the size of the sign. 675 sq. ft. billboards are no longer allowed in the I3 district. Measurement of required spacing from residential districts and other protected uses has been simplified.
[634] V-signs with an angle of less than 60 degrees are still counted as 1 sign and sign area measured for only 1 face.
[635] Increased from 300 ft. Revised since Phase 3 drafts to clarify that spacing is from other billboards, not all off-site signs.
[636] Since Phase 2 drafts, reduced from 500 to 300 ft. to correct drafting error.
[637] Reduced from 35 ft.
[638] New provision since Phase 2 drafts based on public comment.
[639] V-signs with an angle of less than 60 degrees are still counted as 1 sign and sign area measured for only 1 face.
[640] Revised since Phase 3 drafts to clarify that spacing is from other billboards, not all off-site signs.

BILLBOARD SIGN STANDARDS		
Sign Size	**Zoning District**	**SC, C3, C4, I1, I2, I3**
Maximum height (feet)[641]		35
Minimum setback from lot line (feet)		20
Maximum area of billboard embellishments (% of main sign area)[642]		15
672 square foot freestanding billboard standards Lot shall have frontage on I-69 or I-469[643]		
Number of signs per lot[644]		1
Lineal distance from nearest billboard sign (feet)		500
Lineal distance from Fort Wayne AR, DC, DE, UC, MH, or R district (feet)		300
Lineal distance from County or Fort Wayne C1 district (feet)		150
Lineal distance from County A, MH, or R district (feet)		300
Lineal distance from church, school, health care facility, historic district, or lot eligible for historic designation (feet)		300
Radial distance from Fort Wayne AR, DC, DE, UC, MH, or R district (feet)		125
Radial distance from church, school, health care facility, historic district, or lot eligible for historic designation (feet)		125
Maximum height (feet)		35
Setback from lot line (feet)		20-50
Maximum area of billboard embellishments (% of main sign area)		15

(3) Billboard Sign Registration, Renovation, and Maintenance[645]

(a) Registration of Existing Billboards

Billboard signs existing on the effective date of this ordinance shall be registered with DPS no later than December 31, 2014. All signs registered by December 31, 2014, shall be deemed permitted signs.

(b) Renovation and Maintenance

Any billboard sign that exceeds the size or height standards of this §157.409(E) and that has been registered as required by subsection (a) above shall be permitted to be maintained or renovated. Renovation shall include the replacement of the sign and/or the sign structure, provided the size or height of the sign is not increased, and the sign remains in the same location. However, the conversion of a non-digital sign to a digital sign shall not be permitted.

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[641] Reduced from 35 ft. Since Phase 3 drafts, this has been raised from 30 ft. to the current height of 35 ft.
[642] New provision since Phase 2 drafts based on public comment.
[643] This section is new since Phase 2 and now allows larger billboards only on I-69 and I-469. No embellishments are permitted on these larger signs.
[644] V-signs with an angle of less than 60 degrees are still counted as 1 sign and sign area measured for only 1 face.
[645] New section.

(4) Billboard Cap and Replace System

(a) Removal of Sign Area Required for New Billboard[646]

After the effective date of this ordinance, no new billboard may be erected in any zoning district unless existing billboard area is removed and sign removal credits are presented pursuant to this §157.409(E)(4).

(b) Removal of Sign Area Required for Conversion of Existing Billboard to Digital[647]

After the effective date of this ordinance, no existing billboard may be converted to a digital billboard with more than 32 sq. ft. of changeable copy area unless:

(i) The existing billboard is located on a principal arterial street;

(ii) The existing billboard is located outside of the DC (Downtown Core) and DE (Downtown Edge) zoning districts; and

(iii) Existing billboard area is removed and sign removal credits are presented pursuant to this §157.409(E)(4).

(c) Removal of Existing Sign Area[648]

After the effective date of this ordinance, no ILP shall be approved for a construction of a new billboard sign or for conversion of an existing sign to a digital sign containing more than 32 sq. ft. of changeable copy area unless the applicant has documented that it has obtained the amount of sign removal credits required by §157.409 (E)(4)(f).

(d) Sign Removal Eligible for Credits

Sign Removal Credits shall only be issued for the removal of billboard signs. Sign Removal Credits shall not be issued for the removal of:

(i) Temporary signs;

(ii) On-site signs.

(e) Number of Sign Removal Credits Issued[649]

Upon submission by a sign owner of documentation that an eligible billboard sign has been removed, DPS shall issue to the owner of the removed billboard sign(s) the number of credits shown in the table below.

Type of Signage Square Footage Removed	Credits Issued (per square foot of sign area removed)
Registered Signs outside of a Gateway area	
Digital sign area	2
Static (non-digital) sign area	1
Registered Signs within a Gateway area (digital and static)	4

[646] New provision since Phase 3 drafts.
[647] Revised since Phase 3 to provide that conversion to digital signs is not permitted in the Downtown/Gateway area.
[648] Revised since Phase 3 to allow ILPs for conversion of signs with no more than 32 sq. ft. of changeable copy without Sign Removal Credits.
[649] Revised since Phase 3 drafts to address credits for removal of digital sign area above the basic allowance.

Unregistered Signs Digital and static (non-digital)	1/2

(f) Sign Removal Credits Required for Billboard Sign Construction or Conversion[650]

To construct a new digital or static billboard sign, expand an existing billboard sign to a larger billboard sign, or convert an existing static billboard sign to a digital billboard sign, sign area removal credits shall be required as set forth in the table below.

Request	Credits Required (per square foot of sign area constructed)
Construct a new digital billboard not within an SC district or gateway area	**4**
Construct a new static billboard not within an SC district or gateway area	2
Expand an existing digital billboard not within an SC district or gateway area	2
Expand an existing static billboard not within an SC district or gateway area	2
Convert an existing static billboard to a digital billboard not within an SC district or gateway area	4
Construct up to 40 square feet of digital signage on an existing static billboard not within an SC district or gateway area	4
Construct up to 40 square feet of digital signage on a new static billboard not within an SC district or gateway area	4
Construct a new digital billboard within an SC district	5
Construct a new static billboard within an SC district	3
Expand an existing digital billboard within an SC district	5
Expand an existing static billboard within an SC district	3
Convert an existing static billboard to a digital billboard within an SC district	5
Construct a new digital billboard within a gateway area	5
Construct a new static billboard within of a gateway area	3
Expand an existing digital billboard within of a gateway area	5
Expand an existing static billboard within of a gateway area	3
Convert an existing static billboard to a digital billboard within a gateway area	5
Construct up to 40 square feet of digital signage on an existing static billboard within a gateway area	4
Construct up to 40 square feet of digital signage on a new static	4

[650] Revised since Phase 3 drafts to allow a one-for-one replacement if a digital sign is removed, and to require credits for erection as well as conversion of billboards.

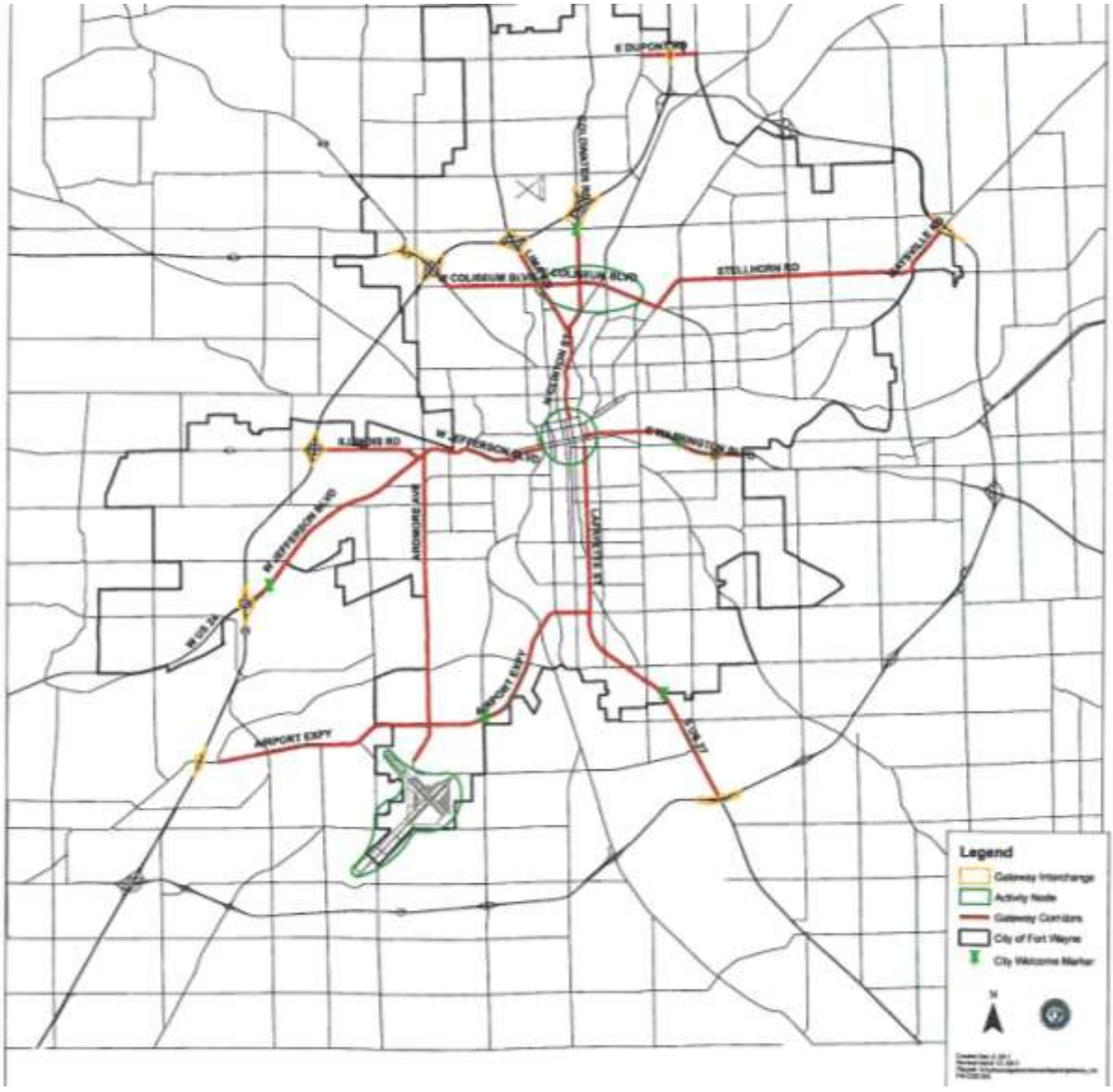
billboard within a gateway area	

(g) Map of Downtown/Gateway Area for Purposes of Sign Removal Credits[651]

For purposes of applying the table in §157.409(E)(4)(f), the Downtown/Gateway area is:

(i) The DC and DE zoning districts; and

(ii) The property located within fifty (50) feet of the right-of-way line of those primary Gateway Corridor segments as set forth in the Front Door Fort Wayne plan, and shown on the following map.



[651] New section since Phase 3 drafts.

(h) Use of Sign Removal Credits

(i) An application for Sign Removal Credits shall be submitted no later than six (6) months after the sign removal is completed.

(ii) The entire sign and any supporting structure(s) shall be removed prior to the issuance of any Sign Removal Credits. The owner of the sign being removed shall have the burden of documenting the location and area of the sign face prior to removal. For registered signs, the size of the sign removed shall be determined by the square footage of the sign as shown on the registration certificate. For non-registered signs, the sign size shall be determined by information submitted by the applicant. DPS staff may also use the permit issued for erection of the sign, or other existing sign data to determine the size of any removed signs. Sign Removal Credits evidenced by a certificate issued by DPS are transferable between parties through a written instrument signed by both the seller and buyer of the credit. The buyer of a Sign Removal Credit is responsible for notifying DPS of any sign credit transfer. Upon request and presentation of evidence of the transfer acceptable to DPS, DPS shall issue a replacement certificate naming the buyer as the owner of the certificate.

(iii) Sign Removal Credits that are not used for the construction of a new billboard sign shall expire if not used within ten (10) years from date of issuance.

(F) General Provisions and Standards[652]

(1) Corner Visibility Sight Areas[653]

No temporary sign and no permanent on-site or off-site sign, other than a governmental traffic control or directional sign, shall be located within the "corner visibility sight areas" as defined in this ordinance.[654]

(2) Expired Signs[655]

No on-site sign shall be displayed longer than 30 calendar days after becoming an expired sign. The Zoning Administrator may require the covering of any expired sign, sign face, or sign copy area. If covering is required, the covering material shall be durable, and shall be replaced by the sign owner upon notice from the Zoning Administrator that it has become worn or damaged. If the primary building is removed, then the sign may be determined by the Zoning Administrator to be an illegal sign, subject to removal by the property owner at the direction of the Zoning Administrator. However, if at any time a freestanding expired sign is determined by the Zoning Adminsitrator to create a safety or health issue, the Zoning Adminsitrator may pursue the removal of the sign in conjunction with the Allen County Building Department.

(3) Illumination[656]

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[652] Since the Phase 3 drafts, pursuant to public comments, the provision on signs on lots without frontage have been deleted as unnecessary.
[653] This standard appears sporadically in the current code and has now been extended to apply to all signs and to exclude governmental traffic signs.
[654] Revised since Phase 3 drafts to remove cross-references to §99.002.
[655] New provision. Since Phase 3 drafts, wording revised to clarify and to allow covering rather than removal of sign faces. Additional language added for4 the removal of the primary building and for dealing with safety/health issues.

(a) No sign shall blink or flash, nor be illuminated by any device so as to appear to blink or flash, except as otherwise expressly provided in this §157.409.

(b) External light sources shall be concealed from view at ground level at and beyond lot lines.

(c) Except for the portion of the property adjoining a street right-of-way, where nonresidential development is proposed adjacent to residential districts, zero footcandles of light may be emitted by the nonresidential development along the property line with the residential district. [657]

(d) External light sources on signs larger than 100 sq. ft. shall be mounted above the sign so as to shine downward.

(e) Any external sign light source or lamp that emits more than 900 lumens (13 watt compact fluorescent or 60 watt incandescent) shall be concealed or shielded with an Illuminations Engineering Society of North America (IESNA) full cut-off style fixture to minimize the potential for glare on adjacent property.[658]

(f) Digital signs shall comply with illumination standards in §157.409(D)(2)(b).

(4) Maintenance and Removal

(a) No sign or part thereof shall be erected or maintained except in conformance with the provisions of this §157.409.

(b) All signs shall be maintained in a good state of repair, including replacement of defective parts, painting, cleaning and other acts required for the maintenance of the sign.

(5) Message Substitution

A non-commercial message may be substituted for a commercial message on any sign permitted by this §157.409.

(6) Prohibited Signs

The following are prohibited for all on-site and off-site, unless they qualify as permitted temporary signs:[659]

(a) Strings of exposed light bulbs, pennants or streamers;

(b) Signs painted on or attached to rocks, trees, or any other natural object, except those signs created or erected with the approval of the City or an authorized quasi-governmental entity to commemorate a historic event or place;[660]

(c) Signs that revolve or flash;

(d) Signs similar in appearance, color, lighting, shape, or size to emergency, railroad, or traffic signs or signals;

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[656] Current text that "sign illumination shall not create glare" was deleted as unenforceable and unnecessary in light of more detailed standards on illumination in the code.
[657] New provision since Phase 3 drafts.
[658] New standard to make sign lighting consistent with outdoor site lighting standards.
[659] Simplified from current code by deleting exception wording "decorations associated with a recognized legal holiday or city festival, in no case to be permitted beyond a 45 day period, and consistent with all other regulations in this chapter."
[660] Wording revised from "except monument signs" to clarify meaning.

(e) Vehicle signs;[661] and

(f) Signs mounted on fences.[662]

(7) Projecting Sign Minimum Clearance

(a) No sign shall be erected upon, maintained in, encroach upon or overhang any public right-of-way without the approval of the Board of Public Works, except as expressly provided in this §157.409, or by state and federal law.

(b) Each[663] sign permitted to project over a sidewalk or public right-of-way by this §157.409 shall have a minimum clearance of eight (8) feet above grade.

(8) Sign Measurement

(a) Radial measurements shall start from the center of the sign base at grade, and extend outward in a circular manner for the distance specified.

(b) Lineal or linear measurements shall start from the center of the sign base at grade as projected at a right angle to the nearest right-of-way line, and then extend as stated in the applicable sign standard.[664]

(c) Sign height shall be determined by measuring from the tallest portion of the sign to ground level at the lowest grade level within two feet of either side of the sign.[665]

(d) Sign area measurements shall include the sign face and any portion of the sign structure with words, logos, pictures, or symbols intended to be read by the public, but shall not include portions of the sign structure that do not include such words, logos, pictures or symbols.[666]

(e) Sign area measurements for changeable copy shall not include a border up to 4 inches in width designed to enclose the changeable copy provided that changeable copy does not appear on the border area.[667]

(f) The area of a V-type sign not exceeding an angle of 60 degrees shall be calculated on one face of the sign only.

(g) Sign illumination is measured in candelas per square meter, also known as "nits", as measured at the sign face.

(9) Pre-existing Signs[668]

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[661] Definition of vehicle sign will clarify that a vehicle associated with and parked within 40 ft. of a permitted or approved special use is not a vehicle sign.
[662] New standard since Phase 3 drafts based on public comment.
[663] New provision to standardize current practice.
[664] Text reading "Where the center of the sign base is equidistance from two or more right-of-way lines, the more restrictive limitation shall be applied" was deleted as unnecessary.
[665] Current standard for non-residential subdivision identification signs has now been made a general standard, since there were no alternative measurement standards in the sign regulations.
[666] New standard for clarification. The current non-residential subdivision identification standard that sign area includes the sign structure was not carried forward.
[667] New provision since Phase 3 drafts in response to public comment.
[668] Revised from the current text, which only applies to the C1 and SC districts and referring to signs erected in those two districts before November 6, 1986. Provision reading "Such sign may be converted without Plan Commission approval for new tenants, as long as the location and copy area remains the same or less than that of the existing sign" was deleted as

Any on-site or off-site sign:

(a) That was legally erected in compliance with a former sign regulation ordinance in effect prior to the effective date of this ordinance; and

(b) That is not the subject of a notice of violation issued by the City prior to the effective date of this ordinance; and

(c) Which is not in compliance with the standards in this ordinance; and

(d) For which the owner has filed an application for registration of the sign prior to one year after the effective date of this ordinance, shall be deemed to be a conforming sign and shall not be subject to enforcement or penalties under §157.505 for any aspect of the sign that met the sign regulations applicable at the time the sign was erected but that does not meet the sign standards in this ordinance.

(10) Nonconforming Signs

(a) Any sign that was erected in compliance with the sign regulation ordinance that was in effect at the time the sign was erected, but that no longer complies with the provisions of this ordinance, is a nonconforming sign subject to the provisions of this §157.409(F)(8).

(b) A digital sign that was erected in compliance with the sign regulation ordinance that was in effect at the time the sign was erected, and that continues to comply with the standards of this ordinance regarding the physical structure and location of the sign, but that is found to be in violation of this ordinance regarding the digital display, shall only be a nonconforming sign if it the digital display cannot be reprogrammed to bring the digital display into compliance with this ordinance.

(c) Reasonable repairs, alterations and conversions may be made to nonconforming signs as long as the location of the sign is not changed and the height or area of the sign is not increased.

(d) A registered non-digital sign may be converted into a digital sign, pursuant to §157.409(E)(3) (Billboard Sign Registration, Renovation/Maintenance, and Conversions).[669]

(e) If any nonconforming sign is damaged by any means, including an act of God, and the damage exceeds 50% of the replacement value of the sign, as documented in writing by an established sign repair firm, the sign may be restored, reconstructed, altered or repaired only in conformance with the provisions of this §157.409.

(f) If the primary structure on a lot or parcel is demolished any non-conforming sign on the lot or parcel shall be removed, repaired, or reconstructed so as to comply with the sign regulations for new signs in the district where the property is located.[670]

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unnecessary in light of blanket approval to change sign message. In addition, allows owners of signs that would otherwise become nonconforming because of changes in this ordinance to instead keep the signs in "conforming" status by registering the sign within one year of the adoption of these amendments.

[669] New provision.

[670] New provision added since Phase 3 drafts in response to public comments.

§ 157.410 RESERVED

§ 157.411 AIRPORT OVERLAY DISTRICTS[671]

(A) Purpose

The purpose and intent of the Airport Overlay Districts (AODs) is to:

(1) Promote the public health, safety, convenience, and general welfare of the residents surrounding the Fort Wayne International Airport (FWA) and Smith Field Airport (SMD); and

(2) Protect the approaches to each airport and surrounding airspace from encroachment and limit the exposure of impacts to persons, property, and facilities in proximity to each airport, located within the areas encompassed by each AOD.

(3) Protect state, federal, and local investment in FWA and SMD and surrounding facilities;

(4) Impose land use controls, which shall be in addition to the existing underlying zoning classifications, to maintain a compatible relationship between airport operations and existing and future land uses within each AOD as defined in §157.411(D)(1);

(5) Regulate and restrict the height of structures and objects of natural growth, concentrations of people (density), visual obstructions (such as dust, smoke, and steam), electrical navigational interference, noise sensitive land uses, and wildlife and bird attractants;

(6) Implement recommendations developed in the Fort Wayne International Airport Master Plan and the Smith Field Airport Master Plan;

(7) Promote compatible land uses while respecting the physical characteristics of the area, each airport, and surrounding property;

(8) Regulate and restrict building sites, placement of structures, and land uses by separating conflicting land uses and prohibiting certain land uses that would be detrimental to airport operations, navigable airspace; and

(9) Provide a uniform basis for the implementation and administration of sound airport protection regulations for all areas within each AOD;

(B) Jurisdiction

The jurisdiction of the AOD for each airport shall extend over all lands and water within the jurisdictional boundary as defined in §157.411(D)(1) shown in **Figure 1 (Smith Field Airport Overlay Areas** map**)** and **Figure 2 (Fort Wayne International Airport Overlay Areas** map**)**, as those boundaries now exist and as they are amended in the future.

(C) Applicability

The Airport Overlay District regulations of the AODs shall apply to:

(1) All properties within the two (2) mile buffer area around Smith Field Airport (Areas 1, 2, 3, and 4);

(2) To all properties within the six (6) mile area buffer around Fort Wayne International Airport (Areas 1, 2, 3, 4, and 5); and

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[671] New section intended to help preserve existing airport operations at Fort Wayne International Airport and Smith Field Airport, protect the health and safety of residents and businesses around the airports, conform with existing FAA standards, and State tall structure standards, and to formalize an existing informal review process,

(3) To all properties within the four Area 6 areas in the 10 mile buffer area around Fort Wayne International Airport.

(D) Areas to be Regulated

(1) Airport Overlay Areas

The Fort Wayne International Airport AOD and the Smith Field AOD have specific Airport Overlay Areas (AOAs) within each which correspond to the nature of the aircraft operations at FWA and SMD, respectively. All FWA and SMD AOAs established by this ordinance are shown on **Figure 1 (Smith Field Airport Overlay Areas** map**)** and **Figure 2 (Fort Wayne International Airport Overlay Areas** map**)** on file in the office of the Department of Planning Services (DPS). No land use shall be allowed nor shall any building or structure constructed, altered, located, or permitted which creates hazards for aircraft, airport operational and aircraft overflight areas for FWA and SMD, as well as nearby properties. For the purposes of this ordinance, the areas of Fort Wayne and Allen County under the jurisdiction of the AODs are hereby divided into the areas below as shown in **Figure 1** and **Figure 2**. The FWA AOD includes AOAs 1 through 6. The SMD AOD includes AOAs 1 through 4. **Table 1** and **Table 2** provide the general dimensions for the various FAR Part 77 Surfaces as well as the Runway Protection Zones (RPZs) that are used to generate the AOAs.

Four buffer areas are used to describe the AOAs. Each buffer was generated by overlapping circles measured from each existing and future runway end to create essentially oblong areas that are based upon several dimensions of radii. SMD uses a two (2) mile radius buffer area to create its AOAs. FWA uses three (3), six (6), and ten (10) mile radius buffer areas to create its AOAs.

(a) Area 1 (Inner Safety Area)

The area of all airport runways, the area off the end of each runway (including the RPZs) and the area within each runway approach, out to the inner edge of the Conical Surface.

(i) Area 1A (Runway Protection Zone)

The trapezoidal area located directly off the end of each existing or proposed runway that is established by the FAA. Additional requirements for development within this subset of Area 1 are listed in §157.411(E)(1)(a).

(b) Area 2 (Horizontal Area)

The area outside of Area 1, out to the inner edge of the Conical Surface. This area closely reflects the Horizontal Surface of the Part 77 Surfaces.

(c) Area 3 (Outer Conical Area)

The area between the outer edge of Area 2 and the three (3) mile buffer (for FWA) or the two (2) mile buffer (for SMD), not including the Outer Approach Area (Area 4). This area generally includes the Conical Surface of the Part 77 Surfaces.

(d) Area 4 (Outer Approach Area)

The area within each airport approach, out to the six (6) mile buffer (for FWA) or to the two (2) mile buffer (for SMD). It begins at the inner edge of the conical surface and extends to the respective buffers.

(e) Area 5 (Extended Conical Area)

Area 5 applies only to the FWA AOD. This area includes the area between the three (3) mile buffer and the six (6) mile buffer, outside of the Outer Approach Area (Area 4).

(f) Area 6 (Extended Approach Area)

Area 6 applies only to the FWA AOD. This area includes the outermost area of the runway approaches, out to the ten (10) mile buffer, beginning at the six (6) mile buffer, based upon the FAR Part 77 Approach Surfaces.

Figure 1: Smith Field Airport Overlay Areas

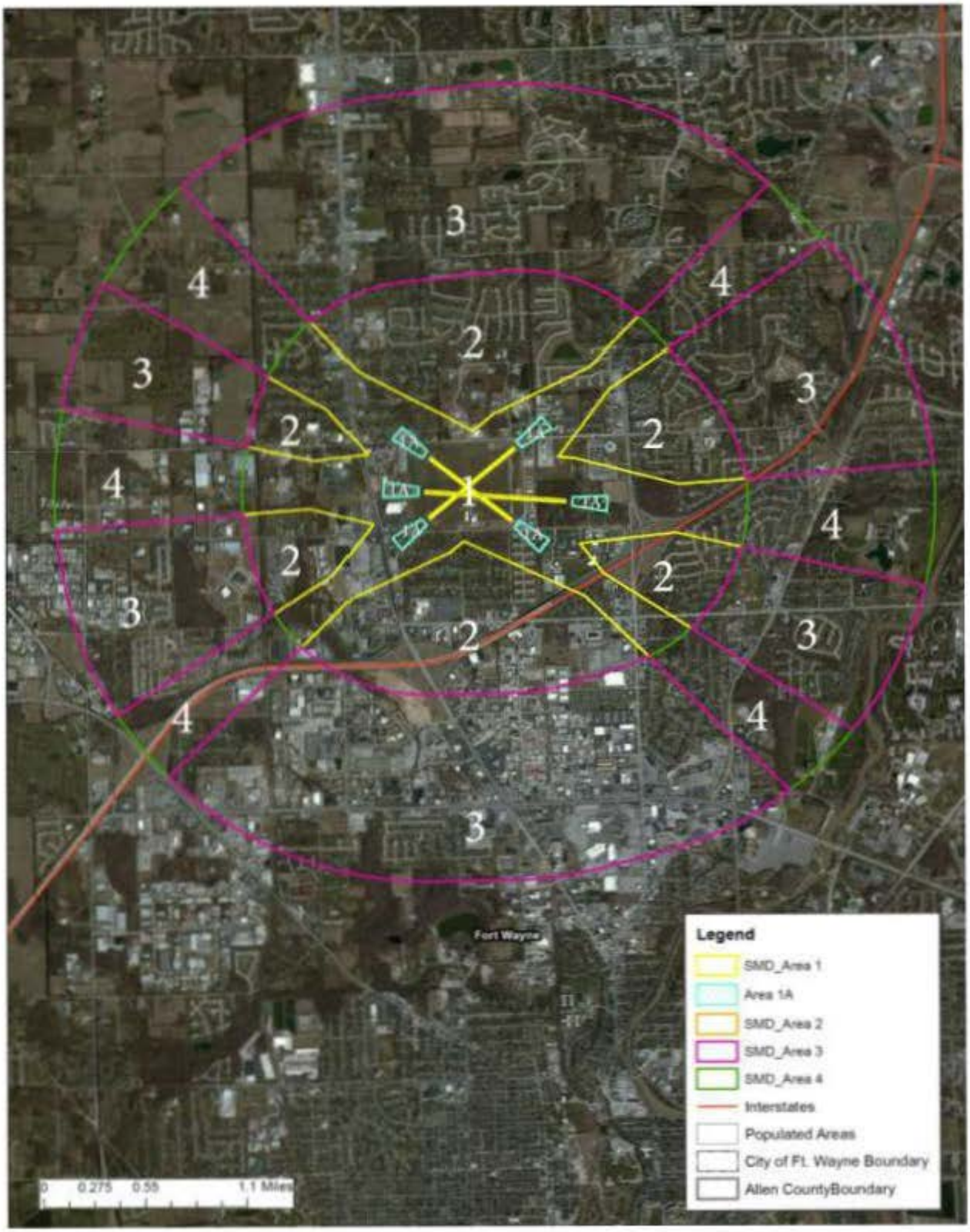
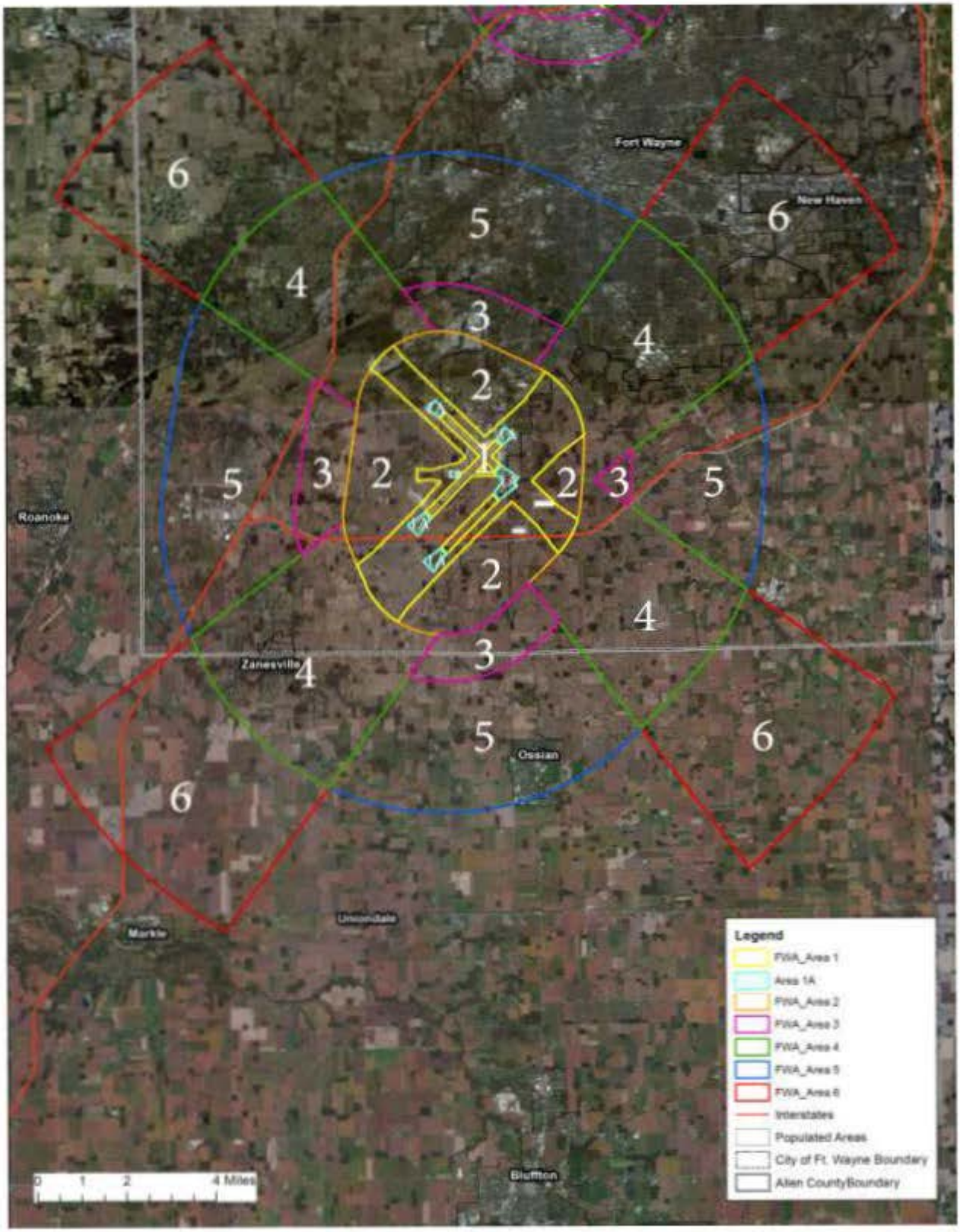


Figure 2: Fort Wayne International Airport Overlay Areas



(2) Compliance

Any development or use within the areas regulated by an AOD shall be in compliance with the terms of this ordinance, and other applicable local, state and federal regulations.

(a) Any existing use in an AOD will be permitted to remain, unless an expansion, reconstruction or change in use is requested; at which time, the use will be subject to §157.411(E) (General Development and Land Use Requirements).

(b) Any future use of property in an AOD shall comply with §157.411(E) (General Development and Land Use Requirements).

(c) Any future use or development of property included in Table 3 of this section or otherwise not permitted by this ordinance shall be prohibited (even if the use is permitted in the existing underlying zoning district) unless the proposed development is in compliance with the criteria in §157.411(E) (General Development and Land Use Requirements) or is reviewed through the Airport Determination process, and the Board of Zoning appeals approves a special use or other approval for the use or development.[672]

(3) Abrogation and Greater Restrictions

The AODs are not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, or deed restrictions. However, wherever an AOD imposes greater restrictions, the provisions of the AOD shall govern. The establishment of the AODs shall not preclude the Airport Authority from pursuing additional actions per IC 8-22-3-14, which allows for the provision of free air space for the safe descent and ascent of aircraft and for the proper and safe use of an airport or landing field acquired or maintained under said chapter.

(4) Warning and Disclaimer of Liability

The degree of protection provided by the AODs relative to aircraft operation and aircraft overflights is considered reasonable for regulatory purposes. This ordinance does not imply that land uses within the vicinity of FWA and SMD will be free from aircraft noise impacts, aircraft operations, and aircraft overflights. Nor does this ordinance create liability on the part of, or a cause of action against, FWA, SMD, the City of Fort Wayne, Allen County, or any officer or employee thereof, for incidents that may result from reliance on this ordinance.

(E) General Development and Land Use Requirements

(1) If the height of any proposed buildings or structures exceed 40 feet in Areas 1, 2, and 4, 75 feet in Areas 3, 5, and 6; or if the building or structure is located in Area 1A, the building or structure shall require review by Airport Authority staff through the Airport Determination process; the building or structure may also require the submittal of an FAA 7460-1 form and receipt of an Indiana Tall Structure Permit, before the issuance of an Improvement Location Permit.

(2) All proposed site lighting fixtures shall be concealed or shielded with an Illuminations Engineering Society of North America (IESNA) full cut-off style fixture with an angle not exceeding 90 degrees to minimize the potential for glare and unnecessary diffusion on adjacent property.

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[672] Revised since Phase 3 drafts to indicate that the application must be reviewed (not approved) through the Airport Determination process.

(3) In Areas 1, 2, 3, and 4, no new pond or similar permanent water body shall be permitted unless a wildlife mitigation plan has been approved or determined to be unnecessary by the Fort Wayne Airport Authority staff.

(4) In Areas 1, 2, 3, and 4, smoke, dust, steam or particulate matter or airborne material of any kind shall be controlled so that it is not detrimental to or does not endanger the visibility of pilots during landing, taking-off or maneuvering of aircraft.

(5) No glare from site activities or building materials which could affect the vision of pilots using the airport shall be permitted.

(6) Exterior solid waste disposal facilities shall be contained and covered to minimize sources of food for wildlife.

(F) Land Use Restrictions and Limitations

(1) Height Limitations

The heights of buildings, structures and objects, both man-made and natural growth, shall be limited to the height limits set forth in the applicable zoning district.

(2) Construction, Development, and Use Limitations and Restrictions

(a) Existing Uses

All existing land uses allowed by the current zoning classifications, within an Airport Overlay District shall be permitted to remain, subject to all applicable federal, state, and local requirements. Nothing contained in this ordinance shall require the removal of or any change to the construction, location, or operation of any existing use; this includes the construction, alteration, or use of property or structural improvements lawfully in existence at the time of the effective date of this ordinance, or which commenced prior to the effective date of this ordinance, and has been completed or is being diligently pursued.

(b) Reconstruction

The owner of any existing building, structure, or use which as a result of fire, flood, explosion, or other casualty is destroyed, or is demolished by the owner, shall be permitted to rebuild, reconstruct, or repair the same use on the same parcel, provided that:

(i) The requested reconstruction complies with §157.411(E)(General Development and Land Use Requirements); or

(ii) The requested reconstruction has been reviewed and approved through the Airport Determination process; however, the request may also be denied by the Board or Zoning Appeals, Plan Commission, or Zoning Administrator if determined to be incompatible.[673]

(c) Expansion

Any existing building, structure, or use may be expanded, altered, or otherwise enlarged provided that:

[673] Revised since Phase 3 drafts to clarify that denials (if any) are made by the BZA, PC, or Zoning Administrator (not the Airport Authority staff).

(i) The requested expansion complies with §157.411(E)(General Development and Land Use Requirements); or

(ii) The requested expansion has been reviewed and approved through the Airport Determination process; however, the request may also be denied by the Board of Zoning Appeals, Plan Commission, or Zoning Administrator if determined to be incompatible.[674]

(d) Change of Use

Any existing building, structure, or use may be changed to a different use, provided that:

(i) The proposed use complies with §157.411(E)(General Development and Land Use Requirements); or

(ii) The proposed use has been reviewed and approved through the Airport Determination process; however, the request may also be denied by the Board of Zoning Appeals, Plan Commission, or Zoning Administrator if determined to be incompatible.[675]

(e) New Buildings, Structures, or Land Uses and Exceptions

Any future new buildings, structures, and/or uses within an AOD shall comply with §157.411(E)(General Development and Land Use Requirements) and **Table 3 (Airport Overlay District Special Uses)**, except that a development which supports the aeronautical use, such as an FAA communication tower; fuel storage facility; gas station, hotel/motel, museum, solar panels, truck fueling station, educational institution shall be permitted, provided the use complies with the applicable provisions of §157.411(E).

(f) Hazard Marking and Lighting

Building approval may, if such action is deemed advisable by the FWA/SMD Airport Authority and/or the FAA, require the owner of a structure or trees, to install, operate, and maintain thereon such markers, light, and navigational aids as may be necessary to indicate to pilots the presence of a hazard, at the owners expense.

(g) Prohibited Buildings, Structures, or Uses

The following buildings, structures, and uses shall be prohibited:

(i) Any building or structure that would exceed the height limits set forth in the applicable zoning district, unless the building or structure is reviewed by Airport Authority staff, and approved by the Board of Zoning Appeals, Plan Commission, or Zoning Administrator as necessary.[676]

(ii) Any use that is not permitted either according to **Table 3 (Airport Overlay District Special Uses)** or is otherwise not a permitted use, unless a Special Use or other use approval is granted by the Board of Zoning Appeals.

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[674] Revised since Phase 3 drafts to clarify that denials (if any) are made by the BZA, PC, or Zoning Administrator (not the Airport Authority staff).
[675] Revised since Phase 3 drafts to clarify that denials (if any) are made by the BZA, PC, or Zoning Administrator (not the Airport Authority staff).
[676] Revised since Phase 3 drafts to clarify that the Airport Authority reviews, but that approvals are granted by the BZA, PC, or Zoning Administrator.

(iii) Any building, structure, or use which is determined by the FAA to create a safety hazard for aircraft operations, through either an FAA 7460-1 airspace analysis or another FAA review process.

(G) Development Approval Requirements and Airport Determination Process

If the property is located in either of the AODs, DPS staff shall hold a pre-application meeting with the applicant and airport staff prior to the submission of a request for a new building, structure, or use, or for a reconstruction, expansion, or change of use as set forth in §157.411(E)(2).

(1) If the request is for a request to reconstruct or expand an existing use, the request shall be evaluated for compliance with §157.411(E)(General Development and Land Use Requirements).

(a) If the use complies with §157.411(E), the request shall be deemed approved by Airport Authority staff.

(b) If the use does not comply with §157.411(E), the applicant/owner shall meet with Airport Authority staff to discuss and address compatibility issues. The airport will issue an Airport Determination Letter (ADL) with a recommendation of support or denial of the request. The ADL shall be forwarded to the Board of Zoning Appeals, Plan Commission, or Zoning Administrator as applicable for consideration as part of the appropriate decision making process.[677]

(2) If the request is for a future use (i.e. new development, or change in existing use), **Table 3 (Airport Overlay District Special Uses)** and the other permitted use provisions of this ordinance shall be referenced to determine whether the use is a permitted use based upon its location in one of the Airport Overlay Areas.

(a) If the use is determined to be permitted and complies with §157.411(E), the request may be approved by DPS staff;

(b) If the use is determined to be a permitted use but the request does not comply with §157.411(E), the applicant owner shall meet with Airport Authority staff to discuss and address compatibility issues. The airport will issue an Airport Determination Letter (ADL) with a recommendation of support or denial of the request. The ADL shall be forwarded to the Board of Zoning Appeals, Plan Commission, or Zoning Administrator as applicable for consideration as part of the appropriate decision making process.[678]

(c) If the use is determined to not be a permitted use, the proposed development shall not be permitted unless a Special Use or other approval is granted by the Board of Zoning Appeals. If a Special Use or other BZA approval request is filed, the property owner shall meet with airport staff for review and coordination to address compatibility issues prior to the BZA public hearing on the request. The airport will issue an ADL that either supports or denies the development. The ADL will be forwarded to the BZA for use in making its decision. This process shall apply to all Contingent Use, Special Use, Use Variance, and height Development Standards Variance requests to the Board of Zoning Appeals for property within an Airport Overlay area.

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[677] Revised since Phase 3 drafts to simplify the text, clarify the procedure and that it is the decision to approve or deny is made by the BZA, PZ, or Zoning Administrator.
[678] Revised since Phase 3 drafts to simplify the text, clarify the procedure and that it is the decision to approve or deny is made by the BZA, PZ, or Zoning Administrator.

(3) For all requested buildings, structures, or uses that require an Airport Determination Letter (ADL), the request shall be evaluated based on the:

(a) Likelihood to create a significant concentration of people (density and intensity);

(b) Likelihood to create visual obstructions through the creation of smoke, steam, dust, lighting or other obstruction(s) that would adversely affect aircraft operational areas and airspace; and specifically the proximity to the ends of runways, runway surfaces and extended runway centerlines;

(c) Likelihood for noise sensitivity; when necessary, building construction methods that reduces airport-related noises may be recommended or required;

(d) Likelihood to attract wildlife with water bodies; when necessary, methods for designing water bodies to drain within 48 hours, putting water detention underground, landscaping, and other mitigation techniques to discourage entry and exit to the water body maybe recommended or required. The airport shall have the right to include deed restrictions or restrictive covenants to authorize airport to manage/mitigate wildlife issues, which will be at the property owner's expense;

(e) Likelihood to create wildlife attractants other than bodies of water;

(f) Proposed storage of flammable or hazardous materials as defined by the International Building Code;

(g) Proximity to airport surfaces (FAR Part 77 Surfaces, extended runway centerline, etc.)

(H) Administration

In addition to the powers and duties in §157.502 (Zoning Administrator), the Zoning Administrator shall have the following powers and duties in the administration of this Section:

(1) Approving requests that are permitted uses and comply with 157.411(E)General Development and Land Use Requirements;

(2) Inspecting any building site or improvement or use of land as required by this ordinance;

(3) Maintaining a record of approvals, denials, conditions of approvals, inspections, and public proceedings; and

(4) After consultation with Airport Authority staff, determining what additional information would be necessary to be submitted with a request under this section to allow review staff to conduct an adequate review of a request.

Table 1 - Runway Protection Zone Dimensions for SMD and FWA

Approach Visibility Minimums[(1)]	Facilities Expected to Serve	Dimensions				**FWA Runways**	**SMD Runways**
		Length **L** feet (meters)	Inner Width $\mathbf{W_1}$ feet (meters)	Outer Width $\mathbf{W_2}$ feet (meters)	RPZ acres		
Visual and not lower than 1-Mile (1,600m)	Aircraft Approach Categories A & B	1,000 (300)	500 (150)	700 (210)	13.770	09 and 27	05, 23, 13, and 31

Table 1 - Runway Protection Zone Dimensions for SMD and FWA

Not lower than ¾-mile (1.200m)	All Aircraft	1,700 (510)	1,000 (300)	1,510 (453)	48.978	14 and 23	
Lower than ¾-mile (1,200 m)	All Aircraft	2,500 (750)	1,000 (300)	1,750 (525)	78.914	05 and 32	

Notes: The RPZ dimensional standards are for the runway end with the specified approach visibility minimums. The departure RPZ dimensional standards are equal to or less than the approach RPZ dimensional standards. When an RPZ begins other than 200 feet (60m) beyond the runway end, separate approach and departure RPZs should be provided. Refer to FAA AC 150/5300-13A for approach and departure RPZs.

Source: *FAA AC 150/5300-13, Airport Design Standards*

Table 2 - FAR Part 77 Dimensions for SMD and FWA

Dimensions	Item	Dimensional Standards (Feet) for Runway Classifications (*see legend below*)			
		Visual Runway	Non-Precision Instrument Runway		Precision Instrument Runway*
		A	A	B D	
A	*Primary surface* width and approach surface width at inner end	250	500	1,000	1,000
B	*Horizontal surface* radius	5,000	5,000	10,000	10,000
C	*Approach surface* end width	1,250	2,000	4,000	16,000
D	*Approach surface* length	5,000	5,000	10,000	10,000
E	Approach slope	20:1	20:1	34:1	*
F	*Conical surface* width	4,000	4,000	4,000	4,000
G	*Transitional surface slope*	7:1	7:1	7:1	4,000
FWA Runways(1)		09 and 27		14(2)and 23	05 and 32
SMD Runways		05, 23 and 31	13		

Runway Classification Legend
A – Utility runway.
B – Runway larger than utility.
C – Visibility minimums greater than ¾ of a mile.
D – Visibility minimums as low as ¾ of a mile.
* – Precision instrument approach slope is 50:1 for inner 10,000 feet and 40:1 for an additional 40,000 feet.

Notes: (1) At ordinance adoption, FWA had three runways - Runway 5/23, Runway 14/32, and Runway 9/27; however FWA's Airport Layout Plan (ALP) shows an ultimate plan to construct a fourth runway – Runway 5R/23L which would have a precision approach on both runway ends. Therefore in order to protect the airspace for precision approaches to both ends of the future runway, the Airport Overlay Areas (specifically Area 4 and Area 6) incorporate the additional area that will become part of the precision approaches for Runway 5R/23L in the future.

(2) At ordinance adoption, Runway 14 at FWA had a non-precision approach, however it is a goal of the airport administration to establish a precision approach for this runway in the future; therefore in order to protect the airspace for this anticipated approach, the Airport Overlay Areas (specifically Area 4 and Area 6) incorporate the additional area that will become part of the precision approach for Runway 14 in the future.

Table 2 - FAR Part 77 Dimensions for SMD and FWA

Source: *FAR Part 77 Object Affecting Navigable Airspace*, FWA Airport 5010 Form, SMD Airport 5010 Form

(I) In the Areas established within the Airport Overlay Districts, in addition to the Special Uses set forth in §157.503(D), the following uses shall require approval of a special use from the Board of Zoning Appeals, even in cases where the use is a permitted use in the existing underlying zoning district.

TABLE 3 – AIRPORT OVERLAY DISTRICT SPECIAL USES

Area 1 and Area 2	Area 3
Assisted living facility	Manufactured housing park
Arena	Recycling collection point
Batting cages	
Campus housing	**Area 4**
Country club	Arena
Day care center	Batting cages
Fireworks sales	Fireworks sales
Fuel storage facility	Fuel storage facility
Gas station	Golf course (including driving range)
Golf course (including driving range)	Hospital
Group residential facility	Manufactured housing park
Hospital	Propane/bottled gas facility
Hotel	Recreational uses, outdoor
Manufactured housing park	Recycling collection point
Motel	Stadium/racetrack
Multiple family complex	Subdivision plat
Multiple family dwelling	Swim club (outdoor)
Museum	Theater (outdoor)
Park/recreation area	Tennis club (outdoor)
Propane/bottled gas facility	
Radio station	**Area 5**
Recreational uses, outdoor	Manufactured housing park
Recycling collection point	
Religious institution	
Residential facility for the developmentally disabled	
Residential facility for the mentally ill	
Retirement facility	
Salvage yard	
Single family dwelling (Area 1 only)	
Solid waste transfer station	
Stadium/racetrack	
Subdivision plat	
Swim club (outdoor)	
Television station	
Tennis club (outdoor)	

TABLE 3 – AIRPORT OVERLAY DISTRICT SPECIAL USES	
Theater (outdoor)	
Truck fueling station	

§ 157.412 FLOODPLAIN[679]

(A) General Provisions[680]

(1) Purpose

The purpose of this section is to guide and regulate development in the floodplain areas under the planning jurisdiction of the City of Fort Wayne in order to promote the public health, safety, and general welfare. The Indiana Legislature has in IC 36-7-4 and IC 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, Fort Wayne adopted these floodplain management regulations for the following purposes:

(a) Protect human life and health from the hazards of flooding;

(b) Minimize public and private property damage and losses;

(c) Protect individuals from investing in or purchasing land and structures which are unsuited for intended purposes because of flood hazards;

(d) Protect new buildings and major improvements to buildings from flood damage;

(e) Prevent development from increasing flood or drainage hazards to others;

(f) 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;

(g) Minimize the expenditure of public money for flood control projects, repair of damage to public facilities and utilities (such as water and gas mains; electric, telephone, and sewer lines; streets; and bridges located in floodplains), and flood rescue and relief operations;

(h) Maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas;

(i) Minimize prolonged business interruptions;

(j) Provide for public awareness of flooding potential;

(k) Regulate floodplain uses and activities such as filling, storage of materials, and construction of structures and buildings which may cause damaging flood heights and velocities by obstructing flows and reducing water storage capacities;

(l) Regulate the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(m) Regulate grading, dredging, and other development which may increase erosion or flood damage;

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[679] Floodplain provisions have been revised to update and align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance; provisions reorganized also; floodplain definitions moved to Administration Definitions section

[680] Purpose statement revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance

(n) Regulate the construction of non-public flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other land; and

(o) Make federally subsidized flood insurance available for structures in the floodplain, and their contents, in Fort Wayne by fulfilling the requirements of the National Flood Insurance Program.

(2) Applicability

This section shall apply to all Special Flood Hazard Areas and known flood prone areas within Fort Wayne's planning jurisdiction.

(3) Compliance

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

(4) Causes of Flood Losses

(a) The flood hazard areas of Fort Wayne are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(5) Abrogation and Greater Restrictions

This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(6) Disclaimer of Liability

(a) The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice or debris jams.

(b) This section does not imply that areas outside the floodplain as defined herein, will be free from flooding or flood damages.

(c) This section does not create liability on the part of the community, the State of Indiana, the Indiana Department of Natural Resources, the City of Fort Wayne, the Board of Zoning Appeals, the Plan Commission or any elected or appointed official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

(7) Map Discrepancies

In cases where possible map discrepancy issues arise, the following shall control:

(a) If the map indicates that the property is located within a floodway area, the applicant shall apply for a Letter of Map Change;

(b) If the map indicates that the property is located within or partially within a floodway fringe area, but the elevation (natural grade) of the site in question is above the base flood elevation as certified on a pre-construction elevation certificate, that site shall be considered outside the SFHA and the floodplain regulations will not be applied if the proposed construction is at grade (no lower level or basement); if a lower level/basement is proposed, the property owner shall apply for and obtain a Letter of Map Change prior to the issuance of any permits for the construction;

(c) If a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area subject to the regulations of this section; and

(8) Basis for Establishing Regulatory Data

This section's protection standard is the regulatory flood. The best available regulatory flood data is listed below. If a party disagrees with the best available data, the party needs to replace the existing data with data based on a detailed engineering study and submit it to the Indiana Department of Natural Resources for review and approval. Any reference in this section to the Flood Insurance Study (FIS) or Flood Insurance Rate Map (FIRM) refers to the Flood Insurance Study of Allen County, Indiana and Incorporated Areas dated August 3, 2009 and the corresponding Flood Insurance Rate Map of Allen County, Indiana and Incorporated areas prepared by the Federal Emergency Management Agency and dated August 3, 2009, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. This study and maps are hereby adopted by reference and made a part of this section.

(a) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Fort Wayne shall be as delineated on the one-percent annual chance flood profiles in the FIS and the corresponding FIRM.

(b) The regulatory flood elevation for each SFHA within the jurisdiction of Fort Wayne delineated as an "AO Zone" (in fringe) shall be that elevation (or depth) delineated on the FIRM.

(c) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Fort Wayne delineated as an "A Zone" on the FIRM shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(d) In the absence of identification on a FIRM map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be as determined by the Indiana Department of Natural Resources according to the best data available, provided the upstream drainage area from the subject site is greater than one square mile.

(9) Critical Facility

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the 500-year (0.2 percent annual chance) floodplain. Construction of new critical facilities shall be permissible within the 500-year floodplain, if no feasible alternative site is available. Critical facilities constructed within the 500-year floodplain shall have the lowest floor elevated to or above the 500-year flood elevation at the site or the FPG, whichever is the highest. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the 500-year flood elevation or the FPG, whichever is the highest, shall be provided to all critical facilities to the extent possible.

(B) Floodway Permitted and Prohibited Uses[681]

(1) Purpose

(a) There are areas designated as floodways located within the Special Flood Hazard Areas. The floodway is not to be considered a zoning district. One of the purposes of this section is to guide development away from floodway areas. The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles, and has erosion potential. If the site is in an identified floodway, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway; (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources). If fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.

(2) Permitted Uses

The following uses shall be permitted, excluding any enclosed buildings or structures, if the use is permitted by the zoning district in which the property is located. Any proposed use which requires a permit from the Indiana Department of Natural Resources shall also be subject to the requirements and conditions of that review and approval process.

(a) Agronomic crop production, along with the operation of any machinery or vehicles necessary for the crop production; bee hives; floriculture; forestry and tree farming; horticulture; and viticulture;

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[681] Permitted and prohibited uses revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance, and updated based on updated general permitted uses language

(b) Forests;

(c) Community garden;

(d) Low intensity livestock operation, on properties of two acres or more in size;

(e) Nature preserve;

(f) Park or recreation area (public county, municipal, state, or township);

(g) Transportation facilities located in public rights-of-way, such as roads, streets, trails, and bridges;

(h) Private transportation facilities such as roads, bridges, or driveways which are necessary to access private property, and parking lots or parking areas;

(i) Public and quasi-public utility collection and/or transmission lines, pipes, cables, and the like;

(j) Public works projects for flood control improvements such as dams, dikes, floodwalls, and levees;

(k) Uses which have been approved by the Indiana Department of Natural Resources;

(l) Wetlands;

(m) Wildlife areas;

(n) Projects within the floodplain of the Junk Ditch which have received approval by the Indiana Department of Natural Resources, subject to the applicable building protection, damage prevention, and flood protection standards of this section.

(3) Prohibited Uses

Any non-permitted encroachments, including buildings, structures and fill, except the fill needed for public flood control improvement projects (including dikes and levees), public transportation facilities, utility collection or transmission lines, or fill approved as part of the Indiana Department of Natural Resources permit for other work within a floodway.

(C) Floodway Fringe Permitted and Prohibited Uses[682]

(1) Purpose

The purpose of this section is to regulate and minimize development in areas subject to potential flooding which are outside of an identified floodway. The floodway fringe is not to be considered a zoning district. The floodway fringe is that area identified by the Federal Emergency Management Agency on the current Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps as outside of the floodway, but subject to inundation by the regulatory flood.

(2) Permitted Uses[683]

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[682] Permitted and prohibited uses revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance, and updated based on updated general permitted uses language

[683] Permitted use provisions revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance; additional compensatory storage allowed and new standards added

The following uses shall be permitted, if the use is permitted by the zoning district in which the property is located. Any proposed use which requires a permit from the Indiana Department of Natural Resources shall also be subject to the requirements and conditions of that review and approval process.

(a) Agronomic crop production, along with the operation of any machinery or vehicles necessary for the crop production; bee hives; floriculture; forestry and tree farming; horticulture; and viticulture;

(b) As of the effective date of this chapter, the following amounts of fill shall be permitted on a lot: on lots of over one acre,up to 40 cubic yards shall be permitted; on lots between ¾ and one acre, up to 30 cubic yards shall be permitted; on lots between ½ and ¾ acre, up to 20 cubic yards shall be permitted; on lots between ¼ and ½ acre, up to 10 cubic yards shall be permitted, and on lots of up to ¼ acre, up to 5 cubic yards shall be permitted, provided that:

(i) No fill shall be placed within 10 feet of a side lot line;

(ii) No fill shall be placed within 15 feet of a front or rear lot line;

(iii) No fill shall be placed within 50 feet of a floodway boundary as shown on the FIRM map; and

(iv) No fill shall be placed in such a way so as to obstruct flood water or divert it onto an adjacent property (as in the construction of a levee or dike).

(c) Forests;

(d) Community garden;

(e) Low intensity livestock operation, on properties of two acres or more in size;

(f) Nature preserve;

(g) Park or recreation area (public county, municipal, state, or township);

(h) Transportation facilities located in public rights-of-way, such as roads, streets, and bridges;

(i) Private transportation facilities such as roads, bridges, or driveways which are necessary to access private property, and parking lots or parking areas;

(j) Public and quasi-public utility collection and/or transmission lines, pipes, cables, and the like;

(k) Public works projects for flood control improvements such as dams, dikes, floodwalls, and levees;

(l) Uses which have been approved by the Indiana Department of Natural Resources;

(m) Wetlands;

(n) Wildlife areas;

(o) All structures permitted in the applicable zoning district, which meet all applicable requirements of this ordinance, provided the structure also meets all applicable damage prevention, flood protection, and building protection standards of this section; and

(p) Accessory uses and structures permitted in the applicable zoning district, which meet all applicable requirements of this ordinance, provided any accessory structure also meets all applicable damage prevention, flood protection, and building protection standards of this section.

(3) Prohibited Uses

Fill placed for any purpose other than for: public flood control improvement projects (including a dike or levee); public transportation facilities; or utility collection or transmission lines as permitted in § 157.412(C)(2) above; compensatory storage as permitted in §157.412(E)(2)(b); or for approved structures as permitted above. A request for a non-public flood control improvement project, including a dike or levee, or a private request to place over 40 cubic yards of fill in the floodway fringe, shall require approval of a Special Use by the Board of Zoning Appeals, subject to the applicant verifying that the fill as placed can withstand a regulatory flood flooding event.

(D) Building Protection Standards

In addition to the damage prevention requirements of §157.412(E), all buildings to be located in the SFHA shall be protected from flood damage below the flood protection grade.

(1) Applicability

This building protection requirement shall apply to the following situations:

(a) Construction, reconstruction or placement of a new primary building or structure greater than 400 square feet;

(b) Construction or reconstruction of an addition to an existing building, that constitutes substantial improvement;

(c) Structural alterations and/or renovations made to an existing building, that constitute substantial improvement;

(d) Construction, reconstruction, or placement of a permitted detached accessory building or structure greater than 400 square feet;

(e) Reconstruction or repairs made to a building that experienced substantial damage. Any structure receiving substantial damage must comply with all applicable requirements of this section, regardless of the level of repairs actually made to the structure;

(f) Installing a manufactured home on a new site or a replacement manufactured home on an existing site. This section does not apply to returning an existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage or installing/replacing a manufactured or mobile home on an existing site within a legal nonconforming mobile or manufactured home park or subdivision; and

(g) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(2) Protection Methods[684]

The building protection standards may be met by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in §157.412(G)(2) of this section.

(a) Elevated Structures

New construction or substantial improvements of elevated structures shall have the lowest floor at or above the flood protection grade. A structure or addition to a structure may be elevated in accordance with the following:

(i) The structure or addition shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided that the walls of any enclosure below the elevated floor shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area). The bottom of all 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. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;

(ii) Except for areas that cannot be used as living space (such as a crawl space or similar space beneath a structure), elevated structures shall not be permitted to have fully enclosed areas below the flood protection grade;

(iii) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris; and

(iv) All areas below the flood protection grade shall be constructed of materials resistant to flood damage, including but not limited to poured concrete or treated lumber.

(v) Electrical, heating, ventilating, plumbing, and air conditioning equipment, utility meters, and other service facilities shall be located at or above the flood protection grade or designed so as to prevent water from entering or accumulating within the components below the flood protection grade. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection grade.

(b) Structures on Fill

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[684] Protection methods language revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance

A structure or addition to a structure may be constructed on a site within the floodway fringe on permanent fill in accordance with the applicable provisions of §157.412(E)(2)(b), and the following:

(i) The fill shall be placed in layers no greater than one foot deep before compacting to 95% dry density obtainable according to the Standard Proctor or Modified Proctor test method;

(ii) The fill shall extend at least ten feet beyond the foundation of the building or to the lot line, whichever is less, before sloping below the flood protection grade;

(iii) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, bulkheading, or other acceptable method. If vegetative cover is used, the slopes shall be no steeper than 3 to 1 (horizontal to vertical);

(iv) The fill shall not adversely affect the flow of surface drainage from or onto any adjacent properties;

(v) The top of the lowest floor of the building or addition (including basements) shall be at or above the flood protection grade; and

(vi) The applicant shall submit a plan, certified by a registered Professional Engineer, showing how the provisions of § 157.412(D)(2)(b)(ii) and §157.412(D)(2)(b)(iv) above will be met prior to the issuance of the Improvement Location Permit for the project. The applicant shall submit compaction test results after the fill has been placed. Compliance with the remaining applicable items listed under § 157.412(D)(2)(b) above shall be verified as necessary after the fill has been placed, prior to the issuance of the Certificate of Compliance for the project. If necessary, the Zoning Administrator may rely on other appropriate Fort Wayne city departments for any required assistance in documenting compliance with the fill requirements.

(c) Floodproofing

A non-residential structure or addition(s) to a non-residnetial structure may be floodproofed to the flood protection grade (in lieu of elevating) if done in accordance with the following:

(i) A registered professional engineer or architect shall certify that the portion of the structure and attendant utility facilities located below the flood protection grade have been designed to be watertight and capable of resisting the effects of the regulatory 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 Zoning Administrator; and

(ii) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(d) Manufactured Homes[685]

(i) If the manufactured home is to be placed: outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, then the manufactured home shall be elevated on a permanent foundation so that the lowest floor is at or above the flood protection grade and securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Methods of anchoring may include over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(ii) If the manufactured home is to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood, then the manufactured home shall be elevated so that the lowest floor of the chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Methods of anchoring may include over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(e) Recreational Vehicles

Recreational vehicles placed on a site shall either:

(i) Be on the site for less than 180 consecutive days; or

(ii) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and having no permanently attached additions); or

(iii) Meet the applicable standards for "manufactured homes" in §157.412(D)(2).

(E) Damage Prevention Standards

No development shall be allowed in the floodplain which creates a damaging or potentially damaging increase in flood heights or velocity, or a threat to public health and safety.

(1) Floodway

Within the floodway identified on the Flood Insurance Rate Map, the following standards shall apply:

(a) No development shall be allowed in the floodway which creates a damaging or potentially damaging increase in flood heights or velocity, or a threat to public health and safety.

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[685] Manufactured home language revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance, and updated based on current practices

(b) For all public projects involving channel modifications or fill (including levees) that affect flood heights, Fort Wayne shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data and applicable FIRM as necessary.

(2) Floodway Fringe

Within the floodway fringe identified on the Flood Insurance Rate Map, the following standards shall apply:

(a) Structures shall be constructed as far from the floodway as possible, provided that all applicable building setback and separation requirements are maintained, unless it is demonstrated that an alternative location would have less of an impact on the floodplain due to a decreased need for fill and/or excavation;

(b) Fill "compensatory storage" provisions shall be as follows: [686]

(i) For primary buildings of up to 400 square feet, or accessory buildings or structures of up to 400 square feet, no compensatory storage shall be required;

(ii) For public flood control, transportation, utility, or similar public projects, no compensatory storage shall be required;

(iii) For primary buildings or accessory buildings or structures of over 400 square feet, compensatory storage shall be required; that is, fill material taken from within the floodplain shall offset the fill needed for an approved building project or other permitted development so the water storage capacity of the floodplain is not diminished; excavation of the fill shall take place in the same immediate watershed in which the building site or development is located; an excavated area within the floodplain shall provide for true storage of flood water, and shall not be subject to ponding when not inundated by flood water; and the fill shall not obstruct a drainage way leading to the floodplain; except that for:

[A] Projects requiring approval of a Development Plan which do not involve development within the easement of a regulated drain, the Plan Commission may adjust any required compensatory storage; and

[B] Projects involving development within the easement of a regulated drain, the County Drainage Board may adjust any required compensatory storage.

(iv) For Floodplain Development Permit requests to place more than 40 cubic yards of fill on a non-public property or to otherwise displace over 40 cubic yards of flood storage, compensatory storage shall be required as outlined in § 157.412(E)(2)(b) above.

(c) Fill shall be of a material deemed stable enough to remain firm and in place during periods of flooding. Runoff and drainage protection shall be provided as necessary to adjacent property owners;

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[686] Compensatory storage language revised to allow for minor construction without compensatory storage

(d) For all permitted projects except for public transportation facilities, public utility collection or transmission lines, or public flood control improvement projects, plans depicting the area to be excavated and filled according to § 157.412(E)(2)(b) above shall be submitted by the applicant prior to the issuance of the Floodplain Development Permit or Improvement Location Permit for the use, structure, or development. Once site work is complete, the applicant shall provide to the Zoning Administrator a certified survey of the excavation and fill locations demonstrating that the fill and excavation comply with this section;

(e) Detached accessory structure floodway fringe development of up to 400 square feet, such as freestanding access ramps, bleachers, carports (open, with no walls), decks, dumpsters, fences, gazebos, hot tubs, play equipment, satellite dishes, signs, above-ground swimming pools, in-ground swimming pools, and yard lights shall be permitted if: [687]

(i) Constructed and/or located on the site so as to avoid major damage by flood and minimize obstructions to the flow of floodwater;

(ii) Firmly anchored to prevent flotation; and

(iii) Do not place more than 40 cubic yards of fill on a private property or otherwise displace more than 40 cubic yards of flood storage capacity.

(3) Public Health[688]

Within the floodplain the following public health and safety standards shall apply to protect the community from nuisances and hazards:

(a) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection grade, unless such materials are stored in a floodproofed storage tank or building constructed according to the requirements of §157.412(D)(2) of this section;

(b) New and replacement sanitary sewer lines may be permitted providing all manholes or other above ground openings are located above the flood protection grade, or those which are located below the flood protection grade are watertight;

(c) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(d) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(e) Outside storage of materials and equipment shall be permitted if not subject to major damage by flood and firmly anchored to prevent flotation (if applicable); or readily portable to another location outside the floodplain in the event of a flood. All proposed above-ground storage tanks must either be elevated above the flood

[687] Miscellaneous minor permitted floodplain construction and development provisions revised to clarify what is permitted and to align with current State floodplain construction provisions
[688] Public health provisions revised to align with the State model floodplain ordinance

protection grade, or floodproofed to the flood protection grade. All storage tanks must also be firmly anchored to prevent flotation.

(F) Development Plan and Subdivision Standards[689]

(1) General Standards

As part of the review of a Development Plan, subdivision plat, or Site Plan review DPS staff shall review the proposed project to determine whether any part of the proposed development lies within a special flood hazard area. The Planning staff may route the proposed plans to other appropriate Fort Wayne city departments to assist in this review. If the project is located in a Zone A, the developer shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. If the site contains areas within a special flood hazard area, those portions within a special flood hazard area will be subject to the permitted use and other applicable requirements of this section. Any proposed subdivision shall comply with the requirements of §157.303 (Subdivision Control). The following shall also apply to all proposed subdivision plats, Development Plans**,** and Site Plan review projects:

(a) The design and layout of all proposals shall be consistent with the need to minimize flood damage;

(b) All proposals shall provide adequate drainage to reduce exposure to flood hazards;

(c) Base flood elevation data shall be provided for all proposals (including manufactured home parks);

(d) No structures or fill shall be located or placed within the floodway, except for fill as permitted in §157.412(E)(2); and

(e) All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize flood damage.

(2) Flood Elevations

Developers shall show the regulatory flood elevation and any applicable flood protection grades on all secondary Development Plans, subdivision plats**,** and Site Plan routings containing land identified as lying within the floodplain prior to submitting the plans or plats for approval by the Plan Commission, Plat Committee**,** or Planning staff.

(3) Manufactured Housing Developments

All owners of existing manufactured home parks or manufactured home subdivisions located within a floodplain identified as Zone A on the Flood Insurance Rate Map shall develop an evacuation plan for those lots which are located in Zone A. The plan shall be approved by the Allen County Office of Emergency Management or successor agency.

(G) Administration[690]

(1) Administration Official

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[689] Language revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance, and updated based on current practices

[690] Language revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance, and updated based on current practices; floodplain development permit provisions added

The Zoning Administrator shall ensure compliance with all provisions of this section. In doing so, in addition to the duties in § 157.502(A), the Zoning Administrator or designated staff shall perform the duties listed below.

(2) Duties

(a) Review all permits for development in the floodplain to assure that the requirements of this section have been satisfied;

(b) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to State review and approval;

(c) Ensure that all necessary federal or State permits have been received prior to issuance of the applicable local Floodplain Development Permit or Improvement Location Permit;

(d) Obtain an elevation certificate showing the "as built" elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved buildings or structures in the floodplain; or

(e) Obtain, for all non-residential buildings or structures that have been floodproofed (whether or not such building or structure includes a basement), the elevation (in relation to mean sea level) to which the building or structure was floodproofed;

(f) Review certified plans and specifications for compliance;

(g) Inspect and inventory damaged buildings or structures in the SFHAs and complete substantial damage determinations;

(h) Enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;

(i) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(j) Maintain for public inspection and furnish upon request the following information: regulatory flood data, FIRM maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), damaged structure inventories, substantial damage determinations, copies of DNR permits and letters of recommendation, federal permit documents, and "as built" elevations and floodproofing data for all buildings or structures constructed subject to this section; and

(k) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(3) Floodplain Development Permit

Any permitted activity falling under the definition of development herein, including but not limited to excavating, filling, grading, channel work, or similar activities which does not require an Improvement Location Permit shall require a Floodplain Development Permit. The Floodplain Development Permit shall not be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, any more restrictive standards in this section shall take precedence. For all projects involving channel modifications or fill (including dikes or levees) the City of Fort Wayne shall submit the modification or fill data and request that the Federal

Emergency Management Agency revise the regulatory flood data. All Floodplain Development Permits shall be valid for up to 90 days.

(4) Floodplain Development Permit Procedures

(a) Determination of Project Location

(i) If the site is located within an identified floodway, the Zoning Administrator shall inform the applicant that the permit cannot be issued, unless the request is for a use or development permitted under §157.412(B)(2). In that instance, prior to the issuance of the Floodplain Development Permit, the applicant shall furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1.

(ii) If the site is located in an identified floodway fringe, the Zoning Administrator may issue a Floodplain Development Permit provided there is compliance with the applicable provisions of this section.

(iii) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), the Zoning Administrator shall require the applicant to forward plans and specifications to the Department of Natural Resources, requesting a review and letter of recommendation.

[A] If the review indicates the site is in the floodway, the Zoning Administrator shall not issue a Floodplain Development Permit, unless the request is for a use or development permitted under §157.412(B). In that instance, prior to the issuance of the Floodplain Development Permit, the applicant shall furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1.

[B] If the review indicates the site is in the floodway fringe, the Floodplain Development Permit may be issued provided there is compliance with the applicable provisions of this section.

[C] If the review indicates the upstream drainage area is less than one square mile, an engineering analysis showing the limits of the floodplain and the regulatory flood elevation for the site shall be completed by the applicant and submitted to the Zoning Administrator. A determination shall then be made by the Zoning Administrator with assistance if needed by other appropriate Fort Wayne city departments, or the Allen County Surveyor's office, as to whether the site is in the floodway or floodway fringe. No permit shall be issued by the Zoning Administrator if the site is within the floodway, unless the request is for a use or development permitted under §157.412(B)(2). In that instance, prior to the issuance of the Floodplain Development Permit, the applicant shall furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1. If the site is in the floodway fringe, the Floodplain Development Permit may be issued provided there is compliance with the applicable provisions of this section.

(b) Application

Application for a Floodplain Development Permit shall be made to the Zoning Administrator prior to the commencement of any development activities. For fill of up to 40 cubic yards, the applicant shall submit a Site Plan showing the location of the proposed fill, information showing the volume of the proposed fill, and a description of the purpose of the fill project. For projects involving fill of over 40 cubic yards, the application supporting information shall generally show the location, dimensions, and elevations of the development site; existing topography; existing or proposed structures; proposed grading/elevations for the development; proposed fill locations; storage of materials; and drainage facilities. The following information is required for projects involving fill of over 40 cubic yards:

(i) A legal description of the site;

(ii) A description of the proposed development, including the purpose of the fill;

(iii) A Site Plan showing existing and proposed development locations and existing and proposed land grades, and sufficient to accurately locate the development and structures in relation to existing roads and streams; existing and proposed structures/additions, parking lots, ponds, and other development, including structure setbacks;

(iv) The applicable Flood Insurance Rate Map (FIRM) panel number, showing the scaled boundary of the Special Flood Hazard Area (SFHA), specifying floodway and floodway fringe, as shown on the FIRM;

(v) The base flood elevation (BFE) per the Flood Insurance Study, in NAVD datum to an elevation of one-tenth of a foot; and

(vi) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(c) Post Construction Survey

For projects involving up to 40 cubic yards of fill, the applicant shall submit written documentation that the project was completed as proposed. For projects involving over 40 cubic yards of fill, the applicant shall submit a post-construction as-built survey showing the location and amounts of fill placed.

(5) Improvement Location Permit

No construction or development which requires an Improvement Location Permit according to the terms of this section shall commence within a floodplain prior to the issuance of an Improvement Location Permit from the Zoning Administrator. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed use, structure, site work, or development does not meet the applicable requirements of this section.

(6) Improvement Location Permit Procedures

Upon receipt of an application for an Improvement Location Permit, the Zoning Administrator shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined. If necessary, the Zoning Administrator may route the application to other appropriate Fort Wayne city departments for assistance in this determination. For all projects involving channel modifications or fill (including levees) the City of Fort

Wayne shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(a) If the site is located within an identified floodway, the Zoning Administrator shall inform the applicant that the permit cannot be issued, unless the request is for a use or development permitted under §157.412(B)(2). In that instance, prior to the issuance of the Improvement Location Permit, the applicant shall furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1.

(b) If the site is located in an identified floodway fringe, the Zoning Administrator may issue an Improvement Location Permit provided there is compliance with the applicable provisions of this section.

(c) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), the Zoning Administrator shall require the applicant to forward plans and specifications to the Department of Natural Resources, requesting a review and letter of recommendation.

(i) If the review indicates the site is in the floodway, the Zoning Administrator shall not issue an Improvement Location Permit, unless the request is for a use or development permitted under §157.412(B)(2). In that instance, prior to the issuance of the Improvement Location Permit, the applicant shall furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1.

(ii) If the review indicates the site is in the floodway fringe, the Improvement Location Permit may be issued provided there is compliance with the applicable provisions of this section.

(iii) If the review indicates the upstream drainage area is less than one square mile, an engineering analysis showing the limits of the floodplain and the regulatory flood elevation for the site shall be completed by the applicant and submitted to the Zoning Administrator. A determination shall then be made by the Zoning Administrator with assistance if needed by other appropriate Fort Wayne city departments, or the Allen County Surveyor's office, as to whether the site is in the floodway or floodway fringe. No permit shall be issued by the Zoning Administrator if the site is within the floodway, unless the request is for a use or development permitted under §157.412(B)(2). In that instance, prior to the issuance of the Improvement Location Permit, the applicant shall furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1. If the site is in the floodway fringe, the Improvement Location Permit may be issued provided there is compliance with the applicable provisions of this section.

(d) The application for an Improvement Location Permit shall be accompanied by the following:

(i) A plan showing the location of existing and proposed structures, and existing and proposed land grades on the site;

(ii) The proposed elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum of 1988 (NAVD). In either case, the conversion formula should be included;

(iii) The elevation (in NGVD or NAVD) to which any non-residential building will be floodproofed;

(iv) A plan showing the location of existing and proposed structures in relation to any stream, drain, ditch, or waterway; and

(v) Any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this section.

(e) Prior to the issuance of a requested Improvement Location Permit for any building or structure in the floodplain, the applicant shall submit a pre-construction Elevation Certificate.

(f) After the Zoning Administrator has determined that a requested Improvement Location Permit can be issued for any structure in the floodway fringe, the permit shall be issued for the construction. Upon placement of the lowest floor, or floodproofing, it shall be the duty of the permit holder to submit to the Zoning Administrator a post-construction Elevation Certificate, or other certification of the NAVD or NGVD elevation of the lowest floor certified by a registered land surveyor or professional engineer. When floodproofing is utilized for a building or structure, the floodproofed elevation shall be certified by a professional engineer or architect. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. The Zoning Administrator shall review the submitted lowest floor and floodproofing elevation survey data. The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(7) Certificate of Compliance

No Certificate of Compliance shall be issued by the Zoning Administrator unless it has been confirmed the structure has been built in compliance with the terms of this section. The Zoning Administrator may require the applicant to submit any information which may be needed to confirm compliance.

(8) Nonconforming Buildings, Structures and Uses[691]

(a) Any building, structure, or use that does not conform to this section shall be considered a nonconforming building, structure or use.

(b) Any nonconforming building or structure which is not in the floodway may be enlarged or improved at the existing grade and floor elevations during a 24 month period of time, provided the addition or improvement does not constitute substantial improvement.

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[691] Language revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance, and updated based on current practices; Fort Wayne "one time exclusion" removed

(c) Any nonconforming building or structure in the floodway may be enlarged or improved at the existing grade and floor elevations during a 24 month period of time, provided the addition or improvement has been granted a permit from the Indiana Department of Natural Resources and the proposed enlargement or improvement conforms to the provisions of that permit.

(d) Any nonconforming building or structure may be repaired after a damage event, provided the repair does not constitute substantial improvement. For any proposed repair which constitutes substantial improvement, the addition or improvement shall conform to the applicable building protection standards in §157.412(D).

(H) Variances[692]

(1) Justification

In addition to the standards in §157.503(E) and §157.503(F), the Board of Zoning Appeals may issue a variance from the provisions of this section provided the applicant demonstrates and the Board determines that:

(a) There exists a sufficient cause for the requested variance;

(b) The strict application of the terms of this section will constitute an exceptional hardship to the property; and

(c) The granting of the requested variance will not be injurious to the public health, safety, and welfare, in that the approval will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; or create nuisances, cause fraud or victimization of the public.

(2) Additional Considerations

The Board may also consider the following as part of its review of a variance request:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(c) The necessity to the facility of a waterfront location, where applicable;

(d) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles; and

(f) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

(3) Conditions

The Board may issue a variance from the provisions of this section subject to the following standards and conditions:

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[692] Language revised to align the County and Fort Wayne ordinances and to align with the State model floodplain ordinance, and updated based on current practices

(a) All variance requests shall be subject to a public hearing, with notice provided as required in IC 5-3-1;

(b) No variance shall be granted for a use or structure in the floodway unless the proposed use or structure has been approved by the Indiana Department of Natural Resources (if necessary), and the applicant can submit evidence showing that the proposed use or structure will not result in an increased flood elevation or an increase in potential flood damages;

(c) Variances from the Building Protection Standards of §157.412(D) should only be granted for a new structure when it is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade; in the case of a request for an elevation waiver for a detached accessory structure, when it meets the following additional requirements:

(i) The structure shall be designed with an unfinished interior and constructed of flood resistant materials;

(ii) Any proposed utilities shall be located above the base flood elevation, or shall be floodproofed;

(iii) The structure shall be less than 500 square feet in size and used only for personal storage; and

(iv) The structure shall meet the 44 CFR §60.3(C)(5) openings requirement.

(d) Variances may be issued for the repair or rehabilitation of an historic structure upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum to preserve the historic character and design of the structure. 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.

(e) All variances shall not affect the use and value of the area adjacent to the property in a substantially adverse manner, by giving the minimum relief necessary and giving the maximum practical flood protection to the proposed construction; and

(f) The Board shall require in each case a written waiver of liability from any flood damage due to a flood larger than the regulatory flood, on a form approved by the Board, from the owners, or developers if the developers are different from the owners. The Board shall also issue a written notice to the recipient of a variance that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums, up to amounts as high as $25 for $100 of insurance coverage. This notice shall be recorded by the applicant in the Allen County Recorder's office.

(g) As part of the consideration of any floodplain variance request, the BZA staff may route the request to the Indiana Department of Natural Resources for review and comment.

§ 157.413 HISTORIC PRESERVATION[693]

The Fort Wayne Historic Preservation Commission is empowered through IC 36-7-11 to preserve and protect historically or architecturally worthy buildings, structures, sites, and districts which serve as visible reminders of the historic heritage of the city. The Commission has jurisdiction over all buildings, sites, structures, and districts designated as local historic districts and reviews proposed exterior changes to those properties to ensure that the character-defining historic features remain intact. The HPC also reviews nominations for local historic designation as well as National Register nominations. The Commission's goals and objectives are advanced by enforcing the provisions of the Fort Wayne Historic Preservation and Protection Ordinance (Chapter 151 of City Code) and the Preserve-it Allen strategy.

[693] Section added to cross-reference to existing City Code Historic Preservation chapter

ADMINISTRATION

§ 157.501 PURPOSE[694]

The purpose of this section is to:

(A) Provide for the administration and enforcement of the provisions of this ordinance;

(B) Set forth general standards, procedures, and requirements for the review, consideration, and issuance of Improvement Location Permits and Certificates of Compliance; and

(C) Establish standards, procedures, and requirements for violations and penalties.

§ 157.502 PLANNING AND ZONING BODIES[695]

(A) Zoning Administrator[696]

(1) Authorization

The Common Council has authorized the creation of a Zoning Administrator for the administration and enforcement of this ordinance. All references in this ordinance to the Zoning Administrator shall include any DPS or zoning enforcement officers designated by the Zoning Administrator.[697]

(2) Powers and Duties[698]

The Zoning Administrator shall be responsible for:

(a) Making all determinations, interpretations, and decisions necessary to carry out the provisions and requirements of this ordinance, or as directed by the Board of Zoning Appeals or Plan Commission;

(b) Determining if a violation of this ordinance exists, and how the provisions and requirements of this ordinance shall be applied and enforced (in conjunction with the Department of Neighborhood Code Enforcement); and

(c) Issuing or causing to be issued all Site Plan Review decisions, Improvement Location Permits, Certificates of Compliance, and Certificates of Use required under this ordinance.

(3) Exceptions[699]

The following exceptions shall apply in the situations noted below.

(a) In cases where this ordinance requires a public hearing to be held on a Plan Commission Development Plan application, the Plan Commission hereby establishes that the project may be reviewed and acted on by a committee of the Commission without a public hearing if the

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[694] From current code §157.401.
[695] New Section. Reorganized Current §157.402, 157.404, and 157.405 into a new chapter addressing all planning and zoning bodies.
[696] Material from current FW § 157.402 (Zoning Enforcement Officer); revised term Zoning Enforcement Officer to Zoning Administrator for consistency with Allen County.
[697] Since Phase 2 drafts, revised to clarify that references to Zoning Administrator include duly authorized agents of the Administrator.
[698] Revised to reflect current practice
[699] New provision.

Zoning Administrator determines that the proposed project does not warrant a public hearing due to: substantial conformance with a previously approved primary Development Plan, or lack of impact on adjacent properties.

(b) In cases where this ordinance requires a project to be reviewed under the Site Plan review process, the Zoning Administrator may waive said review process upon a determination that the scope or impact of the project does not warrant a technical review by external review entities.

(c) In cases where this ordinance requires a project to be reviewed under the Site Plan review process, the Zoning Administrator may waive a required submittal, including but not limited to the required building plans or boundary/topographic/ utility surveys, upon a finding that the proposed submittal is not applicable to or necessary for the proposed project.

(4) Appeals[700]

All determinations, interpretations, and decisions of the Zoning Administrator may be appealed to the Board of Zoning Appeals, in accordance with the Board's rules.

(B) Executive Director[701]

(1) Authorization

The Governing Board has authorized the creation of an Executive Director of the Department of Planning Services for the administration of that department.

(2) Powers and Duties

The Executive Director shall have the following powers and duties:

(a) To direct the activities of the Department of Planning Services;

(b) To be authorized and empowered to do and perform those acts required for the administration of this ordinance or as directed by the Board of Zoning Appeals or Plan Commission;

(c) To perform those acts authorized by adopted inter-local agreement.

(C) Hearing Officer[702]

(1) Authorization

This ordinance hereby authorizes the creation of a Hearing Officer for the type of cases and in accordance with the procedures outlined in IC 36-7-4-923 and IC 36-7-4-924, and as set forth in the Commission's rules.

(2) Appointment[703]

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[700] New provision since the Phase 3 drafts to make it clear that decisions of the Zoning Administrator can be appealed to the Board of Zoning Appeals.
[701] New section to reflect current practice. Reference to Common Council changed to Governing Board. Reference to duties under inter-local agreement added. Reference to single individual serving as both Administrator and Executive Director deleted as unnecessary.
[702] Current code §157.405, revised for clarity and to reference state law
[703] From current A.C.C. 3-4-5.

The Hearing Officer shall be appointed at the first annual meeting of the Commission and shall serve in that capacity for the succeeding year. The Commission may also appoint one or more alternates to serve in that capacity in the event the Hearing Officer is unavailable or unable to so act. The Hearing Officer and alternates so appointed shall serve at the pleasure of the Commission and may be removed or replaced by the Commission at any time.[704]

(3) Powers and Duties[705]

The Hearing Officer shall have the same powers and duties as the Board of Zoning Appeals to approve or deny applications through the alternate procedure allowed under IC 36-7-4-923, except as may be limited by the Commission's rules.

(4) Procedure[706]

The Commission shall:

(a) Establish the circumstances in which it would be appropriate for the Hearing Officer to transfer proceedings to the Board; and

(b) Designate requirements for the conduct of proceedings before the Hearing Officer filed under the alternate procedure including, but not limited to, the creation and filing of minutes and records, regulation of conflicts of interest and communication with the Hearing Officer and appeals to the Board of decisions by the Hearing Officer.

(D) Board of Zoning Appeals[707]

(1) Authorization

The Fort Wayne Board of Zoning Appeals has been established pursuant to IC 36-7-4-901(a), and shall operate subject to and in accordance with the Advisory Planning law as set forth in the 900 series (Board of Zoning Appeals). Any appeal filed under this section shall also be subject to all applicable procedures and limitations the Board may establish by rule.

(2) Powers and Duties[708]

The Board shall approve or deny all of the following types of applications (in all cases the Board may impose reasonable conditions as a part of its approval):

(a) Contingent uses, pursuant to IC 36-7-4-918.2 and §157.503(C).

(b) Special uses, pursuant to IC 36-7-4-918.2 and §157.503(D).

(c) Variances from the development standards of this ordinance, pursuant to IC 36-7-4-918.5 and §157.503(E).

(d) Use variances pursuant to IC 36-7-4-918.4 and §157.503(F).

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[704] "Without cause" deleted from end of sentence as unnecessary.
[705] From current A.C.C. 3-4-5.
[706] From current A.C.C. 3-4-5.
[707] Material from Current FW§ 157.404 (Board of Zoning Appeals), revised for clarity. Previous BZA sections addressing permitted Special Uses (F) and Contingent Uses (G) moved to permits section.
[708] Revised to clarify statutory authority. Criteria for approvals have been moved to the Procedures section below, since this section only outlines the authorities of these various entities. Provisions regarding the power to attach reasonable conditions to approvals have been consolidated in §157.503(A)(6).

(e) Appeals of:

(i) Any, decision, interpretation, or determination made by a Hearing Officer, Zoning Administrator, or DPS staff member under this ordinance; and

(ii) Any order, requirement, decision, interpretation, or determination made by an administrative board or other body, except the Commission, in relation to the enforcement of this ordinance; and

(iii) Any order, requirement, decision, interpretation, or determination made by an administrative board or other body, except the Commission, relative to the enforcement of Improvement Location Permits or Certificates of Compliance.

(f) Other requests related to this ordinance as provided for in the Board's rules.

(E) Plan Commission[709]

(1) Authorization[710]

The Plan Commission has been established pursuant to IC 36-7-4-202, and shall operate subject to and in accordance with the Advisory Planning law as set forth in the 200 series (Plan Commission) and in IC 36-7-4. In addition, the Plan Commission is established by Indiana Code as the administrative authority for the subdivision of land within the planning jurisdiction of the city. Under the authority granted by state law, the Commission may established an Executive Committee empowered to act on its behalf on such matters as may be assigned to it by the Commission. The Commission may establish a Plat Committee to approve plats on its behalf.

(2) Purpose[711]

The Plan Commission has been established to carry out the purposes set forth for advisory Plan Commissions in IC 36-7-4-201.

(3) Membership[712]

The membership of the Commission and qualifications for citizens to be appointed to the commission are described in IC 36-7-4-207(a) and IC 36-7-4-216, and the adopted rules of the Commission.

(4) Powers and Duties[713]

The Commission shall have the powers and duties as set forth in the 200 series (Plan Commission), the 300 series (Organization of Commission), and the 400 Series (Commission Duties and Powers), including but not limited to:

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[709] New section. Adapted from A.C. §3-4-3.
[710] New section. Adapted from Board of Zoning Appeals Authorization Statement and wording simplified and revised for clarity. Plat committee material adapted from current §155.007.
[711] New section. Material adapted from A.C.C. 3-4-3-1 Authorization of the Commission, with specific listed purposes replaced by a cross-reference to those purposes listed in the state enabling act.
[712] New section to parallel structure of Allen County Code.
[713] New section. Adapted from A.C.C. §3-4-3 and the current Fort Wayne subdivision regulations. as revised to clarify statutory authority, to avoid repetition of materials stated elsewhere in the ordinance, and to reflect current practice. Provisions inconsistent with state law or the inter-local agreement have been deleted.

(a) Make recommendations to the Fort Wayne Common Council on amendments to this ordinance and the Comprehensive Plan;

(b) Take action on all applications for approval of Primary or Secondary Development Plans or Subdivisions that are required to be submitted under this ordinance, provided, that in the event an application requires approval of a primary Development Plan or Primary Majo0r Subdivision, and also approval of a special use, contingent use, use variance, or variance of dimensional standard, the Commission may authorize a combined hearing procedure pursuant to IC 36-7-4-403.5;[714]

(c) Take action on all applications for primary and secondary approval of Major and Minor Subdivisions, pursuant to the 700 series (Subdivision Control), and §157.30;[715]

(d) Be authorized and empowered to adopt any rules or regulations allowed or required under IC 36-7-4 or such other rules or regulations as the Commission may deem necessary or advisable for the effective administration of its duties under state law or this ordinance;

(e) The Commission may adopt written policies and/or rules:[716]

(i) For the development of public ways, public places, public structures, and public and private utilities;

(ii) As necessary to carry out the intent of this ordinance.

[714] New provision to avoid the need for two public hearings on a single application; added language to say Primary, and to include Major Subdivisions, since Phase 3 drafts.
[715] New section to clarify current procedure, adapted from current A.C.C. 4-6-1-1 and current Fort Wayne subdivision regulations.
[716] Revised to delete references to ILPs and services on platted and unplatted lands.

§ 157.503 PROCEDURES[717]

(A) General[718]

(1) Board of Zoning Appeals

The procedures of the Board shall be governed by provisions of the IC 36-7-4 -900 Series (Board of Zoning Appeals), the provisions of this §157.503(1), and the Board's rules. The Board shall adopt rules concerning the filing of appeals, the giving of notice, and the conduct of its hearings and operations as necessary to carry out its duties. Any application or appeal filed to go before the Board shall be subject to all applicable Board procedures and limitations. Certain Board procedures may apply to the Hearing Officer as well.

(a) Pre-Application Discussion

Prior to the submission of an application for a contingent use, special use, use variance, or variance of development standards, a pre-application discussion between the DPS staff and the applicant is recommended. The purpose of the pre-application discussion is to:

(i) Acquaint the applicant with the standards, procedures, and requirements of this ordinance, the comprehensive plan, and any other applicable requirements;

(ii) Review the Board's procedures, application, and submittal requirements; and

(iii) Make the applicant familiar with potential issues or concerns regarding the proposed application.

(b) Submission Requirements[719]

The applicant for an application or appeal to the Board shall submit an application form and supporting information as established by the Board's rules. DPS staff shall only place an application on the Board's next available public hearing agenda after all submittal requirements have been received. A determination made by the DPS staff with regard to the completeness of information required for an application or appeal may be appealed to the Board in accordance with the Board's rules.

(c) Public Hearing

The Board shall hold a public hearing on any appeal or application, in accordance with the Board's established public hearing calendar and rules. Any application or appeal filed under this section shall be subject to all applicable procedures and limitations the Board may establish by rule.

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[717] New section. Intended to organize most procedures into one location. Since Phase 3 drafts, language added incorporating Hearing Officer into certain procedures.
[718] Material pulled from current 157.404(D); text revised for clarity.
[719] Material pulled from current 157.404(D)(3) but substantially revised to add clarity and remove all application/submission requirements from the code (these will be in an administrative document).

(d) Appeals

The Board may reverse, affirm, or modify the appealed decision, interpretation, or determination. For this purpose, the Board has all the powers of the official, officer, board or body from which the appeal is taken. The Board may also defer action on the appeal if it needs more information or time to make a decision.

(e) Decision and Additional Provisions

(i) Decision

Following the public hearing on an application, the Board shall approve or deny the application. The Board shall make a decision on any matter that it is required to hear either at the meeting at which the matter is first presented, or at the conclusion of the hearing on the matter, if it is continued. See IC 36-7-4-919(e). The following standards and requirements shall also apply to the Board's decision on an appeal or application.

(ii) Conditions

The Board may impose reasonable conditions as a part of its action on an application or appeal. The Board may also permit or require a commitment as set forth in IC 36-7-4-1015 and §157.503(A)(5).[720]

(iii) Findings

The Board shall enter written findings, setting forth the reasons for its action on an application or appeal.[721]

(iv) Notice

Notice of the Board's decision on an application or appeal shall be provided as established by the Board's rules.

(v) Appeal

A decision of the Board may be reviewed as allowed by the Advisory Planning law in Indiana Code.

(vi) Reconsideration

In the event the Board or Hearing Officer denies a requested application or appeal, the Board shall not rehear and reconsider a repeated application for a period of one (1) year following the date of the Board's denial. Any person submitting a repeated application requesting reconsideration or rehearing of a previous denial after one (1) year shall also submit documentation indicating how the repeated application is substantially changed from the previous application that was denied. The repeated application shall be reviewed by the Zoning Administrator, who shall determine whether the request is a substantial change that can be placed on the Board's agenda for

[720] Provisions on commitments (formerly written commitments) are now stated one time in the code rather than being repeated for each type of application to which they apply.
[721] Text requiring findings to be signed by the secretary were not carried over; that is a detail that should be addressed in the Board's rules.

review. The zoning administrator's decision that the repeated application is not a substantial change may be appealed to the Board in accordance with the Board's rules.

(vii) Revocation[722]

The Board may revoke a contingent use, special use, use variance or variance from development standards if the applicant, landowner and/or occupant violates a condition of approval or commitment imposed as part of the Board's approval. Prior to revocation, the Board shall notify the applicant, landowner and/or occupant of the real estate of the violation in writing and shall give the applicant, landowner and/or occupant an opportunity to be heard on the violation. At the Board's hearing, the zoning administrator shall present information to the Board regarding the alleged violation. Public notice and the public hearing on the revocation shall be in accordance with the Board's rules. Any application which is revoked by the Board shall be declared void.

(2) Plan Commission[723]

The procedures of the Commission shall be governed by IC 36-7-4, the provisions of this §157.503(A)(2), and the Commission's rules. The Commission shall be empowered to act in accordance with IC 36-7-4, including but not limited to the following:

(a) Adoption and Amendment of Comprehensive Plan[724]

The Commission shall review take action on proposed a replacement of or amendments to the Comprehensive Plan.

(b) Development Plans

The Commission shall review and take action on applications for the approval of Primary or Secondary Development Plans pursuant to the IC 36-7-4-1400 series, and as described in §157.301.

(c) Subdivisions of Land

The Commission shall review and take action on applications for the primary or secondary approval of Subdivisions of land, and the certification and recording of exempt land divisions, pursuant to the IC 36-7-4-700 series, and as described in §157.302.

(d) Zoning Map Amendments

The Commission shall review and take action on proposed zoning map amendments pursuant to the IC 36-7-4-600 series and §157.505(G).

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[722] New section to reflect current practice and align with Allen County code.
[723] New section. Material adapted from current A.C.C. 3-4-3-4, supplemented with new material to reflect current procedures for Comprehensive Plans and cross-references to procedures for Development Plans and Subdivisions. Materials on zoning map amendments, zoning text amendments, plat vacations, and plat covenant vacations added to reflect current practice and to align with Allen County code.
[724] New section to reflect current practice.

(e) Zoning Text Amendments

The Commission shall review and take action on proposed ordinance text amendments pursuant to the IC 36-7-4-600 series and §157.505(H).

(f) Plat Vacations

The Commission shall review and take action on proposed plat vacations pursuant to IC 36-7-4-711.

(g) Plat Covenant Vacations

The Commission shall review and take action on proposed plat covenant vacations pursuant to IC 36-7-4-711 and IC 36-7-4-714.

(3) Fees[725]

At the time an application is filed with the Board, Plan Commission, or Executive Director for action and approval, DPS staff shall collect a nonrefundable filing fee. In accordance with IC 36-7-4-411, the Plan Commission shall establish a schedule of fees to defray the administrative costs connected with:

(a) Processing and hearing administrative appeals and applications for rezoning, special uses, contingent uses and variances;

(b) Issuing permits; and

(c) Other actions or activities taken in accordance with the provisions of IC Title 36.

(4) Deemed Delivery of Notice[726]

If this ordinance or the rules of the Board of Zoning Appeals or Plan Commission requires written notice to be given to any person, the notice requirement shall be considered satisfied as of three (3) days after the date of deposit of the required notice in the United States mail.

(5) Commitments [727]

(a) Authorization

As part of its review of an application the Board of Zoning Appeals, Hearing Officer, or the Plan Commission, as applicable, may permit or require the property owner(s) to make commitments concerning the use or development of that property, in accordance with IC 36-7-4-1015, and the Board's or Commission's rules, . Commitments shall be in a form acceptable to the Board's or Commission's legal staff.

(b) General Provisions

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[725] This section now replaces several requirements for the payment of fees in several sections of the zoning ordinance and subdivision regulations. Material adapted from current §157.407(A)(2), 157.408, and coordinated with new A.C.C. fee section for clarity and simplicity.
[726] New provision based on A.C.C. 3-4-7-1 (Permits) to apply generally to all required notices.
[727] This section consolidates and reconciles several "written commitment" provisions in the current zoning ordinance and subdivision regulations in order to avoid repetition. These provisions are cross-referenced in portions of the code where written commitment provisions were previously repeated.

(i) By permitting or requiring a commitment, the Board, Hearing Officer, or Commission does not become obligated to approve the application or recommend approval of the proposed zoning map amendment, and the Common Council shall be under no obligation to approve the zoning map amendment.

(ii) By permitting or requiring a commitment, the Board or Hearing Officer,shall not be obligated to grant any requested waiver or modification of a zoning standard or requirement, and the Commission shall not be obligated to grant any requested waiver or modification of a development standard or requirement.

(iii) If a commitment is executed in conjunction with an application or a proposed zoning map amendment, and the application or proposal is denied, the commitment shall not be recorded.

(iv) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with the law.

(c) Content

A commitment may include, but shall not be limited to, the following provisions:

(i) Limiting the uses, or a specific aspect of a use, that will be permitted on the property;

(ii) Placing restrictions on the size, location, height, or similar aspects of a proposed structure or structures on the property;

(iii) Establishing standards or requirements relative to screening, buffering, landscaping, parking, or other similar site design aspects of a development on the property;

(iv) Limiting off-site impacts of a proposed building, structure or development or future development proposal, relative to noise, site lighting, signage, or similar issues;

(v) Similar use, layout, or site design issues; or

(vi) Any other provisions as determined by the Board of Zoning Appeals, Hearing Officer, or Plan Commission.

(d) Recordation

Commitments made under this §157.503(A)(5) shall be approved by the Board, Hearing Officer, or Commission and recorded in the Allen County Recorder's office in accordance with the Commission's rules. Unless modified or terminated by the Commission or automatically terminated, a recorded commitment made under this section is binding on:

(i) The owner of the parcel;

(ii) Any subsequent owner of the parcel; and

(iii) Any person(s) who acquires an interest in the parcel.

(e) Enforcement

Commitments made under this §157.503(A)(5) shall include provisions for the enforcement of the commitment. The commitment shall designate the Board, Hearing Officer, or Commission as a party entitled to enforce the commitment. Other appropriate parties, including but not limited to registered neighborhood associations, may also be designated as a party entitled to enforce the commitment. A violation of a commitment shall be considered a violation of this ordinance.

(f) Modification and Termination

A commitment made under this §157.503(A)(5) shall automatically terminate if, after the adoption of the commitment and approval of the proposed application or zoning map amendment, the approval or zoning classification that is the subject of the commitment is changed at some future point. Otherwise, commitments made under this section shall only be modified or terminated by the Board of Zoning Appeals, Hearing Officer, or Plan Commission. Prior to the Board, Hearing Officer, or Commission considering a request to modify or terminate a commitment previously approved under this section, the Board, Hearing Officer, or Commission shall hold a public hearing on the request. The procedure for the public hearing, including required notice, shall be as established in the Board's or Commission's rules.

(6) Conditions[728]

(a) Wherever this ordinance grants the Board or the Commission the authority to impose conditions on an approval or recommendation:

(i) All conditions imposed shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this ordinances; and.

(ii) Such conditions may include a requirement for the recordation of a written instrument in a form acceptable to the Board or Commission, as applicable, binding the present and subsequent owners of the parcel of land affected and all parties having an interest therein, to the terms of the conditions.

(7) Lapsing of Approvals[729]

The approvals listed in the table below are valid for the periods indicted in that table. The sections listed in the right-hand column provide more information about periods of validity.

Type of Approval	Lapsing Period	Ordinance Section
Primary Development Plan	24 months	157.301(C)(4)(f)
Secondary Development Plan	36 months	157.301(D)(3)(f)(i)
Site Plan	6 months	157.302(G)(5)(b)

[728] (1) consolidates similar powers repeated in several procedures and made general to all types of approval to avoid repetition. (2) is a new section to codify general case law regarding the reasonableness of land use approval conditions.
[729] This table is new since the Phase 2 drafts to summarize information contained in those drafts.

Primary Minor Subdivision	24 months	157.303(E)(4)(d)(i)
Secondary Minor Subdivision	24 months	157.303(E)(5)(i)(b)
Primary Major Subdivision	24 months	157.303(F)(4)
Secondary Major Subdivision	12 months	157.303(F)(4)(d)(ii)
Improvement Location Permit	3 months	157.303(B)(5&8)

(B) Improvement Location Permit[730]

(1) General Provisions

An Improvement Location Permit shall be required for the construction, reconstruction, enlargement, or relocation of any building or structure (including a non-temporary sign), unless specifically excluded by this ordinance. No building or structure shall be erected, constructed, reconstructed, enlarged, or moved prior to the issuance of an Improvement Location Permit.

(a) No Improvement Location Permit shall be issued unless the proposed development conforms with the provisions and requirements of this ordinance.

(b) No Improvement Location Permit shall be issued for the construction, reconstruction, enlargement, or relocation of a building or structure, or any part of a building or structure (except for fences or signs), within a utility or surface drainage easement, unless the easement has been vacated (if the easement is a platted easement) or otherwise released.

(c) If an application requires the approval of a Development Plan or a Site Plan Review, that approval shall have been granted and all conditions of approval satisfied prior to the approval and issuance of any Improvement Location Permit(s).

(d) Projects meeting the definition of major façade renovation shall be required to be reviewed through the Design Review process as described in §157.404 and the Commission's rules prior to the application for an Improvement Location Permit application.

(2) Exclusions

An Improvement Location Permit shall not be required for the items listed in the following table, but the development standards of this ordinance shall still apply.

[730] Material adapted from current §157.407 (Permits) with text revised for clarity and parallel structure with Allen County permit procedures. Provisions related to application materials were moved to an administrative document and provisions on fees were consolidated with other fee provisions. Repetitious material has been deleted and material has been reordered so that the Certificate of Compliance now appears as a final stage in the ILP process (to confirm that construction tool place as required by the ILP) rather than as a separate type of approval.

IMPROVEMENT LOCATION PERMIT EXCLUSIONS[731]		
Accessory building of 200 square feet or less	Grill	Satellite dish
Access ramp	Handicap ramp	Sign (as set forth in §157.316)
Address marker	Hedge	Site lighting facilities
Basketball backboard/goal	Holiday decorations	Swing set
Bird bath	Landscape elements	Television aerial
Bird feeder	Mail delivery box	Temporary signs[732]
Bird house	Name plate	Tree house (not attached to ground)
Dog/pet house	Newspaper delivery box	Trellis
Driveway	Patio (without foundations/footings)	Utility fixtures (incl. lines/poles/supports)
Fence (temporary construction)	Play equipment	Walk
Fence (agricultural)	Pond	Wall (retaining)
Flagpole	Property boundary marker	Yard light
Garden	Rain barrel/garden	

(3) Issuance of Permit[733]

(a) Complete permit applications shall be promptly reviewed by DPS staff. If the proposed construction is in compliance with the provisions of this ordinance, the permit shall be issued. However, the Zoning Administrator may distribute the permit application and supporting information to other applicable entities for review prior to the issuance of the permit. In that case the issuance of the permit may be delayed until any conditions of that reviewing entity are satisfied.

(i) If the proposed construction requires a permit from the Allen County Building Department then the Improvement Location Permit shall be sent by the DPS staff to the Building Department.

(ii) If the proposed construction does not require a permit from the Allen County Building Department, then the Improvement Location Permit shall be sent directly to the applicant.

(iii) If there is an existing zoning ordinance violation on the lot included in the permit application, the Zoning Administrator may delay the issuance of the permit until such time as the Zoning Administrator determines that the

[731] This table includes a much expanded list of exclusions in order to reflect current practice.
[732] Temporary signs added since Phase 2 drafts.
[733] Revised to reflect current practice and for clarity. Detailed application requirements and requirement for posting the ILP on the property have been deleted as more appropriate to address in rules or on the permit itself.

violation has been resolved or an adequate committed to resolve the violation has been made.[734]

(b) If the proposed construction is not in compliance with the provisions of this ordinance, the Zoning Administrator shall not approve the application, and shall notify the applicant in writing of the reason(s) why the permit cannot be approved.

(i) If the applicant amends the application to bring it into full compliance with the provisions of this ordinance within thirty (30) days after such notice, then the Zoning Administrator shall approve and issue the permit.[735]

(ii) If the application cannot be amended to bring it into full compliance, the Zoning Administrator shall defer action on the request to allow the applicant the opportunity to apply for a variance. If a variance is not obtained, or a requested variance is denied by the Board of Zoning Appeals or Hearing Officer, then the permit application shall be denied. The applicant may also withdraw the permit application.

(iii) As part of the review and approval of any Improvement Location Permit, the Zoning Administrator may place conditions on the permit. If conditions are placed on a permit, those conditions must be satisfied or adequately addressed prior to the issuance of a Certificate of Compliance for the project or use.

(4) Lack of Improvement Location Permit[736]

(a) Any case where construction requiring an Improvement Location Permit takes place without the issuance of the required permit shall be a violation of this ordinance. In that case, the Zoning Administrator shall give the owner(s) written notice of the violation and the owner(s) of the real estate shall be required to make application for an Improvement Location Permit, in accordance with this §157.503(B)(1), within ten (10) business days[737] of notice being given.

(b) If the Zoning Administrator determines that the building or structure so erected or maintained fails to conform with the provisions of this ordinance, the owner(s) shall be granted thirty (30) business days to complete to the satisfaction of the Zoning Administrator, the modification necessary to cause the building or structure to be in compliance with the ordinance.

(c) If the owner(s) fail to timely apply for an Improvement Location Permit as required by subsection (3)(a) above, or if at the end of the thirty (30) business day period the building or structure is not in conformity with the provisions of this ordinance, the owner(s) of the real estate on which the building or structure is located shall be subject to the penalties set forth in §157.505.

(5) Commencement and Continuation of Work

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[734] New provision to reflect current practice.
[735] 30 day period for bringing an application into compliance with the code (to avoid the need to refile the application) has been added.
[736] New provision added to align with Allen County code.
[737] Throughout this document, "days" has been clarified to "business days."

Work on any construction project for which an Improvement Location Permit has been issued shall begin within ninety (90) business days of the date of the issuance of the permit. Work shall continue with due diligence until the project is completed.

(6) Compliance with Approved Plans

All work shall proceed in accordance with the plan(s), specifications, and other information approved as part of the permit application.

(7) Amendment and Modifications

(a) After the Improvement Location Permit has been issued, amendments involving the location, design, or layout of a proposed building or structure that are determined to not be a substantial change may be approved by the Zoning Administrator. Such an amendment, if approved, shall not require another Improvement Location Permit application.

(b) After the Improvement Location Permit has been issued the approved plan(s) shall not be amended to include new items such as accessory structures, decks, further additions, or other similar changes. Such an amendment shall require another Improvement Location Permit application.

(c) An approved Improvement Location Permit may not be applied or transferred to another construction project or site or to a different applicant.

(8) Validity and Revocation of Permit

(a) An approved Improvement Location Permit may be revoked and declared void by the Zoning Administrator in the following situations:

(i) If work on the construction project is not commenced within (90) days of its date of issuance and continued with due diligence to completion; [738]or

(ii) If work on the construction project is not proceeding in conformance with the approved plan(s), specifications, and other information approved as part of the permit application; or

(iii) If work on the construction project is not in compliance with the provisions of this ordinance

(b) If the Zoning Administrator determines that any of the situations listed in §157.503(B)(8)(a) above exists, the Zoning Administrator shall notify the applicant, specify the areas of non-compliance, and establish a time frame for the work to be brought into full compliance. The Zoning Administrator may also issue a stop work order (in conjunction with the Department of Neighborhood Code Enforcement) to ensure that no additional work will be done on the project.

(c) If the work on the project is not brought into full compliance within the time frame specified by the Zoning Administrator, a stop work order shall be issued (if one has not been previously issued), and the previously issued Improvement Location Permit shall be revoked and declared void. In a case where work on the project

[738] Revised to clarify current practice.

has not begun within the required ninety (90) days, a stop work order shall not be required, but the permit may still be revoked and declared void.

(d) After the revocation of an Improvement Location Permit any person performing any work in or about the structure, building or premises shall be subject to the penalties prescribed in §157.505.[739]

(9) Certificate of Compliance[740]

(a) After the issuance of an Improvement Location Permit for a building or structure, no occupancy or use of that building or structure shall take place prior to the issuance of a Certificate of Compliance for the building or structure Upon the completion of the construction included with the issued Improvement Location Permit, the DPS staff shall take the following actions:

(i) If the construction is in full compliance with the requirements of this ordinance, the requested Certificate of Compliance shall be issued to the Allen County Building Department. However, if another review entity has placed a condition on the issuance of the Certificate of Compliance as a result of a DPS distribution for review, the issuance of the Certificate of Compliance may be delayed until the conditions of that reviewing entity are satisfied.[741]

(ii) If the Certificate of Compliance cannot be issued, the DPS staff shall advise the applicant of the reason(s) the compliance cannot be issued. It shall be the applicant's or the designated project representative's responsibility to resolve all outstanding issues, provide any requested information, or schedule any required inspections. The requested Certificate of Compliance shall not be issued until all outstanding issues are adequately addressed.

(b) Any approved Certificate of Compliance may be revoked and declared void by the Zoning Administrator in the following situations:

(i) If a Certificate of Compliance was issued based on the acceptance of a letter of commitment for compliance on a future date that was not fulfilled as specified; or

(ii) If a Certificate of Compliance approving a certain use was issued and the use is no longer in compliance with the provisions of this ordinance.

(c) If the Zoning Administrator determines that any of the situations listed in subsection (9)(a)(ii) or (9)(b) above exists, the Zoning Administrator shall notify the applicant, specify the areas of noncompliance and establish a timeframe for the use to be brought into full compliance. If the construction, site, or use is not brought into compliance within the timeframe specified the Certificate of Compliance shall be revoked and declared void. A new application, filing fee, review and approval shall be required to obtain another Certificate of Compliance.

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[739] New provision to reflect current practice.
[740] Material adapted from current F.W. § 157.407 (C) (Certificates of Compliance); text revised for clarity.
[741] Language added after Phase 3 drafts to clarify that Certificates of Compliance may be held similar to Improvement Location Permits

(10) Certificate of Use[742]

In order for a landowner, tenant, or occupant to change any use of real estate to another use permitted in the zoning district, the landowner, tenant, or occupant shall apply for a Certificate of Use. The Certificate of Use shall certify only that the change in use of the real estate is permitted in the zoning district and complies with the use provisions of the applicable zoning district.

(C) Contingent Uses[743]

(1) List of Contingent Uses

The following contingent uses may be permitted by the Board of Zoning Appeals after public hearing pursuant to §157.503(A)(1) in any zoning district, if the Board determines that the application meets the criteria in §157.503(C)(2) below. As part of its approval, the Board may impose conditions regarding the location, site design, and other features of the proposed building, structure, use, or site development as are reasonably related to the purposes of this ordinance.

(a) Airport (public)

(b) Cemetery (public or private)

(c) Community facility not otherwise permitted (including a facility operated by a nonprofit organization for the public benefit)

(d) Correctional institution

(e) Government/publicly-owned and operated facility not otherwise permitted (highway/transportation facility, landfill, lift station, recycling facility, sewage/water treatment plant, and other utility facility).

(f) Heliport (public).

(g) Public works use (temporary)

(2) Criteria for Approval of Contingent Use[744]

The Board shall approve a contingent use if the Board determine that:

(a) Adequate storm drainage, water, sanitary disposal, other utility, and transportation infrastructure either currently exists or will be provided to serve the proposed use; and

(b) The proposed use will substantially serve the health, safety, or welfare of the community and will not conflict with the Comprehensive plan or other plan duly adopted by the Fort Wayne Common Council.

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[742] New section to reflect current practice.
[743] From current §157.404 (G); reworded for clarity and reordered for alignment of city and county codes. Educational institution, educational institution recreational facility, golf course, hospital, utility facilities were deleted from this list because they are listed as permitted or conditional use in some zoning districts. Several use descriptions were clarified.
[744] List revised and consolidated for clarity and to reflect current practice.

(D) Special Uses[745]

(1) List of Special Uses[746]

The following special uses may be permitted by the Board of Zoning Appeals in the zoning districts shown in the table below, after public hearing pursuant to §157.503(A)(1). To approve a special use, the Board shall determine that the application meets the criteria in §157.503(D)(5) below and any other requirements stated for the specific use in this ordinance.. The Board may impose reasonable conditions as part of its approval.

TABLE OF SPECIAL USES[747]

Special Use	District(s) Where Allowed
Accessory building conversion to a single family residence	AR
Accessory building, as a primary building, on a site of at least 5 acres	AR
Accessory dwelling units (ADU)	DE
Airstrip/heliport (for corporate or multiple owner use)	AR
Animal grooming	C1
Animal hospital	C1
Animal keeping (outdoor, small animal)	R1, R2, R3, RP, MHS, and DE
Animal keeping (small)	DE and UC
Animal kennel	C1
Animal obedience school	C1
Automatic teller machine (stand-alone ATM)	C1
Automobile maintenance (quick service)	C2, NC, and SC
Automobile sales	C2, NC, and SC
Automobile washing facility (full or self service)	DC, and I2
Bed and breakfast	AR, R1, R2, R3, RP, and MHS
Boarding house	AR, R1, R2, R3, RP, MHS, and DE
Child care home (class II)	AR, R1, R2, R3, RP, MHS, DE, and UC
Club (private)	C1, MHS, R1, R2, R3, and RP

[745][745] From current §157.404 (F); revised for clarity. Provisions on conforming and existing special uses were deleted as unnecessary in light of standards nonconforming use provisions. Existing text on "considerations" in review of special uses were merged into the criteria for approval. List of possible conditions was deleted because reasonable conditions are now addressed elsewhere in this chapter.

[746] Since Phase 2 drafts, "Wind energy conversion system, large (for systems with a rating that would serve more than one residence, or to request approval of a height greater than 60')" has been removed as a Special Review use in the AR, R1, R2, R3, RP, and MHS districts.

[747] Table has been revised since Phase 2 and 3 drafts to reflect special uses listed in individual zoning districts in §§ 157.206 through 224; notes added to indicate additional standards in either the individual zoning districts or the BZA Chapter. Districts put into the order in which they are in the Permitted Uses Chapter.

TABLE OF SPECIAL USES[747]

Special Use	District(s) Where Allowed
Commercial communication tower	C1, C2, NC, SC, C3, C4,BTI, I1, I2, and I3
Community facility not otherwise permitted (transitional use)	R1, R2, R3,RP, and MHS
Community garden that includes a structure	AR, R1, R2, R3, RP, MHS, C1, C2, NC, DC, DE, and UC
Country club	AR, R1, R2, R3, RP, and MHS
Educational institution uses	A1, A3, R1, R2, R3, MHS(1), C1, C2, C3,DE, UC
Emergency response facility (transitional use)	R1, R2, R3, RP, and MHS
Fraternity house	DE and UC
Fuel storage facility	I2
Funeral home	AR, R1, R2, R3, RP, and MHS
Gas station	C2, NC, SC, I1, and I2
Gas station/convenience stores (as a primary or accessory use)	DE
Golf course	AR, R1, R2, R3, RP, and MHS
Greenhouse (retail)	C2, NC, and SC
Group residential facility (large) (1)	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, I1, I2, and I3
Heliport	R1, R2, R3, RP, and MHS
Home business(2)	AR, R1, R2, R3, RP, MHS, C1, C2, C3, C4, DC, DE, and UC
Home enterprise(2)	AR
Home workshop (2)	AR
Homeless/emergency shelter (accessory to a religious institution)	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE,
Illuminated recreation field (if adjacent to residential district)	BTI, I1, I2, and I3
Instruction/training education (transitional use)	R1, R2, R3, RP, and MHS
Junk yard	I2
Live-work unit (transitional use)	R1, R2, R3, RP, and MHS
Manufactured home, Type II (see § 157.503(D)(3)(e) for additional standards)	R1, R2, R3, RP , MHS, C1, C2, NC, SC, C3, C4, DE, UC
Medical office (transitional use)	R1, R2, R3, RP, and MHS
Metal and plastic extrusion and molding	I1
Metal cutting facility	I1
Metal fabricating facility	I1
Metal processing facility	I1
Model home (for an extension of time or expansion of scope)	AR, DC, DE, MHS, R1, R2, R3, and RP
Model unit (for an extension of time or expansion of scope)	DC, DE
Motor vehicle storage yard	I2

TABLE OF SPECIAL USES[747]

Special Use	District(s) Where Allowed
Museum	R1, R2, R3, RP, and MHS
Nature preserve (that includes a structure or parking area	AR, R1, R2, R3, RP, MHS , DE, and UC
Neighborhood facility	AR, R1, R2, R3, RP, and MHS
Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, BTI, I1, I2, and I3
Open use of land (not otherwise permitted)	I3
Outdoor use (in conjunction with a permitted primary building)	C2
Parking structures (public or private)	DE
Pawn shop	DC and DE
Personal service (transitional use)	R1, R2, R3, RP, and MHS
Plant nursery (retail)	C2, NC, and SC
Processing facility (including but not limited to animals, animal products, lumber, timber, raw materials processing)	I2
Professional office/business service (transitional use)	R1, R2, R3, RP, and MHS
Reception, meeting, or recreation hall; clubhouse	AR
Recreation facility or use (not otherwise permitted)[(1)]	A1, A3, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, and UC
Religious institution or school illuminated athletic field(s)	UC, C1, C2, DC, DE, NC, MHS, R1, R2, R3, RP, and SC
Residential facility for a court-ordered re-entry program	AR, R1, R2, R3, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, I1, I2, and I3
Residential facility for homeless individuals	AR, R1, R2, R3, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, I1, I2, and I3
Retail (limited)	C1
Riding stable, non-residential (on a lot with no residential building; the stable shall be located on a tract of at least five acres)	AR
Salvage yard	I2
Sheet metal fabrication and/or processing	I1
Shooting range (indoor)	C2, NC, and SC
Shooting range (outdoor)	C4
Sign (temporary subdivision direction)	AR
Single family dwelling (attached)	DE, UC
Single family dwelling (detached)	UC
Solar panel (ground mounted)	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, BTI, I1, I2, and I3
Solid waste transfer station	I2

TABLE OF SPECIAL USES[747]	
Special Use	**District(s) Where Allowed**
Sorority house	DE, UC
Studio (transitional use)	R1, R2, R3, RP, and MHS
Subdivision amenity	UC
Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision	R1, R2, R3, RP, and MHS
Tattoo establishment	C1
Tree service	C3 and C4
Two family dwelling (to allow conforming status for existing nonconforming dwellings)	AR, MHS, and R1
Utility facility, private (not otherwise permitted or exempt	AR, UC, C1, C2, C3, C4, DC, DE, NC, R1, R3, RP, and SC
Utility facility, private (not otherwise permitted)	MHS and R2
Veterinary clinic	C1
Wind energy conversion system (micro)	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, BTI, I1, I2, and I3
Wind energy conversion system (standard)	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, I1, I2, and I3
Notes: (1) Please see the individual zoning districts for possible additional use standards (2) Please see the § 157.503(D)(3) for additional use standards	

(2) Criteria for Approval of Special Use[748]

In reviewing an application for any special use, the Board may consider the location and size of the use; the nature and intensity of the operations involved in or conducted in connection with it; and its site layout, including access provisions and parking requirements, and may approve a Special Use if the Board determines that:

(a) The proposed use will not be unduly detrimental to the use, value, pattern of development, or growth of the surrounding area;

(b) The location, size, intensity, site design, and operation of the proposed use will be compatible with the immediate area;

(c) Adequate storm drainage, water, sanitary disposal, other utility, and transportation infrastructure either currently exists or will be provided to serve the proposed use; and

(d) If the application is for one of the following listed uses, in addition to the criteria above, the Board shall also determine that the proposed use will not be injurious to the public health, safety, or welfare of the community:[749]

[748] Criteria significantly revised to avoid the vague "public convenience and welfare" criteria and require findings on more specific criteria related to impacts on the surrounding area, consistent with the Barriers Report recommendation for more objective approval criteria..
[749] Revised since Phase 3 drafts to reflect minor wording changes in use titles.

(i) Airstrip/heliport (corporate/multiple owner use)

(ii) Arena

(iii) Asphalt plant

(iv) Building material demolition disposal site

(v) Concrete plant

(vi) Recreation facility or use

(vii) Sanitary landfill

(viii) Shooting range (indoor or outdoor archery, skeet, trap, or other range)

(ix) Solid waste transfer station

(x) Stadium/racetrack

(xi) Utility facility, private

(3) Additional Special Use Standards and Provisions[750]

The following standards shall apply as applicable to applications for the noted Special Use approvals.

(a) Commercial communication tower

(i) A special use shall not be required for the location of additional cabinets or shelters for an existing tower or co-location of antennas in any district on an existing building or structure. Antennae shall be permitted to extend up to 20 feet above the existing building or structure. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(ii) In addition to meeting the requirements set forth in §157.503(D)(2) the Board shall also find the following as a part of its approval:

[A] The proposed communication tower is necessary to serve either new providers of service, or documented service gaps in the immediate area; and

[B] The applicant is unable to locate or co-locate on an existing structure.

(iii) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

[A] The tower structure shall not exceed 150 feet in height for a new service provider, and 80 feet in height for towers intended to fill in service gaps for an existing provider;

[B] The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the tower to the applicable lot lines.

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[750] This section is new since the Phase 2 drafts, for alignment with the Allen County code.

TOWER SETBACK REQUIREMENTS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(b) Home business

(i) The Board may limit the number of outside employees who work at the home;

(ii) No outside display, storage, work, or other exterior indication of the home business shall be permitted, except for a sign of up to four (4) square feet;

(iii) No vehicle with a load capacity greater than one-ton shall be permitted to be parked outside as part of a home business; and

(iv) Food-related uses shall also require Fort Wayne-Allen County Department of Health approval.

(c) Home enterprise

(i) The Board may limit the number of employees;

(ii) The area used for outside storage for the home enterprise shall be: limited to the size of the building used for the workshop, up to 4,000 square feet; permitted up to eight (8) feet in height; and adequately screened; the Board may further limit the outside storage area;

(iii) Adequate on-site parking shall be provided for employee and client/customer parking; and

(iv) Home enterprises shall only be considered for properties previously approved for a home workshop or a different home enterprise.

(d) Home workshop

(i) The Board may limit the number of employees;

(ii) The area used for outside storage for the home workshop shall be limited to the area of the workshop, and shall be adequately screened; the Board may further limit the outside storage;

(iii) Except for vehicles or equipment, outside storage shall be limited to eight (8) feet in height; and

(iv) Adequate on-site parking shall be provided for employee and client/customer parking.

(e) Manufactured home, type II

In addition to meeting the requirements set forth in §157.503(D)(2) the Board shall determine that the home is:

(i) Compatible with the existing housing pattern in the immediate area with regard to setbacks, placement, and orientation on the lot; entry location; roof pitch; and foundation type and construction; and

(ii) Constructed of roofing and siding materials compatible with the immediate area.

(f) Sanitary landfill

(i) The minimum size of a sanitary landfill facility shall be seventy (70) acres.

(ii) Minimum required depth of any front, rear or side yard shall be one-hundred (100) feet, and no portion of the filling operation shall be conducted in that area. Paved roadways may be located within the front, rear or side yards.

(iii) No part of a sanitary landfill property shall be located less than six (6) miles from a public airport.

(iv) The entire landfill operation shall be enclosed with a wall, fence or other approved barrier at least five (5) feet in height; facilities for after-hours acceptance of refuse need not be within the area enclosed by the wall, fence, or barrier

(v) A Board-approved site screening area at least thirty (30) feet in width shall be provided and maintained between the exterior boundaries or property lines of the project and the fencing set forth in subsection b(4) above. Site screening can include planting and earth berming or mounding.

(g) Solid waste transfer station

Any waste receptacles stored outside shall be stored on a paved surface.

(E) Variances from Development Standards[751]

The Board of Zoning Appeals may approve variances from the development standards of this ordinance, pursuant to IC 36-7-4-918.5, if the Board makes a written determination that:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(3) The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

(F) Use Variances[752]

The Board of Zoning Appeals may approve variances of use pursuant to IC 36-7-4-918.4 if the Board makes a written determination that:

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[751] From current §157.404(C)(4), reworded for clarity; need for written determination and ability to approve with conditions have been clarified.
[752] From current §157.404(C)(3); reworded for clarity; need for written determination and ability to approve with conditions have been clarified.

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(3) The need for the variance arises from some condition peculiar to the property involved;

(4) The strict application of the terms of this ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

(5) The approval does not interfere substantially with the Comprehensive Plan or any other plan duly adopted by the Fort Wayne Common Council.

(G) Zoning Map Amendments[753]

(1) Purpose

The following procedures, requirements, and standards are established to allow for proper Commission review and consideration of zoning map amendment application, in conformance with objectives and strategies of the Comprehensive Plan, and to comply with the provision of IC 36-7-4-600 series (Zoning Ordinance).

(2) Procedure

(a) Pre-application Discussion

Prior to the submission of an application to amend the zoning map, the applicant is encouraged to meet with the DPS staff to discuss the proposal. The purpose of this discussion is to:

(i) Acquaint the applicant with the requirements and procedures of the rezoning process; and

(ii) Advise the applicant of potential issues relative to the request, and how to proceed with the request.

(b) Applicant Initiation and Submission Requirements[754]

(i) Per I.C. 36-7-4-602(c)(1)(B), an applicant may initiate an application to amend the zoning map . The applicant for a zoning map amendment shall submit an application form and supporting information as established by the Commission's rules.. DPS staff shall only place an application on the Commission's next available public hearing agenda after all submittal requirements have been received. A determination made by the DPS staff with regard to the completeness of information required for an application may be appealed to the Commission in accordance with the Commission's rules.

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[753] From current §157.201(H); text revised for clarity. Provisions on written commitments are now through a cross-reference to 3-5-3-1(e) rather than being repeated here.

[754] New section to remove all references to application/submission requirements from the code (these will be in an administrative document). Since Phase 3 drafts, language added to make it clear how map amendments can be initiated, based on State law.

(ii) The Commission may also initiate an application to amend the zoning map, in accordance with IC 36-7-4-602(c), and the Commission's rules.

(iii) The Fort Wayne Common Council may also initiate a proposal application to amend the zoning map, in accordance with IC 36-7-4-602(c) and the Commission's rules., and direct the Commission and DPS staff to prepare it.

(c) Commission Review and Recommendation

(i) Public Hearing

All proposed zoning map amendment requests shall be reviewed by the Commission at a scheduled public hearing. The Commission shall establish hearing procedures by rule.

(ii) Recommendation of Commission

After a public hearing on the request has been held, the Commission may make a recommendation on the proposed zoning map amendment at its next scheduled business meeting. The Commission may make a favorable recommendation, an unfavorable recommendation, or no recommendation on the request. The Commission shall enter written findings setting forth the reasons for its action. The Commission may defer action on a proposed zoning map amendment, if it needs additional information or additional time for consideration of the request. If the Commission permits or requires a commitment in conjunction with its review of a proposed zoning map amendment, as set forth in §157.503(A)(5), the Commission may defer action on the request until the commitment has been executed. Any action by the Commission shall be taken in accordance with IC 36-7-4-605 and the Commission's rules. In considering a request application for a zoning map amendment, the Commission and Common Council shall pay reasonable regard to:[755]

[A] The comprehensive plan;

[B] Current conditions and the character of current structures and uses in each district;

[C] The most desirable use for which the land in each district is adapted;

[D] The conservation of property values throughout the jurisdiction; and

[E] Responsible development and growth.

(iii) Notice of Recommendation

Notice of the Commission's recommendation on a proposed zoning map amendment shall be provided as established in the Commission's rules.

(iv) Certification of Recommendation

The Commission's recommendation shall be certified to the Common Council, in accordance with IC 36-7-4-605 and IC 36-7-4-608.

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[755] Criteria from IC 36-7-4-613 are now listed instead of cross-referenced.

(d) Common Council Consideration of Commission Recommendation

The Common Council shall consider and take action on the Commission's recommendation in accordance with its rules and procedures, and in conformance with IC 36-7-4-608.

(e) Veto by Mayor

Any proposed zoning map amendment shall be subject to veto by the Mayor as set forth in IC 36-7-4-609 and City Code.

(H) Zoning Text Amendments[756]

(1) Purpose[757]

The following procedures are established to allow for proper Commission review and consideration of ordinance text amendments, in conformance with objectives and strategies of the Comprehensive Plan, and to comply with the provisions of IC 36-7-4-600 series (Zoning Ordinance).

(2) Procedure

The Commission shall establish by rule procedures for the preparation, processing, review, and action on any proposal to amend or partially repeal the text of the ordinance, including notice and hearing, pursuant to IC 36-7-4-606 and IC 36-7-4-607.

[756] New section. Material adapted from current A.C.C. 3-4-9 (Text Amendments) to reflect current practice and revised to create a structure parallel to that for map amendments above. Details of applications and submittal materials have been deleted and will be found in an administrative document. Details of review procedure have been deleted.
[757] Reworded for clarity.

§ 157.504 NONCONFORMING SITUATIONS[758]

(A) Purpose[759]

The purpose of this §157.504 is to set forth criteria, standards, and procedures for establishing, continuing, altering, or discontinuing legal nonconforming uses, structures, lots and situations. This section is intended to provide for the continued use of legal nonconforming structures, uses, lots and situations, along with reasonable maintenance and repairs.

(B) Nonconforming Lots[760]

Any lot established by legally recorded plat or deed as of March 1, 1955[761] that does not meet the minimum size or dimension requirements of this ordinance, or that subsequently becomes nonconforming as a result of an amendment to this ordinance, may still be used for any use or structure permitted in the zoning district in which the lot is located, but any buildings or structures constructed on such a lot shall comply with all applicable requirements for that building or structure.

(C) Nonconforming Uses

(1) Continuation

Except as otherwise provided in this §157.504, a use that did not meet the use requirements herein as of March 2, 1998 [762], or that subsequently becomes nonconforming as a result of an amendment to this ordinance, may be continued.

(2) Expansion of Use

(a) A structure used for a nonconforming use shall not be added to or enlarged in any manner unless the use and the structure, including the addition or enlargement, is brought into conformance with the permitted use and setback requirements of the district in which it is located, with the following exceptions:

(i) A single family, two family, or attached single family residential structure, located in a zoning district that does not permit single family uses, may be added to or enlarged, provided the addition conforms to all applicable residential setback requirements.

(ii) Uses located in the DC, DE, and UC districts that have become legal nonconforming due to reclassification or amendment to this ordinance may be added to or enlarged on (a) the property shown on the Allen County Assessor's Office property record card for the property at the time of the rezoning or amendment that created the nonconforming situation or (b) the development site where the building and improvements are located

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[758] From current §157.312 (Nonconforming Situations); text revised for clarity and section reorganized for parallel structure with Allen County Code. These materials have been revised to address Barriers Report recommendations for greater clarity in how non-conforming uses, structures, lots, and site features are handled.
[759] Reference to "amortizing" was deleted as inaccurate. Text stating a goal to phase out nonconformities over time was deleted.
[760] From current §157.312(D)(5).
[761] Date of the original adoption of the city zoning code was changed to "effective date" after the Phase 3 drafts.
[762] Revised from January 1, 1974.

at the time of the rezoning or amendment that created the nonconforming situation, provided the addition conforms to all other applicable provisions of this ordinance.[763]

(b) However, an agricultural operation that existed legally under the requirements of the Allen County Zoning Ordinance and then was annexed into the City of Fort Wayne shall be permitted on any part of the original lot, tract or development site, provided the intensity of the agricultural operation is not increased.

(D) Nonconforming Buildings or Structures[764]

(1) Continuation

(a) A nonconforming building or structure that legally existed as of March 2, 1998,[765] or that subsequently becomes nonconforming as a result of an amendment to this ordinance, shall be permitted to continue.

(b) A detached residential accessory building that becomes nonconforming due to the demolition or other removal of the primary residential building shall be permitted to continue. However, the failure to construct a new primary residential building on the same lot, tract, or development site within twelve (12) months of the removal of the primary building shall be construed as intent to abandon the accessory building or structure. Enforcement proceedings as provided in this ordinance may be initiated after the expiration of the twelve (12) month period.

(2) Additions, Enlargement, or of Buildings or Structures[766]

(a) A building or structure that does not conform to the height limitation of the zoning district in which it is located may be added to or enlarged, provided the addition or enlargement conforms to the height limitation.

(b) A primary residential building that conforms to the permitted use requirements of this ordinance but is nonconforming with regard to front or rear setback requirements may be added to or enlarged, provided that the nonconforming front or rear yard dimension is not decreased.

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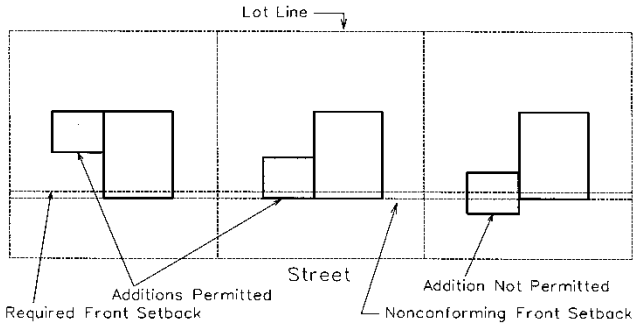
[763] As recommended in the Barriers Report, the flexibility currently offered to expand non-conforming uses on the same property in the CM5A, B, and C districts has been expanded to all CM, SC, and IN districts.
[764] Title revised to clarify that these provisions apply to both buildings and structures, and text revised to clarify when the regulations apply to buildings and when to structures. Materials on nonconforming manufactured home parks has been moved from "other situations" into this section, since it is the layout of the structures on the site that is nonconforming.
[765] Revised from January 1, 1974.
[766] Title reference to moving buildings was deleted as inaccurate and unnecessary.



Permitted Additions to Nonconforming Primary Residential Structures

(c) A primary nonresidential building not located in a DC, DE, or UC district that conforms to the permitted use requirements of this ordinance but is nonconforming with regard to front or rear setback requirements may be added to or enlarged on a one time basis of up to 50% of the square footage of the existing structure, provided that the nonconforming front or rear yard dimension is not decreased.

(d) In the DC, DE, and UC districts, primary building may be added to or enlarged provided the addition does not violate any minimum front, side or rear yard setback requirement.

(e) A detached residential accessory building that conforms to the permitted use requirements of this ordinance but is nonconforming with regard to side or rear setback requirements may be rebuilt on the existing foundation, added to, or enlarged, provided that the existing nonconforming setback is not less than 1.5 feet and the building is not located in a platted utility easement.

(f) In a C2 district that existed on the effective date of this ordinance, buildings existing on the effective date of this ordinance that exceed the square footage limitation for new development permitted in that districts and buildings located on lots that contain multiple buildings on the effective date of this ordinance, shall be permitted to be expanded or reconstructed, provided the expansion or reconstruction conforms to the applicable setback, height and open space provisions in this ordinance.

(g) If a lot in a C2 district that existed on the effective date of this ordinance did not contain multiple buildings as of that date, but had adequate space to accommodate multiple buildings as of that date, then the construction of multiple buildings on that lot shall be permitted, provided that all buildings conform to the applicable setback, height, and open space provisions in this ordinance.

(3) Maintenance

A nonconforming building or structure that legally existed as of March 2, 1998[767] or that becomes nonconforming as a result of an amendment to this ordinance, may be maintained and repaired, except as otherwise provided in this section.

(E) Other Nonconforming Situations

(1) Site Features[768]

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[767] Revised from January 1, 1974.
[768] New sub-section added for organizational purposes and contents reordered.

(a) Fences

Fences that are nonconforming with regard to location on the lot may be maintained and repaired as necessary. Such a fence may also be replaced, provided the location and type of fence remains the same and the height is not increased. However, in the event of a fence containing barbed wire, razor wire or other harmful material, the replacement of that part of the fence shall only be permitted in accordance with the applicable current requirements of the zoning district where the fence is located. Any person proposing to replace such a nonconforming fence shall submit adequate documentation as part of the application for the Improvement Location Permit for the fence verifying the current location, height and fencing material to DPS staff. The replacement fence shall conform to all other applicable provisions of this ordinance. This exclusion shall not apply to a proposal to replace any existing fence located within a required front yard.

(b) Parking Areas[769]

Parking areas that do not conform to the development, landscaping, and/or screening and buffering standards of §157.404 (Development Design Standards and Requirements) or 157.408 (Screening and Buffering), may continue to be used. Any proposed expansion of such a parking area shall be required to conform to the applicable development standards in the area of that expansion. The resurfacing, restriping, or similar maintenance of existing parking area shall not be considered an addition or expansion.

(c) Parking for Religious Institutions

Religious Institutions determined to be nonconforming with regard to required number of parking spaces may be added to or enlarged without meeting the current parking space requirement if there is no increase in the size of the sanctuary, multipurpose room, or other primary assembly area.

(d) Signs

Nonconforming signs shall be governed by the provisions of §157.409(F)(10).

(2) Reversion of Use

(a) A building originally designed for single or two family use and converted to a higher intensity residential or non-residential use may be reverted to a single family or two family use if acceptable evidence can be provided to the DPS staff showing that the building was originally built for or was historically used for single family or two family use. Evidence that could be determined to be acceptable includes but is not limited to the following:

(i) Original building designs or permits;

(ii) Sanborn Fire Insurance Maps;

(iii) City directories; and

(iv) Tax or assessment records.

(b) A Certificate of Compliance application is required for consideration of a building reversion. Buildings reverted under this §157.504(E)(5) shall be considered to be a conforming use.

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[769] Requirement that if expansion is 50% or more then entire parking lot must be brought into conformance was removed.

(3) Acquisition of Property for Public Purposes[770]

(a) If a government or quasi-governmental entity acquires property for public purposes, and the result of that acquisition is to reduce lot area, lot width, property setbacks below the minimums required by this ordinance in the district where the property is located, or otherwise results in development on the property not complying with the requirements of this ordinance, and that deviation from the requirements of this ordinance did not exist before the acquisition of property for public purposes, then the deviation from the requirements of this ordinance created by acquisition of property for public purposes shall not be considered a non-conformity, and the applicant's rights with regard to the remaining property shall be the same as if a portion of the property had not been acquired for public purposes.

(F) Discontinuation and Damage[771]

(1) Discontinuation of Use

(a) Any nonconforming use that has been discontinued for a period of twelve (12) consecutive months as determined by the Zonng Administrator shall be deemed abandoned and shall not be permitted to be reestablished. Any subsequent use of the lot shall only conform to the use provisions of this ordinance.[772]In a case where a detached residential accessory building becomes a nonconforming building and use due to the demolition or other removal of the primary residential building on the same lot the passage of twelve (12) months after the removal of the primary building without the construction of a new primary residential building shall be deemed as intent to abandon the accessory building and use. Enforcement proceedings as provided in this ordinance may be initiated after the expiration of the twelve (12) month period.

(2) Restoration of Damaged Building or Structure[773]

(a) A damaged nonconforming building or structure may be reconstructed or restored if the cost of restoration or reconstruction is no more than double the total value of the nonconforming structure. A damaged nonconforming structure that costs more than double the total value of the nonconforming structure shall only be repaired or rebuilt in conformance with the provisions of this ordinance. However, a nonconforming detached single family residential structure located in a district which does not allow new single family detached residential structures shall be permitted to be rebuilt if damaged, provided it meets the other applicable standards of this ordinance. An undamaged nonconforming building or structure may be reconstructed if the reconstruction does not result in the removal or demolition of any exterior wall (unless such removal or demolition will result in that exterior wall meeting the requirements of the ordinance), and the reconstruction is no more than double the total value of the nonconforming building or structure.

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[770] New provision. Since Phase 3 drafts, title revised from "eminent domain" and text broadened to include consensual sales and transfers of land for public purposes.
[771] Material re-titled to avoid the term "amortization", which is not accurate, and to extent provisions on damage to structures (not just buildings). Wording revised for clarity.
[772] Reworded to align with county ordinance.
[773] Revised to match Allen County standard that allows reconstruction unless the cost would be double (not one times) the value of the structure. Wording revised for clarity.

(b) For purposes of this subsection, the "value of the nonconforming structure" shall be presumptively determined by the property owner's most current property record card that is maintained by the applicable agency responsible for assessing the property for real estate taxes. The property owner may attempt to prove the value of nonconforming structure by providing the Zoning Administrator with an appraisal that is completed and signed by an appraiser licensed by the State of Indiana and performed in accordance with the Uniform Standards for Professional Appraisal Practice (USPAP). The Zoning Administrator shall determine the value of the original nonconforming structure, which determination may be appealed to the Board in accordance with the Board's procedures.

(3) No Expansion of Damaged Building or Structure[774]

Any damaged nonconforming structure shall be reconstructed or restored within the boundaries of the footprint of the original nonconforming structure, and the original nonconforming structure shall not be expanded or enlarged. Any nonconforming structure that is restored or reconstructed at more than double the total value of the structure, or that is expanded outside of the footprint of the original nonconforming structure, shall result in the structure losing its nonconforming status and shall be required to meet the requirements of this ordinance.

(G) Documentation[775]

An applicant or owner claiming the existence of a nonconforming building, structure, use, lot, or site feature shall bear the burden of supplying the Zoning Administrator with adequate documentation verifying that the structure is a nonconforming structure or use.

[774] New section to reflect current practice.
[775] Revised to apply to lots and site features as well.

§ 157.505 ENFORCEMENT[776]

(A) Purpose

The purpose of this section is to:

(1) Provide for the enforcement of the provisions of this ordinance; and

(2) Establish standards, procedures, and requirements for violations and penalties.

(B) Enforcement Officials[777]

(C) The Plan Commission, Board of Zoning Appeals, Executive Director, Zoning Administrator, any zoning enforcement officers designated by the Zoning Administrator, and DPS staff are designated and empowered to enforce the provisions and requirements of this ordinance. The enforcement shall be carried out as set forth in this section, the City Code, and by rule in accordance with the provisions of this ordinance and IC 36-7-4. Conformance

All departments, officials, and employees with the authority to issue permits or licenses within the planning jurisdiction of the City shall do so only in conformance with the applicable provisions of this ordinance. Any permit or license issued in conflict with the provisions of this ordinance shall be null and void.[778]

(D) Violations[779]

Each of the following shall be a violation of this ordinance and a common nuisance:

(1) The erection, raising, conversion, construction, enlargement, moving or maintenance of any building or structure, or the use of any land or lot, or building or structure that is contrary to any of the provisions of this ordinance, including but not limited to:

(a) Constructing a building or structure without a required Improvement Location Permit;

(b) Constructing a building or structure not in conformance with an issued Improvement Location Permit;

(c) Occupying a structure without a Certificate of Compliance; or

(d) Operating a use in a zoning district where that use is not permitted.

(2) Any person, whether as principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, acts

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[776] From current §157.501-504 (Enforcement) with text revised for clarity and sections reorganized for consistency with Allen County code. Wording revised for clarity and to clarify that provisions applicable to buildings also apply to other types of structures.

[777] From current §157.502 integrated, subdivision §155.087, and Allen County code 4-6-2-1(A); text revised for clarity. Since Phase 2 drafts, revised to clarify that references to Zoning Administrator include duly authorized agents of the Administrator. Removed references to Zoning Administrator duties since these are included under Zoning Bodies.

[778] Reworded for clarity and to align with Allen County code.

[779] New section. Material from current Allen County code 3-5-4-1, coordinated with §4-6-2-2(A) and (B). Revised since Phase 2 drafts to reorder materials and add examples (a) through (d).

contrary to any provision of this ordinance or is liable under this ordinance for maintaining a common nuisance, shall be in violation of this ordinance.

(3) In addition, the failure or refusal of a developer, or the developer's successor in interest, to completely install improvements in a Development Plan or subdivision in accordance with this ordinance and/or with the developer's plans and specifications for the Development Plan or subdivision, as approved by the Commission. The owner or occupier of such building, structure, land, or lot, or as to uncompleted improvements in a Development Plan or Subdivision, the developer or the developer's successor in interest, shall be in violation of this ordinance and held liable for maintaining a common nuisance.

(E) Enforcement Powers

Those officials and entities of the City of Fort Wayne listed in §157.505(B) may enforce violations of this ordinance by any or all of the following means, and the use of one means shall not prevent those officials and entities from using a different or additional means to enforce the same violation unless prohibited by State law.[780]

(1) Stop Work Order

(a) The Zoning Administrator, Executive Director, the Board of Zoning Appeals, the Plan Commission, or these entities acting in conjunction with the Fort Wayne Department of Neighborhood Code Enforcement, shall have the authority to issue an order for work on any building, structure, land, lot, or development site to be stopped, if the work is in violation of this ordinance, and to call upon the police power of the City to give effect to that order.

(b) A decision by the Zoning Administrator or Executive Director to issue a stop work order shall be appealed to the Board of Zoning Appeals, in accordance with the provisions of this ordinance and the Board's rules, or with respect to a Development Plan or Subdivision, to the Commission. .

(c) The stop work order shall remain in effect during the pending of any appeal, and after an appeal unless it is removed, rescinded, modified or revoked by the Board, or if applicable, the Commission.

(d) A violation of a stop work order shall be considered a violation of this ordinance

(2) Non-Issuance of Improvement Location Permits[781]

(a) No Improvement Location Permits shall be issued for any improvements on lots or parcels of land that have been subdivided contrary to the provisions of this ordinance; provided however, that the Zoning Administrator or Executive Director shall be allowed to issue such permits to the applicant upon the expiration of the time period specified in §157.303(C)(2)(b)that would have applied had there been compliance with this ordinance.

(b) In the event a dwelling within a Commission approved recorded Subdivision Plat is occupied prior to issuance of a Certificate of Compliance for that dwelling, and the Certificate of Compliance cannot be issued because all improvements serving

[780] New introductory language to reflect current practice.
[781] New section with material from current A.C.C. 4-6-2-2(F) and (G), revised for clarity.

the dwelling (as shown on the approved subdivision plans) have not been properly installed or become operational, the Zoning Administrator shall not issue any additional Improvement Location Permits for lots within that recorded plat until all previously approved subdivision improvements serving that dwelling are properly installed and operational and that dwelling otherwise qualifies for the issuance of a Certificate of Compliance.

(3) Non-Issuance of Development Plan Project Permits[782]

In the event a building or structure within an approved Development Plan is occupied prior to issuance of a Certificate of Compliance for that structure, and the Certificate of Compliance cannot be issued because all improvements serving that building or structure (as shown on the approved Development Plan) had have not been properly installed or become operational, the Zoning Administrator shall not issue any additional Improvement Location Permits for buildings or structures within that Development Plan until all previously approved improvements serving that building or structure are properly installed and operational and that building or structure otherwise qualifies for the issuance of a Certificate of Compliance.

(4) Breach of Performance Bond

The Executive Director, for and on behalf of the Fort Wayne Common Council, may enforce through legal proceedings or otherwise any breach of a performance bond executed by a developer and posted with the Commission pursuant to the provisions of 157.302(F)(7).

(5) Violation Prosecution

Any person that commits a violation of this ordinance, may be prosecuted as set forth in this ordinance in Allen County Circuit Court or Superior Court, for such a violation. Each calendar day of the existence of a violation may be considered as a separate offense.

(6) Injunctive Relief

(a) Abatement

The individual(s) or entities designated in this ordinance may bring action for an injunction in the Allen County Circuit or Superior Court to enjoin any person from violating, or continuing to violate any provision of this ordinance and to cause that violation to be resolved, removed, or abated. Any other aggrieved property owner or entity may also initiate such action.

(b) Removal of Structure

The individual(s) or entities designated in this ordinance may bring action in the Allen County Circuit or Superior Court for a mandatory injunction directing a person who violates, or is liable for a violation of, this ordinance, to remove such building, structure, sign, fence, and/or addition/enlargement to an existing building or structure erected, used, or maintained in violation of this ordinance.[783]

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[782] New section containing material adapted from current A.C.C. 3-5-4-3.
[783] Minor wording changes to align with Allen County code.

(7) Payment of Costs[784]

Any person found to be in violation of this ordinance in an enforcement action shall be responsible to pay all applicable attorney fees, court costs, and other costs and expenses incurred by the Commission, Executive Director, Zoning Administrator, Board of Zoning Appeals or property owner who is damaged in connection with the prosecution of the enforcement action.

(8) Private Covenants, Restrictions or Agreements[785]

Private covenants, restrictions and/or agreements, whether by deed or other instrument, that impose any requirements or standards different than those established under this ordinance, shall not be construed to modify the provisions of this ordinance or impose any enforcement obligations upon the individual(s) or entities designated in this ordinance unless the Commission or the Board had accepted in writing, and had specifically accepted the responsibility for enforcement of, the terms and conditions of any such private covenant, restriction or agreement.

(9) Provision Affect or Modification[786]

The provisions of this ordinance shall not be construed to be affected or modified by any State of Indiana statute or any other City of Fort Wayne ordinance, whether such statute or ordinance may be more restrictive or lenient, or impose any different standards than are required under this ordinance, unless this ordinance or the law specifically provide to the contrary.

(10) Remedies Cumulative[787]

The remedies provided for in this section are cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

(11) Penalty[788]

A person who commits a violation of this ordinance shall be fined an amount of not more than two thousand five hundred dollars ($2,500.00) for each offense.

(F) Administrative Proceedings for Violations[789]

(1) This ordinance restricts and prohibits actions that are harmful to land, air, and water and the City wants to provide an administrative proceeding to assess fines for violations of this ordinance.

(2) The City hereby establishes an administrative proceeding for the hearing of certain violations of this ordinance pursuant to I.C. §§ 36-7-4-1013(a) and 36-1-6-9.

(3) Pursuant to I.C. § 36-1-6-9(b), the City hereby appoints the City hearing officer appointed by the City pursuant to I.C. § 36-7-9 and §152.13 of the City Code**,** as

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[784] Wording revisions to align with Allen County code.
[785] New section to reflect current practice.
[786] New section to reflect current practice.
[787] New section to reflect current practice.
[788] New section to reflect current practice.
[789] New section since Phase 2 drafts to simplify enforcement of the Ordinance.

amended from time to time, as the administrative body to hear and enforce violations of this ordinance.

(4) In an administrative proceeding to enforce this ordinance:

(a) An attorney designated by the Commission shall, upon receipt of information, make an investigation of the alleged zoning violation, and if the acts elicited by the investigation are sufficient to establish a reasonable belief that a violation of this ordinance has occurred on the part of the party being investigated, the attorney designated by the Commission may file a complaint against the person and prosecute the alleged violation before the hearing officer designated in subsection (3) above. The complaint shall contain: (a) the date of the alleged violation, (b) the name of the responsible person, (c) the address of alleged violation, (d) the provision(s) of this ordinance allegedly violated, (e) a brief statement supporting the alleged violation; and (f) the amount of the civil penalty sought under this ordinance. The complaint shall be served by U.S. mail and by certified mail, return receipt requested, on the owner of the real estate at the last address shown on the property record card maintained by the Allen County Assessor.

(b) The hearing officer appointed under subsection (3) above shall provide a notice of the hearing and conduct a hearing on the complaint and the alleged violation, and any alleged defenses thereto, in accordance with I.C.§ 36-7-9 and §152.13 of the City Code**,** as amended from time to time;

(c) At the administrative hearing, the alleged violation of this ordinance must be proven by a preponderance of the evidence with the Commission having the burden of proof;

(d) If the person is found to have violated this ordinance, the administrative body may impose a penalty against the person in accordance with a schedule of penalties adopted by the Plan Commission; [790]the amount not to exceed $2,500.00.

(5) A person who receives a penalty from the hearing officer under this §157.505(F) may appeal the order imposing the penalty to either the Allen Superior or Allen Circuit Court, alleging that the order was arbitrary, capricious, unreasonable or contrary to law. An appeal of an order imposing a penalty for violating this ordinance must be filed with either the Allen Superior or the Allen Circuit Court not more than sixty (60) days after the day on which the order is entered.

(6) If a person is found to have violated this ordinance and has been assessed a final, non-appealable civil penalty, and the civil penalty remains unpaid for thirty (30) days after the civil penalty has been become final and non-appealable, then no applications shall be accepted, nor shall any permit be issued, for that real estate until the all of the unpaid civil penalties have been paid in full.

(7) If a person is found to have violated this ordinance and has been assessed a final, non-appealable civil penalty, and the civil penalty remains unpaid for thirty (30) days after the civil penalty has been become final and non-appealable, the Zoning Administrator may

[790] Reference to schedule of penalties adopted by the Plan Commission is new since Phase 3 drafts.

record with the Allen County Recorder a notice of the unpaid civil penalty, which notice of civil penalty shall constitute a lien against the real estate.

(8) The administrative enforcement proceedings under this §157/505(F) shall be cumulative, and not exclusive, and shall be in addition to any other enforcement remedies provided by this ordinance or law.

(G) Right of Entry[791]

The Zoning Administrator may enter upon any premises with the approval of the property owner [792]at any reasonable time to make inspections of all buildings, structures, uses, or premises located with the jurisdiction of this ordinance to determine compliance with the provisions of this ordinance. All inspection shall be subject to the following standards and conditions:

(1) The Zoning Administrator shall furnish to the owner, tenant or occupant of the building, structure or premises sought to be inspected, sufficient identification and information to demonstrate that the person is a representative of the Commission and the purpose of the inspection.

(2) The Zoning Administrator may apply to any court of competent jurisdiction for legal process for the purpose of securing entry to any building, structure, or premises if the owner, tenant or occupant refuses to grant entry.

(H) Action to Bring Compliance; Expenses as a Lien against Property[793]

The Zoning Administrator shall be entitled to enforce the provisions of this ordinance under I.C. § 36-1-6-2, including but not limited to providing a notice of the violation, entering upon the property to take appropriate action to bring the property into compliance with this ordinance, assessing the expenses incurred in bringing the property into compliance, and filing and recording a lien against the property. The provisions of I.C. § 36-1-6-2, as amended, are incorporated herein by reference.

[791] New section since Phase 2 draft to clarify enforcement powers.
[792] "with the approval of the property owner" added since Phase 3 drafts.
[793] New section since Phase 2 draft to strengthen enforcement powers.

§ 157.506 DEFINITIONS[794]

For the purpose of this ordinance, the following rules of usage and definitions shall apply:[795]

(A) Rules of Usage[796]

(1) Words used in the present tense shall also include the future tense.

(2) The singular shall include the plural: and the plural shall include the singular.

(3) The word "shall" is mandatory; the words “may” or “should” are permissive.

(4) The word “used” or “occupied” as applied to any land or buildings shall be construed to include the words “intended, arranged or designed to be used or occupied.”

(B) Defined terms

The following terms shall have the following meaning, unless a contrary meaning is required by the context or specifically otherwise prescribed:

Accessory Building

A building detached from a primary building or structure and customarily used with, and clearly incidental and subordinate to, the primary building, structure, or use, and ordinarily located on the same lot with that primary building, structure, or use.[797]

Accessory Dwelling Unit (ADU)

An additional dwelling unit with separate cooking, sleeping, and sanitation (bathroom) facilities. An accessory dwelling unit is intended to be subordinate to a primary single family residential structure.

Accessory Living Quarters

Living quarters within an accessory building for the sole use of persons employed on the premises; such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling.

Accessory Structure, Nonresidential

A structure or combination of structures that:

(1) Are located on the same lot, tract, or development site as the primary nonresidential building or use;

(2) Are clearly incidental to and customarily found in connection with a primary building or use; and

(3) Are subordinate to and serving a primary building or use.

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[794] This chapter includes definitions consolidated from the Allen County and Fort Wayne codes, the two sets of sign regulations, floodplain regulations, subdivision regulations, and the airport overlay district, with changes as noted. All definitions for particular types of signs have been consolidated under “signs” for ease of use. In several cases, the titles the terms were reordered for consistency (for example, “arterial street” became “street, arterial,” so that other definitions related to arterial streets can appear nearby. Any terms no longer in use have been deleted. The terms were reordered for consistency (for example, “arterial street” became “street, arterial,” so that other definitions related to arterial streets can appear nearby.

[795] “unless the context clearly indicates or requires a different meaning” deleted since Phase 3 drafts.

[796] Section revised and expanded since Phase 3 drafts.

[797] New definition for undefined term in use table.

Accessory Structure, Residential

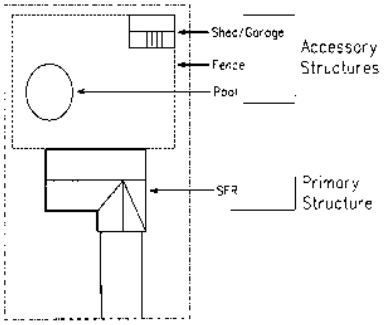
A structure or combination of structures that:

(1) Are located on the same lot, tract, or development site as the primary residential building;

(2) Are clearly incidental to and customarily found in connection with a primary building or use;

(3) Are subordinate to and serving a primary building or use; and

(4) Contribute to the comfort, convenience or necessity of the occupants in the primary building or use.



Accessory and Primary Structures

Accessory Use

A use that:

(1) Is located on the same lot, tract, or development site as the primary building or use;

(2) Is clearly incidental to and customarily found in connection with a primary building or use (including public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment);

(3) Is subordinate to and serves a primary building or use; and

(4) Contributes to the convenience or necessity of the occupants of the primary building or use.[798]

Access Ramp

A ramp or similar structure that provides wheelchair or similar access to a building.

Addition

Any construction that involves an extension or increase in the square footage, size, or height of an existing building or structure.

Adjacent

Two or more lots whose external boundaries adjoin one another. For the purposes of the landscape and yard requirement standards, lots shall also be considered adjacent if separated by a strip of land of less than 25 feet in width, or a street right-of-way of 60 feet or less. For the purposes of the floodplain regulations, adjacent shall mean "adjoining".[799]

Administrative Manual

That manual adopted or amended from time to time by the Plan Commission containing information on the use or interpretation of this ordinance or uses, development, or procedures described in this ordinance, which may include but shall not be limited to application forms and requirements and formats for submission; flowcharts of

[798] Definitions from Fort Wayne and Allen County consolidated and simplified for clarity.
[799] New definition since Phase 3 drafts.

procedures; public notice requirements; interpretations of terms; and rules of procedure for the Plan Commission or Board of Zoning Appeals.[800]

Adult Bookstore, Adult Novelty Store, Adult Video Store

A commercial establishment that has thirty-five percent (35%) or more items of its stock-in-trade, including inventory and/or displayed items, of any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas; or

(2) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use.

Adult Cabaret

A nightclub, bar, restaurant, theater or other establishment, whether or not alcoholic beverages are served, which displays:

(1) Persons who appear nude or semi-nude,

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities, or

(3) Films, motion pictures, video cassettes, compact disc, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

Adult Care Center

A building, other than the operator's primary place of residence, where adults receive day care from a provider:

(1) While unattended by a relative, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

It is intended that adult care centers be classified as commercial uses, and be located in commercial zoning districts.

Adult Care Home

A residential structure, which is the primary residence of the adult care provider, in which more than six (6) but less than twelve (12) adults not related to the provider receive day care for regular compensation.

Adult Entertainment Establishment

Any establishment having as a substantial or significant portion of its business the offering of adult entertainment including adult book stores, adult motion picture theaters, adult mini motion picture theaters, adult

[800] New definition since Phase 3 drafts.

massage parlors, adult theaters, adult artist-body painting studios, adult modeling studios, adult sexual encounter centers, adult cabaret, adult nightclubs and all other similar adult entertainment uses.[801]

Adult Motion Picture Theater

An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.[802]

Adult Night Club

A nightclub devoted to adult entertainment, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical area, or, a nightclub that features topless dancers, go-go dancers, strippers, male or female impersonators, or entertainers for observation by patrons.[803]

Agricultural Building or Structure

A building or structure designed primarily for agricultural purposes in which the majority of the structure is used for the storage or propagation of crops and/or materials used in the preparation of crops, or for storage, protection and maintenance of farm machinery and equipment, or for the housing or preparation of domestic farm animals for marketing, all primarily for the use of the owner or occupant.

Agricultural Livestock Operation, High Intensity

An agricultural operation where the number of animals exceeds the maximum permitted as part of a "low intensity livestock operation". New high intensity agricultural livestock operations shall not be permitted within the City of Fort Wayne.

Agricultural Livestock Operation, Low Intensity

An agricultural operation of at least two (2) acres in size where domestic farm animals, excluding swine, are kept for use as part of an agricultural use or raised for sale. The maximum numbers of animals that shall be permitted per acre as part of the operation shall be as follows:

NUMBER AND TYPE OF LIVESTOCK PERMITTED PER ACRE	
Type of livestock	**Number permitted (per acre)**
Beef or dairy cow	2
Veal calf	6
Sheep	10
Horse	2
Turkeys, ducks, geese, and or laying hens	100
Limits for livestock not specifically noted shall be determined by the Zoning Administrator	

[801] Revised definition to encompass uses listed in revised use table.
[802] New definition since Phase 3 drafts.
[803] New definition since Phase 3 drafts.

Agricultural Livestock Operation

An agricultural operation where domestic farm animals are kept for use as part of a farm or raised for sale.

Agricultural Use[804]

The primary or accessory use of a tract of land for normal agricultural activities, including farming and dairy farming, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, and domestic farm animal husbandry, and the necessary accessory building, structures, and uses for packing, treating, or storing the produce.

Agronomic Crop Production

The use of a tract of land of at least ten (10) acres in size for field crop production, excluding horticultural/specialty crops.

[804] Consolidated definitions for Agricultural Land Use and agricultural use.

Airport Overlay District Definitions

- **Aircraft Overflight Area**

  An area that includes any distinctly visible and/or audible passage of an aircraft in flight, not necessarily directly overhead.[805]

- **Airport**

  The Fort Wayne International Airport and Smith Filed Airport, including areas used or intended to be used for the landing and take-off of aircraft, and any appurtenant airport facility buildings, structures, or uses.

- **Airport Authority**

  The Fort Wayne-Allen County Airport Authority. The Airport Authority is the governing body of Fort Wayne International Airport and Smith Field Airport.[806]

- **Airport Master Plan**

  The Fort Wayne International Airport and Smith Field Master Plan Reports.[807]

- **Airport Operational Area (AOA)**

  Any area of an airport used or intended to be used for landing, take-off, or surface maneuvering of aircraft. An AOA includes paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its runways, taxiways, or apron.[808]

- **Airport Overlay Areas**[809]

  An area intended to place additional land use conditions on land impacted by the airport while retaining the existing underlying zone. The FAR Part 77 Surfaces and Runway Protections Zones (RPZs) comprise six Airport Overlay Areas. The six specific areas create a comprehensive area focused on maintaining compatible land use around each airport.

  AREA 1 (Inner Safety Area): Area 1 includes the area of all airport runways, the area off the end of each runway (including the RPZs) and the area within each runway approach, out to the inner edge of the Conical Surface.

  AREA 2 (Horizontal Area): Area 2 encompasses the area outside of Area 1, out to the inner edge of the Conical Surface. This area closely reflects the Horizontal Surface of the Part 77 Surfaces.

  AREA 3 (Outer Conical Area): Area 3 includes the area between the outer edge of Area 2 and the three (3) mile buffer (for FWA) or the two (2) mile buffer (for SMD), not including the Outer Approach Area (Area 4). This area includes the Conical Surface of the Part 77 Surfaces.

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[805] Definition from airport overlay district.
[806] Definition from airport overlay district.
[807] Definition from airport overlay district.
[808] Definition from airport overlay district.
[809] Definition from airport overlay district.

AREA 4 (Outer Approach Area): Area 4 encompasses the areas within each airport approach, out to the six (6) mile buffer (for FWA) or to the two (2) mile buffer (for SMD). It begins at the inner edge of the conical surface and extends to the respective buffers.

AREA 5 (Extended Conical Area): Area 5 applies only to the FWA AOD. This area includes the area between the three (3) mile buffer and the six (6) mile buffer, outside of the Outer Approach Area (Area 4).

AREA 6 (Extended Approach Area): Area 6 applies only to the FWA AOD. This area includes the outermost area of the runway approaches, out to the ten (10) mile buffer, beginning at the six (6) mile buffer, based upon the FAR Part 77 Approach Surfaces.

- **Airport Overlay Districts (AOD)**

  A zoning district that establishes use and development standards in areas of special concern in the vicinity of Fort Wayne International Airport and Smith Field Airport., in addition to the standards applicable to the underlying zoning districts in those areas.[810]

- **Airspace**

  The space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.[811]

- **Approach Slopes (FAR Part 77)**[812]

  The ratios of horizontal to vertical distance that indicate the degree of inclination of the approach surface. The various ratios include:

  (1) 20:1 – for all utility and visual runways extended from the primary surface a distance of five thousand (5,000) feet.

  (2) 34:1 – for all non-precision instrument runways extended from the primary surface for a distance of ten thousand (10,000) feet.

  (3) 50:1/40:1 – for all precision instrument runways extended from the primary surface for a distance of 10,000 feet at an approach slope of fifty to one (50:1) and an additional forty thousand (40,000) feet beyond this at a forty to one (40:1) approach slope.

- **Approach Surface**

  A surface that is longitudinally centered on the extended runway centerline and extends outward and upward from the end of the primary surface at the same slope as the approach zone height limitation slope set forth in this ordinance. In plan view, the perimeters of the approach surface and approach zone coincide.[813]

[810] Definition from airport overlay district.
[811] Definition from airport overlay district.
[812] Definition from airport overlay district.
[813] Definition from airport overlay district.

- **Buffer (Airport)**

  An area within the Airport Overlay Areas where aircraft are commonly operating for purposes of landing and take-off. The buffers establish land use restrictions to enhance the protection of people and property on the ground while considering the influences of the surrounding community.[814]

- **FAA FAR Part 77 Surfaces**

  Areas established in relation to the airport and to each runway consistent with FAR Part 77; any object which extends above these surfaces is an obstruction.

  (1) Approach surface

  A surface longitudinally centered on the extended runway centerline which extends outward and upward from the end of the runway primary surface. The approach slope of a runway is a ratio of 20:1, 34:1, or 50:1, depending on the approach type. The length of the approach surface depends on the approach type an d varies from five thousand (5,000) to fifty thousand (50,000) feet.

  (2) Conical surface

  A surface which extends upward and outward from the periphery of the horizontal surface at a slope of twenty feet horizontally for every one foot vertically (20:1) for a horizontal distance of four thousand (4,000) feet.

  (3) Horizontal surface

  A plane located one hundred fifty (150) feet above the established airport elevation, encompassing an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.

  (4) Transitional surface

  A surface which extends outward and upward at right angles to the runway centerline and at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of one hundred fifty (150) feet above the established airport elevation.

- **Federal Aviation Administration (FAA)**

  A federal agency charged to regulate air commerce in order to promote its safety and development; encourage and develop civil aviation, air traffic control, air navigation; and promote the development of national system of airports.[815]

- **Federal Aviation Regulations (FAR)**[816]

  Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

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[814] Definition from airport overlay district.
[815] Definition from airport overlay district.
[816] Definition from airport overlay district.

(1) FAR Part 36 (FAA FAR Sec. 36.1); establishes noise standards for the civil aviation fleet.

(2) FAR Part 91 (FAA FAR Sec. 91.1); pertains to air traffic and general operating rules, including operating noise limits.

(3) FAR Part 150 (FAA FAR Sec. 150.1); pertains to airport noise compatibility planning.

(4) FAR Part 161 (FAA FAR Sec. 161.1); pertains to notice and approval of airport noise and access restrictions.

(5) FAR Part 77 (FAA FAR Sec. 77.1) Objects Affecting Navigable Airspace; Part 77(a) establishes standards to determine obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearing on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

- **Growth**

  For purposes of regulating potential hazards to aviation, any object of natural growth that includes trees, shrubs, or foliage. [817]

- **Hazard Lighting and Marking**

  Installation of appropriate lighting fixtures, painted markings, or other devices to objects or structures that constitute hazards to air navigation.[818]

- **Imaginary Surface (FAA FAR Part 77.25)**[819]

  Areas established in relation to the airport and to each runway consistent with FAR Part 77; any object that extends above these surfaces is an obstruction.

  (1) Approach surface

  A surface longitudinally centered on the extended runway centerline that extends outward and upward from the end of the runway primary surface. The approach slope of a runway is a ratio of 20:1, 34:1, or 50:1, depending on the approach type. The length of the approach surface depends on the approach type and varies from five thousand (5,000) to fifty thousand (50,000) feet.

  (2) Conical surface

  A surface that extends upward and outward from the periphery of the horizontal surface at a slope of twenty feet horizontally for every one foot vertically (20:1) for a horizontal distance of four thousand (4,000) feet.

  (3) Horizontal surface

  A plane located one hundred fifty (150) feet above the established airport elevation, encompassing an area from the transitional surface to the conical surface. The perimeter is

[817] Definition from airport overlay district.
[818] Definition from airport overlay district.
[819] Definition from airport overlay district.

constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.

(4) Transitional surface

A surface that extends outward and upward at right angles to the runway centerline and at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of one hundred fifty (150) feet above the established airport elevation.

- **Instrument Landing Procedure**

  A series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing or to a point from which visual landing may be made.[820]

- **Mitigation**

  The avoidance, elimination, minimization, reduction, or compensation for the adverse effects of a proposed action.[821]

- **Navigation Aids (NAVAID)**

  Any facility used by an aircraft for guiding or controlling flight in the air or the landing or take-off of an aircraft.[822]

- **Navigable Airspace**

  The airspace above minimum altitude for safe flight that includes the airspace needed to ensure safety in the landing or taking off of aircraft.[823]

- **Noise Impact**

  A condition that exists when the noise levels that occur in an area exceed a level identified as appropriate for the activities in that area.[824]

- **Object**

  For purposes of airport safety regulations, this includes buildings, equipment, natural growth, NAVAIDS, people, structures, terrain, vehicles, and parked aircraft.[825]

- **Objects of Natural Growth**

  A deciduous or evergreen bush, shrub, tree, or other woody plant. This definition shall not include farm crops that are cut at least once a year.[826]

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[820] Definition from airport overlay district.
[821] Definition from airport overlay district.
[822] Definition from airport overlay district.
[823] Definition from airport overlay district.
[824] Definition from airport overlay district.
[825] Definition from airport overlay district.

- **Obstruction**

  For purposes of airport safety regulations, any buildings, structure, object of natural growth, or other object, including a mobile object, that exceeds a limiting height specific to its geographic location relative to the airport or runway.[827]

- **Primary Surface**

  A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of the runway. The width of the primary surface is set forth in FAR Part 77. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.[828]

- **Runway**

  A portion of the airport having a surface specifically developed and maintained for the landing and taking off of aircraft.[829]

- **Runway Protection Zone (RPZ)**

  An area off the runway end designed to enhance the protection of people and property on the ground.[830]

- **Utility Runway**

  A runway constructed for and intended to be used by propeller driven aircraft of up to twelve thousand five hundred (12,500) pounds gross weight.[831]

- **Wildlife Attractants**

  For purposes of airport safety regulations, any land use practice, man-made or natural geographic feature, or man-made structure that may attract or sustain hazardous wildlife within the landing or departure airspace or the air operations area of an airport. Attractants shall include, but not be limited to agricultural or aquaculture activities, architectural features, landscape elements, ponds or similar water features, surface mining, waste disposal sites, wastewater treatment facilities, or wetlands.[832]

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[826] Definition from airport overlay district.
[827] Definition from airport overlay district.
[828] Definition from airport overlay district.
[829] Definition from airport overlay district.
[830] Definition from airport overlay district.
[831] Definition from airport overlay district.
[832] Definition from airport overlay district.

Airstrip (Private)

An area of land used for the landing and take-off of personal private aircraft, excluding receiving cargo, picking up passengers, or fueling other aircraft.[833]

Airport

A place where aircraft may take off or land, discharge or receive cargo and/or passengers, take on fuel, and be stored.[834]

Alley

Right-of-way other than a street, road, crosswalk or easement designed for the special accommodation of the property it reaches, usually as an access to the rear or side of lots. [835]

Amortization

The process of discontinuing nonconforming land uses, as determined by the zoning map of the Allen County Plan Commission's jurisdictional area, dated February 2, 1960.

Animal Hospital

A medical facility for the treatment of animals that is operated by, or in which the treatment is under the direct supervision of a veterinarian licensed to practice by the State of Indiana. A veterinarian clinic shall also be considered an animal hospital.[836]

Animal Keeping (Small)

The keeping of small animals, excluding domestic pets (such as cats and dogs) and larger livestock animals (such as cows, chickens, goats, horses, and pigs), for either 4H or other school/educational purposes, on a single family residential property.

Animal Kennel

A person engaged in the keeping of more than one unaltered dog, one unaltered cat, more than five dogs, more than seven cats, or the business of boarding, obedience training, or grooming.

Animal Service

Animal service uses related to the provision of medical services and treatment to animals, including animal hospitals, obedience training, and the boarding of animals related to the provision of these services.

Antique Shop

An establishment that sells items such as furniture, household wares and decorations, and related articles, that have value and significance because of factors such as age, rarity, historical significance, design, and sentiment.[837]

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[833] Definition revised for clarity since Phase 3 drafts.
[834] New definition. Definition revised for clarity since Phase 3 drafts.
[835] Consolidated definitions from Fort Wayne and Allen County.
[836] Definition revised for clarity since Phase 3 drafts.
[837] New definition.

Apparel and Accessory Store

A retail store selling clothing and related items.[838]

Apparel Fabrication and Processing

An establishment used for the production and processing of clothing and other apparel. [839]

Arbor

A shade structure often covered with shrubs, vines, or branches.[840]

Arcade

A place, premises, establishment or room set aside in a retail or commercial establishment in which coin operated amusement devices are located. For purposes of this definition, an amusement device is a machine or device operated by means of the insertion of a coin, token or similar object, for the purpose of amusement or skill and for the playing of which a fee is charged. The term does not include vending machines that do not incorporate gaming or amusement features, nor coin operated mechanical music devices, nor mechanical motion picture devices.[841]

Arena

An enclosed building with tiers of seats around a sports field, playing court or public exhibition area. Arenas are typically used for sports, entertainment and other public gathering purposes, such as athletic events, concerts, conferences, conventions, and circuses.[842]

Arterial, Principal[843]

A street designated as such on the Northeastern Indiana Regional Coordinating Council Functional Classification System map for Allen County, Indiana, as may be amended or updated.

Art Gallery

A room or series of rooms where works of art are exhibited for display or sale.[844]

Artist Studio

The workshop of an artist, writer, craftsperson, or photographer, but not a place where members of the public come to receive instruction on a more than incidental basis or to sit for photographic portraits. The sales of art produced on the premises shall be permitted as an accessory use.[845]

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[838] New definition.
[839] New definition.
[840] New definition
[841] New definition.
[842] New definition. Revised since Phase 3 drafts to remove "(indoor) from heading.
[843] New definition.
[844] New definition.
[845] New definition. Accessory sales of art added since Phase 3 drafts.

Assembly Facility

A facility used for the general assembly or sub-assemblies of materials including agricultural implements, aircraft, appliances, automobiles, bicycles, boats, electronics, manufactured homes, motorcycles, motors, recreational vehicles. [846]

Assembly of Finished Products Facility

An enclosed building where goods and products are assembled from preassembled or manufactured parts, including computers, electronics, and other similar products.[847]

Assisted Living Facility

A residential establishment or institution other than a hospital or nursing home that provides living accommodations and medical services primarily to individuals 55 years of age or over and to individuals who, due to illness or disability, require care similar to that provided to persons who are 55 years or over. Services like transportation, housekeeping, dietary supervision, and recreational activities may also be offered.

Athletic Fields

A permanent facility for the staging of amateur and/or professional sporting events, consisting of an open-air or enclosed fields, arena/stadiums, and appropriate support facilities.[848]

Auction Hall

A place where objects of art, furniture, and other goods, not including automobiles, motorcycles, watercraft, and trucks are offered for sale to persons who bid on the object in competition with each other.[849]

Automatic Teller Machine

A mechanized device that provides banking and other electronic services (e.g., postage stamp sales), which is operated by a financial institution for the convenience of its customers.[850]

Automobile

A self-propelled, free moving vehicle with wheels, usually used to transport not more than 10 passengers and licensed by the appropriate state agency as a passenger vehicle (i.e. cars, pickup trucks, and motorcycles).

Automobile Body Shop

A facility that provides painting and collision repair services, including body frame straightening or alignment, disassembly or replacement of damaged body parts, complete body painting services, welding services, complete wreck rebuilding, and frame repair services.

Automobile Detailing/Trim Shop

A facility that provides automotive-related services such as applying paint protectors, interior and exterior cleaning and polishing as well as installation of aftermarket accessories such as auto alarms, headlight covers,

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[846] New definition.
[847] New definition.
[848] New definition.
[849] New definition.
[850] New definition since Phase 3 drafts.

spoilers, sunroofs, tinting, and similar items. However, engine degreasing or similar automobile cleaning services shall not be included under this definition.[851]

Automobile Maintenance (Quick Service)

A facility that provides engine tune-ups and servicing of brakes, air conditioning, exhaust systems, oil change or lubrication; wheel alignment or balancing; or similar servicing, rebuilding or repairs that normally do not require significant disassembly of automobiles, or overnight storage of automobiles.

Automobile Maintenance or Repair

For purposes of parking requirements, this category includes automobile repair, detail, body shop, or similar use, automobile maintenance (quick service), and car wash (full and self service).[852]

Automobile Rental

Rental of automobiles and light trucks (1 ton or less) only, including storage, detailing, and incidental maintenance, but excluding maintenance requiring pneumatic lifts.[853]

Automobile Repair

A facility that provides general automobile service, rebuilding or reconstruction of engines, transmissions, or other systems, steam cleaning, or minor painting or detailing services for automobiles or trailers. This definition shall not include any services provided under the definition of "automobile body shop".

Automobile Sales

A lot, tract, or development site where the primary use is the sale of two or more new or used automobiles. All automobiles offered for sale shall be mechanically operable and shall not be wrecked or similarly damaged. The business shall be operated out of a primary structure.

Automobile Service, General

Any repair, rebuilding or maintenance of automobiles that does not meet the definition of Automobile Service, Limited.

Automobile Service, Limited

Oil change and lubrication; incidental body and fender work; minor painting; upholstering service; and the replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission, or differential.

Automobile Washing Facility (Full or Self Service)

A facility for the cleaning of automobiles or other motor vehicles, operated by the public or by on-site employees, whether or not in conjunction with other goods or services provided to customers.[854]

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[851] Use renamed to match use table.
[852] New definition to align with parking use categories.
[853] New definition.
[854] New definition.

Bakery (Wholesale)

A facility that makes bakery and related items on-site and may sell these items directly at the facility provided that any sales are secondary and incidental to the primary operation of producing baked goods.[855]

Bank

An establishment that provides retail banking, lending, and financial services to individuals and businesses. Accessory uses may include automatic teller machines and drive through facilities.[856] (See also "Credit Union" and "Savings and Loan Association")

Bar

An eating/drinking establishment providing or dispensing by the drink for on-site consumption fermented malt beverages, and/or malt, special malt, vinous or spirituous liquors, and in which the sale of food products such as sandwiches and light snacks is secondary. A bar/tavern may include the provision of live entertainment and/or dancing; however, a bar/tavern shall not include any adult business use.[857]

Barber Shop

A personal services establishment where hair is cut and other similar services are provided.[858]

Beauty Shop

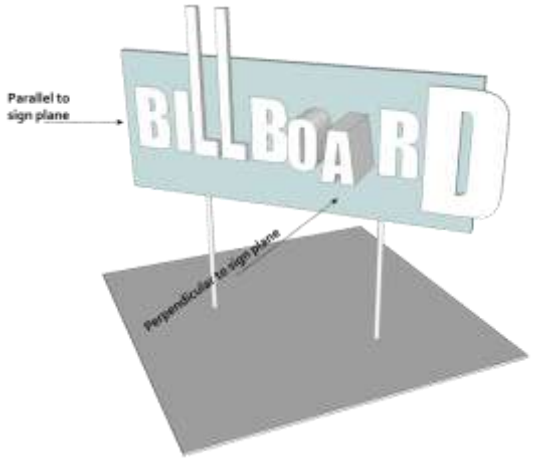
An establishment in which cosmetology is offered or practiced on a regular basis for compensation, and may include barber shops, salons, and spas.[859]

Bed And Breakfast

A house or portion of a house where short-term (up to 10 days) lodging rooms with or without meals are provided for compensation. The operator(s) shall live on the premises.

Billboard Embellishment

A portion of a billboard that extends vertically or horizontally from the surface area of the billboard (generally a rectangle) when viewed perpendicular to the sign plane, or that extends outward from the surface of the sign when viewed parallel to the sign plane, to accommodate extensions of words or images on the primary sign area.[860]



Block

Property abutting on one side of a street and lying between the two (2) nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way or

[855] New definition.
[856] New definition. Revised since Phase 3 drafts to exclude check-cashing facilities and include drive-through uses.
[857] New definition.
[858] New definition.
[859] New definition.
[860] New definition since phase 3 drafts.

waterway or the end of a dead end street.

Board[861]

The Fort Wayne Board of Zoning Appeals. This term shall not include the Allen County Board of Commissioners or the Fort Wayne Board of Public Works.

Boarding House

A residential building or portion of a residential building containing rooms for accommodating, for compensation, three or more persons who are not transients. Lodging may or may not include the serving of meals to the lodgers. Facilities for lodgers may include sleeping or living quarters or rooms, with or without individual bathrooms, but shall not include individual cooking facilities.

Board of Public Works

The Fort Wayne Board of Public Works.

Bond

Any form of security, including cash, surety bond, or financial instrument of credit, as approved by the appropriate agency, for the purpose of guaranteeing that improvements will be made in a subdivision according to the standards as adopted by the Plan Commission.

Bottling Facility

A facility where soft drinks, juice, water, milk, alcoholic drinks, or other liquids are placed in bottles or cans for shipment. This use may include the combination of liquids or syrups to produce new liquids for placement in bottles or cans, the shipping and receiving of cans and bottles related to the operation, and incidental sales of bottled or canned liquids to the public, but shall not include the fabrication of bottles or cans.[862]

Brewery

A facility that brews ales, beers, meads and/or similar beverages on site.

Brewery (Micro)

An establishment where ale, beer, and/or similar beverages are brewed, typically in conjunction with a bar, tavern or restaurant use. Annual production shall be limited to up to 15,000 barrels per year.

Building

A structure having a roof supported by walls designed, built or used for the enclosure, shelter or protection of persons, animals, chattels or property.

Building, Detached

A building having no structural connection with another building.

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[861] New definition.
[862] New definition.

Building, Nonconforming

An existing building that was constructed in conformance with the applicable ordinance at the time of construction that fails to comply with the regulations set forth in this ordinance applicable to the district in which the building is located.

Building, Nonresidential

Any building that does not meet the definition of a residential building. A mixed use development that contains both residential and non-residential uses is a nonresidential building. Any institutional use, other than a small group residential facility, in which patients or clients reside in the facility for purposes of receiving treatment or assistance in living activities, such as a hospital, university, religious institution, or school, is a nonresidential use.[863]

Building, Primary

A building constituting the primary use of a lot.[864]

Building, Residential

A building in which all of the uses are to accommodate household living (e.g. single family, two family, or multifamily dwelling units) or a small group residential facility.[865]

Building, Semi-Detached

A main building having one wall in common with an adjacent main building.

Building Bay

A division within a building façade, created by vertical elements such as columns, pilasters, or other architectural elements/changes in planes.

Building Department

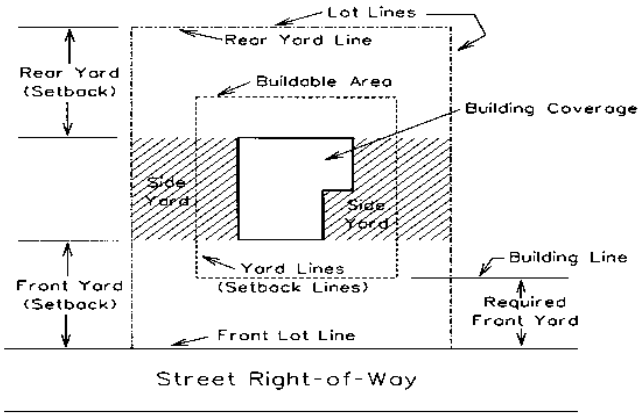
The Allen County Building Department.

Building Height

The vertical distance measured from the ground level immediately adjacent to the primary front entrance to the highest point of the roof or structure.

Building Line, Front

A line with a fixed location parallel to the front street line as determined by this ordinance or recorded deed restrictions, beyond which the foundation wall and/or any enclosed porch, vestibule, or other portion of a building shall not project. A front building line may



[863] New definition since Phase 3 drafts.
[864] A similar definition of main building was deleted to avoid confusion.
[865] New definitions since Phase 3 drafts.

be established by a subdivision plat or by the zoning ordinance.[866]

Building Material Disposal Site

A site used for the purpose of disposing of building materials, including concrete, from a demolition site or sites without creating nuisances or hazards to public health, safety, or welfare.[867]

Building Setbacks

Lines that are substantially parallel to the lot lines which define the minimum distances that buildings must be located from the lot lines. (See required yards in the Zoning District Standards.)[868]

Building Surface

The total surface of a building face to which a sign is attached.[869]

Business School

A secondary school for business instruction which is not publicly owned, or not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; excluding school conducted as a commercial enterprise for teaching barber/beauty skills, dancing, industrial, music, or technical skills.[870]

Business, Technology, and Industrial Park (BTI)

A development on a tract of land that contains a number of separate businesses, offices, technology and/or industrial uses, plus accessory and supporting uses, and common open space designed, planned, and constructed on an integrated and coordinated basis.[871]

Camp Ground

Any area or tract of land used or rented for occupancy by campers using tents and/or recreational vehicles for periods not to exceed two weeks.

Campus Housing

For purposes of parking requirements, this category includes campus housing (off site), dormitories and fraternity/sorority houses, and other housing with the primary purpose of housing students of an educational or institutional campus. [872]

Candelas

A unit of luminous intensity, which is the amount of luminous flux (total luminous power emitted from a source and expressed as lumens) per unit solid angle in a given direction.[873]

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[866] Last sentence has been added since Phase 3 drafts.
[867] Definition revised to align with use table. Revised since Phase 3 drafts to apply to any site used for this purpose.
[868] New definition.
[869] Definition from sign code.
[870] New definition since Phase 3 drafts.
[871] New definition.
[872] New definition to align with parking use categories.
[873] Definition from sign code.

Canopy

A fixed cover that projects from a wall of a building over a window or entrance to provide weather protection and architectural spatial definition. A canopy typically projects at a 90-degree (perpendicular) or similar angle. Freestanding canopies may also be permitted. A canopy may be completely supported by the building, or completely or partially supported by columns, poles, posts, or similar supports.

Carport

A structure or part of a structure used for the parking, storage, or keeping of vehicles by the owner or tenant of the premises as an accessory use to a permitted residential use, and that does not include a wall between the ground and the roof on at least one side that is not a vehicle entryway.[874]

Cemetery (Private and Public)

Land used for burial of the dead and dedicated for related purposes, including crematories, offices and maintenance facilities, mausoleums and mortuaries when operated in conjunction with and within the boundaries of a cemetery.[875]

Certificate of Compliance

A certificate issued by the Zoning Administrator stating that the occupancy and use of land or a building or structure referred to in the certificate complies with the provisions of this ordinance and any conditions of the Improvement Location Permit (if applicable).

Certificate of Occupancy

A certificate issued by the Allen County Building Department or successor agency, allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with the applicable codes and ordinances. [876]

Certificate of Use

A certificate issued by the Zoning Administrator certifying that a proposed or existing use is a permitted use in the zoning district where the use is located.

Change of Use

Any use that is a substantial change from the previous use of a building, structure, or land.

Check Cashing

Any business that cashes checks, drafts, money orders, traveler's checks, or similar instruments, for a fee. This definition does not include: a bank, trust company, savings and loan association, credit union, loan office, or similar use; or a business that provides these services as an accessory use to a permitted primary use.[877]

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[874] New definition. Since Phase 3 limitation of "up to three vehicles" has been removed.
[875] Consolidated Allen County and Fort Wayne definitions.
[876] Consolidated Allen County and Fort Wayne definitions.
[877] Since Phase 3 drafts, definition revised to exclude loan offices.

Child Care

A service that provides for the care, health, safety, supervision and/or guidance of a child's social, emotional, and educational growth, on a regular basis, in a place other than the child's own home. The following uses shall not be considered as child care under the terms of this ordinance:

(1) A program for children operated by the department of education or a public or private school;

(2) A nonresidential program that provides child care for less than four (4) hours a day;

(3) A recreational program for children that operates for not more than ninety (90) days in a calendar year;

(4) A program whose primary purpose is to provide social, recreational, or religious activity for school age children such as scouting, boys club, girls club, sports or the arts; and

(5) Child care where the provider cares for fewer than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative.

Child Care Center

A building, other than the operator's primary place of residence, where children receive child care from a licensed child care provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.[878]

Child Care Home

A residential structure, which is the primary residence of the child care provider, in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a licensed child care provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For compensation; and

(3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

This term includes a Class I Child Care Home and a Class II Child Care Home, which are defined as follows:

(1) **Class I Child Care Home**. A child care home that serves up to twelve (12) children at any time. The children may be at the home on either a part–time or a full-time basis. The provider may employ an assistant as required by State law.

(2) **Class II Child Care Home**. A child care home that serves more than twelve (12) but not more than sixteen (16) children at any time. The children may be at the home on either a part-time or full-time basis. The provider may employ an assistant as required by State law.

[878] Since Phase 3 drafts, subsection 4 reading "The child care provider must hold a valid license from the State of Indiana. It is intended that child care centers be classified as commercial uses, and be located in commercial zoning districts. " has been removed.

Church (see "Religious Institution")

City

The City of Fort Wayne, Indiana.

City Planning Jurisdiction

The area within and/or adjacent to the corporate limits of the city, as shown on a map on file in the Department of Planning Services, or successor agency, over which the Fort Wayne City Plan Commission has authority.[879]

Class I Child Care Home (see "Child Care Home")

Class II Child Care Home (see "Child Care Home")

Clinic

A facility organized and operated for the primary purpose of providing health services for out-patient treatment and special study of human sick or injured by licensed physicians and their professional associates practicing medicine together and including laboratories and other related service facilities operated in connection with the clinic.[880]

Club (Private)

An association, whether incorporated or unincorporated, organized for a common purpose to pursue common goals, interests or activities, not including associations organized for a commercial or business purpose; a private club is characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.[881]

Clubhouse

A building that provides a meeting place for a club as a primary use.[882]

Coffee Shop

Any room, place, or building where the serving of coffee is the primary use and where tables and chairs are provided for the use of patrons .[883]

Commercial Communications Tower

A structure on which one or more antenna will be located that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, excluding those used exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private/residential communications.

Commission[884]

The Fort Wayne City Plan Commission.

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[879] Definition title changed from "jurisdiction" for clarity.
[880] Combined definition from AC and FW; Since Phase 3 drafts phrase "by three (3) or more" physicians has been deleted.
[881] Consolidates different definitions from AC and FW codes.
[882] New definition.
[883] New definition. Since Phase 3 drafts, requirement of tables for activities has been deleted.
[884] New definition.

Commitment

A written instrument, prepared, adopted, and recorded in conformance with I.C. 36-7-4-1015 and the provisions of this ordinance.

Common Area

Real property and/or improvements on property, including, but not limited to, private storm drains, streets, sidewalks, utilities, parks, lakes and/or screening walls; open space; trails and/or floodplain management areas. Common area is typically shown on the face of a subdivision plat and is owned in fee by an Owner's Association for the common use, enjoyment, and benefit of the members of the Association.[885]

Community Facility

Community Facility uses include buildings, structures, or facilities owned, operated, or occupied by a non-profit or governmental agency to provide a service to the public. Specifically includes botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use.

Community Garden

A common property for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family. If permitted in the zoning district in which it is located, a community garden may include accessory structures, along with water and other facilities. [886]

Comprehensive Plan

A plan for the physical development of the community, prepared and adopted by the Allen County Board of Commissioners and the Fort Wayne Common Council, pursuant to the 500 Series of State law, including any part of that plan separately adopted, any amendments to the plan separately adopted, and any other documents incorporated by reference. [887]

Concrete Plant

A facility that specializes in the mixing or other manufacturing related activities required for the production of concrete.[888]

Conditions

Any terms of approval placed upon an application by the decision-making body.[889]

Condominium

Real estate defined as a "condominium" under IC 32-25 (Condominiums).

Condominium Development

A project developed subject to and in accordance with IC 32-25 (Condominiums). This requires that undivided interests in the common areas and facilities be vested in the condominium unit owners.

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[885] New definition. Since Phase 3 drafts, references of leasing or easements for common area have been deleted.
[886] New definition. Since Phase 3 drafts, wording revised for clarity.
[887] Consolidated similar versions of this definition and removed overlapping definition of Master Plan from AC code. Since Phase 3 drafts, wording revised for clarity.
[888] New definition.
[889] Revised definition to clarify that this term applies to all types of development applications, not just subdivisions.

Condominium Unit

An enclosed space occupying all or part of a floor or floors in a structure, together with the undivided interest in the common elements appertaining to that unit.

Confined Feeding[890]

(1) The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:

(a) animals are confined, fed, and maintained for at least forty-five (45) days during any twelve (12) month period; and

(b) ground cover or vegetation is not sustained over at least fifty percent (50%) of the animal confinement area.

(2) The term does not include the following:

(a) A livestock market:

(i) where animals are assembled from at least two (2) sources to be publicly auctioned or privately sold on a commission basis; and

(ii) that is under state or federal supervision.

(b) A livestock sale barn or auction market where animals are kept for not more than ten (10) days.

(3) A confined feeding operation is not permitted by right or eligible for a special use under the provisions of this ordinance.

Confined Feeding Operation (CFO)[891]

(1) Any confined feeding of

(a) at least three hundred (300) cattle,

(b) at least six hundred (600) swine or sheep;

(c) at least thirty thousand (30,000) fowl; or

(d) at least five hundred (500) horses: or

(2) Any animal feeding operation electing to be subject to IC 13-18-10; or

(3) Any animal feeding operation that is causing a violation of

(a) water pollution control laws;

(b) any rules of the water pollution control board; or

(c) IC 13-18-10.

(4) A confined feeding operation is not permitted by right or eligible for a special use under the provisions of this ordinance.

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[890] New definition from Indiana Code 13-11-2-39.
[891] Revised definition from Indiana Code 13-11-2-40.

Construction Access Road

A temporary non-dedicated, unplatted right-of-way, other than a street, alley or easement, designed to provide sole ingress and egress for all development and construction equipment, as well as all laborers and material handlers, in connection with the improvement of a platted subdivision of land or a Development Plan, including but not limited to the construction of dwellings, buildings and other improvements, which right-of way is constructed and maintained by the developer and owner at either's sole expense or their cumulative expense and continuously in the absolute ownership and/or exclusive control of the developer and owner until such time as ninety percent (90%) of the record lots or parcels have dwellings completed for occupancy or other buildings located thereon, unless a prior release has been approved by the Plan Commission.

Contingent Uses

Uses that could be permitted in any zoning district as set forth in § 157.503(C), subject to specific standards and Board of Zoning Appeals approval.[892]

Convenience Store

A small retail establishment designed and stocked to sell primarily food, beverages, and other household supplies to customers. [893]

Convent

A structure used for the purpose of housing persons on a permanent basis who are not members of a family as defined in this ordinance and who constitute a religious community typically consisting of nuns, priests, monks, or other similar religious personnel. For the purpose of this definition the terms convent and monastery are interchangeable and shall have the same meaning. Assembly for worship services may be conducted in conjunction with the convent use but only for the residents of the convent. A convent is a permitted accessory use where incidental to a religious assembly use (church, synagogue, temple, and mosque).[894]

Convention Facility

A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and training facilities. Office, retail, accommodations, and other commercial uses commonly established in these facilities and related parking structures shall be allowed as accessory appurtenances.[895]

Conveyance (including the word "convey")

The transfer of title to land from one person to another by deed.

Corner Visibility Area[896]

The following areas, in which no fence, retaining wall, hedge, or other planting, building, or structure that would impede vision between a height of three (3) and eight (8) feet shall be located, except that this restriction shall not apply to buildings in the DC district:

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[892] New definition.
[893] New definition.
[894] New definition.
[895] New definition.
[896] Since Phase 3 drafts, wording revised for clarity.

(1) For a corner lot, the area bounded by the edges of intersecting roadways and a line intersecting those edge lines at points 40 feet distant from the intersection of the edge or roadway lines extended.

(2) For a lot at the intersection of an alley, the area bounded by the edge of the roadway and the edge of the intersecting alley and a line intersecting those edge lines at points 90 feet distant on the roadway and 15 feet distant on the alley from the intersection of those edge lines extended.

Corporate Campus

A building or buildings in close proximity to each other, either adjacent or connected with centralized amenities, parking, support, and other internal functions. The buildings are intended to have quality architectural and site design features.

Correctional Institution

A place of confinement, including places requiring overnight stays only, for persons who have broken the law, are awaiting trial, and/or have been convicted of criminal offenses.[897]

Correctional Services Facility

A facility providing services other than confinement, including overnight confinement, for persons who have broken the law, are awaiting trial, and/or have been convicted of criminal offenses.[898]

County

Allen County, Indiana.

Country Club

An establishment typically associated with a golf course that is intended as a place of social and recreational gatherings for members of a private club.

Credit Union

An establishment that provides retail banking, lending, and financial services to individuals and businesses. Accessory uses may include automatic teller machines and drive through facilities.[899]

Crematory

A facility containing furnaces for the reduction of dead bodies to ashes by fire.[900]

Customer Service Facility

A facility, other than a retail store, operated by a public or private utility, at which customers of the utility may make bill payments, obtain product or service information, or conduct similar business.[901]

Dance Hall

An enclosed structure used for dancing or similar social gatherings. Any use that falls under the definition of "adult cabaret" shall not be included under this definition.

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[897] Revised since Phase 3 drafts to clarify this applies to places for overnight stays only.
[898] Revised since Phase 3 drafts to clarify that places of confinement include places of overnight confinement.
[899] New definition since Phase 3 drafts.
[900] New definition.
[901] New definition.

Dance Studio

Any school of dancing or any place in which dancing of any type of style shall be taught.[902]

Dating Service

Any business that offers to provide or does provide an introduction between two persons for a period of companionship for which service a fee is charged, levied, or otherwise imposed.[903]

Day Care, Adult (see Day Care, Child)

Day Care, Child[904]

A service that provides for the care, health, safety, and supervision of an individual, not related to the provider, on a regular basis, in a residential structure other than the individual's own home, as an accessory use to a single family residence. The provision of day care shall be a permitted use in all residential zoning districts if the following conditions are met:

(1) The home shall be the primary residence of the day care provider; and

(2) Services shall be provided for fewer than six (6) adults or children not related to the provider; and

(3) Care is provided for less than 24 hours per day.

Deck

An unroofed platform, either freestanding or attached to a building, which is supported by pillars or posts.[905]

Department of Planning Services

The Department of Planning Services established jointly by, and providing planning and permitting services to, Allen County and the City of Fort Wayne, and any successor agency.[906]

Department Store

An establishment primarily engaged in general merchandise retail use with no one merchandise line predominating. Merchandise lines are normally arranged in separate departments, with or without central customer checkout facilities.

Department of Health

The Fort Wayne-Allen County Department of Health.

Design Review Committee

A committee of the Fort Wayne Plan Commission, established to review and make recommendations on Development Plans, or take action on certain other development proposals, in the Fort Wayne DC and DE zoning districts, as further set forth in the Commission's rules.

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[902] New definition.
[903] New definition.
[904] Since Phase 3 drafts, title revised and clarification that this is an accessory use to a single family home added.
[905] New definition.
[906] New definition.

Design Standards

A set of standards that are parameters for site and/or building design and development, adopted by the Fort Wayne Plan Commission in accordance with a development strategy or plan adopted by Fort Wayne Common Council. Design standards may include requirements and recommendations; required design standards shall also be adopted by Common Council as an amendment to this ordinance.

Developer

Any person that subdivides land or erects or alters buildings or improvements on land. [907]

Development

Any change or improvement to land brought about by human activity.[908]

Development Site

Land used or proposed to be used for development, consisting of either a single lot or multiple contiguous lots. The Zoning Administrator may also determine other property configurations to be a development site.[909]

Developmental Disability

A severe, chronic disability of an individual that:

(1) Is attributable to a mental or physical impairment, or a combination of mental and physical impairment (other than a sole diagnosis of mental illness);

(2) Is manifested before the individual is 22 years of age;

(3) Is likely to continue indefinitely;

(4) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and

(5) Results in substantial limitation in at least three of the following:

(a) self care;

(b) receptive and expressive language;

(c) learning;

(d) mobility;

(e) self-direction;

(f) capacity for independent living; and

(g) economic self-sufficiency.

Developmentally Disabled Individual

An individual who has a developmental disability.

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[907] Consolidates and revises various versions of this definition in the AC and FW codes.
[908] New definition since Phase 3 drafts.
[909] Since Phase 3 drafts, replaces current definition of development site with simpler definition to reflect current practice.

Distillery

A facility where distilling, typically of alcoholic liquors, is done.[910]

Distillery (Micro)

A small distillery established to produce beverage grade alcohol in relatively small quantities, such as a specialty single malt whiskey or bourbon, either as a stand alone facility or in conjunction with a brewery or winery.[911]

Distribution Facility

The intake of goods and merchandise, individually or in bulk, the short-term holding or storage of those goods or merchandise, and/or the breaking up into lots or parcels and subsequent shipment off-site of such goods and merchandise. Distribution may be provided to an entity with an identity of interest with the distribution facility or to businesses and individuals unrelated to the distributor. The term "Distribution Facility" shall also include a transshipment facility for the temporary holding, storage and shipment of goods or vehicles.

District

A part, zone, or geographic area within the planning jurisdiction of the City of Fort Wayne, within which certain zoning and/or development regulations apply. Also referred to as a "zoning district". [912]

Doctor Office

The private offices of physicians, dentists, or similar professionals, where persons are examined or treated on an outpatient basis only. Laboratory tests shall be permitted as an accessory use.

Domestic Farm Animal

Calves, cattle, emus, goats, horses, llamas, ostriches, poultry, sheep, and similar animals (pigeons shall not be considered to be domestic farm animals). [913]

Dormitory

A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery or other similar institutional use.

Double Frontage Lot

A lot having frontage on two separate parallel or approximately parallel dedicated streets. (Also known as a "through lot".)

Downtown Design Manual

A document (the Fort Wayne Downtown Design Manual), adopted by the Plan Commission, to be used in the review of Development Plans and other development proposals in the DC and DE zoning districts. If there is a conflict between the language in the Design Manual and the language in the Zoning ordinance, the ordinance language shall prevail.

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[910] New definition since Phase 3 drafts.
[911] New definition since Phase 3 drafts.
[912] Consolidated various versions of this definition in AC and FW codes.
[913] New definition since Phase 3 drafts.

Drive-Through Facility

Building or structure used to provide or dispense products or services, through an attendant, a window or an automated machine, to persons remaining in vehicles in a designated stacking aisle. A drive-through facility may be in combination with other uses, such as banks, credit unions, loan associations, automated teller machines (ATM's), dry cleaners, drug stores, pharmacies, restaurants or similar uses. A drive-through facility does not include a car wash, automobile maintenance facility (quick service), or gas station.

Driveway

An unobstructed paved or unpaved strip providing access to a vehicle parking space, loading space, or maneuvering facility. [914]

Dry Cleaning Store

An establishment where laundry or dry cleaning is dropped off by customers or picked up by customers but not including any on-site cleaning or dry cleaning activities.[915]

Dwelling

Any building that is wholly or partly used or intended to be used for a residence by human occupants, including but not limited to the use of living, sleeping, cooking, and eating.[916]

Dwelling, Multiple Family

A building or portion of a building used for occupancy by three (3) or more families living independently of each other. For purposes of this ordinance, a condominium structure containing three (3) or more individual dwelling units shall be defined as a multiple family dwelling unit. [917]

Dwelling, Single Family (Detached)

A residential building used for occupancy by one household, including Type I manufactured homes, which is not attached to any other dwelling unit through shared side or rear walls, floors or ceilings, or corner points. Temporary housing such as bed and breakfasts, boarding houses, hotels, motels, nursing homes, and recreational vehicles, shall not be regarded as single family dwellings.[**918**]

Dwelling, Single-Family (Attached)

A single residential building consisting of two single family dwellings on two individual lots, attached on a common lot line, intended for occupancy by one household per unit. Each dwelling unit may be attached to no more than one other dwelling unit.[919]

Dwelling, Townhouse

A single family dwelling unit with two (2) or more floors located on a separate lot or development site, with a private entrance and direct ground level access to the outdoors and a totally exposed front and rear wall to be

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[914] New definition
[915] New definition
[916] Since Phase 3 drafts, the following sentence was deleted: "For purposes of this ordinance only, temporary housing such as hotels, motels, lodging, recreational vehicles, boarding or tourist homes shall not be regarded as dwellings."
[917] Consolidated definitions of this term in the AC and FW codes. Second sentence added since Phase 3 drafts.
[918] Consolidated single family and one family definitions into one term.
[919] Consolidates definitions in AC and FW codes, and expands definition to cover intergenerational living.

used for access, light, and ventilation, and attached to one or more similar units. Townhouse dwellings are typically part of a structure whose dwelling units are attached in a linear arrangement with no other dwelling or use, or portion of another dwelling or use directly above or below the unit, and separated from adjoining unit(s) by a continuous wall.

Dwelling, Two Family

A detached residential structure, used for occupancy by two households living independently of each other, including but not limited to structures in which the two units are connected to allow assistance in daily living activities between the two households.[920]

Dwelling Unit, Residential

One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

Dwelling Unit, Efficiency

A dwelling unit consisting of not more than one habitable room together with a kitchen or kitchenette and sanitary facilities.

Dwelling, Zero Lot Line

A single family detached dwelling unit placed on the lot so that it is positioned along one or more lot lines.

Easement [921]

A recorded grant by a property owner to a third party, the general public, public utility or utilities, or a governmental or quasi-governmental entity permitting the use of land for a specifically stated purpose or purposes.

Easement, Roadway

A roadway, approved by the Commission over private property, that permits a specific and limited use of that thoroughfare to the grantee of the easement.

Easement, Utility and Service

A portion or strip of land that is part of a lot or parcel but that has been reserved for the specific purpose of utilities and related services.

Educational Institution

Public, parochial, or other post-secondary school, junior college, college or university, other than a business school; the use may also include recreational uses, living quarters, dining rooms, heating plants and other incidental facilities for students, teachers and employees.[922]

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[920] Consolidated several definitions of this term.
[921] Consolidated several definitions of this term.
[922] Since Phase 3 drafts, definition revised to include for profit institutions, broader types of post-secondary schools, and to remove restaurants from the list of accessory uses.

Emergency Response Facility

A building used for police, fire, and/or medical equipment and personnel.[923]

Emergency Shelter

See "Homeless Shelter"

Employment Agency

An agency that specializes in matching individuals' skill sets to particular jobs or finds jobs for unemployed individuals.[924]

Engine Repair

A facility used for the assembly or repair of small engines or motors.[925]

Engineer

(see "Professional Engineer")

Entertainment Facility

A facility that offers indoor or outdoor entertainment uses, including performing arts theaters, cinemas, concert venues, or circus/festivals, but does not include adult entertainment establishment uses.[926]

Equipment Rental, General

The rental of supplies and large equipment primarily for intended for use by construction, general, landscaping, or industrial contractors, including, including but not limited to hoists, lifts, forklifts, and commercial capacity generators and compressors, but not including car or truck rentals.[927]

Equipment Rental, Limited

The rental of supplies and equipment primarily intended for homeowner use and minor residential gardening and construction projects, but not including car or truck rentals. All maintenance of equipment shall be conducted within an enclosed building. This use type does not include the rental, storage, or maintenance of large construction or other commercial heavy equipment.[928]

Equipment Supply Facility

A facility that supplies equipment such as but not limited to air purification, electrical, electric wire & cable, fire protection, food service, HVAC, industrial, maintenance, mechanical, medical, power transmission, radio/communication, restaurant, telecommunication, trade show/exhibit, truck, water softening/purification, and welding equipment. [929]

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[923] New definition.
[924] New definition.
[925] New definition.
[926] New definition.
[927] New definition since Phase 3 drafts.
[928] New definition.
[929] New definition.

Exempt Division of Land

A division of a parcel of land into two or more tracts that qualifies as an Exempt Division of Land pursuant to §157.303(C)(2). [930]

Exhibit Hall

An area or space either outside or within a building for the display of topic-specific goods or information.[931]

Expressway - Freeway

Any expressway - freeway that operates at a high service level, consists of limited land access, carries region-wide traffic, and is generally classified as part of the interstate system.

Exterminator

An establishment that specializes in the eradication of household pests, weeds, or common household and/or yard nuisances and associated operations.[932]

Facade

A particular face of a building. A rectangular building will have four facades.[933]

Facade, Primary

Any face of a building that has frontage on a public street. Buildings on corner lots will have two or more primary facades according to the number of public streets fronted.

Façade Renovation, Major

Replacement of existing features with new features that are different in terms of material, type, size, or color, excluding painting of typically painted or previously painted materials or surfaces, including substantive exterior alterations that result in a change in design, materials, or general appearance. This definition shall not include interior alterations or routine maintenance that does not affect exterior appearance.[934]

Façade Renovation, Minor

Replacement of existing features in kind or routine maintenance of features including painting of typically painted or previously painted materials or surfaces.[935]

Façade, Secondary

The side and rear facades of a structure. Secondary facades will have no frontage on public streets, but may have frontage on public alleys.

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[930] New definition.
[931] New definition.
[932] New definition.
[933] Consolidated variations of this definition in the AC and FW codes. Since Phase 3 drafts, sentence "Building facades are generally oriented to face public streets or public areas" has been deleted.

[934] New definition since Phase 3 drafts.
[935] New definition since Phase 3 drafts.

Fairground

An open area for holding fairs, exhibitions, circuses, or other large gathering, and that contain a combination of indoor display/exhibition areas and outdoor display/staging areas.[936]

Family

One or more persons occupying a single dwelling unit and living as a single housekeeping unit (as distinguished from a group occupying a boarding house, club, hotel, nursing home, rooming house, fraternity or sorority house, off-site campus housing, residential facility serving individuals under a court-ordered re-entry program, residential facility for homeless individuals, or similar living situation), where all the persons are related by blood, marriage or adoption. If all of the persons occupying a single dwelling unit are not related by blood, marriage, or adoption, then no more than eight (8) persons may occupy a single dwelling unit. If all of the members of a household are not related by blood, marriage, or adoption, then a use with more than eight (8) persons occupying a single dwelling unit shall not be considered a single family use.[937]

Farmers Market

An area, which may or may not be in a completely enclosed building, where on designated days and times, growers and producers of horticultural and agricultural products may sell those products and/or other incidental items directly to the public.[938]

Fee

The charge for an application or other service as established by the Fort Wayne Plan Commission or other entities of Fort Wayne duly authorized to establish fees.[939]

Feed Store

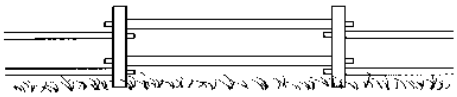
An establishment for the selling of food stuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery. Outdoor display of goods may or may not be allowed depending on the zoning district.[940]

Fence

A free-standing, vertical barrier, constructed of any material other than vegetation, resting on or partially buried in the ground and rising above ground level, which supports no load other than its own weight, and is used for confinement, enclosure, partition, privacy, protection, or screening. The posts, concrete for the posts and attachment of the fence to the posts shall be contained within the lot where the fence is located. This definition shall include a freestanding wall.

Fence, Open

A fence that is less than 50% opaque when viewed perpendicularly to its vertical surface.



Open Fence

[936] New definition.
[937] Definition revised since Phase 3 drafts to add court-ordered re-entry facilities and homeless shelters to exclusions from the definition, and to add a limit of 8 unrelated persons.
[938] New definition.
[939] Revised for clarity since Phase 3 drafts.
[940] New definition.

Fence, Ornamental

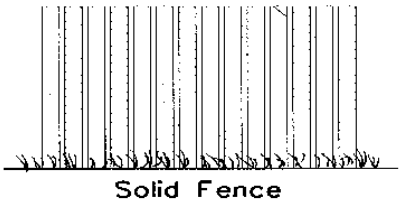
An open fence intended to partition or enclose a property or a portion of a property. Ornamental fences shall include, but not be limited to split rail, picket, wrought iron, and similar style open fences. Chain link fencing is not an ornamental fencing material.

Fence, Privacy

A solid fence erected or constructed to prevent views across the fence line.

Fence, Solid

A fence that is at least 85% opaque when viewed perpendicularly to its vertical surface.



Fence or Wall Height

The height of a fence or wall shall be measured as the vertical distance between finished grade on the highest side of the fence or wall to the top of the fence or wall.[941]

Fill

Any organic material including but not limited to earth, clay, sand, wood chips, bark, or other organic material of any kind that is placed or stored upon the surface of the ground resulting in an increase in the natural surface elevation.[942]

Financial Planning Service

An establishment that provides services to help determine a person's or firm's financial needs or goals for the future and the means to achieve them by deciding what investments or activities would be most appropriate under both personal and broader economic circumstances. [943]

[941] New definition.
[942] Definition revised since Phase 3 drafts to describe organic materials and exclude concrete and rubble.
[943] New definition.

Floodplain Management Definitions

- **Base Flood Elevation (BFE)**

  The elevation of the regulatory flood.[944]

- **Building**

  A structure having a roof supported by columns or walls designed, built or used for the enclosure, shelter or protection of persons, animals, chattels or property.

- **Critical Facility**

  For the purpose of flood control regulations, any facility with the purpose of aiding and promoting the health, safety, and welfare of the community.[945]

- **Cumulative Effect**

  For the purpose of flood control regulations, the impact on the environment that results from the incremental impact of an action when added to other past and present actions. A cumulative effect can result from individually minor, but collectively significant, actions taking place over a period of time.[946]

- **Development**[947]

  For purposes of flood control regulations, any change or improvement to land brought about by human activity including but not limited to:

  (1) Construction, reconstruction, or placement of a building or any addition to a building:
  (2) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than one-hundred-eighty (180) days, where permitted;
  (3) Installation of utilities, erection of walls and fences, construction of roads, or similar projects;
  (4) Construction of flood control structures such as levees, dikes, channel improvements, etc.;
  (5) Mining, dredging, filling, grading, excavation, or drilling operations;
  (6) Construction and/or reconstruction of bridges or culverts;
  (7) Storage of materials; or
  (8) Any other activity that might change the direction, height, velocity of flood, or surface waters.

  "Development" does not include any authorized activity with respect to a regulated drain as defined in IC 36-9-27-2, as may be amended from time to time. Neither does this definition include activities such as maintenance of existing structures and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavating, or constructing permanent structures.

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[944] Definition from floodplain regulations.
[945] Definition from floodplain regulations.
[946] Definition from floodplain regulations.
[947] Definition from floodplain regulations.

- **FEMA**

  Federal Emergency Management Agency.

- **FIRM**

  Flood Insurance Rate Map

- **Flood**

  A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, unusual and rapid accumulation, or runoff of surface waters from any source.[948]

- **Flood or Floodwater**

  The water of any river or stream that is above the bank and/or outside the channel and banks of that river or stream.

- **Flood Insurance Rate Map (FIRM)**

  The latest official map of a community on which special hazard areas (floodplain) and risk premium zones applicable to the community are delineated.[949]

- **Flood Insurance Study (FIS)**

  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.[950]

- **Flood Profile, Regulatory**

  A longitudinal profile along the thread of a stream showing the maximum water surface elevations attained by the regulatory flood.

- **Flood Prone Area (see "Flood")**

  Any land area acknowledged by a community as being susceptible to inundation by water from any source.[951]

- **Flood Proof**

  Any combination of measures taken on a new or existing structure for reducing or eliminating flood damage.[952]

- **Flood Protection Grade**

  The elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area (SFHA).[953]

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[948] Definition from floodplain regulations.
[949] Definition from floodplain regulations.
[950] New definition since Phase 3 drafts.
[951] New definition since Phase 3 drafts.
[952] Definition from floodplain regulations.
[953] Definition from floodplain regulations.

- **Flood, Regulatory**

  That flood having a peak discharge that can be expected to be equaled or exceeded on the average of once in a one-hundred-year period, as calculated by a method of procedure that is acceptable to and approved by the Commission. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year.

- **Flood Resistant Materials**

  Building or construction materials that are not subject to damage from exposure to or inundation by floodwater.[954]

- **Floodplain**

  The channel proper and the areas adjoining any wetland, lake or watercourse that have been or hereafter may be inundated by the regulatory flood. The floodplain includes both the floodway and the floodway fringe. For the purposes of this ordinance, the floodplain is the area covered by a "regulatory flood", as generally shown and delineated on the current FEMA Flood Insurance Rate Map for Allen County and Incorporated Areas. However, if a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood that lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area and subject to the regulations of this ordinance.[955]

- **Floodproofed Building**

  A commercial or industrial building designed to exclude floodwater from the interior of that building. All floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.[956]

- **Floodproofing**

  A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary sewer facilities, structures and contents of buildings in a floodplain. Floodproofing must be watertight below the flood protection grade.[957]

- **Floodway**

  The channel of a watercourse and those portions of the floodplain adjoining the channel that are required to carry and discharge flood water or flood flows of any river or stream including, but not limited to, flood flows associated with the regulatory flood. [958]

- **Floodway Fringe**

  That area outside of the floodway within the area of the regulatory flood that is inundated from flood flows of varying depths. [959]

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[954] Definition from floodplain regulations.
[955] Consolidated similar versions of this definition in floodplain regulations.
[956] Definition from floodplain regulations.
[957] Definition from floodplain regulations.
[958] Consolidated similar versions of this definition in floodplain regulations.

- **Freeboard**

  A justifiable additional amount of height above the regulatory flood profile, which is intended to safely determine the flood protection grade.

- **Historic Structure**[960]

  Any structure that is:

  (1) Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or determined by the United States Secretary of the Interior as eligible for individual listing on the National Register; or

  (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district; or

  (3) Listed on or determined eligible for the National Register of Historic Places as contributing to the significance of a historic district; or

  (4) Individually listed on the Indiana Register of Historic Sites and Structures; or

  (5) Located in an area designated as a local historic district; or

  (6) Individually listed on or designated as a contributing resource in a historic district listed in the Fort Wayne Cultural Resources Survey.

- **Irreversible**

  For the purpose of flood control regulations, the adverse effect of actions that cannot be restored or mitigated within sixty (60) days for herbaceous plants or one-hundred-eighty (180) days for woody vegetation.[961]

- **Letter of Map Amendment (LOMA)**

  An amendment to the currently affective FEMA map that establishes that a building, structure, or property is not located in a Special Flood Hazard Area. A Letter of Map Amendment is only issued by the Federal Emergency Management Agency.[962]

- **Letter of Map Change (LOMC)**

  A term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F).

- **Letter of Map Revision (LOMR)**

  An official revision to the currently effective Federal Emergency Management Agency map. It is issued by FEMA and can change flood zones, floodplain delineations, and flood elevations.[963]

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[959] Consolidated similar versions of this definition in floodplain regulations.
[960] Consolidated similar versions of this definition in the AC and FW codes.
[961] Definition from floodplain regulations.
[962] Definition from floodplain regulations.
[963] Definition from floodplain regulations.

- **Lowest Floor**[964]

  The lowest of the following:

  (1) the top of the lowest level of the structure;

  (2) the top of the basement floor;

  (3) the top of the garage floor, if the garage is the lowest level of the structure;

  (4) the top of the first floor of a structure elevated on pilings or pillars;

  (5) the top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

  (a) 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 openings (in addition to doorways and windows) in a minimum of two exterior walls having a total net area of one (1) square inch for every one 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

  (b) such enclosed space shall be not be usable for living space or the parking of vehicles.

- **Manufactured Home**

  A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code or Indiana Public Law 360, Acts of 1971, that meets all of the following conditions:

  (1) Contain at least nine-hundred- fifty (950) square feet of occupied space per dwelling unit and is a double-section or multi-section manufactured housing unit;

  (2) Be constructed after January 1, 1981;

  (3) Be placed onto a permanent under floor foundation installed in conformance with the Indiana One and Two-Family Dwelling Code or the Indiana Uniform Building Code in the case of multi-family dwelling units, and the manufacturers installation specifications;

  (4) Be placed onto a permanent perimeter enclosure constructed in accordance with the Indiana One and Two-Family Dwelling Code, or the Indiana Uniform Building Code in case of multi-family dwelling units;

  (5) Have wheels, axles and hitch mechanisms removed;

  (6) Have siding material of a type customarily used on site-constructed residences; and

  (7) Have roofing material of type customarily used on-site constructed residences. Roofing material shall be installed in accordance with the manufacturer's specifications.

- **Manufactured Home Park or Subdivision, Existing**

  A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of

[964] Definition revised since Phase 3 drafts.

utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before March 30, 1985.

- **Manufactured Home Park or Subdivision, Expansion**

  The preparation of additional sites by construction of facilities for servicing lots on which manufactured homes are to be affixed (including installation of utilities, construction of streets, and either final site grading or pouring of concrete pads).[965]

- **Manufactured Home Park or Subdivision, New**

  A manufactured home park or subdivision for which construction of facilities for servicing lots on which manufactured homes are to be affixed (including at a minimum, installation of utilities, construction of streets, and either final site grading or pouring of concrete pads) is completed on or after March 30, 1985.[966]

- **Market Value**

  The most probable price for which the appraised property (in this case just the structure in question) will sell in a competitive market under all conditions necessary to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under duress.[967]

- **New Construction**

  For the purpose of determining insurance rates in connection with flood control regulations, structures for which the "start of construction" commenced on or after the effective date of the initial Flood Insurance Rate Map including any subsequent improvements to those structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of these floodplain management regulations, including any subsequent improvements to those structures.[968]

- **Obstruction**

  For the purpose of flood control regulations, a structure, object or other matter in, along, across or projecting into any channel, watercourse, floodplain, river, stream, or flood hazard area that may impede, retard or change the direction of flow of water.[969]

- **Recreational Vehicle**

  A vehicle that is built on a single chassis, four-hundred (400) square feet or less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.[970]

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[965] Definition from floodplain regulations.
[966] Definition from floodplain regulations.
[967] Consolidates similar versions of definition from floodplain regulations.
[968] Consolidated similar versions of this definition from floodplain regulations.
[969] Definition from floodplain regulations.
[970] Consolidated different variations of this definition from the AC and FW codes.

- **Regulatory Flood**

  A flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. A regulatory flood is also known as a base flood and one-hundred (100) year flood.[971]

- **Regulatory Flood Profile**

  A longitudinal profile along the channel of a stream showing the maximum water surface elevations attained by the regulatory flood.[972]

- **River or Stream**

  All open channels, whether natural, man-made, or modified by man, which carry or discharge water.[973]

- **Significant**

  For the purpose of floodplain management regulations, any action that would increase the height of a regulatory flood by 0.1 feet.[974]

- **Special Flood Hazard Area (SFHA)**

  Those lands within the jurisdiction of Allen County or the City of Fort Wayne that are subject to inundation by the regulatory flood. The Special Flood hazard areas of Allen County or the City of Fort Wayne are generally identified as such on the Flood Insurance Rate Maps of Allen County, Indiana and Incorporated Areas prepared by the Federal Emergency Management Agency dated August 3, 2009 and any future revisions to those maps. However, if a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood that lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area and subject to the regulations of this ordinance.[975]

- **Start of Construction**

  For the purpose of floodplain management regulations, the date a building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within sixty (60) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond excavation or filling; or placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other actual part of a building, whether or not that alteration affects the external dimensions of the building.[976]

- **Structure**

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[971] Definition from floodplain regulations.
[972] Definition from floodplain regulations.
[973] Consolidated similar versions of this definition from AC and FW codes.
[974] Definition from floodplain regulations.
[975] Consolidated similar versions of this definition from AC and FW codes.
[976] Definition from floodplain regulations.

For the purposes of the floodplain management regulations, a structure or building that is principally above ground and is enclosed by walls and a roof. The term shall also include a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

- **Substantial Damage**

  For the purpose of floodplain management regulations, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.[977]

- **Substantial Improvement**

  For the purpose of floodplain management regulations, any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. A structure may attain substantial improvement cumulatively over time. The term does not include:

  (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or

  (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".[978]

- **Violation**

  The failure of a structure or other development to be fully compliant with this ordinance. For purposes of flood control regulations, a structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.[979]

- **Watershed**

  An area that drains to a single point, in a natural basin, this is the area contributing flow to a given place or stream.[980]

- **Watershed, Immediate**

  A sub-drainage area within a larger area that accumulates the storm water runoff within that area. For the purposes of this ordinance, an "immediate watershed" shall be based on the current applicable Board of Works or Stormwater Utility Storm Drainage Master Plan, and other relevant information including but not limited to topographical maps.

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[977] Definition from floodplain regulations.
[978] Consolidated different variations of this definition in the AC and FW codes. Since Phase 3 drafts, third exception reading "any applicable addition or improvement made to a floodway fringe building or property since March 30, 1985" was deleted.
[979] Definition from sign code. First sentence is now a general statement for the entire ordinance.
[980] Definition from floodplain regulations.

- **Zone A**

  Shaded areas on the Flood Insurance Rate Map where no base flood elevation has been determined.[981]

- **Zone AE**

  Shaded areas on the Flood Insurance Rate Map where base flood elevations have been determined.[982]

- **Zone AH**

  Shaded areas on the Flood Insurance Rate Map depicting flood depths of one (1) to three (3) feet (usually areas of pond formation) and where base flood elevations have been determined.[983]

- **Zone AO**

  Shaded areas on the Flood Insurance Rate Map depicting flood depths of one (1) to three (3) feet (usually sheet flow on sloping terrain) where average depths have been determined. For areas of alluvial fan flooding, velocities have also been determined.[984]

[981] Definition from floodplain regulations.
[982] Definition from floodplain regulations.
[983] Definition from floodplain regulations.
[984] Definition from floodplain regulations.

Food and Beverage Service

An establishment that serves prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices, and parking.

Fraternity House

A building, rented, occupied or owned by a national or local chapter of an organized college fraternity or sorority that is officially recognized by a college, university, or other educational institution.

Fraternal Organization

A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings and formal written membership requirements.

Freight Service

Loading, unloading, packing or unpacking of freight, including handling services provided for freight in special containers or for non-containerized freight, services provided by a container freight terminal, or other freight terminal, for all modes of transport services incidental to freight.

Frontage

The length of the property line of any parcel along each street that it borders.[985]

Full-Cutoff

For purposes of lighting standards, a light fixture that prevents distribution of light above a horizontal lane through the lowest point of the bulb or lens, diffuser, reflective passing enclosure, or other parts intended to distribute light.

Funeral Home

A building used for the preparation of the deceased for burial, the display of the deceased and rituals connected therewith before burial or cremation. Accessory uses may include:

(1) Embalming, cremation and the performance of other services used in preparation of the dead for burial;

(2) The performance of autopsies and other similar surgical procedures;

(3) The storage of caskets, funeral urns, and other related funeral supplies;

(4) The storage of funeral vehicles; and

(5) A funeral chapel.

Furniture Production

A facility that specializes in the assembly, fabrication or production of finished or unfinished furniture, store displays, cabinets, and related items. [986]

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[985] Definition from sign code.
[986] New definition.

Furniture Store

An establishment that specializes in the sale of any or all of the following: new, used, finished or unfinished furniture including kitchen cabinets and related items.[987]

Garage, Residential

A detached accessory structure or portion of a primary building used for personal storage, the storage of motor vehicles and other similar accessory residential uses.

Garage Sale (see "Yard Sale")

Garbage

Animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food; or other business or household waste materials.[988]

Garden Equipment Supply

An establishment that specializes in the retail of nursery plants or related items, which may include: plants that have been grown on the property or imported, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.[989]

Gas Pump Embellishment

Letters, figures, characters or representatives in irregular forms that used as a supplement to permitted gas pump signage.[990]

Gas Station

A facility where gas and other supplies for motorists are sold. Minor repair services such as lubrication, oil and tire changes may be provided, but major repairs such as vehicle bodywork or painting or repair of engines or drive trains may not be provided. A gas station may include a convenience store.[991]

Gateway

A point along a roadway at which a motorist or pedestrian gains a sense of having entered the city or a particular part of the city. This impression can be imparted through such things as signs, monuments, landscaping, a change in development character, or a natural feature.

Gazebo

A freestanding, roofed, usually open-sided structure providing seating or an area for gathering. [992]

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[987] New definition.
[988] New definition since Phase 3 drafts.
[989] New definition
[990] Definition from sign code. Revised since Phase 3 drafts to clarify this applies to gas pump signs.
[991] Definition revised since Phase 3 drafts to clarify minor repairs. Because gas stations allow minor repairs, the gas/service station use has been deleted. In addition, because convenience stores are now permitted in those districts where gas stations are permitted, the sentence "Convenience stores and car wash facilities may also be provided if permitted as a primary use in the zoning classification" has also been deleted.
[992] New definition

Glare

A situation created when illumination sources shine with visibly harsh, uncomfortably bright light that: causes discomfort; distracts attention; or leads to reduction or loss of visibility or visual performances (up to and including situations of blinding glare, as defined in the Illuminating Engineering Society of North America's current Lighting Handbook). These situations are typically caused by insufficiently shielded light sources, or high luminance (luminance that is sufficiently greater than the luminance to which the eyes are adapted).[993]

Golf Course

A tract of land typically laid out for at least nine holes for playing the game of golf that may include a clubhouse, dining and snack bars, pro shop, and practice facilities. [994]

Golf Course (Miniature)

A recreational facility, typically comprised of nine or 18 putting small greens, each with a "cup" or "hole," where patrons in groups pay a fee to move in consecutive order form the first hole to the last.[995]

Golf Driving Range

A tract of land devoted as a practice range for practicing golf shots. [996]

Government Facility

An institution operated by a federal, state, county, town, township or city government, or by a special purpose district. [997]

Greenhouse/Plant Nursery

An establishment, including a building, part of a building or open space, for the growth, display and/or sale of plants, trees, and other materials used in indoor or outdoor planting for retail sales and incidental wholesale trade.[998]

Grocery Store

A retail sales establishment selling primarily food and beverages for off-site preparation and consumption that maintains a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood or specialize in the sale of one type of food item. This use may also include sales of personal convenience and small household goods.[999]

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[993] Definition from sign code.
[994] New definition
[995] New definition
[996] New definition
[997] New definition
[998] Consolidates elements of current AC and FW definitions. Overlapping definitions of nursery and retail plant nursery were deleted.
[999] New definition.

Gross Floor Area

The total floor area of all stories of a building or buildings, measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage (including basements), but not including any uncovered or unenclosed porches, patios, or decks.[1000]

Ground Floor Area

The gross floor area of a building exclusive of basements and floors above the ground floor.

Group Residential Facility (Large)

A facility providing housing for over eight (8) unrelated individuals, with or without supervisory staff. This definition shall include a residential facility for individuals who are developmentally disabled or mentally ill, or other similar residential facility if the facility houses more than eight (8) individuals (excluding supervisory staff, counselors, or resident managers). This definition shall not include a facility that serves individuals under a court-ordered re-entry program or homeless individuals. A large group residential facility for mentally ill individuals shall be located at least 3,000 feet from any other group residential facility for mentally ill individuals.[1001]

Group Residential Facility (Small)

A facility providing housing for up to eight (8) unrelated individuals, with or without supervisory staff. This definition shall include a residential facility for individuals who are developmentally disabled or mentally ill or any other residential facility that houses up to eight (8) individuals (excluding supervisory staff, counselors, or resident managers) who are members of a protected class as set forth under the federal Fair Housing Act. This definition shall not include a facility that serves individuals under a court-ordered re-entry program or homeless individuals. A residential facility for mentally ill individuals shall be located at least 3,000 feet from any other residential facility for mentally ill individuals.[1002]

Hazardous Waste

Solid waste or a combination of solid wastes that, because of quantity, concentration, or physical, chemical, or infectious characteristics, may:

(1) Cause or significantly contribute to an increase in mortality or increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard when improperly treated, stored, transported, disposed of, or otherwise managed.

This includes but is not limited to toxic chemicals, explosives, pathological wastes, radioactive materials, materials likely to cause fires, liquids, semi-liquids, sludge containing less than thirty (30) percent solids,

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[1000] Combines similar versions of this term in the AC and FW codes. Revised since Phase 3 to include basement areas.
[1001] Since Phase 3 drafts, definition revised for clarity, to delete exclusion of emergency/homeless shelter, to add an exclusion for residential facilities for the homeless, and to expand the current 3,000 ft. spacing requirement for facilities for individuals with mental illness to all large group residential facilities.
[1002] Since Phase 3 drafts, definition revised for clarity and to match structure of large group residential facility definition; to delete exclusion of emergency/homeless shelter, to add an exclusion for residential facilities for the homeless, and to replace the current 1,000 foot spacing requirement for small group residential facilities with a 3,000 foot spacing requirement only applicable to facilities for individuals who are mentally ill.

pesticides, pesticide containers, raw animal manure, onsite sewage system tank pumping, and raw or digested sewage sludge.[1003]

Hazardous Waste Disposal Area

The outermost perimeter of the area within a hazardous waste disposal facility that is permitted to receive hazardous waste for disposal.

Hazardous Waste Treatment, Storage and/or Disposal Facility

A solid waste disposal facility designed to treat, store and/or dispose of hazardous waste regulated by 329 IAC 3.1 or any subsequent applicable revisions. The facility shall be constructed and operated in accordance with a permit issued by the appropriate government agency authorized by or under the Resource Conservation and Recovery Act (40 CFR 260 - 40 CFR 270, 42 U.S.C. 6901, et seq., and IC 13-7-8.5, as may be amended).

Health Care Facility

A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions.

Health Club

A non-medical service establishment intended to maintain or improve the physical condition of persons which contains exercise and game equipment and facilities, steam baths and saunas, or similar equipment and facilities.[1004]

Hedge

A linear arrangement of plants grown closely together to create the effect of a solid, continuous barrier that divides one space from another.

Heliport

An area either at ground level or elevated on a structure, licensed by the federal government or appropriate state agency and approved for the loading, landing, and takeoff of helicopters. This shall include accessory facilities and uses such as public parking areas, waiting rooms, fueling, and maintenance equipment or facilities.

Heliport (Private)

An area of land used for the landing and take-off of personal private helicopters, excluding discharging or receiving cargo, picking up passengers or fueling other aircraft or helicopters.[1005]

Historic District

Any site, building, structure, object, landscape (or collection of sites, buildings, structures, objects, or landscapes) which has obtained official historic status through local designation by the Fort Wayne Common Council.[1006]

[1003] Consolidated similar versions of this definition.
[1004] New definition
[1005] Definition revised for clarity since Phase 3 drafts.
[1006] Since Phase 3 drafts, definition revised to exclude properties eligible for listing, and to clarify what historic status means.

Historic Site

Any site which has obtained official historic status through local, State, or National Register designation[1007]

Holiday Decorations

Ornamental materials that are incidental and commonly associated with any national, local or religious holiday.[1008]

Home Business[1009]

An accessory use of a dwelling unit, or a use of a structure accessory to a dwelling unit, where business activities are conducted which do not change the residential character of the structure or property, or adversely impact adjacent properties. A home business would typically be more intensive than a home occupation, due to factors such as outside employees working at the dwelling unit, clients or customers coming to the dwelling unit, or on-site retail sales. To allow for possible mixing of uses in rural and residential areas, outside employees shall be permitted; however, only one (1) outside employee shall be permitted to work at the home. Clients or customers shall be permitted to come to the home, and on-site sales of items either produced or value-added on the property, along with accessory retail sales, shall be permitted. A home business shall be permitted in conjunction with a single family or two family dwelling unit where the business owner lives, and shall be conducted entirely within a primary or accessory structure. If conducted within the dwelling unit (primary structure), the gross square floor area used for the home business shall be less than 50% of the area of the primary structure. If conducted out of an accessory structure, the area used for the home business shall not exceed the square footage of the primary structure. Permitted home businesses shall include, but not be limited to, professional offices, personal service uses such as barber shops and beauty/nail salons, and teaching/tutoring/music lessons.

Home Enterprise[1010]

A use of a single family property, where business activities are conducted. Home enterprises are intended to permit higher intensity uses, including uses which produce or repair a product, but which do not adversely impact adjacent properties. Home enterprises may include assembly, contracting, fabricating, manufacturing, processing, or repair activities (excluding auto repair). A home enterprise shall be permitted in conjunction with a single family dwelling unit where the business owner lives. The gross floor area of the home enterprise shall not exceed eight thousand (8,000) square feet. To allow for the mixing of uses in rural areas, outside employees shall be permitted to work at the home enterprise, clients or customers shall be permitted to come to the property, and on-site retail sales of items either produced or value-added on the property, along with accessory retail sales, shall be permitted.

Home Improvement Store

A retail facility engaged in the retail sale of various basic hardware lines, such as tools, builders hardware, lumber, paint and glass; house wares; household appliances; lawn supplies; garden supplies; and landscape materials. A home improvement center may also include separate enclosed areas devoted to the rental of light equipment used in conjunction with home improvement projects.[1011]

[1007] New definition since Phase 3 drafts.
[1008] New definition.
[1009] Revised definition to align with other home occupation and office definitions.
[1010] New definition.
[1011] Since Phase 3 drafts, title changed from Home Improvement Center.

Home Occupation

An accessory use of a dwelling unit, or a use of an attached structure accessory to a dwelling unit, where business activities are conducted which do not change the residential character of the structure or property, or adversely impact adjacent properties. Clients or customers shall not come to the home, and on-site retail sales shall not be permitted. No outside employees may be permitted. A home occupation shall be permitted in conjunction with a single family, two family, or multiple family dwelling unit where the business owner lives, and shall be operated entirely within a primary or attached accessory structure.[1012]

Home Workshop

A use of a single family property, where business activities are conducted. Home workshops are intended to permit uses which are more intensive than a home business, including uses which produce or repair a product, but which do not adversely impact adjacent properties. Home workshops may include limited assembly, contracting, fabricating, manufacturing, processing, or repair activities (excluding auto repair). A home workshop shall be permitted in conjunction with a single family dwelling unit where the business owner lives, and shall be conducted entirely within a primary or accessory structure. The gross floor area of the workshop shall not exceed two thousand (2,000) square feet. To allow for the mixing of uses in rural areas, outside employees shall be permitted to work at the home workshop, clients or customers shall be permitted to come to the property, and on-site sales of items either produced or value-added on the property, along with accessory retail sales, shall be permitted.

Homeless Shelter

A facility providing temporary housing to needy, homeless, or transient persons that may be an accessory use to a church or other place of worship, and may also provide ancillary services such as counseling or vocational training.[1013]

Hospice Care Center

A facility providing in-patient care for individuals suffering from a terminal illness.[1014]

Hospital

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

Hotel

A building providing, for compensation, sleeping accommodations and customary lodging services where guests enter through a main lobby of the building to get to each rental unit. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities. An extended stay hotel is included in this definition.[1015]

[1012] Consolidated similar versions of this definition in the AC and FW codes.
[1013] New definition. Since Phase 3 drafts, title revised from Homeless/Emergency Shelter.
[1014] New definition.
[1015] Consolidated similar versions of this definition. Since Phase 3 drafts, extended stay hotels have been included.

Improvement Location Permit

A permit issued by the Zoning Administrator stating that the proposed erection, construction, enlargement or moving of the building or structure referred to in the permit application complies with the provisions of this ordinance.[1016]

Infrastructure

For the purposes of this ordinance, the community public works and facilities determined to be necessary in relation to proposed development, including, but not limited to; access drives, landscaping, parking facilities, sanitary sewers, site and street lighting, storm drainage facilities, street facilities, traffic control facilities, and water facilities.[1017]

Instruction/Training/Education

An establishment, other than elementary or junior high schools, senior high schools, or colleges and universities, offering training or instruction in a trade, art, or occupation, including, but not limited to, beauty schools, dance schools, and trade or vocational schools.[1018]

Junk Material

Materials, including but not limited to the following:

(1) automobile or machinery equipment or parts, including used automobile tires;
(2) cloth and clothing;
(3) construction materials;
(4) electronics or furniture;
(5) garbage, refuse, trash, or debris;
(6) manufactured clay and porcelain products;
(7) manufactured plastic products;
(8) manufactured rubber products;
(9) paper and paper products;
(10) recyclable products of all kinds;
(11) scrap metal;
(12) wood and wood products; and
(13) wrecked and/or dismantled automobiles and machinery.[1019]

Junk Yard

A lot, parcel, development site, structure, or business operation that is primarily used for storing or selling junk material.[1020]

[1016] Consolidated similar versions of this definition.
[1017] Definition revised to add detail since Phase 3 drafts.
[1018] Since Phase 3 drafts title revised from Instruction/Training.
[1019] Since Phase 3 drafts title revised from Junk or Salvage, and garbage, refuse, trash, or debris added to listed materials.

Laboratory

A facility for conducting medical or scientific research, investigation, testing, or experimentation; however, this does not include facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition includes electronic and telecommunications laboratories, including assembly.[1021]

Land Surveyor

A surveyor who is licensed in compliance with the laws of the State of Indiana.

Landing Field, Private

A landing field used solely for the convenience of the owner or lessee of the property, utilizing a sod landing strip, having hangar facilities for not more than two (2) aircraft, with no commercial sales or service establishments located on the property, as an accessory use to a permitted single family use. A private landing field shall not be considered an airstrip.[1022]

Landscape Buffer

A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Landscape Elements

Annual plants, benches, chairs, perennial plants, planters, shrubs, statuaries, trees, yard ornaments, and similar elements.[1023]

Landscape Planting Area

An area designed for landscape plantings that meets all applicable width and/or square footage requirements as set forth in this ordinance.

Landscape Screening

The method by which a view onto one site from another site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, mounding, or other features.

Laundromat/Coin Operated Laundry

An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public. This definition includes automatic, self-service only, or hand laundries.[1024]

[1020] Consolidates various definitions for junk yard and junk and salvage yard. Definition revised to distinguish this use from a household materials recycling facility. Current definition of motor vehicle salvage yard was deleted as overlapping and no longer listed in the use table. Since Phase 3 drafts, definition revised to delete list of included and excluded facilities and link to definition of junk materials above.
[1021] New definition.
[1022] Definition revised since Phase 3 drafts to clarify this is accessory to a single family residence and to distinguish from airstrips.
[1023] New definition.
[1024] New definition.

Library

A facility for storing and loaning books, periodicals, reference materials, audio and video media, and other similar media. A library may also include meeting rooms, offices for library personnel, and similar support facilities.[1025]

Limited Assembly & Fabrication

Facilities used for the limited fabrication and assembly of products including bio-medical, orthopedic, communication and computation equipment, industrial controls, optical instruments, scientific and precision instruments, service industry machines and specialty equipment. [1026]

Limited Equipment Rental

The short-term leasing of tools, materials, and/or construction equipment, excluding equipment used for excavation, grading, or similar tasks or processes.

Live Work Unit

A dwelling unit containing an integrated living and working space that is intended to function predominantly as business workspace with incidental residential use occupied by the business owner or operator. The unit typically has a store-front, with the workspace, public display area, or show-room on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor. [1027]

Loan Office

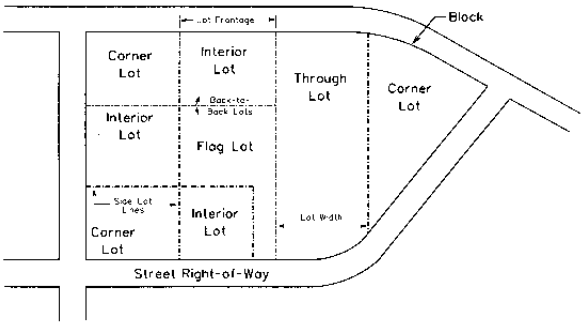
A facility primarily engaged in making loans to individuals that does not meet the definition of a bank and where the primary activity is not a check cashing., pay-day loan, or cash advance business.[1028]

Lot

A piece of land of specific shape and dimension; it may be a single platted lot or a single parcel. The word "lot" shall include the words "lot, platted" and "parcel."[1029]

Lot, Corner

A lot at the junction of and abutting two or more intersecting streets. [1030]



Lot Types

[1025] New definition.
[1026] New definition.
[1027] New definition
[1028] New definition since Phase 3 drafts.
[1029] Consolidated similar versions of this definition. Regulatory language on minimum size and width removed because those substantive controls appear elsewhere in the ordinance. Since Phase 3 drafts, this definition replaces "A legally created parcel of land occupied or to be occupied by a building and its accessory buildings and/or uses or by group dwellings and their accessory buildings, together with those open spaces as are required under the provisions of this ordinance. The term "record lot" means the land designated as a separate and distinct parcel of land on a legally recorded subdivision plat (or in a legally recorded deed) filed in the Office of the Allen County Recorder."
[1030] Consolidated similar versions of this definition in the AC and FW codes.

Lot, Flag

A lot that does not meet the minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway.

Lot, Front (Nonresidential)[1031]

That part of an interior or through lot that abuts a street. On a corner lot, the Zoning Administrator shall determine the front of the lot, based on the following:

(1) The location, setbacks, and orientation of existing structure(s);
(2) The size and functional usage of the existing front, side, and rear yards; and
(3) Previously approved site and/or Development Plans, and
(4) Conforming building setbacks.

Lot, Front (Residential)[1032]

That part of an interior or through lot that abuts a street. On a corner lot, the front shall be that part of the lot having the least amount of footage abutting the street, with the exception that if the lot is laid out so that the longer dimension is less than 1.6 times the narrower dimension, then the Zoning Administrator shall determine the front of the lot, based on the following:

(1) The location and orientation of existing structure(s);
(2) The size and functional usage of the existing front, side, and rear yards; and
(3) Platted building lines and restrictive covenants.

Lot, Interior[1033]

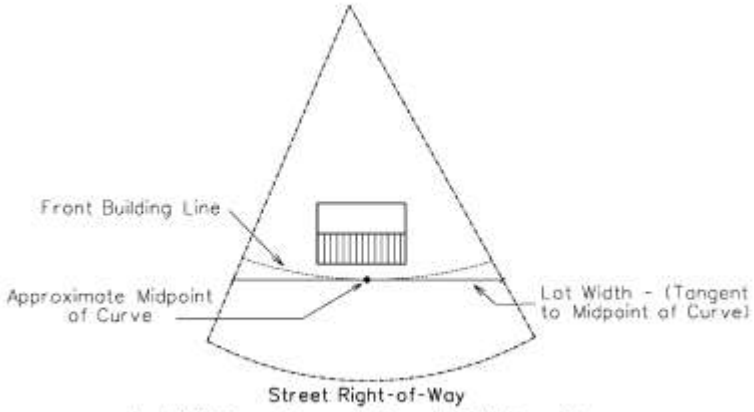
Any lot other than a corner or through lot.

Lot, Platted

An individual piece of land as shown on a subdivision plat recorded in the Allen County Recorder's office and in compliance with the subdivision regulations in effect at the time of the recording.[1034]

Lot, Through

An interior lot that has legal direct access onto two (2) or more parallel streets or roads.[1035]



Lot Width - Curved Front Building Line

[1031] Consolidates similar versions of this definition in the AC and FW codes.
[1032] Consolidates similar versions of this definition in the AC and FW codes.
[1033] Consolidates similar versions of this definition in the AC and FW codes.
[1034] New definition since Phase 3 drafts.
[1035] Consolidated similar versions of this definition.

Lot Area, Net

The total horizontal area included within the area defined by the rear, side, and front lot or proposed front street line. No alley, public way, public land, or area proposed for a future street purpose is included in the net area of a lot.

Lot Coverage

That portion of a lot that is covered by buildings.

Lot Depth

The average horizontal distance between the front and rear lot lines.

Lot Width

The dimension of a lot, measured between side lot lines on the building line. For lots with curved front building lines, the lot width shall be the dimension of the lot as measured along a straight line that is tangent to the midpoint or approximate midpoint of the curve of the building line. The lot width for other lots with irregularly shaped front building lines shall be as determined by the Zoning Administrator.

Lot Width, Minimum

The least permissible width of a lot measured horizontally along the front building line. For unplatted lots, the minimum lot width shall also be maintained at the front lot line. For platted lots, the minimum lot width at the front lot line shall be 25 feet. [1036]

Lot Line

Lines bounding a lot, as further described in the definitions in this ordinance.

Lot Line, Front

The line running along the front of the lot, typically located along the street right of way. The front lot line is also referred to as the front street line. In a through lot both lines abutting the streets shall be deemed front lot lines. [1037]

Lot Line, Rear

The lot line generally opposite or parallel to the front street line, except in a "through lot." If a rear lot line is less than ten (10) feet long or the lot comes to a point at the rear, that rear lot line is assumed to be a line at least ten (10) feet long, lying wholly within the lot, parallel to the front street line or, parallel to the chord of the arc of the front street line.

Lot Line, Side

Any lot line other than a front street line or a rear lot line. A side lot line separating the lot from a street is a "side street line."

[1036] Since Phase 3 drafts, definition revised to clarify how minimum lot widths shall be applied.
[1037] Since Phase 3 drafts, definition revised to clarify language.

Lumens

The luminous flux emitted per unit solid angle from a uniform point source whose luminous intensity is 1 candela.[1038]

Machine Tool Shop

A workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.[1039]

Manufactured Home Park

A parcel of land designed for use by more than one (1) Type II or Type III manufactured homes that provides the infrastructure and utilities necessary for single family occupancy of those homes.[1040]

Manufactured Home, Type I

A structure, fabricated in an off-site manufacturing facility for installation or assembly at a building site, that is designed for use as a dwelling, either by itself or in conjunction with other similar units. Typically, a modular home would fall under this definition. To be considered a Type I manufactured home, the structure must:

(1) Be constructed in conformance with the Indiana One and Two Family Dwelling Code;

(2) Consist of two or more sections;

(3) Be placed on a continuous, permanent under floor foundation that is not pierced, except for required ventilation and access;

(4) Have siding and roofing material of a type customarily used on dwellings constructed on-site;

(5) Not be constructed with an integral chassis or permanent/detachable hitch; or wheels, axles, or other device allowing transportation; and

(6) Be designed to be transported by a trailer or other similar carrier that is not designed to be permanently attached to the dwelling or remain with it after the structure is placed on its foundation.

Manufactured Home, Type II

A structure, fabricated in an off-site manufacturing facility for installation or assembly at a building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act (42 USC Section 5401, et. Seq.) or IC 22-15-4-1, as may be amended, (as opposed to a Type I manufactured home that is built in conformance with the Indiana One and Two Family Dwelling Code). To be considered a Type II manufactured home, the structure must:

(1) Contain at least nine hundred fifty (950) square feet of occupied space per dwelling unit;

(2) Be a double or multiple section unit;

(3) Be placed on a permanent under-floor foundation installed in conformance with the Indiana One and Two Family Dwelling Code and according to the manufacturer's installation specifications;

(4) Be placed onto a permanent perimeter enclosure in conformance with the Indiana One and Two Family Dwelling Code;

[1038] Definition from sign code.
[1039] New definition.
[1040] Since Phase 3 drafts, definition revised from one or more to more than one home.

(5) Have the wheels, axles, and hitch mechanisms removed;

(6) Have siding and roofing material of a type customarily used on dwellings constructed on-site;

(7) Be connected to all the utilities necessary for the occupancy of the unit, in conformance with the Indiana One and Two Family Dwelling Code; and

(8) Have been constructed after January 1, 1981.

Manufactured Home, Type III

A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a single family dwelling. A mobile home would meet this definition. To be considered a Type III manufactured home, the structure must:

(1) Be properly connected to all utilities necessary for the occupancy of the unit; and

(2) Be set on piers and properly skirted, with wheels and axles removed, in a manufactured home park.

Manufacturing

Establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. This use includes but is not limited to the processing of adhesive/glue, agricultural implements, aircraft, animal feed, appliances, automobiles, bicycles, boats, carbon steel pipe & tubing, concrete, concrete products, electronics, insulation, manufactured homes, modular buildings, motorcycles, motors, paper/paper products, recreational vehicles, spas, stainless steel, steel, tile, tires, and valves.

Massage Therapy Establishment

Any establishment having a source of income or compensation derived from the practice of massage that complies with and is licensed by the appropriate authorities.

Master Sign Plan

A plan submitted to the Plan Commission as part of a request for an overall sign program of a consistent architectural design for either a larger scale development (such as a large retail or shopping center, industrial park, medical campus, etc.) on a lot, development site, or combination of lots/development sites; for multiple signs as part of an individual development project; or for a request for a waiver on a site where the Plan Commission has previously approved a Development Plan.

Medical Facility or Office

A facility for the examination and treatment of human outpatients, provided that patients are not kept overnight except under emergency conditions. [1041]

Meeting Hall

A facility designed for public or private assembly.[1042]

[1041] Consolidated similar versions of this definition in the AC and FW codes. Since Phase 3 drafts, reference to physicians has been deleted.

Mental Illness

A psychiatric disorder that:

(1) Substantially disturbs an individual's thinking, feeling, or behavior; and

(2) Impairs the individual's ability to function.

(3) The term includes alcoholism, and addiction to narcotics or dangerous drugs.

Mentally Ill Individual

An individual who:

(1) Has a psychiatric disorder that substantially impairs the individual's mental health; and

(2) Requires care, treatment, training or detention:

(a) Because of the psychiatric disorder; or

(b) For the welfare of the community in which the individual resides.

Minimum Building Elevation

The lowest opening on any building or structure as determined by the stormwater authority based on local stormwater management requirements specific to a Development Plan or Subdivision Plat.[1043]

Mirrored Glass

Glass with a high exterior light reflectance level (typically over 50%).

Mitigation

The avoidance, elimination, minimization, reduction, or compensation for the adverse effects of a proposed action.

Mixed-Use Building

A building containing more than one type of use, such as governmental, institutional, office, personal service, retail, and residential; including a mix of residential and non-residential uses.

Mixed-Use Development

The practice of allowing more than one type of use in a building or set of buildings.

Mobile Food Service Unit

A vehicle, typically a van, truck, towed trailer, or pushcart, from which food and beverages are sold.

[1042] New definition.
[1043] Since Phase 3 drafts, definition revised to clarify that determination is made by stormwater authority, not site designer.

Mobile Home (see "Manufactured Home, Type III")

Mobile Home Park (see "Manufactured Home Park")

Model Home[1044]

A single family (attached), single family (detached), or two family dwelling unit used for a temporary period of time for display purposes as an example of dwelling units available or to be available for sale or rental in an approved Major or Minor Subdivision or other residential development. Model homes may also include sales or rental offices.[1045]

Model Unit

A multiple family (apartment or condominium) dwelling unit used for a temporary period of time for display purposes as an example of dwelling units available or to be available for sale or rental in a multiple family dwelling or complex. Model units may also include sales or rental offices.[1046]

Modular Home (see "Manufactured Home, Type I")

Monument

A permanent marker, used to identify the boundary lines of any lot, parcel, tract, street lines, or survey control points.

Mosque (see "Religious Institution")

Motel

A building or series of buildings, typically one or two stories, in which sleeping accommodations are offered for compensation, and that is distinguished from a hotel primarily by providing independent exterior access to, and adjoining parking for, each rental unit. [1047]

Motor Vehicle [1048]

An automobile, bus, truck, tractor, trailers, semi-trailer, recreational vehicle, motorcycle, scooter, or similar vehicle drawn or propelled by mechanical power, and farm implements whether self-propelled or designed to be pulled, pushed or carried by another motor vehicle.

Motor Vehicle, Inoperable

A vehicle which cannot be driven on a public street for reasons including, but not limited to, being abandoned, wrecked, in a state of disrepair, or otherwise incapable of moving under its own power.[1049]

[1044] New definition.
[1045] New definition. Revised since Phase 3 drafts to remove 2 year limitation (covered elsewhere in the ordinance) and to distinguish from model units.
[1046] New definition since Phase 3 drafts.
[1047] Consolidated similar versions of this definition in the AC and FW codes.
[1048] Consolidates similar versions of definition from AC and FW codes.
[1049] New definition singe Phase 3 drafts.

Motor Vehicle Storage Yard

A lot, tract, or development site used for the temporary, short term (up to 90 days), outdoor storage of motor vehicles not used for transportation purposes on an active, regular or continuing basis, whether or not the motor vehicle is titled, licensed, or operable, either as a primary use or accessory use. Junk and salvage yards shall not be included under this definition.[1050]

Mounting Height, Light

The mounting height of a light fixture shall be defined as the vertical distance between the adjacent grade and the top of the lighting fixture (luminaire).

Multiple Family Complex

A grouping of two or more multiple family structures.

Multiple Family Complex, High Rise

A grouping of 2 or more multiple family structures of 5 or more stories.

Mural

A work of art, including a hand-painted, hand-tiled, or printed image on an exterior wall of a building that does not contain a message advertising a business conducted, service rendered, event scheduled, political issue, goods produced or sold, or other commercial message. A display or surface treatment that meets this definition is not a sign.[1051]

Museum

A facility open to the public, with or without charge, for the collection and display of paintings, sculpture, textiles, antiquities, other works of art, or similar items.[1052]

Name Plate

An accessory sign containing only the name of the occupant of a dwelling and an occupation permitted in that zoning district.[1053]

Nature Preserve

An area intended to remain in a predominantly natural or undeveloped state to provide resource protection and passive recreational opportunities. [1054]

Neighborhood Center

A facility operated by a recognized neighborhood association and typically includes administrative office activities for the association as well as low intensity community services. Activities shall not include commercial or uses that create land use conflicts within a residential neighborhood.[1055]

[1050] Consolidates with current definition of motor vehicle storage area.
[1051] New definition since Phase 3 drafts.
[1052] New definition.
[1053] New definition.
[1054] New definition.
[1055] New definition.

Neighborhood Facility

A facility intended to serve or accommodate the needs of a specific segment of a community or area. Neighborhood facilities shall include, but not be limited to, a branch YMCA or YWCA; a Boys and Girls Club; or a Boy Scout or Girl Scout facility.

Newspaper Publishing Facility

An enclosed facility for the printing and distribution of newspapers, newsletters, and other similar media that is printed on newsprint-type paper for sale and general circulation.[1056]

Nightclub

An establishment dispensing liquor and meals in which music, dancing, or entertainment is provided. Any establishment that meets the definition of "adult cabaret" or "adult nightclub" is not included under this definition.[1057]

Nits

A nit is a photometric unit defined as cd/m2 (candelas per square meter).[1058]

Nonconforming Building/Structure

An existing building or structure that was constructed in conformance with the applicable ordinance at the time of construction that fails to comply with the requirements set forth in this ordinance applicable to the district in which the building or structure is located.[1059]

Nonconforming Use

A use of land, or of a building or structure, that lawfully existed prior to the effective date of this ordinance that fails to comply with the requirements set forth in this ordinance applicable to the district in which the use is located..[1060]

Nonresidential District

The C1, C2, NC, SC, C3, C4, DC, DE, UC, BTI, I1, I2, and I3 zoning districts.[1061]

Nude or State of Nudity

The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft with less than a fully opaque clothing covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Nude or Semi-Nude Model Studio

Any place where a person who regularly appears in a state of nudity or semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly

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[1056] New definition.
[1057] Consolidated similar versions of this definition from AC and FW codes. Revised since Phase 3 draft to simplify text and remove references to non-admission of minors.
[1058] Definition from sign code.
[1059] New definition since Phase 3 drafts.
[1060] Definition revised for clarity since Phase 3 drafts.
[1061] New definition since Phase 3 drafts.

depicted by other persons. This definition shall not include a person appearing in a state of nudity or semi-nudity doing so in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

Nursery School (See "Preschool")

Nursing Home

A facility licensed by the State Board of Health that provides nursing services on a continuing basis; admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; provides for licensed physicians services or supervision; and maintains medical records. A convalescent home, health and rehabilitation center, and rest home, if meeting the above criteria, shall also be included under this definition.

Occupied Space

The total area of earth horizontally covered by a manufactured home, excluding accessory appendages such as but not limited to garages, patios, breezeways, and porches.

Office (Professional)

Facilities that are characterized by activities generally focusing on business, professional, insurance, or financial services. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.[1062]

Onsite Sewage System

All equipment and devices used for conduction, collection, storage, treatment, and on-site disposal of sewage using a soil absorption field or Permitted Discharge System, for a property not served by a sanitary sewerage system. The term shall include conventional, alternative, and experimental onsite sewage system technologies and components, and privies approved by the Indiana State Department of Health for use in the state. An onsite sewage system shall also include a private septic system.

Onsite Sewage System Suitability Zone

An area of land delineated on a survey, supplemental document or plot plan, determined under the review of the Department of Health, provided in effort to protect soil most suitable for the installation and operation of a private onsite sewage system.

[1062] Replaces and simplifies previous definition of professional office/business service, which no longer appears in the use table. Since Phase 3 drafts title changed from Office.

Open Use of Land

An outdoor use that is operated with no primary buildings or structures, excluding a quarry operation.[1063]

Outdoor Activity Area

For the purposes of the landscape standards, the use of an area for outside activities by a nonresidential use, such as dumpsters, delivery/employee/ emergency access entrances, loading areas, or mechanical equipment.[1064]

Outdoor Display

The placement of goods, equipment or materials for sale, rental or lease in a location not enclosed by a structure consisting of walls and a roof. Outdoor display shall not mean yard sales as defined in this ordinance.

Outdoor Recreation Facility

Private recreation facilities that do not include athletic or recreational fields as a primary component of the use. Structures are typically required by or are part of the primary use of the facility. This use shall not include public parks, public recreation areas or recreation uses that are accessory uses to existing permitted primary uses.

Outdoor Recreation Use

Private athletic or recreational fields or similar uses. Structures may be required by the uses; however, they would typically only be provided as accessory uses to the primary recreation use. This use shall not include public parks, public recreation areas or recreation uses that are accessory uses to existing permitted primary uses.

Outdoor Storage

The keeping of goods, materials or equipment in a location not enclosed by walls and a roof.

Owner

Any person having record title.

Painted Graphics

Any advertisement painted directly onto the wall of a building.[1065]

Parcel

An individual unplatted piece of land, that was either: created by a deed recorded prior to the effective date of this ordinance in compliance with the Subdivision Control Ordinance in effect at the time of recordation; created as an exempt division of land/excluded conveyance by a deed recorded after September 1, 2007, in compliance with the Subdivision Control Ordinance in effect at the time of recording; or created by a Plan Commission-approved Development Plan. When a piece of land is titled in the name of the same landowner,

[1063] Definition revised since Phase 3 drafts to exclude quarrying and rock crushing operations.
[1064] Since Phase 3 drafts, definition revised to clarify applicability to landscape standards.
[1065] Definition from sign code.

but is divided by an improved public right of way, waters of the United States, or waters of the State of Indiana, then that piece of land shall be deemed to be more than one parcel.[1066]

Park or Recreation Area (Public)

A lot, tract, or development site designated and used by the public for active and/or passive recreation.[1067]

Parking Space (Off-Street)

A space other than on a street, passageway, or alley designed for use or used for the temporary parking of a motor vehicle, including driveways and garages on private residential property. [1068]

Parking Structure

A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building, including parking garages and deck parking.[1069]

Patio

A slab on grade located in the front, rear, or side yard of a property.[1070]

Pawn Shop

A place where money is loaned on security of personal property left in pawn and pledged as collateral for the loan and where that property may be redeemed by the seller in a fixed period of time or sold to the general public.[1071]

Pedestrian Friendly (see "Pedestrian Oriented")

Pedestrian Oriented

Areas that accommodate pedestrians in a manner that is safe, functional, and aesthetically pleasing. Pedestrian oriented areas generally separate pedestrian and auto traffic, as well as offer designs that are more human-scaled.[1072]

[1066] Since Phase 3 drafts, replaces current definition of Parcel of Land reading "For purposes of regulating the subdivision of land in the planning jurisdiction of Allen County, a contiguous quantity of land that either legally existed as of February 1, 2008, or that was created under A.C.C. 4-1-2-2(b) through (i) after February 1, 2008, as evidenced by the tax parcel identification number assigned by the Auditor of Allen County for assessment and tax purposes, that also is: (i) not within a legally recorded plat or minor plat; (ii) not located within a metes and bounds subdivision; and (iii) owned by, or recorded as belonging, to the same person or persons. For purposes of this definition, "contiguous quantity of land" shall mean land that is not divided by a public right-of-way, the waters of United States, waters of the State of Indiana, or an easement or other encumbrance that is titled in the name of another person or governmental entity. When a parcel of land is owned by the same person, but is divided by a public right-of-way, waters of the United States, waters of the State of Indiana, or an easement or other encumbrance that is titled in the name of another person or governmental entity, then the parcel of land shall be deemed to be more than one parcel of land.
[1067] Since Phase 3 drafts, title revised from Park Area, Public.
[1068] Consolidated similar versions of this definition, and removed technical size and dimensional standards, which appear elsewhere in the ordinance.
[1069] New definition.
[1070] New definition. Definition revised since Phase 3 drafts to delete references to open structures and maximum 12 inch elevation.
[1071] New definition.

Person

An individual, firm, company, corporation, limited liability company, partnership, limited partnership, joint venture, trust, or any other incorporated or unincorporated associations or organizations, including the respective agents of such persons.

Personal Services

Establishments that primarily engage in providing services generally involving the care of the person or his or her personal goods or apparel. Personal services may include, but are not limited to, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.[1073]

Pet Store

A retail establishment offering small animals, fish, or birds for sale as pets and where all creatures for sale are housed within the building.[1074]

Photographic Studio

An establishment that specializes in offering professional images or photographs by means of shooting, processing, and printing images of the subject. This use may include the developing of film to produce images and the sales of images produced by the establishment.[1075]

Plan Commission

The Fort Wayne City Plan Commission.[1076]

Planning Jurisdiction

That land lying within the incorporated boundaries of Fort Wayne and any additional areas where extra-territorial planning jurisdiction has been granted by the Allen County Commissioners.[1077]

Planning Staff

The personnel of the Land Use Division of the Department of Planning Services.[1078]

Plant Nursery

A place where plants are propagated and grown to usable size or otherwise kept for sale, including retail and wholesale nurseries, and the sale of related items, along with any buildings and structures necessary for the operation of the facility.[1079]

[1072] Definition revised for clarity since Phase 3 drafts.
[1073] Since Phase 3 drafts, title revised from Personal Services and Repair.
[1074] New definition.
[1075] New definition.
[1076] New definition.
[1077] New definition, replaces the definition of territorial jurisdiction in the AC code. Since Phase 3 drafts, definition revised to remove references to specific Indiana law and to clarify towns excluded from County planning jurisdiction.
[1078] Overlapping definitions of "staff" were deleted.
[1079] New definition since Phase 3 drafts.

Plat

The drawing on which a plan of subdivision is presented to the Plan Commission (or an approved committee of the Commission) for approval, showing the length, width, and size of each lot, and public ways or places. A plat must be properly approved and recorded to be of effect.[1080]

Plat, Minor

A subdivision of a parcel of land, that creates no more than six (6) lots, and that is reviewed and approved in accordance with this ordinance. No further subdivision of a platted and recorded minor plat shall be permitted, unless the minor plat is replatted in accordance with this ordinance.

Plat, Major

A subdivision of a parcel of land that creates more than six (6) lots, is reviewed and approved in accordance with the Subdivision regulations, and is intended to be filed with the Allen County Recorder's office; excluding an exempt division of land under §157.303(C)(2) and a minor plat. All lots in a major plat shall be served by a public sanitary sewer system. Major Plats shall only be permitted in R, MH, C, or I zoning districts. No further subdivision of a recorded major plat shall be permitted, unless the plat is replatted.[1081]

Plat Committee

A group of officials appointed by the Plan Commission to hold hearings on and dispose of subdivision applications on behalf of the Commission.[1082]

Play Equipment

Accessory structures and uses, used for recreation and play, including jungle gyms, play houses, play sets/structures/equipment, skateboard halfpipes, swing sets, trampolines, tree houses, sandboxes, and other similar uses.[1083]

Police Station

Any building or part of a building that is designated by a chief of police or sheriff to be used as a police or sheriff's station or substation and at which duly authorized officers perform law enforcement functions.[1084]

Porch, Open

A roofed structure attached to a building and open on two or more sides. A screened in porch shall not be considered open.

Portable Storage Container

A semi-trailer, truck box or other similar container placed on a property for use as accessory storage. Dumpsters or roll-off containers used for the temporary storage of solid waste shall not be included under this definition.

[1080] Definition revised to refer to a document rather than an approved subdivision. Overlapping definition of proposed plat was deleted as unnecessary. Revised since Phase 3 drafts to add characteristics of plats and to add second sentence.
[1081] New definition since Phase 3 drafts.
[1082] Definition revised since Phase 3 to eliminate specific membership of the committee.
[1083] New definition. Definition revised since Phase 3 drafts to add examples of included equipment.
[1084] New definition.

Preschool

A school for children primarily between the ages of three and five, providing preparation for elementary school.

Printing Services

A retail establishment that includes a quick print shop or the operation of offset printing and other related equipment, such as, but not limited to, paper cutters, collating machines, multi-colored press equipment, plate burners, digital services, publishing, binding and photographic developing equipment.[1085]

Professional Engineer

An engineer who is licensed in compliance with the laws of the State of Indiana.

Protected Class

The federal Fair Housing Act, which is the federal law governing housing discrimination, includes the following seven protected classes: race, color, religion, national origin, sex, disability, and familial status.

Public Park (See "Park or Recreation Area, Public")

Public Sewer Facility

A sewage or storm water collection and disposal/dispersal system operated by an entity regulated by the Indiana Utility Regulatory Commission (IURC). This shall not include a package treatment or similar private sewer facility.[1086]

Public Utility

A firm, corporation, municipal department or board duly authorized to furnish, or furnishing under regulation to the public, electricity, gas, steam, communication, transportation, drainage, sewer and/or water.

Public Water Facility

A water supply system designed to serve a district, community, municipality or individual development, or portions thereof by public or quasi-public utility. [1087]

Public Works Use, Temporary

The temporary use of a structure or parcel of land for purposes of preparing for or completing a public construction project, or for storing materials or equipment related to the construction project inside or outside an enclosed building.[1088]

Radio Station

A building or portion of a building used as a place to stage, record and broadcast music and other related media.[1089]

[1085] New definition.
[1086] Consolidated similar versions of this definition from AC and FW codes. Revised since Phase 3 drafts to include dispersal systems, and clarify which systems can be considered "public".
[1087] Consolidated similar versions of this definition from AC and FW codes.
[1088] New definition.
[1089] New definition.

Radio Tower/Antenna (Amateur)

A tower or other structure to support a transmitting/receiving antenna for an amateur radio activity.[1090]

Radio or Television Tower

A structure that is designed and constructed primarily for the purpose of supporting one or more antennae that transmit information (audio, video, data, but not personal wireless communications) in the form of electromagnetic signals to one or more receivers without the use of a physical connection between the transmitting and receiving source. The term includes but is not limited to: lattice towers, guyed towers, and monopole towers. The term does not include a wireless communication tower, clock tower, bell tower, steeple, light pole, power pole, water tower, or similar structure that incidentally supports antennae.[1091]

Reception Hall

A facility in which the primary function is hosting special occasion events at which food and beverages are served to groups of people, with facilities for the refrigeration and heating of food.[1092]

Recorder

The Recorder of Allen County, Indiana.

Recreation Facility

An indoor or outdoor establishment that is maintained or operated for the amusement, patronage, or recreation of the general public, members, or paying customers, including , athletic/recreation fields, batting cages, bowling alleys, driving ranges, miniature golf courses, , tennis clubs, skating rinks, swimming pools, , and other similar uses.[1093]

Recreation Facility, Outdoor

Private recreation facilities that do not include athletic or recreational fields as a primary component of the use. Structures are typically required by or are part of the primary use of the facility. This use shall not include public parks, public recreation areas or recreation uses that are accessory uses to existing permitted primary uses.[1094]

Recreation, General

Uses that are generally commercial and provide indoor or outdoor entertainment, recreation, amusement or sport for consumers. Accessory uses include offices, storage of goods, outdoor storage, parking, concessions, caretaker's quarters, and maintenance facilities.

Recreation, Limited

Uses that are generally commercial and provide indoor entertainment, recreation, amusement or sport for consumers. Accessory uses include offices, storage of goods, outdoor storage, parking, concessions, caretaker's quarters, and maintenance facilities.

[1090] New definition.
[1091] New definition.
[1092] New definition. Since Phase 3 drafts, title revised from Reception/Banquet Hall.
[1093] New definition. Definition revised since Phase 3 drafts to update list of included uses and delete references to coin operated amusement devices.
[1094] New definition since Phase 3 drafts.

Recreation Field

Any indoor or outdoor field or court used for sporting or recreational activities, including soccer, football, baseball, tennis, and other similar activities.[1095]

Recreation Space, Developed

Real estate devoted to recreational purposes that contains approved site improvements, including but not limited to shelters, swimming pools, tennis courts, lakes, and playground fixtures among others.

Recreation Space, Undeveloped

Real estate devoted to recreational purposes that is void of buildings and/or structures and under common ownership by a government and/or private entity for the use and enjoyment of a community of individuals.

Recreation Uses, Outdoor

Outdoor recreation uses shall include athletic fields, golf courses, outdoor pools, swimming beaches, volleyball or tennis courts, and similar uses.[1096]

Recycling Collection Point

An accessory use, structure, or enclosed area that serves as a neighborhood drop-off point for temporary storage of recyclable materials. A recycling collection point may also include a facility for the temporary collection of used clothing and household goods.

Recycling Processing Facility

A recycling facility that receives distinct and recognizable solid waste items such as newspapers, magazines, books, and other paper products, glass, metal cans, and other similar products are recycled, reprocessed, and treated in order to return those products to a condition where they may be again be used in new products. Based on a calendar quarter, a recycling processing facility must have not more than ten percent (10%) by volume of the solid waste that passes through the facility ultimately taken for final disposal.

Refinery

A production facility composed of a group of chemical engineering unit processes and unit operations refining certain materials or converting raw material into products of value.[1097]

Refuse

All waste solids (except body wastes), including garbage, rubbish, ashes, and dead animals.[1098]

Rehabilitation/Renovation

The act or process of improving a structure's condition through repair and alterations while respecting those features significant to its architectural, historic or cultural value.

[1095] New definition. Since Phase 3 drafts, title revised from Recreation Field/Court.
[1096] New definition.
[1097] New definition.
[1098] New definition since Phase 3 drafts.

Religious Institution

A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Accessory buildings, structures, or uses may include athletic/recreation fields (non-illuminated); assembly buildings (including gymnasiums); clothing or food banks; convents/parsonage/rectories or similar residences; day care; counseling or education; school facilities; parking; or caretaker's housing.. Examples include churches, mosques, synagogues, temples, or other places of worship.[1099]

Rental and Leasing Store

A retail establishment that rents to the general public merchandise, such as furniture, appliances, and similar goods, that are housed inside a building.[1100]

Research and Development Facility

A facility including research, synthesis, analysis, development and testing laboratories, including the fabrication, assembly, mixing and preparation of equipment and components incidental, convenient or necessary to the conduct of those activities.[1101]

Research and Scientific Laboratory

A facility or area for conducting scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.[1102]

Residential Condominium Development

A residential development created as a horizontal property regime (pursuant to IC 32-25 et. seq., as may be amended) where each dwelling unit is owned or financed by the occupant or occupant's lessor, but in which the common areas, facilities, and underlying land is owned jointly by all the owners on a proportional, undivided basis.

Residential District

The AR, R1, R2, R3, RP, MHS, and MHP zoning districts.[1103]

Residential Facility, General

Higher intensity residential uses other than single-family, two family and multiple family dwellings, including but not limited to:[1104]

(1) Assisted living facility

(2) Dormitory/campus housing (off-site)

(3) Fraternity house

[1099] New definition.
[1100] New definition.
[1101] New definition.
[1102] New definition.
[1103] New definition since Phase 3 drafts.
[1104] List revised since Phase 3 drafts to reflect split of group residential facilities into large and small and the addition of residential facilities for homeless individuals and residential facilities for a court-ordered re-entry program.

(4) Group residential facility (large)
(5) Live-work unit
(6) Model unit
(7) Multiple family complex
(8) Multiple family dwelling
(9) Nursing home
(10) Residential dwelling unit (above, to the rear of, or attached to a permitted nonresidential use)
(11) Residential facility for a court-ordered re-entry program
(12) Residential facility for homeless individuals
(13) Retirement facility
(14) Sorority house
(15) Townhouse complex

Residential Facility, Limited

Low-intensity residential uses other than single-family, two family and multiple family dwellings, including but not limited to:[1105]

(1) Adult care home (in an existing single family detached residence only);
(2) Child care home (class I or class II; in an existing single family detached residence only);
(3) Group residential facility (small; in an existing single family detached residence only)

Residential Facility for a Court-ordered Re-entry Program

A facility providing housing for individuals under a program authorized by a local, State, or Federal court.[1106]

Residential Facility for Developmentally Disabled Individuals

A type of Small Group Residential Facility providing housing for up to than eight (8) developmentally disabled individuals (exclusive of supervisory staff, councilors or resident managers); operated under a program authorized and licensed by the State.[1107]

Residential Facility for Homeless Individuals

A facility providing housing for up to eight (8) homeless individuals (exclusive of supervisory staff, counselors, or resident managers).[1108]

Residential Facility for Mentally Ill Individuals

A type of Small Group Residential Facility providing housing for up to eight (8) mentally ill individuals (exclusive of supervisory staff, counselors, or resident managers).[1109]

[1105] List revised since Phase 3 drafts to reflect split of group residential facilities into large and small and broadening of use to beyond developmentally disabled to those protected by federal law.
[1106] New definition since Phase 3 drafts.
[1107] Definition revised since Phase 3 for clarity and to remove references to specific sections of state law.
[1108] New definition since Phase 3 drafts.

Residential Facility (Other)

A facility providing housing for up to eight (8) individuals (excluding supervisory staff, counselors, or resident managers) who are members of a protected group as set forth under the Fair Housing Act.

Restaurant

An establishment primarily for the sale of food and drink that is prepared, served, and consumed for the most part within the principal building, with or without drive-through facilities.[1110]

Retail/Service, General

A facility or area for the retail sale of general merchandise or food to the general public for direct use and not for wholesale. This use includes but is not limited to sale of general merchandise, appliances, clothing and other apparel, convenience and specialty foods, dry goods, flowers and household plants, hardware and similar consumer goods.[1111]

Restoration

The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

Retail Facility, Multiple Tenant

A single multiple tenant retail building located on a development site or shopping center outlot.

Retail Facility, Single Tenant

A stand-alone, single tenant retail facility on its own development site. Accessory space may be rented or leased within the building provided a separate outdoor entrance is not provided. This definition shall not include home improvement centers.

Retaining Wall

Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials.

Retirement Facility

An independent living facility designed to meet the needs of persons fifty-five (55) years of age or over. Typically the facility consists of independent living apartments along with common areas for meals, social gatherings, and recreation. Services such as transportation, housekeeping, dietary supervision, recreational activities, and coordination for home health care may also be offered. However, the primary purpose of the facility is not to provide medical services for its residents.

[1109] Revised since Phase 3 drafts to replace current definition of Residential Facility for the Mentally Ill reading "A residential facility for the care, treatment, training or detention of mentally ill individuals".
[1110] Revised definition to clarify that drive through facilities may be included.
[1111] Since Phase 3 drafts, list of included goods has been updated.

Riding Stable, Non-residential

Any premise or portions of a premises on which horses or other similar animals are maintained for the public to ride in return for monetary remuneration or other forms of compensation. Non-residential stables may be located on a parcel with no primary structure; the parcel shall be at least five (5) acres in size.

Riding Stable, Private

Any premise or portions of a premises, on which a private club, association, or other private organization maintains horses or other similar animals to be ridden exclusively by its membership and guests of the membership.

Riding Stable, Residential

An area for riding or housing/boarding horses, used as an accessory use and located on a property with a single family residence.[1112]

Right-of-Way

A dedicated strip of land that may be occupied or may be intended to be occupied by transportation facilities, public utilities, or other public uses.

Root Parcel of Land

Any separate and distinct quantity of land located within a registered metes and bounds subdivision created by virtue of a legally recorded deed. For purposes of determining the duration of existence of a root parcel, a quantity of land shall not lose its character as a root parcel because of later conveyances of land from that parcel; provided, however, that any parcel legally created from a root parcel of land by conveyance within a registered nonconforming metes and bounds subdivision shall, after the expiration of twelve (12) months from the recordation of the deed evidencing that conveyance, be construed as a new root parcel.

Sales Yard

An outdoor area for the sale of building materials, lumber, sand, gravel, stone, and similar materials used in construction projects.

Salvage Yard

A lot, parcel, development site, structure, or business operation that is primarily used for sales of, processing, or dismantling junk or similar material.[1113]

Sanitary Landfill[1114]

A solid waste disposal facility designed to accommodate and dispose of certain types of solid waste as defined and described in 329 IAC 10-2 (excluding hazardous waste regulated by 329 IAC 3.1). The facility shall be operated by spreading the waste in layers, compacting to the smallest practical volume, and covering with material at the end of each operating day. The facility shall be operated under permits issued by the appropriate government agencies.

[1112] New definition.
[1113] New definition since Phase 3 drafts.
[1114] Removed duplicative definitions and provided cross reference.

Satellite Dish, small

A parabolic (dish shaped) structure with an antennae or similar apparatus or device designed for the purpose of receiving radio, television or similar communications which is not more than two (2) feet in diameter.[1115]

Satellite Dish, large

A parabolic (dish shaped) structure with an antennae or similar apparatus or device designed for the purpose of receiving radio, television or similar communications which is more than two (2) feet in diameter.[1116]

Savings and Loan Association

An establishment that provides lending and financial services to individuals and businesses. Accessory uses may include automatic teller machines and drive through facilities.[1117]

Sawmill

A mill for sawing timber or logs into boards or lumber.[1118]

School

Facility used for educational purpose including public or private primary or secondary schools; elementary, junior or senior high, including charter or vocational schools.[1119]

School, Parochial

A school maintained by a religious body for either primary or secondary instruction.

School, Private

A preprimary, primary, grade, high or preparatory school or academy, not owned by any governmental unit.[1120]

School, Public

An institution at the elementary, middle, or high level that provides educational instruction to students. .[1121]

Seasonal Outdoor Retail Sales

Any business or use (primary or accessory), that is conducted primarily out of doors, which may include but not be limited to: retail sales of garden supplies and equipment; roadside stands for the sale of fruits and vegetables, plants, flowers, Christmas trees, fireworks; and other similar businesses or uses.

Secondary Approval

Approval, or approval with conditions, granted to an application for a Development Plan or Major or Minor Subdivision, certifying that the application reflects all terms, conditions, and commitments required by the Plan Commission, or the Plat Committee acting in its behalf.[1122]

[1115] Definition revised from Satellite Dish since Phase 3 drafts to cover smaller equipment based on diameter referenced in federal Telecommunications Act.
[1116] New definition since Phase 3 drafts.
[1117] New definition since Phase 3 drafts.
[1118] New definition.
[1119] New definition.
[1120] Consolidated different variations of this definition from AC and FW codes.
[1121] New definition. Definition revised since Phase 3 drafts to delete exclusion of business schools and colleges.

Security Fence

A fence erected as a barrier to persons, animals, or vehicles entering or leaving the enclosed area.

Self-Service Storage (Mini-Warehouse) Facility

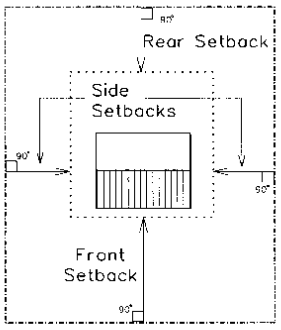
A building or group of buildings consisting of individual, self-contained units that are leased to individuals, organizations, or businesses for self-service storage of personal property.

Semi-Nude Or State Of Semi-Nudity

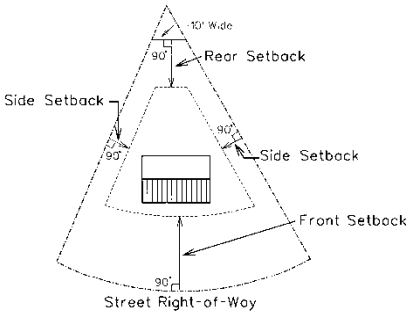
A state of dress in which opaque clothing covers no more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

Setback

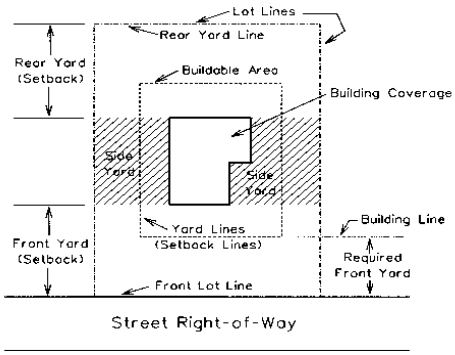
The distance on a lot measured from the edge of a right-of-way that must remain open, unoccupied and unobstructed by structures, except as otherwise provided or permitted in the ordinance.



Examples of Setbacks



Examples of Setbacks



Sexual Encounter Establishment

An establishment that as one of its purposes offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities or where one or more of the person is nude or semi-nude. This definition shall not include a licensed health care facility, or establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.[1123]

Sexually Oriented Business

An adult bookstore, adult cabaret, adult motion picture theater, adult night club, adult novelty store, adult video store, nude or semi-nude model studio, or sexual encounter establishment.[1124]

Shed

An outbuilding or other structure that is accessory to a principal use on the same lot.[1125]

[1122] Definition revised to apply to both Development Plans and subdivisions.
[1123] Definition revised since Phase 3 drafts to delete "primary" from "primary purposes".
[1124] Definition revised since Phase 3 drafts to add adult motion picture theater and adult night club.

Shooting Range

An area or facility to be used for firearm target practice, competitions, or similar uses, including but not limited to archery, skeet, trap, paintball, and similar shooting activities, and including both indoor and outdoor facilities.

Shop

A place where merchandise is offered for sale; a store.

Shopping Center

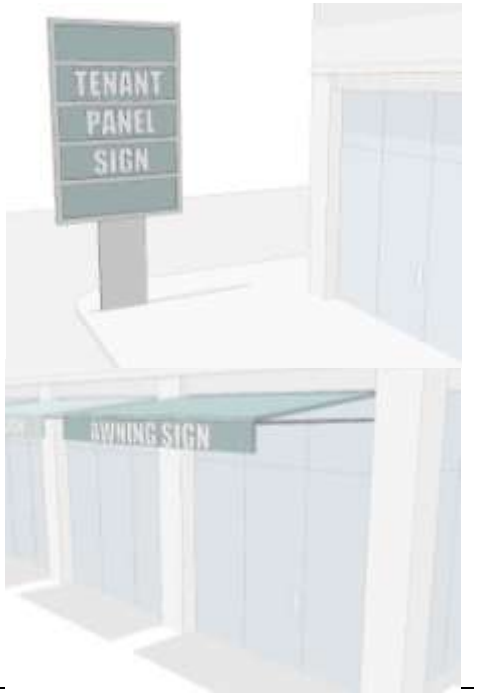
A development that includes more than one multiple tenant or single tenant retail facility, or other retail use located on a development site or combination of development sites.

Sign

Any identification, description, illustration, device, light projection, or surface treatment, that is in view of the general public and that directs attention to a person, place, commodity, activity, institution, organization or business. Signs include but are not limited to wind wavers, banners, building and equipment wraps, painted tops of buildings, mannequins displayed outdoors, outdoor displays of goods not for sale, window signs, and portable signs. Signs do not include architectural elements or details; clocks; thermometers; vending machines; newspaper racks; decorative illumination including façade illumination, neon accent lighting, and backlit awnings that do not attract attention to a product or service; art, murals, and other similar painted displays that do not attract attention to a product or service; signs where the message is either not legible from outside the building or intended to only be seen from inside the building.[1126]

Sign, Additional Entrance

A freestanding sign located at the entrance to a property containing multiple tenants or facilities on a single property or on multiple properties that share that access. An additional entrance sign includes but is not limited to a tenant panel sign for a shopping center, commercial facility, or industrial park, or a single sign containing the names of the multiple tenants or facilities that share the access where the sign is located, but does not include a subdivision entrance sign.[1127]



Sign, Auction

A temporary sign that announces the date, time and other information relative to an auction on a property.[1128]

Sign, Awning

A sign affixed flat to or painted upon the surface of an awning.[1129]

[1125] New definition.
[1126] Definition revised since Phase 3 drafts to include a wider range of attention getting devices.
[1127] New Definition.
[1128] Definition from sign code.
[1129] Definition from sign code.

Sign, Billboard

Any sign that identifies or directs attention to a product, service, or activity or business not conducted on the premises on which the sign is located, and that has100 sq. ft. or more of sign area.[1130]

Sign, Blade

A sign affixed to a building wall that projects from the building face, generally at right angles to the building. Blade signs are: primarily oriented toward vehicular traffic; typically taller than they are wide; and located in higher traffic volume areas. Blade signs shall only be permitted on buildings that are over sixty (60) feet in height.[1131]

Sign, Canopy

A sign affixed to a canopy.[1132]

Sign, Changeable Copy

A sign or portion of a sign that allows for frequent changes in sign messages by manual, electronic, or mechanical means.

Signs, Construction

Any sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building project or announcing the character of the building enterprise or the purpose for which the project is intended.[1133]

Sign, Direction

A small auxiliary sign typically used to provide information such as directions on or to a property, parking locations and limitations, traffic information, address identification, and other similar information. Direction signs may include logos or other proprietary symbols.[1134]

Sign, Directory

A sign that provides a list or directions to multiple facilities or tenants within a single building or complex of buildings.[1135]

[1130] Billboards and now distinguished from other types of signs based on size
[1131] Definition from sign code.
[1132] Definition from sign code.
[1133] Definition from sign code.
[1134] Consolidated various versions of this definition from sign codes.
[1135] Definition from sign code; revised for clarity since Phase 3 drafts.

Sign, Entrance

A sign used to identify a planned district or platted subdivision with the intention of providing knowledge about the complete project and not a single entity or unit.[1136]

Sign, Expired

A sign displayed on a property after the conclusion of the event the sign was placed in association with**;** or a sign with a message that has been rendered no longer operative, valid, or timely by a cessation or abandonment of a land use or occupancy, a cessation or completion of events, or the passage of time. Examples of expired signs shall include a sign for a business no longer in operation, an empty sign cabinet that does not display any message, a yard sale sign displayed after the conclusion of the sale, a noncommercial opinion sign displayed more than the permitted number of days after the date of the applicable election, a real estate sign displayed more than the permitted number of days after the closing of the sale, or a construction sign displayed more than the permitted number of days after the completion of construction.[1137]

Sign, Flashing

Any sign that flashes or appears to flash by a powered light source at intervals of less than 6 seconds.[1138]

Sign, Freestanding

A sign that is completely or principally self-supported and erected on a frame, mast or pole that is not attached to a building.[1139]

Sign, Ground-mounted

A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles with no clearance between the bottom of the sign and the ground below, and designed to include a continuous or nearly continuous central base.[1140]

Sign, Incidental

Any accessory sign that advertises goods, services or facilities that are available on the premises where the sign is located. Any sign required by law shall not be counted as an incidental sign.[1141]

Sign, Marquee

A sign displayed, erected or supported upon an overhanging marquee or other similar cover or shelter.[1142]

Sign, Master Plan (see "Master Sign Plan")

[1136] Definition from sign code.
[1137] New definition since Phase 3 drafts.
[1138] Consolidates similar versions of this definition in the AC and FW sign regulations.
[1139] Consolidates similar versions of this definition in the AC and FW sign regulations.
[1140] Definition from sign code.
[1141] Definition from sign code.
[1142] Consolidated similar versions of this definition from the AC and FW sign codes. Revised since Phase 3 drafts to remove references to awnings and canopies (now defined separately) and references to downtown district.

Sign, Mobile

A sign that is designed to be moved from one location to another, and is not permanently affixed to the ground or to a structure that is permanently affixed to the ground (including signs affixed to the back of a truck or trailer that is parked temporarily on a lot or parcel). A vehicle associated with and parked within 40 feet of a permitted or approved special use is not a mobile sign.[1143]

Sign, Multi-Faced Sign

Any sign in a three-dimensional configuration, including but not limited to cubes, spheres and cylinders.[1144]

Sign, Noncommercial Opinion

A sign that expresses an opinion or other point of view, and does not contain information or advertising for any business, product, good, service, entertainment, or other commodity. A sign that meets the definition of "sign", including an on-premise sign or and off-premise sign, shall not be considered a noncommercial opinion sign.[1145]

Sign, Off-Premise Sign

Any sign that identifies or directs attention to a product, service, or activity or business not conducted on the premises on which the sign is located, and that does not exceed 100 sq. ft. in area.[1146]

Sign, On-Premise

Any sign identifying or advertising a business, person, activity, good, product or service located on the premises where the sign is installed.[1147]

Sign, Political

Any temporary sign pertaining to an election or a referendum or carrying the picture or name of a person seeking election or appointment to a public office.[1148]

Sign, Projecting

A sign other than a wall sign, that is affixed to any building, wall or structure and extends greater than eighteen (18) inches beyond the building wall or parts of the building wall, generally at a right angle to the building, so that the sign is designed to be viewed from a position generally perpendicular to the building. Projecting signs shall not project above the wall of a building, including cornice walls.[1149]

[1143] Consolidated similar versions of this definition, and clarified that signs affixed to the back of trucks/trailers do count against the total allowance for mobile signage on the site.
[1144] Definition from sign code.
[1145] Definition from sign code.
[1146] Consolidates different variations of this definition from AC and FW sign codes.
[1147] Consolidated similar versions of this definition from AC and FW sign codes.
[1148] Definition from sign code. An overlapping definition of political campaign sign was deleted.
[1149] Consolidates similar versions of this definition from AC and FW sign codes.

Sign, Public Information

Signs of a public, non-commercial nature to include safety signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, and all signs erected by or on order of a public office in the performance of a public duty.[1150]

Sign, Real Estate Sign

An on-premise sign pertaining to the sale, construction, rental or lease of the property upon which it is located.[1151]

Sign, Roof

A sign erected upon or above a roof or parapet of a building.[1152]

Sign, Temporary

A sign not permanently installed or not intended or designed for permanent display. This includes all signs constructed of cloth, canvas, light fabric, cardboard, or other light material. Easily removed signs attached to windows shall be considered temporary signs. [1153]

Sign, Wall

A sign attached to the face of a building, or attached to a mansard or similar style of roof, so that the sign is designed to be viewed from a position generally parallel to the building. Signs parallel to and attached to sloping walls or mansard or similar style roofs to allow the sign display surface to remain perpendicular to the ground shall also be considered wall signs. Wall signs shall not project above the wall, cornice line, or top roof line of a building.[1154]

Sign, Window

Any sign painted or otherwise permanently affixed onto a glass area or installed behind a window for viewing from outside the building, excluding temporary signs.[1155]

Sign Area

The area in square feet of the smallest, simplest, single geometric figure that encloses the area that forms the outside shape of the sign face. Permitted changeable copy areas are to be included in the calculation of sign area, not allowed in addition to otherwise permitted sign area.[1156]

[1150] Definition from sign code.
[1151] Definition from sign code.
[1152] Definition from sign code.
[1153] Consolidated different variations of this definition from AC and FW sign codes.
[1154] Definition from sign code.
[1155] Definition from sign code.
[1156] Definition from sign code. Revised since Phase 3 drafts to clarify that changeable copy area is included.

Sign Brightness

The maximum brightness of a video display or electronic graphic display sign.[1157]

Sign Fabricating Shop

An establishment where the primary use is the fabrication of freestanding, wall, identification, or other signage for off-site installation.

Sign Height

The distance between the lowest grade level within two feet of either side of a sign, and the highest part of the sign or its supporting structure.[1158]

Sign Sales Store

An establishment where the primary use is the retail sale of signs, banners, or similar items. Limited on-site fabrication or creation of signage may be permitted.

Sign Separation from Districts, Uses, or Features

Where signs are required to be separated from specified zoning districts, land uses, or other features, the distance shall be measured radially starting from the center of the sign base at grade, and shall extend outward in a circular manner for the distance specified.[1159]

Sign Separation from other Signs

Minimum required distances between off-premises signs and billboards shall be measured (a) horizontally along the side of the street where the sign is located and (b) along the opposite site of the street where the sign is located, beginning from a point directly opposite the off-premises sign or billboard, as measured from an imaginary line perpendicular to the centerline of the street at that point.[1160]

Significant Natural Features

Noteworthy elements of the natural environment including rock outcroppings, ravines, streams, irrigation ditches, stands of more than 100 mature trees, and identified historical or archeological sites.

Site Area, Gross

The entire land area within the boundaries of a site, including all existing and proposed public and private rights-of-way.

Site Area, Net

The entire land area within the boundaries of a site, excluding all the area of any existing and proposed public and private rights-of-way.

[1157] Definition from sign code, revised to remove technical standards, which now appear in sign regulations.
[1158] Consolidated several versions of this definition.
[1159] From Phase 2 draft of A.C.C. 3-4-9-6(h).
[1160] New definition since Phase 3 draft.

Slaughter House

A facility for the slaughtering and processing of domestic farm animals and the refining of their byproducts.[1161]

Solar Panel (ground-mounted)

A single panel or combination of panels or elements that does or will use direct sunlight as a source of energy for purposes such as heating or cooling of a structure, heating or pumping of water, and generating electricity. Solar panels include both photovoltaic and hot water devices.[1162]

Solid Waste

Any garbage, refuse, sludge from a wastewater treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material as described in 329 IAC 10-2-174(A)(6). However, the term "solid waste" does not include the following:

(1) Solid or dissolved material in domestic sewage, solid or dissolved materials in irrigation return flows, or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1342 as may be amended) and under chapter 51 of the City Code;

(2) Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014 et seq.);

(3) Manures or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or

(4) Vegetative matter at composting facilities registered under IC 13-7-35 (as may be amended).

Solid Waste Transfer Station

A facility at which solid waste, as defined in 329 IAC 10-2, is transferred from a vehicle or container to another vehicle or container for transportation from one mode of transportation to another including the transfer of a trailer, container or waste from rail to road transportation. The following may also be located at a transfer station as accessory uses: solid waste baler, solid waste shredder, composting facility or garbage grinding facility. The storage or transfer of hazardous waste as regulated under 329 IAC 3.1(as may be amended) shall not be permitted at the facility. This term does not include the following:

(1) Collection containers for solid waste;

(2) The transfer of solid waste at the point of generation;

(3) A recycling processing facility that receives distinct and recognizable solid waste items that fall under the definition of "recycling processing facility";

(4) Curbside satellite collection vehicles used for collecting residential waste, which are small motorized vehicles, or the equivalent, with bins or containers that once full are deposited into larger solid waste collection vehicles or containers; or

(5) A facility that generates solid waste.

[1161] New definition. Definition revised since Phase 3 drafts to clarify that slaughtering must be of domestic farm animals.
[1162] New definition.

Sorority House

A building, rented, occupied or owned by a national or local chapter of an organized college fraternity or sorority that is officially recognized by a college, university, or other educational institution.

Special Event

Circuses, fairs, carnivals, festivals or other types of short-term activities.[1163]

Special Use

A land use listed in this ordinance as a special use for the zoning districts in which the property is located and that requires review and approval pursuant to §157.503(D) and the other applicable provisions of this this ordinance prior to commencing the use.[1164]

Specified Anatomical Areas

This term includes (1) less than completely and opaquely covered: human genitals, pubic regions, cleft of buttocks, anus, or female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.[1165]

Specified Sexual Activities

Actual or simulated sexual conduct, normal or perverted acts of human masturbation; deviate sexual intercourse; oral copulation, sodomy, sexual intercourse; or physical contact, fondling, or erotic touching, in an act of apparent sexual simulation or gratification, of a person's clothed or unclothed genitals, pubic area, buttocks, anus or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification, or excretory functions in connection with any of the above activities. [1166]

Stadium/Race Track

Any structure with tiers of seats rising around an unenclosed sports field, playing court, or public exhibition area. Stadium/racetracks are primarily used for sports and athletic events. Entertainment and other public gathering purposes, such as concerts and conferences may be permitted as an accessory use of a stadium/racetrack.[1167]

Standards

The most current, specific and detailed listing of materials and construction methods for infrastructure improvements, standards of construction and design, and performance bond schedules as adopted by the Board of Public Works, and/or the Board of Park Commissioners.

Storage

The keeping of goods, materials, equipment or vehicles on a property.

[1163] Since Phase 3 drafts, definition simplified and qualifiers in definition removed.
[1164] New definition.
[1165] Consolidated similar versions of this definition from AC and FW codes.
[1166] Consolidated similar versions of this definition from AC and FW codes.
[1167] New definition. Revised from Phase 3 draft to remove "arena" from heading, replace the Stadium use, and clarify that this is an unenclosed use.

Storage Building

Structures used for the storage or warehousing of goods, but not including temporary storage containers such as portable on-demand units or tractor trailers used for storage.[1168]

Storage Shed

An accessory structure to a single family or two family residential use used for the storage of household recreational or yard equipment, gardening materials, tools, and household similar items, but excluding portable storage containers, shipping containers, truck bodies, and other abandoned vehicles or portions of vehicles.[1169]

Story

That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above it, then the space between any floor and the ceiling next above it; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four (4) feet.

Story-Half

A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of that story.

Street

A dedicated, constructed public right-of-way primarily for purposes of vehicular travel, including the pavement, median, curb, and/or shoulder.[1170]

Street, Arterial

A street system typically designed to carry high volumes of traffic, generally interconnecting with expressways and freeways, and providing a continuous high mobility network that primarily services regional traffic. The following classifications shall also be included under this definition:

(1) Principal Arterial

A public street that provides high volume travel between major points or serves the major centers of activity and designated as a principal arterial on the map contained in the latest Transportation Plan adopted by the Fort Wayne Common Council. A principal arterial carries most of the trips entering and leaving the urban area as well as most through movements and intra-area travel. The street serves primarily through traffic and provides access to abutting properties as a secondary function.[1171]

(2) Minor Arterial

A street system that interconnects with and supports the principal arterial system and designated as a minor arterial on the latestTtransportation Plan adopted by the Fort Wayne Common Council. The system carries trips to geographic areas smaller than that identified with higher classifications. Those arterials not classified as principal arterials shall be classified as minor arterials.

[1168] New definition.
[1169] New definition since Phase 3 drafts.
[1170] Consolidated variations of this definition from AC and FW codes.
[1171] Consolidated different variations of this definition from AC and FW codes.

Street, Collector

A public street that provides moderate volume traffic circulation and property access. The street may penetrate residential, commercial, and industrial areas distributing trips from arterials through the area to local streets or final destinations. The system also links neighborhoods or areas of homogeneous land use with arterials. The following classifications shall also be included under this definition:

(1) Street, Minor Collector

A minor collector street serves as a connecting link between collector streets and local streets, primarily serving internally to residential communities.[1172]

(2) Street, Sub-Collector

A street that functions to conduct traffic between major traffic arterials and/or activity centers. It is a principal traffic artery within a residential area and carries a relatively high volume of traffic.

Street, Cul-De-Sac

A dead-end street that terminates in a circular right-of-way and does not provide more than one access point onto another street, nor act as a collector, or means of access to lots not fronting that street.[1173]

Street, Local

A public street that provides for low volume traffic circulation and direct access to abutting properties (residential, commercial, and industrial). Through-traffic movement is usually deliberately discouraged. [1174]

Street, Private

An improved area other than a driveway, which is located on private property, used primarily for purposes of vehicular travel, and has not been dedicated or otherwise accepted as a public right-of-way by an appropriate governmental entity.

Street, Public

A dedicated public right-of-way used primarily for purposes of vehicular travel, including the pavement, median, curb and/or shoulder, that has been dedicated to or otherwise accepted by the appropriate governmental entity.

Structure

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include arbors, billboards, buildings, carports, decks, fences, gazebos, loading docks, manufactured homes, porches, storage tanks, satellite dishes, swimming pools, and walls. The term does not include construction or features such as driveways; earth berms or mounds; on-grade patios; parking areas; ponds or detention areas; sidewalks; sanitary or hazardous waste landfill disposal areas; sand, gravel, stone, or other similar natural material extraction overburden mounds; vegetation; or similar natural features and/or man-made construction.

[1172] Consolidated different variations of this definition from AC and FW codes and subdivision regulations.
[1173] Consolidated variations of this definition.
[1174] Consolidated variations of this definition. Provisions regarding design and operation were deleted as unnecessary,

Structure, Primary (See Building, Primary)

Structure, Temporary

A trailer, mobile unit, or other structure intended to be placed on a lot, tract, or development site for a limited period of time.[1175]

Studio

An enclosed space used by anyone engaged in artistic employment or instruction in painting, sculpture, photography, music, dancing, dramatics, literature, or similar activities.

Subdivision (including the word "subdivide")

The division of a single parcel of land, or part of that parcel, into two or more lots or parcels of land for the purpose, whether immediate or future, of transfer of ownership, unless it qualifies as an Exempt Division of Land pursuant to §157.303(C)(2).[1176] The following classifications shall also be included under this definition:

(1) Subdivision, Major

A subdivision of land meeting the definition of a Major Subdivision in Section 157.303(C)(4). [1177]

(2) Subdivision, Minor

A subdivision of land meeting the definition of a Minor Subdivision in §157.303(C)(3). [1178]

Substantial Change

For the purposes of plan review and approval, a change in or to: access point numbers or significant change in location; the number of buildings; the number or size of lots/parcels; or an increase in the height or the square footage of the proposed buildings relative to the previously submitted application or approved plan.[1179]

Supermarket (See "Grocery Store")

Swimming Pool

Any constructed or portable structure designed or constructed to be filled with water and intended to be used for swimming or similar purposes, which is both over twenty-four (24) inches in depth and over two hundred fifty (250) square feet in size regardless of whether the structure currently contains water or is empty.

[1175] New definition since Phase 3 drafts.
[1176] Consolidated different variations of this definition from the AC and FW subdivision regulations.
[1177] New definition.
[1178] New definition.
[1179] Since Phase 3, title shortened and definition revised for clarity.

Synagogue (see "Religious Institution")

Tavern (see "Bar")

Television Station

A building or portion of a building used as a place to stage, record and broadcast music, videos, television, and other related media.

Temple (see "Religious Institution")

Temporary Use

A temporary or seasonal use intended to occupy a lot, tract, or development site for up to seven (7) days (or as otherwise specified in this ordinance) per event.[1180]

Tennis Court

An indoor or outdoor facility designed with courts specifically for the recreational use of tennis, squash, handball and/or other similar court games.[1181]

Theater

A facility with fixed seats for the viewing of movies or live presentations of musicians or other performing artists.[1182]

Tire Sales

An establishment engaged in selling automobile, truck, bus, and other tires for motor vehicles. Accessory uses may include the sales of other automotive accessories and the mounting, balancing, and repair of tires.[1183]

Top Roof Line

The principal top edge of the roof of a building.[1184]

Townhouse Complex

A grouping of at least two (2) freestanding townhouse structures.

Townhouse Structure

A structure containing three (3) or more townhouse dwelling units.

Tract

An area, parcel, site, piece of land, or property.

[1180] Since Phase 3 drafts, definition revised to allow for different time periods stated in the ordinance.
[1181] New definition.
[1182] New definition.
[1183] New definition
[1184] Definition from sign code.

Trail, Multi-use

A trail or path, either within a public right-of-way or an easement on private property, which is physically separated from vehicular traffic by an open space or barrier. To permit more than one user at a time, the trail shall be a minimum of 10 feet wide.[1185]

Transition

For purposes of sign regulation, a visual effect used on a changeable copy sign to change from one message to another.[1186]

Transitional Use

A use that is intended to serve as a low-intensity intermediate use between existing residential land uses (especially single family) and higher-intensity nonresidential uses, as an area changes from residential use to nonresidential use. A transitional use shall only be permitted to be considered as a Special Use on lots which adjoin an arterial roadway.[1187]

Trash

Combustible waste materials, excluding garbage, but including the residue from the burning of coal, coke, wood, and other combustible materials; boxes, cans, cartons, crockery, excelsior, glass, leather, metals, mineral matter, paper, rags, rubber, tires, vegetative matter, wood, and other similar materials.[1188]

Travel

For purposes of sign regulation, a mode of message transition on a changeable copy sign where the message appears to move horizontally across the display surface.[1189]

Treatment Center

A facility for the on-site drug, mental health, or psychiatric treatment, therapy, or counseling of individuals.[1190]

Trellis

A structure of open latticework, typically used as a support for vines and other plants.[1191]

Truck Depot/Terminal

A facility in which goods shipped by truck are loaded, unloaded, or transferred between trucks for shipping or distribution, together with incidental truck storage, maintenance, and administrative offices.[1192]

Truck Stop

An establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks and similar heavy commercial vehicles, including the sale of accessories and equipment for those vehicles. A truck stop

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[1185] New definition since Phase 3 drafts.
[1186] Definition from sign code.
[1187] New definition since Phase 3 drafts.
[1188] New definition since Phase 3 drafts.
[1189] Definition from sign code.
[1190] New definition.
[1191] New definition.
[1192] New definition.

may also include overnight accommodations, showers and restaurant facilities primarily for the use of truck crews.[1193]

Universally Permitted Uses

Universally permitted uses are land uses that are permitted in any zoning district within Fort Wayne's planning jurisdiction. These uses shall include, but not be limited to the following primary uses, and related accessory uses except as noted:

(1) a community garden (excluding structures);

(2) a fire station, police station, other similar public safety use, or other publicly-owned building supported by municipal or county taxes, such as a community center or library;

(3) a nature preserve (private non-profit), excluding parking areas or structures available for public use;

(4) an off-site parking area for a religious institution or a school, if located directly across an alley right-of-way from that primary use;

(5) a park or recreation area (public county, municipal, state, or township), including parking areas, and structures;

(6) a religious institution; and

(7) a school (public or private elementary, junior, or senior high, including charter or vocational school); including certain accessory structures and facilities used by the school, and those accessory uses associated with the school use, as determined by the Zoning Administrator.

Unlicensed Motor Vehicles

A motor vehicle without proper, current license plates, registration and/or inspection certificate to be lawfully operated on public ways.

Unplatted Land

A piece of land with a metes and bounds legal description, created by a legally recorded deed.[1194]

Unrelated Persons

Two (2) or more persons occupying a single dwelling unit who are not related by blood, marriage or adoption.

Use

The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Use, Nonconforming (see "Nonconforming Use")

Use, Nonresidential

A commercial, industrial, or institutional use, as opposed to a single family, two family, multiple family, or other residential use.[1195]

[1193] New definition.
[1194] New definition since Phase 3 drafts.
[1195] New definition since Phase 3 drafts.

Use, Primary

The predominant use of any lot, tract, development site, building, or structure permitted as a matter of right under the applicable zoning district, or by the approval of a special use, conditional use, or by use variance. Unless otherwise prohibited by this chapter more than one primary use may exist on or within building(s) or structure(s) or on a lot, tract, or development site provided there is compliance with all other applicable ordinance provisions.

Use, Single Family

A residential use which consists of occupancy by one family as a single housekeeping unit. To be considered a single family use the dwelling unit must have one primary entrance, a single primary kitchen, and all individuals must have full use of the entire residence (excluding individual bedrooms). Except for residential facilities for the developmentally disabled or mentally ill, or a residential facility (other), services shall not be provided to residents. A fraternity or sorority house shall not be considered a single family use.

Utility Fixture, Accessory

An accessory fixture or use of building or lot for utility purposes, including heating units, air conditioning units, back-up generators, heat pumps, meter propane/oil tanks, onsite sewage system or septic tank covers, pumps, inspection pipes, utility connection enclosure boxes, or well heads.[1196]

Utility Service Facility, Private

Buildings, structures, or other facilities used or intended to be used by any private utility other than telecommunications facilities. This category includes buildings or structures that house or contain facilities for the operation of water, wastewater, waste disposal, or electricity services. This use also includes water storage tanks; electric or gas substations, water or wastewater pumping stations, or similar structures used as an intermediary switching, boosting, distribution, or transfer station of electricity, natural gas, water, or wastewater. This category includes passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, water, sewage, or other similar services on a local level. Additionally, a private utility facility means any energy device and/or system that generates energy from renewable energy resources including biofuels, geothermal, or similar sources. Accessory uses may include control, monitoring, data, or transmission equipment.[1197]

Veterinary Clinic (see "Animal Hospital")[1198]

Waiver

An adjustment to an ordinance standard or a complete removal of an ordinance requirement

Wall

The vertical exterior surface of a building or structure.[1199]

[1196] New definition.
[1197] New definition.
[1198] Definition replaced by cross-reference since Phase 3 drafts.
[1199] New definition.

Wall, Freestanding (see "Fence")[1200]

Warehouse and/or Distribution Facility

A facility, engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, including a self-service storage (mini-warehouse) facility, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.[1201]

Waste Management and Remediation Facility

A facility used for the temporary storage (not to exceed 10 days) and/or treatment of certain hazardous and non-hazardous waste.

Waters of the State

A lake, marsh, reservoir, waterway, or other water under public ownership, jurisdiction, or lease.[1202]

Wetlands

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" generally include swamps, marshes, bogs and similar areas and may be determined from the following sources: National Wetlands Inventory maps published by the U.S. Department of the Interior, Fish and Wildlife Service; areas designated as "marsh" in the Hydrologic Investigations Atlas published by the U.S. Department of the Interior, Geologic Survey; as "poorly drained" and "very poorly drained" and verified by the Soil Conservation Service.

Wholesale Facility

An establishment primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Examples include, without limitation: feed mills, granaries, and elevators; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials. [1203]

Wind Energy Conversion System (WECS)

The equipment that converts and then stores or transfers energy from the wind into usable forms of energy, including any base, blade, foundation, generator, nacelle, rotor, transformer, turbine, vane, wind tower, wire, or other component used in the system. In the case of multiple WECS, this shall also include the collection, transmission lines, and any related accessory use, building, or structure.[1204]

[1200] Cross reference added since Phase 3 drafts.
[1201] Since Phase 3 drafts, definition revised to include (rather than exclude) mini-storage.
[1202] New definition since Phase 3 drafts.
[1203] New definition.
[1204] New definition since Phase 3 drafts.

Wind Energy Conversion System (WECS), Large

A WECS which has a nameplate capacity (manufacturer's rating) of more than 50 kilowatts per system, a total system height of more than 60 feet, or a swept area of more than 40 feet. Any WECS meeting one or more of these criteria shall be considered a large wind system. Large wind energy conversion systems are not permitted by right or eligible for a special use under the provisions of this ordinance.[1205]

Wind Energy Conversion System, Micro

A building-mounted wind system which has a nameplate capacity (manufacturer's rating) of 10 kilowatts or less, and projects no more than 12 feet above the highest point of the roof.[1206]

Wind Energy Conversion System (WECS), Standard

A WECS that has a nameplate capacity (manufacturer's rating) between 10 and 50 kilowatts per system, a total system height of 60 feet or less, and a swept area of 40 feet or less.[1207]

Wind Energy Conversion System Swept Area

The diameter of the smallest circle encompassing the blades of a WECS. [1208]

Wind Energy Conversion System Height

The distance measured from the ground level at the base of the tower to the highest extension of the blade or rotor. [1209]

Window

An opening constructed in a building wall that functions to admit light or air, typically framed and spanned in glass.

Wind Tower

A freestanding structure that supports the energy capture, conversion, storage and transfer components of a wind energy conversion system (WECS). [1210]

Yard

A space on the same lot with a main building, open, unoccupied and unobstructed by structures, except as otherwise provided in this ordinance.

Yard, Front

A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way line and the building line.

Yard, Internal Side

On a corner lot, the side yard that does not abut a street right-of-way.

[1205] New definition since Phase 3 drafts.
[1206] Revised definition since Phase 3 drafts.
[1207] New definition since Phase 3 drafts.
[1208] New definition since Phase 3 drafts.
[1209] New definition since Phase 3 drafts.
[1210] New definition since Phase 3 drafts.

Yard, Rear

A yard extending across the full width of the lot between the rear of the primary building or structure and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of the primary building or structure. If the rear lot line is less than ten (10) feet long, or the lot comes to a point at the rear, the required rear yard shall be measured from a line where the rear of the lot is ten (10) feet wide and parallel or tangent to the front street line.[1211]

Yard, Side

A yard between the primary building or structure and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at ninety (90) degrees with the side lot line, from the nearest point of the side lot line to the nearest part of the primary building or structure. [1212]

Yard Sale

A sale of personal property to the general public on any portion of a residential property, including properties in nonresidential zoning districts that are used for residential purposes. This definition shall also include all sales entitled garage, patio, carport, basement, porch, driveway, rummage, estate, moving and the like.[1213]

Zoning Administrator

The person appointed by the Fort Wayne and/or Allen County Plan Commission to enforce and administer the provisions of this ordinance.[1214]

Zoning District

Delineated areas within the planning jurisdiction of the City of Fort Wayne, as shown on the adopted zoning maps, in which the regulations of this ordinance apply. [1215]

Zoo

A facility where animals are kept for indoor or outdoor viewing by the public. Office, retail, and other commercial uses commonly established in these facilities and related parking structures shall be allowed as accessory appurtenances.

[1211] Consolidated similar variations of this definition from AC and FW codes. Second sentence would now apply in AC as well as FW.
[1212] Consolidated similar variations of this definition from the AC and FW codes.
[1213] Definition revised since Phase 3 drafts to include moving and estate sales.
[1214] Definition from floodplain regulations now expanded to apply throughout this ordinance; the term zoning enforcement officer is no longer used.
[1215] Consolidated similar variations of this definition from the AC and FW codes. An overlapping definition from the floodplain regulations was deleted as unnecessary.